

THE CRIMINAL ACTION OF EXHIBITIONISM ACCORDING TO ISLAMIC CRIMINAL LAW

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Abstract: *The result of this research is that exhibitionism actors can be caused by two factors, namely the first (internalinternal) factor, which is anfactor that comes from the actor's self which is seen from the psychological and biological side, the two (externalexternal) factors, namely thefactor. actors who can be influenced by the environment, there are no special factors that cause an exhibitionist because the causative factors depend on the condition of the actor and his environment. In Islamic Criminal Law exhibitionism is snared withpunishment, Ta'zir namely in accordance with the ijihad judge's, the judge determines whether the perpetrator is guilty or not according to the conditions mentioned, in the Nash al-Qur'an and Hadith the punishment for exhibitionism has not been clearly regulated, because exhibitionist this is an issue that recently appeared or happened today and not yet known in ancient times because that sanctions exhibitionist according to the laws of this research includesresearch, empiricalwhereas the specification of this research is qualitative descriptiveanalysis,pedekatan main pursued is obtained through approaches with the law and approach to cases that occur in some areas.*

Keywords: *Exhibitionist, Law Number 44 Year 2008 Pornography, Ta'zir*

The Introduction

Phenomenon of pornography and porno-action has entered a very rapid development because of technology. Humans seem to follow developments in the era of globalization without restrictions. One of the reasons behind the development of pornography and pornography in society is the way to dress minimally or reveal aurat, often watch obscene videos on electronic media, and many other factors that influence this.

The problem of pornography and porno-action has been regulated in the law, namely in KUHP and the Republic of Indonesia Law Number 44 of 2008. If we examine more deeply the cases related to pornography and porno-action are many, one of which is exhibitionism. . The crime of exhibitionism is a new crime and is currently on the rise in Indonesia.

Crimes committed by exhibitionists themselves are crimes of decency because they have violated existing norms, but on the other hand, crimes committed by exhibitionists cannot be punished because of the condition of the perpetrator. The perpetrator usually commits this crime because he has

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sexual disorders so that sexual deviations occur which are marked by exposing their genitals to others, so that their actions cannot be accounted for.

Crimes committed by exhibitionists have been regulated in the KUHP Chapter XIV Article 281 concerning morality and are regulated in RI Law No. 44 of 2008. Exhibitionism in RI Law no. 44 of 2008 is a crime. Offenses in the Republic of Indonesia Law No. 44 of 2008 concerning Pornography is a general offense, not a complaint offense (Mantalean: 2020). Even though the victim of the exhibitionist crime does not complain, the perpetrator will still be processed and prosecuted according to the applicable law according to the perpetrator's actions. The actions carried out by the exhibitionist actors certainly violate the norms of decency that exist in society and will also cause unrest and disturb the peace in society (Hutagaol: 2018).

The cases of pornography and porno-action often occur, such as in 2020 reaching 113 cases in the city of Palembang, and related cases such as harassment, rape, sexual violence and domestic violence (MC Palembang City: 2021). In addition, there are cases handled by the Palembang Police Resort, namely a case of sexual harassment caused by having a sexual disorder or having experienced sexual harassment in childhood (Inge: 2015). These cases will increase if not followed up seriously.

Exhibitionism occurs not only in men but also in women, men with exhibitionism will feel satisfied if women see their genitals, while in women, exhibitors will get satisfaction if they see men aroused because they see their genitals, breasts and genitals. exposed ass. Patients with this exhibition will feel satisfied when the opposite sex sees their genitals in a public place, then the victim will feel shocked by the actions of the exhibitionist (Validho: 2014).

There have been many exhibitionist cases in Indonesia, so the State must follow up on the problem. The exhibitionist case that occurred to the wife of comedian Bajaj at that time in Cipinang, East Jakarta, was carried out by a 48-year-old man with the initial Y who had performed exhibitionist behavior on his victim by showing his gender to his victim. The perpetrators have been arrested by the police for violating the Republic of Indonesia Law Number 44 of 2008 (Gatra, 2021).

The exhibitionist case that occurred in the city of Palembang which had happened a while ago, namely on Jln. Demang Lebar Daun Subdistrict IB 1 Palembang Last Tuesday, January 7, 2020 and had shocked many people who saw it, the culprit was a man wearing shorts and wearing a helmet deliberately holding his genitals and showing it to others. because it will cause more victims, and the government must also be firm in taking action against these cases because this behavior is inappropriate and is an indecent behavior especially when exhibitionists often act in public places, perpetrators suffering from exhibitionism must be quickly followed up with the implementation of the law. The law that regulates the exhibitionist case is contained in the KUHP Article 281 of the concerning Morals and Law of the Republic of Indonesia Number 44 of 2008.

