

CRIMINOLOGICAL REVIEW OF THE CRIME OF MURDER OF A SAME-SEX PARTNER AGAINST THEIR PARTNER

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ABSTRACT

The existence of homosexuals in Indonesia in 2008 became This is in the public spotlight due to the emergence of cases one involving gay people is a murder case This was carried out by Very Igham Hermansyah alias Ryan against Hery Santoso, motivated by jealousy towards his victim Novel, who liked his gay partner. Ryan was proven to have killed and even mutilated Hery Santoso because he felt jealous and displeased with the victim who had a crush on Novel's same-sex partner. The purpose of this research is to determine the factors that cause sexual deviant behavior, to determine the causes of murder committed by same-sex couples, and to determine the criminological study of criminal acts of murder committed by same-sex couples. The research carried out is normative legal research with a normative juridical legal approach using secondary data which processes data from primary legal materials, secondary legal materials and tertiary legal materials. Based on the research results, it is understood that 1) The factors causing sexual deviant behavior are sexual behavior disorders, social and social factors, genetic factors, and media factors in displaying pornography. 2) The causes of murder committed by homosexual couples are divided into internal factors and external factors. 3) The criminological view of homosexual couples who commit the murder of their partners when linked to the factors causing why the couple was able to commit the murder of their partner, there are several factors, namely: the psychological factor of the perpetrator who actually experienced a mental disorder to carry out the murder, then the individual factor in the form of feeling jealousy and revenge because they feel hurt towards the victim, as well as economic factors where the perpetrator deliberately commits murder so that he can take and control all of the victim's property. This can be seen from one example of the murder case committed by Very Idam Henyansyah alias Ryan against Hery Santoso in decision Number: 1036/Pid.B/2008/PN.DPK.

Keywords: Criminology, Crime of Murder, Same Couple Type.

A. Introduction

Deviant behavior seems to be increasingly common in our society, especially sexual deviance. It is no longer foreign to hear the term homosexual, the existence of homosexuals in human life has emerged centuries ago along with the emergence of human life on this earth. The presence of these people in the midst of human life, both

hidden and open. The presence of homosexuals no longer seems to be bothered by the surrounding community. One of the causes of the widespread development of homosexuals in society is society's indifference to this behavior. Even though homosexual behavior itself is very contrary to the morals and values of any religion in the world. Homosexual behavior is a social disease that is difficult to treat. The emergence of deviant behavior in homosexuals is caused by socialization from systems and sub-systems in society that are not working properly.¹

Homosexuals can be included in the study of sexual abnormalities contained in abnormal psychology. The life of homosexuals is generally the same as the pattern of life in society in general. Homosexuals carry out work activities and other life routines. Free sex and sexual deviations are strictly prohibited, both by positive Indonesian law, religion and societal norms.

Sexual deviance is a term used to refer to "unnatural" sexual acts, which depending on the jurisdiction can consist of oral sex or anal sex or any other form of contact between non-genital organs and genitals. The crime of sexual deviance can be defined as forcing the victim to having sex through the anus or anus.

The real science of criminal law can also be called the science of crime, there is also the science of crime itself which is called Criminology. Criminology is the science of crime and bad behavior and about people involved in crime and bad behavior. By crime, we also mean violation. This means that actions according to the law are threatened with criminal penalties and criminality includes crimes and bad behavior.²

In general, criminology scholars agree that the objects of criminology are crime, criminals, deviant behavior, perpetrators of deviance, victims of crime, social reactions to deviant behavior and behavior, whether they are formal reactions, namely

¹ Hibatul Wafi. "Penyimpangan Orientasi Seksual Tinjauan Sosiologis". Jurnal Program Kaderisasi Ulama (PKU) Universitas Darussalam Gontor Angkatan X, halaman 9

² Ismail Rumadan. 2021. *Kejahatan Kekerasan Dalam Kriminologi*. Surabaya: CV. Nariz Bakti Mulia Publisher, halaman 8

the working of the institutions of the criminal justice system, or reactions. informal activities from community members towards criminals and crime victims in a crime incident.

The deviant behavior highlighted in this article is something related to legal violations of applicable norms and human rights. In general, homosexual crimes will be stated that result in the loss of a person's life. Crime is a human act that can be punished, according to the provisions of the applicable criminal law. The study of criminology certainly has a broader task in exploring matters related to crime and ultimately finding ways to overcome these crimes.

