



A Subversive Strategy Against Sexuality Doxa: Analysis of Critical Discourse on Heterodoxa Discourse Related Parties In Court in the Constitutional Court

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Abstract

This article discusses the resistance strategies of two indirectly related parties, namely the Indonesian Women's Coalition and the Indonesian Legal Aid Foundation Foundation in the Constitutional Court session. Related to the judicial review submitted by AILA on Articles 284 and 292 of the Criminal Code. In the aforementioned trial of the petitioner, AILA prosecuted the expansion of legal norms in Articles 284 and 292 of the Criminal Code to the Constitutional Court to exclude or eliminate abnormal, immoral and non-sexual sexual conduct by criminalizing perpetrators. By using Critical Discourse Analysis and Bourdieu's concepts, related to doxa, heterodoxy, and subversive strategies in the discourse of heterodoxy, researchers found that the subversive strategy of KPI and YLBHI in trials is based on the idea of equality of sexuality and is aimed at protecting the interests of minority groups from the arbitrariness of dominant groups who want to impose its particular truth (doxa on sexuality) into national law. The subversive strategy is built by the opposing group on the basis of the life experiences of marginalized groups and the distinctive knowledge that each party has.

Keywords:

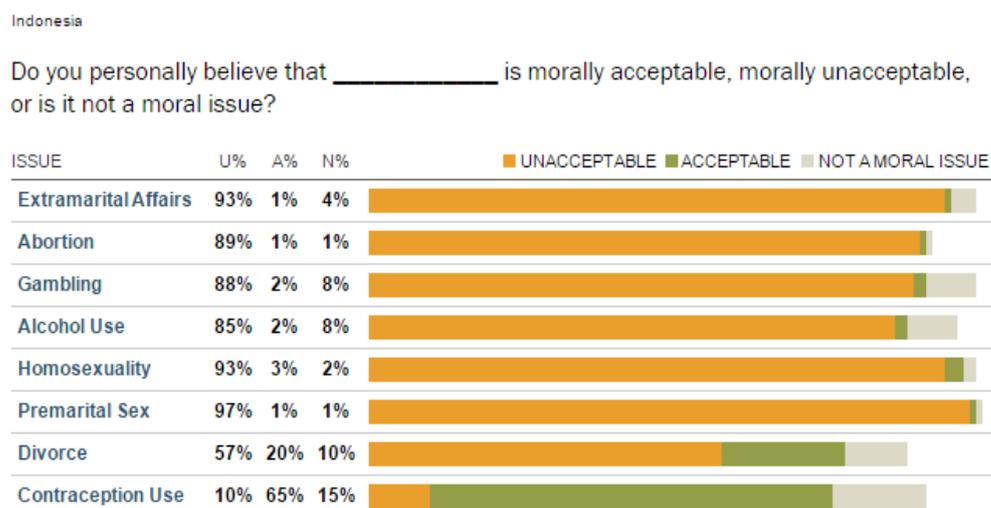
Introduction

Although sexuality is essentially a person's private autonomous rights, individuals are not entirely sovereign. Sexual issues will always interact with various aspects of human life - economics, politics, law, religion, art, language, kinship, etc. (Hidayana et al., 2004: v-vi). The linkage of human sexuality to other aspects of life causes it to be bound by power relations. A person is not completely free or even at all independent when deciding on things like sexual orientation, sexual behavior and practice, romantic relationships, contraceptive selection, decision to have children, abortion and issues related to matters, there are always other parties who helped organize. It is not wrong,

if then, that sexuality is called the product of the social definition, the desire of the "social" to regulate the desire, the desire to regulate the kinds of actions and identities that are considered to have erotic meaning.

In Indonesian society, sexuality will always be seen from the eyes of religious morality and moral norms prevailing in the community. The results of a survey conducted by The Pew Research Center's, in 2013, on eight moral issues in society, including about: domestic affairs, homosexuality and sex outside marriage show that in countries with Muslim populations, that the act is immoral. The same survey shows the attitude of Indonesian respondents to the above three issues in which 93% of respondents view homosexuality, homosexuality and sex outside marriage as a moral issue.

