



Issue: Law, Crime, and Global Security

Research Article

Criminology and Legal Study of Lesbian, Gay, Bisexual and Transgender (LGBT) Actors in Semarang City

Adinda Novita Sari¹, Ayu Chintya Maharani², Ade Rania Amalinda³,
Yunda Rana Amanda⁴✉

^{1,2} Law and Gender Research Forum, Semarang

^{3,4} Universitas Negeri Semarang

✉ ranaamanda65@gmail.com

Abstract: The tendency of the community in assessing the existence of LGBT in social life that tends to be pro, contra or even do not care. This research is literature review and field data using relevant theoretical references, namely criminology. According to a criminological perspective, how LGBT which is a deviation is seen as a crime or not. The existence of legal rules to regulate LGBT in relation to the protection of LGBT individuals. This study aims to determine what factors are behind LGBT individuals becoming part of LGBT and LGBT views in criminology and the community's response to the existence of LGBT. This research used a normative empirical with a qualitative approach using descriptive narrative research design and using In Depth Interviews to obtain research data. The results of this research indicate that many people do not care about LGBT. It is highlighted that LGBT is not a crime, it will be a crime if it violates the positive laws in force in Indonesia. The research indicated that many people do not care about LGBT. The conclusion from this research is that LGBT is not a crime, it will be a crime if it violates the positive laws in force in Indonesia.

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

Introduction

Deviant sexual behavior is still taboo for Indonesian people with Eastern culture, society is still strong and upholds what is called moral, ethical, and religious teachings, so deviant sexual behavior is certainly not a phenomenon that can be taken for granted. The deviant sexual behavior itself appears on the basis of a

deviant sexual orientation. Sexual orientation is a person's tendency to direct their feelings of attraction, romanticism, emotionality, and sexuality to men, women, or a combination of both (Crew & Crawford, 2015). The most common sexual orientation is heterosexual. Deviant sexual behavior is carried out by groups of people who have a deviant sexual orientation, or better known as LGBT (Lesbian, Gay, Bisexual, and Transgender / Transsexual) groups.

LGBT is an acronym for Lesbian, Gay, Bisexual, and Transgender. Yudiyanto (2016) interprets LGBT as a new term used since the 1990s to replace the phrase “gay community” (Yudiyanto, 2016). Rohmawati (2016) in her paper entitled “*Lesbian, Gay, Bisexual, and Transgender/Transsexual (LGBT) Marriage in Islamic Law Perspective*” explains the definition of LGBT as follows. Lesbian is a term taken from an island of Lesbos, where women on the island like the same sex. Lesbians are women who choose to tie themselves personally (psychologically, physically, and emotionally) with other women. Meanwhile, Gay is a man who has an attraction to men. Bisexual is someone who is either male or female who has sexual attraction towards both men and women at the same time. Transgender is someone who uses gender attributes that are different from the conceptions constructed socially by society. Meanwhile, Transsexual is someone who feels he has the wrong gender. For example, a person who is born has a vagina, but after growing and developing psychologically and mentally feels that he is a man and then performs surgery to change his sexual organs (Rohmawati, 2016).

LGBT is actually nothing new in this country. Previously, there have been many important meetings held to accommodate the interests of the LGBT community, especially in response to violations of their rights as a sexual minority community.

Indonesia is the country with the fifth largest LGBT population after China, India, Europe and America. Several independent domestic and foreign survey institutions state that Indonesia has 3% of the LGBT population, which means 7.5 million out of 250 million Indonesians are LGBT or more simply out of 100 people gathered somewhere, 3 of them are LGBT (Santoso,

2016). In February 2016 data on the LGBT community in Semarang City reached 15,000 to 20,000 people, while 7,000 people were recorded as joining closed social media groups.

Individuals who are included in LGBT people are less in number than heterosexuals, LGBT people often get and accept negative views, prejudice, and hatred from the environment. Like other marginalized groups, LGBT people experience rejection, violence and discrimination in various areas such as work, schools, health care and their human rights. Every day there is violence that occurs against LGBT people. The same thing was stated by Morrow and Messinger (2006) that transgender people are at high risk of experiencing harassment, sexual violence and physical violence. With such circumstances, individuals who have gender roles and gender expressions that do not match the expectations of society and are homosexual oriented, including LGBT people, prefer to hide their identities. This condition is due to the fact that there are still gaps between the State and the reality of a very diverse society. There are various regional regulations that reject LGBT people, but it cannot be denied that LGBT people are in Indonesian society and have human rights that must be respected by the State.

Although Indonesia is a country with the fifth most deviant sexually oriented population in the world, Indonesia is a country that is intolerant of the LGBT phenomenon. It is recorded that 26.1% of the Indonesian population does not like the LGBT community, and the survey results are ranked number 1 out of the 10 rankings of the communities most hated by Indonesians (Hamdi, 2017). There are pros and cons to looking at homosexuals. Some

see it as an option for the right to life. But there are also those who see it as deviant and immoral behavior. This negative attitude towards homosexuals gave birth to rules that could punish homosexuals. This prejudice and discrimination against homosexuals is increasingly spreading. A survey in the United States by Levitt and Klasen (quoted in Sarwono and Meinarno, 2009) shows that the majority of people believe that homosexuality is a disease and need to be legally prohibited. Even in Henry's research as quoted by Sarwono & Meinarno (2009) it was found that only 39% of people who wanted to visit a doctor's office were homosexual. In Indonesia, there are 3 attitudes of society in responding to the LGBT phenomenon, namely pro, contra, and indifference. For those who are pro, they respect every human right and continue to speak out about freedom in determining their life. Meanwhile, for those who are contra, they think that LGBT is a virus that can tarnish social and religious norms and break bloodlines. Meanwhile, those who do not care about the LGBT phenomenon choose mediocre and do not interfere with LGBT life as long as LGBT does not disturb their lives.

There are five forms of discrimination often experienced by LGBT people in Indonesia (Ariyanto, 2008), namely (1) social discrimination, such as stigma, ridicule, harassment, exclusion, the absence of equal opportunities to receive formal education, and physical and psychological violence; (2) Legal discrimination, such as the existence of state policies and regulations that violate the rights of LGBT people and different legal treatment; (3) Political discrimination, such as different opportunities in practical politics and the prohibition or absence of political representation from LGBT people;

(4) Economic discrimination, such as violations of work rights in the formal sector; (5) Cultural Discrimination, such as efforts to eliminate and eliminate cultural values that are friendly to LGBT people.

LGBT is considered to have damaged human civilization and violated the rules that have been determined in human nature. Not only is it considered changing human nature LGBT is also considered to have an impact on new crimes or crimes where this crime, if allowed to do so, will have a negative impact on the future of the Indonesian nation. Crime is a phenomenon that can be understood from various different sides, so it is not surprising that in a crime incident there will be different comments (Muljono, 2012). Crime is not only viewed from the juridical side, but crime can be viewed from another point of view, meaning when an act according to a sociological viewpoint states that the act is a crime because according to society such crimes have caused losses both materially and immaterial. Crime according to the criminological concept is a view of crime in a broad sense, namely that requires not only the definition of crime in the sense of law but also the notion of crime in the sociological and psychological sense (Atmasasmita, 1983).

Method

A. Types and Research Approaches

Legal research is a process to find legal rules, legal principles, and legal doctrines to address legal issues at hand. Legal research is carried out to produce new arguments, theories or concepts as a prescription in solving the problems at hand (Marzuki, 2005). This type of research is empirical normative research. Empirical normative legal research is legal research on the application of normative legal provisions

(codification, law or contract) in action at any particular legal event that occurs in society (Muhammad, 2004).

