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Author: Iman Kartiman

Legal Analysis of Adultery in Marriage: A Study of Legal Sanctions and Consequences for Adulterers and Adulteresses (Study on TikTok Social Media)

ABSTRACT

The rapid development of technology around the world, including in Indonesia, has brought so many benefits that can be felt by society. The ease of obtaining gadgets at affordable prices as well as the increasingly cheap and accessible internet package prices, along with the numerous internet service providers in Indonesia. Not only in big cities, the internet has reached far into remote villages. As a result, all layers of society can experience how easy it is to find the information they want. In addition, with many affordable gadgets and easily accessible internet networks, there are very broad business opportunities for those who have expertise in creating applications. According to dataloka.id. Tiktok is one of the most popular applications in Indonesia with 194.37 million users in 2025. However, the acceleration of this technology does not only come with positive aspects, but it can also become negative if it is not accompanied by sufficient knowledge to handle it. The high rate of criminal acts that originate from social media is often reported across various media. One of these is infidelity, which can escalate into adultery and subsequently contribute to the high divorce rates in Indonesia. Infidelity leading to adultery is regulated under legislation, including national law, customary law, and the compilation of Islamic law, but apparently, this is not enough to instill a sense of fear or deterrence in the perpetrators. Often, such actions are carried out by those who have previously experienced them.

Keywords: Adultery and fornication in the criminal code, social media, deterrent effects

INTRODUCTION

Article 27 of the Civil Code (Burgerlijk Wetboek/ "BW") states that at any one time a man may only be married to one woman, and a woman to only one man. This article then links to Article 411 of Law Number 1 of 2023 and Article 284 of the Criminal Code. Article 411 paragraph (1) states that anyone who has sexual intercourse with someone other than their husband or wife shall be punished for adultery with a maximum prison sentence of one year or a maximum fine of Category II, namely 10 million rupiah. Furthermore, Article 2 states that criminal acts referred to in paragraph (1) shall not be prosecuted unless a complaint is filed. Therefore, this case can be prosecuted as a criminal offense if there is a complaint or report (complaint offense).

According to data from goodstats.id the divorce rate in 2024 reached 394,608 cases a significant increase from the 102,931 cases reported in 2020 (291,677 cases) 1005 of which were due to infidelity or adultery. However these divorce cases were not immediately reported as adultery to law enforcement officials as stipulated in Article 284 of the Criminal Code or Article 411 of Law No. 1 of 2023. This raises questions about whether these articles are unnecessary in resolving adultery cases or whether there are other reasons why these cases are only resolved at the divorce stage. Furthermore what factors underlie the decision of victims of divorce cases caused by adultery not to file a police report thereby allowing the perpetrator to be prosecuted under applicable laws ?

The implementation and enforcement of Article 284 of the Criminal Code sanctions against adultery perpetrators still require review as restorative justice ultimately determines the final resolution of cases. Furthermore it is important to consider how family and social environments can influence a person's behavior leading to actions that clearly violate the law and leave deep scars for all parties involved.

RESEARCH METHODS

This research is descriptive and analytical describing, studying, analyzing and attempting to explain how victims of adultery ultimately end up in divorce but do not necessarily pursue criminal proceedings as stipulated in Article 284 of the Criminal Code or Article 411 of Law Number 1 of 2023.

Law Number 1 of 2023 concerning the Criminal Code incorporates a revised criminalization concept compared to previous laws. The criminalization in this law aims to provide protection to society, rehabilitation of perpetrators, and justice for victims. However this does not diminish the law's objectives, which are to provide legal certainty, justice, social order, conflict resolution, and legal protection.

The crime of adultery, as regulated in the Criminal Code (KUHP), is a complaint-based offense a legal process that requires a complaint or report from the injured party. It's not uncommon for filed reports to be withdrawn and resolved amicably (restorative justice) after a peace agreement is reached between the victim and the perpetrator.

The recent rise in infidelity and adultery is a negative impact of easy internet access and the proliferation of online social networking apps. Based on the object of this research which is positive law the method used is a normative juridical approach, which aims to determine how the role of applicable laws and regulations along with their enforcement tools aligns with what is stipulated in the Criminal Procedure Code.

RESULT AND DISCUSSION

The Beginning of Adultery

Infidelity is an act committed by someone who is already legally married but chooses to have another relationship with someone who is not their legal partner. Meanwhile, adultery is sexual intercourse between a person and

someone who is not their legal partner. Infidelity can only occur between someone who is already married, while adultery can occur to anyone, including those who are under age or in other words still under parental supervision.

