

PRANATA HUKUM

Jurnal Ilmu Hukum

e-ISSN 2685-3213 | p-ISSN 1907-560X

EXISTENCY ROLE OF THE GENERAL ELECTION SUPERVISORY AGENCY IN LAMPUNG LAW ENFORCEMENT OF THE 2019 ELECTION

Maimun, Rudi Santoso

IMPLEMENTATION OF ARTICLE 3 LAW NUMBER 4 OF 2009 CONCERNING MINERAL AND COAL MINING IN THE GRANTING OF EXPLORATION MINING BUSINESS LICENSE

Anggalana, Dery Permana Putra, Chandra Reformasi

JURIDICAL ANALYSIS OF THE IMPACT OF CATCALLING ON WOMEN AND SANCTIONS FOR CATCALLING ACTORS IN INDONESIA

Budi Hidayat A, Yulia Hesti, Fauzi

REVIEW OF SHARIA ECONOMIC LAW ON THE IMPLEMENTATION OF THE MURABAHAH ACCOUNT AT MANDIRI SYARIAH BANK, BANDAR LAMPUNG CITY

Heru Fadli, Khumedi Ja'far, Iskandar Syukur

IMPLEMENTATION OF PRESIDENTIAL POWER BASED ON THE 1945 STATE CONSTITUTION OF THE REPUBLIC OF INDONESIA

Baharudin, Indah Satria, Sopian Efendi

INITIATING EQUITABLE START-UP IN THE CONTEXT OF LABOR LAW

Rifka Yudhi

ANALYSIS OF THE APPLICATION OF ARTICLE 88 OF THE REGULATION OF THE MINISTER OF HOME AFFAIRS NUMBER 120 OF 2018 CONCERNING AMENDMENTS TO THE REGULATION OF THE MINISTER OF HOME AFFAIRS NUMBER 80 OF 2015 CONCERNING THE ESTABLISHMENT OF REGIONAL LAW PRODUCTS

Lintje Anna Marpaung, Herlina Ratna Sumbawa Ningrum, Erman Syarif

THE URGENCY OF REGIONAL REGULATIONS IN REALIZING DISASTER RESILIENT VILLAGES IN SOUTH LAMPUNG DISTRICT

Agung Budi Prastyo, Okta Ainita



**MAGISTER HUKUM
UNIVERSITAS BANDAR LAMPUNG**

PRANATA HUKUM	Volume 16	Nomor 1	Halaman 1 - 98	Bandar Lampung Januari 2021
------------------	--------------	------------	-------------------	-----------------------------------

p-ISSN 1907-560X
e-ISSN 2685-3213

PRANATA HUKUM

Journal of Law

Universitas Bandar Lampung

First Published, July 2006

Published Twice a Year, Every January and July

EDITOR IN-CHIEF

Prof. Dr. Lintje Anna Marpaung, S.H., M.H

EDITORIAL BOARDS

Dr. Bambang Hartono, S.H., M.Hum

Dr. Erlina B, S.H., M.H

Dr. Tami Rusli, S.H., M.Hum

Dr. Zainab Ompu Jainah, S.H., M.H

Dr. Zulfi Diane Zaini, S.H., M.H

MANAGING EDITOR

Indah Satria, S.H., M.H

Yulia Hesti, S.H., MH

ASSISTANT EDITORS

Shany Carolina Mawuntu

PEER REVIEWERS

Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, S.H., M.M (Universitas Sebelas Maret)

Prof. Dr. I Gede A.B Wiranata, S.H., M.H (Universitas Lampung)

Dr. Nurhadiantomo, S.H., M.Hum (Universitas Muhammdiyah Surakarta)

Dr. Erina Pane, S.H., M.H (UIN Lampung)

Address:

Universitas Bandar Lampung

Jl. Z.A Pagar Alam No.89 Labuhan Ratu, Bandar Lampung 35142

Telp: 0721-789825 Fax: 0721-770261

Email: jurnal.mh@ubl.ac.id

Journal of **PRANATA HUKUM** is intended as a medium of communication, education and scientific information in the field of legal science. Servings and packaging are sought communicatively through scientific language.

