Criminalization Of Adultery During The Covid 19 Pandemic

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The purpose of this study is to find out the criminology of adultery perpetrators during the Covid 19 Pandemic. The type of research used is empirical legal research. While sample withdrawal uses purposive sampling and data analysis using qualitative research approaches. The results showed that cases of adultery occur of course triggered by various factors both internal factors and external factors. In the current pandemic period where the majority of people ranging from high economic class to low economic class experience severe economic crisis, primary and secondary needs are difficult to meet to cause feelings of stress and stress that can trigger quarrels in the household, these quarrels can also trigger divorce in households caused by the economy or other actions. In addition, the problem of economic crisis can also trigger adultery were to meet the economy, they commit such unworthy deeds to earn money as well as commercial sex workers. There needs to be increased understanding of the law by law enforcement and the government towards citizens to avoid actions that can harm themselves and others, especially legal counseling to the younger generation.

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1. Introduction
   A. Background

The current covid pandemic greatly affects many aspects, such as the enactment of health protocols such as prohibited crowding or leaving the house, PSBB, and layoffs and salary cuts that eventually impact the economic crisis for most people and cause pressure or stress. In ancient times there were different views about the crime of adultery about whether or not it was seen as a prohibited act that could be threatened with criminality. According to the Romans, it was the woman who could be blamed for committing adultery. If a wife has sex with another man who is not her husband, then she has been seen as a wife who is detrimental to a husband's right to demand loyalty from his wife in marriage.\(^1\) Law enforcement against criminals is a strategic step to realize national goals in terms of implementing applicable laws and regulations.\(^2\)

As a result of adultery in the world can give birth to a factory (will fall poor, success will fall) he will become despicable. Getting a great sin that will not be forgiven if the sip as indeed has known his law and knows his knowledge then he must be stoned (thrown a stone to death) as the redeemer of his sin but if he does not know his law and knowledge then the servant can be accepted to his repentance. Diakhirat will not find heaven even the smell will be the crust of hellkholidina fiha (eternal forever), encountering the torment of which in the form of farji pierced iron spear through to his mouth.

In line with the progress and so rapid science and technology today.\(^3\) This increasingly modern technology if not used and utilized properly then the urge on negative things one of which is used to the wrong thing such as opening a porn website that can trigger a person's sexuality to do unwanted things such as adultery or criminal acts that can harm others. Therefore, it is worth controlling yourself to avoid evil deeds.

Indonesia is one of the countries that put forward the constitution in every aspect of national and state life.\(^4\) So that this becomes a constitutional right of every citizen of Indonesia.\(^5\) Adultery provisions in Indonesian laws and regulations have not been effective in addressing the problem of adultery that occurs in communities in the territory

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\(^1\)Ahmad Babiej. (2003) Tinjauan Yuridis atas Delik Perzinahan (Overspel) dalam Hukum Pidana Indonesia, Jurnal Sosio-Religia. 2 (2) Februari, 4


\(^3\)Lakoro, A., Badu, L. W., Achir N, (2020). Lemahnya Kepolisian Dalam Penanganan Tindak Pidana Perjudian Togel Online, Jurnal Legalitas. 13 (1), 32


of Indonesia. This pressure is slightly more causing a significant reaction to the existence of society, so the government is careful in solving a problem that has to do with society.\textsuperscript{6} This can be seen from the increasingly rampant cases of adultery. Shifts in the value of decency in certain societies have occurred, which can be seen from the behavior of some adulterers who are increasingly brave and not reflected guilt. Adulterers who admit the results of their adultery in the media under the pretext of honesty and not hypocrisy have often occurred, among others, when the adulterer gave birth to a child without a father, or he gave birth four months after the marriage contract, and others.\textsuperscript{7} Here is the data on adultery cases obtained from Bone Bolango police.

Table 1

<table>
<thead>
<tr>
<th>No.</th>
<th>Year</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>2017</td>
<td>5</td>
</tr>
<tr>
<td>2</td>
<td>2018</td>
<td>4</td>
</tr>
<tr>
<td>3</td>
<td>2019</td>
<td>9</td>
</tr>
<tr>
<td>4</td>
<td>2020</td>
<td>9</td>
</tr>
</tbody>
</table>

Source: Bone Bolango Police In 2021

The table above shows the development of the number of adultery cases in Bone Bolango Regency. In 2017, there were five cases. Then in the following year, 2018, there was a decrease of only 4 cases. In 2019, there was an increase of 9 cases. In 2020 there are 9 cases of adultery, although there are similarities in the number of cases in 2019 but, we have known together that in 2020 the Indonesian state experienced the spread of the covid-19 virus. So it can be concluded based on the table above that more cases of adultery occurred during the pandemic where there were 9 cases in the previous year.

