

Criminal Law Policy in Combating Consensual Swinger Sexual Offenses in Positive Law of Indonesia

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Abstract

Consensual swinger sexual activity is a sexual deviation encompassing various forms of sexual deviance, including sexual orientations and interests. Deviance, in this context, refers to disorders or abnormalities. Sexual behaviour comprises all actions driven by sexual desires, whether involving individuals of opposite or same genders. Sexual deviance represents a departure from established norms, violating societal standards. It can also be understood as actions disregarding values and norms, conflicting with or deviating from the positive legal regulations in Indonesia. Consensual swinger sexual activity constitutes a consensual crime, a public order offence involving multiple participants who willingly engage in unlawful activities, and those involved are considered "victims" even though they have given their consent. Therefore, in combating consensual swinger sexual offences in Indonesia, we can implement criminal law policies encompassing both penal and non-penal measures.

Keywords: Criminal Law Policy, Combating Criminal Offenses, Consensual Swinger, Sexual Offenders in Positive Law in Indonesia

Introduction

Indonesia is recognised as a state governed by the rule of law, as explicitly stated in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This constitutional provision mandates that all individuals, including citizens and state actors, comply with and uphold the established legal framework. Laws are enacted with diverse aims, including the provision of legal clarity. The concept of the rule of law establishes a mutually dependent connection between legal principles and governing powers, hence safeguarding the prevalence of the rule of law within a given community.

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Criminal activities refer to behaviours that depart from the established legal framework inside a given culture. These acts are pervasive and affect individuals across all communities, rendering no community exempt from the presence of crime. Crime is a multifaceted phenomenon that has significant implications for both individuals and society as a whole. One of the types of illegal behaviour observed in society is individuals engaging in consensual swinger sexual activities.

The persistent occurrence of criminal behaviour has continually caused distress and upheaval within society, resulting in a disruption of its state of peace and calm. In actuality, individuals strive to attain a normalcy characterised by tranquillity, security, and harmony, devoid of any jeopardising factors that may compromise their overall welfare. Therefore, the primary objective of the state's response to criminal acts committed by individuals or groups is to protect the community's welfare (Romli Atmasmita, 1992).

Allah created human beings to assume the role of stewards on Earth. Human beings are considered to be the most esteemed and flawless entities among the creations of Allah, possessing the capacity for cognitive processes and decision-making. According to the assertions made by Sigmund Freud, it is posited that the trajectory of human existence is influenced by two fundamental instincts: the instinct for self-preservation through the acquisition of food and the urge for the continuation of the species through sexual reproduction (Bukhori, 2001). The act of procreation through sexual intercourse is an inherent instinct ingrained in individuals by Allah SWT, and it is imperative to adhere to Islamic principles and regulations while engaging in this practice, refraining from any deviations from the prescribed guidelines.

Sexuality encompasses several aspects of sex, gender, biological sex, gender roles, gender identity, and sexual orientation, which encompass an individual's sexual desire towards others (Lajnah et al., 2012). Sexual connections are commonly seen as sacred or taboo. However, they are often promoted when practised inside the boundaries of a legally recognised marital union. Some individuals contend that sexual pleasure is a valuable endowment bestowed by a divine entity. In order to establish a fulfilling sexual connection, several prerequisites must be fulfilled: Married individuals possess a satisfactory level of understanding of matters about human sexuality. Sexual intercourse takes place exclusively within the confines of a lawful matrimonial union and is driven by a profound sense of devotion. Sexual intercourse occurs within a secluded and conducive environment, ensuring privacy and a sense of ease while preventing observation by external parties. A propensity to recognise and actively pursue therapy for sexual issues. The capacity to engage in sexual behaviour while

adhering to ethical, religious, and societal standards. The absence of fear, guilt, misunderstandings, and subjective moral principles. The absence of diverse organic disruptions, ailments, and dysfunctions that impede sexual functionality. The act of engaging in conversations regarding sexual matters frequently results in feelings of unease and discomfort (Lajnah et al., 2012).