The perspective of criminological theory to discuss crime problems in general has very broad dimensions. The breadth of the dimensions in question really depends on the point of view that will be used in carrying out theoretical analysis of the subject of discussion. Sutherland in Topo Santoso, formulated criminology as a whole science that is tied to evil acts as a social phenomenon. According to Sutherland, criminology includes the processes of law making, law violations and reactions to law violations.

Murder is a very serious crime and gets quite a lot of attention in society. News in newspapers, magazines and online newspapers have begun to frequently report murders. The crime of murder has been known from time to time due to various factors. In this modern era, criminal acts of murder are even more common. Historically, the crime of murder has existed for a long time, or can be said to be a classic crime that will always follow the development of human culture itself.

B. Research Methods

A research cannot be said to be research if it does not have a research method.³ Research methods are one of the factors of a problem that will be discussed.⁴ The study was carried out using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are

³ Ismail Koto, "Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme", *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.

⁴ Ida Hanifah, Ismail Koto, "Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19", *Jurnal Yuridis* 8.1, (2021): 23-42.

several references originating from the results of research, studies and reviews of several papers which are then summarized into a work of scientific.

C. Analysis And Discussion

1. Factors Causing Sexual Deviant Behavior

Homosexuality is a way to fulfill sexual urges with members of the same sex, men with men (homosexuals) or women with women (lesbians). The opposite of homosexuality is heterosexuality, namely sexual relations between two people of different genders. Homosexuality is sexual activity carried out by same-sex couples, men with men or women with women. Homosexuality is the result of abnormalities in a person's personality development. The medical term refers to homosexuality as paederastia, namely the act of sexual intercourse through the anus. In Islam it is called liwath/'amal qaumi Luthin. This action was first carried out by the people of Prophet Lut who lived during the time of Prophet Ibrahim. According to the history of Ibn Abi Dunya from Thawus, it was stated that first Luth's people came to the women in their anus, then came to the men.

The story of the Luth clan contained in the Qur'an can be used as a basis for prohibiting homosexuality, because this act is an abnormal sexual practice and is a very disgusting sexual deviation, so it is strongly condemned by Islam, including one of the major sins which is haram. because it is a heinous act and crosses the line. The Prophet Muhammad SAW said, "May Allah curse those who carry out the actions of Luth's people." He repeated this statement three times.

Article 1 states that Indonesia only recognizes heterosexual marriage, namely marriage between two people of different genders, specifically a man and a woman. Apart from that, it was added that marriage does not merely fulfill biological desires, but has a holy purpose as part of worshiping God Almighty to build a happy and eternal home. Meanwhile, according to Article 2, it is more specific, more specifically for Muslims, marriage matters are also regulated in the Compilation of Islamic Law.

2. Causes of Murder Committed by Same-Sex Couples

The causes of homosexuality can be due to biological, sociological, psychological influences or the interaction of biology and sociology. People's sexual orientation is largely determined by a combination of genetic, hormonal, cognitive and environmental factors. Another opinion also emerges from most experts on homosexuality, they believe that there is no single factor that causes homosexuality and the weight of each factor varies from one person to another. As a result, no one knows for sure why someone becomes homosexual.

Behavioral theory assumes that homosexual behavior is learned behavior, resulting from homosexual behavior that brings pleasant rewards or reinforcements or punishment or negative reinforcements for heterosexual behavior. Susan Noelen Hoeksema in her book *Abnormal Psychology* says that 90% more men suffer from sexual deviant behavior. When researchers try to find abnormalities in male hormones that are thought to be the cause of deviant sexual behavior the results are inconsistent. This means that there is little possibility that deviant sexual behavior is caused by abnormalities in male hormones. The causes of this deviant behavior are more related to the release of aggressive or hostile impulses, which are more likely to occur in men than women.

In the criminology literature, a distinction is made between disposition and personality. According to the terminology of heredity theory, innate means only inherited potential and personality means developed potential/talents. Other factors that cause a person to become homosexual are biological factors (brain and nerve disorders) and psychodynamic factors, namely the presence of sexual development disorders from childhood or early childhood.

According to Kinberg, a person's deviation factors are not endogenous phenomena/symptoms that come solely from within. But it is the result of nature and environmental factors that influence and shape nature throughout time. However, the use of this term is not always consistent with the theory regarding the relationship

between endogenous (internal) and exogenous (outer) factors. If the terms innate and environment are used, they also refer to developed traits.