As we know that in the case of adultery there is a Law that has regulated adultery, namely article 284KUHP which reads "The criminal threat stipulated in article 284 paragraph (1) of the Criminal Code is a nine-month prison sentence, both for married perpetrators and for people who participate in committing the act of adultery".\textsuperscript{8}

B. Problem Formula

This article formulates the problem of criminalization of adultery in the time of the covid-19 pandemic

\textsuperscript{6}Fitriyadi, Ahmad Adi. (2020). Diferensiasi Pengungsi dan Pencari Suaka dalam Hukum Pengungsi Internasional dan Hubungannya dengan Prinsip Non-Refoulement. JALREV 2 (2), 127

\textsuperscript{7}Neng Djubaedah, Perzinahan Dalam Peraturan Perundang-undangan di Indonesia Ditinjau dari Hukum Islam, (Jakarta: Media Grafika, 2010), 1

C. Research Methods

The type of research used is empirical legal research that examines human behavior from speech actions obtained through interviews and concrete actions obtained through direct observation. While sample withdrawal uses purposive sampling and data analysis using qualitative research approaches.9

2. DISCUSSION

Criminalization of Adultery During the Covid-19 Pandemic

Based on the results of the study that according to data obtained by researchers at Bone Bolango Police where adultery cases that occurred from 2017 in the period before the pandemic continued to increase until 2020 which as we know together that there is an increase in cases of spread of covid-19 in 2020. And it is known that there are a total of 27 cases of adultery in 2020 or during this pandemic.

In addition, researchers also conducted interviews with informants in this case Bripka Treas Ali, S.H as the Women's and Child Protection Kanit. Based on the results of the interview it is said that the cause of the increase in adultery cases in this pandemic period is because during the pandemic the government imposes PSBB (Large-Scale Social Restrictions) where most people do more activities at home such as one example of working from home, thus making people saturated and motivated to do negative things such as watching porn that can motivate someone to do it. Things that are not praiseworthy such as adultery. To vent his passion arises the desire to commit adultery by trying to find the expansion of his lust through social media. One example of adultery cases such as that occurred in helumo village, Bone Bolango regency where it is known that there has been a case of adultery committed by Alwin Amune's brother with a woman with the initials SN who is not the legal wife of Alwin Amune's brother. This is also evidenced by the existence of evidence in the form of 1 (one) copy of the marriage book so that the deeds of Alwin Amune's brother and sister SN have fulfilled the delict element as referred to in Article 284 paragraph (1) to 1e letter a and b of the Criminal Code. Regarding the case of adultery, it will be processed immediately by Article 284 paragraph (1) to 1e letter a which reads "a man who has married commits adultery when it is known that article 27 bw applies to him, threatened with a maximum criminal 9 months". and Article 284 Paragraph (1) to 1e letter b which reads "married women commit adultery, threatened with a maximum of 9 months". The expression of proof does not necessarily clearly define that the process of proving the original criminal being unnecessary or in other words the position of the original criminal law contained in the

preceding articles does not require an element of proof.\textsuperscript{10}

It is known that the cause of adultery is because it is triggered by quarrels that often occur in the household of perpetrators caused by economic problems. After all, the perpetrators only work as workers while in this pandemic many workers are laid off and laid off from work because of the enactment of PSBB (Large-Scale Social Restrictions) by the government so that many people lose their jobs and it is difficult to meet the needs of households and women. Meeting the needs of children's schools so that there is often a dispute in the household of the perpetrator. This motivates the perpetrator to seek pleasure by looking for other women who he thinks can dampen his emotions and can become a luster because they feel bored and bored at home. Therefore, the \textsuperscript{11}government has not implemented the level of service expected, especially by the people who are targeted for their services.\textsuperscript{12} Therefore, the right to life must be protected by the state, especially the state hukum.\textsuperscript{13}

Based on the results of the above interview, researchers can analyze that even in pandemic conditions like today does not rule out the possibility of someone to keep doing negative things or things that are considered not praiseworthy. Because as we see based on the results of interviews with informants plus data obtained by researchers that during the pandemic cases of adultery increased compared to previous years or in the period before the covid-19 pandemic. As for the example of the case that has been outlined, researchers argue that in the current pandemic we should as humans be able to increase our worship and faith in Allah SWT because of more time at home. And do positive things that can be useful and can make money to increase income so that there are no quarrels just because of economic problems such as selling fast food or other businesses that can add income.

The above explanation is related to the theory of criminology according to W. A Bonger where criminology as one of the social science disciplines examines the symptoms and behavior of members of the public in terms of patterns, motivations, and efforts to combat crime. Because as has been explained in the case example that there is an element of motivation for someone to commit a crime and the pattern played by the perpetrator and the attempt to commit adultery. Starting with the understanding of the term that states that humans are wolves for other humans or humans are other human predators in the


\textsuperscript{11} Bripka Treas Ali, S.H. Head of the Women's and Children's Protection Unit of Bone Bolango Police. Interview tgl July 17, 2021

\textsuperscript{12} Fahmi Kamuli, (2021), Regional Head's Authority in Determining Work Placement Due to Mutations of Government Employees, Jurnal Law Review. 3 (1), 39

\textsuperscript{13} Lisnawaty Badu. (2012). Euthanasia Dan Hak Asasi Manusia. Jurnal Legalitas. 5 (1), 1
language of the law that is *(Homo homini lupus)*, the meaning of *Homo homini lupus* is that humans are always selfish and do not want to see others, so it is no longer impossible often if humans commit violations. Whether a deliberate violation or an unintentional violation is committed, which results in the act harming the general public and often even often violates the norms of law that apply in the general public, which is referred to as a criminal act or delik.14