Islam provides teachings and guidance regarding the appropriate manner in which spouses may participate in sexual activities within the confines of a lawful marriage to fulfil their physiological requirements. Fulfilling the rights and obligations between spouses not only encompasses the legal aspects but also holds a significant religious connotation, as stated by Mawardi (2017).

Throughout societal progression, certain sexual practices have become commonplace for individuals, often devoid of their spiritual implications and in deviation from the principles espoused by Islam. This phenomenon has resulted in violations that surpass the limits established by Islamic jurisprudence and societal conventions, leading to the emergence of many manifestations of sexual deviance. One of the variations in sexual behaviour is swinger activity, which entails the exchange of partners within intimate and marital relationships in order to satisfy dreams and experiences. Swinger activities invariably entail the participation of mutually agreeable and consenting partners devoid of compulsion.

The lifestyle of individuals who engage in swinging activities also has an impact on their love relationships. Individuals who engage in this particular lifestyle frequently engage in partner rotation during sexual sessions. Nevertheless, individuals who embrace the swinger lifestyle typically refrain from engaging in sexual encounters with unfamiliar individuals, instead opting to partake in such activities with their acquaintances or even the partners of their acquaintances who also adhere to the swinger lifestyle. The widespread practice of consensual swinger sexual activities has had a significant impact on the moral, ethical, and legal landscape in Indonesia.

Research Method

This composition results from a study employing a normative juridical methodology to address legal concerns. The findings from this research offer recommendations about the appropriate course of action to be taken concerning the issues raised, employing a descriptive-analytical research framework (Marzuki, 2007). The researchers conducted a literature review to obtain secondary data from primary legal materials, including statutory provisions and their implementation, as well as secondary and tertiary legal materials. The collected data was then subjected to qualitative processing and analysis (Disemadi & Prananingtyas, 2020). The authors of this study utilised a literature data

collection technique, namely a literature study, to acquire secondary data. These data were then organised based on the type of legal material, facilitating the subsequent analysis process (Disemadi & Putra Jaya, 2019).

Results and Discussion

Criminal Law Policy in Combating Consensual Swinger Sexual Offenses

Law enforcement can be understood as the practical implementation of concepts such as justice, legal certainty, and social welfare, as articulated by Satjipto Rahardjo in 1987. The implementation of criminal law aims to materialise notions of justice in the realm of criminal law, ensuring legal certainty and social welfare are effectively realised in all legal interactions (Mahmud, 2012). According to Raharjo (2002), law enforcement is not a deterministic process but rather a complex and nuanced endeavour that cannot be reduced to a simple linear progression from one point to another.

Law enforcement plays a crucial role in addressing illegal activities through the application of criminal law, hence contributing to the formulation and implementation of criminal law policy. Law enforcement agencies may employ punitive measures as a component of broader societal initiatives to deter criminal behaviour. Moreover, society can mitigate criminal behaviour through non-punitive preventive measures. There exists a strong correlation between non-punitive policies and punitive policies in the context of tackling crime. The effective management of crime necessitates the implementation of a comprehensive strategy that incorporates both punitive and non-punitive interventions.

The government and community have endeavoured to address and mitigate criminal activities. Numerous programs and activities have been implemented with a persistent endeavour to identify the most suitable and efficient approaches for tackling these concerns. Efforts or policies aimed at the prevention and mitigation of criminal activities are encompassed under the domain of criminal policy. The criminal policy discussed here strongly correlates with a more comprehensive social policy, encompassing initiatives aimed at promoting social welfare and safeguarding the well-being of society (Barda et al., 2001). According to G.P. Hoefnegels, the endeavour to address crime is an essential component of social policy, which is fundamentally intertwined with endeavours to safeguard society. This is achieved by implementing two distinct approaches: Punitive policies encompass the application of criminal law, and Non-punitive measures encompassing prevention strategies without resorting to punitive actions, such as implementing administrative and civil sanctions—the Influence of Mass Media on Public Perceptions of Crime and Rehabilitation (Arief, 2008).

