

UNDERSTANDING ZINA LAW IN INDONESIA (After the Ratification of the Criminal Code Bill Becomes Law Number 1 of 2023 About the Criminal Code)

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Abstract

This study aims to find weaknesses in law enforcement related to the problem of adultery in Indonesian laws as well as to provide solutions so that the law can be upheld. This research was made using library research research which in its implementation collected sources of books, laws and the internet. The results of this study indicate that adultery is a public crime that has an impact on the perpetrators, family and society. The act of adultery is contrary to socio-cultural customs and religion. The perpetrators of adultery must be punished according to statutory regulations according to Law Number 1 of 2023 concerning the Criminal Code. Even though there are still weaknesses in the law, customary law can play a role in encouraging the perpetrators of adultery to be entangled in the law. Through the customary wisdom of the community.

Keywords

Adultery; Grounding the Law; Criminal Code

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1. INTRODUCTION

Since the founding of the Unitary State of the Republic of Indonesia, the Proclamation of Independence, and the promulgation of the 1945 Constitution, a system of legal norms for the Unitary State of the Republic of Indonesia has been formed. The Constitution or Basic Law is part of the legal system that governs the life of the federal and state governments. The constitution must be part of the legal system. Currently, Indonesia is updating its Criminal Code to become part of a broader domestic legal reform.

There are three legal sources that become sources legal reform, namely Islamic law, Western law, and common law. World evil is associated with human existence. Commit crimes in human life. On the other hand, people want a life that is comfortable, peaceful, orderly and peaceful and supports justice. That is, without criminal interference. Various efforts have been made to reduce the number of crimes both repressive and preventive.

In Islamic teachings, the debate on crimes against humanity and efforts to prevent them is



explained in Fiqh Jinayah, both oppressive and prophylactic. The debate about fiqh jinayah (Islamic criminal law) gives the impression of being judgmental or "cruel" in dealing with it. For example, cutting hands, tying, qishos, stoning. A thorough investigation of Islamic criminal law would reveal a fallacy in assessing these impressions. For a more detailed discussion, not all criminal acts in Islam are accompanied by had (punishments determined by syara`) or ta'zir (educational punishments) or qishos (retribution commensurate with the punishment), we need to be careful. However, there are also crimes that Diyyat is threatened with. This Diyyat was made because the victim's family apologized to the perpetrator (offender). (Kahar Muzakir, 2022) Like premeditated murder.

Sources of Islamic law directly from Allah SWT, who knows everything both visible and hidden. Therefore, Islamic law conforms to human needs wherever and whenever. It is Allah SWT who can provide laws, regulations, and statutory provisions that are suitable for humans as created beings. God created man, so he knows the human condition. Humans when setting policies and laws, God's guidance is always upheld. In the view of Islamic teachings, the punishment in the hereafter will be more severe than the punishment that the world now receives, so Muslim society recognizes that all Muslims will comply with all orders and prohibitions in accordance with the provisions of Islamic law.

Adultery is sexual intercourse between a man and a woman without being bound by marriage. Al-Syarbini said that adultery is one of the most heinous major sins, no religion has permitted it, therefore the sanctions are very severe, because it threatens honor and kinship relations. (Muhammad Khotib Al-Syarbini, 2009) Furthermore, Qadir Audah said adultery is sexual intercourse that is forbidden and intentional by the perpetrator. (Achmad Irwan Hamzah dan Havis Aravik, 2022)

According to the Criminal Code, adultery is only limited to sexual intercourse. Adultery is a criminal law itself and is attached to the existence of "sexual intercourse" which can be legally proven as a misdemeanor. That means adultery is rarely used in law enforcement practices because it is legally abolished in almost all Islamic countries and communities.

Indonesia itself, the laws governing the criminal act of adultery and the prohibition of adultery are still weak and not in accordance with the general will of the people. Therefore, adultery is very common in Indonesia. Especially in this modern era with technological advances that can also expand the practice of adultery.

