

POSITION PAPER

THE LONG ROAD TO JUSTICE FOR
LGBT PEOPLE

ADVOCACY OF VERA'S CASE IN PURWOKERTO



JUNE 2008

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List of Terms and Abbreviations

Becak	tricycle
DPR-RI	National Parliament [Dewan Perwakilan Rakyat Republik Indonesia]
HIV	Human Immuno-deficiency Virus
IDAHO	International Day Against Homophobia: 17th May
Kapolda	Provincial Police Chief
Kapolri	National Police Chief
Kapolsek	Local Police Chief
Ketua RT	local neighborhood leader
KomnasHAM	National Commission on Human Rights
KUHP	The Penal Code
KUHAP	The Criminal Code Procedure (
LGBT	Lesbian, gay, bisexual and transgender
LP	Penitentiary Center/prison
Lurah	local government
Pesantren	Islamic boarding school
POLRI	National Police Force [Kepolisian Negara Republik Indonesia]
SH	law graduate
UU	Law
UUD 1945	Indonesian Constitution of 1945
Waria	[male-to-female] transgender
WHO	World Health Organization

INTRODUCTION

Arus Pelangi is an organization that focuses on human rights issues for the Lesbian, Gay, Bisexual, and Transgender / Transsexual (LGBT) group; in which *Waria* is a part of the Transgender / Transsexual group. One of our programs is the Advocacy Program.

The goal of the advocacy program is to change the paradigm of the legal system, which have been detrimental to LGBT communities, into a more just one. Arus Pelangi was founded because of the inequality of human rights in Indonesia. Moreover, the general population have strong negative views towards LGBT group thus resulted in the state, in this case the government, formalizing those views in various laws in the country.

The Vera Case is just one of the many cases handled by Arus Pelangi in participation of achieving justice and to eliminate all forms of violence and discrimination towards LGBT.

On this occasion, Arus Pelangi would like to thank Uni Rina, Aan Rohana, M. Latief, Slamet, Sandy Purwo, Taheri Noor (Komnas HAM), Bambang Puji P., etc., for their contributions in the settlement of this case.

I also want to express my appreciation to members of the Advocacy Team: Widodo Budidarmo, Fredi K. Simanungkalit, Leonard Sitompul, Mulianingtyas Triana, Sankar Aditya Cahyo, etc., for their tireless supports in helping to resolve this case.

Finally, I also want to thank our kind donators who have graciously given their aid and other support for this case. Thank you to Umverteilen, XminY Solidarity Fund, and the Astraea Lesbian Foundation for Justice.

June 2008

Rido Triawan

Head of Arus Pelangi

1 PREFACE

"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood" (Article 1 of The Universal Declaration of Human Rights).

The above article requires that any form of segregation and discrimination against anyone is unjustifiable and that every human being is equal before the law.

Human Rights are a set of rights attached to a human being as God's creature and so all that is blessed upon him should be appreciated, respected, highly regarded, and protected by the state, by the law, by the government, and by every human being for the sake of honoring and protecting human dignity. Thus, every human being is by itself has every right to obtain and to defend their rights as human beings.

Internationally, LGBTs, including *Waria* (Transpersons), has long been excluded as 'mental disorder'. First in 1973, the Association of American Psychiatrist agreed on the importance of a new and well-designed research methods and eliminate homosexuality from their official list of mental and emotional disorder. Then in 1975, the American Psychologists Association also issued a resolution supporting the elimination. Since then, these two associations have been urging their members to spread the elimination of the stigma that homosexuality is a mental illness which are still common among the general population. It then made a global impact; on 17 May 1990, the World Health Organization (WHO) also excluded homosexuality from the Mental Illness category. This date is then known as the International Day Against Homophobia (IDAHO) and celebrated annually throughout the world. Unfortunately, this does not apply to transgenderism; transvestites, transgender and transsexual people are still classified as having a mental health disorder.

Every nation should guarantee the rights of every human beings, especially those that fall under the vulnerable groups of society, such as the disabled, workers / farmers / fishermen, women and children, migrant workers, former political prisoners, senior citizens, street children, prostitutes, people living with HIV, and LGBTs. In accordance with its constitution, Indonesia is also responsible in the recognition, fulfillment, and protection of their rights.

