



Juridical Analysis of Criminal Liability for Perpetrators of Public Indecency: A Study of Simalungun District Court Decision No. 314/Pid.Sus/2022/PN.SIM

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Article Info

Article history:

Received :
Revised :
Accepted :
Available online
<http://jurnal.uinsu.ac.id/index.php/analytica>

E-ISSN: 2541-5263

P-ISSN: 1411-4380

How to cite:



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ABSTRACT

The crime of violating decency in front of another person in Article 281 first and second of the Criminal Code is the prohibition of violating decency in public - namely in a public place or in a place that is not a public place but can be seen/heard from a public place -, or in front of another person against his/her will. The definition of violating decency is a violation of manners in the sexual field, where the act of violating decency can generally cause feelings of shame, feelings of disgust or stimulation of people's lust. Immoral acts are one of the problems that are quite concerning. Judging from the various cases, be it cases of sexual abuse, adultery or same-sex relationships, it has become a serious problem. The perpetrators of immoral crimes today are no longer just adults, but even minors have many cases as perpetrators of immoral crimes. This is influenced by various things, one of which is due to the easy access to pornographic videos on social media.

Keywords: Indecent Crime, Violation of Decency, Article 281 of the Criminal Code.

ABSTRAK

Tindak pidana melanggar kesusilaan di depan orang lain dalam Pasal 281 kesatu dan kedua KUHPidana adalah dilarangnya perbuatan melanggar kesusilaan di depan umum - yaitu di tempat umum atau di tempat yang bukan tempat umum tetapi dapat dilihat/didengar dari tempat umum - , atau di depan orang lain bertentangan dengan kehendaknya. Pengertian melanggar kesusilaan merupakan pelanggaran sopan santun dalam bidang seksual, di mana perbuatan melanggar kesusilaan itu pada umumnya dapat menimbulkan perasaan malu, perasaan jijik atau terangsangnya nafsu birahi orang. Tindakan asusila merupakan salah satu permasalahan yang cukup memprihatikan. Dilihat dari berbagai kasus, baik itu kasus pencabulan, perzinahan maupun hubungan sesama jenis sudah menjadi masalah yang serius. Para pelaku tindak pidana asusila pada zaman ini bukan lagi hanya golongan usia dewasa, tetapi anak di bawah umur pun banyak terjadi kasus sebagai pelaku tindak pidana asusila. Hal ini dipengaruhi oleh berbagai hal, yang salah satu faktornya adalah

dikarenakan mudahnya mengakses video-video porno di sosial media.

Kata Kunci: Tindak Pidana Asusila, Melanggar Kesusilaan, Pasal 281 KUHP.

1. INTRODUCTION

Acts of public indecency have become a pressing social issue in Indonesia, raising concerns among the public and legal authorities (Waagstein, 2011; Isra et al., 2017). The increasing prevalence of such offenses, particularly in public spaces, has led to growing demands for stricter law enforcement and clearer legal frameworks (Faroque & South, 2022; Mehranfar & Jones, 2024). Cases involving public indecency often provoke social unrest due to their moral and ethical implications. In many instances, perpetrators engage in indecent acts in public places, which not only violates societal norms but also disrupts public order. The Indonesian legal system has responded by imposing criminal sanctions against such acts to maintain public morality and social harmony (Marzuki, 2023; Sirait et al., 2024). One such case was adjudicated by the Simalungun District Court in Decision No. 314/Pid.Sus/2022/PN.SIM, which highlights the importance of legal accountability in dealing with acts of public indecency.

From a legal standpoint, public indecency is a criminal offense regulated under Article 281 of the Indonesian Criminal Code (KUHP), which states that individuals committing indecent acts in public can be punished with imprisonment or fines. The concept of criminal liability in cases of public indecency is rooted in the principle that such acts violate moral values upheld by society and disrupt public order (Asif et al., 2024; Suhartoni et al., 2024). Legal scholars emphasize that criminal responsibility in such cases is determined by the presence of intent (*mens rea*) and the commission of the act (*actus reus*). Additionally, legal experts argue that judges must consider various aspects, including the severity of the act, its impact on public order, and the legal provisions applied in each case (Bhuiyan, 2021; Canale, 2021). The adjudication of public indecency cases often involves complex legal interpretations, particularly in distinguishing between acts that warrant criminal penalties and those that may fall under administrative sanctions or moral reprimands.