Law Number 1 of 2023 Concerning the Criminal Code in article 411 (Law Number 1 of 2023 concerning the Criminal Code) stipulates that any person who has intercourse with someone who is not his husband or wife shall be punished for adultery with a maximum imprisonment of 1 (one) year or a maximum fine of category II. However, paragraph 2 that against the criminal act referred to in paragraph (1) no prosecution is carried out except on a complaint; a). husband or wife for people who are married or, b). parents or children for people who are not bound by marriage. This second verse

shows that there are weaknesses in the difficulty of reporting because only family members are accepted in reports of adultery.

Researchers try to find weaknesses in law enforcement related to adultery. The problem with adultery that until now has not been carried out is that the police cannot hold the perpetrators of adultery as prisoners. In this study, researchers view the existence of legal threats as a deterrent effect, which ultimately leads to awareness for them.

The adultery law in force in Indonesia wants a formal bond between the woman and the man. However, currently there is a lot of moral decline in Indonesia which is marked by the many violations of immoral crimes that we can see happening almost everywhere. Adultery offenses can occur for several reasons. Among them is that society's perspective has changed direction, society is currently adapting to westernized behavior in all respects, including the way women and men are treated as free people. So that they dare to have intercourse without legal marriage ties. As with officials and society, many household problems lately have led to divorce in the Religious Courts.

The reason for the divorce is that one spouse commits adultery with the other. That is why the party disappointed by the adulterous spouse will prefer to sue for divorce rather than reporting to the authorities for the target of punishment in law.

2. METHODS

This research method is library research (library research) because the data or materials needed in completing the research are obtained from library research. The data referred to are in the form of books which are of course directly and indirectly related to the research in question, namely about adultery, both from fiqh books that explain adultery, books that explain adultery, books on the effects of adultery both law and social security, and the main data is Law Number 1 of 2023 concerning the Criminal Code. The data obtained is then collected and analyzed. The purpose of this study is to analyze adultery law after the passing of the Criminal Code Bill to become Law Number 1 of 2023 concerning the Criminal Code so that it can be more applicable in society.

3. FINDINGS AND DISCUSSION

3.1. Zina in Fiqh Jinayah

Zina is inserting a penis into the vagina (faraj) that does not belong to him (not his wife) and there is no element of doubt (resemblance or error). It can be called an act of adultery if it has two elements, namely (1) sexual intercourse between two people of different sexes who do not have a husband and wife relationship. (2) there is no mistake or similarity in the sex act. According to Asyadullah, adultery

is the act of having unlawful sexual intercourse in the genitals or anus by two or more people who are not husband and wife. (Asadullah al Faruq, 2009)

Based on The first factor is that the hadith law for the act of adultery will not be imposed if two people of different sexes do not meet before the act of hugging and kissing. However, they may be subject to Tazir laws or laws devoted to education, and offenders may flee action to avoid adultery. Even though he had just committed an act that was meant to initiate adultery, it was said that the act was still against the law and the perpetrator was a person who had committed only a sinful act. (Q.S al-Isyro': 32)

The law for the perpetrators of adultery is divided into two groups. This is distinguished because the perpetrator has never been married or not. For perpetrators who are in an engagement with another person or have engaged in an engagement and have a relationship with a non-legal partner, they will be subject to the most severe punishment compared to perpetrators who have never been married. In this explanation, fiqh scholars call them zina muhsan and ghairu muhsan.

The legal basis for adultery can be found in the Qur'an and al-Hadith as follows;

الرَّانِيَةُ وَالرَّانِي فَاجْلِدُوا كُلَّ وَاحِدٍ مِّنْهُمَا مِائَةَ جَلْدَةٍ وَلَا تَأْخُذْكُمْ بِهِمَا رَأْفَةٌ فِي دِينِ اللَّهِ إِنْ كُنْتُمْ تُؤْمِنُونَ بِاللَّهِ وَالْيَوْمِ الْآخِرِ وَلَيْشُنَّ عَذَابُهُمَا طَائِفَةٌ مِّنَ الْمُؤْمِنِينَ

