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Research Article

Homosexuality and Same Sex Prostitution in Criminology Studies

Almira Balqis¹, Dzikrina Istighfarani², Hulliyatul Husna³, Retno Puspitasari⁴

^{1,2,3,4} Faculty of Law, Universitas Negeri Semarang, Indonesia

✉ almira.balqis22@gmail.com

Abstract: Homosexuality is a behavior of social deviation that is considered to violate human nature and violate the norms that exist in Indonesia as a civilized country according to the First Precepts and Second Precepts. Ironically, there is no legal umbrella that can ensnare homosexuals, whereas if viewed from homosexual criminology this is included in crime because crime is not only considered as something that violates the rules contained in the legislation but something that is considered to violate the values and norms that exist in society that disturb security order and something that harms the community. From the point of view of criminology, as well as the legal arrangements governing LGBT if it is linked to the Criminal Code, and prevention and control efforts so that LGBT can be overcome. The method used in this study is a juridical approach, which is done by examining primary data by direct observation in the field. The factor behind a person being a part of homosexuals is environmental factors because the environment can lead someone in a negative or positive direction and if related to criminology according to my analysis can be related to Differential Association theory where crime can be learned through close communication. The legal regulation governing LGBT is still considered weak and if it is linked to the Criminal Code it cannot yet fully regulate LGBT because the elements in it have not been fulfilled and there is still a legal vacuum.

Keywords: *LGBT; Homosexuality; Law and Gender; Criminology*

Introduction

Transgender comes from two words, namely trans which means movement and gender which means gender. The word trans has the meaning of a transfer that occurs in a person who is born with the gender of a man and then decides to change his gender to a woman or vice versa, while gender is usually defined as the gender of a person who has existed since he was born in the world. Transgender can be said if an individual behaves or has an appearance that

is not in accordance with the gender role in general. For example, a woman is culturally required to be gentle but if this happens to a man who has such character, then the man can be said to be transgender. Transgender can also be said when individual wears clothes of the opposite sex either occasionally or routinely in daily activities. This transgender behavior allows an individual to change gender according to the desired gender, such as a man changing sex to a woman or a woman having hormone injections to look like a man (Kusama, 2016; Muljono, 2012).

The concept of transgender in Indonesia is constructed from the perception of society that always sees the identity of organs according to the gender of each human being. Thus, if society sees a man who behaves and looks like a woman, then that man can be considered transgender. The public's understanding of transgender people threatens the existence and identity of transgender people. In Indonesia, when someone is said to be transgender, that individual is considered to have violated norms and religion. For this reason, this is the reason why in Indonesia many transgender people hide their identity solely in order to avoid social discrimination (Hartotrisno, 2017).

The rise of lesbian, gay, bisexual, and transgender (LGBT) cases require serious attention from various parties. In fact, in various cultures and traditional Indonesian beliefs, LGBT is an inherent part. Including Bugis culture. Recognition of the existence of LGBT people is not capable of creating new forms of civilization, considering that from them no new human generation will be born. State legal recognition of same-sex marriage eliminates the meaning of family as the constituent of its creation civilization of a moral society in the future (Tutik, 2016).

However, on the other hand, homosexual offenders still get their rights as human beings. They have the right to life which is guaranteed and stated in article 1 of the UDHR, which states explicitly that everyone is born free. In addition, there is also a guarantee of the right to get a job, the right to respect as part of society without discrimination. State law must still be able to accommodate their interests from discriminatory behavior that can marginalize their social role as social beings. However, the State only protects to the

extent of its rights as Indonesian citizens. Do not interpret it as a form of acknowledgment of the existence of LGBT people in Indonesia, because the laws and regulations clearly stipulate, especially the Law on Marriage. Marriage is an agreement between a man and a woman to marry their wife. Law No. 1 of 1974, states that marriage is a physical and spiritual bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on Almighty God. 14 Marriage is a method given by Allah to produce offspring (children) in the context of human life in a holy way, and maintaining the integrity of society (Prodjohamidjojo, 2002).

Basically, the LBGT behavior has been around for a long time in Indonesia, but it does not openly appear in the community, considering that the community's response tends to be negative in responding to this. However, after the issue of LBGT became a global topic of discussion and several countries supported the legalization of the rights of LBGTs, the LBGTs in Indonesia also urged the Government to legalize LBGT through the formation of laws governing the rights of LBGTs. At present, the LBGTs are openly brave enough to express their stance in public and in the community. According to a survey conducted by the Freedom to Marry Organization in 2014, there are 22 countries out of 204 countries that have been de facto recognized by the United Nations which legalize same-sex marriage in all regions of the country (Setiawan & Sukmadewi, 2017).

The resolution on the recognition of LGBT rights is the first UN resolution that specifically addresses the issue of human rights violations based on sexual orientation and gender identity. This resolution on the recognition of LGBT rights is used as a basis

for demands for LGBT people to claim their rights in the name of human rights. However, of course talking about human rights, it will not be separated from the laws and philosophy adopted by a country. For the Indonesian state, which is based on law and Pancasila, the State will respect the rights of every citizen and the enforcement of human rights will also be adjusted to the values and philosophies adopted by the Indonesian people (Santoso, 2016).

