



LBH Masyarakat Journal

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On my first day as an intern at LBH Masyarakat ('LBHM'), I went to a district court (*Pengadilan Negeri*). There, I saw the unfolding of a case about a woman who was an unsuspecting victim of the drug trafficking trade. I say 'victim' because her defence was that she was unaware of the drugs hidden in the suitcase. Whilst she was completely ignorant to the crime she was committing, here, in Indonesia, she could face the death penalty.

Karin's (not her real name) gentle demeanor belies her struggled past. Karin is a young woman and a single mother of two. To make ends meet, Karin was forced to work overseas as a migrant to support her children and subsist. She lived a precarious existence of poverty and single parenthood.

Karin was trafficked for work in Indonesia. The man who arranged her travel gave her a bag filled with food and clothes and the number of someone to arrange work. However, unbeknownst to Karin and hidden strategically in

the mental handle puller of her suitcase, he had planted drugs.

Whilst her punishment could be death - the most serious of penalties - I was baffled with how the court hearing unraveled. The case before Karin's of a similar nature was pushed through in marathon time.



Voice quivering as she tells her story, Karin tries to explain the circumstances through which she has ended up in this predicament. Whilst she talks for a while, explaining the myriad of external circumstances outside of her ambit of control, the interpreter only translates the end: "She is sorry", they say.

As this is happening, two of the three judges' heads bow slightly, not even trying to disguise their nap on the judicial bench. They ask Naila, the lawyer for LBHM, to shorten her questions. They tell Karin to shorten her responses. They tell the interpreter to abridge the story.

And before I can count to ten Karin's hearing is up and we are meeting her behind bars in the holding cell.

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On Tuesday I went to visit Our Voice. They are an LGBT NGO who have a two-tier business structure: as both a clothing business and an advocacy group.

It is incredibly hard for LGBT NGOs to stay afloat in the current political environment in Indonesia. The Government has waged a war to try and stop funding to LGBT NGOs,

another step in the Government's overall aim to stop the spread of LGBT influence in Indonesia.¹ Therefore, their only means of survival is through income earned through alternate means.

This treatment is very alike to the Government's overall discrimination towards the LGBT populous. There has been a plethora of hostile rhetoric and vitriolic attacks towards the LGBT population. A minister equated LGBT rights movements to a "proxy war" more dangerous than nuclear war; a leading psychiatric body in Indonesia classified LGBT as a mental disorder; a mayor warned that instant noodles and formula milk will "make babies gay" and Universities have been making students sign forms to state they are not LGBT.²

When we arrive at Our Voice, we are greeted at the rainbow gate and taken into a small clothes store lined with Batiks hosting fashionable cuts. I pick out a stylised pair of high-waisted pants to buy from the rows of clothes, and sit down for an informal chat.

The issue of LGBT rights is political suicide in Indonesia, they tell me. Even to speak out against homophobic laws on Twitter can have you subject to harassment by conservatives in the community, said Naila, who has experienced this first hand.

After this, we visit the Commissioner on Gender Violence in Indonesia at *Komnas Perempuan* (National Commission on Violence Against Women). We were greeted with concoction of fruit in her office. She tells us some of the realities she faces advocating for women's rights. For instance, in politics there has been an increased promotion of polygamy amongst men marrying multiple wives in Indonesia. And with the introduction of the new Criminal Code, she warned us about the likely increase in local vigilante groups taking 'justice' into their own hands

¹The Jakarta Post, 'Kalla Requests UNDP to no Fund LGBT Groups', The Jakarta Post, 15 February 2016, accessed at <http://www.thejakartapost.com/news/2016/02/15/kalla-requests-undp-not-fund-lgbt-groups.html>.

