



# STATEMENT: OUR CONCERNS ON RECENT LIMITATIONS TO SEXUAL AND REPRODUCTIVE RIGHTS IN INDONESIA, RUSSIA, QATAR AND KENYA.

## Indonesia's parliament passed a law that criminalizes sex outside marriage

On the 6th of December 2022, human rights activists received infuriating news with the passing of the sweeping new criminal code that criminalizes sex outside marriage in Indonesia carrying a penalty of one-year imprisonment to those found culpable. Indonesian lawmakers unanimously endorsed this new law, which also applies to foreigners and tourists who visit Indonesia. With the new law, cohabitation provokes punishment. Expressions of views contrary to the national ideology are punished as acts of insulting the president with imprisonment of up to 3 years. However, the code will not come into effect for three years to allow for implementing regulations to be drafted. Several countries have raised their voices of concern in the late few weeks as this seems like a de-facto prohibition of homosexual sex given that same-sex marriage is not permitted under Indonesian law. We, as young activists, join that protest and concern.

Indonesia is a largely Muslim state, and there has been a rise in religious conservatism over recent years. LGBTQ+ rights and adultery are also banned, violating fundamental human rights.

In 2019, there was a plot by the parliament to pass a draft version of the Criminal Code. The efforts were futile as this move attracted nationwide protests terming it as an infringement of human rights frameworks that provide the right to liberty and freedom of expression. Recently the Government of Indonesia held public consultations to review the draft code. However, despite public engagement in the review process, very minimal changes were incorporated in the final version. Some of the changes included were:

- Revision of death sentence to life imprisonment after 10 years of 'good behavior'
- Criminalization of abortion only with the exception of rape.

The Criminal Code indicates that sex outside marriage, which can only be reported by limited parties such as close relatives, amounts to a penalty of up to a maximum of one-year imprisonment. As human rights activists, we are agitated by this move as it creates room for gross infringement of the right to privacy, confidentiality, liberty, right and freedom to decide if, when, with whom, whether to get married to or not.

Indonesia is a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Indonesia signed CEDAW commitments in 1980 and ratified in 1984 yet it is contrary to the provisions of international human rights treaties. **Article 1** of the CEDAW clearly defines the term "discrimination against women" to mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, **irrespective of their marital status**, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field\*. CEDAW clearly notes that the right to work is a fundamental human right and calls for State Parties to take all appropriate measures to eliminate discrimination against women in employment to ensure equality.

Women's rights are human rights that include the right to the highest attainable standard of health including physical, mental, and reproductive health, the right to work, right to equal treatment among others. In 2012, the CEDAW report showed that the reproductive rights of women and girls in Indonesia were largely violated with a lack of access to contraceptives for all. The CEDAW report mentioned the lack of proper legal mechanisms to address gender-based violence holistically, third party requirement for women and adolescents to consent to services and the Committee instructed the Government of Indonesia to respond to the vices in the country during the CEDAW concluding observation in 2012\*\*.

As youth activists we strongly believe that human rights are inherent, interdependent, and inalienable. As such, they should be upheld and respected. We demand that international human rights frameworks be the reference point when enacting national laws and policies!

### **Russia's government signed a new anti-LGBT legislation at the end of 2022.**

Russia's Parliament passed a new bill that imposes more restrictions on LGBT+ rights in the country. According to the new legislation, all "LGBT propaganda" is prohibited as well as "demonstrations of LGBT and information that encourages a change of gender among teenagers". Infractions could receive fines "up to 400,000 rubles (\$6,370) and up to 200,000 rubles (\$3,185)" respectively. With this new piece of legislation, Russia adds a new limitation to the rights of people with diverse sexual orientations and gender identities. According to several young LGBT+ activists in that country, the recently approved legislation makes it impossible for adults to be openly gay, bisexual or lesbian in the country.\*\*\*

\*[cedaw.pdf](#)

\*\*[https://www2.ohchr.org/english/bodies/cedaw/docs/ngos/AmnestyInternationalForTheSession\\_In\\_donesia\\_CEDAW52.pdf](https://www2.ohchr.org/english/bodies/cedaw/docs/ngos/AmnestyInternationalForTheSession_In_donesia_CEDAW52.pdf)

