



LGBT REGULATORY VOID: THE URGENCY OF FORMING LOCAL REGULATIONS WITH A HUMAN RIGHTS PERSPECTIVE

Yudi Saputra¹

¹Universitas Mataram, E-mail: yudiaku17@gmail.com

Abstract:

The phenomenon of Lesbian, Gay, Bisexual, and Transgender (LGBT) remains a contentious socio-legal issue in Indonesia, including in Bima Regency, which has a strong socio-religious character. The absence of specific regulations regarding LGBT issues creates a legal vacuum, resulting in unclear handling and policy implications. This situation results in uncertain norms, weak law enforcement, and an increased risk of social discrimination against LGBT groups. This study aims to analyze the absence of LGBT regulations in Bima Regency and the urgency of establishing Regional Regulations that align with community needs and human rights principles. The method used is normative juridical with statutory, conceptual, and comparative approaches. Primary legal materials include the 1945 Constitution, the Criminal Code, the Human Rights Law, and other regional regulations related to LGBT issues. Secondary legal materials were obtained from literature, scientific articles, and research, while tertiary legal materials included legal dictionaries and news articles. Data analysis was conducted qualitatively through content analysis. The research findings indicate that the regulatory gap has led officials and the public to rely more heavily on moral or customary standards, potentially repressive, and hindered access to healthcare for groups at high risk of HIV/AIDS. Comparative studies have shown that regulations in other regions emphasize prevention rather than rights protection. This research contributes to offering a model for regional regulations that adapts to issues of morality and human rights. Therefore, balanced Regional Regulations are needed, taking local norms into account, ensuring the principle of non-discrimination, and serving as a social engineering instrument to prevent conflict, protect citizens' rights, and strengthen legal certainty in Bima Regency.

Keywords: LGBT, Legal Gap, Regional Regulations, Human Rights, Bima Regency.

Abstrak:

Fenomena Lesbian, Gay, Biseksual, dan Transgender (LGBT) masih menjadi isu sosial-hukum yang diperdebatkan di Indonesia, termasuk di Kabupaten Bima yang bercorak sosial-religius kuat. Ketidadaan regulasi khusus mengenai LGBT memunculkan kekosongan hukum (legal vacuum) yang berimplikasi pada ketidakjelasan penanganan dan kebijakan. Kondisi ini berdampak pada ketidakpastian norma, lemahnya penegakan hukum, dan meningkatnya risiko diskriminasi sosial terhadap kelompok LGBT. Penelitian ini bertujuan menganalisis ketidadaan regulasi LGBT di Kabupaten Bima serta urgensi pembentukan Peraturan Daerah yang selaras dengan kebutuhan masyarakat dan prinsip hak asasi manusia. Metode yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan komparatif. Bahan hukum primer meliputi UUD 1945, KUHP, UU HAM, serta regulasi daerah lain terkait LGBT. Bahan hukum sekunder diperoleh dari literatur, artikel ilmiah, dan penelitian, sedangkan bahan hukum tersier berupa kamus hukum dan artikel berita. Analisis data dilakukan secara kualitatif melalui content analysis. Hasil penelitian menunjukkan bahwa kekosongan regulasi membuat aparat dan masyarakat lebih mengandalkan standar moral atau adat yang berpotensi represif, sekaligus menghambat akses layanan kesehatan bagi kelompok berisiko tinggi HIV/AIDS. Studi perbandingan memperlihatkan bahwa regulasi di daerah lain lebih menitikberatkan pada pencegahan ketimbang perlindungan hak. Penelitian ini

berkontribusi dalam menawarkan model regulasi daerah yang adaptif terhadap isu moralitas dan hak asasi manusia. Oleh karena itu, diperlukan Peraturan Daerah yang berimbang, memperhatikan norma lokal, menjamin prinsip non-diskriminasi, serta berfungsi sebagai instrumen rekayasa sosial untuk mencegah konflik, melindungi hak warga, dan memperkuat kepastian hukum di Kabupaten Bima.

Kata Kunci: LGBT, Kekosongan Hukum, Peraturan Daerah, HAM. Kabupaten Bima.

A. Pendahuluan

The phenomenon of lesbian, gay, bisexual, and transgender (LGBT) people is a socio-legal issue that has sparked debate in various regions of Indonesia, including in Bima Regency, which has a strong socio-religious character. To date, there are no regional regulations that specifically address LGBT issues, creating a legal vacuum. This legal vacuum does not mean that there is a lack of clarity regarding norms, but rather an absence of explicit written rules that can be used as a reference in dealing with LGBT issues.¹ The absence of regulations has led officials and the community to use moral standards and traditional values as a basis for assessment, resulting in inconsistent practices in the field and opening up room for subjectivity.

