

Out & Equal Brief— Indonesian Parliament moves to amend the Criminal Code to outlaw same-sex relations and all extra-marital sex

Overview

In recent years, [attitudes towards Indonesia's LGBTQ population have become increasingly hostile](#) as support for conservative Islamist forces has grown. In 2008, the country passed a national Anti-Pornography Law that classifies same-sex relations as “deviant behavior” and since 2016 police have begun enforcing this law widely by arresting LGBTQ people both in well-known LGBTQ establishments and in their private homes. In 2014 laws were also passed in the province of Aceh—the only Indonesian province to practice Sharia—that explicitly outlaw same-sex and extra-marital relations. Under these combined laws, more than 300 Indonesians were arrested or harassed in 2017 for alleged LGBTQ-associated behavior, including [a raid on a well-known LGBTQ gym and sauna](#) in Jakarta, [the forced eviction of twelve women](#) suspected of being lesbians from their village, [the caning of two young men](#) in Aceh found having relations in their private home by their neighbors, and [the arrest of twelve transgender women](#) at an Acehnese beauty salon who were subsequently shaved and forced to live as men.

As if this harassment has not been bad enough, some lawmakers are now seeking to amend the country's Criminal Code to include clauses outlawing all same-sex conduct and sex outside of marriage not only in Aceh, but country-wide. While LGBTQ individuals are already being targeted nationally under the Anti-Pornography laws, these changes would give the government even stronger grounds for discrimination and harassment. The NGO Human Rights Watch has tracked and documented this alarming development extensively. While the legislation has been delayed by protests largely from women's groups, proponents are looking to resume the process and have received public support. Local elections in 2018 and national election in 2019 have also made the political climate ripe for scapegoating, and Indonesian leaders are being increasingly cornered by militant Islamists to reject the very existence of the country's LGBTQ people.

Legislators from all major political parties are meeting in early April to discuss the changes to the Criminal Code. If these changes are agreed upon, the Code would then be amended over the coming months and could be passed through the Indonesian Parliament within the year.

Why these amendments to the Criminal Code matter

- While LGBTQ Indonesians have faced higher levels of harassment and discrimination in recent years, same-sex relations have never been criminalized outside of Aceh, where the consequences for LGBTQ people have been significant. These changes to the Criminal Code would be a huge blow to the community and would leave LGBTQ people across the country even more vulnerable to violence, discrimination, and arrest.
- The section of the proposed legislation outlawing extra-marital sex is equally concerning. [Over 50%](#) of the country's couples are not legally married because of

high registration costs and a complicated bureaucracy, meaning they would technically be open to arrest—a situation which could overwhelm the country’s police and court systems.

- Overall, outlawing both extra-marital sex and same-sex relations presents a fundamental infringement upon the privacy of all Indonesians, regardless of sexual orientation or gender identity, by giving heightened social sanction for neighbors and police units alike to spy on and raid people in their private homes.

What your company needs to know

- To put it simply: any of your company’s LGBTQ employees in Indonesia could be at greater risk of violence, discrimination, and arrest, and the privacy of all of your employees would be jeopardized.
- The Indonesian President and many members of the government are keen to attract more global business and investment to the country to continue growing its economy. Therefore corporations hold considerable sway in Indonesia’s current political climate, especially since, in a world where more countries decriminalize same-sex relations each year, this legislation would be seen as regressive and likely to deter global investors.
- The push towards acceptance and marriage equality in the U.S. under the Obama administration gave power to conservative Islamist groups in Indonesia who effectively portrayed LGBTQ values as being spread to the country by the U.S. media. Therefore any multi-national company in Indonesia looking to speak out on this issue must consider the best way to do so and whether or not to do it publicly.
- While these proposed changes to the criminal code do target LGBTQ people, they more widely threaten the privacy of all Indonesians. This point can be central in communications from companies sensitive to backlash for taking an explicitly pro-LGBTQ stance on this issue.
- Well-known consumer brands and consumer product companies are particularly well positioned to have a powerful public voice on these issues. While LGBTQ issues are being used as a wedge issue during an election year as they have been in other countries around the world, a sizeable portion of the Indonesian citizenry are tolerant of differences in this diverse nation. Indonesia has a national motto of “unity in diversity;” LGBTQ advocacy and support organizations have operated openly since the 1980s—until this crackdown began in 2016.

What your company can do

- *There are multiple ways that your company can engage on this issue, either publicly or through private channels to government leaders. However, taking into account sensitivities within Indonesia around LGBTQ issues, each company must carefully consider the most appropriate method of engagement for its particular situation.*

- Send letters from your company directly to Indonesia's President, Minister of Finance, and/or Minister of Labor (whichever office is your company's primary point of contact), expressing concern that this legislation will threaten the privacy of your employees, and therefore your ability to do business in Indonesia. Additionally, emphasize that as an investor in Indonesia these threats are worrisome. Also express these concerns in any direct private conversations between your company and public figures and political officials.
- In any letters your company may send directly to Indonesia's Minister of Health, express concern that rates of HIV infection in the country among men who have sex with men [have increased from 5% to over 25%](#), in part due to raids on popular LGBTQ establishments where men often obtain condoms, community support, and education. This is therefore not only a political crisis, but a public health one as well.
- Sign on with company name and logo to a private letter drafted by Out & Equal to be sent to Indonesia's President, along with other companies with operations in Indonesia. This letter would express these companies' support for the right to privacy of all Indonesians, including the country's LGBTQ communities, and urge the government to reject criminalization of sex outside of marriage and adult consensual same-sex conduct. If you are interested in signing onto a letter, please contact global@outandequal.org.

Who you should engage at your company

- Your Indonesia and/or Asia regional leadership
- Legal
- Government Relations
- Human Resources
- Diversity & Inclusion
- Your ERG group in Indonesia