Meaning: "A woman and a man who commit adultery, lash each one of them a hundred times and let not compassion for them prevent you from (carrying out) Allah's religion (law) if you believe in Allah and the Last Day. Let the (implementation of) their punishment be witnessed by some of the believers." (Q.S an-Nur: 2)

و حَدَّثَنَا يَحْيَى بْنُ يَحْيَى التَّمِيمِيُّ أَخْبَرَنَا هُشَيْمٌ عَنْ مَنْصُورٍ عَنِ الْحَسَنِ عَنْ حِطَّانِ بْنِ عَبْدِ اللَّهِ الرَّقَاشِيِّ عَنْ عَبَادَةَ بْنِ الصَّامِتِ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ خُذُوا عَنِّي خُذُوا عَنِّي قَدْ جَعَلَ اللَّهُ لَهُنَّ سَبِيلًا الْبِكْرُ بِالْبِكْرِ جُلْدُ مِائَةٍ وَنَفْيُ سَنَةٍ وَالنَّثِيبُ بِالنَّثِيبِ جُلْدُ مِائَةٍ وَالرَّجْمُ وَ حَدَّثَنَا عَمْرُو النَّاقِدُ حَدَّثَنَا هُشَيْمٌ أَخْبَرَنَا مَنْصُورٌ بِهِذَا الْإِسْنَادِ مِثْلَهُ

Observing the two legal sources above, it has been clearly stipulated for the perpetrators of adultery with punishments in the form of exile, flogging and stoning. This model of punishment is referred to as a had because it has already been determined. The judge may not change, reduce, add, postpone and replace it because there are rights of God and society in accordance with the existing text. (Sahih Muslim : No.3199)

The three models of punishment are of course intended for those with marital ties or have been married or are still virgins and virgins. Of course these conditions also get a model of punishment that is not the same. For those who are not married will be subject to flogging and exile. But for those who have been married, the punishment is stoning.

In accordance with the above argument, young men and virgins who commit adultery will be subject to a hundred lashes in accordance with the text above. Furthermore, it will also be subject to exile for one year. As for those who are married or have been married will be subject to stoning.

According to Imam Al-Hasan, Ishak, ibn Mundzir, the Zhahiriyyah group, Syi'ah Zaidiyah, and a history from Imam Ahmad, the punishment of one hundred floggings or volumes is still carried out against muhsan's adultery in addition to stoning. The reason is that the Al-Qur'an makes binding punishment as the basic punishment for adultery, as mentioned in the word of Allah Sura An-Nur verse 2. Then comes al-Hadith which explains the law of stoning for those who are already married. Thus, the implementation must be combined with the punishment. (Ahmad Wardi Muslih, 2005)

Meanwhile, according to Imam Malik, Shafi'I, Abu Hanifah and a history from Imam Ahmad, the punishment for adultery muhsan is simply stoning and not combined with bindings or flogging. The reason is that according to them in terms of meaning (meaning and purpose of law), according to general rules, lighter laws are covered by more severe punishments because the purpose of punishment is for prevention. If flogging is combined with stoning, the punishment has no meaning and no effect on deterrence. (Abdul Al-Qadir Al-Audah, 1996)

3.2. Development of Adultery Law in Law in Indonesia

The Indonesian Criminal Code defines adultery as a crime whose parameters are regulated in Articles 284, 287 and 288 of the Criminal Code, but are limited to married offenders and must first report which party feels aggrieved. According to Article 28 of the Criminal Code, this action includes adultery, one of the perpetrators must have a husband and wife relationship and the provisions of Article 27 BW apply. Legal action can be taken against the perpetrator if there is a claim from the aggrieved party. According to Article 287 paragraph 1 of the Criminal Code "Anyone who has intercourse with a woman out of wedlock, even though it is known or should reasonably be suspected, that she is not yet fifteen years old, or if her age is not proven, that she is not yet capable of marriage, is punishable by a maximum imprisonment of nine years ". These provisions include only having sex with women who are not their wives and who are not yet 15 years old or are not yet married. The penalty for the perpetrators is imprisonment for a maximum of 9 years.

