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Catcalling From the Perspective of Criminal Law in Indonesia

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Conference Paper

Catcalling From the Perspective of Criminal Law in Indonesia

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Abstract.

Sexual harassment that often occurs is physical or verbal. Catcalling is an act of verbal sexual harassment. Catcalling has become a social problem that is considered common among the public. The act of catcalling has unknowingly reduced a person's human right. Therefore, by using a normative juridical approach, researchers will examine how the construction of catcalling law in criminal law in Indonesia will analyze catcalling as a crime and will have an impact on legal consequences. This study shows that catcalling is an act that can be punished by a report from the victim and can be followed up by law enforcement apart.

Keywords: catcalling, sexual harassment, criminal act

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1. INTRODUCTION

Current technological developments have an impact on the public to access information from various media, one of which is through cyberspace.[1] Access to information, including communicating among people, is currently mostly done in cyberspace. The use of electronic transactions Nowadays, it is easier for anyone to access information and express themselves in cyberspace. Children, teenagers, and adults can open social media whenever and wherever they want. One misuse of technology is to take any action, which is usually called sexual harassment. An example of sexual harassment through social media is, for example, someone who posts a photo of himself, then someone makes a comment with a sexual smell, for example, asking him to sleep, or other comments that lead to sexual acts. Many people do not realize that this act is sexual harassment which is basically detrimental and makes someone uncomfortable with what is being done to them.

Sexual harassment that often occurs is physical; this often happens in the community, for example, pinching the buttocks, holding the breasts, groping the genitals, and other

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forms of action. While verbally, the act of harassment can be in the form of jokes, comments, or innuendo of a sexual nature. For example, there are people walking, then seduced with sexual jokes. This can be considered sexual harassment to the victim. Presumably, from such conditions, the author is interested in bringing up the theme of sexual harassment.

Catcalling is an act of verbal sexual harassment. Catcalling has become a social problem that is considered common among the public. Usually, this catcalling occurs on roads, in markets, on public transportation, and even in malls. Even though catcalling has become an activity that cannot be taken for granted, Catcalling is part of Sexual Harassment, which is a term for acts of sexual harassment that occur in society. Sexual harassment has many forms; it can be done directly or indirectly or physically or verbally. Sexual harassment is carried out directly; for example, when a woman passes by, someone whistles at the victim's body or looks at the victim with a passionate face. Meanwhile, sexual harassment is indirectly carried out through social media. Catcalling is an expression of harassment that can be interpreted as an activity such as throwing pornographic or sexual terms or being flirtatious, coquettish, attractive, or seducing others which causes discomfort & insecurity. Catcalling is categorized as non-physical harassment because it occurs without consent/without voluntary.

As stated above, harassment is divided into two main categories, namely verbal and non-verbal sexual crimes. These two cases have different punishments, so the articles that regulate are also not the same. Starting from the very first, there is verbal abuse in which the perpetrator harasses the victim through words. This can be seen from the words that make the victim especially feel harassed. Catcalling is usually done to women, which is usually done by men in the form of dirty words about body shape, clothes, to other things that are commented on by the perpetrator. Unfortunately, in Indonesia, many people allow this as normal, but there is an article that regulates it.

Catcalling or what can be interpreted as verbal harassment is doing an activity such as throwing pornographic/sexual words or flirtatious, itchy, or coquettish behavior to other people that causes discomfort and is also in the form of whistling called whistling, the term "dear," "gek," "handsome" or "beautiful" by strangers, unwanted comments, such as "where are you going pretty? Do you want to be with me, don't you?", "Don't be fierce, you'll kiss it later!", being observed by a stranger until an unexpected touch is an event that creates a feeling of insecurity, which is often encountered but goes unnoticed because it is considered something normal.[2] Catcalling is categorized as an action or behavior that is contrary to decency and is often not noticed; this is because the action

or behavior is carried out spontaneously. Many people in Indonesia do not know that they are victims or perpetrators of catcalling actions.[3]