Norms and rules that apply in society these days are no longer obeyed and respected so many violations are committed. For this reason, society needs a law that serves as a regulator of all human actions in society, therefore, in carrying out legal functions, the government can use harsher coercive tools in the form of sanctions or law enforcement. Law enforcement carried out by the police against adulterers must provide a sense of justice for the victim who has been harmed by the perpetrator. Quoting as said by Fence M. Wantu in his Journal that the nature of justice is a matter of judgment from one person to others, which is generally seen from those who receive treatment only.15 The government through the law has given the starting point of justice, which is done for the sake of justice based on the Supreme Divinity.16 Therefore, the government must firmly establish the laws and regulations related to this matter in the future, especially related to special arrangements for children who commit criminal acts.17 Protect basic rights or dignity and dignity, especially for seekers of justice.18 Not to forget there are also human rights that have been violated by adulterers, therefore the existence of human rights (HUMAN RIGHTS) will have no meaning if not followed up with the law that regulates the relationship of rights, meaning that the law formalizes human rights into a set of rules to maintain and protect so as not to become clashes in the life of society and state.19 This is a strategic step towards realizing this national goal.20 Because also human rights are part of the implementation of the judiciary within the framework of independent judicial power.21 Solely in the implementation of such development is nothing but the welfare of

19 Tijow, Lusiana. (2010), Perlindungan Hak Asasi Manusia Teriadiap Hak Hidup Anak Dalam Kandungan Di Luar Pbrkawinan Yang Sah. Jurnal Legalitas 3 (2), 80
the people themselves.\textsuperscript{22} If referring to the opinion of Nonet and Selznick as quoted by Fenty U. Tensulawa et al that\textsuperscript{23} "The law must truly prosper society in the greater interest, not just for the benefit of those in power." As the party that issues the policy, the Government must be able to see the balance in the life of society.\textsuperscript{24}

In addition, Bripka Treas Ali as Head of PPA Unit of Bone Bolango Police said the challenge for police officers is to improve legal stability and coaching in law enforcement, namely efforts to maintain and develop the capabilities and stability of law enforcement officers, including the police. Citing the opinion of Dian Ekawaty Ismail that there are several types of restraints, namely preventive countermeasures, curative countermeasures, and repressive efforts (crackdown), carried out at the time of the crime. On the other hand, law enforcement during the Covid-19 pandemic also faces severe challenges, not only the internal stability of the police but external challenges, namely those who commit criminal acts during the covid-19 pandemic. Therefore, to avoid the spread of covid-19 police Bone Bolango police further improve health protocols such as keeping a distance, wearing masks, always washing hands and wearing hand sanitizer, and avoiding shaking hands. As for the process of resolving the case and the examination of witnesses or parties involved it is carried out in the office precisely in the Women and Children Protection Unit and for the examination, it is carried out alternately meaning that can enter the room only limited to one person while others wait outside the PPA unit. The legal pressure that is established realizing clean government has a definite legal purpose because the basic law that marks clean government universally, among others, is legal certainty, transparency, and accountability.\textsuperscript{25} In addition to the applicable law enforcement, this requires cooperation also with the community, so with this the need for supervision in their respective work environments.\textsuperscript{26} Against law enforcement must be done by providing a sense of justice for criminal perpetrators. Melissa Towadi cited melissa towadi's opinion that "equal rights are achieved over the inhuman and degrading prohibition of punishment, and freedom of religion." Of course, this is very important to apply in the ongoing legal process where sanctions given to perpetrators must have a sense of fairness and not discriminate.\textsuperscript{27}

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According to the author of this adultery, the case is closely related to the conventional criminology theory put forward by Bonger where it is explained that there are 7 (seven) causes of crime including the abandonment of children, misery, lust to have, sexual demoralization, alcoholism, low ethics, and war. The low level of ethics also leads to the occurrence of adultery crimes.

The crime of adultery is an unspeakable act. Adultery cases are one of the criminal acts that are rarely exposed, as is the case in Gorontalo Province, especially in Bone Bolango Regency. Rarely the news in various mass media both electronic media and print media so it can be said that this crime is very rare, this crime of adultery is usually influenced or motivated by disharmony between husband and wife, conditions such as frequent quarrels, dissatisfaction with each other and lack of time to be together in the household can relatively trigger stimuli to commit a criminal act. Like a crime of adultery.

3. Conclusion

Cases of adultery occur of course triggered by various factors both internal factors and external factors. In the current pandemic period where the majority of people ranging from high economic class to low economic class experience severe economic crisis, primary and secondary needs are difficult to meet to cause feelings of stress and stress that can trigger quarrels in the household, these quarrels can also trigger divorce in households caused by the economy or other actions. In addition, the problem of economic crisis can also trigger adultery were to meet the economy, they commit such unworthy deeds to earn money as well as commercial sex workers (PSK).

4. Suggestion

There needs to be increased understanding of the law by law enforcement and the government towards citizens to avoid actions that can harm themselves and others, especially legal counseling to the younger generation.

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