Normative legal research is an approach that is carried out based on primary raw materials, examines theoretical matters concerning legal principles, legal conceptions, views and legal doctrines, regulations and legal systems by using secondary data, including principles, rules, norms and legal rules contained in statutory regulations and other regulations, by studying books, laws and regulations and other documents that are closely related to research. Normative legal research, namely legal research that examines written law from the aspects of theory, history, philosophy, comparison, structure and composition, scope and material, general explanation from article by article, formality and binding strength of a law but does not bind the applied aspects or its implementation. Normative law research uses normative case studies in the form of legal behavior products, for example examining laws. The main subject of the study is the law conceptualized as norms or rules that apply in society and become a reference for everyone's behavior.

Empirical research is unwritten positive legal research on the behavior of community members in social life relationships. Empirical legal research is carried out by examining directly into the field to see firsthand the application of laws or regulations related to law enforcement, as well as conducting interviews with several respondents who are deemed able to provide information about the implementation of law enforcement.

To obtain data or information in the writing of this study, the authors chose a research method with a qualitative approach, a qualitative approach is a way of analyzing

the results of research that produces descriptive analytical data, namely, data in the form of descriptions, verbal information stated by respondents in writing or orally as well as real behavior, which is researched and studied as a whole. Thus, this research will later produce a descriptive analytical description. Descriptive means that this study the author intends to describe and report in detail, systematically, and thoroughly about everything related to the LGBT community in society. While analytical contains a meaning of grouping,

Qualitative research methods are developed to study human life in limited cases, casuistic in nature, but more deeply as a whole in the sense that they do not recognize the conceptual choices of symptoms into their exclusive aspects (called variables). Therefore, through this research the writer can get a picture of the situation, by describing the data obtained as it is and then analyzed and then compiling conclusions.

B. Types and Sources of Data

Data sources are places where data material is obtained. Sources of data in this study are:

1. Primary Data Sources

Primary data sources are data obtained directly in the form of statements and opinions from respondents and the facts of the field through interviews and observations. Primary data sources include information from parties directly involved with the problem being studied. In this case, it was obtained from the results of interviews and observations of the LGBT community in the Semarang area and distribution of questionnaires obtained from the community.

2. Secondary Data Sources

Secondary data sources are data sources that are obtained directly in the form of information. Secondary data sources are used to complement and support primary data sources. Secondary data sources include expert opinion, library materials which can be in the form of actual books, archives, documents, laws and regulations, reports, journals, research results, electronic media and other supporting library materials. Secondary data sources in this study include:

- a. Primary Legal Materials: Laws and Regulations related to LGBT arrangements.
- b. Secondary legal materials, namely legal materials that are closely related to primary legal materials and can help analyze and understand primary legal materials, are: Research results related to criminology and LGBT, books related to criminology, books related to LGBT.
- c. Tertiary legal materials are legal materials that provide information on primary and secondary legal materials, for example: The Big Indonesian Dictionary (KBBI), the Complete English-Indonesian, Indonesian-English Dictionary and the Legal Dictionary.

C. Data collection method

The data collection techniques used in this study are as follows:

1. Literature study is used to collect secondary data, obtained through various literatures including laws and regulations, books, reports on the results of previous researchers and other documents that are related to the problems studied. The literature study in this research is carried out by collecting data by collecting data that comes from legal materials in the form of legislation or review studies of

written works, both from books, journals, or newspapers and other materials related to criminology and LGBT.

2. Field studies are carried out by going directly to the field using interview or interview techniques. Interview or interview is a verbal question and answer where two or more people face to face directly. This interview aims to gather information about human life and their opinions. Field studies were conducted to obtain primary data using pre-planned direct interview techniques with informants. Interviews were carried out directly and openly by holding questions and answers to get free information or answers so that the data obtained was as expected. Interviews conducted directly with individuals in the LGBT community and society.

Literature Review

A. Definition and Characteristics of Criminology

Criminology is a science that studies crime from various aspects. Criminology is a branch of science that developed in 1850 together with sociology, anthropology and psychology. The name criminology was first put forward by P. Topinard (1830-1911), a French anthropologist. Criminology consists of two syllables, namely the word crime which means crime and logos which means science, so criminology can mean the science of crime. The origin of the development of criminology cannot be denied from the investigation of C. Lombroso (1876). In fact, according to Pompe, Lombroso is seen as one of the revolutionary figures in the history of criminal law, besides Cesare Baccaria. However, there is another opinion which suggests that the scientific

investigation of crime is not from Lombroso but from Adolphe Quetelet, a Belgian who has expertise in mathematics. In fact, it is from him that the "criminal statistics" are now used mainly by the police in all countries in providing descriptions of the development of crime in their countries (Atmasasmita, 2010). Edwin H. Sutherland and Donald R. Cressey mention criminology as: "... *the body of knowledge regarding delinquency and crime as a social phenomenon. It includes within its scope the process of making law, the breaking of laws, and reacting to word the breaking of laws ...*" (Sutherland & Cressey, 1974; Mulyadi, 2008).

In this regard, criminology is oriented towards *first*, lawmaking which includes reviewing the concept of crime, who is the maker of the law with the factors that must be considered in making law. *Second*, violations of the law which can include who the perpetrator is, why the law violation occurred and the factors that influence it. *Third*, reactions to law violations through criminal justice processes and public reactions (Mulyadi, 2008). Several prominent scholars provide the following definitions of criminology:

1. Edwin H. Sutherland: Criminology is the body of knowledge regarding delinquency and crime as social phenomena (Criminology is a collection of knowledge that discusses juvenile delinquency and crime as social symptoms).
2. WA Bonger: Criminology is a science that aims to investigate the broadest possible symptoms of crime.
3. J. Constant: Criminology is a science that aims to determine the factors that cause crimes and criminals.
4. WME. Noach: Criminology is a science that investigates the symptoms of crime

and indecent behavior, its causes and effects.

Furthermore, Moeljatno argues that criminology is to understand what causes someone to do evil. Is it because his talent is evil or is it driven by the circumstances of the community around him (milieu) both sociological and economic conditions. If the causes are known, then in addition to the punishment, appropriate actions can be taken, so that that person does not do this anymore, or so that other people will not do it. That is why especially in angelsaks countries, criminology is divided into three parts namely 1) Criminal biology, which investigates in oneself the causes of his actions, both physically and spiritually. 2) Criminal sociology, which tries to find causes in society where criminals are different (in their milieunya) and 3) Criminal policy, namely what actions must be carried out around them so that others do not do so (Moeljatno, 2008).

According to AS Alam, the scope of the discussion of criminology includes three main things as emphasized by Nature & Ilyas, 2010, *First*, is the process of making criminal law and criminal procedure (making laws). The discussion in the process of making laws includes a) Definition of crime, b) Elements of crime, c) Relativity of the definition of crime, d) Classification of crime and e) Crime statistics. *Second*, the etiology of crime, which discusses the theories that lead to crime (breaking of laws). In essence, the scope of the discussion of criminology includes three main things, namely:

1. The process of making criminal law and criminal procedure (making laws). What is discussed in the process of making laws is:
 - a. Definition of crime
 - b. The elements of evil

- c. Relativity of understanding crime
 - d. Classification of crimes
 - e. Crime statistics
2. Criminal etiology, which discusses the theories that lead to crime (breaking of laws). The ones covered in criminal etiology (breaking laws) are:
 - a. Criminological schools (sects)
 - b. Criminological theories and
 - c. Multiple perspectives on criminology
 3. Reactions to law violations (reacting toward the breaking of laws). Reactions in this case are not only aimed at lawbreakers in the form of repressive actions but also reactions against “*potential*” offenders in the form of criminal prevention efforts. What is discussed in the third part is the treatment of lawbreakers (Reacting Toward the Breaking Laws), including:
 - a. Punishment theories
 - b. Crime prevention / prevention efforts, either in the form of action pre-entive, preventive, repressive, and rehabilitative.

