

Lesbian Gay Bisexual And Transgender (LGBT) Dalam Perspektif Hak Asasi Manusia (HAM) = Lesbian Gay Bisexual And Transgender In Human Rights Perspective

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Abstrak

Negara Indonesia melindungi dan menjamin hak asasi manusia setiap warga negaranya sebagaimana yang telah tertulis pada Pasal 28A sampai dengan 28I UUD 1945. Dengan adanya jaminan dari negara atas hak-hak tersebut, bukan berarti negara telah membuka pintu seluas-luasnya kepada warganya untuk melakukan segala macam perbuatan tanpa batas, sebagaimana yang ada pada Pasal 28J UUD 1945.

Lesbian Gay Bisexual and Transgender merupakan sebuah penyimpangan dalam perilaku seksual. Beberapa kelompok di negara-negara eropa membungkus bentuk penyimpangan tersebut dengan sebuah “bungkus” yang bernama hak asasi manusia guna justifikasi terhadap perilaku homoseksual dan legalisasi perkawinan sejenis. Dalam penelitian ini mempunyai dua rumusan masalah yaitu; I) Bagaimana pandangan Hak asasi manusia di Indonesia terhadap perkawinan sesama jenis dan perbuatan homoseksual? II) Bagaimana norma hukum yang berlaku di Indonesia dalam menyikapi fenomena perkawinan sejenis dan perbuatan homoseksual kaum LGBT dengan mempertimbangkan Hak Asasi Manusia? Penelitian ini merupakan penelitian normatif dengan sumber data sekunder.

Menggunakan teknik pengumpulan data dengan studi pustaka dan wawancara. Sedangkan analisis data menggunakan analisis kualitatif sehingga bentuk penelitian ini merupakan penelitian evaluatif. Pendekatan yang dilakukan adalah pendekatan konsep, pendekatan perundang-undangan dan pendekatan sejarah. Pada akhirnya penelitian ini menyimpulkan I) berdasarkan cara pandang theosentris perkawinan sejenis dan perilaku homoseksual bukan merupakan hak asasi manusia, sedangkan berdasarkan cara pandang antroposentris, sebaliknya. II) Indonesia adalah negara yang menganut teori hukum alam irasional dengan pandangan theorisentris, sehingga perilaku homoseksual dan perkawinan sejenis sejatinya telah bertentangan dengan Pancasila dan norma hukum yang berlaku. Penelitian ini menyarankan agar Pemerintah Indonesia merumuskan adanya norma hukum yang melarang perilaku homoseksual dan perkawinan sejenis.

The Indonesian state protects and guarantees the human rights of every citizen. Protection of these rights is written in Articles 28A through 28I of the 1945 Constitution of the Republic of Indonesia. With the guarantee from the state of the rights possessed by each citizen, it does not mean that the state has opened the widest possible door for its citizens to do all kinds of actions according to their own personal desires without clear boundaries. In Article 28J of the 1945 Constitution, according to Article 28J paragraph (2) of the 1945 Constitution Lesbian Bisexual and Transgender Gay is a deviation in sexual behavior. Some groups in European countries wrap the form of deviation with a "wrapper" called human rights for justification of homosexual behavior and the legalization of similar marriage. In this study there are two formulation of the problem, namely; I) What is the view of human rights in Indonesia towards same-sex marriage and homosexual behavior of LGBT people? II) What are the legal norms in force in addressing the phenomenon of similar marriages and homosexual behavior of LGBT people by considering human rights? This research is normative research with secondary data sources consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Using data collection techniques with literature

studies and interviews. While the data analysis uses qualitative analysis so that the form of this research is evaluative research. The approach taken is the conceptual approach, legislative approach and historical approach. The purpose of this study is I) The purpose of writing this paper is to explain more about the human rights perspective in Indonesia in addressing homosexual behavior of LGBT people and same-sex marriage. II) to explain the legal norms in Indonesia in responding to homosexual behavior of LGBT people and same-sex marriage based on consideration of the concept of human rights in Indonesia In the end, this research concludes I) that based on irrational natural law theory with theocentric views will see homosexual and marital behavior of a kind not part of human rights, but based on rational natural law theory with an anthropocentric view will see this as part of human rights. II) Indonesia is a country that adheres to irrational natural law theory with a theistic view, so that homosexual and marital behaviors of a kind have actually contradicted Pancasila, Law Number 1 of 1974 concerning Marriage and Law Number 39 of 1999 concerning Human Rights Suggestions from this study suggest that the Indonesian Government formulate legal norms that prohibit similar homosexual and marital behavior.</p>