Graph 1. The attitude of Indonesian respondents related to moral issues



Source : <http://www.pewglobal.org/2014/04/15/global-morality/country/indonesia/>

The attitude of Indonesian respondents also reflects the orthodoxy of Indonesian respondents of religious values that govern. Adultery is seen as a big disgrace, not just for individual perpetrators and families but also for the community or environment of the perpetrator (Djubaedah, 2010: 82). While in society, homosexuality is seen as an act condemned by religion, a sexual act against nature, contrary to the human nature equivalent to other sexual offenses against nature such as sexual acts between humans and animals.

The morality spectacles used by the majority of Indonesians in addressing the issue of adultery and homosexuality show the attachment and obedience of the majority of our societies to a set of basic beliefs referring to religious dogma - which in the plot Pierre Bourdieu is called a doxa, the doxa of diversity over sexuality. Bourdieu (1984: 471) defines doxa as obedience to order or order, but Bourdieu (1977: 164) also sees that every order or order will always be tucked into it of arbitrariness, which is in the view of



bound persons in it, the existing powers, justu accepted and considered as natural, normal and natural consequences.

As a dominant perception, the doxa of religious-heterenormatif sexuality is used as an epistemic claims by intolerant groups to discriminate against, criminalize and even perpetrate violence against, adultery perpetrators in communities and homosexual groups and other sexual minority groups. Such violence is not only physical and psychological, but also economic, discriminatory and up to the civil rights of LGBT groups to gather and organize.

In its report, the ILGA (International Lesbian, Gay, Bisexual, Trans and Intersex Associations) says throughout 2016 to early 2017 indicate an increasing threat from state and non-state actors against LGBTI human rights groups and their work (ILGA, 2017: 125). While Human Rights Watch (HRW) in its report highlights a number of statements and policies from a number of high-ranking officials in Indonesia who have sharply demonstrated anti-LGBT attitudes since January 2016 which later escalated threats that were sometimes accompanied by militant militant groups against activists and individuals from LGBT groups (Human Rights Watch, 2017: 329).

On the other hand, the doxa of sexuality based on religious dogma has provided the goals and evoked the aspirations of agents to change the structure of national criminal law. On May 30, 2016, the Constitutional Court (hereinafter referred to as the Constitutional Court) has received a petition for judicial review of the constitutionality of Articles 284 and 292 of the Criminal Code (KUHP) against the 1945 Constitution of the State of the Republic of Indonesia (UUD 1945). The applicant - a group calling itself the Family Love Alliance (AILA) requests the Constitutional Court to extend the legal norms in Articles 284 and 292 of the Criminal Code, so that the state has the authority to criminalize offenders outside of legal marriage and criminalize all persons of the same sexual orientation. The Petitioners argue that the existence of Articles 284 and 292 of the Criminal Code threaten family resilience and threats to the protection of religious values in Indonesia. The applicant interprets the existence of a massive movement to legalize relationships that would threaten family culture and ultimately threaten national resilience.

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In this study the researchers saw the occurrence of two antagonistic discourse contestation: orthodoxa and heterodoxa in the arena of judicial review trials Article 284 and 292 of the Criminal Code. The battle of orthodoxa and heterodoxa reflects the position of the bearer of dominant and non-dominant groups, the dominant group seeks to maintain the integrity of the doxa by using conservation strategies while opposing groups use subversive strategies to encourage repressive restrictions of doxa by dismantling arbitrariness inside it.

Literature Review

The conception of sexuality will always relate to the various dimensions that exist in a society. Saptari and Holzner (1997: 232 in Huriani, 2001: 12) mention that his main sexuality is tied to certain ideologies about "male" and "female" or "masculinity" and "femininity". Sexuality is twisted with moral judgments about what is "proper" and "inappropriate", what is "natural" and what is not, for both men and women. Certain ideologies that govern the issue of sexuality are essentially repressive even when the ideology takes a subtle or subtle form.