The editor invites all elements of society, both academicians, practitioners, community institutions, and individuals interested in the field of law to participate in developing ideas, insights, and knowledge through writings to be published in this journal. Through **PRANATA HUKUM** is expected to occur the process of developing the field of law as an important part of a long series of processes to advance the nation's society

JURIDICAL ANALYSIS OF THE IMPACT OF CATCALLING ON WOMEN AND SANCTIONS FOR CATCALLING ACTORS IN INDONESIA

Budi Hidayat A.,¹ Yulia Hesti,² Fauzi³

Abstract

The large number of sexual harassments that occur in society is caused by the absence of legal certainty that has been accepted by the perpetrators. One form of verbal sexual harassment is catcalling, most of the victims are women. Catcalling is carried out in public spaces such as public roads, public transportation, markets and even workplaces. The impact of catcalling is very bad because it will affect his psyche which can be seen from a psychological, emotional, anxious, fearful and uncomfortable feeling that can even lead to depression. Sanctions for Catcalling Actors in Indonesia are regulated in this Article, namely Article 281 Paragraph (2) of the Criminal Code, Article 8, Article 9, Article 34, Article 35 of the Law on Pornography. There are several basic reasons why the Pornography Law was used as a legal basis for catcalling, namely the definition of pornography as contained in Article 1 Number 1 General Provisions of Act of Number 44 Year 2008 concerning Pornography. The state is expected to be able to protect its citizens from catcalling by providing legal certainty, so that the perpetrators will no longer repeat or even commit the act. There are several basic reasons why the Pornography Law was used as a legal basis for catcalling, namely the definition of pornography as contained in Article 1 Number 1 General Provisions of Act of Number 44 Year 2008 concerning Pornography. The state is expected to be able to protect its citizens from catcalling by providing legal certainty, so that the perpetrators will no longer repeat or even commit the act.

Keywords: *Impact, Catcalling, Women, Sanctions, Perpetrators*

I. INTRODUCTION

The number of sexual harassments that occur in society is caused by the absence of legal certainty that has been accepted by the perpetrators, and the main thing is based on the lack of faith that a person has which results in not being able to control lust, so without thinking about doing it to others to fulfill lust alone . Sexual harassment is unwillingness or rejection of anything in the form of attention that is sexual in nature or direction. Whistling, taunts in the form of words and comments made by someone but not wanted or wanted by the

¹ Chairperson of Tamara Legal Clinic in Lampung Province, lksabussaina6@gmail.com

² Lecturer of Law Faculty Universitas Bandar Lampung, hesti@ubl.ac.id

³ Student of Law Master Universitas Bandar Lampung, fauzi82@gmail.com

recipient, then the act falls into the category of harassment. Harassment is divided into two, namely verbal and non-verbal. Verbal harassment is abuse that is done in the form of words and whistles,

One form of verbal sexual harassment is catcalling, these words are a language that is still foreign to the public, but this catcalling often occurs even around the places where we live, the victims are mostly women. Catcalling is a word with a negative connotation, so a fairly close meaning might be an insult or obscene greeting (pay attention, meaning, not word). However, because insult is considered more direct and harsh than catcalling, while obscene already has its own discussion meaning, it is more appropriate to use the word punctuation. Catcalling is a whistle, a wink or in the form of seductive words containing material sexual desires or pornography done in a way that is accepted by women. It is never realized that this is a form that can undermine a woman's dignity and this act can cause discomfort, fear, shame, offense, degrading and can even cause anger. Unconsciously the perpetrator had committed human rights violations against the victim.

This verbal sexual harassment is increasing among women and tends to be tolerated and there is no legal certainty for the perpetrators and victims, it is not a normal thing but it is a criminal category that must be held accountable. Catcalling is an act that includes a violation of personal space because the perpetrator feels entitled to comment on people he does not know and seek attention in an inappropriate way. These actions often occur and are carried out because they are considered ordinary and common actions. Catcalling is sexual harassment that is committed in public spaces so that it is often accepted by victims in places such as public roads, malls, markets and even workplaces.