Edwin Sutherland prominent US criminologist stated that studying criminology requires the assistance of various scientific disciplines. In other words, criminology is an interdisciplinary introduction to criminology. Sultherland states that criminology is a body of knowledge (a criminologist is a collection of knowledge). Various disciplines that are closely related to criminology include criminal law, criminal procedural law, physical anthropology, cultural anthropology, psychology, biology, economics, chemistry, statistics, and many other disciplines that cannot be mentioned in this paper. For this reason, Thorsten Sellin calls criminology a king without a country (a king without a territory). In *Encyclopedia Americana*, Vol. 8 (1976: 201) was written:

In the United States criminology is largely thought of as a branch of sociology, although the development of new schools of criminal justice at some universities indicates a tendency to conceive of this science as an interdisciplinary one, involving teams of specialists in psychology, sociology, political science, and public administration. A largely misinformed public, on the other hand, tends to think of the criminologist as a sort master detective, a specialist in the laboratory techniques of criminal investigation. As recognition of this complex branch of social science grows, the newly be viewed as necessary for dealing with the complex problems of crime. Persons with a variety of academic backgrounds are already being called upon to meet the demand for increased knowledge in this field.

B. Type of Criminology

Criminology can be divided into two major groups, namely:

1. Theoretical Criminology

Theoretically, this cream can be separated into five branches of knowledge. Each of its sections deepens its knowledge of the theoretical causes of evil.

- a. Criminal Anthropology:

Namely the science that studies the physical signs that characterize a criminal. For example: according to Lombroso the characteristics of a criminal include: long skull, thick hair, protruding temple bones, sloping forehead and so on.
- b. Criminal Sociology:

Namely the science that studies crime as a social phenomenon. Included in the category of criminal sociology are:

 - (1) Social Etiology: Namely the study of the causes of a crime.

- (2) Geographical: Namely the study of the reciprocal influence between the location of an area and crime.
- (3) Climatology: Namely the study of the interrelationship between weather and crime.
- c. Criminal Psychology: Namely the science that studies crime from the point of view of psychology. Included in this group are:
 - (1) Typology is a science that studies criminals.
 - (2) Criminal Social Psychology is the science that studies crime in terms of social psychology.
 - (3) Psychology and Neuro Pathology of Crime is the study of criminals who are mentally ill / crazy. For example, studying criminals who are still being treated in mental hospitals such as: Dadi Makassar Mental Hospital.
 - (4) Penology is the science that studies the history, meaning and benefits of law.

2. *Practical Criminology*

That is science that is useful for eradicating crimes that arise in society. It can also be said that practical criminology is a science that is practiced (applied criminology). The branches of this practical criminology are:

- a. Criminal Hygiene
It is a branch of criminology which seeks to eradicate the factors that cause crime. For example, improving the people's economy, guidance, and counseling, providing facilities by the body, and others.
- b. Criminal Politics
Namely the study of how to enact the best possible law for a convicted person so that he can realize his mistake and

intend not to commit another crime. To be able to impose the fairest punishment possible, it requires confidence and proof; whereas to be able to obtain all of this it is necessary to investigate how the criminals' techniques commit crimes.

- c. Criminalistic (Police Scientific)
The science of investigating criminal techniques and catching criminals.

C. *Criminalization Process*

The process of criminalization is a process in which an act that is not considered a crime at first, then with the issuance of laws that prohibit the act, then the act becomes evil. For example, in the UK, vagrancy was initially considered not a crime, but with the issuance of laws prohibiting such acts, vagrancy was then considered a crime. In Indonesia, drinking alcoholic beverages, gambling, slavery, using marijuana in cooking were not crimes in traditional society, several decades ago, are now criminal acts with the issuance of laws prohibiting these acts.

With the making of new laws, including Law no. 23/2004 on the Elimination of Domestic Violence, Law No. 23 of 2002 on Child Protection, Law No. 21 of 2007 concerning Trafficking in Persons, an act that was not considered a crime has now become a criminal act because the act has been prohibited and punishable by crime.

D. *Criminological Theories*

Frank P. William III and Marilyn McShane also classify various criminological theories into 3 (three) more parts, as explained by William & McShane (1988), namely:

- 1. Classical Theory and Positivist Theory
In principle, classical theory discusses legal statutes, government structures

and human rights. Positivist theory focuses on criminal pathology, overcoming and improving individual criminal behavior.

2. **Structural Theory and Process Theory**
Structural theory focuses on the way society is organized and the impact of behavior. Structural theory is also commonly called Strain Theories because, "*Their assumption that a disorganized society creates strain which leads to deviant behavior*". Strictly speaking, the basic assumption is that society creates tension and can lead to deviant behavior. While Process theory, discusses, explains and analyzes how people become criminals.
3. **Consensus Theory and Conflict Theory**
Consensus theory uses the basic assumption that in society there is a consensus / agreement so that there are general values which are then mutually agreed upon. Meanwhile, conflict theory has a different basic assumption, namely that in society there is little agreement and people hold to the value of conflict.

Criminological Theories in Modern Criminal Law Science Perspective:

1. **Differential Association Theory**
Sutherland sparked a theory called the Differential Association Theory as a theory of the causes of crime. There are nine proportions in explaining the theory, as follows:
 - 1) Criminal behavior is learned.
 - 2) Criminal behavior is learned in interaction with other people in a process of communication (criminal behavior is learned in interactions with other people in the communication process).
 - 3) The principle part of the learning of criminal behavior occurs within

intimate personal groups (the most important part in studying criminal behavior that occurs in groups of intimate / close people).

- 4) When criminal behavior is learned, the learning includes techniques of committing the crime, which are sometimes very complicated, sometimes very simple and the specific direction of motives, drives, rationalizations, and attitude (when criminal behavior is learned, lessons include techniques-techniques of committing crimes, which are sometimes very difficult, sometimes very easy and specific directions of motives, impulses, rationalizations, and attitudes).
- 5) The specific direction of motives and drives is learned from definitions of the legal codes as favorable or unfavorable (the specific direction of the motives and drives is learned through definitions of the rule of law whether it is favorable or not).
- 6) A person becomes delinquent because of an excess of definitions favorable to violation of law over definitions unfavorable to violation of law (someone who becomes delinquent because the favorable definitions for breaking the law are stronger than the unfavorable definitions for breaking the law).
- 7) Differential association may vary in frequency, duration, priority, and intensity (the differential association may vary in frequency, duration, priority, and intensity).
- 8) The process of learning criminal behavior by association with criminal and anti-criminal patterns involves all of the mechanism that

are involved in any other learning (the process of studying criminal behavior through association with criminal and anti-criminal patterns involves all the mechanisms that apply in every learning process).

- 9) While criminal behavior is an expression of general needs and values, it is not explained by those general needs and values, since noncriminal behavior is an expression of the same needs and values (although criminal behavior is an expression of those needs and values -General value, criminal behavior can not be explained by these general needs and values, because non-criminal behavior is also an expression of the same needs and values).
2. Differential opportunity theory
Basically, the theory of Differential Opportunity is oriented and discusses deviations in urban areas. This deviation is a function of the different opportunities children have to achieve legal or illegal goals.
3. Culture Conflict Theory
Culture conflict theory explain the state of society with the following characteristics:
 - a. Lack of consistency in the course of life.
 - b. There is often a meeting of norms from various regions that differ from one another and some even contradict each other.