In Bima Regency, the existence of LGBT communities has been documented in several studies, which found that LGBT groups have become increasingly visible through social activities, health services, and community networks that have developed over the past decade.² The study "Being Gay in Bima Regency" also shows that the LGBT community has stable patterns of interaction, although it often operates in secret due to social pressure.³ Health data from Bima Regency in the Health Office report shows cases of HIV/AIDS and sexually transmitted infections (STIs) among at-risk populations, including men who have sex with men (MSM), confirming the factual existence of the LGBT community. These findings emphasise that the LGBT phenomenon is not merely a conceptual issue, but a social reality that exists in the Bima region.

However, Bima Regency still does not have a regional regulation (perda) that specifically regulates LGBT issues. This regulatory vacuum does not mean a vacuum in norms, but it does cause problems in interpreting the provisions on morality and public order.⁴ Authorities often use general rules about "immoral behaviour", "public order" or "religious norms" to judge the behaviour of LGBT individuals, even though there is no clear legal definition of what behaviour is actually prohibited or how the state should provide

¹ Devina et al., "Bedah Fenomena LGBT Ditinjau Menurut Pendekatan Socio Legal Dan Eksistensinya Dalam Hukum Positif Di Indonesia," *Indonesian Journal of Law and Justice* 1, no. 3 (January 10, 2024): 13, <https://doi.org/10.47134/ijlj.v1i3.2121>.

² Adila Astiena, Sari Andika, and Sri Siswati, "Supply of Health Services in The Lesbian, Gay, Bisexual and Transgender (LGBT) Group in Padang," in *Proceedings of the 1st International Conference on Gender, Culture and Society, ICGCS 2021, 30-31 August 2021, Padang, Indonesia* (EAI, 2022), <https://doi.org/10.4108/eai.30-8-2021.2316292>.

³ R Akal, dr. Yanri Wijayanti, and Dr. Retna Siwi Padmawati, "Menjadi Gay Di Kabupaten Bima Nusa Tenggara Barat: Sebuah Studi Fenomenologi," *Universitas Gajah Mada*, 2019, 2–3, http://etd.repository.ugm.ac.id/home/detail_pencarian/178653.

⁴ Rodríguez and Murtagh, "Situating Anti-LGBT Moral Panics in Indonesia."

protection.⁵ This inconsistency in interpretation has the potential to harm LGBT individuals. For example: Legal and social stigma officials classify certain gender expressions as "moral offences", even though there are no explicit rules. Restricted access to health services several reports indicate that LGBT individuals are reluctant to access HIV VCT services or reproductive health counselling because they are considered "disruptive" or at risk of being reported to the authorities.⁶ The potential for criminalisation based on the interpretation of officials could lead to LGBT individuals being prosecuted solely on the basis of alleged moral violations, rather than legal violations.⁷

Meanwhile, the strong socio-cultural characteristics of Bima Regency, dominated by Islamic norms and Mbojo customs, view LGBT sexual orientation and gender identity as a deviation from collective norms. This reinforces social exclusion and discrimination against LGBT individuals. Narratives of moral deviance in the public sphere also make it difficult to have an objective discussion about the need for proportional, fair and non-discriminatory regulations.⁸

At the national level, Indonesian law does not specifically regulate LGBT sexual orientation or gender identity, except in Aceh, which has special authority through qanun jinayat.⁹ In other areas, including Bima Regency, officials typically refer to public order regulations or moral norms, even though these are not designed to regulate gender identity or sexual orientation.¹⁰ The absence of specific regulations has resulted in inconsistent law enforcement standards between regions. For example, Garut Regency once issued an anti-LGBT Regent Regulation as part of its anti-immorality regulations, while Bogor Regency, through the Indonesian Ulema Council (MUI), pushed for a revision of its public order regional regulation to include aspects of LGBT guidance and prevention. In Bima Regency, the discourse on the formulation of local regulations related to LGBT faces major challenges, including social resistance and religious pressure. However, clear regulations are still needed to prevent arbitrariness due to inconsistent interpretations. These regulations can play a role in ensuring the protection of basic rights, including the right to

⁵ Rudy Efendi and Rahmadani Yusran, "Peranan Aktor Dalam Formulasi Peraturan Daerah Kota Pariaman Nomor 10 Tahun 2018 Tentang Ketentraman Dan Ketertiban Umum," *Journal of Civic Education* 4, no. 1 (March 28, 2021): 39–46, <https://doi.org/10.24036/jce.v4i1.437>.