Meanwhile, according to Article 288 (1) of the Criminal Code "Anyone who has intercourse with a woman in marriage, of whom it is known or reasonably should be suspected that before being able to marry, is threatened, if the act results in injury, with a maximum imprisonment of four years". The article only regulates sexual relations with wives who are underage for marriage. Thus, a person can be charged with violating Article 288 of the Criminal Code if the victim is a minor and his actions result in injury or death. Another thing that needs to be proven in this article is that sanctions can only be imposed if the act of intercourse causes injury or death.

Considering the provisions on sexual crimes described above, it appears that even though they generally contain acts of threatening sexual violence, they are not sufficiently compelling to attract the perpetrators. From these facts it can be seen that there are losses that can open up the possibility of escape for the perpetrators. In society, sexual relations are not within the scope of actual marriage. law, both by religion and by State law, is not a crime or behavior that can be punished, this shows a deviation that is very far from the truth.

The Indonesian state is actually not a religious state, but it is also not a free country just like that, that Indonesia is a country based on Pancasila, and in essence the act of adultery is clearly very contrary to the values of God Almighty. The desire to change the existing Criminal Code is a natural condition considering that the Criminal Code is deemed unable to meet the wants and needs of the community. Even when compared with Islamic fiqh, it can be seen that the Criminal Code is far behind. (Sahran Hadziq, 2019) This description shows that the discussion of Islamic fiqh is more comprehensive in the field of adultery in the Criminal Code itself. So it is true that the need for changes to the Criminal Code must continue to be encouraged so that the Criminal Code which is used as the basis for judges really takes on its role in the development of Indonesian society.

At the end of 2022, the state has given gifts to its people for the success in enacting the Draft Criminal Code into an Act at the DPR RI Plenary Meeting, namely Law Number 1 of 2023 concerning the Criminal Code. The Minister of Law and Human Rights, Yasonna H. Laoly in his remarks said that this ratification was a historic moment in the administration of criminal law in Indonesia. After years of using the Dutch-made Criminal Code, Indonesia now has its own Criminal Code. According to Yasonna, it is felt that this Dutch product is no longer relevant to the conditions and needs of criminal law in Indonesia. This has become one of the urgency of ratifying the Criminal Code Bill. He said that "Dutch products are no longer relevant to Indonesia. Meanwhile, the Criminal Code Bill has been very reformative, progressive, and also responsive to the situation in Indonesia," Yasonna added, we should be proud because we succeeded in having our own Criminal Code, not made by other countries. If calculated from the entry into force of the Dutch Criminal Code in Indonesia in 1918, it has been 104 years to date. (Kemenkumham, 2023) It has been a very long period of time that Indonesia finally has laws that are more applicable to Indonesians.

Further explanation by the Coordinating Ministry for Maritime Affairs and Investment of the Republic of Indonesia that Law Number 1 of 2023 shall take effect after 3 (three) years from the date of promulgation or 3 (three) years after January 2, 2023. The Criminal Code or Criminal Code is a statutory regulation that regulates material criminal acts in Indonesia. Ratification of the Criminal Code through Law No. 1 of 2023 is at the same time replacing *Wetboek van Strafrecht* or what is also called the

Criminal Code as stipulated by Law Number 1 of 1946 concerning Criminal Law Regulations which have been amended several times. (Jdih, 2023)

Discussion of the act of adultery can be found in article 411 of Law Number 1 of 2023. (1) Any person who has intercourse with a person who is not his husband or wife shall be punished for adultery with a maximum imprisonment of 1 (one) year or a maximum fine of category II. (2) Against the Crime as referred to in Paragraph (1) no prosecution is carried out except for complaints of: a. husband or wife for people who are bound by marriage; or b. Parents or children for people who are not bound by marriage. (3) The provisions as referred to in Article 25, Article 26 and Article 30 do not apply to complaints as referred to in Paragraph (2). (4) Complaints can be withdrawn as long as the examination at the trial court has not yet started.