Islam has taught to always stay away from things that are forbidden by Allah, one of which is approaching adultery, Allah commands It is stated in the verse of the Qur'an surah Al-a'raf verse 27. In that verse Allah warns us as human beings, both male and female, so as not to be deceived power by

the devil. The act of showing or revealing aurat to others is an act that is very hated by Allah SWT. Based on the things above, the writer is interested in conducting research on the crime of exhibitionism. The main problem to be studied is the factors that cause someone to commit the crime of exhibitionism in the public space. It will also analyze it from the point of view of Islamic criminal law.

Research Methods

This research is a library research. The data used in the preparation of this research is secondary data consisting of primary legal materials, secondary legal materials and tertiary legal materials. Primary legal materials in this study are binding legal materials, such as Law Number 44 of 2008 and the KUHP. Secondary legal materials are data obtained from library materials, official documents, legal books, general books, scientific journals, and so on. Tertiary Legal Materials, namely explanations of Primary and Secondary legal materials, namely those consisting of the Big Indonesian Dictionary.

In collecting legal materials, both primary and secondary legal materials, they are collected based on problems that will be discussed by researchers by conducting library studies originating from laws, scientific journals, books, library materials and so on. Meanwhile, in analyzing the data, the researcher uses the method of *Qualitative Descriptive Analysis*, which is an analysis that describes or explains as clearly as possible about the problems that will be discussed by the researcher.

Discussion and Results

Exhibitionism

Exhibitionism is a high and repeated fantasy to get sexual satisfaction by showing off one's genitals to others who do not want it. this is usually done to a child (Gerald). Exhibitionism is a group of *paraphilia*, which is a group of disorders that include sexual attraction to inappropriate objects, or inappropriate sexual activity. Exhibitionists themselves will feel satisfied if the victim sees the genitals he is showing, and the victim will feel surprised, exhibitionism can happen to anyone it can also happen to women.

Acts committed by sufferers of exhibitionism is a psychological disorder that occurs in a person's life. the actions or actions carried out by the exhibitionist sufferer can occur anywhere or anytime, for example in a public place with different victims. There are no special characteristics of people with exhibitionist disorder, namely, people who suffer from exhibitionism will usually withdraw from the environment and social interactions and feel ashamed (Mario, 2019).

Acts committed by sufferers of exhibitionism include sexual perversions. Meanwhile, according to Sarlito Wirawan, sexual deviation is divided into 2 types (Sulistiani, 2016), namely: *First, Perpetrators of sexual deviance due to abnormalities in the object*. In this deviation, the sexual urge is the target for satisfying sexual desires, in normal humans the object of sexual behavior is the partner of the opposite sex. But people who have sexual disorders can be objects of the same sex, having sexual relations with

animals, with corpses, sodomy, oral sex, homosexuals, lesbians, pedophiles, and exhibitionists.

Second, Perpetrators of social ethics deviation because of abnormalities in the way. In this type of deviation, the sexual urge that is the target of sexual gratification remains with the opposite sex, but the way to do it is different from immoral and ethical norms, for example: *Adultery*, which is to satisfy sexual desire by having sexual relations with people who are not husband/wife without a legal relationship. *Rape*, which is to satisfy his sexual desire by forcing another person to have sex with him. Sexual intercourse with a relative (Incest) is defined as to satisfy one's sexual desires by having sex with one's own family. Prostitution in the sense that it is not taught in religion, namely to satisfy one's sexual desire by offering or selling oneself to others.

This act of exhibitionism in positive law in Indonesia is not only carried out directly in public places but can also be done indirectly in the media, namely print and electronic media (Ginting, 2017). Exhibitionists will feel masturbated in public after showing their genitals to others. This exhibitionism is a disorder that usually begins in adolescence (Puberty), the urge to show his genitals is very strong and can hardly be controlled by the sufferer, especially when they are experiencing anxiety and sexual arousal. People who suffer from exhibitionism when showing their genitals to others do not care about the social and legal consequences of the actions they do (Wahyuni, 2017).

Factors that cause a person to commit exhibitionism

Crime of Exhibitionism is a sexual disorder and is something that is deviant which is characterized by a penchant for showing one's sex to others (Hakim, 2000: 23). There are many things that cause a person to do things that deviate. Deviance is a disorder or can be called a disorder, while sexual behavior is a sexual activity that is driven by a passion that can be carried out by the opposite sex or the same sex (Jonaedi, 2016: 75). Exhibitionists can also be caused because someone feels very lonely and has a high sex drive so that he experiences stress and does exhibitionism (Rozi & Mubina, 2016).

With regard to the crime of exhibitionism, the Law has made efforts to overcome these crimes. If there are exhibitionist perpetrators, the police must immediately follow up so that the perpetrators can be prosecuted. Therefore, exhibitionism is a general offense because without a person reporting it, the perpetrator will still be processed if he fulfills the elements whether or not the person can be convicted.