⁶ Gustavo Machado Rocha et al., "Strategies to Increase HIV Testing among Men Who Have Sex with Men and Transgender Women: An Integrative Review," *BMC Infectious Diseases* 23, no. 1 (April 18, 2023): 240, <https://doi.org/10.1186/s12879-023-08124-z>.

⁷ *Polisi di Jakarta telah menahan 141 pria setelah menggerebek sebuah klub gay. Penangkapan ini merupakan langkah terbaru dalam apa yang disebut sebagian orang sebagai kampanye melawan kaum lesbian, gay, biseksual, dan transgender di Indonesia.*

⁸ Lam Uyen Lu and Niloufer Selvadurai, "Refining the Right to Information in Vietnamese Consumer Law: Insights from Australia," *Asian Journal of Comparative Law* 16, no. 1 (July 23, 2021): 61–83, <https://doi.org/10.1017/asjcl.2021.13>.

⁹ Rodríguez and Murtagh, "Situating Anti-LGBT Moral Panics in Indonesia."

¹⁰ Riadhush Sholihin, Rahma Rahma, and Zaiyad Zubaidi, "Kriminalisasi Homoseksual Sebagai Tindak Pidana," *Tasyri': Journal of Islamic Law* 2, no. 1 (January 30, 2023): 69–94, <https://doi.org/10.53038/tsyr.v2i1.46>.

health, security, and human dignity, without having to conflict with local cultural and religious values if formulated proportionally.¹¹

The urgency of establishing a local regulation on LGBT issues in Bima Regency is not only related to human rights protection, but also to ensuring legal certainty, limiting the authority of officials, and establishing mechanisms for resolving potential social conflicts. In a situation where religious communities and local cultures hold a dominant position, clarity of norms is important to avoid discriminatory actions that have no legal basis. Based on these conditions, a normative question arises that forms the basis of this study: How should Bima Regency formulate a Regional Regulation on LGBT that is able to provide legal certainty, prevent losses due to inconsistent legal interpretations, and remain in line with cultural values and the state's obligation to protect human rights?

B. Research Methode

1. Tye of Research

This study utilises normative juridical research, which is legal research that focuses on the analysis of written legal norms and applicable legal doctrines. The main focus of normative legal research is to examine law in the sense of law in books, not law in action, so that the starting point is legislation, court decisions, and academic literature related to the issue being studied.

In the context of this study, a normative legal approach was chosen because the main issue examined was the absence of regulations (legal vacuum) related to LGBT people in Bima Regency. Therefore, this study mostly uses primary legal materials such as the 1945 Constitution, the Criminal Code, Law No. 39 of 1999 on Human Rights, Law No. 12 of 2011 on the Formation of Legislation, and various relevant regional regulations in other regions. In addition, this study also uses secondary legal materials, in the form of literature, journal articles, and previous research results to strengthen the conceptual analysis of legal vacuums, the protection of minority rights, and theories of justice.¹²

This type of normative legal research is relevant because it allows researchers to assess the extent to which positive legal norms in Indonesia, particularly in Bima Regency, are able to provide protection to LGBT groups, as well as whether there is a gap between human rights principles and the implementation of law at the local level. Furthermore, this research also aims to examine the urgency of establishing Regional Regulations that are responsive to the social and legal needs of the community, so that legal analysis does not stop at

¹¹ Majel McGranahan et al., "Rights Based Approaches to Sexual and Reproductive Health in Low and Middle-Income Countries: A Systematic Review," ed. Florian Fischer, *PLOS ONE* 16, no. 4 (April 29, 2021): e0250976, <https://doi.org/10.1371/journal.pone.0250976>.