The utilisation of punitive measures within the criminal justice system to address sexual offences committed by those engaging in consensual swinging activities implies that any detrimental conduct within society will result in societal repression aimed at preventing such criminal behaviours. Hence, society must prohibit such detrimental conduct, leading to the implementation of many strategies aimed at tackling these offences. The endeavours of community organisations aimed at tackling these offences are commonly known as "criminal policy" or "criminal policy" (Barda et al., 2002).

Including criminal law to deter crime is a fundamental aspect of criminal policy. The safeguarding of society in the pursuit of social welfare is a fundamental component of criminal policy. The escalation of crime rates can destabilise the anticipated social policies. Hence, to bolster social policy, it is imperative to supplement it with social protection policy. According to Sudarto (1985), there is a strong argument for establishing a connection between criminal law and mitigating adverse consequences stemming from societal progress. This linkage is deemed essential in safeguarding the well-being of society as a whole. The implementation of punitive measures remains necessary in addressing sexual offences committed by those engaged in consensual swinging activities since criminal law serves as a component of social policy aimed at redirecting societal dissatisfaction or animosity by the intended means of social protection. Hence, it may be argued that punitive policies constitute an integral component of a comprehensive social policy that encompasses the entirety of the nation (Arief, 1996).

The utilisation of criminal law as a means to address and mitigate crime is a prevalent approach across nations, including Indonesia. The utilisation of criminal law as a fundamental component of legal policy in Indonesia is evident via examining legislative practices. Certain factors contributing to criminal behaviour stem from inherent human problems and societal circumstances that cannot be effectively addressed through punitive measures alone. Given the inherent limitations and inadequacies of punitive policies in effectively addressing these challenges, it becomes imperative to supplement them with non-punitive policies. By implementing non-punitive policies, it is possible to effectively tackle social challenges by adopting reasonable social policies that are designed to promote the overall well-being of society.

Penal Policy in Combating Consensual Swinger Sex Crimes

The phrase "consensual" pertains to a circumstance in which all parties concerned achieve an agreement, and its broader connotation encompasses an accord among several people that is established prior to engaging in sexual

activity. The legal validity of this agreement and its associated legal consequences are established upon the mutual agreement of the parties involved concerning the content of the intended agreement. According to Article 1320 of the Civil Code, consent is a fundamental prerequisite for the validity of a contractual arrangement, necessitating the unanimous agreement of all involved parties to engage in said agreement.

Seeking consent is not only indicative of courtesy, but it also constitutes a legal obligation. Sexual violence encompasses any form of sexual activity that occurs without the explicit consent of all parties involved, irrespective of the presence or absence of a partner. Neglecting to obtain consent from a romantic partner has the potential to cause harm to an individual for whom you have affection, even if such harm is unintended. Hence, it is imperative to ensure the acquisition of consent consistently. The concept of consent extends beyond sexual relationships, encompassing not only the dynamics between individuals and their partners but also how a couple engages with former partners or friends.

Indeed, individuals within a romantic partnership may hold divergent perspectives regarding the definition of flirting or adultery. Consequently, they must engage in open communication and reach a consensus regarding the boundaries and expectations of the involvement of third parties in their relationship. The concept of permission within a relationship extends beyond the realm of sexual activity with one's partner. Fundamentally, acquiring permission within a relationship entails engaging in open and effective communication with one's partner regarding attitudes and behaviours that contribute to the comfort and well-being of both individuals, encompassing various aspects beyond solely sexual interactions.

According to the Department of National Education (2008), the Indonesian Dictionary defines sex as encompassing all aspects of genitalia. According to Freud, sexual desire encompasses both psychological and bodily dimensions. Sigmund Freud (1920) delineated the stages of human sexual development into five distinct phases: the oral stage, characterised by infants nursing from their mother; the anal stage, marked by pleasure derived from bowel movements; the phallic stage, involving children engaging in genital exploration; the latency stage, characterised by the formation of friendship groups and a diminished interest in sexual matters; and finally, the genital stage, which entails the emergence of sexual attraction towards a sexual partner.