Indonesia is currently in the era of democracy, this should dictates that there should be no more discrimination. Indonesian law and regulations have guaranteed this in Article 28 G (2) of the Constitution, and Article 33, paragraph (1) of Law No. 39 of 1999 about Human Rights. Moreover, Indonesia has ratified various international covenant relating to the advancement and protection of human rights, such as: UU Nomor 5 Tahun 1998 about the ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and Law No. 12 of 2005 about the ratification of the International Covenant on Civil and Political Rights. These all give a strong basis for recognition, fulfillment, and protection of the rights of vulnerable groups of society, including *Waria*.

The struggle to achieve a just and prosperous human civilization is the struggle to enforce protection of human rights and fight discriminations. In World Conference on Human Rights in 1993, also known as the Vienna Declaration, it states that human rights are the rights carried by all humans since birth. Thus, human rights are based on the

basic principles that all people have intrinsic human dignity regardless of gender, race, color, language, national origin, age, class, or religion, or political view, every human being has the right to enjoy their rights.

Of all the covenant already agreed upon at the international level (UN), legal experts have filter 29 principles, which is the right of all LGBTs in the world. These principles were then adopted in the "The Yogyakarta Principles" – named after the city in Indonesia where the principles were adopted. It shows that anyone who has any kind of sexual orientation or gender identity have basic rights that should be protected and fulfilled by the government and the society. All countries in the world are encouraged to adopt the principles outlined in 'The Yogyakarta Principles' in their respective legislation. The reality in Indonesia is still far from what should happen and will be seen in the following chapter.

2 PROBLEMS

2.1 Society's View on LGBT

In the pluralist Indonesian society, different sexual orientations or gender identities are still generally considered a very taboo and a controversial topic. The generally accepted view of a relationship is only between a man and a woman.

This controversy has become the driving force in finding ways to have LGBT people accepted and be able to live side by side with heterosexuals. Non-heteronormative behaviors that have been accepted in society in ancient times have become target of oppression in the colonial times. With the spread of the major world religions [in particular Islam and Christianity] in Indonesia a social construction has emerged that justifies the view that LGBT people, especially *waria*, as a social disease or God's curse, and thus it needed to be cured/redeemed. This is what stigmatization means. But from the human rights viewpoint, those misguided views and interpretations should be eliminated. LGBTs, including *waria*, has the same human rights as any other human beings.

It is generally accepted that sexual orientations are birth-given rather than a rational choice. The personal choice is to be what someone already is and not to hide behind a hetero-mask. Believing LGBT, especially *waria*, as a taboo has its impact in society. Some elements of the society have accepted their presence, while others rejected.

Whether accepted or not, the fact remains that LGBTs live among us. Just like any other human being, they are born and raised by their family. Hence, they equally deserve to live a private life, to get education, to be free from fear, to get fair and equal treatment before the law, and to get a job; as stipulated by the universal concepts of Human Rights.

2.2 The Indonesian Law

Indonesian Constitution (UUD 1945) and national laws have long recognized the principles of non-discrimination and human rights, even before the Universal Declaration of Human Rights.

UUD 1945

Article 27 verse (1) UUD 1945:

Every citizen is equal before the law and government and is obligated to abide the law and the government without exception.

Article 28D verse (1) UUD 1945:

Every person has the right for recognition, security, protection, and certainty of a fair law and equality before the law.

Article 28H verse (2) UUD 1945:

“Every person has the right to facilitation and special treatment to get equal opportunity and benefit to achieve equality and fairness.”

Article 28I verse (1) and (2) UUD 1945:

(1) The right to live, the right to freedom from torture, the right to freedom of expression and conscience, the right to religion, the right to freedom from slavery, the right to be recognized as individual

before the law, and the right not to be prosecuted by retroactive law are human rights that could not be lessened in any circumstances;

(2) *Every person has the right to be free from any act of discrimination and has the right to protection from it.*

UU No.5/1998 on the Ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Article 12

Every State Party must guarantee that the authorities conduct a quick and neutral investigation, whenever there is a strong reason to believe that an act of torture has taken place within its respective jurisdiction.