In general infidelity and adultery are immoral acts that share many similarities but upon closer examination a common thread emerges that leads in different directions. In the context of criminal law if an act of infidelity or adultery occurs the legal partner has the right to file a police report. However for adultery committed by someone who is not legally married and is still under parental supervision the family has the authority to file a report. Infidelity and adultery generally begin with a fleeting attraction to someone they meet through social media. Continuous intensive communication creates a sense of comfort that gradually develops followed by a sense of loss when they don't talk or hear from each other. Unconsciously this triggers and encourages them to meet again in the future. This intense communication then leads to conversations on a variety of topics, including those that lead to sexual activity. These high expectations and desires ultimately lead to adultery when they do meet.

Furthermore busy couples resulting in reduced communication can trigger infidelity if they meet someone else who makes them feel comfortable. A harmonious, loving, and compassionate household is the dream of every couple who has mutually pledged to be faithful to each other until the end of time. However achieving this goal requires a challenging struggle. Differences of opinion often contribute to marital discord. This includes dissatisfaction with one's partner which leads to a search for happiness outside the couple's reach ultimately leading to infidelity. According to Sitti Musyahidah in the journal Women's Responses in Addressing Divorce Cases Due to Infidelity from a Family Law Perspective states that having a happy family is not something that will happen naturally meaning it is something that needs to be planned, cultivated and started from the beginning of the marriage.

Infature According To The KUHP And Compilation Of Islamic Law

The Criminal Code defines adultery and infidelity in Article 284, Chapter XIV, which deals with Crimes Against Morality. Article 284 states that a person who commits adultery while in a legal relationship with a partner is subject to a maximum of nine months' imprisonment (paragraph 1, letter 1a). This applies to both men and women (paragraph 1, letter 1b). Furthermore, paragraphs 1 (one) and 2a and 2b explain that the punishment applies not only to the primary perpetrator but also to both men and women who participate in the same act and will be subject to the same sanctions. This article also regulates who has the right to sue (paragraph 3). Furthermore there is a time limit for withdrawing a complaint namely before the start of the trial (paragraph 4).

According to the Compilation of Islamic Law adultery is a violation of the sacred promise of marriage so that this is one of the reasons for being allowed to file for divorce, but if this affair is not proven to be adultery then only the punishment will be given 80 lashes and carried out in front of the public which is expected to encourage repentance and provide a deterrent effect on the perpetrator (Article 116 of the Compilation of Islamic Law). Then in Islam there is a term known as nusyuz which indicates the denial and disobedience of a wife to her husband but unfortunately this nusyuz is not accompanied by another term that can explain the act of a husband's denial towards his wife. In addition adultery is also explained in the Hadith Narrated by Abu Daud Number 1692 which explains the prohibition of adultery and the sanctions that will be received.

Infature From A Family Perspective

Ultimately every conflict that occurs in human life will always leave wounds and disappointment for everyone around them. This also applies to those in families where infidelity conflicts exist. The victims are not only the spouse but also the entire extended family. If there are children in a marriage experiencing infidelity they will also be psychologically impacted.

Divorce is the end of a marriage, beginning with a breakdown in negotiations between husband and wife. Some common causes of divorce include financial constraints, constant arguments and infidelity. Furthermore, there are other causes of divorce, including: trying to impose one's own will; finding fault with one's partner; prioritizing conflict over finding solutions for the common good; and attempting to assert one's power. In her book the author also explains the dimensions of parenting, divided into control and warmth.

After parents divorce parenting styles that shape children's positive behavior are essential. The list of terms that emerge in everyday interactions as children from broken homes must be avoided. What kind of parenting style will be implemented by divorced parents is of course their respective authority, but it is hoped that whatever is done will ensure that their child's mental health remains strong.

CONCLUSION

Every individual has full control over their own behavior but family environment, educational background, economic conditions, and living needs contribute to the formation of a person's characteristics. If later on behavior that emerges in social life manifests as negative and contradicts prevailing norms sanctions will be imposed. Legal sanctions whether enacted through legislation, customary law, or social sanctions are the ultimate consequences that the perpetrator must accept.

The articles on adultery and infidelity, as stipulated in Article 284 of the Criminal Code are not merely prohibitions but serve as a warning that actions based solely on convenience will result in sanctions. Therefore these laws and regulations which carry criminal sanctions serve as a guideline for human behavior.

Likewise other sanctions such as religious sanctions in the form of sin, customary sanctions in the form of punishment within the community or social sanctions in the form of ridicule or ostracism control human behavior in everyday

life. Ultimately restorative justice is a compromise in resolving cases of infidelity and adultery attempting to restore the original situation. However it does not address hurt and disappointment which can leave lasting scars and trauma that are difficult to erase.

Therefore the author concludes that good behavior is shaped by a positive social environment, character education, and religious education. Legal and other sanctions are the ultimate consequences of one's actions.

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