In Indonesia, there have been cases handled according to Pengadilan Negeri Sleman No. 173/Pid.B/2016/PN.Smn. The Court's decision is based on the basis for convicting a person using the KUHP article 281 paragraph (2) whose sanctions are "The sentence is imprisonment for a maximum of 2 (two) years and eight months or a maximum fine of Rp. 4,500, and the law and regulation number 44 of 2008 the article that discusses the exhibitionist is contained in article 10 and the sanctions are contained in article 36 which clearly regulates the punishment of a person experiencing exhibitionist disorder. The decision stated that the exhibitionist perpetrator was subject to sanctions because he had intentionally damaged the modesty in front of

others by exposing his private parts in a public place, so that the perpetrator was sentenced to imprisonment for one (1) year.

The offense of exhibitionism in Law No. 44 of 2008 is regulated with the aim of protecting victims of pornography, especially children and women (Kartono, 2009: 252). Exhibitionism is a disease of sexual deviation that occurs today, exhibitionism is a disease characterized by a sexual desire to expose the genitals to others (Fadluni, 2016).

The increase in cases of sexual deviation should be a concern because it can damage the younger generation to come. The factors that cause a person to commit sexual deviations are: *First*, factors that come from within (*intrinsic*) such as heredity associated with a person's physical and mental. *Second*, factors that come from outside (*extrinsic*) in which there are things that damage psychologically and physically caused by environmental factors that are sexually (*traumatizedtraumatic*) (Sulistiani, 2016: 6).

In modern times like now, there are indeed a lot of new cases that have emerged and have only occurred along with the times. Not only that, there are also many factors that cause someone to take actions that are prohibited both in terms of law and religion. There are several factors that can cause someone to carry out an exhibition, namely psychological factors, biological factors and sociocultural factors (Rozi & Mubina, 2016).

A person who performs an exhibitionist act is usually caused by a psychological factor that was not perfect in childhood. This factor is caused by a lack of parenting so that the perpetrators are less able to get along or interact with other people. The attitude that appears in him is a sense of loneliness and low self-esteem. Therefore, experiences in childhood are very influential when they are adults.

Biological factors also play an important role in the actions of a person doing exhibitions. In fact, people who perform exhibitionist actions are generally men who have endrogen hormones which play an important role in exhibitionist disorders because these hormonal factors encourage someone to take exhibitionist actions.

In addition, environmental or sociocultural factors can also cause a person to perform exhibitionism, because what happens in that environment greatly affects him, especially the habit of watching porn, getting drunk and other bad habits that can encourage someone to take exhibitionism.

Other factors that can also cause a person to perform exhibitionist actions are such as: feeling erratic or not settled; Having feelings of anxiety or insecurity; feel himself cornered; and feel himself low (Astuti, 2013).

Review of Islamic Criminal Law for Exhibitionists in Public Spaces

Islamic law does not recognize the term exhibitionist, but it certainly does not justify exposing one's genitals to others in the open, whether it is done by men or women. The Qur'an has mentioned the principle of shame on everyone, even in the Qur'an it has been mentioned the commandment for both men and women to cover their genitals. This is because of the importance of shame in human life (Jonaedi, 2010: 76).

In Islam humans have been ordered to maintain their aurat, especially someone who is an adult (*Baligh*), who is able to distinguish what is allowed or not to be done, and in particular already has lust for the opposite sex. Therefore, Allah explains in His Word, namely the Qur'an

Surah An-Nur verses 30-31. This verse explains that Allah has arranged everything in human life, both male and female. All who are born into this world are pure and have faith and all of them have their limits own. As stated in the verse, that the Qur'an regulates the genitalia of men and women, because it is an ornament that Allah has given to humans to be guarded and not to be shown to someone who is not husband and wife. Humans should always maintain their faith and honor in the eyes of Allah and humans should always draw closer to Allah, because Allah knows what humans are doing on this earth.

By maintaining their honor, humans are always protected from unwanted things, especially women, starting from keeping their views, because that can limit the passions in their minds. The command to cover the genitals is not only to beautify ourselves but also to avoid sin and all forms of crime that often occur around us, especially cases of rape, sexual harassment (Suteja & Komariah, 2019: 261)

Like the exhibitionist case where the perpetrator showed his genitals to other people who do not want it, it is an obscene and inappropriate behavior. In connection with the case discussed that exhibitionism is something that is included in terms of pornography and porno-action, the punishment that can ensnare the perpetrators according to Islamic law has no clear text regulating the sanctions. The crime of exhibitionism is a crime related to one's honor. Therefore, the act by the exhibitionist actor is an act that can oppress others because the victim will feel disadvantaged as a result of seeing the perpetrator. In this regard, exhibitionists can cause social unrest and can make other people sin due to the behavior of that person because they have seen something that should not be seen by other people who are not mahram. Allah forbids someone to do wrongdoing in accordance with the following verse of the Qur'an Surah Al-Furqan: 19:

فَقَدْ كَذَّبْتُمْ بِمَا تَقُولُونَ فَمَا تَسْتَطِيعُونَ صَرْفًا وَلَا نَصْرًا وَمَنْ يَظْلِم مِّنْكُمْ نُدِقْهُ عَذَابًا
كَبِيرًا

The above verse states that Allah has forbidden someone to do wrongdoing in a harmful way. others. Based on this, it is clear that in the exhibitionist case, the perpetrator intentionally showed his genitals to people who did not want to see it so that they felt disadvantaged.