\*\*\*See further on LGBT activist's opposition to the new bill in

<https://www.cnn.com/2022/12/05/europe/russia-lgbtq-propaganda-law-signed-by-putin-intl/index.html>

It also creates a high burden on LGBT+ collectives to continue their actions to ensure the respect and protection of people's bodies and sexual autonomy. In this same line, Human Rights Watch issued a report in 2018 where it strongly criticized an anti-LGBT+ 2013 Russian law that also imposed limitations on sexual education for young people. This report, which resulted from a long-haul analysis, interviews, and a detailed following of the implications of the law, concluded that young people were severely affected by the impossibility of accessing comprehensive sexuality education.

What we are facing now is an expansion of the agenda that was started by the prior legislation. It goes, however, several steps further as it restrains behaviors and/or diffusion of ideas through media about sexual and gender diversity. As young activists, we must raise our voices and protest against these regulations for violating the fundamental rights of LGBT+ persons in Russia. We encourage the youth worldwide to condemn these discriminatory policies that are contrary to human dignity, the right to freedom, the right not to be subject to any form of discrimination, and the right to privacy as per the international human rights obligations to which Russia is bound. We urge activists and international bodies in the European and global system of human rights including the Human Rights Committee to condemn Russian actions against LGBT+ people and follow the development and implementation of these regulations with the goal to get it repealed.

### **Anti-LGBT Qatari regulations & the Fifa world cup**

Last year, we witnessed with frustration the way in which LGBT members suffer continued oppression in Qatar. The local regulations in Qatar impose severe restrictions to sexual and reproductive rights of individuals. Qatari criminal law bans sex outside of marriage including homosexual sex which is punished with up to seven years in prison\*. Furthermore, as several young LGBT+ activists residing abroad told the press\*\*, during the Fifa world cup any expression of sexual orientation or gender identity that departs from the heterosexual cisgender norm is extremely limited to the point that living an openly queer life in Qatar is impossible. In this sense, and given the public connotation of the world cup, we as young activists would like for the international community to condemn the repression suffered by LGBT+ people in Qatar.

We insist that now that the world cup has ended and this country is no longer in the eye of everyone, we cannot forget that human dignity and the right to freedom are severely restricted for LGBT+ members in Qatar. Our view as young human rights defenders is that the principle of self-determination shall not be invoked to maintain laws that openly limit sexual and reproductive rights of young LGBT+ Qataris, and, as

\*\*<https://www.hrw.org/news/2022/07/07/world-cup-shame-fifa-fails-lgbt-rights-test-qatar>

\*\*<https://www.vox.com/2022/12/3/23477966/qatar-anti-lgbtq-fifa-world-cup>

such, we encourage to keep up the debate and to condemn these human rights violations taking place in Qatar.

## **An LGBTQIA+ activist and fashion designer was murdered in Kenya for domestic violence and homophobic reasons**

Early this year, Kenya frightened the globe with the brutal murder of the late Edwin Chiloba, a young LGBTQ human rights activist and fashion designer. An autopsy conducted by government pathologists indicated that the activist died from asphyxia, a condition caused by lack of sufficient oxygen in the body. Indeed, as young human rights activists we lost one of our own who had a very promising future in the gender and fashion industry. The body of the deceased was found inserted in a metal box thrown by the road side.

The investigations confirmed that they were murdered by their partner and other five people who are in police custody at the moment. This comes a few months after Kenya lost another non-binary lesbian and a trans woman respectively to gruesome murder. The biggest question to ask ourselves is: what is the root cause of these killings? Well, interconnected systems of oppression; neocolonialism, ableism, heteropatriarchy, homophobia and transphobia is what leads to the murder of historically marginalized groups.