In Indonesia, there are still several legal products at the national and regional levels that discriminate against LGBT people. Some of the discriminatory products, such as the South Sumatra Provincial Regulation No. 13 of 2001 concerning the Eradication of Immorality in South Sumatra Province. This Regional Regulation criminalizes LGBT groups by categorizing LGBT as an act of prostitution. In addition, the Regional Regulation of Palembang City No. 2 of 2004 concerning the Eradication of Prostitution. This Regional Regulation criminalizes LGBT groups by categorizing LGBT people as part of the act of prostitution. Some of these legal products are discriminatory against LGBT people who regulate their sexual activities. But you need to know,

These various backgrounds, then we will take the formulation of the problem and then discuss it based on the research with the observations we have done.

Method

A. Approach and type of research

In accordance with the title of this study, namely gay prostitution, the researcher used a qualitative research method defined by (Bogdan and Taylor:

2010; 87), as a research producer that produced descriptive data. These are written or spoken words of people and observed behavior. According to them this approach is directed at the background or individual as a whole (holistically). So, in this case, it is not permissible to isolate individuals or organizations into variables or hypotheses, but it is necessary to view them as part of a whole.

According to (Denzin & Lincoln, in Creswell, 2013; 58) defines, qualitative research is an activity located where research is placed in the world. Qualitative research consists of a set of material interpretation practices that make the world visible. These practices are transforming the world. They turn the world into a series of presentations, which include various field notes, interviews, conversations, photos, recordings and personal notes. In this case, qualitative research involves a naturalistic interpretive approach to the world. This means that qualitative researchers study objects in their natural environment, trying to interpret or interpret phenomena in the light of the meanings given to them by society.

According to Kirk and Miller (1997) qualitative research is a particular tradition in social science that fundamentally depends on observations of humans both in their area and in their events (Creswell, 2010). Qualitative research is research that uses a natural background to interpret the phenomena that occur and is carried out with the intention of interpreting existing phenomena and is carried out by involving various existing methods, while the methods usually used are interviews, observation, and document utilization.¹

¹ Research procedures in a qualitative approach to understand internal phenomena community through the

process of observation, interviews, and documentation in the research process at field.

The approach used in this research is a qualitative research method using a case study research type. Case study research is a qualitative research that seeks to find meaning, investigate processes, and gain deep understanding and understanding of individuals, groups or situations (Emzir, 2012; Sari, 2015).

The juridical aspect of this research begins by examining the laws and regulations relating to research, including the 1945 Indonesian Constitution and Law No.1 of 1974 concerning Marriage. Furthermore, the empirical aspect studied in this study is the LGBT phenomenon which is currently being discussed and debated in Indonesian society, especially for the younger generation (Setiawan, 2017).

Research Location The location of this research was conducted in the Holy City. Kudus is one of the cities with the highest regional income, of course this city is the foundation of the community, both in terms of economy, politics and culture, religion and so on. Many people depend on the holy life for their life, so it is not uncommon for Kudus to be seen as crowded and traffic jams compared to other cities around it. From the hustle and bustle of the city of Kudus, of course there are various kinds of people, one of which is gay people. The existence of gays is a fact. They are a reality of this century. Now they are starting to dare to appear all over the world, including in Indonesia. In fact, their appearance in Indonesia began around the 1920s (Pranata, 2013; Abdul, 2016).

B. Types and sources of data

The data sources here are all sources from which the research data was obtained, to make it easier to identify, here the researcher classifies them into three levels, namely person (data in the form of people),

place (data in the form of a place), paper (data in the form of symbols). The data sources used by the author in this research are:

a. Informant

Namely people who can provide information or information related to this research activity. The informants in this study were the perpetrators of this deviant behavior, namely the gay people and several secondary informants, namely one of the customers of the gay prostitution.

Table 1. List of Informants (*original names are hidden*)

| No | Name | Information |
|----|--------|-------------|
| 1. | Puspa | Gay people |
| 2. | Mytha | Gay people |
| 3. | Rosman | Customer |
| 4. | Ramli | Citizen |
| 5. | Elma | Gay people |
| 6. | Ana | Gay people |

b. Study of Document

Documentation or study of document is a technique used in finding data about things or variables in the form of notes, transcripts, books, agendas, and so on, namely all written data related to this research.

c. Data collection method

Data collection method used in this study were observation techniques, interview techniques, and documentation. The following will explain the data collection techniques used by researchers as follows:

1) Observation

According to Nawawi and Martini (1992: 74), Observation is a systematic observation and note-taking of the elements that appear in a symptom or symptoms on the object of research. The observations of researchers can find out the activities of gay

prostitution in Kudus, in their daily lives doing behavior digress. Based on the above explanation, it can be concluded that observation is an activity of observation and recording carried out by researchers in order to perfect research in order to achieve maximum results (Gunawan, 2013).