Verbal sexual harassment is increasing among women and tends to be tolerated, and there is no legal certainty for victims. Catcalling itself is a phenomenon that is rarely studied because it is considered a common practice in the community, even though, if further investigated, many victims feel discomfort, and even the impact has an effect on the victim. Therefore, this issue is often underestimated, considered something that is culturally understandable and even normalized. This is not a natural thing for the object of catcalling, so this is a criminal act and must be accounted for. As for the impact of catcalling, it triggers psychological disruption for women, which results in psychological violence.[4]

In September 2017, he experienced catcalling; this is not the first time he has experienced this; he was teased with the title "hi, beautiful," usually, when he gets catcalled, he will come and talk to the perpetrator, but by that time he could not stand it. The perpetrator's actions so that they choose to go and silence the perpetrator. Falla then reported this incident to the police and asked the police to take action against the catcallers instead of being responded to and assisted, but Falla was then belittled by being ordered to leave. After experiencing rejection by the first policeman, Falla met another police officer who happened to be around his office. This second police officer is different from the previous policy; after hearing the story from Falla, he immediately responded to the complaint and asked the perpetrator not to do catcalling again. Falla's story went viral because one of the police on Twitter responded to this story, and the police who ignored Falla's complaint finally apologized.[4] The incident above is one of the lucky ones who have access to social media and dares to speak up, but there are still many women out there who experience catcalling and prefer to remain silent and leave for fear of fighting back. Not many dared to provide assistance or defend the victims of catcalling for fear of causing a commotion.

The act of catcalling has unknowingly reduced a person's human rights, such as the right to feel a peaceful life, the right to feel safe in activities, the right to feel peaceful in building life and life, and to be physically and mentally happy in social life, so the existence of catcalling is important for removing. However, it is still difficult for the perpetrators of catcalling to be caught in the legal arena as long as they do not commit physical violence against the victim, but in this case, there needs to be an emphasis on stopping the act of catcalling and ensnaring as well as making the perpetrators aware of the catcalling, as well as by providing an understanding of the legal rules of catcalling

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to the victim. The public, especially victims, can bring this case to get justice for the human rights of each victim.[5]

15 In the discussion of Catcalling, we will discuss how the construction of catcalling law in criminal law in Indonesia will analyze catcalling as a criminal act and will have an impact on legal consequences.

23 2. METHODOLOGY/ MATERIALS

3 This research is normative research (legal research)[6] with several approaches at once. Each of them is a legal approach (statute approach), analytical approach (analytical approach), and philosophical approach (philosophical approach)[7]. This research will depart from textual studies, namely legislation and judges' decisions. This research will examine the legal norms contained in the regulatory texts. This research will use secondary data as the main data, which is obtained from the literature study. 3 The secondary data in this study will be presented systematically and then analyzed descriptively and analytically using deductive logic. 3

3. RESULTS AND DISCUSSIONS

13 The definition of catcalling in the Oxford Dictionary explains that catcalling is translated as whistles, calls, and comments of a sexual nature, which can be interpreted as whistles, 27 calls, and comments of a sexual nature.[8] According to Monica Elvira, as quoted by Pitoloka and Putri, catcalling is defined as an act that contains symbols of interaction such as whistles, calls, and comments with sexual connotations, which are usually 13 carried out by men to women who happen to pass in front of the man and sometimes accompanied by stares. That harass and make women feel insecure.[3]

31 The catcalling act that often occurs in the field by the community is only considered an act that is not in accordance with the norms of the community[9], but if we examine it from the legal aspect, we can see it as an act that violates decency and is against the law. So far, people think that acts that violate decency are only acts that are physically carried out, which means that the forms of sexual harassment that can occur are only physical, such as groping sensitive body parts, kissing, and other forms of this. Into molestation. Along with the times, it turns out that sexual harassment can be done verbally even though there is no direct touch on the victim. Sexual harassment, namely sexual acts through physical and non-physical (verbal) touch with the target of the sexual 14 organs or sexuality of the victim.[10] These actions include whistling, flirting, sexually 4

suggestive speech, displaying pornographic material and sexual desires, touching or touching body parts, and gestures or gestures of a sexual nature that cause discomfort, offense, feeling humiliated, and possibly up to cause health and safety problems