UU No.39/1999

Article 3

(1) *Every person are born free with equal dignity and are blessed with common sense and conscience to live within the society, the nation, and the state in the spirit of brotherhood;*

(2) *Every person has the right for recognition, security, protection, and certainty of a fair law and equality before the law.*

(3) *Every person has the right to human right protection and human basic freedom, without discrimination.*

Article 5 verse (3)

Every person included in the vulnerable group of society has the right to additional treatment and protection because of their vulnerability.

Article 17

Every person, without discrimination, has the right to receive justice by appealing, reporting, and litigating, either in criminal, civil, or administrative matters and to be trialed through an independent and impartial court of law that guarantees an objective examination by an honest and fair judge to reach a fair and correct verdict.

Article 71

The government is responsible in respecting, protecting, enforcing, and advancing human rights which is regulated within this legislation, any other legislation, and international law accepted by the state of The Republic of Indonesia.

Article 72

Government obligation as described in Article 71, includes steps of effective implementation in the field of law, politics, economy, social, culture, state defence and security, and others.

UU No.2/2002

Article 2

The police functions as one of the government function to maintain order and security within the society, law enforcement, protection, social guidance, and social services.

Article 3

(1) *The police authority is held by Kepolisian Negara Republik Indonesia (The National Police of the Republic of Indonesia) and aided by:*

a) special police;

b) state official investigator;

c) and/or forms of community self-protection.
(2) The police authority as described in article (1), letters a), b), and c), performs the police functions according to their respective rule of law.

Article 4

Kepolisian Negara Republik Indonesia aims to achieve interior security which includes social order and security, law order and end enforcement, and the protection, guidance, and social services, and social harmony that respects the human rights.

Article 5

(1) *Kepolisian Negara Republik Indonesia is a state tool with roles to maintain social order and security, enforce the law, and provide protection, guidance, and services to the society in maintaining interior security;*

(2) *Kepolisian Negara Republik Indonesia is a national police that is whole and one in performing the roles as described above.*

All persons are in principle equal before the law. Indonesian legal system have accommodate all forms of protection and sanctions for violators of these law. The penal code (KUHP), and its criminal procedure code (KUHAP) forbid any act of violence, torture, and murder. Anyone who breaks it could be placed as a suspect and arrested.

All of the above legislations provide Indonesia with a strong legal mechanism to eliminate all forms of discrimination towards its citizens. There should be no more reasons for the government or the citizens to neglect discrimination. Article 72 of UU No.39/1999, clearly indicates government responsibility in implementing effective ways to eliminate discrimination.

2.3 Performance of Government Officials

It is a sad fact that the fair legal code is not matched by the performance of its enforcers. They still favor towards the ruling class, those in power or those with money. It's a common knowledge that the ruling class, can easily afford special treatments whenever they're involved in an illegal case; while the lower class, including *waria*, can seldom afford such luxury and thus treated at minimum care, just to avoid being called discriminative.

Law enforcers are not supposed to discriminate by any reason. It is very clear that their job is to provide protection to the people, regardless of who they are, including *waria*. It is unfortunate that discrimination still happens here in Indonesia. *Waria* are often mistreated by law enforcers solely because their different appearance. As a citizen, *waria* has every equal right to be treated properly, but they aren't. *Waria* are often harassed, insulted, or abused, but the law that should have protected them are ruined by discriminating law enforcer.

Police investigations on violations against *waria* more often than not just run cold. Their willingness and intention to complete it are often questionable. On the contrary, cases that involved a ruling class are handled swiftly. The police investigation of The Vera Case is a good example of the treatment often received by *waria*. It is caused by society's deep stigma that *waria* is a pariah, sinner, and unworthy of equal treatment.

2.4 Bargaining Power of *Waria*

Because of the law enforcer's corrupt, biased and violent conduct against *warias*, it's no wonder that the lower class, including *waria*, are always in fear whenever they have to deal with law enforcers. Even when they themselves were the victim or just a mere witness of a crime, their fear prevent them from reporting to the authorities.

The fear that is felt by *waria* should be a reason for reflection by the police if they want to achieve their slogan of "To serve and protect". The police should bear in mind and believe *waria* is also a citizen so that their conscience should prevent them from harassing, insulting, or making any other acts of discrimination.

The fact is, whenever a *waria* has to deal with the police, instead of the service and protection they deserve, they get harrasement. There are lots of reported cases, where *waria* were the victim, almost all unresolved. In some cases, the authority even intentionally fails to take the necessary further actions.