When the ideologies that govern the subject of sexuality are essentially repressive, it will be very irritating to differences, orthodox and aggressive by labeling all that is out of the ordinary as distorted, abnormal, against nature, cursing, immorality, psychological disorders and many others. Such an ideological practice is founded upon a shared and orthodoxa group of traditions, a belief in what is regarded as truth, guidance, knowledge to certain myths that commonly associate human existence, sexual desire with evil or sin. Although the above view is not a single living interpretation of sexuality, in certain historical and human histories living values and sexual behaviors emerge from the grip as we know it today, but the convention on sexuality with regard to heteronormativity, sex as procreation, is a dominant discourse that controlling sexual pleasure.

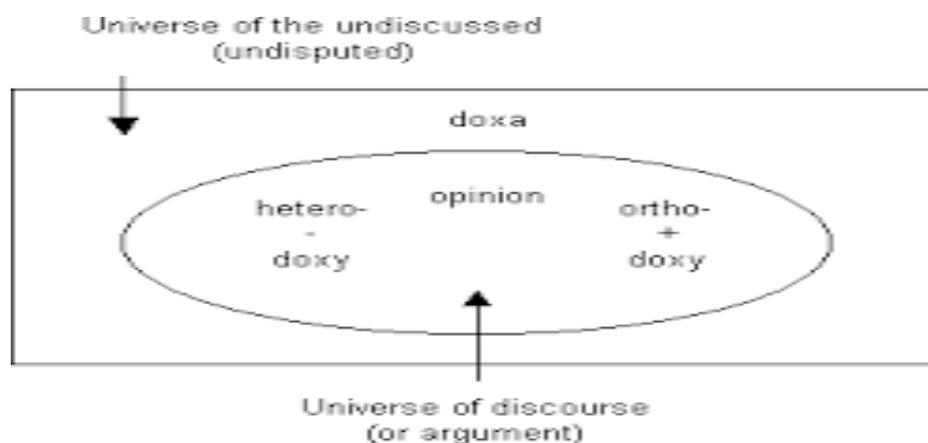
Halperin in his essay entitled, *Is There A History Of Sexuality*, suggests that sexuality is a cultural product, which shows the seizure of the human body and its physiological capacity by ideological discourse (1989: 257). Halperin's view is influenced by the view of Michel Foucault (1978: 105-106) who sees sexuality constructed in a particular historical system: a period in history where power and knowledge encourage discourse, as part of

a great strategy of knowledge and power. Hidayana (2013: 58) also relate between sexuality and discourse, for him the discourse of sexuality, especially those that are based on culture and religion is very determinant in regulating what is prohibited in society related to sexuality.

Discourses of sexuality based on religion within the Bourdieu line of thought can be referred to as doxa. For Bourdieu (1977: 164) doxa is related to the established order which under certain circumstances creates what he calls the naturalization of arbitrariness. Doxa provides the possibilities of purpose and inspires agents, doxa also results in agency compliance with an established order. Doxa evokes a sense of limits or a sense of reality. Bourdieu (1984: 471), refers to some quality of doxa, first is obedience to order or order. Order or order in question is an inseparable structure of two domains namely the real world and the world of mind, which is accepted as an irrefutable truth. Both doxa are related to one's main perception of the world around him, cognition / mental actions involving knowledge and understanding gained from experience. It involves the principles of construction, there is a sense of urgency when an object is constructed, the construction process directly involves the knowledge and experience of a human being. In other words, it is believed that the truth of the doxa is incarnated in the viewpoint used when looking at reality in the real world. Third, at the same time doxa is a form of misunderstanding (*misrecognition*). Misrecognition itself is a term introduced by Bourdieu to show how this form of arbitrariness is viewed as a natural, logical or natural consequence.

