

# Adultery as a Complaint Offense in Overcoming Free Sex Behavior

*by* Muhammad Topan

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# Adultery as a Complaint Offense in Overcoming Free Sex Behavior

[1] **Muhammad Topan**

Email: [1] [mtopan@ulm.ac.id](mailto:mtopan@ulm.ac.id)

[1] Faculty of Law, Universitas Lambung Mangkurat

\*Corresponding author

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**Abstract:** Globalization has a global meaning which is likened to freedom. Many foreign cultures have entered, even though these cultures are not in accordance with our Eastern culture. For example, the culture of free sex behavior that is widespread in Western culture is not to our culture and is contrary to the foundation of our country, Pancasila. Indonesia has six officially recognized religions, namely Islam, Protestant Christianity, Catholic Christianity, Hinduism, Buddhism, and Confucianism. The majority of official religions in Indonesia give the view that free sex is a deviant behavior. The opening of the 1945 Constitution in the third paragraph states that it is the grace of God Almighty and so on. That is, this view has juridical consequences for all laws and regulations which must refer to and originate from theological values, namely the value of Belief in the One and Only God. With the expansion of the offense of adultery in the new Criminal Code that "adultery for men and women who are not married (not legally married) can also be punished", meaning that the new Criminal Code has referred to and sourced theological values as a basis for expanding the meaning of adultery, namely by the principle of Belief in the One and Only God in Pancasila. However, the formulation of complaint offenses in the new Criminal Code which limits only family members who can complain needs to be reviewed again for a criminal law policy in the context of tackling free sex behavior which is currently engulfing Indonesian society. Because by being limited to only the family who can complain, this is of course the same as opening up the family's disgrace, so there is a possibility that there will be no complaints. In addition, it is not right to limit only family members who can make complaints because they are considered the victims who are most affected. So actually it can also be assessed that the most affected by this free-sex behavior is not only the family but it must be interpreted that there is a "society" (or "community morals") as victims. When viewed in the context of collective morality, society suffers greatly because the quality of life together has decreased in quality or is referred to as moral degradation.

**Keywords:** Adultery, Complaint Offense, and Free Sex Behavior.

## 1. INTRODUCTION

The era of globalization is a global change that has swept the whole world. The impact that occurs is enormous on various aspects of human life at all levels of society. Both in the economic, social, political, technological, environmental, cultural, and so on. The era of globalization certainly does not only have a positive impact on the progress of a country but there are also negative impacts.

Globalization has a global meaning which is likened to freedom. Many foreign cultures have entered, even though these cultures are not in accordance with our Eastern culture. For example, the culture of free sex behavior that is widespread in Western culture is not in accordance with our culture and is contrary to the foundation of our country, Pancasila. The term "free" is intended to cross the boundaries of existing norms. Problems of free sex behavior often appear both in the environment and in the mass media (hamzah, n.d.). Lately, one of the risky behaviors, namely free sex, is on the rise not only among adults but also among teenagers. This can be seen from several uploads on social media which indicate that account users do this. Free sex itself is sexual behavior that is carried out outside of marriage. This free-sex behavior is said to be risky behavior of course because there is an impact both physically and psychologically (Syarofi, n.d.).

<sup>3</sup> Free sex behavior is the practice of adultery, which is a condition that occurs when two people who are not bound by a marriage bond or marriage have intercourse or have sexual intercourse. In <sup>1</sup> the Criminal Code (KUHP) the arrangements for adultery offenses and sanctions are very clear Article 284 of the Criminal Code only regulates matters of infidelity, in which the article only applies if one of the perpetrators or both are still bound by a legal marriage with another person. Then paragraph (2) explains that adultery is a complaint offense, which can only be prosecuted if the legal partner makes objections or complaints. This is natural because our Criminal Code is a legacy of the Netherlands. Culturally, Indonesian society is different from Dutch society. However, this adultery offense in the new Criminal Code which was ratified on 6 December 2022 by the DPR-RI has undergone an expansion as stated in articles 411, 412, and 413, that adultery for men and women who are not married (not legally married) also can be punished and this article is still a complaint offense.

Regarding the expansion of adultery offenses in the newly passed Criminal Code, the authors are interested in analyzing whether the provisions of this adultery article can overcome this free-sex behavior in the future.

## 2. METHODS

This research is a normative juridical research that is descriptive and analytical, using a statutory and conceptual approach. This study uses legal materials, including; laws and regulations, literature, and journals that are related to the issues discussed. In collecting legal materials, researchers used library research, namely by examining laws and regulations, literature, and inventorying them, which were then processed and analyzed to be arranged logically and systematically in order to obtain conclusions that were in accordance with the research objectives.