This study aims to provide a juridical analysis of criminal liability in cases of public indecency, focusing on the Simalungun District Court Decision No. 314/Pid.Sus/2022/PN.SIM. Specifically, this research seeks to examine the legal basis for convicting perpetrators of public indecency, the factors considered by judges in determining criminal responsibility, and the consistency of judicial decisions in similar cases. By analyzing court decisions, this study aims to assess the extent to which existing laws effectively regulate public indecency and whether judicial interpretations align with broader legal principles. Additionally, this

research will explore whether the legal sanctions imposed are proportionate to the nature of the offense and whether any legal reforms are necessary to enhance the enforcement of public morality laws.

Based on the social and legal perspectives discussed, the hypothesis of this study is that judicial rulings on public indecency cases in Indonesia remain inconsistent due to varying interpretations of legal provisions and the discretionary nature of judicial decision-making. While Article 281 of the KUHP provides a legal basis for penalizing public indecency, differences in judicial reasoning often lead to disparities in sentencing. In the case examined, it is hypothesized that the court's decision was influenced not only by legal considerations but also by moral, social, and cultural factors, which may have impacted the severity of the punishment. Furthermore, the study posits that judicial inconsistencies may arise due to the lack of clear legal definitions regarding what constitutes public indecency and the threshold for imposing criminal sanctions. Consequently, this study emphasizes the need for clearer legal interpretations and standardized sentencing guidelines to ensure fairness and uniformity in judicial decisions related to public indecency cases.

2. RESEARCH METHOD

This study employs a juridical-normative approach, which focuses on analyzing legal norms related to criminal liability in cases of public indecency as stipulated in Indonesian law. The research is conducted through a case study of Decision No. 314/Pid.Sus/2022/PN.SIM, adjudicated at the Simalungun District Court. The library research method is used to collect secondary data, including legislation, legal literature, and judicial precedents relevant to the application of Article 281 of the Indonesian Criminal Code (KUHP) in cases of public indecency (Marzuki, 2017). Additionally, field research is conducted at the Simalungun District Court to obtain primary data through interviews with legal practitioners, including judges, prosecutors, and defense attorneys involved in the case.

The data collection techniques involve document analysis, literature review, and in-depth interviews. The document analysis method is used to examine legal texts, judicial decisions, and case law to understand how courts interpret and apply legal provisions on public indecency. The literature review aims to explore theories of criminal liability and their relevance to public indecency cases (Soekanto & Mamudji, 2003). Meanwhile, in-depth interviews provide insights from legal professionals regarding judicial considerations, sentencing factors, and the challenges in adjudicating public indecency cases.

For data analysis, this study applies qualitative legal analysis, which involves systematically interpreting legal norms, judicial decisions, and interview findings to identify patterns, inconsistencies, and potential gaps in the enforcement of

public indecency laws. The comparative approach is also employed to assess whether judicial decisions in similar cases have been consistent and aligned with legal principles (Peter Mahmud, 2015).

The research location at Simalungun District Court serves as the primary setting for data collection, ensuring that the study provides an in-depth understanding of judicial reasoning in public indecency cases. Through this methodological framework, the study aims to contribute to legal scholarship by offering recommendations for improving legal certainty, judicial consistency, and the effective enforcement of public morality laws in Indonesia.

3. RESULT AND ANALYSIS

Criminal Liability and Public Indecency in Indonesian Law

Crime is not an inherent trait from birth nor a hereditary biological factor; rather, it is a social phenomenon influenced by environmental, psychological, and legal factors. Criminal behavior can be committed by anyone, regardless of gender or age. While some crimes are committed intentionally, others may occur inadvertently. The development of Indonesian criminal law, particularly in special criminal laws and legislation outside the KUHP, indicates a growing trend of a dual-track system that integrates both punitive sanctions and rehabilitative measures to address various offenses (Hermawan & Wulansari, 2024).

Crime is categorized as a criminal offense because it violates established social norms and causes harm to individuals and society. Therefore, criminal acts must be legally accounted for, considering the negative consequences they produce. The concept of criminal liability (criminal liability) consists of two key elements: "criminal" (offense) and "liability" (responsibility). In Indonesian legal terminology, criminal liability is more accurately translated as "pertanggungjawaban pidana" (criminal accountability) rather than "pertanggungjawaban kejahatan" (crime liability), as the latter may imply a broader or different legal interpretation (Imaroh et al., 2023; Sari & Junaidi, 2023). The essence of criminal responsibility lies in determining whether an individual should be punished or acquitted based on the elements of the offense they have committed.