2) *Interview*

According to Sugiyono (2010: 194), the definition of an interview is as follows: The interview is used as a data collection technique if the researcher is going to carry out a preliminary study to find problems that must be researched, and also the researcher wants to know the things of the respondent more deeply and the number of respondents is small. The interview used in this study was to ask structured questions because the researcher used interview guidelines that were systematically and completely structured to collect the data sought (Gunawan, 2013).

Interviews in this study were conducted on the Gay community, local residents, and one of the customers of the prostitution. The interview method used to strengthen and clarify the data obtained is the data about the transgender's profile in the sanctuary. The interview is an activity that is carried out directly by the researcher and requires that the researcher and the resource person meet face to face so that they can conduct direct questions and answers using the interview guide.

3) *Study of Document*

According to Hamidi (2004: 72), the documentation or study of document method is information derived from important notes from either an institution or organization or from individuals. The documentation of this research is a picture taking by the researcher to strengthen the research results. According to Sugiyono (2013: 240), documentation can be in the

form of writings, pictures or monumental works of a person. Documentation is the collection of data by researchers by collecting documents from reliable sources who know about the sources, for example NGOs. The documentation method according to Arikunto (2006: 231) is looking for data on variables in the form of notes, transcripts, books, newspapers, magazines, inscriptions, meeting minutes, agendas and so on. Based on the two opinions of experts, it can be concluded that data collection by means of documentation is something done by researchers to collect data from various things in the print media discussing the sources to be researched. This study uses the documentation method to find data about the profile of the transgender in the city of Kudus.

Literature Review

A. **Definition of LGBT**

The meaning of the word lesbian according to the Big Indonesian Dictionary is a woman who loves or feels sexual stimulation of the same sex; homosexual woman. While homosexual is someone who is attracted to people of the same gender. Bisexual is defined as having both sexes and being attracted to both sexes. Transgender people are people who have a gender identity or gender expression that is different from their designated sex from birth (Alwi, 2002).

LGBT is an acronym for lesbian, gay, bisexual, and transgender. This term is used since the 1990s. And it replaces the phrase "gay community" because this term is more representative of the groups already mentioned. Lesbian is a term for women who direct their sexual orientation towards their fellow women, Gay is a term for men who direct their sexual orientation towards

fellow men, while Bisexual is a sexual orientation that has characteristics in the form of aesthetic attraction or sexual desire for men and to women.

Gender is the psychological and socio-cultural dimensions that are owned because someone is born as male or female. Meanwhile, gender roles are a set of expectations that describe how a man or woman should think, act or feel. Recently, there is a growing awareness of individuals whose gender does not match the *male* and *female* categories. Transgender is a prime example. This individual can be said to be biologically one of the sex groups, but this individual believes that he is a member of the different sex. In most cases, a person whose overall appearance is male, but his psychological reality feels as a woman who is trapped in a man's body (Barnawi & Silmi, 2016).

Homosexual is a normal sexual deviant relationship. This can occur due to several factors, such as heredity, environment, and others. A homosexual lifestyle is a lifestyle where adherents of this lifestyle have deviant sexual orientations, they have sexual interactions with the same sex, and even have same-sex relationships. There are various factors that cause the emergence of LGBT behavior (*Lesbian, Gay, Bisexual and Transgender*), as follows:

1) Biological

Certain combinations or sequences in genetics such as chromosome composition, brain structure, hormonal imbalances and nervous system disorders are thought to predispose a person to become an LGBT individual. However, the biological factors that influence a person to become LGBT are still being researched and studied further by experts in their fields.

2) Environment

The environment is thought to have influenced someone to be gay. These environmental factors consist of:

a. Culture

Basically, the culture and customs that apply in a particular community group more or less personally affect each person in that community group. Likewise, culture and customs that contain elements of homosexuality can affect someone to be gay. Starting from how to interact with the environment, adopted values, attitudes, views and certain thought patterns, especially those related to one's sexual orientation, actions and identity.

b. Parenting

How to raise a child can also influence a person to be gay. From an early age a child has been introduced to their identity as a man or woman. This identification is not only limited to the title but also the meaning behind the designation of a man or woman, which includes:

- (1) Physical appearance criteria, such as wearing clothes, hair styling, proper body care and so on.
- (2) Physical characteristics, such as differences in male and female genitalia. Men in general have a stronger physical condition than women. Men are generally interested in activities that rely on strength or rough muscles while women are generally more interested in activities that rely on smooth muscles.
- (3) Attitude characteristics, such as men generally use logic or thoughts, while women generally tend to use feelings and emotions more. Men generally prefer activities that

generate adrenaline, demand strength and accuracy, while women prefer activities that are subtle, demanding patience and thoroughness.