The workplace is the place where women victims of catcalling feel the most, whether intentionally or not by the perpetrator, but this is felt uncomfortable by the victim. The perpetrator by using words of praise or jokes that are sometimes excessive so that the victim is uncomfortable with him. Catcalling acts can change or become coercion in rape, this begins when the catcalling victim refuses, does not respond and even always tries to avoid it, but it turns out to have another impact felt by the perpetrator, namely curiosity and other attempts at sexual harassment. This further makes the victim feel insecure and afraid.

Based on the description above, the authors are interested in analyzing the impact of catcalling for women and sanctions for catcalling actors in Indonesia with two problems, namely what is the impact of catcalling for women and what is the sanction for catcalling actors in Indonesia. The theory in writing this research using the normative approach method, namely by literature study.

II. DISCUSSION

Impact of Catcalling for Women in Indonesia

Based on the Big Indonesian Dictionary (KBBI), women are people (humans) who have puki, can menstruate, become pregnant, give birth to children and breastfeed. Women are people who should be protected and loved, because women have a gentle nature and soft feelings. With this nature, sometimes women often receive sexual harassment. Sexual harassment is a form of behavior and behavior of a person with sexual content where it is unwanted by the object, either verbally or physically, which often occurs or is carried out in public places or in public spaces, this incident is often experienced by women. This can make women uncomfortable and can feel fear if they are outside the home and away from family supervision.

Based on the article above, it is concluded that everyone should be able to feel a sense of security and peace wherever they are, especially women. Where at this time many of them have also worked to help their husbands in meeting the needs of family life. With the existence of this case and the risk of sexual harassment, one of which is the catcalling that they are ready to accept, it makes women may think again if they have to work outside the home. Sexual harassment is considered as harassment if the act is accompanied by sexual tendencies, such as seductive or offensive tone. Catcall falls into the sub-category of street harassment. Catcall is an act with a sexual tendency such as calling, whistling, or commenting on men or women. Harassment on the street is a sub-category of sexual harassment. Catcall falls into the category of sexual harassment because catcalling is the initial trigger for other acts of sexual violence.⁴

Catcalling cases are felt by users in public places almost all the time, such as public transportation, roads or work environments.⁵ The perpetrator who does this is an unknown person by saying words such as teasing, seducing even an invitation. Based on the description above, it can be concluded that catcall is an action carried out by actors who are often carried out in crowded places, such as public roads, public transportation, malls, markets and even workplaces. The perpetrators who carry out the catcall are mostly unknown people, but it is possible that the perpetrators are people we know. The perpetrator's actions were very embarrassing and should not be felt by the victim. Some examples of words that perpetrators often say against victims are:

- a. Hay, beautiful you know
- b. Let's get to know, the body is awesome, you know
- c. Where is the house, brother, let's go
- d. Fragrance, can you smell it a little or not

⁴ Yuni Kartika, Andi Najemi. 2020. *Kebijakan Hukum Perbuatan Pelecehan Seksual (Catcalling) Dalam Perspektif Hukum Pidana*. Pampas. Vol. 1 No. 2. p. 8

⁵ *Ibid*, p. 1.

The words mentioned above are words that are inappropriate and often unwanted by the victim, with these conditions making the victims uncomfortable, feeling afraid to be outside the house, this can have an impact on the victim's psychology and mentality. This is an act that deeply disturbs the human rights of the victim and is a crime of decency that is still considered normal by the community. The danger of catcalling is more likely to trigger from a psychological perspective of the victim and affect the victim's emotions, such as fear in the victim, more likely to feel uncomfortable, insecure when outside the home, feeling embarrassed due to catcalling.⁶ Based on this information, it is concluded that the impact of catcalling is not very good because it will affect his psyche in terms of psychology, emotions, feelings of anxiety, fear and discomfort and can even cause depression.

Once the dangers of the impact resulting from catcalling, it is hoped that there must be firm action from the government and there must be a regulation or law that regulates that the catcaller can be punished and become a deterrent. With the absence of legal certainty and it is considered to have no impact on the catcalling case, the community in this case is mostly done by men, so that this is considered normal and harmless, and can be done happily for the satisfaction of their desires.