This is in accordance with Thorsten Sellin's opinion, each group of society has its own conduct norms and that the conduct of norms of one group may

conflict with the norms of other groups. Sellin distinguishes between primary conflict and secondary conflict. Primary conflict occurs when the norms of two cultures clash. Secondary conflicts arise when a culture develops into different cultures, each of which has its own set of conduct norms. This type of conflict occurs when one homogeneous or simple society becomes a complex one in which a number of social groups develop constantly and norms often lag behind.

4. Labeling Theory
Explain why and how certain people are labeled or labeled and the effect / effect of the label as a consequence of behavioral deviations.
5. Conflict Theory
Conflict theory questions the law-making process more. The struggle for power is a basic picture of human existence. It is in the sense of a power struggle that various interest groups try to control the making and enforcement of laws. In order to understand this approach or conflict theory, we need to briefly look at the traditional model which views crime and criminal justice as being born from a communal consensus.

According to the consensus model, members of society generally agree on what is right and what is wrong, and that the essence of law is the codification of these agreed social values. Law is a mechanism for resolving disputes that arise when the individual goes too far from the behavior that is allowed or accepted by society. This consensus model sees society as a stable unit in which laws are created *for the general good*. The function of law is to reconcile and harmonize the many interests that most members of society value, at the least

possible sacrifice. Whereas the conflict model, questions not only the process by which a person becomes a criminal, it is also about who in society has the power to make and enforce laws. Conflict theory, like labeling theory, has its roots in rebelling against and questioning values. But in contrast to labeling and traditional approaches that focus on crime and criminals (including labeling of perpetrators by the system), this conflict theory questions the existence of the system itself. The struggle between traditional and labeling theorists on the one hand and conflict theorists on the other becomes ideological. Conflict theorists oppose consensus views on the origin of criminal law and its enforcement. has its roots in rebelling against and questioning values, but in contrast to labeling and traditional approaches that focus on crime and criminals (including labeling of perpetrators by the system), this conflict theory questions the existence of the system itself.

The struggle between traditional and labeling theorists on the one hand and conflict theorists on the other becomes ideological. Conflict theorists oppose consensus views on the origin of criminal law and its enforcement. has its roots in rebelling against and questioning values, but in contrast to labeling and traditional approaches that focus on crime and criminals (including labeling of perpetrators by the system), this conflict theory questions the existence of the system itself. The struggle between traditional and labeling theorists on the one hand and conflict theorists on the other becomes ideological. Conflict theorists oppose consensus views on the origin of criminal law and its enforcement. The struggle between traditional and labeling theorists on the one hand and conflict theorists on the other

becomes ideological. Conflict theorists oppose consensus views on the origin of criminal law and its enforcement. The struggle between traditional and labeling theorists on the one hand and conflict theorists on the other becomes ideological. Conflict theorists oppose consensus views on the origin of criminal law and its enforcement.

E. LGBT Studies

LGBT stands for Lesbian, Gay, Bisexual, and Transgender. LGBT individuals are fewer in number than heterosexuals. The phenomenon of Lesbian, Gay, Bisexual and Transgender (LGBT) is a phenomenon that is becoming a debate in the international and national community. Broadly speaking, LGBT is a form of liking the same sex. Not a few countries in the world have supported LGBT behavior and legalized same-sex marriage. There are even officials in several countries who carry out same-sex marriages such as Luxembourg Prime Minister Xavier Battel who married his same-sex partner in 2015 (Setiawan & Sukmadewi, 2017). Starting with the response of the Minister of Research, Technology and Higher Education on the news regarding the Support Group and Resource Center on Sexuality Studies (SGRC) movement at the University of Indonesia campus which offers counseling for groups. According to the Minister of Research, Technology and Higher Education (Menristek), LGBT people can destroy the morale of the nation and the campus as the guardian of morals should be able to properly maintain the moral and noble values of the Indonesian nation.” The response from the Minister of Research and Technology simultaneously received responses from various groups including academics, psychologists, and the

Indonesian Psychiatric Association. LGBT people also received sharp attention from the community.

In the 1990s, the term LGBT was originally used to replace the term gay because the term gay did not represent people of other sexual orientations. Lesbian, gay, and bisexual are terms related to sexual orientation. Sexual orientation is a choice / preference for physical, sexual, emotional, and romantic relationships and attraction that exists in every human being. The most common sexual orientation is heterosexual. Heterosexual is a lover of the opposite sex, where men are attracted to women and vice versa. Sexuality includes a large number of people, not only those of heterosexual orientation but also from other sexually oriented people such as lesbian, gay, bisexual and transgender. This is because the existence of sexuality itself is the result of a social construction. Problems then arise along with an unequal social construction. This is because the social construction that emerges is that the majority are heterosexual oriented, which of course will negate sexual orientation outside of heterosexuality or do not consider humans who have a sexual orientation outside heterosexuality as well as humans with gender identities, such as homosexual, bisexual and transgender. There are several countries that legalize and legalize homosexual marriage, such as in the Netherlands (2001), Belgium, Sweden (2009), Norway, Spain (2009), and Portugal (2010). In the United States there are still pros and cons of homosexual marriage. There are several states that have ratified such as Massachuset, Connecticut, Iowa,

LGBT is an acronym for Lesbian, Gay, Bisex and Transgender. Here, I will first describe the meaning of LGBT globally before the reader gets to know more about the LGBT world: 1) Lesbian is the sexual

orientation of a woman who only has the desire for fellow women is a sexual orientation of a man who only has the desire of fellow men, 3) Bisex is a Sexual Orientation of a Man / Woman who likes two sexes, both Male / Female, and 4) Transgender is a sexual orientation of a man / woman by identifying himself as a man / Woman (For example: Waria). In Indonesia, LGBT people have reaped many cons. The public's perspective on LGBT people is not good because many people think that LGBT is a deviant behavior that is not in accordance with the laws, culture and habits of Indonesian society. So that LGBT often send stigma, discrimination and violence. All discrimination against LGBT people is caused by social stigma resulting from conservative religious doctrines and understanding (Papilaya, 2016). LGBT people often get and accept negative views, prejudice, and hatred from the environment. Like other marginalized groups, LGBT people experience rejection, violence and discrimination in various areas such as work, schools, health care and their human rights. Every day there is violence that occurs against LGBT people. The same thing was stated by Morrow and Messinger (2006) that transgender people are at high risk of experiencing harassment, sexual violence, and physical violence. With such circumstances, individuals who have gender roles and gender expressions that do not match the expectations of society and are homosexual oriented, including LGBT, prefer to hide their identity. This condition is due to the fact that there is still a gap between the state and the reality of a very diverse society. There are various regional regulations that reject LGBT people, but it cannot be denied that LGBT people are in Indonesian society and have human rights that must be respected by the state.

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, Palembang City Regional Regulation 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. Of the several laws products that are discriminatory against LGBT people who regulate their sexual activities. But you need to know, Law no. 1 of 1974 which states as stipulated in Law no. 1 of 1974 which states that marriage is principally carried out by a relationship between a man and a woman, namely with the aim of obtaining offspring and building the expected household. Same-sex marriage (gay or lesbian) by nature has against the nature of human life that is born to forge mental and biological bonds between the opposite sex, namely between men and women. In addition, LGBT is also not in accordance with the prevailing norms in Indonesia and its existence is considered a violation of decency or sexual deviation. Sexual deviation in this case means a form of action that ignores values and norms that violate, contradict or deviate from legal rules.