Then, related to cohabitation or cohabitation or living together is regulated in Article 412 of the Criminal Code. (1) Any person living together as husband and wife outside of marriage shall be subject to imprisonment for a maximum of 6 (six) months or a maximum fine of category II. (2) Against the Crime as referred to in Paragraph (1) no prosecution is carried out except for complaints of: a. Husband or wife for people who are bound by marriage; or b. Parents or children for people who are not bound by marriage. (3) The provisions of Article 25, Article 26 and Article 30 do not apply to complaints as referred to in Paragraph (2). (4) Complaints can be withdrawn as long as the examination at the trial court has not yet started.

3.3. Impact of Adultery

Adultery is an act with many disadvantages, but most people are not aware of the negative effects. This can be seen from the rise of prostitution both in the form of localization as well as the use of sophisticated technology as a means, for example online prostitution on social media on the Internet. Adulterers must realize that adultery is an evil act and a dangerous way. Islam has considered it a criminal act and the perpetrator has the right to be punished as severely as possible. (Ali Abubakar, BM-CSH, 2018) That view is dictated by the very harmful consequences for their morals.

Adultery in Islam is not only an act that has the effect of a grave sin for the perpetrator, but also an act that can open the door for other despicable acts, destroys the honor of the family, causing division, tarnishes and spreads many diseases, both physical and mental.

Adultery causes AIDS, for which there is currently no cure. AIDS can only be transmitted through blood transfusions and sexual contact. Therefore, the best way to prevent transmission of this disease is to eliminate sex outside of marriage. This disease does not only attack adulterers but also children and adults who have never had an affair. (Hanifah, S. D., Nurwati, R. N., & Santoso, M. B, 2022) Because transmission can occur through blood relations, for example, parents who have AIDS can pass it on to their unborn child. This can be found in the case of the Nagari Lunto community, who have the same

tribe as the adulterer, who are not allowed to marry until the adulterer pays the fine determined by KAN. If for three months the adulterer has not paid the stipulated fine, then the adulterer will be dishonorably expelled from the village and there will be no reason for the adulterer to remain in the village, because this is an agreement between the niniak mamak and the Nagari community. Nagari Lunto. (Djun'astuti, E., Tahir, M., & Marnita, M, 2022)

3.4. Grounding the Law of Adultery in Indonesia

Indonesia is a country that adheres to pluralism in the field of law, where there are three laws that are recognized and upheld, namely western law, religious law and customary law. The implementation of western law in this case is our written law in the form of the Criminal Code and the Civil Code as well as the procedural system. In religious law, the form of community obedience to religious law in community activities. Whereas in customary law, this recognition is also contained in the law, in fact, there are still many people who use customary law to regulate their daily activities and resolve existing problems. Each region in Indonesia has its own customary law system to regulate diverse social life, most of which are not in the form of written law.

Customary law develops in accordance with the development of society and existing folk traditions. Customary law is a collection of decency in a society and its truth is accepted by that community. In its development, the practices found in the so-called common law society question whether the common law rules can still be used to regulate people's daily activities and to solve problems that arise in common law society. Meanwhile, on the other hand, the state also has laws and other statutory regulations issued by legislative bodies or bodies. Common law and state law have different binding powers, and although constitutionally the same, they differ in form and aspect. (Suprayogi, R., & , F, 2022)

The presence of customary law has been recognized by the state but its use is limited. State recognition of this customary law can be found in article 18B paragraph 2 of the 1945 Constitution "The state recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated in law". (UUD 1945) Further details can be found in Article 3 of the UUPA "The implementation of customary rights and similar rights from customary law communities as long as in reality they still exist must be in such a way as to be in accordance with national and state interests which are based on national unity and may not conflict with laws and other higher regulations". (UUDPA)

The explanation above shows that the State upholds the local community's wisdom, namely customary law. Customary law is considered capable and applicable in the application of law enforcement to regulate the lives of their own people. The wisdom of customary law is appreciated by

the State with recognition of its legal force, preservation and needs to be maintained so that it is maintained.