Sanctions for Catcalling Actors in Indonesia

Law enforcement in human rights that is not firm is one of the causes of many criminal acts, such as sexual harassment. Sexual harassment has a very wide scope, various forms, from oral and written, physical and non-physical, ranging from verbal expressions (indecent comments, sexual jokes, etc.) in physical form (poking, groping, rubbing, hugging and so on), displaying pornographic / dirty images, assault and coercion that is obscene, such as forcing to kiss or hug, threatening to make it difficult for the woman to refuse to provide sexual services, to rape.⁷

Sexual harassment is divided into several, namely:

- a. Deliberate conduct, such as touching, leaning on, pinching, or corner, unwanted;
- b. Unwanted gaze or sexual gestures;
- c. The pressure or coercion of dating requests;
- d. Giving an inappropriate nickname;
- e. Whistling to someone;
- f. Cat calls;

⁶ Ida Ayu adnyaswari Dewi. 2019. *Catcalling : Candaan, Pujian atau pelaku seksual. Jurnal Hukum Kenotariatan*. Vol.4 No.2. p. 206

⁷ Marcheyla Sumera. 2013. *Perbuatan Kekerasan/Pelecehan Terhadap Perempuan. Lex et Societatis*, Vol. 1 No. 2. p. 43-44

- g. Sexual commenting; and
- h. Questions about a person's sexual life.

All of the above acts constitute sexual harassment, with the element that the person does not want or without the person's permission to commit the act. Actions carried out by someone by flirting and seducing are considered normal, even though if the person being treated does not like or want them to be sexually harassed. The language of flirting and seduction carried out by strangers, unwanted comments and observations of his body by strangers to the point of an act which creates a form of unwanted groping which creates insecurity are categorized as street harassment.⁸

Sexual harassment that often occurs to women is catcalling which is often carried out in public spaces such as roads, malls and public transportation and even in the market. The term catcalling is a term that is often used in various countries, such as Portugal, Belgium, Canada and the United States, where the act is an act that the victims do not want, in this case women. If the focus is on the word unwanted action, it can be categorized that this is a complaint offense, a potential crime as a criminal act. A criminal act is a process of action that is prohibited because it violates the rule of law and has the threat of sanctions against people who violate these rules, prohibitions aimed at their actions and sanctions aimed at the person who caused the act.⁹

Simon explained that there are 5 elements which are said to be criminal acts, namely:¹⁰

- a. There is an action that is done by humans;
- b. The act is punishable by punishment;
- c. The nature of the act is an act against the law;
- d. Done by mistake; and
- e. Can be accounted for

Based on the description above, the elements of catcalling are as follows:

- a. There is an act committed by a human. The act of catcalling fulfills the element of human action. This can be seen from an act committed by the catcaller to the victim. Actions carried out by catcallers are throwing pornographic words / comments or behaviors that make other people who are victims feel uncomfortable. For example, whistling with lips and winking.
- b. The act is punishable by a criminal act. This catcalling act, including verbal sexual harassment that occurs in the public room, is categorized as a criminal act because it is immoral and contains pornographic elements. So that this action is no longer an ordinary action and then there is no further treatment.

⁸ Ida Ayu adnyaswari Dewi. Op Cit. p. 199

⁹ Andi Hamzah. 2020. *Asas-Asas Hukum Pidana (Edisi Revisi)*. Cetakan Keempat. Rineka Cipta, Jakarta. p. 50

¹⁰ Moeljatno. 2010. *Asas-Asas Hukum Pidana*. Rineka Cipta, Jakarta. p. 59

- c. This act is against the law. Catcalling can be said to be an act against the law because it has disturbed the comfort, security, for others and disturb the human rights of others. Where disturbing the human rights of others is an act against the law.
- d. Conducted by mistake The elements of the error include the capacity of the perpetrator (catcaller) of the crime to be able to take responsibility for the actions he committed. Then there is an inner connection between the doer and the actions he is doing. In an act, there is a form of deliberation and negligence for which there is no reason for erasing mistakes in the form of justification. Then the action performed by the doer is a form of action in the form of deliberate action.
- e. Can be accounted for by the perpetrator. An accountability from the catcaller is related to his mistake. Error as an element of criminal liability. People who are able to take responsibility if there are no excuses for forgiveness and justification for the actions they have committed.