The rationale behind criminal punishment has been extensively discussed in legal literature and has evolved over time. The fundamental purpose of criminal sanctions is to achieve justice, deterrence, and rehabilitation. There are three main objectives of criminal punishment:

1. Rehabilitation – To reform and reintegrate offenders into society.
2. Deterrence – To prevent both the individual offender and others from committing crimes.
3. Incapacitation – To prevent habitual offenders from repeating their crimes by restricting their ability to do so (Altman, 2021; Ilic, 2023).

In the context of criminal liability for public indecency, the legal system must ensure that criminal sanctions are imposed in proportion to the offense committed. According to Articles 281–303 of the KUHP, offenses related to indecency are punishable under Indonesian criminal law. This study particularly focuses on Article 281, which regulates public indecency and outlines specific elements that must be met to qualify an act as a criminal offense.

For an act to be classified as public indecency under Article 281 KUHP, it must fulfill one of the following elements:

1. Intentionally engaging in indecent conduct in a public space, meaning the act is performed in a location visible or accessible to the public, such as streets, cinemas, markets, or other public venues.
2. Engaging in indecent conduct in front of an individual who did not consent to witnessing it, even if the act does not occur in a public space. If a person is subjected to an indecent act against their will, the offense still qualifies as a criminal act under this article (Soekanto & Mamudji, 2003).

Criminal liability is determined by assessing whether an individual violated legal prohibitions or created a legally prohibited condition. In legal terminology, two terms are often used: liability and responsibility. Liability refers to legal accountability for wrongful acts, while responsibility relates to the duty to uphold legal and ethical obligations (Simester, 2021). In practical application, liability is associated with legal consequences, while responsibility may also extend to political and moral obligations.

In cases of public indecency, criminal liability is subject to judicial interpretation. Judges must carefully examine the circumstances, intent, and impact of the act before imposing criminal sanctions. If an individual knowingly commits an indecent act in public, fully aware that it violates moral and legal norms, they are held criminally accountable. However, if the act occurs under coercion or duress, the perpetrator may invoke legal defenses such as force majeure (*overmacht*) or necessity (*noodstand*).

The interpretation of public indecency laws is influenced by cultural norms and societal perceptions. As Moh. Anwar argues, what constitutes indecency varies by time, place, and social acceptance. For example, public displays of affection that may have been considered offensive in the past might now be socially acceptable in urban areas. However, acts of explicit sexual misconduct in public spaces remain punishable under Article 281 KUHP (Ahsani & Heriani, 2023).

Several court rulings illustrate how judges interpret public indecency under Indonesian criminal law. In cases where individuals engage in sexual activities in public or intentionally expose themselves to unwilling observers, judges have upheld criminal liability based on Article 281 KUHP. The following judicial considerations apply:

1. If the act is committed in a public space and is witnessed by multiple people, the offense meets the legal definition of public indecency.

2. If the act occurs in a private setting but is witnessed by a non-consenting individual, criminal liability still applies under Article 281 KUHP.
3. If the act is committed in a closed space without the intent to be seen by others, it does not qualify as public indecency, unless the perpetrator deliberately involves a third party in their conduct.

For instance, if a couple engages in sexual activity in front of others who are forced to witness it, the act constitutes public indecency. However, if the act takes place in a private residence with closed doors and windows, it may not be categorized as public indecency unless the perpetrators deliberately allow outsiders to observe. Thus, in adjudicating public indecency cases, judges must consider intent, location, visibility, and the presence of unwilling witnesses. The court must ensure that criminal penalties are imposed fairly, balancing legal certainty with social norms. Given that the KUHP does not provide an explicit definition of indecency, legal interpretation remains crucial in determining criminal liability.

Countermeasures against Public Indecency Crime

In Indonesia, cases of sexual offenses and acts of public indecency continue to be a recurring issue, attracting significant public attention. These offenses are not limited to specific age groups or social classes but can be committed by anyone, including children, adults, students, and even public officials. Over time, indecent acts have increasingly taken place in public spaces, making the issue more concerning in modern society. The rise of public indecency cases highlights the urgent need for preventive measures and legal interventions to curb such behavior and protect public morality (Smart, 2024).