F. LGBT in Criminological Perspective

Criminology as a science is still new if we take its definition etymologically from the word *crimen* which means crime and *logos* which means knowledge or science, so criminology is the science or knowledge of crime (Santoso & Zulfa, 2012). This view

was born when the classical view could no longer reveal crimes that had shifted towards a more political direction. Critical criminology (theory) is tasked with analyzing the processes by which the stigma or evil stamp is applied to certain actions and people. Regarding the LGBT community that is currently being discussed in Indonesia, there are actually many deficiencies in the legal regulations governing it, the legal arrangements regarding crimes against decency are regulated in the Criminal Code contained in Articles 281 to 303.

If we look at Article 281 which regulates crimes against decency, that: A maximum imprisonment of two years and eight months is punished or a maximum fine of four thousand and five hundred rupiahs:

1. Whoever deliberately and openly violates decency,
2. Whoever deliberately and in front of other people who are there against his will, violates decency.

In this case, it is also necessary to know what is meant by decency in Article 281 of the Criminal Code. R. Soesilo explained that what is meant by modesty is in the sense of the word decency, feelings of shame related to sexual lust, for example intercourse, touching women's breasts, feeling the female genitalia, showing female or male genitalia, kissing, and so on. This destruction of modesty is all done by deed. The immorality of these acts is sometimes very much dependent on public opinion at that time and place. As for the different articles that explain morality, if we look at Article 292 of the Criminal Code it is implied: "An adult who commits obscene acts with another person of the same sex whom he knows or should reasonably suspect is immature.

If we look at the article above that the meaning of the article is aimed at victims of the same sex who are underage or immature or are still children, obviously this is very different and cannot be used as a legal basis if LGBT cases are to be handled, meaning that here too there is a legal vacuum that must be addressed immediately if the state really wants to fight the LGBT community which is already very troubling, the state must also be able to treat LGBT people because LGBT is a disease that can definitely be cured. Whereas crime according to the criminological concept is a view of crime in a broad sense, namely that requires not only the definition of crime in the sense of law but also the notion of crime in the sociological and psychological meaning (non legal definition of crime) (Atmasasmita, 1983).

Criminal acts regulated in Article 281 of the Criminal Code have the following elements:

- a. Subjective Elements: on purpose
- b. Objective Elements: *Whoever, Destructive morality, and in public*

As has been stated above, the subjective element of the criminal act regulated in Article 281 of the Criminal Code is the *opzettelijk* element or on purpose. This deliberate element is viewed from its placement in the formulation of criminal acts regulated in Article 281 of the Criminal Code, including elements such as destroying morality and in public. According to R. Soesilo in his book *The Criminal Code (KUHP) and its Commentaries, Article by Article* (p. 204), that the word politeness here means the word decency, namely the feeling of shame associated with sexual desire. For example, having intercourse, feeling for a woman's genitals, showing female or male genitalia,

kissing and so on. This crime against modesty is all committed by an deed.

The phenomenon of LGBT can also become a legal problem if it has violated legal norms and morality, and even disturbs the public. Actions related to LGBT that need to be criminalized (necessary to be a crime) are obscene acts committed by lesbians, gays, and bisexuals, especially when taking legal action to carry out a marriage that is valid according to the law in force in Indonesia. Regarding Transgender itself, actions that need to be criminalized are sex changes that are not based on good faith and can harm other parties as members of society, for example with the intention of committing fraud or disguise, commercialization, or other illegal acts (Sholehuddin, 2003).

Criminalization may be applied against these acts, based on the following conditions or criteria for criminalization, as explained by Presetyo & Barkatullah (2005):

1. The community disliked the act because it was detrimental, or could be detrimental, victimized or could be victimized. This can be seen from the reaction of the community who view LGBT as a disgrace and can harm or cause victims. In the case of obscene acts committed against the same sex with or without coercion or threats, it may cause sexual disorientation to people who previously do not have a disorder (normal sexual orientation), or even worsen the condition of someone who previously had a sexual orientation disorder.
2. The costs of making rules, monitoring, and enforcing the law, as well as the burden borne by victims and perpetrators must be balanced with the legal order to be achieved. Regarding the LGBT phenomenon, it would be

better for the community if it was immediately regulated in written law regarding its criminalization, so that the recognition or prohibition of certain actions carried out by LGBT people no longer reaps relatively subjective multiple interpretations from various parties, meaning that they are made for legal certainty and public interest. .

3. Can be carried out or applied by law enforcement officials based on their abilities. The application of this criminalization does not seem to cause overblasting of law enforcement officers, because the criminalization of LGBT also does not require special handling such as special crimes of corruption, drugs, or others, so it does not have to add new institutions in law enforcement.
4. This action hindered the ideals of the Indonesian nation and thus became a danger to society. LGBT acts that need to be criminalized are considered a crime for generations. This behavior clearly removes the only human value from sexual behavior that is bestowed by God Almighty. It is feared that this will have an impact on the next generation in Indonesia, if the act is not criminalized (so that it is stipulated that the act is prohibited and is not in accordance with the applicable law in Indonesia). Criminalization of these acts also does not lead to over-criminalization, because basically these acts are historically inconsistent with the norms of morality and religious norms that exist in society. LGBT behavior will in turn encourage a distorted understanding of sexuality. It is said to be deviant because it cannot combine its desires with the basic principles of life, resulting in disruption of social

functioning. In fact, there is no single religion, human value, or useful value that justifies such behavior.

Many of the efforts made by LGBT to achieve their goals violate the prevailing laws and regulations. They rely on only one understanding of the law. Instead of standing on the basis of a human rights argument, they forget what their obligations are. All rights possessed by humans have been formulated through the Prevailing Laws by limiting these rights so that they do not conflict with the prevailing social norms in society. In essence, LGBT is a social deviation experienced by a person, and is not an evil act that must be viewed as a criminal act. Transsexuality can be caused by hereditary factors (hormones and genes) and environmental factors. Environmental factors include the wrong education in childhood by allowing boys to develop in female behavior, at puberty with homosexuals who are disappointed and traumatized, traumatized sexual intercourse with a boyfriend, husband or wife. It is necessary to distinguish psychiatric and congenital transexual causes. In the case of transsexuals, because of an aberrant hormonal balance (innate), balancing hormonal conditions in order to get closer to the biological predisposition of sex can be done.

It is undeniable that the LGBT community will continue to spread and try to expand their existence so that they can be accepted in society. They do all this because they think it is their right to live. Indeed, every human being must have rights given by law and protected by law, but we must also know that every right given by law is not entirely possible, because we also have to respect the rights of others and don't let us violate the rights of others. Regarding LGBT, it has actually violated the rights of

others, because almost all elements of society reject the existence of LGBT which is considered unsettling and is a deviation in society that violates prevailing norms. According to R. Soesilo that: "Crime can be viewed from two points of view, namely the definition of crime from a juridical point of view, that crime is a restraint whose behavior is contrary to the rules in the Law. Meanwhile, the definition of crime from a sociological point of view is that crime is an act or behavior which in addition to harming the sufferer is also detrimental to society, namely in the form of loss of balance, peace and order." According to these experts, we can see that crime is not only an act that violates the regulations stated in the law, but an act which according to the community is an act that is very detrimental, disturbing order and comfort or even eliminating the balance in society is a crime in which the sanctions it will impose will be different from the sanctions imposed in the law. In line with this, LGBT is considered by the community as something that disturbs comfort.