- (4) Characteristics of demands and expectations, for a society that adopts a paternalistic system, the demands for men are to become the head of the family and be responsible for the survival of the family. Thus, men are required to be strong, tough, assertive, courageous, and ready to protect the weaker, such as their wives and children. Meanwhile, for people who adhere to the maternalistic system, the opposite applies that women are required to become heads of the family.

c. Figure

In the process of forming a sexual identity, a child will first look at their own parents of the same sex. The son looks at the father and the daughter looks at the mother. Then they also looked at the playmate who was of the same gender as him. Homosexuality is formed when these children fail to identify and assimilate what, who and how to become and carry out roles according to their sexual identity based on the universal values of men and women.

The failure to identify and assimilate this sexual identity can be because the figures seen and become examples for them do not play the role of their sexual identity according to universal values that apply. For example, mothers who are too domineering and fathers who have no emotional attachment to their children. The father appears as a weak and helpless figure or as a homosexual parent.

3) Sexual Violence

Sexual violence committed by people who are not responsible for other people of the same sex is one of the factors that influence a person to be gay. There are many things that cause someone to commit this kind of sexual violence, including sexual desire / lust, sexual fantasies, ventilation of anger / revenge and an arena for bullying other people such as bullying from seniors to juniors, bullying geeky friends and so on.

Basically, everyone who has sexual relations with another person without the consent of that person is included in the category of committing sexual violence. The forms of sexual violence carried out varied widely. Starting from holding same-sex genitals, trampling on them, forcing them to do something to their own genitals or the perpetrator's genitals, to using certain tools as a medium for sexual violence.

Sexual violence like this places the victim in a situation that is extremely extreme, unpleasant, life-threatening, unsafe, unsettling, chaotic and confusing. This becomes a traumatic experience in the victim. Such experiences can disturb the psychological condition of the victim. He tries to avoid the memory of the incident which made him very uncomfortable and very hurt or sick.

Everything that triggered his memory of the incident made him very restless. Sometimes anger arises and often the victim either consciously or unconsciously makes an attempt to damage or hurt himself. This is known as psychological trauma or traumatic experience. Traumatic experiences are not limited to experiences of sexual violence. Seeing someone engaging in sexual violence or engaging in homosexual relationships can also be a traumatic experience for someone.

4) Biology and Environment

Biological and environmental factors contribute to sexual orientation. Environment takes part and not solely the choice of a person to be gay. The factors that influence a person's development, environmental factors, combined with genetic sequences (biological factors) that affect perception, will overall grow or shape a person to be gay (Usman, 2017).

In general, the occurrence of LGBT behavior is triggered by two things, namely lust (sexuality hormone) and reason (thinking) justification. Biologically, the human body has a hormonal system, one of which is related to sexual desire and sexual orientation. Strengthening stimuli that enter through the senses (eyes, ears, skin) can trigger the body's hormonal activity which encourages the fulfillment of biological needs in the form of channeling sexuality. Someone who sees, hears, is touched by something related to sex, whether pornographic shows, hears sexual activity or touches skin due to sexual activity will encourage sexual stimulation. Someone will have a desire to channel sexuality when there is this trigger.

If all this time he knows that the distribution of sexuality is in accordance with religious rules, such as only for heterosexual couples, after marriage, in a permitted place and so on, then his sexuality will lead to this common distribution. On the other hand, if what he thinks about or his sexual orientation is the opposite, what will emerge are deviations such as lesbian, gay, bisexual, and transgender (LGBT). This deviation can occur because the knowledge of sex that he gets leads to LGBT behavior either directly or indirectly. On the other hand, the thought impulse that considers LGBT (non-heterosexual sex) behavior as commonplace will direct the channeling of

sexual desires from the hormonal activities of the body to deviate according to the mind's direction (Yudianto, 2016).

Some of them still exist today, many have received support from the local government and are generally provided through the Social Service, based on the understanding that transgender people are a group of people who are less fortunate or have a psychological disability.

B. LGBT in Indonesia

The existence of homosexuals in Indonesia is still a matter of controversy in a country that is predominantly Muslim and upholds high moral values. Homosexuality is still considered taboo and scary by most sections of society. However, nowadays, not a few Indonesians have accepted their presence as one of diversity, no longer a deviation. No less than 1% of Indonesia's population is deviant sex offenders (gay and lesbian), this number will continue to increase in line with the development and existence of homosexual associations in Indonesia (Siyoto, 2017).

The discussion about LGBT (Lesbian, Gay, Bisexual and Transgender) in Indonesia according to those who are pro with this movement states: (a) The existence of LGBT (Lesbian, Gay, Bisexual and Transgender) should be respected on the basis of humanity, (b) Support does not mean being a part from it, (c) LGBT (Lesbian, Gay, Bisexual and Transgender) is no longer a mental illness or disorder according to research conducted by the American Psychiatric Association since 1973. Stop said that LGBT (Lesbian, Gay, Bisexual and Transgender) can be cured, and (d) Everyone has the right to fall in love and they should not be separated. Unfortunately, no one can choose whom to fall in love with; men with women, men with men, or men

with women. A person's sexual orientation cannot be changed, it has been regulated in the human genes when birth appears naturally when humans enter puberty. Meanwhile, according to those who contradict LGBT (Lesbian, Gay, Bisexual and Transgender), it states that: (a) Same-sex relations are prohibited by religion and are considered a grave sin. This has been regulated in the books in all religions, and everyone must have a different interpretation or understanding of it, (b) Humans were created in pairs by God, we as humans should follow these rules and not act against nature.