2.5 Casuistic Advocacy as a Tool for Human Rights Campaign

In March 2006, the case of Vera (alias Zaenudin) came to the attention of Arus Pelangi after assessing the unsatisfactory performance of the police in handling various criminal cases against LGBT. Arus Pelangi set up a 4 member Advocacy Team consisting of: Widodo Budidarmo, Fredi Simanungkalit, Leonard Sitompul, and Triana Mulianingtyas; to carry out non-litigation tasks to gather the facts such as: interviewing witnesses, family members, and the police department that handles the investigation which is Police precinct of Purwokerto Selatan.

The process was full of obstacles. Witnesses are reluctant to give their testimonials. The police are very slow in providing assistance. The police even shows their bias by saying "Why should we defend those *waria*? All they can do is just prostitute themselves in the street!".

Radat Banyumas, Rabu 9 November 2005

Waria stabbed to death while dating

Purwokerto – A transsexual (*waria*) died after being stabbed with a sharp weapon while he was entertaining a client. The *waria* named Zaenudin alias Vera (27) was admitted for several days in the Margono Soekarjo Hospital, Tuesday (8/11)...

...The incident that resulted in the death of Vera took place on Friday (28/10) at the hang-out place in S. Parman Street to the north of the bus terminal of Purwokerto. On that day, around 20.30 the victim was approached by a man who invited him to date. After a few moments conversing they disappeared in the bushes behind the street.

For several minutes they appeared quiet. But suddenly, other people in the street heard Vera shouting for help. They went to where Vera went and to their shock they found Vera crying in pain. His had a large stab wound in his left chest. He was immediately brought to the hospital. The police checked the crime scene and found only a hat and a pair of sandals. (ap4)

3 CASE ADVOCACY

3.1 Chronological Event

The following chronological reconstruction of the Vera murder is based on information of one of the witnesses, Dadang, a *varia* a.k.a. Uni Rina or Uni for short; and from Wahyu Budiman, the chief police of Purwokerto Selatan.



Picture 1. Vera (right) performing a dance.

On 29 October 2005, around 21.00 WIB, a man wearing a red hat, a black jacket, and a pair of sandals approached Vera who was sitting in front of a motorbike dealer. They then had a small talk.

Then, they walked toward a security post located about 200 m away. Moments later the man took Vera to the bushes behind the post.

They disappeared into the bushes when suddenly, a scream for help was heard. A couple of Vera's friends heard the scream and hurriedly informed Uni.

Around 21.15 WIB, Uni found Vera on the ground inside the bushes with stab wounds on her left chest. Uni then rushed her to her place at Jl. Sri Rahayu using a *becak* (tricycle). Upon arriving, Uni with the help of neighbors, changed Vera's mud

covered clothes with clean ones.

A neighbor reported the incident to the police and moments later they arrived.

Vera was then rushed to Margono Hospital using police vehicle. Two of her friends came along, Uni and Surti. At the hospital, the victim was still conscious and able to answer questions from the police.

The hospital treatment was minimal, due to Vera's limited financial resource. She was treated for a few days until on 5 November 2005, she passed away. The body was returned to her home. She was then buried at Karang Lesem cemetery.



Gambar 2. Lokasi pembantaian Vera di sekitar Jl. S. Parman, Purwokerto.

As of 10 February 2006, the police have only questioned four witnesses, two of which is Uni and Surti, and the other two are residents of Jl. Sri Rahayu.

3.2 Stages of Advocacy

Arus Pelangi first heard about the incident from friends in Purwokerto. We then decided to make it as a test case and formed an Advocacy Team. The team members worked in turns because they each already have prior obligations. The team also received assistance from friends either individuals or local organization such as BABAD.



Picture 3. Uni, one of the key witnesses, at Vera's grave at Karang Lesem cemetery.

The following paragraphs will described the measures carried out by the Advocacy Team.

3.3 First Trip (8 - 13 February 2006)

3.3.1 Case Investigation

Field investigations has collected these facts:

- The victim, Vera, is a *waria*, and is known to friends and family as a kind and shy person. The victim also has no any criminal record.
- The victim died of molestation by an unidentified man.
- The victim came from a poor family and has long lived independently.
- The police investigations do not show satisfying result.