¹² Zahwa Nabila, Arrie Budhiartie, and Iswandi, "HAK ASASI MANUSIA TERHADAP KEKERASAN PADA PEREMPUAN DALAM PERATURAN PERUNDANG-UNDANGAN DI INDONESIA," *Juris Humanity: Jurnal Riset Dan Kajian Hukum Hak Asasi Manusia* 4, no. 1 (June 28, 2025): 54–69, <https://doi.org/10.37631/jrkhm.v4i1.78>.

descriptive aspects, but also provides normative recommendations that are solution-oriented.¹³

2. Research Approach

This study utilises several approaches relevant to normative legal research in order to ensure a more comprehensive analysis.

a. Statute Approach

This approach is used to examine various laws and regulations directly related to LGBT issues. At the national level, the legal materials analysed include the 1945 Constitution of the Republic of Indonesia, the Criminal Code (KUHP), Law No. 39 of 1999 on Human Rights, and the Regional Government Law. The analysis also covers regulations applicable at other regional levels, such as the Qanun Jinayat Aceh and the Garut Regent Regulation governing sexual behaviour and social activities of the community. This approach is important to identify the extent to which Indonesian positive law has, or has not, specifically regulated LGBT issues and its relevance to the formulation of regulations in Bima Regency.

b. Conceptual Approach

This approach is used to understand fundamental concepts related to research issues, such as the concept of legal vacuum, substantive justice, and the protection of minority rights. Through this approach, the analysis is not limited to written legal norms, but also considers the philosophical and theoretical values that underlie the formation of law. Thus, this study explains that the absence of LGBT regulations in Bima Regency is not only a technical legal issue, but is also related to the fulfilment of the principles of justice and human rights.

c. Comparative Approach

This approach is used to compare how other regions in Indonesia respond to LGBT issues through regional regulations or local policies.¹⁴ Examples include regulations in Garut and Bogor districts that incorporate LGBT guidance into local regulations on public order, as well as the Qanun Jinayat Aceh, which explicitly regulates homosexual behaviour. This comparative analysis aims to examine existing regulatory models, identify their strengths and weaknesses, and draw normative lessons that can be adapted in the context of Bima district.

By using these three approaches, the research can produce a comprehensive analysis, namely examining the normative basis through existing regulations, interpreting relevant legal concepts, and comparing practices in other regions to

¹³ F.C. Susila Adiyanta, "Hukum Dan Studi Penelitian Empiris: Penggunaan Metode Survey Sebagai Instrumen Penelitian Hukum Empiris," *Administrative Law and Governance Journal* 2, no. 4 (November 8, 2019): 697–709, <https://doi.org/10.14710/alj.v2i4.697-709>.

¹⁴ Abdul Jamil, "Batas Usia Perkawinan Dan Perwalian: Pendekatan Komparatif Antara Indonesia Dan Negara Asia Tenggara Lainnya," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 4 (December 1, 2024): 2081–95, <https://doi.org/10.62976/ijjel.v2i4.762>.

formulate regulatory recommendations that are in line with the social, cultural, and legal conditions in Bima Regency.¹⁵

3. Sources of Legal Materials

The legal materials used consist of:

- a. Primary legal materials are sources of law that have direct binding force because they originate from legislation and official regulations.¹⁶ In this study, primary legal materials include the 1945 Constitution of the Republic of Indonesia, which serves as the constitutional basis; the Criminal Code (KUHP), which regulates criminal acts of indecency; Law No. 39 of 1999 on Human Rights; and Law -Law No. 12 of 2011 on the Formation of Legislation, which serves as a guideline in drafting new regulations. In addition, regional regulations and regent regulations in several other regions, such as the Qanun Jinayat Aceh and the Garut Regent Regulation, were also used as comparative materials to assess the possibility of forming LGBT regulations in Bima Regency.
- b. Secondary legal materials are legal materials that are not binding but are very important for providing explanations, interpretations, and analyses of primary legal materials.¹⁷ Secondary legal materials in this study include scientific literature, reputable journal articles, previous research results, and books discussing LGBT issues, human rights, legal void theory, and justice theory. These secondary legal materials help provide an academic perspective and strengthen the normative arguments in the study.
- c. Tertiary legal materials are materials that serve as support or supplements in understanding primary and secondary legal materials.¹⁸ Tertiary legal materials in this study include legal dictionaries, encyclopaedias, online news, and reports from civil society organisations or human rights institutions, both national and international. These materials provide additional contextual information, particularly for examining how LGBT issues have developed in Bima society and how public discourse has been shaped in the mass media and in global human rights studies.

By utilising these three types of legal materials, this study obtained a comprehensive legal basis: primary materials as applicable legal norms, secondary materials as academic interpretations, and tertiary materials as reinforcements of the social context and actualisation of LGBT issues.¹⁹

¹⁵ Wicipto Setiadi, "SIMPLIFIKASI REGULASI DENGAN MENGGUNAKAN METODE PENDEKATAN OMNIBUS LAW," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 1 (April 27, 2020): 39, <https://doi.org/10.33331/rechtsvinding.v9i1.408>.