Addressing public indecency and sexual offenses requires both preventive (preemptive) and repressive (penal) measures. Preventive efforts focus on reducing the likelihood of such offenses occurring, while repressive measures involve legal enforcement and penalties imposed after the crime has been committed. A comprehensive strategy must integrate both approaches to create a more effective system for combating sexual offenses and public indecency in Indonesia (Eddyono, 2021).

Preventive measures aim to reduce the occurrence of sexual offenses and public indecency before they take place. Several key strategies can be implemented to prevent such crimes, involving the government, communities, and individuals:

1. Government and Institutional Efforts
 - The government, in collaboration with educational and community institutions, should conduct public awareness campaigns and educational programs to teach families and children about crime prevention.
 - Early sex education is crucial in equipping children with the knowledge to understand their bodies, set personal boundaries, and report inappropriate behavior.

- Parents play a vital role in educating their children about the dangers of sexual offenses and how to protect themselves (Rudolph et al., 2022).
2. Community-Based Prevention
 - Public surveillance and community engagement are essential in preventing public indecency. Society must actively monitor and report any behavior that poses a risk of sexual misconduct in public spaces.
 - Increased community awareness and neighborhood watch programs can serve as effective deterrents against public indecency.
 3. Individual Preventive Actions
 - People should avoid engaging in risky social behaviors, such as excessively liberal social interactions that could lead to unintended public indecency.
 - Engaging in constructive activities, such as community service, religious activities, and youth programs, can help individuals develop a sense of responsibility and morality.
 - Maintaining appropriate conduct in public spaces, including dressing modestly and behaving respectfully, can minimize the risk of unwanted attention or misconduct.

If preventive measures fail, repressive legal actions must be taken to punish offenders. Repressive measures involve law enforcement agencies apprehending and prosecuting individuals who commit sexual offenses or acts of public indecency. These actions typically include:

1. Arrest and Detainment – Suspects of public indecency may be arrested and detained to prevent them from committing further offenses.
2. Legal Proceedings – Offenders are prosecuted under Articles 281–303 of the Indonesian Criminal Code (KUHP), which govern public indecency and sexual misconduct.
3. Criminal Sanctions – Punishments may include imprisonment, fines, or rehabilitation programs, depending on the severity of the offense.

In situations where a public indecency offense or sexual misconduct occurs in a public setting, individuals can take several immediate actions to help the victim and prevent the offender from escaping justice:

1. Diverting the Victim's Attention
 - If a person witnesses someone being harassed or experiencing sexual misconduct in public, they should try to distract the victim and, if possible, the perpetrator.
 - Engaging the victim in casual conversation or pretending to be an acquaintance can help de-escalate the situation.

- If necessary, the victim should be guided away to a safer location.
2. Direct Confrontation of the Perpetrator
 - If the situation allows, confronting the offender directly can stop the act of public indecency.
 - In cases where the perpetrator refuses to stop, bystanders should seek assistance from nearby individuals or security personnel.
 - If the incident escalates, law enforcement should be contacted immediately.
 3. Reporting to Authorities
 - If an incident occurs in public spaces such as malls, offices, or entertainment venues, it should be reported to security personnel.
 - For cases in public transportation, such as trains or buses, victims and witnesses should report the offense to transportation officers or police authorities to ensure swift action is taken.
 4. Recording the Incident for Evidence
 - If safe to do so, witnesses can record the incident discreetly, ensuring that location, date, and time are documented.
 - Capturing clear evidence can assist law enforcement in prosecuting offenders effectively.
 - However, discretion is required to protect the victim's privacy and avoid further harm.

4. CONCLUSION

Acts of public indecency are violations of social norms and involve behaviors related to sexual activity or specific body parts that generally provoke feelings of shame, disgust, or sexual arousal in others. Under criminal law provisions, perpetrators of indecent acts are legally required to take responsibility for their actions, as stipulated in Article 281 of the Indonesian Criminal Code (KUHP), which prescribes sanctions for those who commit obscene acts in public. Efforts to combat public indecency offenses can be carried out in various ways, both through community involvement and individual self-awareness. Preventing indecent acts and sexual offenses must be a collective effort, beginning early within society. One crucial preventive measure is fostering habits that align with moral values upheld by the community. Additionally, self-control through participation in positive activities and strengthening one's connection to religious and ethical values serve as effective strategies in preventing behaviors that deviate from established social norms.

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