3.3.2 Power of Attorney

Suminto, the victim's brother, and Uni, agree to sign an authorization letter that gives Arus Pelangi power to pursue the settlement of this case.

3.3.3 Coordination with Kepolisian Sektor Purwokerto Selatan

Wahyu Budiman as police chief of Purwokerto Selatan promised Arus Pelangi to continue the investigation and identify the perpetrator. There are two witnesses that needs to be re-examined: Surti, the *waria* that accompany Vera during hospital treatment, and Siti, the person indicated to know the perpetrator.

3.3.4 Consolidation with Local NGOs, Students, Media, and LGBT Communities



Picture 4. Police of Purwokerto Selatan.

Friends from local NGOs, students, the media, and LGBT communities extended their supports to Arus Pelangi in the advocacy endeavor. *Waria* in Purwokerto also agreed to form a local organization of *waria*. The aim was to unite the various *waria* communities into a single organization and help improve the economic level of its members, social activities, help socialize LGBT issues, and advocacy knowledge transfer.

3.4 Second Trip (18-21 Februari 2006)

3.4.1 Locating Witnesses

The police found it difficult to locate the witnesses for the case and thus asked for Arus Pelangi's assistance. The Advocacy Team then coordinated with Febi, a board member of the newly formed waria organization, in locating the witnesses, Surti and Siti. Based from informations gathered, Surti was to be located at Purbalingga. The Advocacy Team went straight to Purbalingga to search for her. There, the team was helped by a local *waria* named Ela in finding Surti's home. Unfortunately, Surti was not at home.

The following day, the team met with Siti, whose home is not far from Febi's. Siti informed that she only met briefly with the suspected perpetrator. She didn't know then that the man was suspected for murder and she didn't have clear memories of the man's physical descriptions.



Picture 5. Vera's father, left, blind and deaf by an accident while driving his becak in 2003.

The team then met with Uni who have been questioned by the police. She informed her suspicion towards Vera's landlord nephew, whose name she didn't know. The suspect had once hit Uni in the head with a bottle, and he often had argumentats with other *warias*.

Uni assumed that he is the man that met Vera on the night of the crime. The man was between 20-27 yeras old, with beard, wears a black jacket, and between 160-165 cm tall.

The team also tried to locate Pon, a middle-aged man who according to Febi and several other neighbors, reported the crime to Kepolisian Sektor Purwokerto Selatan.

3.4.2 Coordination with Ketua RT (local neighborhood leader) and Lurah (local government) Karang Lesem

After a long process undertaken by Arus Pelangi, Lurah Karang Lesem finally issued Vera's death certificate which stated stab wounds as the cause of death. The team also succeeded in getting Vera's photograph from the Ketua RT.



Picture 6. Vera's very simple parental home.

3.5 Report Submission to Komnas HAM, Ketua DPR-RI, and KAPOLRI

Arus Pelangi decided to bring the Vera Case to Komnas HAM due to Polsek Purwokerto Selatan slow progress of investigations. We coordinated with Mr. Taheri Noor, then commissioner and member of Sub-Committee for Special Communities, to pressure the police. Later, Mr. Taheri Noor submitted a formal letter to Kapolda Jawa Tengah and

Kapolri urging for immediate action. The letter surprisingly caused the removal of Kapolsek Purwokerto Selatan, Wahyu Budiman, and was then replaced by Sri Karyati.

Komnas HAM also issued a formal letter No. 037/SR-KHU/III/06 on 15 March 2006 requesting clarification from Kapolres Banyumas. Kapolsek Purwokerto Selatan, in response to the letter, sent a formal letter No. B/12/III/2006/Reskrim dated 16 March 2006 to Suminto, the victim's family representative, explaining the progress of the investigation.

All these efforts resulted in the case now being taken more seriously by police authorities, as summarized below:

- Kapolsek Purwokerto Selatan formal letter to the victim's family explaining the investigation progress.
- The questioning of Uni as a witness.
- The dismissal of Kapolsek Purwokerto Selatan.
- The police promised to continue the investigation after all witnesses information have been gathered.
- Police continue surveillance of suspects and continues giving progress report.