The categories of verbal messages that are informed by catcalling perpetrators to their victims are in various forms[10], including in the form of tones, for example, the sound of a kiss, the sound of a kiss from afar, or whistling. The purpose of harassing, for example, greetings. There are also those who openly say that the victims have been vulgar. Not only that, the thought of an eye that is too late also includes harassment because it makes those who are seen feel uncomfortable. For example, someone who looks at another person from head to toe. The description of catcalling in the community is still very low due to fairness.[11] There is still an assumption that catcalling is a common thing or a form of jokes and compliments; this issue keeps happening over and over again. This teasing call with the word "Neng" can also be called catcalling or can be categorized as verbal harassment. Many people do not realize this; society's routine of normalizing this catcalling makes it something that is considered normal and normal. Moreover, catcalling itself can be wrapped in various kinds of packaging, one of which is the use of religious labels. For example, "Assalamu'alaikum neng...." in a seductive tone accompanied by a stubborn look. This is something very paradoxical. The reality today is that verbal sexual harassment can be wrapped up neatly so that it does not appear as a form of harassment.[12]

Until now, there have been laws and regulations that regulate several forms of sexual violence, but their form and scope are very limited. The legal basis for verbal sexual harassment (catcalling) in the perspective of criminal law can be seen in several articles relating to verbal sexual harassment. Those articles are Article 281 Paragraph (2) of the Criminal Code, Article 8, Article 9, Article 34, and Article 35 of the Law on Pornography. There is a fundamental reason why the use of the Pornography Law as a legal basis for catcalling, which is seen from the definition of pornography contained in Article 1 Number 1 of the General Provisions of Law Number 44 of 2008 concerning Pornography. The available laws and regulations are not yet fully capable of responding to the facts of sexual violence that occurs and develops in the community. But in the end, sometime, namely in May 2022, the Government ratified Law no. 12 of 2022 concerning the Crime of Sexual Violence, which provides a legal umbrella for catcalling, which can become a criminal act. The law provides the scope of the crime of sexual violence, namely:

1. non-physical sexual harassment;
2. physical sexual harassment;

3. forced contraception;
4. forced sterilization;
5. forced marriage;
6. sexual abuse;
7. sexual exploitation;
8. sexual slavery;
9. electronic-based sexual violence.

Catcalling, in this case, is included in the crime of sexual violence that is carried out non-physically, which can be seen in Article 5 of Law no. 12 of 2022, which contains:

"Every person who commits a non-physical sexual act aimed at the body, sexual desire, and/or reproductive organs with the intention of degrading a person's dignity based on their sexuality and/or decency, shall be punished for non-physical sexual harassment, with a maximum imprisonment of 9 (nine) years) month and/or a maximum fine of Rp. 10,000,000.00 (ten million rupiah)."

The article above explains that what is meant by "non-physical sexual acts are statements, gestures, or activities that are inappropriate and lead to sexuality with the aim of humiliating or humiliating. Thus, it is hoped that cat-calling actions that occur in the community have been accommodated in the Act of Criminal sexual violence.

4. CONCLUSION AND RECOMMENDATION

Catcalling, which often occurs in public spaces, which many consider normal to the public, is neither a joke nor a compliment but harassment. Such harassment can be considered a criminal act because it has been regulated in several laws and regulations in Indonesia, namely in Article 281 Paragraph (2) of the Criminal Code, Article 8, Article 9, Article 34, Article 35 of the Law on Pornography. Furthermore, Law no. 12 of 2022 concerning the Crime of Sexual Violence, especially Article 5, further strengthens the clarity of the legal umbrella for catcalling as a criminal act. Thus, this catcalling becomes an act that can be punished with a report from the victim and can be followed up by law enforcement apart.

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



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