Please note that LGBT is not a mental illness or disorder according to research conducted by the American Psychiatric Association since 1973. Everyone has the right to fall in love and they should not be separated. And LGBT is not a crime, being part of the LGBT people is the life choice of each individual. Sexual orientation appears naturally in individuals who become LGBT people. Therefore, there is no need for stigma, discrimination and violence against them.

Result and Discussion

A. Why Someone Join LGBT Community? A Criminological Approach

Based on the Complete Dictionary of Psychology (Chaplin, 2001), "Lesbian is homosexuality among women. Gay is homosexuality among men. Bisexual is a state of feeling attracted equally strongly to both sexes, women and men". According to Huwller (Demartoto, 2010) there are three types of sexual orientation, namely:

- a. Heterosexual is a sexual activity that chooses a sexual partner of the opposite sex;
- b. Bisexual is a sexual activity that selects a sexual partner of the opposite sex and the same sex;
- c. Homosexual is sexual activity that chooses sexual partners of the same sex.

Homosexual men are called Gay and homosexual women are called Lesbians. Sexual orientation differs from gender. Gender refers to the demands, roles, and positions of a person in the social environment in society regarding their sexual identity. Sexual orientation is also not the same as sexual identity. Sexual identity is a physical (as well as psychological) marker that determines whether an individual is male, female, or transsexual. Sexual identity also includes a psychological appreciation known as gender identity (Chaplin, 2001). There are individuals whose body and gender are male, but they feel that they are psychologically female and happy and feel comfortable being feminine, and vice versa. Those whose physical and psychological identities do not agree are known as transgender (Papilaya, 2016). In the study of Counseling and Mental Health Care of Transgender Adult and Loved One, the transgender phenomenon is stated not only because of environmental influences. Influences from culture, physicality, sex, psychosocial, religion and health also contribute to shaping individuals to become

LGBT people. According to Byrd, genetic factors are a contributor to the formation of individuals to become lesbi, gay, bisexual, or transgender, as LGBT people emphasize. However, that does not automatically mean that he is LGBT. Parenting style is the most important factor in shaping and coloring the child's figure (Byrd & Olsen, 2001).

In this reciprocal relationship, social learning occurs which leads to the transfer of information, habits or behavior. Children who always watch shows of gender-non-conforming behavior like boys who behave gracefully open opportunities for children to behave the same. The reaction that appears the first time is feeling strange, funny, or even not giving any reaction, because the child does not have a schemeknowledge about the figure of masculinity in men. The second reaction, children begin to have the knowledge that men are what they see. The reactions of the three children followed the styles or behavior of the boys they often saw. Then the strange or funny feeling at the beginning of the reaction turns into an understandable and acceptable feeling. In this condition, there has been an internalization of values about a male figure, which over time is likely to change into an internalization of behavior patterns. If the environment can influence behavior and vice versa behavior can be influenced by the environment, then when values internalization begins to occur, individuals can limit themselves to be wiser in responding to the LGBT phenomenon. Michael et al (1998) identified three criteria in determining someone to be homosexual, namely:

- a. Sexual attraction to people who have the same gender with him;
- b. Sexual involvement with one or more people who have the same gender as himself;

- c. Identify yourself as gay or lesbian. In Kalat (2010) there are several theories that explain the reasons for individuals to become homosexual, namely;
 - 1) Biological theory which states the existence of genetic factors and hormonal factors that influence biological processes in homosexual individuals;
 - 2) The theory of psychoanalysis states that in a state of improper resolution of the Oedipus complex, moral development is stuck at an "immature" stage, thus causing homosexuality in adults; and
 - 3) Learning theory suggests that reward and punishment can shape individual behavior towards their sexual orientation tendencies.

Musti'ah (2016) explained that there are several factors that cause a person to tend to be part of LGBT, including:

- 1) Family
Experiences or trauma in childhood, for example: Based on mother / father so that the child thinks all men / women are rude, violent and hot, which allows the child to feel hatred for that person. The principle in choosing identity is through tenuous kinship. For a lesbian, for example, the experience or trauma felt by women from childhood due to violence perpetrated by men, namely fathers, brothers and sisters. Violence experienced physically, mentally and sexually makes a woman hate all men. Other than that,
- 2) Association and Environment
Social habits and environment are the biggest factors contributing to this sexual disorder in which a family member does not show affection and the attitude of the parents who feel that the explanation of sex is taboo. Families

that restrain their children too much. A father who shows less affection for his son. Relationships that are too close to the mother are temporarily tenuous with the father. Less receive true religious education from childhood. In addition, the association and environment of children while in boarding schools that separate men and women also invite gay and lesbian relationships. Like the informant we interviewed (*name should be hidden*), she is a woman who has a lover (male) like a normal woman. However, he said that sometimes he feels more comfortable when he is with other women, because according to him, there is no distance or prohibition against behaving at will. In fact, he said that he felt *ituncomfortable* or uncomfortable when being close (making out) with a man or the opposite sex, because he thinks that when with a man he feels that he is not his muhrim. In the surrounding environment, like in her family, sometimes she is reprimanded by her mother or father, even her lover often reprimands her if she behaves (deviantly) as she usually does with her female friends. But he felt that what he was doing was not wrong or not deviating. Basically, through the interviews conducted, it could be concluded that he was in the bisexual category.

3) Biological

A homosexual has a tendency to commit homosexuality because he gets a push from the body which is hereditary/genetic. Genetic factors can be treated morally and religiously. For transgender people, for example, the character of men in terms of voice, physique, gestures and tendencies towards women is largely influenced by

the hormone testosteron. If someone's hormone testosteron is low, it can affect the behavior of men similar to women. In medicine, basically, a normal male chromosome is XY, while a normal female is also XX. For some, the male has XXY genetics. In this condition, the male has one more X chromosome in addition. In fact, his behavior was somewhat similar to that of a woman.

4) Morals

This homosexual group occurs because of a shift in the moral norms adhered to by the community, as well as the diminishing social control that exists in that society. This is due to weak faith and lust control and because of the large amount of sexual stimulation. The fragility of one's faith can also cause all evil to occur because faith alone can be the most effective fortress in curbing sexual deviance.

5) Weak Religious Knowledge

In addition, lack of knowledge and understanding of religion is also an internal factor affecting homosexuality. This is because the author feels religious and moral education is very important in shaping the mind, personality and personality of that individual. Religious knowledge plays an important role as the most ideal bulwark in educating oneself to distinguish what is good and what is otherwise, haram and lawful and others.

B. LGBT in Criminology Perspective

Current criminal acts related to LGBT are obscene acts against the same sex who are not yet mature (sodomy), which is regulated in article 292 of the Criminal Code. This article prohibits obscene acts committed by an adult (male or female) against a person of the same sex (but not yet

mature). This article also protects people who are known as homosexuals, that is, gay or lesbian (Marpaung, 2008).

Basically, LGBT is a social deviation experienced by individuals, and not an evil act that must be viewed as a criminal act. Transsexuality can be caused by hereditary factors (hormones and genes) and environmental factors. Environmental factors include wrong education in childhood by allowing boys to develop in female behavior, at puberty, homosexuals who are disappointed or traumatized, traumatized sexual intercourse with boyfriends, husbands or wives. It is necessary to distinguish the causes of psychiatric and congenital transsexuals. In the case of transsexuals because of an abnormal hormonal balance (innate), balancing hormonal conditions in order to get closer to the biological predisposition of sex can be done.