3.6 Assistance of Witnesses to the Police

On 17th to 22nd March 2006, the team assisted the witnesses during the interviews at Polsek Purwokerto Selatan. The witnesses were Uni and Ririn, both *warias*. The assistance was given because of their fear in dealing with authorities, and *warias* are mostly low educated. The team's initial approach to the witnesses succeeded in the witnesses willingness to testify. And because of the presence of Arus Pelangi, the witnesses were treated with due respect by the police.



Picture 7. *Suminto, Vera's brother, during interview at police station.*

3.7 Identification of Suspect

Following Arus Pelangi reported to Komnas HAM, four witnesses have been interviewed by the police, including Uni who was interviewed two times.

According to a statement by Bambang Puji P., the police in charge of investigations, the police have identified the suspect. However the police have no clue to his whereabouts. Police sources informed two possible location of the suspect:

- The suspect is already detained in Cilacap penitentiary for motorbike theft.
- The suspect is at a *pesantren* (Islamic boarding school).

3.8 Verification of Suspect's Alibi

Months of investigations have brought the police to the identification of a Gogi Yosanta, 24 year old, as the homicide suspect. Based on this information, a team from Arus

Pelangi once again went to Polsek Purwokerto Selatan and was met by Bambang Puji P.. They then discussed about the the plan to investigate Gogi's alibi of being enrolled at Pondok Pesantren Salapiah in Jember, East Java.

Gogi Yosanta was indeed located in LP Cilacap for motorbike theft. When the police along with Uni, the witness, met him there, he denied the allegation claiming that he was not in Purwokerto at the time of the crime. He claimed that he was studying in a pesantren in Cilacap where he subsequently moved to a pesantren in Jember.

The team from Arus Pelangi, along with the police, travelled to Jember to meet with Gus Markhus Ali, the headmaster of *Pesantren Salapiah*, and we was invited to the Polsek Ambulu office for interview. There, he confirmed that Gogi was indeed studying in the pesantren since April 2005. But he also informed that between April and October of 2005, Gogi has three times left the pesantren without any notice. After around October 2005, Gogi left the pesantren for good and the headmaster claimed no knowledge of his next destination. Gus Markhus Ali did not know about the murder case which is being investigated.

Gus Markhus Ali then informed he was aware of Gogi's detention at LP Cilacap. He got the information after a phone call to Pesantren Cilacap, the pesantren he was enlisted before Jember. The call was made to find out Gogi's whereabouts. The headmaster there informed that Gogi has dropped out and that he only came once after that. The headmaster also said that he is now detained in LP Cilacap for stealing one of the student's motorcycle. One of the evidences showed by the police, he said, was a hat and a pair of sandals covered with dried mud. The headmaster said he did not recognize ever seeing the hat and the sandals.

On 26 January 2007, the team met with Bambang from Police Station Purwokerto Selatan and was told that he had concluded Gogi's alibi to be false. He then said that Gogi can now be placed as a suspect. Gogi was scheduled for release from LP Cilacap on March 2007, and coordination was made to ensure the smooth transfer of custody on that day.

3.9 Transfer of Suspect from LP Cilacap

On 27 April 2007, our team along with police from Polsek Purwokerto Selatan (Bambang, Samdono, and Anton) went to LP Cilacap to pick Gogi up who was released earlier than previously scheduled. Gogi was immediately taken to Polsek Purwokerto Selatan for questioning. Only then that Gogi admit to stabbing Vera on 29 October 2005. The police immediately put him under arrest.



Picture 8. *Transfer of suspect from LP Cilacap.*

3.10 Scene Reconstruction and Case Submission to the District Attorney

On 30 May 2007, police investigators did a crime reconstruction on the crime scene. The reconstruction started at 9am local time and attended by the General Prosecutor, the suspect and his legal counsel, witnesses, reporters, several waria, the local community, and, of course, the team from Arus Pelangi.



Picture 9. *Scene reconstruction in progress.*

The reconstruction showed how Gogi attacked Vera. He admitted to stabbing Vera with a knife. The reconstruction which took several hours made quite a scene and caused a traffic jam in the nearby street, Jl. S. Parman. The police informed our team that they will detain Gogi up to the maximum 40 days allowed to gather more evidences and testimonies until they handover the case to District Attorney office.