Kenya is signatory to numerous international and regional human rights treaties including the Convention Against Torture and Other Cruel Inhuman, Degrading Treatment or Punishment which obliges all State parties to take effective legislative, administrative, judicial or other measures to prevent acts of torture in its jurisdiction.\* Article 27 of the Constitution of Kenya provides the right to equality and freedom without prejudice irrespective of gender, sex, age or any other intersection\*\*. Yet, LGBTQIA+ persons and other minority groups continue to suffer from violence. According to the 2014 Kenya Demographic Health Survey, 45% of women and 44% percent of men aged 15-49 have experienced physical violence since age 15.\*\*\*

In 2021, the Government of Kenya an Action Coalition leader on the Action Coalition on Gender Based Violence made 12 commitments to end all forms of gender based violence including female genital mutilation by 2026 in alignment with the 1995 Beijing Platform of Action and SDG 5. Despite the Government's commitment to ending all forms of GBV by 2026, there was no single mention of measures the State would take to prevent violence among minority groups such as LGBTQ+ persons, sex workers, persons with disabilities etc.

In 2015, the previous Government enacted The Protection Against Domestic Violence Act 2015 to protect survivors of domestic violence from further harm.

\* <https://www.ohchr.org/sites/default/files/cat.pdf>

\*\*[Constitution of Kenya 2010.pdf](https://www.constitutionofkenya.org/constitution-of-kenya-2010.pdf)

\*\*\*<https://dhsprogram.com/pubs/pdf/fr308/fr308.pdf>

However, eight years later, we still see gross acts of intimate partner violence with poor reporting mechanisms. As a country, we have great human rights laws, although implementation of these frameworks remains a pipe dream. Until an intersectional approach is applied in policy and legal frameworks formulation with representation of all minority groups at the decision making table; until we have open dialogues with our communities, authorities, judicial officers, religious leaders, gatekeepers to unlearn ideologies, social norms, socially constructed biases/ prejudice among minority groups; until we have accurate and concrete data on GBV prevalence rates among minority groups, until GBV reporting and accountability mechanisms are made accessible, available and affordable to all persons; and until Kenya repeals colonial laws such as the Penal Code CAP 63 Section 162\* criminalizing LGBTQI+ relationships then none of us is safe.

In the words of a Kimberly Crenshaw, an intersectional feminist: “If we continue seeing LGBQIA+ inequality as a ‘them’ problem or ‘unfortunate other’ problem, that is a problem.” Inequality is not created equal, and as human rights activists we stand in unity with gender and LGBQIA+ movements across the globe, and demand that justice may prevail for the late Edwin Chiloba with love. Neither of us is safe until all of us are free.

### **How do these instances impact bodily autonomy of intersectional groups of young persons? And, how will YCSRR push for Bodily Autonomy for all in this global context?**

We deeply condemn these restrictions and reiterate that young people should have the power, autonomy and freedom to make choices over their own bodies without fear, violence or coercion. Centering the principles of bodily autonomy, we shall divide bodily autonomy components into two and how these practices, laws will negatively impact the sexual and reproductive rights of young people. Bodily autonomy is composed of:

- 1.The right to choose
- 2.The ability to do so without violence or coercion

The right to choose encompasses the agency to make autonomous decisions for young persons, and it has been curtailed by these policies and current practices in the following ways:

- **Violation of the right to decide if, with whom, whether to get married or not-**  
This right has been infringed by The New Criminal Code in Indonesia prohibiting sex outside marriage, criminalization of abortion, criminalizing cohabitation among locals and foreigners entering the country, Qatar’s criminalization of sex outside marriage. These instances show a gross breach of human rights which will

\* <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/28595/115477/F-857725769/KEN28595.pdf>

increase the number of deaths among young people due to unsafe abortions. As young activists we believe that young people are an intersectional group and not all youths want to marry or get married.