According to Cattell, if there is an adjustment pattern that meets environmental conditions that influence the adjustment pattern, it will have the impact of changes or development in the individual's personality. The points that a person passes through during changes in personality development are called dynamic cross roads. Dynamic cross roads are suspected to occur when individuals start a business in order to obtain certain erg (existence related growth) satisfaction. Cattell reported the possibilities that could occur as a result of dynamic cross roads, namely: The satisfaction that a person gets due to the behavioral patterns that he was born with. However, due to the lack of effectiveness of the perceptual and motor response patterns that a person is born with to deal with the environmental factors that exist at that time, a person fails to get satisfaction.

Homosexuals tend to have sexual desires or have sexual relations with the same gender. Homosexual is a term to indicate symptoms of ongoing sexual urges and behavior towards other people or a disposition for sexual experiences, affection, or attraction with people of the same sex. In this case the perpetrator has an interest in children of the same sex or can be called pedophilia.

Homosexuals are called dissocial in dealing with the law, their behavioral abnormalities can be seen from their life background, such as when they were born and raised in an environment where many people do evil things, are against the norms that apply to the law, their relationships with neighboring families or society are not reasonable. From several cases that occurred, it was almost found that the historical background of those who experienced homosexuality was similar, saying that they had been tortured or had abusive families, or had been sexually abused by people close to them. Those who become homosexual usually realize that they are not supposed to like people of the same sex, but because they want to take revenge on other people by being or behaving deviantly. Most cases of childhood trauma receive recovery (protection)

but require treatment or therapy from a psychologist or psychiatrist which takes a long time and is a long process.

A person who has deviant behavior or is called abnormal has an inappropriate attitude, not in accordance with the rules and values that apply in society. The internal strengths that a person carries from birth into the world are called basic human abilities.

Sexual behavior disorders can be seen from psychological factors in relation to a person's mental condition which can feel happy or unhappy, called psychological conditions. That sexual deviant behavior is influenced by many factors, one of which is the mental health condition of a person who has abnormal symptoms, influenced by environmental conditions, physical health and psychological conditions.

3. Criminological Study of the Crime of Murder Committed by Same-Sex Couples

Murder is also known to not be a crime that can be said to be pardonable (there is a forgiving reason). In this case, a murder like this can only occur if there is overmacht's coercive power which allows him to kill because of self-defense and the murder has legal justification. This form of murder, for example, is murder committed by the police in carrying out their duties in arresting criminals.

From this opinion it can be said that these symptoms give rise to forms of behavioral deviation such as murder, rape, obscene acts and other acts that deviate from applicable norms. This situation is greatly influenced by environmental, economic, psychological (psychological), family factors and even arises from oneself, so that the act violates the rule of law.

In every problem or case that occurs in society in general, it is caused by an imbalance of attention or cultivation towards the two aspects that exist within humans, namely the physical aspect and the spiritual aspect (soul). The balance of these two aspects greatly influences each individual's behavior when solving problems faced in interacting with society.

C. Conclusion

Factors of sexual behavior disorders where the perpetrator can only have sexual relations with members of the same sex and factors of trauma or having been victims of homosexuality before. Social and social factors are the biggest factors that cause a person to become a homosexual. This second social or social and environmental factor does not come from within the perpetrator but comes from outside and influences the perpetrator himself. Genetic factors are the smallest factors that cause a person to become homosexual from heredity which produces a reaction to deviant behavior. d. Media factors in displaying pornography. Both electronic and print media are currently being highlighted as one of the causes of the decline in human morals. It is believed that various shows that emphasize pornographic aspects are closely related to the increase in cases of sexual violence.

The causes of murder committed by same-sex couples are divided into: 1) Internal factors, seen from the psychological side of the perpetrator, namely perpetrators who have a weak mentality tend to often commit criminal acts without having good confidence and psychological strength. 2) External factors, namely economic factors that are not permanent, namely the frequent occurrence of crime, a consumerist lifestyle makes perpetrators commit crimes which makes the crime rate high.

The criminological view of same-sex couples who commit the murder of their partners when linked to the factors causing why the couple was able to commit the murder of their partner, there are several factors, namely: the psychological factor of the perpetrator who actually experienced a mental disorder to carry out the murder, then the individual factor in the form of there being feelings of jealousy and revenge because they feel hurt towards the victim, as well as economic factors where the perpetrator deliberately commits murder so that he can take and control all of the victim's property. This can be seen from one example of the murder case committed by Very Idam Henyansyah alias Ryan against Hery Santoso in decision Number: 1036/Pid.B/2008/PN.DPK.

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