Based on new findings from the reconstructin, the police concluded that the suspect had committed the crime as described in Pasal 353 ayat (3) KUHP: severe assault that results in the death of the victim and are punishable by 9 years of prison sentence. The police finally handed the case to the District Attorney on 26 June 2007 for further process.

3.11 Trial Proceedings

The trial went on from August to October 2007. In the prosecution letter number 154/Pid/B/2007/PN PWT, Gogi was primarily charged of violating article 353 (3) of KUHP, intentional abuse that resulted in the death of the victim; and secondarily charged of violating article 351 (3) along and article 351 (2), abuse that resulted in the death of the victim.

The board of judges is headed by Amser Simanjuntak, SH, assisted by judges Dwi Winarko, SH and Dodong Iman R., SH as members. The general prosecutor was Ernawati, SH and Sukirno, SH. The registrar is Tursini. Gogi's legal counsel was a team of lawyers from ADIL office of advocates.

Below is the chronology of the trial proceedings:

11 July 2007	Reading of charges.
18 July 2007	Reading of defence.
25 July 2007	Ruling of intermediate decision.
01 August 2007	Examination of incriminating witnesses.
08 August 2007	Examination of incriminating witnesses.
15 August 2007	Examination of incriminating witnesses.

22 August 2007	Examination of incriminating witnesses.
05 September 2007	Examination of the defendant.
12 September 2007	Postponement of trial (due to the the defendant lawyer's failure to present the defendant's witnesses).
26 September 2007	Examination of witnesses from the defendant.
03 October 2007	Reading of charges.
09 October 2007	Reading of plea.
23 October 2007	Reading of verdict.

Our team continues to follow the trial with great attention. On 17 September 2007, our team held a press conference to give additional pressure to the government for a fair verdict.

The court find the defendant guilty as charged and was sentenced to 6 years in prison, much shorter to the 12-15 years of prison time as demanded by the prosecutor.

It was reported that the defendant was going for an appeal but his lawyers counseled him to forfeit that intention.



Picture 10. *The Vera Case trial in progress.*

4 ANALYSIS and RECOMMENDATIONS

4.1 Analysis

The advocacy of the Vera Case as described above shows the many legal procedures neglected by the police. The police also made several human rights violations. Their discriminating acts and statements in the initial investigation and their unwillingness to handle the case more seriously clearly shows this violation.

The police then indeed took the case more seriously, but only after the replacement of its local chief. The case also showed how ordinary civilians, in this case members of Arus Pelangi, could put pressure to authorities by informing the case to higher institutions such as Komnas HAM and POLRI, who has greater understandings of human rights. It shows the the role of civillian power to control the government.

The police change in attitude still has its drawback. During the crime reconstruction, the suspect admitted of stabbing the victim with a knife. The police failed to take proper action in finding the knife for evidence and so the suspect could not be charge with article 340, intentional murder.

The Vera Case cannot be viewed as a hate crime against LGBT because the perpetrator and the victim have known each other for long and never have problems before. Hate crime is a form of violence against a certain group of people solely because of their uniqueness. Another example of such crime was the assault of the "Kerlap Kerlip Kedaton 2000" event in Kaliurang, Yogyakarta.

Hence, Gogi's motives for this crime remained unclear. During investigation, Gogi admitted feeling vengeful to the victim for being rejected and ridiculed. Unfortunately the police didn't investigate further to as why this vengeful feeling ended up in murder attempt.

The family of Vera (alias Zainudin) finally found justice for their unfortunate ordeal. The judges verdict proved that justice is within reach as long as the fight for human rights continues. It also inspired local LGBT community to establish a local organization, Arus Pelangi Banyumas.

Arus Pelangi has spent considerable amount of time and funds to ensure the proper proceedings of this case. Without these spendings the proceedings would otherwise went to a completely different direction. Thankfully, the many trips made to Purwokerto and to Jember were worthwhile because of the satisfactory end result.

The verdict, along with the entire legal process, then became a precedent for subsequent and future cases. In the cases of *waria* mutilation in Bogor and of gay murder in Riau, both in 2007, the police succeeded in identifying the suspect within just several weeks.

Unfortunately, not all cases of violence against LGBT are dealt with correctly. Often this unresolved cases involved state officials or even the police themselves as the possible suspects. This is why all all civillian elements should cooperate to ensure rule of law.