- **Violation of the right to sexual pleasure;** all persons are sexual beings including youths in all our diversity. Russia banning comprehensive sexuality education amongst young people then impacts on their right to information about their bodies, sexual pleasure, development of intimate and personal relationship etc. Young people have a right to enjoy their sexual lives either within a marriage setup or not.
- **Violation of the right to self determination;** the ongoing homophobia in Kenya, Qatar, Russia bars young LGBTQ+ persons from identifying with who they are, their flaws, being able to determine their gender identities and sexual orientation impacting negatively on the right to choose. A binary approach to sexuality limits those who do not conform to the sexual dichotomy of male and female. As a youth led organization championing for reproductive rights, we affirm that sex work is work. Punishment of adultery in Indonesia will resort to gender based violence amongst sex workers who might not get legal recourse.

**The ability to do so without violence or coercion;** is the second component of bodily autonomy. Young people must be determining decisions over their own bodies free from violence or coercion. The policies and practices outlined in this statement will lead to;

- **Gender based violence;** The new criminal code in Indonesia will increase forced early child marriages in the country to minimize cases of arrest/ criminalization amongst those found culpable.
- **Marital rape** as a result of GBV amongst cis heterosexual and non-binary couples in Kenya, Qatar, Indonesia and Russia might increase since LGBTQ+ survivors are afraid of expressing their identity in public for fear of violence, the authorities are not sensitized of LGBTQ+rights thus the survivor might be arbitrarily arrested when seeking help from authorities.
- **Corrective rape for LBQ women, forced conversion therapy for young intersex persons;** homophobia, heteropatriarchy, ableism and all other interconnected systems of oppression abuse the less privileged in the community. These laws and practices in Kenya, Qatar and Russia banning acts of LGBTQ+ will increase cases of rape amongst non- binary cis persons, forced gender affirmation surgeries for transpersons among other minority groups.
- **Violation of the Right to privacy;** The Criminal code in Indonesia provides a close family member to report sex outside marriage of their kin. This is a controversial provision and a violation of the right to privacy. It would be impossible for someone to determine whether their kin had sex outside marriage without interfering with their sexual and reproductive rights.
- **Violation of the Right to liberty;** The recent killings of LGBTQ+ persons in Kenya because of their identity, restricting LBQ+ persons in the public in Qatar during

world cup, and Russian legislation prevents these young people from being who they are without fear of torture. We strongly condemn such human rights transgressions happening in the globe on sexual and reproductive wellbeing of all young people.

As young activists advocating for sexual and reproductive human rights, it is our responsibility to expose violations and analyze the ways in which they affect bodily autonomy, especially of young people. Therefore, this statement constitutes one of many ways to raise our voice and awareness of how state policies can impact the way in which young women and young LGBTQ+ people are affected in their right to choose without violence or coercion on the way they one to express and feel their bodies. Accordingly, we also urge international NGOs and CSOs, as well as international accountability boards and committees such as the Human Rights Committee, the African, European and Asian Systems of Human Rights to publicly and openly condemn and sanction as per their competences the policies that vulnerate and endanger rights to freedom, privacy and the right not to be subject to any form of discrimination.

Apart from these claims, we also address through this statement the members of government from Indonesia, Russia, Qatar and Kenya to adopt all necessary measures in order to stop the human rights violations to sexual and reproductive autonomy of young people in their countries that derive from the above described policies. Imposing restrictions on sexual life outside of heterosexual monogamous marriage, and preventing LGBTQ+ people from expressing and living their sexuality and gender identity without facing state's persecution are clear actions that not only violate international and regional obligations but also oppressive practices that affect vulnerable people all around the world.

This is a note for all young activists and young people to feel empowered and face these state actions with the help of international networks of activism and human rights defenders. We urge international organizations as well as young advocates to seek accountability and pursue the immediate cessation of all government policies that expose young people to the deprivation of their sexual and reproductive human rights. To this end, we recall that the Covenant of Civil and Political Rights together with the Human Rights Committee's reports are very clear as to the reach of the right to freedom and the right to privacy of all state's party to that convention. Apart from this worldwide treaty, regional instruments such as the African Charter on Human and People's Rights, the European Convention on Human Rights, and the Asian Human Rights Charter proscribe the limitations to young people's sexual and reproductive rights. Thus, we insist on the need for accountability and for the above mentioned policies to be repealed to ensure the access of people to the free exercise of their fundamental rights and freedoms.