In his book, Outline of a Theory of Practice, Bourdieu distinguishes between doxa, orthodoxa and heterodoxa. Bourdieu (1977: 164) calls orthodoxa and heterodoxa as beliefs that imply awareness and recognition of the possibility of different or opposing beliefs. Bourdieu describes the relationship between the three in the following scheme:

Figure 1 Doxa scheme and opinion



Source : Bourdieu (1977: 168)



For Bourdieu in society there will always be a contestation, either latent or the manifest of the definition of the social world test between dominant groups and dominated groups. The fight is well on the domain of doxa (universe of undiscussed) and the discourse domain (universe of discourse). The fundamental stakes of the contestation for Bourdieu is the introduction of a dominant classification system. The dominated group has an interest in pushing the limits of doxa and exposing arbitrariness in what has been received for granted; the dominant group has an interest in defending the integrity of doxa.

For Hanna (2016: 46) orthodoxy is a discourse used by agents who occupy dominant positions in the arena. The agent in Bourdieu terms uses a 'conservation strategy' to maintain the integrity of the doxa and establish the status quo in the arena. While heterodoxy discourse, usually used by groups in dominated positions or, they will tend to use 'subversive strategy' with the aim of urging the repressive constraints of doxa that the dominant group attempts to exploit by arbitrariness in it.

How can a dominant group drive the limits of doxa? Bourdieu requires that the dominated group should have a material and symbolic means to reject certain definitions imposed by the dominant group on them through a logical structure that reproduces social (conditions of power relations) and elevates (institutionalized or internalized) the prevailing cracking. In the prevailing principles of having arbitrariness in it therefore requires a conscious and systematic work also rational to dismantle it (Bourdieu 1977: 169).

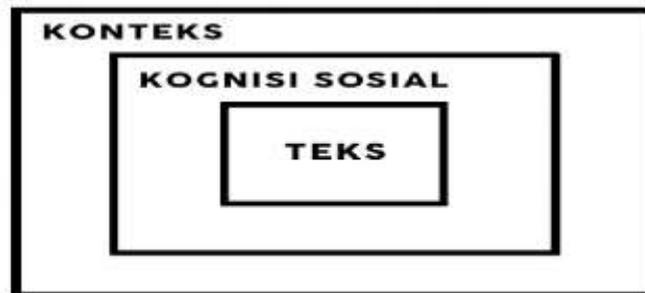
Research Methodology

In this study entitled *A subversive strategy against sexuality doxa (Analysis of Critical Discourse on Heterodoxy Discourse Related Parties In Court in the Constitutional Court)* researchers based on the passion of the critical paradigm. The ontological consequences of this research are, firstly, the researcher sees that the petition for the judicial review of the moral articles of the Criminal Code is the attempt of the applicant to impose his group's predominant vision (doxa) by setting new limits or new norms in the articles of the Penal Code tested . The petition of the petitioners to create a new legal norm by extending the definitions in articles 284 and 292 of the Criminal Code will alter the structure of Indonesian criminal law which consequently is not only repressive against non-normative and non-heterosexual minorities (LGBT) but also potentially harming and violating basic human rights.

To examine the subversive strategy of heterodoxa groups as resistance to orthodoxa sexuality in the Court's trials, the researchers took the form of qualitative research. The research paradigm used is a critical paradigm. In this research, researchers use Critical Discourse Analysis (CDA) van Dijk model. For van Dijk (1995) CDA can be used to see how ideology underlies reproduction or resistance to power or inequality. In the model of critical discourse studies in social cognition approaches, van Dijk (2008: 63) introduces

the triangulation of community-cognition. The model of Van Dijk analysis is described as follows:

Figure 2 Discourse Analysis Model Teun van Dijk



Source Eriyanto (2001: 225)

The research steps taken are :

- At the text level, the researcher observes the text. The researcher will observe and analyze two oral testimonies submitted by the Indonesian Women's Coalition (KPI) and the Indonesian Legal Aid Foundation (YLBHI) Foundation in the trial.
- At the level of social cognition, researchers interviewed resource persons with interview techniques semistruktur, where researchers have compiled first list of questions first before the interview conducted. But did not rule out the emergence of new questions during the interview process (Kriyantono, 2016: 101-102). Interview semistruktur actually also demands the speakers. These interviews meant that interviews were conducted to reveal the level of social cognition of the parties, the aim being to uncover subjective meanings understood by individuals regarding the statements submitted by the parties in the proceedings.
- Studies of literature, at this stage the researchers tried to complement the reference and strengthen the primary data as well as get the social context behind AILA forward prosecute changes Article 284 and 292 of the Criminal Code.