## 3. RESULTS AND DISCUSSION

Free-sex behavior is one of the problems that hit Indonesian society, both adults, teenagers, and even children. This happens because of the influence of globalization such as promiscuity, the influence of the mass media, the state of the community environment, not holding fast to religion, and lack of family attention. Free sex behavior in fact has received social criticism in the community because it is very worried about parents, educators, scholars, community leaders and government officials, this is inseparable from the negative impact it causes. Free sex behavior, in some cases the impact can be quite serious such as depression, mental tension and confusion to face all the possible risks that will occur, such as pregnancy outside of marriage which triggers an abortion(*abortion*), interrupted education at school age, marriage at a young age, divorce. Risks related to health for the perpetrators of free sex include sexual trauma, increased growth of cancer cervix, contracting sexually transmitted diseases and also pregnancy at a young age, and drug abuse are the bad results of love adventures and wrong sex. Besides that, these feelings usually also arise in the individual if the individual regrets the actions he has done because he has violated religious norms.

Here are the views of several religions in Indonesia regarding free sex:

1. In view of the Islamic religion, sex outside of marriage is unlawful. The punishments for adultery are a. Flogging a hundred times; b. exile for one year; and c. stoning In

connection with this punishment Allah says in surah an-Nur verse (2) which means: "the woman who commits adultery and the man who commits adultery, flog each one of them a hundred times, and let not mercy on them prevent you from (carry out) Allah's religion, if you believe in Allah and the Hereafter, and let (the implementation of) their punishment be witnessed by a group of believers". Aceh imposes flogging, flogging, and exile on someone who has premarital sex (Ulya, 2016).

2. In the view of Christianity and Catholicism, premarital sex is an act that the church prohibits. "The attitude of the Catholic Church to reject and prohibit sexual relations outside of marriage is aimed at respecting human dignity which is far higher than all other creations of God. Related to this, it is also emphasized in the Ten Commandments where there are two of His words that directly refer to sexual morality, namely prohibiting adultery and coveting a neighbor's wife. The act of sex outside of marriage is considered obscene in the Scriptures, this can be seen clearly in the Bible. Likewise, it is not much different from Christianity." (Makasau, 2013).
3. Buddhist view, his view is quite logical. Sex is an expression of *tanha* or passion that brings *dukkha*, therefore Buddhists teach it to control lust. Premarital sex is seen as causing suffering to others. The teachings of Buddhism emphasize awareness of who and how humans act in the world. Therefore there is no "sin" for sex, but return to yourself for what was done and build complex guilt (walshe, 2007).
4. The view of Hinduism, premarital sex is also discussed in *Trikaya Parisudha's* teachings about *Kayika*. In this teaching free sex is also called *Tan Paradara*. The meaning of *Tan Paradara* if interpreted broadly can be interpreted as having a sexual orientation, sexual relations, and even imagining sex. with a woman or a man who is not a legal partner. In the books of *Manawadharmasastra*, *Sarasamuscaya*, and *Parasaradharmasastra*, many explain that sexual relations must always be a sacred thing only permissible after marriage. *Parisada Hindu Dharma Indonesia (PHDI)*, the highest assembly of Indonesian Hindus in 1983, has published and ratified the Interpretation Association. The results of the Interpretation Unity Seminar, one of which was ratified were about *Catur Cuntaka*. unclean according to the Hindu view, one of which is related to the problem of sexual relations outside of marriage. In unified

interpretation, the problem is pregnant women without beakaon and Mamitra Ngalang (gathering together), who get cuntaka is the woman herself and her bedroom. This cuntaka ends when they are married off in a wedding ceremony. Then the children born from pre-pawiwahan pregnancies (panak dia-diu), who are affected are the woman (mother), the child, and the house where she lives. This cuntaka ends when the child becomes a mamas, which is legalized as a child with a certain ceremony. Explicitly this unity of interpretation, there is no spiritual impact that the men will receive. However, the paradara's action after action is evident in Sarasamuscaya. "Indeed, the Indonesian Hindu Dharma Association (PHDI) regulations are not clear on the impact on men. In fact, social sanctions are rarely received by men if the pregnancy is outside of marriage. just told to take responsibility for the marriage" (Suryantra, 2018).