People who are classified as LGBT (Lesbian, Gay, Bisexual and Transgender) are those who commit deviations and attempt to fight against God, (c) LGBT (Lesbian, Gay, Bisexual and Transgender) is a disease and is classified as an unhealthy lifestyle. The influence of the bad environment largely determines the behavior. Therefore, it takes a genuine willingness from LGBT perpetrators (Lesbian, Gay, Bisexual and Transgender) in order to recover and return to normal (Umami, 2016).

Family rejection of family members who are transgender will almost certainly always occur. It's just that each individual waria feels different resistance. Starting from subtle rejection to rejection which leads to acts of physical violence. Rejection of the life of waria, at least starts at the beginning of the appearance of signs that they behave strangely like women. It is during this time that transgender people often experience domestic violence. Whether it comes from parents, or other family members.

Citizens with special needs such as blind, disabled, deaf and others, including citizens with gender issues such as the

LGBT community from a human rights perspective, will still have the same dignity. The analogy of citizens with special needs, the LGBT community based on human rights studies is of course included. The LGBT community in human rights studies in Indonesia which is based on Pancasila will produce its own views (Sujana, Setyawati, & Ujanti, 2018).

Regarding this matter in their economic, social, political, cultural and legal life, transgender women sometimes receive unfair treatment such as exclusion from society or difficulty in accessing employment in the formal sector. This is clearly different from what is contained in the 1945 Constitution which states several rights of citizens related to human rights, namely:

- 1) Article 28D paragraph (1) of the second amendment of the 1945 Constitution: *"Everyone has the right to recognition, guarantees, protection and just legal certainty and equal treatment before the law"*.
- 2) Article 28D paragraph (2) of the 1945 Constitution of the second amendment: *"Everyone has the right to work and to receive fair and proper compensation and treatment in a work relationship"*.
- 3) Article 28D paragraph (3) of the 1945 Constitution of the second amendment: *"Every citizen has the right to equal opportunities in government"*.

Generally normative society as a regulator of community life, developing transgender women who do not act, act or determine their attitude the community should expect. Waria are victims of stigmatization. Waria are part of the other (physical, gender, and sexual presence), because it deviates from what society should expect from cultural, legal and religious values (Arfanda & Anwar, 2015).

The Minister of Social Affairs Regulation 2012 (Permensos No. 8/2012) regulates people who are known as people with social welfare problems. Among them are those whose sexual behavior becomes obstructed in their social life, namely waria (transgender men not mentioned), gay men and lesbian women. The solution to this is less clearly referred to as "rehabilitation." The drafting of this regulation appears to have been carried out without consultation with the persons intended to be assisted in the provision. In addition, it is still unclear about the implementation. What often happens in many places is the conduct of raids on such persons, who are then sent to rehabilitation centers which provide guidance for them to "*integrate into society.*"

As will be explained later, this action is often related to corrupt practices by law enforcement officials. The National Commission on Human Rights and the National Commission on Women have provided safe spaces for LGBT (Lesbian, Gay, Bisexual and Transgender) activists to hold events such as discussions and festivals. The 2004 National Human Rights Action Plan has included advocacy for "vulnerable population groups." Although LGBT (Lesbian, Gay, Bisexual and Transgender) groups are not explicitly mentioned, there were several consultations held by the National Human Rights Commission in 2006. However, after that, there were no activities that became systematic programs. In 2010, the National Commission on Women declared waria as women. In the middle of 2013, The National Human Rights Commission, for the first time in its ten-year history, listed LGBT (Lesbian, Gay, Bisexual and Transgender) rights on the agenda of the plenum session. This step caused controversy between the

commissioners and in the mass media. The agreement reached was that LGBT (Lesbian, Gay, Bisexual and Transgender) groups must get state protection from acts of violence and discrimination. Interestingly, this was also approved by the Indonesian Ulema Council (see subsection below, which deals with religion). The National Commission on Human Rights and the LGBTIQ (Lesbian, Gay, Bisexual and Transgender, Intersexual, Queer) Forum Indonesia have also signed a Memorandum of Understanding (MoU) regulating the support of the National Commission on Human Rights for the Forum because of its focus on human rights (Oetomo & Suvianita, 2017).