² James Purtill, 'Is Indonesia really going to hand out five years' jail for gay sex', Triple J Hack, 31 January 2018, accessed at <http://www.abc.net.au/triplej/programs/hack/is-indonesia-going-to-hand-out->

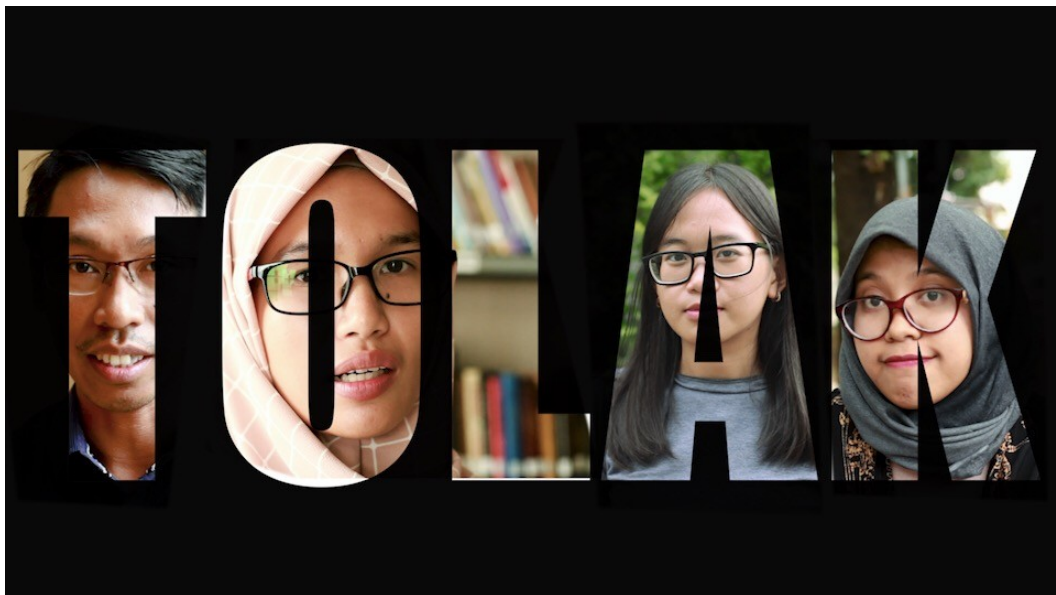
five-years-jail-for-gay-sex/9379428.

to stop homosexuals and non-married couples having sex, blurring any realm of a public/private divide.

Whilst there are a range of incredible activists working in this space, it's hard not to feel the disillusionment with the current state of politics, especially in light of the new proposed changes to the Criminal Code.

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For the rest of the week, I worked to create a video on the new Criminal Code revision. It is likely to pass this month in February. The introduction of the new Criminal Code will bring about a plethora of new regressive law which has been debated for the last decade. Notably, the introduction of the criminalisation of all sex outside of marriage.



These are particularly scary provisions, as it is likely to lead to the increase in raids and vigilante groups taking 'justice' into their own hands. This will also lead to overcrowding in the prisons. It will undoubtedly disproportionately impact those that are poor and cannot register their marriage, teenagers and the LGBT population.³

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³Krithika Varagur, 'Revised Indonesia Criminal Code May Outlaw Gay, Extramarital Sex', Voa News, 2 February 2018, accessed at: <https://www.voanews.com/a/revised-indonesia-criminal-code-ban-gay-extramarital-sex/4235992.html>



It's Monday and Naila and I are back at the Tangerang District Court. This time, it is the prosecution's turn to lay down the charges for the client.

Karin bent forward, brow furrowed, tears pooling, as the gavel slammed down. Seventeen years can feel like a lifetime.