¹⁶ Made Restu Hawiwie, I Nyoman Putu Budiarta, and Ni Komang Arini Styawati, "Tinjauan Yuridis Terhadap Transaksi Jual Beli Tanah Melalui Internet Banking," *Jurnal Preferensi Hukum* 2, no. 2 (July 1, 2021): 400–404, <https://doi.org/10.22225/jph.2.2.3348.400-404>.

¹⁷ Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (April 1, 2020): 20–33, <https://doi.org/10.14710/gk.2020.7504>.

¹⁸ Benuf and Azhar.

¹⁹ Benuf and Azhar.

4. Analysis of Legal Materials

The analysis of legal materials in this study was conducted using qualitative content analysis methods.²⁰ This method is used to analyse, interpret, and connect existing legal norms with evolving social realities. Identification of norms in national legislation, such as the 1945 Constitution, the Criminal Code, Law No. 39 of 1999 on Human Rights, and other regional regulations that already regulate LGBT issues, either explicitly or implicitly. From this identification, it is evident that Indonesian positive law, particularly in Bima Regency, does not yet have legal instruments that explicitly regulate the legal status of LGBT people, resulting in a legal vacuum.

Formulation of the urgency of establishing regional regulation.²¹ From the results of the analysis, it appears that regional regulations are needed not only to prohibit or regulate, but also to guarantee the principles of non-discrimination, legal certainty, and substantive justice. The proposed regulations are expected to be responsive to the social needs and local values of the people of Bima Regency, while also being in line with Indonesia's national obligation to protect human rights. Thus, the results of the legal analysis not only describe the regulatory vacuum, but also present a normative argument about the importance of a balanced LGBT regional regulation, namely as a tool for social control and an instrument for the protection of basic rights.

C. Results and Discussion

An analysis of legislation shows that there are no regulations at the national level that explicitly regulate the legal status of LGBT people. The new Criminal Code, which was passed in 2022, also does not criminalise LGBT people, as sexual orientation is not subject to criminalisation under national law. The criminal provisions in the Criminal Code only regulate indecent acts, which are punishable if committed in public, against children, or without consent, without distinguishing the sexual orientation of the perpetrator. Thus, Indonesian criminal law emphasises the punishment of acts, not a person's identity or sexual orientation.

At the regional level, the results of the search show that in Bima Regency, there are no regional regulations or regent regulations that specifically regulate LGBT issues, whether in terms of prevention, guidance, social handling, or legal protection. The absence of these regulatory instruments confirms the existence of a legal vacuum at the local level, which has the potential to cause uncertainty in government practices and the enforcement of social norms. This legal vacuum is even more apparent when compared to Aceh, which has the Qanun Jinayat, which explicitly regulates homosexual behaviour as an act that is subject to sanctions. This comparison shows that Bima Regency does not yet have legal instruments that can provide clear policy direction in responding to

²⁰ Dadang Sumarna and Ayyub Kadriah, "Penelitian Kualitatif Terhadap Hukum Empiris," *JURNAL PENELITIAN SERAMBI HUKUM* 16, no. 02 (May 31, 2023): 101–13, <https://doi.org/10.59582/sh.v16i02.730>.

²¹ Dalinama Telaumbanua, "Urgensi Pembentukan Aturan Terkait Pencegahan Covid-19 Di Indonesia," *QALAMUNA: Jurnal Pendidikan, Sosial, Dan Agama* 12, no. 01 (March 21, 2020): 59–70, <https://doi.org/10.37680/qalamuna.v12i01.290>.

LGBT issues in a proportionate manner, in line with developments in national criminal law that does not criminalise sexual orientation.

Pendekatan konseptual yang digunakan dalam penelitian ini mengidentifikasi bahwa kekosongan hukum terkait LGBT dapat menimbulkan diskriminasi dan eksklusi sosial.²² The unclear legal status has led law enforcement officials and the public to use religious or customary norms as the basis for judging LGBT behaviour. This has resulted in inconsistent law enforcement and has the potential to harm minority groups. Communities that reject the existence of LGBT people tend to engage in repressive social rejection, causing LGBT individuals to experience psychological pressure and stigma.²³ A legal vacuum that is allowed to persist can reinforce structural discrimination.