Result

Statement analysis result of Koalisi Perempuan Indonesia (KPI)

From the results of text analysis, it is found that the subversive strategy used by KPI has two main objectives namely first, to urge repressive restrictions in doxa (zina and homosexuality are criminal acts) by dismantling arbitrariness in the petition of the applicant and the second to dismantle cloak of misunderstanding (misrecognition) of the group of applicants in the petition.

The arbitrariness of the KPI is dismantled in the petition of the petitioner:



- The claim of the applicant to extend and / or remove the restrictions contained in the articles of the Penal Code being tested, as a form of arbitrariness as it is intended to classify all adulterers and similar sexual groups as perpetrators of crime
- The amendment of the articles petitioned by the Petitioners will cause harm and suffering in the family, due to loss of breadwinner and family, in addition to the family will lose its self-esteem in the community and large families
- The enactment of ordinary offenses in adultery cases has the potential for abuse of authority of law enforcement officials. Because law enforcement officers can easily fit into personal and family life
- there will be an overcriminalization that causes the state's responsibility to deal with it even harder, meaning that the state must provide funds for court, police, prosecutorial and correctional fees that will bring countries to be allocated to welfare, education and health fields will decline.
- Criminalization of people with same-sex orientation can encourage potential family-sanctioned corrective rape as a result of the psychological and ideological pressure from society to those who have a different sexual orientation. Criminalizing people of similar sexual orientation will foster ideologies that naturalize and legitimize arbitrary (violent) acts against persons of similar sexual orientation.

Dismanteling misrecognition of applicant

- **KPI implements a subversion strategy that aims to dismantle the falsehood (*misrecognition*) of the concept of family resilience argued by the applicant. Because the petitioner's petition will in fact eliminate the family's autonomy in maintaining the family, impact on the loss of opportunities to maintain family resilience and welfare.**
- Changing prosecution in Article 284 of the Criminal Code is the same as ignoring the reality that in the beliefs of some other religions that prohibit divorce
- Placing unsafe sexual behavior in prison is likely to aggravate the physical and mental condition in question because of the high number of violence, extortion of fellow inmates or officers. The families of both convicted men and women suffer shock and burden and even conflict and become the object of discrimination in society. Women and children become the most vulnerable groups to be subjected to violence and discrimination
- Cessation and imprisonment will not stop or change a person's sexual orientation. Prisons are not an ideal place for him because putting them in prison will actually make them victims of violence and targets of sexual violence

Statement analysis result of Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI)

Subversive strategy used YLBHI to push the boundaries set by the applicant to criminalize those who have sex outside of marriage among adults over consensual and criminalization of groups of people who have sexual orientation nonnormatif /



nonheteroseksual, as well as to approve the applicant as arbitrariness because what is being petitioned is against the right to personal protection (the right to privacy) and the right to the dignity of a person. YLBHI subversive strategy emphasizes that the petition of the petitioners is in principle contrary to the principles relating to respect and enforcement of human rights mandated by the 1945 Constitution to the state, contrary to internationally recognized principles of respect and enforcement of human rights and other provisions which symbolically, recognizable and its existence must be obeyed by the Constitutional Court as a decision maker. Another subversive strategy is used by YLBHI to reject the convention element in the applicant's orthodox discourse. The convention's intended element is to refuse the expansion of the meaning of adultery. YLBHI contradicts the application with human rights in this case the right to privacy, the principle of non-discrimination in the constitution and the principle of equality before the law. The Petitioners have also prevented a group of people from enjoying their human rights including other democratic values including the right to enjoy plurality and gender diversity and sexuality recognized by many Indonesian communities. Subversive strategy is used by YLBHI to provide a sense of the limitations that the Constitutional Court can not be overcome as a decision maker.