The 'war on drugs' has escalated exponentially in Indonesia. President Joko Widodo's has been a strong vocal advocate for tough drug laws in Indonesia, claiming that Indonesia is in the middle of a "narcotics emergency". In a speech he made on July 21, he stated that law enforcement should shoot suspected drug dealers who resist arrest summarily. Indonesia's National Narcotics Agency (BNN) also has the same strategy: kill drug suspects so they don't go to prison and leech off government paid meals.⁴

And they are particularly tough on foreign drug users: "I have told you, just be firm, especially with foreign drug dealers who enter the country and resist [upon arrest]. Gun them down. Give no mercy", President Widodo

⁴Phelim Kine, 'Indonesia Endorses Killing Drug Suspects to Cut Costs', *Human Rights Watch*, October 16 2017, accessed at: <https://www.hrw.org/news/2017/10/16/indonesia-endorses-killing-drug-suspects-cut-costs>.

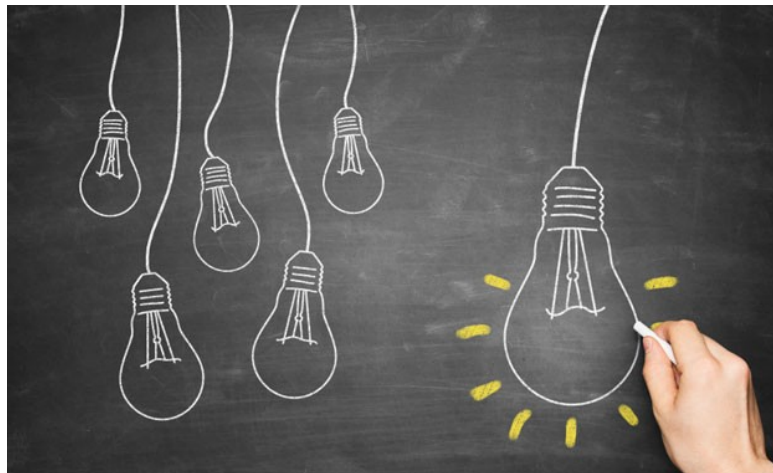
stated at a speech on the United Development Party (PPP) national working meeting (Mukernas) in Jakarta.⁵

The stringent attacks on drug offenders has referenced the approach taken in the Philippines as their inspiration. Authorities are taking justice into their own hands: This year in January, the North Sumatra Police shot three people dead for suspected drug dealing.⁶

Indonesia's drug policy is in stark contrast to other countries, such as Portugal which decriminalised all drugs in 2001. Portugal too has paved the way for the Norwegian parliament, who has announced they will follow this move this year.⁷

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For the rest of the week I stayed in the office and conducted research.



⁵ Haeril Halim, 'Jokowi Orders Police to Gun Down Foreign Drug Traffickers', The Jakarta Post, 22 July 2017, accessed at: <http://www.thejakartapost.com/news/2017/07/22/jokowi-orders-police-to-gun-down-foreign-drug-traffickers.html>

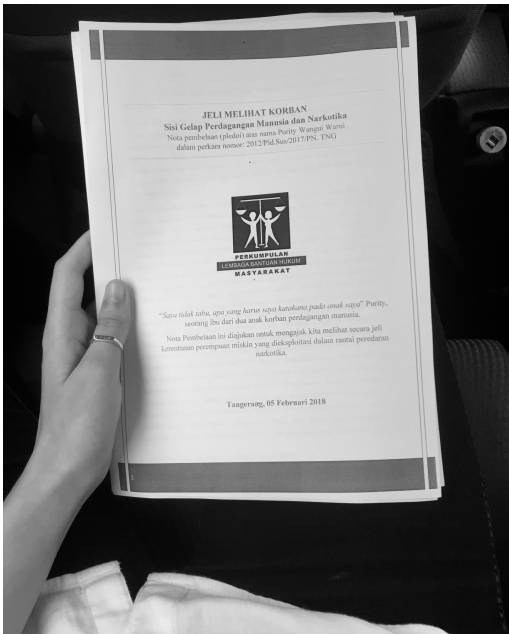
⁶ Apriadi Gunawan, 'Three Suspected Drug Smugglers Shot Dead in Medan Raid', The Jakarta Post, 9 January 2018, accessed at: <http://www.thejakartapost.com/news/2018/01/09/three-suspected-drug-smugglers-shot-dead-in-medan-raid.html>

⁷ Josh Butler, 'Norway's Parliament Votes to Decriminalize All Drug Use', Huffington Post, 18 December 2017, accessed at: https://www.huffingtonpost.com/entry/norway-decriminalize-drug-use_us_5a387b70e4b0860bf4aa96c4.