The comparative approach shows that several other regions have issued regulations related to LGBT, albeit with different objectives. Garut Regency, for example, issued a Regent Regulation prohibiting activities categorised as promoting LGBT as part of preventing immorality. Bogor Regency revised its regional regulation on public order by including elements of guidance on LGBT behaviour. However, these regulations have been criticised for being more oriented towards prevention and enforcement rather than the protection of rights or social services. These findings reinforce the urgency for Bima Regency to draft balanced regulations that protect rights and remain in line with local values.

Analysis of public health aspects shows that the gay population in Bima Regency faces a high risk of HIV/AIDS and STIs. However, the absence of regulations means that there is no clear policy framework to guarantee access to LGBT-friendly health services. As a result, many individuals are reluctant to get tested for fear of stigma and discrimination. Nationally, Article 28D paragraph (1) of the 1945 Constitution guarantees fair legal certainty for every citizen, while Article 28I paragraph (2) affirms the prohibition of discrimination. Law No. 39 of 1999 on Human Rights also expands the principle of non-discrimination, although it does not explicitly mention sexual orientation.²⁴

At the international level, Indonesia has ratified the ICCPR (International Covenant on Civil and Political Rights) through Law No. 12 of 2005, which guarantees the right to privacy, security, and freedom from discrimination.²⁵ Furthermore, although not legally

²² Elfira Loppies and Juliana Hindrajat, "Menelusuri Diskursus LGBT Dalam Konteks Budaya Dan Agama: Pendekatan Kualitatif Terhadap Perspektif Masyarakat," *Cerdika: Jurnal Ilmiah Indonesia* 5, no. 4 (April 30, 2025): 1583–95, <https://doi.org/10.59141/cerdika.v5i4.2610>.

²³ Daniel Tri Juniardo Tambunan, "Mendobrak Diskriminasi Lesbian Gay, Bisexual, Transgender (LGBT) Dalam Bingkai Agama Dan Kesenjangan Gender," *Jurnal Teologi Cultivation* 5, no. 2 (2021): 159–77, <https://doi.org/10.46965/jtc.v5i2.1043>.

²⁴ Iryadi Pranata, 'Implementasi Penegakan Hukum Dan Perlindungan Hak Asasi Manusia Dalam Kasus Pelanggaran Hak Asasi Manusia Beragama', *Jurnal Dialektika Hukum*, 6.2 (2024), doi:10.36859/jdh.v6i2.3101.

²⁵ Rines Prameswari And Ridarson Galingging, 'Pengakuan Dan Pelindungan Suku Awyu Dan Moi Menurut Perspektif Undang-Undang Nomor 12 Tahun 2005 Tentang Pengesahan International Covenant On

binding, it provides a normative standard that states have an obligation to protect the sexual orientation and gender identity of minorities. This contradiction is evident: on the one hand, Indonesia is committed to the principle of international non-discrimination, but on the other hand, local laws do not provide any protection for LGBT groups.

Overall, the results of the study indicate that the legal vacuum regarding LGBT issues in Bima Regency has led to legal uncertainty, potential social discrimination, and health risks. Therefore, a local regulation is needed to provide legal certainty that clearly regulates boundaries, particularly regarding: actions that are considered to disturb public order, forms of guidance and social services that must be provided by the local government, and mechanisms for inter-agency coordination. These boundaries are important to prevent arbitrary interpretations in the handling of LGBT issues.

These arrangements must also be adjusted to the authority of the Regional Government based on Law No. 23 of 2014, which only covers matters of public order, handling social issues, and basic services.²⁶ Thus, local regulations should not criminalise sexual orientation, but should only regulate social aspects, conflict prevention, and health education within the limits of regional authority.

The LGBT issue in Bima Regency is influenced by strong socio-religious values, leading some members of the community to view such behaviour as deviant. However, the responses of the community and authorities often differ due to the absence of regulations that serve as a legal reference. This inconsistency does not need to be repeated with explanations about social stigma or customary norms, but it is sufficient to emphasise that the absence of regulations means that actions in the field depend on the interpretation of each social actor.²⁷ Comparisons with other regions such as Aceh or Garut need not be repeated; suffice it to say that each region has a different legal framework that influences the pattern of handling. Therefore, the discussion should focus on the issues in Bima Regency and how the absence of regional regulations has led to uncertainty in handling LGBT issues in the region.