The phenomenon of LGBT can also become a legal problem if it has violated legal norms and morals, and even disturbs the public. Actions related to LGBT that need to be criminalized (necessary to be a crime) are obscene acts committed by the lesbian, gay, or bisexual people, especially when taking legal action to make a marriage that is valid according to the applicable law in Indonesia. Regarding transgender itself, the action that needs to be criminalized is a change of sex that is not based on good faith and can harm other parties as members of society, for example with the intention of committing fraud or incognito, commercialization, or other illegal acts (Sholehuddin, 2003).

Prasetyo & Barkatullah (2005) emphasized that criminalization may be applied against these acts, based on the following conditions or criteria for criminalization:

- 1) The public disliked the act because it was detrimental, or could cause, victimize, or could cause a victim; This can be seen from the reaction of the community that views LGBT as a disgrace and can harm or cause victims, in the case of obscene acts committed against the same sex with or without coercion or threats, it can lead to sexual disorientation towards people who previously do not have a disorder (sexual orientation. normal), or even worsen the condition of someone who previously had a sexual orientation disorder.
- 2) The costs of making rules, monitoring and enforcing the law, as well as the burden borne by victims and perpetrators must be balanced with the legal order to be achieved; Regarding the LGBT phenomenon, it would be better for the community if it was immediately regulated in written law regarding its criminalization, so that the recognition or prohibition of certain actions carried out by LGBT people no longer reaps relatively subjective multiple interpretations from various parties, meaning that they are made for legal certainty and public interest. .
- 3) Can be carried out or applied by law enforcement officials based on their abilities; The application of this criminalization does not appear to cause overblasting of law enforcement officials, because the criminalization of LGBT also does not require special handling such as special crimes against corruption, fisheries, or others, so it does not have to add new institutions in law enforcement.
- 4) This act obstructed the aspirations of the Indonesian nation and thus became a danger to society; LGBT acts that need

to be criminalized are considered a crime for generations. This behavior clearly removes the only human value from sexual behavior that is bestowed by God Almighty. [5] It is feared that this will have an impact on the next generation in Indonesia, if the act is not criminalized (so that it is stipulated that the act is prohibited and is not in accordance with the applicable law in Indonesia). Criminalization of these acts also does not lead to over-criminalization, because basically these acts are historically inconsistent with the norms of morality and religious norms that exist in society.

C. How Community Responding LGBT Phenomena?

After the United States Supreme Court passed the same-sex marriage law in 2015, of course this greatly affected the rights and existence of LGBT people in world countries to participate in urging local governments to implement the same thing, including LGBT people in Indonesia. LGBT people in Indonesia, through their organizational representatives, propose to the government to immediately formulate and pass laws and regulations relating to the fulfillment of their rights, including being allowed to have same-sex marriages. Of course, this has become a discussion as well as a debate by various parties in response to the LGBT phenomenon. By some people, especially religious leaders, academics and experts and experts, they argue that LGBT tends to have a negative impact, especially on the younger generation.

To find out the real public response, the researchers conducted voting through a questionnaire conducted openly via the web, which was filled in by various groups ranging from high school students to

working people. In order to know how the general public responds to the LGBT community in today's society. With some written questions, the respondent can answer according to their conscience without coercion from any party. The reasons for choosing the questionnaire were based on several considerations. *First*, the questionnaire represents society as the present generation that is likely to be vulnerable to LGBT influence. *Second*, the researcher assumed that high school students, university students, and the general public were the targets of LGBT people who could be influenced through promiscuity. *Third*, the researcher wanted to know the existence of LGBT behavior among students and the general public, so that the questionnaire determined contained general questions that were easily digested by the general public or did not have to be from the legal circle alone. *Fourth*, the researcher wants to know the response of the current generation regarding the LGBT phenomenon currently happening in Indonesia, especially in the city of Semarang, considering that the younger generation is the nation's next generation. The results of distributing questionnaires can be seen in the following table: Researchers want to know the response of the current generation regarding the LGBT phenomenon currently occurring in Indonesia, especially in the city of Semarang, considering that the younger generation is the nation's next generation. The results of distributing questionnaires can be seen in the following table: Researchers want to know the response of the current generation regarding the LGBT phenomenon currently occurring in Indonesia, especially in the city of Semarang, considering that the younger generation is the nation's next generation.

The results of distributing questionnaires can be seen at Figure 1, Figure 2, Figure 3, and Figure 4.



Fig. 1 The Respondents (94)

The majority of respondents are students, but respondents cover the whole community, whether students or students, workers (civil servants, households, self-employed, etc.) and the general public. Respondents here give their opinion without coercion. They gave their opinion about LGBT response according to their own conscience and thoughts.

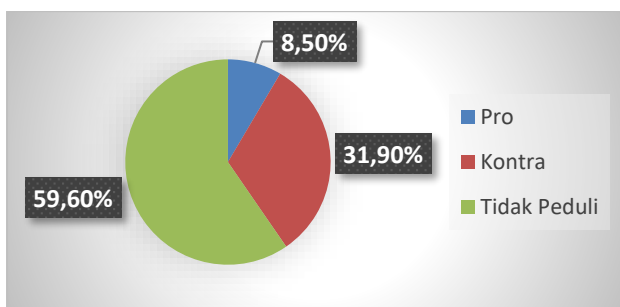


Fig. 2 Respond to LGBT Phenomena

The majority of respondents chose not to care, the attitude of not caring the respondents here was accompanied by reasons that were closed or not to publish the respondent's name. The majority of the reasons for not caring about them were because LGBT activities did not enter their lives or it could be called their individual affairs. So for those who feel "normal" they don't care about the existence of an LGBT community which they think is only for people who are sick. Then, for respondents who chose to be pro with LGBT, they gave the reason that it is their individual right

where everyone is free to do what they think is good. As long as they don't interfere with other individual activities, they feel that there is no need to blame LGBT people in society. And respondents who voted against them gave the reason that LGBT is clearly prohibited by religion (especially Islam). In Islam they have stated that sex with same sex is prohibited. In the Qur'an, it has been explained from the story of Prophet Lut in surah Al-A'raf: 80-81 which means: "and (we have also sent) Lut (to his people) why do you do that fashiyah deed, which has never was done by nobody (in this world) before you? " In fact you come to men to release your lust (for them), not for women, instead you are a people who transgress. In the story of the people of the Prophet Lut, it is clear that their deviation from nature. To the extent that when he answered their words (Suhery, et.al., 2016), and it is not only against the rules of agama, but respondents also think that it violates the norms that have existed in society for a long time. So LGBT behavior or activities are deviant behavior and violate the rules, which rules? rules that have existed in society for a long time. And if in their immediate environment there is a community or someone who belongs to the LGBT scope, the majority of them choose to advise in the hope that that person can return to the way of life according to their respective nature. But it also does not rule out, there are some who choose to be ignorant or indifferent and stay away from them (LGBT).

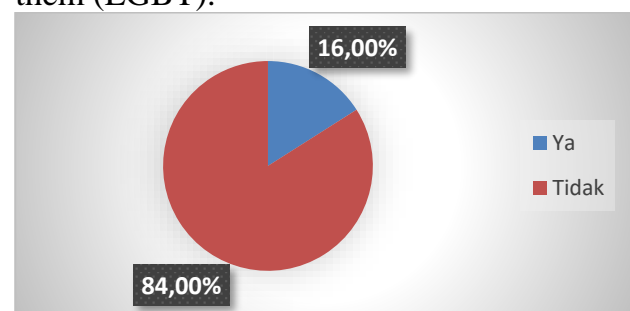


Fig. 3 Public Opinion for LGBT: Crime or Not?