Dismanteling misrecognition of applicant

- YLBHI shows that the petition attempt is based on the conscious intentions of the applicant to discriminate against a person based on his or her sexual orientation.
- Permohonan pemohon semata-mata ditujukan untuk mengkriminalisasi kelompok tertentu khususnya kelompok minoritas seksual.
- Negara tidak boleh menjadi penjaga moral individu. Terdapat pandangan dalam hukum pidana yang terkait dengan delik zina dan delik-delik kesusilaan "the criminal law dictatorial power must end at the door of bedroom or barn door."

Social Cognition of Koalisi Perempuan Indonesia

The emergence of KPI as an indirectly related party in the case number 46 / PUU-XIV / 2016 is as a mass organization of women who fought for the rights, equality and justice for women with feminism, freedom, fraternity, solidarity and populist as the foundation and values the basis within the organization. One of the KPI's interest groups is the lesbian, bisexual and transgender groups.

KPI considers AILA's application as an applicant in relation to Article 284 of the Criminal Code is an attempt to criminalize all persons committing adultery, including married persons who do not have valid marriage certificates. Meanwhile, in Article 292 of the Indonesian Criminal Code KPI sees it as an attempt to criminalize homosexual groups. The KPI's rejection framework against what applicants petitioned in both articles is the institutional alignment of the existing legal norms, in which criminal law enters the private domain of sexual relations, in the case of violence in the context of adults with adults, or if sexual relations which occurs involving adults with children. KPI states that



the law should not generalize in any kind of sexual relation there is violence or crime. The generalization that the applicant claims to be dangerous because it will lead to suspicions in the community related to one's sexual orientation.

Another reason for the KPI to advance as a stakeholder is the role of the organization as an organization that fights for the realization of family resilience, in this framework, the resilience of KPI is closely related to how the family faces and solves its own problems. New countries can intervene when there is a threat that could endanger the victim's life, so the state can not arbitrarily interfere with the problems of infidelity that can still be resolved by the family.

The KPI also sees the petitioner's petition in a related connection with the main Criminal Code Draft (RUUKUHP) related to the adoption of living law in the state law in RUUKUHP. For KPI there is no clear boundary regarding living law recognized in Indonesia, whether customary law, Islamic law or state law. The problem that will then arise is a good criminal law must provide certainty of the mixing of state law with living law will actually lead to legal uncertainty. For KPI if the living law is meant to adopt customary law, customary law in Indonesia is still hegemonized by the patriarchal ideology that mainstream men, so that will impact decisions in criminal law tend to harm women.

Social Cognition of Yayasan bantuan hukum Indonesia

The background of YLBHI's progress in the trial as a manifestation of the role of institutions whose mandate, vision and struggle focus on legal and human rights issues, especially threats to marginalized groups and vulnerable groups. YLBHI also assesses the potential for arbitrariness in the petition of the petitioner because it will also criminalize children who have sex outside of marriage and will criminalize people from groups of beliefs whose marriage is administratively resident has not been recognized by the state. YLBHI views the group of applicants as a political / group Islam group that seeks to insist on the formalization of Islamic law.

When YLBHI heard from a party involved in the LGBT movement related to Case 46 / PUU-XIV / 2016 submitted by AILA, the informant saw urgency to YLBHI forward as a related party. For YLBHI petitioned by AILA has the potential to violate the rights of some groups, not only LGBT groups but will violate the rights of people whose marriages are legal but not or have not obtained state legality. YLBHI sees potential arbitrariness in the petition of the petitioner as it will criminalize children who commit sexual relations outside of marriage and will criminalize persons from groups of beliefs whose marriage is administratively resident has not been recognized. YLBHI considers that the petition of the petitioner is a form of abandonment of other religious views that do not allow divorce