Sociologically, the absence of regulations has social consequences in the form of stigmatisation and discrimination against LGBT groups.²⁸ Based on field findings and a number of reports compiled from local organisations and regional media documentation, there are several forms of discrimination experienced by LGBT groups in Bima Regency. In some cases, individuals identified as LGBT have been evicted from their neighbourhoods, subjected to social intimidation, and denied access to certain

Civil And Political Rights (Kovenan Internasional Tentang Hak-Hak Sipil Dan Politik)', *Adil: Jurnal Hukum*, 16.1 (2025), Pp. 131–56, Doi:10.33476/Ajl.V16i1.5611.

²⁶ Republic Indonesia, "Law of the Republic of Indonesia Number 9 of 2015 Concerning the Second Amendment to Law Number 23 of 2014 on Local Government," 2015.

²⁷ Hardiman Wirahmat and Nur Alfiyani, "Pertentangan Legal Hukum LGBT Tinjauan Perspektif Sosial Dan Nilai Keagamaan," *SPECTRUM: Journal of Gender and Children Studies* 3, no. 1 (June 30, 2023): 32–47, <https://doi.org/10.30984/spectrum.v3i1.677>.

²⁸ Sri Rahma Ramadhoni, "LESBIAN, GAY, BISEKSUAL DAN TRANSGENDER (LGBT): ISU KEADILAN SOSIAL DAN STRATEGI ADVOKASI KONSELOR," *Mikraf: Jurnal Pendidikan* 4, no. 1 (August 28, 2023): 20–29, <https://doi.org/10.70338/mikraf.v4i1.77>.

public services informally. For example, a 2022 report from Paruga Village shows that a young man was evicted from his rented house because he was suspected of having a different sexual orientation. In addition, in 2021, there was a case of the dispersal of a group of teenagers gathering in Raba Sub-district, which was categorised by local authorities as an "gathering that did not comply with norms", even though there was no written legal basis for this action. Data from the Bima District Social Services Agency also shows the existence of informal data collection on "residents with deviant behaviour", which has the potential to cause stigma and discriminatory treatment because it is carried out without clear legal procedures.

- a. A comparative approach shows that Aceh and Garut Regency already have regulations related to LGBT issues. The Aceh Qanun Jinayat regulates liwath and musahaqah with penalties of flogging, fines in gold, or imprisonment, but is often criticised for being discriminatory. The Garut Regency Regulation prohibits LGBT activities in public spaces and mandates moral guidance, although without criminal sanctions, it is still questioned because it has the potential to cause stigmatisation. Therefore, Bima Regency needs to draft more balanced regulations in accordance with local norms while still providing protection from violence, persecution, and discrimination.
- b. From a human rights perspective, the absence of regulations contradicts the state's obligation to respect, protect, and fulfil the rights of its citizens as stipulated in the 1945 Constitution and Law No. 39 of 1999 on Human Rights.²⁹ Indonesia is also a party to the ICCPR, which affirms the protection of the right to life, the right to security, and the right to freedom from discriminatory treatment. Therefore, the formulation of local regulations in Bima Regency must take into account the principles of non-discrimination and equality before the law, so that they function not only as instruments of social control but also as instruments for the protection of fundamental rights.
- c. Public health aspects are one of the key arguments in the formulation of regulations. Findings that the LGBT community in Bima Regency is at high risk of HIV/AIDS and STIs require the local government to formulate health service policies that are friendly and inclusive.³⁰ Without regulation, disease prevention and control efforts will be hampered because at-risk groups are reluctant to access health services. Clear regulations can provide a legal basis for education programmes, health promotion, and assistance for vulnerable groups.
- d. The absence of LGBT regulations in Bima Regency not only creates legal problems, but also has serious implications for social and public health aspects. From a public health perspective, the LGBT population in Bima Regency is a high-risk group for HIV/AIDS and other sexually transmitted infections. Without clear regulations,

²⁹ Zainul Fuad, Muhammad Yadi Harahap, and Abdul Majid Al Faruq, "Perlindungan Hukum Terhadap Muallaf Di Pematangsiantar Perspektif UU No. 39 Tahun 1999 Tentang Hak Asasi Manusia," *Nuansa Akademik: Jurnal Pembangunan Masyarakat* 7, no. 1 (May 28, 2022): 143–56, <https://doi.org/10.47200/jnajpm.v7i1.1151>.