Indonesia has six officially recognized religions: Islam, Protestant Christianity, Catholic Christianity, Hinduism, Buddhism and Confucianism. The majority of official religions in Indonesia give the view that free sex is a deviant behavior. The opening of the 1945 Constitution in the third paragraph states that it is the grace of God Almighty and so on. That is, this view has juridical consequences for all laws and regulations which must refer to and originate from theological values, namely the value of Belief in the One and Only God. Related to this, free sex behavior as a practice of adultery in the new Criminal Code has included that the offense of adultery has been expanded from <sup>1</sup> Article 284 of the Criminal Code which <sup>2</sup> only regulates matters of infidelity, in which the article only applies if one of the perpetrators or both are still bound by a legal marriage with another person, expanded in <sup>3</sup> the new Criminal Code articles 411, 412 and 413. The contents of the provisions of Article 411 paragraph (1), that <sup>4</sup> "Any person who has <sup>5</sup> intercourse with someone who is not his husband or wife, is convicted of adultery, with a maximum imprisonment of 1 (one) years or a maximum fine of category II. Furthermore, the contents of the provisions of Article 412 paragraph (2), that "Anyone who lives together as husband and wife outside of marriage are subject to imprisonment for a maximum of 6 (six) months or a maximum fine of category II. Related to the <sup>6</sup> offense of adultery in the Draft Criminal Code is also in Article 413 that, "Any person who has

intercourse with someone whom he knows that the person is a member of his nuclear family, shall be punished with imprisonment for a maximum of 10 (ten) years. The expanded offense of adultery in the new Criminal Code is still the same as Article 284 of the Criminal Code concerning adultery, which is a complaint offense as stipulated in Articles 411, 412 paragraph (1) where reporting is limited to people who are considered to be most affected. In this article, only families who become victims can complain, namely:

- <sup>3</sup>
  - a) husband or wife for people who are bound by marriage.
  - b) Parents or children for people who are not bound by marriage.

This means that this crime is expected to be resolved within the family. if there is a complaint, it is considered that it can no longer be resolved in the family.

With the expansion of the adultery offense, the new Criminal Code refers to and is based on theological values as the basis for expanding the meaning of adultery, namely according to the principle of Belief in One Almighty God in Pancasila. According to Topo Santoso, it is suggested that Indonesia does not have to follow international trends, but that it is appropriate for Indonesia to explore the laws that live within its social environment, especially the laws and norms of its official religions. In addition, according to him, what should not be forgotten in discussing the prevention of adultery offenses is cooperation with other fields, because adultery does not only touch legal aspects but also relates to the quality of faith, education, environment, family and so on (Topo).

However, according to the author, the formulation of a complaint offense in the new Criminal Code which limits only family members who can complain needs to be reviewed again for a criminal law policy in the context of tackling free sex behavior which is currently engulfing Indonesian society. Because by being limited to only the family who can complain, this is of course the same as opening up the family's disgrace, so there is a possibility that there will be no complaints. In addition, it is not right to limit only family members who can make complaints because they are considered the victims who are most affected. Because seeing the development of free-sex behavior has led to a shift in cultural values as a result of many foreign cultures entering, even though this culture is

not in accordance with our Eastern culture and contradicts the foundation of our country, Pancasila. So actually it can also be assessed that the most affected by this free-sex behavior are not only the family but it must be interpreted that there is a "society" (or "community morals") as victims. When viewed in the context of collective morality, society suffers greatly because the quality of life together has decreased in quality or is referred to as moral degradation.

Degradation can be interpreted as a degree, rank, and position decrease. Degradation can also be interpreted as changes that lead to damage on Earth. According to Daryanto, degradation is a decrease in quality or a decline in position. The degradation is meant as a decrease in quality and moral destruction. According to Widjaja, states that morals are good and bad teachings about deeds and behavior (morals). Based on the opinion above, it can be concluded that what is meant by moral degradation is a decrease in awareness of behaving in accordance with applicable rules as a result of a lack of awareness to obey the law, while the law is written in the human heart, namely in the form of values (Nurbaiti, 2020). According to Lickona, there are ten signs of moral degradation which are signs of the destruction of a nation including increasing violence against youth, deteriorating use of words, the influence of strong peer groups or peer groups in acts of violence, increased use of drugs, alcohol and free sex, blurring of good and bad moral boundaries, decreased work ethic, low respect for teachers and parents, low sense of individual and civic responsibility, culture of dishonesty, mutual suspicion, and hatred among people (Nurbaiti, 2020).

#### 4. CONCLUSIONS

The expansion of adultery offenses in the new Criminal Code which was passed on December 6, 2022, by the DPR-RI is contained in articles 411, 412, and 413, that adultery for men and women who are not married (not legally married) can also be punished according to and based on the values -theological value as a basis for expanding the meaning of adultery, which is in accordance with the principle of Belief in One Almighty God in Pancasila. However, the formulation of the adultery offense in the new Criminal Code which limits only family members who can complain needs to be reviewed again for a criminal law policy in the context of overcoming free sex behavior that is currently engulfing Indonesian society.



To expand the complaint of adultery offenses in the new Criminal Code, namely that it can not only be carried out by the family, but also to the public or witnesses who feel affected who see the adultery are given the freedom to complain to the authorities. Interpret the existence of "society" (or "public morals") as victims. When viewed in the context of collective morality, society suffers greatly because the quality of life together has decreased in quality or is referred to as moral degradation.

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