Whereas in religious law, especially Islam, it shows that they will obey their God. Indonesian people are very obedient and obedient to the religion they believe in. This can be found in almost all kinds of community activities that cannot be separated from religious rituals, in fact many things this understanding of religion has influenced almost all areas of life in the midst of society from birth celebrations to death, religion also colors their activities..Daud Ali is of the opinion that there are two types of Islamic law that apply in Indonesia, namely normative and formal juridical. Islamic law that applies nomatively is part of Islamic law which has social sanctions if the norms are violated. Whether the sanction is strong or not depends on whether Muslims' awareness of these normative norms is strong or not. Normative Islamic law includes prayer, fasting, zakat, and pilgrimage. (Muhammad Daud Ali, 1990) In this normative, the state's participation in equality does not regulate in depth directly on the object of its legal action. Indeed, we can find that in several regions there are regional regulations relating to prayer and fasting, but they only discuss the implementation of the call to prayer and iqomah from the time and sound. Unlike zakat and hajj which are published in detail, in terms of fiqh this discussion goes to the core object of implementing the law, namely its terms and pillars.

Islamic law which is formally juridical in nature, namely relating to aspects of muamalat, especially in the civil field, some of which have become part of positive law in Indonesia, where the transition process into positive law must be based on rules and regulations, for example marriage law, inheritance law, and legal compiled waqf. (Muhammad Daud Ali, 1990) So far, the formal juridical nature of the state has been more accommodating as evidenced by the emergence of law number 1 of 1974 concerning marriage and further strengthened by the Compilation of Islamic Law.

Islam is present, it is believed that the whole relationship between humans and humans, humans and God and humans and nature has been contained in the Qur'an without exception. Likewise in the discussion of Islamic law, namely fiqh, there are many fiqhs that are discussed, such as jinayah fiqh. Where this jinayah fiqh discusses issues related to public crime including adultery in it. However, there are no specific regulations by the State regarding this adultery.

In its development, adultery has appeared in the Dutch-adopted Criminal Code but it is felt that the spirit has not been fully adopted in this law. There is still criticism because it is not in accordance with the cultural values of society and religion in Indonesia. In subsequent developments, if you count from 1918 the Dutch Criminal Code existed in Indonesia, it was recorded that approximately 104 years later the Indonesian version of the Criminal Code appeared at the end of 2022 yesterday. The adultery issue has gone up one level from the old Criminal Code, although it is also felt that it has not fully accommodated the values that exist in society and religion in Indonesia.

The discussion of adultery is in Law Number 1 of 2023 Concerning the Criminal Code Article 411 as follows;

- a. Any person who has intercourse with someone who is not his husband or wife shall be punished for adultery with a maximum imprisonment of 1 (one) year or a maximum fine of category II.
- b. Against the crime referred to in paragraph (1) no prosecution is carried out except on complaints;
 - a). husband or wife for people who are married or,
 - b). parents or children for people who are not bound by marriage.
- c. Against the complaint referred to in paragraph (2) does not apply as intended in article 25, article 26 and article 30.
- d. Complaints can be withdrawn as long as the examination before the court has not started.

Discussion of adultery in Law Number 1 of 2023 concerning the Criminal Code which was passed by the DPR at the end of 2022 yesterday has expanded the meaning of adultery compared to the meaning of adultery in the old Criminal Code. It can be felt that it does not differentiate between actors who are married or who have not yet entered into a marriage. This will be a consideration for anyone in society, regardless of whether he is married or not married if he is going to commit adultery.