It took me a few days to decide my main research report topic, as I oscillated between focusing on female drug mules or LGBT rights. Ultimately, I was very interested at looking at LGBT rights as it has been very divisive internationally and has formed a large chasm in Indonesian society. Last year in 2017, Australia legalised same-sex marriage and Taiwan’s constitutional court held that same-sex marriage was legal. Here however, under the current proposed changes to the Criminal Code, gay sex may be criminalised for up to 5 years in Indonesia.

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Today, Naila presented her defence statement at the Tangerang District Court.



There were two reports LBHM had worked on for Karin’s case which I conducted some research for: one demanding that Karin is released, the second demanding a reduced sentence. When we talked to Karin before the court to receive instructions on which defence statement to lodge, she appeared so rational and detached. “They won’t release me but there is some hope they will reduce my sentence”, she states.

Today is a very emotional hearing for everyone. Naila reads out her defence statement, arguing the mitigating factors which are not taken into account in the prosecution’s proposed sentence. Karin does not have a criminal history. Karin did not know she was smuggling drugs. Karin has never been to Indonesia. Karin is a victim of human trafficking. Karin has two young children who she needs to support. Karin complied with the authorities. Karin has a consistent story which the prosecution has not been able to poke holes in.

Karin was given a chance to speak to the judges and beg for their forgiveness. As one of the judges took the liberty of checking social media, Karin wept for her parentless children back home.

I have always been taught in law school that a fundamental element of criminal law is that someone who is less morally culpable should receive a lesser punishment. Punishment should be proportionate. For more serious offences, the accused’s *mens rea* (‘intention’) should be factored into deciding whether they have committed the crime and what

sentence should be imposed. However, there is an unspoken disillusionment amongst all of us on the defence team that this will not be taken into account.

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"This place [detention centre] is a factory for mad people. They have the perfect formula for making people crazy: controlling guards, too many rules, no freedom, and too much time to spend in the day. Every day is the same here. It gets very boring. When we have this much time, we spend too much time thinking. When you are bored, and you are thinking too much, you will lose your mind too."



Artwork by Alwy Fadhel a former detainee at Villawood detention in coffee beans.

In Australia I run a social media campaign called 'Humans of Detention' which LBHM asked me to present on. Inspired by Humans of New York (HONY), it seeks to share the stories of refugees and asylum seekers locked up in immigration detention in Australia. To protect the anonymity of the stories, the page represents the person through local artist work.

LBHM wanted to look at organising a similar campaign to try and humanise the stories of female drug mules. There is a lot of stigma attached to the work that LBHM does in Indonesia regarding drugs, LGBT and HIV issues. Ultimately, through this collaboration with LBHM, the aim of the project is to provide an accessible platform outside of legal jargon to humanise the stories of people who are facing the death penalty or protracted periods behind bars.

I coordinated with one of the researchers in the office to transcribe Merri's story, one of LBHM's clients. We looked through the lens of her unfair trial, how she accidentally became a drug mule, and the torture which was inflicted on

her during the interrogation process. I then reached out to an artist in Australia who was willing to do artworks of the stories pro-bono. Together we collaborated to work on humanising Merri's story to challenge the popular narrative on drug traffickers in Indonesia.