YLBHI views the groups of applicants using public sentiment to LGBT groups politically in their demands. YLBHI sees the applicant as a political Islam / formalization group of Islamic Shariah aimed at incorporating the provisions of Islam into the laws of



the state which historically is not a new movement in Indonesia. YLBHI sees this group of political Islam as being a continuation of the disappointment of certain Islamic groups over the abolition of the "seven words" in the Preamble to the 1945 Constitution which was then known as the Jakarta Charter. YLBHI assesses the petition for requesting to enact a new law is contrary to the function of the Constitutional Court. YLBHI also holds the petition of the applicant systematically aimed at changing the existing state administration.

Social Context

The demands and actions of changing the provisions concerning decency have long existed in the context of the history of criminal law in Indonesia. For example, in Criminal Code Codification (Book II) held by BPHN Department of Justice on 23-25 April 1985 in Jakarta, one of the experts present when, Prof. Oemar Senoadji, holds that in determining the content (matter / substance)) must be sourced and firmly backed by religious morals. The determination of moral decency should also be oriented to the "mutual values of national decree" (NKN) which have been agreed together and also pay attention to the values of decency that live in society. This NKN can be explored, among others, from national legislative products (in the form of a Constitution or Act). In the structure of Indonesian society, NKN and even then of course comes from religious values and decency that live in the midst of society (Arif, 2014:251).

Demands for more attention to religious values and morality again surfaced since the collapse of the New Order, which marked emerged new political parties, including Islamic political parties based. In the period of 1999-2000, there was another Criminal Draft Law which was aimed to regulate cohabiting. Then in the 2008 Criminal Code there were several articles that substantively included adultery committed by persons outside the marriage bond to be criminalized. In the Criminal Code changes the age limit of children to 14 years and also included articles that prohibit the act of approaching adultery, homosexual and cohabiting (Djubaedah, 2010, 85-91).

Discussion

Orthodoxy and heterodoxy as a discourse describes the position and strategy it's users. Where the non-dominant group in the heterodoxa discourse uses a subversive strategy. Bourdieu alone distinguishes the first three types of subversive strategy linked to the goal of pushing the boundaries of doxa to the detriment of dominated groups, furthermore aimed at dismantling the arbitrariness of the dominant group both conceptually combined, ie to push the boundaries and dismantle the arbitrariness-handedness. Third is to dismantle the naturalized abilities (misrecognition) by the dominant group.

The petition of the petitioner requesting the Constitutional Court to extend the legal norms in Articles 284 and 292 of the Criminal Code is intended to exclude and eliminate



abnormal, immoral and unjustified sexual behaviors by criminalizing all unlawful adulterers and persons of similar sexual orientation. What AILA does as an applicant demonstrates the role of doxa sexuality in directing the aspirations of agents to alter the structure of national criminal law with repressive restrictions on abusive, immoral and non-perpetrators and sexual behavior.

When AILA went into the judicial arena of the Constitutional Court then the doxa of heteronormative-religious sexuality originally in undiscussed and undisputed universes will transform into the discourse universe, in the form of orthodoxa discourse as a straight discourse aimed at establishing the establishment of doxa over heteronormativity at the same time intended to impose the boundaries of the doxa into the realm of national criminal law. When the doxa is transformed in discourse then all the veils of arbitrariness contained therein will be exposed and open to criticism.

Opposing groups are present in the judicial arena of the Constitutional Court by carrying out the discourse of heterodoxa, the criticism of non-dominant groups aimed at pressing the repressive boundaries that exist within the domain of doxa that the dominant group attempts to try to dismantle the arbitrariness in it. While the dominant group that supports the petitioners' petition carry orthodoxa discourse aimed at defending and maintaining the prime and indisputable condition of the doxa over sexuality

KPI recognize the petitioners demands will caused criminalization of all persons who have sex outside of marriage and the imprisonment of groups of people of similar sexual orientation is shown as arbitrary that will lead to overcriminalized impact, the state must provide extra funds for court costs, police, prosecutors and corrections that will absorb the state budget which should be allocated to the areas of welfare, education or health will decline. The expansion of the legal subject in Article 284 of the Criminal Code will remove family autonomy in determining the best choices for the family in its efforts to preserve the integrity of the family and will invite the interference of the public and state apparatus into private and family private spaces. A subversive strategy is used by the KPI to dismantle the applicant's misconception about the conception of family resilience he argues. What he demands is that the petitioners endanger the family's resilience, for losing the breadwinner in the family, harming the harmony of a family and the welfare of a family.