Criminal threats in the formulation still use absolute complaints or complaint offenses instead of ordinary offenses. Formally, submissions for the crime of adultery are those who are husbands or wives or children or parents who are harmed. Complaints against those who are considered aggrieved actually still feel not in line with the socio-cultural Indonesian society which is familial and not individualistic. It can be understood that adultery is not just an individual problem between the perpetrators but a social and religious problem and disease. Adultery will have a negative impact on the perpetrators themselves and their families and will also damage the social fabric of society. So actually it is not right if the adultery problem is an absolute complaint only to those who have ties, but the community must bear it.

Furthermore, criminal threats in the formulation of legal impact on the perpetrators are still considered minor crimes. The crime for the perpetrators of adultery is punishable by imprisonment for a maximum of 1 (one) year or a maximum fine of category II (in the explanation referred to in category II, it is Rp. 10,000,000.-). If you look at the impact that can be from adultery, such as the psychological impact on the family, society and causing dirty diseases and others, it is still felt that there is an imbalance between the threat and the impact that will arise from the adultery.

Even though there are still many deficiencies in the Criminal Code that have been passed into law by the government, the whole community should support everything that has been passed while always criticizing for better achievements in the future. By continuing to look for solutions and ways so that the adultery problem is stronger and has wide opportunities, especially for the perpetrators of

adultery, to be punished according to the socio-cultural spirit of the Indonesian people and their religious beliefs.

Law enforcement for the perpetrators of adultery is indeed narrow because the prosecution is the family, namely the husband or wife for those who are married and parents and children for those who are not married. This should be encouraged so that their "family" is strongly willing to report an act if a member of their family commits an act of adultery. because this case of adultery comes from various backgrounds because, from their consent, necessity to being forced. Dating couples, cheating partners to commercial sex work. Whatever the reasons from a legal point of view, the spirit of the Indonesian nation of adultery is still the perpetrators who will bring badness to the family and society, more than that, the nation's prestige is also threatened if it becomes rampant.

Under these conditions, indigenous peoples must be more stringent in protecting their environment from adultery, especially in certain places such as tourist attractions, rented houses, boarding houses and so on. Of course, through the community's own customary law, the perpetrators of adultery can be encouraged to be processed by the police. The police will be in trouble if there is no official report from the family as stated in the law, namely husband or wife for those who are married and parents or children for those who are not married. Indigenous peoples as a solution, what are the opportunities for adultery perpetrators to be ensnared without complications. Jointly reporting with the family before the State, indigenous peoples participate in encouraging the perpetrators of adultery to reconsider if they want to commit adultery again.

This matter is of course very effective in protecting the environment of the people from actions that are contrary to the socio-culture of the people of the archipelago, especially the religions in this archipelago. The presence of customary law also adjudicates and encourages adultery perpetrators to be reported to the police through their families so that families, with encouragement from the community, will feel psychologically admitting to their families that committing adultery is reported officially.

Legal awareness must indeed be built properly, one of which is through the community itself. So that the law is not felt to be scary for anyone who violates it, more than that it reaches a level of legal awareness compared to fear of the law. Because the culmination of a punishment is realizing a mistake and intending not to repeat it. The law must be upheld straightly, go hand in hand with people's lives, in other words, grounding the law in the midst of society so that people will not be burdened with the law, and even people live together with the law.

4. CONCLUSION

Adultery must be positioned as a public crime, it will have an impact not only on the perpetrators but will also have an impact on the extended family and the surrounding community and even the dignity of the nation if it becomes rampant. Besides that, this act is also very contrary to the socio-cultural, customs and religion of this nation. There is not a single custom found regarding the halalness of adultery let alone for religions in Indonesia. Therefore, the perpetrators must be punished according to the laws and regulations in force in Indonesia. The latest regulations can be found in the Criminal Code Bill which will then be officially made into law at the end of 2022. However, although it is still not strong enough to encourage the perpetrators of adultery, it is considered that there has been a development and expansion of meaning by expanding it for actors who are bound in marriage and not bound in marriage. Even though there are still weaknesses, customary law can play a role in encouraging the perpetrators of adultery to be caught by the law. Through the customary wisdom of the community, families are encouraged to report the perpetrators of adultery as a form of family and community protection.

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