Result and Discussion

A. Observation Result of Object Research

Researchers have made observations 2 times in Kudus with details of different locations. From these observations, 4 sources were transgender or gays who were still doing prostitution and who were not fully prostituted. The informants, aged 29-35 years, gave different responses, especially the reasons that motivated them to decide to become waria or guys who are active in prostitution activities. Following are the data we have obtained through observations in the form of interviews with informants:

Informant 1

Name: Puspa

- Permanent job now is to open a salon
- Now 35 years old
- Since 2014, he has started to carry out protective activities to channel his sexual desires towards the same sex.
- At the same time, he started exploring work in the salon by joining other people

- Now his permanent job is the owner of the salon as well as his residence.
- Although his main job is as a salon owner, sometimes he still likes to go out at night to channel his desire to have sex with the same sex.
- Now has a 47-year-old father's girlfriend who is married to 2 children and is still married.
- Now Puspa is not married.
- Puspa is the 6th child of 7 siblings

The reasons for being a Gay or Waria are as follows:

- Feeling that this is a factor of fate from his conscience.
- Since the age of 6, he thought he wanted to be a woman. Play.
- Likes to play with women and play women's games (cooking), feels that her feminine desire is so dominant, and a feeling of attraction to men is growing in her.
- As a channel for his desires in sexual relations with the same sex, Puspa carries out these protistury activities. And until now he sometimes still likes to go out at night (doing these activities) to channel his passion.

Family Response

- Initially embarrassed and very opposed, but at the same time Puspa managed to convince the family to accept her condition, which has decided to become a complete woman by changing herself both in dress, work, physical appearance by growing breasts, to her desire for the same sex.
- Convincing the family on the grounds that "as long as it does not harm others, because the work is carried out by two parties who agree and like each other, it is not a problem for Puspa sources.
- He feels comfortable with what he has done up to now.
- And he often sends money to his family even though it is not the backbone of the family.

His response to people who excluded him and his group:

- That it is a human right in the freedom to choose what they want to be like, as long as it

is done by parties who mutually like between the seller and the buyer and do not harm others”.

- Justify the community's actions by assuming that the view of Indonesian society is (the researcher concludes that the view of the community is closely related to religious values and traditional values of Indonesian society)

Informant 2

Name: Mitha

- Occupation: Protistution, Orchestra (*Serabutan*), design kebaya.
- Now 31 years old
- Been working and decided to be a guy for 5 years
- Since 2014 doing this work and added with odd jobs in the orchestra and kebaya designs (targeting friends and the surrounding community)
- Not married yet

The reasons for being a Guy or Waria are as follows

- Feeling it is a factor of destiny.
- Follow your heart.
- Feel comfortable.
- There has been an interest in boys since middle school.
- So that in 2014 he dared to take the decision to become a transgender with his current job.
- As long as it doesn't harm other people, they agree and agree.
- He already felt comfortable being a woman.

Family response

- Initially very opposing, until now they still oppose but not as bad as the beginning.
- Mitha's informant asked the family to consider him a child or not.
- Likes to send money to family
- Not as the backbone
- The 5th child of 6 children

The role of government

- During the tenure of the Regent of Kudus named Musthafa who had served in 2008-2013 and 2013-2018, he promised to help

their community groups, both in the transfer of function of residence and work, but there was no real action.

- There has been social development such as psychological examinations, but the results are no problem (said the source)

The hope of the resource person Mitha

- "The people of their group (Guy / waria) can be freer in their activities so that there is no more exclusion from the community, and want to open up jobs for their group, prosper their group".

Informant 3

Name: Elma

- 32 years old
- Address: Pati, now residing in Jati Wetan, Kudus
- Interviewed on AKBP Ragil Kusumadya Street, Jati Subdistrict, Kudus Regency (Gang Abiyoso)
- Main job now: Haircut at a beauty salon
- In the past, I used to be a commercial sex worker on the side of the road without pimps, with an individual free system where customers who came were free of people who wanted to have sex

The reasons for being Gay or Waria are as follows

- Economic factors, because when they grow up there is confusion to work, then they are in debt, but they do not want to work hard, and when they see opportunities to work in a fairly costly protistusi, it encourages the informants at that time to become their choice of solution for the reasons above.
- Initially, his male nature was still dominant, but due to economic factors that pushed him to become a night worker, had an impact on his personality being formed as a guy or a waria until now.
- And with time I feel comfortable being a woman until now.
- The cost of one customer is around 15-20 thousand to 50 thousand, but now these costs are less frequent due to the higher interest in female commercial sex workers.

- The convenience of the resource person as a guy forms his personality to completely change both his appearance and his same-sex desires to develop
- Because the main factor is the economy, when she gets an offer to work at her friend's salon, who gets a more guaranteed and quite large salary compared to working at night, it attracts Elma's attention to meet her needs such as paying for boarding houses.

Parents' response:

- Leave it, don't mind seriously.
- The resource person also sends money to the parents to help the family.
- Every Eid comes home with the original form of a normal man

Role of Government

- There was a promise from the Regent of Kudus, named Mustafa, that if elected, the transgender women would be allocated and given capital to make their business more feasible, but in reality it was not implemented.

The hope of the resource person, Elna

- Her desire to become a woman completely by performing surgery and marrying a boy
- The clientele is middle to lower class, because female commercial sex workers are more expensive
- He used to be in the DPR but due to protests from the community and a change in the function of the regent, it had an impact on transgender women who used to hang out there so that they scattered.