In Islamic law itself there is no punishment that regulates exhibitionism, but this exhibitionism behavior is an act that is prohibited in the Shari'a because it is an act that refers to the act of adultery. In Islam, approaching adultery is prohibited, such as intentions, words or behavior that lead to adultery, including pornographic acts such as showing limbs either directly or through images that can make someone lust. It is stated that exhibitionism is a sexual disorder or mental disorder of a person, of course this problem is only known in modern times as it is now and not known in classical times. If it is associated with criminal liability in Islamic law, that one of the elements is intentional, then in this exhibitionist case the perpetrator has an intention for his actions.

According to Islamic law, exhibitionist cases are something that cannot be found in the Qur'an or Hadith, but Allah has forbidden someone to show their nakedness to other people who are not their relatives because this is a very big sin and is hated by Allah. The command to cover the genitals has been regulated in the Qur'an for those who violate will be sanctioned by Allah, namely a big sin and going to hell because it is mandatory for every Muslim.

In Islamic criminal law the exhibitionist case can be sentenced to *ta'zir*, namely a sanction given by the panel of judges as an education for an unclear offense regulated in Islamic law (Muslich, 2005: 252). The underlying an exhibitionist actors could be wearing *jarimah ta'zir* namely: acts committed no *texts* which clearly whether in *Al-quran* and *Hadith*. Exhibitionist acts are a new problem that was not known in classical times so that the punishment was not clearly regulated in the Qur'an and Hadith. Therefore, to solve the problem, used *ijtihad is judges*; The actions taken have violated the rights of God and human rights (Siregar, 2014).

Exhibitionist cases can be prosecuted by taking into account elements such as: *First*, that the actions of exhibitionists have not been clearly regulated in the Qur'an and Hadith. therefore, to apply the sanctions that is according to the decision of the ruler/judge, because exhibitionism is a problem that has just emerged in modern times like now. Along with the times, human behavior also develops, causing new problems, such as the case of exhibitionists. *Second*, the act of exhibitionism is a crime against honor that has violated the norms of decency that exist in society because they have exposed or exposed parts of their bodies to be seen by non-mahrams. it is very detrimental to the victim and it is hated by Allah because Islam teaches to always apply shame.

Ahmad Hanafi provides an explanation of the imposition of sanctions on the *finger of ta'zir* which gives a positive nature if the implementation takes place wisely with the aim of correcting someone who has made a mistake so that he is aware of his actions and does not repeat it again, to protect the perpetrators from committing deviant behavior, bad and despicable as examples of people who deliberately show their genitals to others who do not want it, and to protect humans from things or behavior that are wrong or inappropriate, such as rape, immorality or other criminal acts (Hanafi, 2003: 224).

Based on the explanation above, it is known that the punishment for exhibitionist actors has not been determined in the texts of the Qur'an or hadith. Exhibitionism is a new problem that occurs today and was not known in ancient times. This is natural, because every time the problems that arise often change with the times. Therefore, it is the judge who makes the decision in determining the sanctions for exhibitionists. The judge will decide the sentence at his discretion based on special knowledge of the case based on the diversity of methods used by the court according to the type of crime that has been regulated in the law (Doi, 1992: 14).

Conclusion

The factors that cause a person to commit a crime Exhibitionist there are two parts, namely: *first*, Internal factors, namely a factor obtained from the psychological and biological side of a person. *Second*, namely External factors, these factors can be obtained from the side of the environment. Although based on these factors it has been explained that the cause of someone doing exhibitionism is still not discussed in a clear and detailed manner because it depends on the circumstances of the actor and the surrounding environment.

Review of Islamic Criminal Law for Exhibitionists in Public Spaces According to Law No. 44 of 2008 concerning Pornography, it is legalized with the finger of ta'zir, the legal basis for exhibitionists in public spaces is in accordance with Ijtihad Judges. It is the judge who determines whether an exhibitionist fulfills the conditions in the determination of the sentence. if it fulfills the elements of Jarimah, the exhibitionist actor may be subject to sanctions. Exhibitionists are also not subject to Ta'zir sanctions (jarimah) if one of the conditions is not met.

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