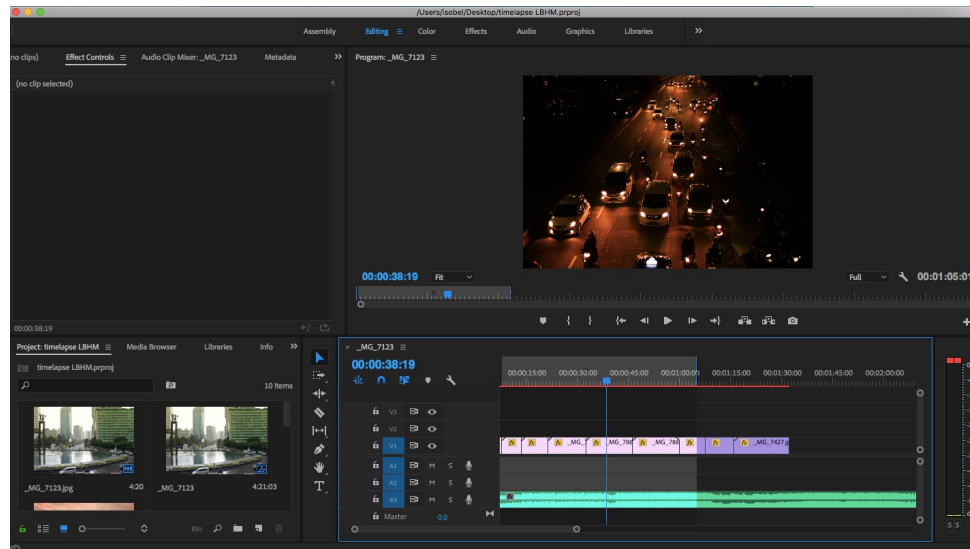
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On Friday we started to develop our next idea of a video for LBHM to highlight the human rights abuses occurring every day in Indonesia, focusing on LBHM's main focus issues (LGBT, HIV, mental health and drugs).

We decided to set the context in the epicenter of Jakarta: the traffic. We set off to the Central Business District in Jakarta via train to capture the traffic. The aim of the video is to show that amongst the chaos in the heart of Jakarta, human rights abuses are occurring.

Astried and I worked to capture some time lapses of the city from sunset to night. Then, to finish up the busy week we went out for Japanese food.



My final week at LBHM has been incredibly busy, between finishing off my research project, editing the second film in Lightroom and Premier Pro, doing advocacy, featuring on LBHM's weekly Human Rights Talk, and going on different 'human rights' themed excursions.

I visited various non-government organisations working to help improve the rights of LGBT people in Indonesia. We talked about their approaches to advocating LGBT rights in the current political climate. It was heart-warming to see the amazing work these advocates are doing locally to continue strengthening their community, advocating for a decrease in discrimination and attempting to debunk assumptions about the LGBT community.

When I asked one woman about the criminal code and how the revision would affect her as an openly gay woman, she said she would not want to seek asylum even if she was imprisoned. She said she would rather die fighting for greater rights of LGBT individuals and organisations in Indonesia.

On Thursday I went to Cipinang Prison (*Cipinang Penitentiary Institution*), one of the top-security prisons in Jakarta. I accompanied two lawyers who go out to one of the four prisons each week to give legal advice for detainees who are facing charges for drug crimes. The lawyers set everyone up in a 'court-room' role play to explain the process of trial to the inmates. They interviewed people to

show the role of the expert witness, a general witness, the prosecutor and the defence. I also got the chance to speak to some of the prisoners about their experience. The prison is incredibly over-crowded - exceeding over 100 per cent overcrowding. There is not enough beds for everyone in the prison. Instead, friends take it in turns to sleep for a few hours and then alternate.

The night took a drastic shift as we rode back in a Grab car from the prison back to the office. It is my last day at LBHM and the office was decked out with a DJ deck, food, presents and fairy lights.

Overall, I've had such an incredible and eye-opening experience working with an amazing group of dedicated people fighting for the human rights of *all* in Indonesia. I am so grateful that they are doing the work they do to help in the fight for equality. Because EVERY human matters.