Informant 4

Name: Ana

- 29 years old
- Main job now: Haircut at a beauty salon
- Origin is holy
- Ever explored a job as a dangdut singer but the salary was not high
- Then until finally they meet Jeni as a salon owner, who offers Ana and Elam to work at the salon, with a fairly large salary compared to being a transgender commercial sex worker or a dangdut singer.

The reasons for being a Gay or Waria are as follows

- From a young age, she felt dominant towards femininity, such as singing, cooking, dancing.
- Until the age of 12 years he felt that he should be a woman
- After leaving the house, the informant joined in hanging out with the transgender women who were thought to be just a community, but the source just found out that the transgender women were looking for customers
- Initially I did not think about becoming a transgender female sex worker, but because she was accustomed to hanging out with other waria commercial sex workers, the informant became accustomed and complacent so she decided to join the waria sex worker.
- It costs 15-50 thousand for 1-3 subscribers but it is uncertain and not every day either

Family response

- The family is ashamed of Ana's attitude
- So that when Ana was in high school, she decided to leave the house

Expectations of resource persons Ana

- The interviewee's initial desire to have a family is to become the head of the family if they can provide guidance, if not, then decide to have surgery first and then marry a man.

The role of government

- The Regent of Kudus, Mustafa, who served in the 2008-2013 period and 2013-2018 period promised to solve the problem of transgender women by providing costs to start a business but it has not been realized until now.

B. Protistation and Legal Rules

Based on observations made in the area of Kudus district regarding the protistusi activity of guys or transgender people, which has been one of the problems of social deviation that has so disturbed the community. The word protistusion itself comes from the Latin "protituo" which means the act of openly surrendering fully into adultery activities, whereas in the law of

ius constitutum we define adultery as a form of sexual intercourse between a married person and an unmarried person. Islamic law, the form of adultery outside of marriage, is an act that violates God's rules (Anwar & Andang, 2016).

All these regulations can only ensnare pimps yet with the perpetrators or customers. And in article 284 KHUP which was originally used to ensnare CSW users but died as a result of the act based on consensual feelings. Behind the legal provisions that have not been able to fully guarantee the imposition of crimes against perpetrators and users, there is a very worrying impact as a result of protective actions, including the destruction of personal relationships with family, social society, forming a double life status, getting discrimination because it is considered immoral behavior and principles (Prakash, 2013).

C. Analysis of the Informants Response

Of course, the perpetrators of protists have a background regarding the cause or motivation for them to commit these actions. Based on the observations that have been made, resource persons named Puspa and Mitha decided to undertake this job because of fate and followed their conscience. They stated that since childhood they have felt a feminine spirit that is so dominant in themselves, this is reflected in their behavior as a child, preferring to play with girls with women's games such as cooking, dancing, singing and others.

Emisonal factor, namely the feeling of continuing to haunt them until they grow up to form a mindset that they should be women and over time a feeling of same-sex attraction grows. The statements from Puspa and Mitha are very similar to the basis of The Self Theories where an expert named

Edward Wells expressed his opinion about this theory that there are emotional difficulties and behavioral deviations which are hypothesized to occur between one's own images, be it requests or desires (Prakoso, 2017).

Meanwhile, Elna and Ana carry out protective activities due to urgent economic needs, including debt bondage, not getting a job, and not wanting to work hard. It was their mentality like that that pushed them into the abyss of protection. At that time, protective activities became the only way out for them to overcome their problems, with the form of the personality still being a whole male soul. The social circle of their life that continues to grow everyday unconsciously and immediately shapes their personality to become like a real waria. There was once a wise word that adults used to say was, "don't try all the time, it will get you into a case". This sentence is usually conveyed by adults to children and adolescents not to try using drugs which will lead to addiction, but we can also use it in the case of protistusion. What started out as an economic necessity but now has an impact on the mindset and personality of Elna and Ana, who are comfortable becoming figures like women. This case can be said to be included in the Strain Theory (Tense Theory or Anomic Theory), because there was an incident where the destruction of social order was due to the loss of the spear of norm values (Prakoso, 2017). What started out as an economic necessity but now has an impact on the mindset and personality of Elna and Ana, who are comfortable becoming figures like women. This case can be said to be included in the Strain Theory (Tense Theory or Anomic Theory), because there was an incident where the destruction of social order was due to the loss of the spear of norm values (Prakoso, 2017). What

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Life is getting more difficult now, competition and the harshness of life are so visible. With the existence of every individual who tries to struggle to survive even though he has to give up his self-esteem and life is not according to God's self-condition. Gay actors who have tried the salty acid protistus life that they have to work on and live while getting negative evaluations from society, they just keep running regardless of words that might be said to offend them.

Those who were originally only due to economic needs but have now completely turned into transgender women due to social labeling and the shared feeling of isolation from all protistusi workers so that indirectly strengthen their relationship with each other due to feeling the same feeling, and that does not reduce their doubt in defend the decisions they have made.