The provision of article 284 of the Criminal Code will also adversely affect the child, as it will encourage the marriage of the child by reason of avoiding or to avoid the disgrace due to adultery. The KPI sees the potential of corrective rape sanctioned by families as a result of the psychological and ideological distress of the people against people who have different sexual orientations. The KPI sees the potential for arbitrariness of the naturalistic ideology, legitimizing arbitrary acts against persons of similar sexual orientation. Another potentially arbitrary potential may be the punishment of children with similar sexual orientations. KPI also dismantles the veil of misrecognition



by pronouncing the prison will not change a person's sexual orientation and not everyone with similar sex orientation is a sex offender.

As a women's ormass the KPI characteristical recognizes that the demands of the petitioners will place women and children as vulnerable groups and will be the most disadvantaged parties of the petitioners' petition. KPI recognize the petitioners demands will caused criminalization of all persons who have sex outside of marriage and the imprisonment of groups of people of similar sexual orientation is shown as arbitrary that will lead to overkriminalized impact, the state must provide extra funds for court costs, police, prosecutors and corrections that will absorb the state budget which should be allocated to the areas of welfare, education or health will decline. The expansion of the legal subject in Article 284 of the Criminal Code will remove family autonomy in determining the best choices for the family in its efforts to preserve the integrity of the family and will invite the interference of the public and state apparatus into private and family private spaces. A subversive strategy is used by the KPI to dismantle the applicant's misconception about the conception of family resilience he argues. What he demands is that the petitioners endanger the family's resilience, for losing the breadwinner in the family, harming the harmony of a family and the welfare of a family.

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Meanwhile The Indonesian Legal Aid Foundation (YLBHI), a non-governmental organization engaged in human rights advocacy and enforcement, recognizes the new restrictions that the applicant attempts to try in the intended articles is aimed at the state to have the authority to criminalize all forms of consensual sexual relations between adults both in the context of heterosexual (extra and non marital) and homosexual.

The subversive strategy used by YLBHI is to provide a sense of the limitations that the Constitutional Court must adhere to in the examination of a law (sense of one place), namely the obligation of state institutions responsible for the protection, promotion, enforcement and fulfillment of human rights . Other limitations that the Constitutional Court needs to adhere to are the 1945 Constitution, the universal principles of human rights and attention to minority groups that have been discriminated against in this regard are intended to give the Constitutional Court a guideline in the decision making.



YLBHI also sees the petitioner's petition as arbitrary as it will be a door for the state and others to intervene in the individual's autonomy over his/her body.

Conclusion

In certain media two competing ideologies can meet and attempt to fight over and maintain its dominant position. Through the discourse both are articulated. The contrast of the two ideological discourses that contest each other will be seen in the structure of the discourse produced by each side. Ideological discourse will feature a pragmatically controlled expression. In this research, the Case Session Number 46 / PUU-XIV / 2016 regarding the judicial review of Articles 284 and 292 of the Indonesian Criminal Code against the 1945 Constitution of the Republic of Indonesia has brought together groups from different ideological backgrounds in a discourse contestation

Opposing groups present with ideas of equality seek to protect the interests of minority groups from the arbitrariness of dominant groups who wish to impose its particular truths into national criminal law to criminalize an illegal perpetrator and persons of similar sexual orientation. A subversive strategy built by the opposing group is built on the basis of marginal group experience of life and material means in the form of knowledge of the constitutional organization of the state and the authority of the Constitutional Court.

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