The legal basis for acts of verbal sexual harassment (catcalling) from the perspective of criminal law can be seen from several articles relating to verbal sexual harassment. These articles are Article 281 Paragraph (2) of the Criminal Code, Article 8, Article 9, Article 34, Article 35 of the Law on Pornography. There are several basic reasons why the Pornography Law is used as a legal basis for catcalling, namely the definition of pornography as contained in Article 1 Number 1 General Provisions of Law Number 44 Year 2008 concerning Pornography.

Article 281 Paragraph (2) of the Criminal Code reads: Whoever deliberately and in front of another person who is there is against his will, violates decency. The article explains that if a person deliberately commits and is done in front of another person which the recipient does not want, then it is considered to have violated decency. The description in Law Number 44 of 2008 concerning Pornography, Article 1 Number (1): Pornography is pictures, sketches, illustrations, photographs, writings, sounds, sounds, moving pictures, animation, cartoons, conversations, gestures, or other forms of messages through various forms of communication media and / or public performances, which contain obscenity or exploitation. sex that violates the norms of decency in society. Article 8: Every person is prohibited from deliberately or with his consent from becoming an object or model that contains pornographic content. Article 9: Everyone is prohibited from making other people an object or model that contains pornographic content. Article 34: Anyone who deliberately or with his / her consent becomes an object or model containing pornographic content as referred to in Article 8 shall be sentenced to imprisonment of not more than 10 (ten) years and / or a maximum fine of Rp.5,000,000,000.00 (five billion. rupiah). Article 35: Anyone who makes other people as objects or models containing pornographic content as referred to in Article 9 shall be sentenced to imprisonment for a

minimum of 1 (one) year and a maximum of 12 (twelve) years and / or a fine of at least IDR 500,000,000.00 (five hundred million rupiah) and a maximum of IDR 6,000,000,000.00 (six billion rupiah).

Based on Act of Number 44 of 2008 concerning Pornography in the description of Article 1 Number (1), it explains that catcalling can be considered pornography because it fulfills the elements contained in the Article, namely: form, gesture, voice and messages containing obscenity, thus it can be seen that in fact there are rules or laws contained in both the Act and the Criminal Code which can be used as a legal basis for protecting victims of catcalling. So now, don't feel worried and afraid anymore if someone becomes a victim and sees the calculating, then immediately report it, so that the perpetrator can be given punishment, and at least reduce the perpetrators and victims of catcalling.

III. CONCLUSION

The impact of catcalling is very bad because it will affect his psyche which can be seen from a psychological, emotional, anxious, fearful and uncomfortable feeling that can even lead to depression. Sanctions for Catcalling Actors in Indonesia are regulated in this Article, namely Article 281 Paragraph (2) of the Criminal Code, Article 8, Article 9, Article 34, Article 35 of the Law on Pornography. There are several basic things why the Pornography Law was used as a legal basis for catcalling, namely the definition of pornography contained in Article 1 Figures. It is hoped that women in particular will be able to protect themselves properly from catcalling which is ready to happen at any time, and to the state it is hoped that it can protect its citizens from catcalling by providing legal certainty, so that the perpetrators will no longer repeat or even will not commit the act.

REFERENCES

- Andi Hamzah. 2020. *Asas-Asas Hukum Pidana (Edisi Revisi)*. Cetakan Keempat. Rineka Cipta, Jakarta.
- Ida Ayu adnyaswari Dewi. 2019. *Catcalling : Candaan, Pujian atau pelaku seksual*. *Jurnal Hukum Kenotariatan*. Vol.4 No.2.
- Marcheyla Sumera. 2013. *Perbuatan Kekerasan/Pelecehan Terhadap Perempuan*. *Lex et Societatis*, Vol. 1 No. 2.
- Moeljatno. 2010. *Asas-Asas Hukum Pidana*. Rineka Cipta, Jakarta.
- Yuni Kartika, Andi Najemi. 2020. *Kebijakan Hukum Perbuatan Pelecehan Seksual (Catcalling) Dalam Perspektif Hukum Pidana*. Pampas. Vol. 1 No. 2.