In everyday life they are now accustomed to wearing women's clothes as well as dressing up. They try to change themselves as perfect as possible to look and become completely women.

Surgery, which is a medical procedure, initially gives a frightening picture to the community, but not for those who are already familiar with surgery. The operation they want to change that 100% identity. In fact, they are willing to spend a lot of money for their dreams. Usually, they will perform breast shaping surgeries to the formation of genital bars and implantation of the uterus in

order to fulfill their full desire. In Islamic law, this action is very contrary to the legal and human nature actions that God has given. But this did not dampen their ambition to achieve it.

D. Identifying Gay Community Activities

Based on the statements of resource persons, Elma and Ana, that previously they and other friends used to carry out activities at AKBP Ragil Kusumadya Street, Jati Subdistrict, Kudus Regency (Gang Abiyoso), which at that time we managed to interview him at his hangout at once even though they did not want his whereabouts to be documented.

The first informant, Puspa, has a permanent job in the salon where she is the owner of the salon herself, but she also does nighttime activities to channel her sexual desires towards the same sex. Puspa has a boyfriend named Rosman who is 47 years old and has 2 children. We know that because he was the one who brought us together with Puspa's informants. Through Romli's main informant as sister Dzikrina's uncle, Mr. Romli has a friend named Rosman. The second resource person, Mitha, works permanently as a commercial sex worker until now, and is interspersed with side jobs, namely owning a dangdut orchestra and designing kebaya clothes, which she has marketed to her friends. The third resource person, Elna, whose main job is to work in a nomination with her friend as a salon owner, is interspersed with working in a stall on the side of the road. The fourth resource person Ana also has a main job, namely working in the nomination with Elna as well as being the owner of a shop, so she and Elna add additional income. Nowadays, the activities in the sacred area are not so dominant anymore, as a result of evictions at

their hometowns in front of the DPR so that many transgender women have scattered, this statement is based on statements from Elna, Ana and Puspa.

E. Government Efforts

In the period 2008-2013 and 2013-2018, the position of Regent of Kudus was successfully held by Mustafa. Based on the informant's statement that he had promised that transgender people in the future in their reign would be assisted by the government by allocating their work through funding to open business fields. Those promises that are still remembered by waria or guy. That promise was only nonsense and a sweetener for him to win the election for regent.

Based on Mitha's statement, he had done psychological and health checks for his class of people from the social service, and the results he got were fine, that's what he said.

For transgender or gay people, whether they do protistatively openly or not, it is their life choice path that they have defined. Because they have a vision, everyone has their own way of life, there is their own fortune, and these activities are carried out on the basis of mutual consent, agreeing and agreeing and they think that it does not harm other people, whereas behind it many people are disadvantaged from their decision even though the customer wants it but there is another side that feels disappointed.

Both from the impact in the health sector in the form of venereal disease, not getting blood pressure, to severe diseases, namely HIV and AIDS. Meanwhile, in the social field, the incidence of social deviations will get bigger if left alone, then the habit will become a virus that spreads rapidly and spreads quickly if not addressed immediately. The pure happiness of a couple as a male-female lover cannot be felt by the

perpetrator. In terms of law, many violate the norms of morality, religious norms, and so on. And the most vital is breaking God's commands and prohibitions. Each religion prohibits the existence of same-sex relations, whether they are not bound by marriage or are already bound by marriage.

Indonesia is a country whose laws are based on Pancasila, where all actions must be based on and must not conflict with existing and mutually agreed values. Indonesia is one of the countries that prohibits the legalization of LGBT relations. In Law No.1 of 1974 concerning marriage with the condition that a man is bound to a woman, and of course the existence of an LGBT marriage is very against this Law.

Conclusion

This research highlighted and concluded that homosexuality in many cases in Indonesia has very contradictive, this very opposition from society encourages views of human rights violations to freely determine their choices. The point of view of the perpetrators, namely transgender or guy, is very detrimental to them, because this protective activity is a source of fortune as well as an outlet for their sexual desires for the same sex. In Indonesia, the regulations regarding the criminalization of perpetrators and violations have not had a strong legal status and only apply to pimps, and through articles 296, 284, 506 of the Criminal Code as a form of repressive and preventive action in handling such protistusi cases. So that the bill is urgently needed to be promulgated. The cases experienced by the informants were based on different causes, but in essence the activities they were doing had become a blanket for them so that the desire to change into a woman was completely desired by transgender actors or guys. In the

case of LGBT events, which were generally opposed by the Indonesian people, it really stole the public's attention. Because other countries such as Australia and the West have legalized same-sex marriage relations. The basis of Indonesian law which is thick with Islamic law due to the fact that 80% of the population is Muslim, strongly opposes this policy if it is applied in Indonesia. This opposition is of course based on strong arguments, where there are a lot of harm or ugliness that can be obtained from same-sex relationships, including easy venereal disease, HIV AIDS, absence of heredity, to prohibit the nature that God has given.

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