4.2 Recommendations

Arus Pelangi urges the government to continuously:

- Perform affirmative action to eliminate the stigma towards LGBT in concurrence with article 5 sub-article (3) of UU No.39 Tahun 1999 Tentang HAM.
- Provide widest possible legal protection to LGBT who are victims of crime or human rights violation.
- Take corrective action to officials that have been proven committing acts of violence, misuse of authority, discrimination, or unwillingness to handle cases with LGBT as the victim.

Arus Pelangi also urges the general public to:

- Eliminate their negative stigma and discriminatory acts against LGBT. No religious teachings nor any other morality gives excuses to discriminate LGBT.
- Recognize and respect rights of LGBT as a human beings and as a citizens. These rights are recognized in the Indonesian Constitution [UUD '45] and in various international conventions ratified by Indonesia.

Arus Pelangi invites LGBT groups to:

- Erase fear to express oneself as wholesome human being.
- Be aware of their equal rights as humans and as citizens; and to work towards its fulfilment.

Together we can make a difference!

Pembunuh Waria Diringkus

Berlatar Dendam

PURWOKERTO—Masih ingat pembunuhan seorang waria, akhir tahun 2005 silam di Jalan S. Parman, Purwokerto? Saat itu korbannya adalah Vera alias Zaenudin (27), warga Jalan Sri Raharjo RT.2 RW 10 Karang Klesem, Kecamatan Purwokerto Selatan.

Jumat (27/4), kasus ini berhasil diungkap oleh jajaran Polsek Purwokerto Selatan yang dipimpin oleh AKP Suranto. Setelah proses penyelidikan selama kurang lebih 1,5 tahun, polisi akhirnya menangkap Gogi Yosana (24), warga Jalan Kolonel Sugiyono RT 2 RW 5, Kelurahan Purwokerto Kulon, Kecamatan Pur-

wokerto Selatan. Bersama tersangka, polisi juga mengamankan barang bukti berupa topi warna biru dan sepasang sandal jepit warna hitam.

AKP Suranto menjelaskan, tersangka diringkus di komplek LP Cilacap, usai mengakhiri hukumannya selama satu tahun di LP tersebut. "Tersangka terlibat kasus curanmor di sebuah pondok pesantren di Kesugihan sebelumnya, ia dihukum satu tahun," ujarnya.

Begitu keluar dari LP tersebut, petugas langsung meringkusnya dan membawanya ke Mapolsek Purwokerto Selatan. Mulanya, tersangka melakukan perlawanan kepada petugas yang menangkapnya, namun polisi dengan sigap menangkap tersangka.

"Setelah diperiksa di mapolsek, dengan

barang bukti yang dimiliki polisi, dan pengakuan saksi dan alibi tersangka, akhirnya mengakui perbuatannya telah membunuh waria tersebut," tegasnya.

Kemudian, usai pemeriksaan, polisi membawa tersangka ke lokasi kejadian, di sebelah dealer sepeda motor Hapy Motor, di Jalan S. Parman, Purwokerto, untuk mengingatkan kembali perbuatan yang dilakukan.

Dalam reka ulang tersebut terungkap, tersangka melakukan pembunuhan dengan menggunakan besi yang disimpan di balik bajunya. Begitu ia memukul, korban, langsung tersungkur ke tanah. Namun, korban sempat memberikan perlawanan. Akhirnya, tersangka mengambil ranting pohon dan menusukkannya ke dada kiri korban, dan langsung

tercebur ke saluran air.

Tersangka langsung lari meninggalkan korban. Namun tersangka mengaku sempat melihat korban merangkak di tepi trotoar, dan meminta pertolongan kepada tukang becak yang sedang melintas. Korban dibawa ke Rumah Sakit Margono Soekardjo. Selang satu minggu kemudian, korban menghembuskan nafas terakhirnya.

Sementara itu, Kapolres Banyumas AKBP Drs. Suherman membenarkan penangkapan tersangka oleh anggotanya. "Walaupun kasus ini sudah lama sekali, namun polisi tetap serius dan berusaha mengungkapnya. Dengan melakukan penyelidikan secara intensif, akhirnya tersangka berhasil ditangkap," terang Suherman. (ap14)

Radar Banyumas,
28-04-2008