Many questions arise, is LGBT a criminal act? Basically, there is no State law regulating the LGBT people or community, but in society norms and religious norms, LGBT is prohibited because LGBT is an act that deviates and violates the rules of human nature. In the questionnaire the researcher wrote the question "*is LGBT a crime?*" and the majority of respondents' responses are "no", and the reason is that LGBT is not a criminal act in which the perpetrator's action is a deviant act that violates their sexual nature. For LGBT respondents, it is a psychological disease that attacks sexual orientation, so they hope that those who commit LGBT acts are not punished but be cured.

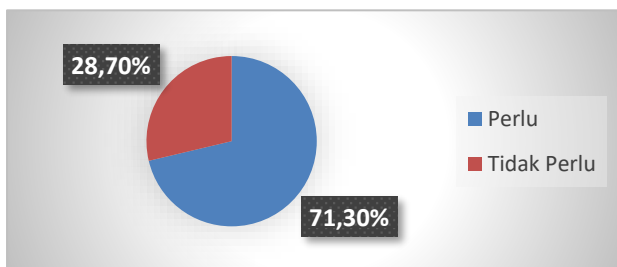


Fig. 4 Public Opinion for LGBT: Is Legal Necessary for LGBT?

Basically, in Indonesia there is no law or law regulating LGBT. And is there a need for a legal rule to regulate the existence of LGBT in Indonesia? the majority of respondents chose it necessary, and the reason they needed to make a legal rule regarding LGBT was because LGBT was not in accordance with the existing culture in Indonesia, where the existing norms in social life strongly oppose sexual relations with same-sex people. In Indonesia, there is no State Law that regulates LGBT, but in Indonesian society there are norms that regulate and prohibit these activities. In the

questionnaire created, respondents thought that Indonesia needed to make definite laws or state laws to regulate the existence of LGBT.

Conclusion

This research concluded that factors that cause individuals to become part of LGBT are family, association and environment, biology, morals and morals as well as weak religious knowledge. In essence LGBT is a social deviation experienced by a person, and not a bad act that must be viewed as a criminal act. The majority of people are against LGBT for them, this is not in accordance with the prevailing norms, religion, and culture in Indonesia. Please note that LGBT is not a mental illness or disorder according to research conducted by the American Psychiatric Association since 1973. Everyone has the right to fall in love and they should not be separated. And LGBT is not a crime, being part of the LGBT people is the life choice of each individual. Sexual orientation appears naturally in individuals who become LGBT people. So there is no need for stigma, discrimination and violence against them.

Declaration of Conflicting Interests

The authors state that there is no potential conflict of interest in the research, authorship, and/or publication of this article

Funding

None

References

- Atmasasmita, Romli. 1983. *Capita Selekta Kriminologi*. Bandung: Armico.
- Crews, Douglas., & Crawford, Marcus. (2015). Exploring the role of being out on a queer person's self-compassion. *Journal of gay & lesbian social services* Vol. 27 (No. 2), pp. 172-186.
- Byrd, A. D., & Olsen, S. (2001). Homosexuality: Innate and Immutable. *Regent UL Rev.*, 14, 383.
- Mandala, Suherry Edward. & Deca Mustika, Roni Bastiar, Dicky Novalino. (2016) "Lesbian, Gay, Biseksual, dan Transgendel (LGBT) dalam Prespektif Masyarakat dan Agama" *Aristo*. Vol. 4. No. 2. Juli.
- Marpaung, Leden. 2008. *Kejahatan Terhadap Kesusilaan dan Masalah Prevensinya*. Jakarta: Sinar Grafika.
- Marzuki, Peter Mahmud. 2005. *Penelitian Hukum*. Jakarta: Kencana Prenada Media.
- Moeljatno. 2008. *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta.
- Morrow, Deana F. & Messinger, L. 2006. *Sexual orientation and gender expression in social work practice – Working with gay, lesbian, bisexual, and transgender people*. New York: Columbia University Press.
- Muhammad, Abdulkadir. 2004. *Hukum dan Penelitian Hukum*. Bandung: Citra Aditya Bakti.
- Muljono, Wahyu. 2012. *Pengantar Teori Kriminologi*. Yogyakarta: Penerbit Pustaka Yustisia.
- Mulyadi, Lilik. 2007. *Kapita Selekta Hukum Pidana, Kriminologi dan Victimologi*. Jakarta: PT Djambatan.
- Mulyadi, Lilik. 2008. *Bunga Rampai Hukum Pidana Perspektif Teoretis Dan Praktik*. Bandung: PT Alumni.
- Musti'ah. (2016) "Lesbian, Gay, Biseksual, Transgender (LGBT): Pandangan Islam Faktor Penyebab dan Solusi", *sosial horison: Jurnal Pendidikan Sosial*, Vol. 3, No. 2, Desember.
- Papilaya, Jeanete Ophilia. (2016) Lesbian, Gay, Biseksual, Transgender (LGBT) dan Keadilan Sosial. *Pax Humana Jurnal Humaniora Yayasan Bina Darma Volume III*, No. 1. 025-034
- Prasetyo, Teguh. dan Barkatullah, Abdul Halim. 2005. *Politik Hukum Pidana – Kajian Kebijakan Kriminalisasi dan Dekriminalisa*. Yogyakarta: Pustaka Pelajar.
- R. Atmasasmita. 2010. *20 Teori dan Kapita Selekta Kriminologi*. Bandung: Refika: Aditama.
- Rohmawati, R. (2016). Perkawinan lesbian, gay, biseksual dan transgender/transeksual (LGBT) Perspektif Hukum Islam. *Jurnal Hukum Islam Vol.4 (No.2)*, 305-326.
- S. Alam, A. dan A. Ilyas. 2010. *Pengantar Kriminologi*. Makassar: Pustaka Refleksi.
- Santoso, B. M. (2016) LGBT dalam Perspektif Hak Asasi Manusia. *Social Work Journal Vol.6 (No.2)*, 305-326.
- Santoso, Topo. Dan Zulfa, Eva Achjani. 2012. *Kriminologi*. Jakarta: Raja Grafindo Persada.
- Setiawan, Wawan. dan Sukmadewi, Yudhitiya Dyah. (2017) "Peran Pancasila Pada Era Globalisasi" *Kajian Terhadap Pancasila dan Fenomena*

- LGBT (Lesbian, Gay, Bisexual, Transgender) di Indonesia. *Jurnal Dinamika Sosial Budaya*, Volume 19, Nomor 1, Juni. 126
- Sholehuddin, M. *Sistem Sanksi Dalam Hukum Pidana*. Jakarta: Raja Grafindo Persada.
- Sutherland, Edwin H. dan Cressey, Donald R. 1974 *Principles of Criminology*. New York: New York Lippincott Company.
- W. Sarwono Sarlito, A. Meinarno E. 2009. *Psikologi Sosial*. Jakarta: Salemba Humanika.
- William III, Frank P. dan McShane, Marilyn. 1988. *Criminological Theory*. New Jersey: Prentice hall. Englewood Cliffs.
- Yudiyanto, Y. (2016). Fenomena lesbian, gay, biseksual, dan transgender (LGBT) di Indonesia serta upaya pencegahannya. *Jurnal Studi Keislaman Vol. 5* (No. 1), 65-74.

Submitted June 3, 2019

Revision received February 25, 2020

Accepted July 27, 2020

How to cite?

Sari, A. N., Maharani, A. C., Amalinda, A. R., & Amanda, Y. R. (2020). Criminology and Legal Study of Lesbian, Gay, Bisexual and Transgender (LGBT) Actors in Semarang City. *Law Research Review Quarterly*, 6(3), 299-322. <https://doi.org/10.15294/lrrq.v6i3.31149>