³⁰ Vita Novianti Novianti, Dini Noor Aini Author, and Yeni Puspita, "Implementasi Program Pelayanan Kolaboratif Dan Integrasi Masyarakat Peduli HIV/AIDS Tanpa Diskriminasi Dengan Gabungan Laki-Laki Sexy (Studi Di UPT Puskesmas Kendit, Kecamatan Kendit, Kabupaten Situbondo)," *E-SOSPOL* 12, no. 1 (June 25, 2025): 74–88, <https://doi.org/10.19184/e-sospol.v12i1.53704>.

there is no legal framework that can guarantee friendly and inclusive health services for them. This results in low levels of access to health services due to fear of stigma, discrimination, and legal uncertainty. Therefore, the existence of regional regulations is very important as a legal basis for health education programmes, psychological counselling, and the provision of non-discriminatory medical services.

- e. From a social policy perspective, the absence of regulations tends to encourage society to use religious and customary moral standards as the sole measure in assessing the existence of LGBT people. Regulations that are solely oriented towards prohibiting or banning LGBT activities have the potential to reinforce discrimination and social stigma. Conversely, responsive regulations can be designed to provide mechanisms for dialogue based on religious and customary values without being repressive, thereby serving as a bridge between the interests of local communities and human rights principles. Thus, local regulations are designed not merely as instruments of control, but also as means of constructive social development.
- f. Furthermore, from a legal instrument perspective, the Regional Regulation on LGBT in Bima Regency must fulfil the double function of law, namely as a means of social control and as an instrument for the protection of fundamental rights. The social control function is important for maintaining order and stability in society, while the protection function ensures that LGBT individuals do not experience discrimination, persecution or social exclusion.

Based on the results of the analysis and considering the socio-cultural characteristics of the religious and pluralistic community of Bima Regency, the direction of the Regional Regulation on LGBT cannot focus solely on prohibition. A total ban has the potential to lead to vigilante justice and increase discrimination without providing clear instruments for handling such issues. Therefore, the most relevant policy model is to include regulations on LGBT issues in the Regional Regulation on Public Order and Community Peace, emphasising three main aspects: (1) preventing potential social conflict through social guidance mechanisms, (2) regulating administrative procedures for handling cases so as not to cause repressive or discriminatory actions, and (3) prohibiting actions that disturb public order without labelling a person's personal identity as a violation of the law. This approach allows local governments to maintain social order without violating the principle of non-discrimination in national law. Thus, a more appropriate policy direction for local regulations is a model of regulation based on guidance and control, rather than criminalisation of LGBT identities, so that local legal instruments have procedural clarity and are in line with the national legal framework.

D. Conclusion

The absence of regulations concerning LGBT people in Bima Regency has created a legal vacuum, resulting in uncertainty regarding norms, irregularities in handling practices, and an increased risk of social discrimination against LGBT groups. The legal vacuum in question does not refer to ambiguous norms, but rather the absence of explicit rules in both the Criminal Code and local regulations that can serve as formal legal references in dealing with this issue. This situation has caused officials and the community to rely more on moral, religious and local customs standards, resulting in

inconsistent handling practices and opening up room for subjectivity and repressive actions.

Research findings indicate that the existence of LGBT communities in Bima Regency is a social reality, as evidenced by health data, public service reports, and previous studies. Several forms of social discrimination have also been identified, including bullying, expulsion from public spaces, and barriers to accessing health services for groups at high risk of HIV/AIDS and STIs. The lack of clarity in the legal framework has resulted in the absence of consistent protection or handling mechanisms for this group, thereby reinforcing social exclusion and the potential for horizontal conflict.

A comparison with other regions (Aceh, Garut, and Bogor) shows that local governments have the authority to regulate LGBT issues according to the social needs of each region. However, most regulations in other regions tend to be oriented towards prohibition or punishment, thus failing to address the aspect of basic rights protection. This comparison reinforces the importance of formulating more balanced local regulations in Bima Regency: taking into account the socio-religious norms of the local community, while still guaranteeing the principle of non-discrimination as mandated by the 1945 Constitution, Law No. 39 of 1999 on Human Rights, and Indonesia's obligations under the ICCPR.

Thus, the urgency of establishing Regional Regulations on LGBT lies in the need to: (1) provide clear legal certainty for officials and the community; (2) formulate a clear policy direction, whether it be prevention, guidance, protection, or integration in the Regional Regulation on Public Order; (3) maintain social order without conflicting with human rights principles; and (4) reduce the risk of discrimination and vigilante justice. A balanced regional regulation is expected to become a social engineering instrument capable of harmonising local values with the state's constitutional obligation to protect the rights of every citizen.

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