The emergence of consensual swinger sex gained traction during the sexual revolution of the 1960s, commonly referred to as "swinging," which encompasses the practice of exchanging partners. Individuals who engage in swinging activities are commonly identified as swingers. Swingers hold the belief

that sexual activity is not inherently sacred or exclusive to individuals in a loving relationship, as they perceive a disconnect between sexual encounters and emotional attachment. Swinging encompasses the participation of many married couples and single individuals, both male and female. This practice is conducted in a consensual manner, with all involved parties reaching explicit agreements and acknowledging the potential outcomes.

According to Dr. Boyke, swinging may arise as a result of psychological challenges faced by individuals in a relationship who pursue sexual gratification with others other than their committed partner. According to Dr. Anthony Handoko, the act of engaging in swinging or swapping sexual partners is a recently discovered sexual activity. Undoubtedly, this activity carries health ramifications. Swinging can give rise to the occurrence of sexually transmitted infections.

No.	Disease Name	Information
1.	Chlamydia	Chlamydia is caused by infection with the bacterium <i>Chlamydia trachomatis</i> . Chlamydia is transmitted from sexual contact of the genitals, oral, and anus. Chlamydia is characterised by symptoms such as abnormal vaginal discharge and burning when urinating in women. In men, chlamydia is characterised by the appearance of symptoms such as pain or swelling in the testicles and a burning sensation when urinating.
2.	Gonorrhea	Gonorrhea is also caused by a bacterial infection and is transmitted from sexual contact of the genitals, oral, and anus. In men, gonorrhoea is characterised by a greenish-white runny nose or pus from the penis, pain when urinating, and a red and swollen urinary opening. In women, gonorrhoea tends to arise without symptoms but can extend to all reproductive organs.
3.	Genital herpes	Genital herpes is a sexually transmitted disease caused by herpes simplex virus type 1 (HSV-1) and herpes simplex virus type 2 (HSV-2).
4.	Syphilis	Rashes, lesions, or sores on the skin or infected area characterise Syphilis. In severe stages, the wound can spread throughout the

		body.
5	AIDS/HIV	AIDS is the final stage of HIV infection. At this stage, the body's ability to fight infection is wholly lost.

Consensual swinger sex refers to a form of sexual activity involving multiple people who willingly engage in behaviour that is considered a violation of public order laws. The individuals participating in said activities are categorised as "victims" despite their consent. Consensual crimes refer to offences in which the state, legal system, or society as a whole are considered the victims, impacting the public interest, particularly in terms of ideological or cultural aspects, such as sexual morality. Victimless crimes, which have certain similarities, generally pertain to actions that do not directly harm a significant number of individuals (Baker, 2011).

Consensual swinger sex refers to a sexual practice that involves the voluntary participation of individuals who engage in non-monogamous sexual activities with the mutual agreement and consent of all parties involved. This practice falls under the broader spectrum of sexual behaviours that deviate from societal norms, embracing various aspects such as sexual preferences, orientations, and hobbies. Deviation is a condition characterised by a departure from the norm or an aberration. Sexual conduct comprises a wide range of actions and activities that are motivated by sexual desire, regardless of whether they occur with individuals of the opposing sex or the same sex. According to Rambe (2016), the sexual object might encompass various entities, including another individual, oneself, or an object of desire. Individuals with atypical sexual orientations have contributed to the blurring of gender boundaries within their cognitive frameworks. According to Sigmund Freud's assertions in 1920, individuals are primarily sexually attracted to those who have the same gender. In contrast, the opposite gender, particularly their genitalia, does not possess the same level of sexual allure.

The concept of sexual deviance is frequently denoted by terms such as sexual abnormality, sexual perversion, and sexual harassment. Sexual deviation can be conceptualised as the manifestation of sexual desires and gratification that deviate from the normative expectations of being directed towards the appropriate sexual object (Didi Junaedi, 2016).

Sexual deviation can be classified as a sort of deviant behaviour due to its contravention of established societal norms. Sexual deviation can be conceptualised as behaviours that exhibit disrespect for societal values, conventions, and legal constraints, as discussed by Sulistianti (2016). In the realm

of Indonesian positive law, there exists no explicit legislation that explicitly addresses swinger behaviour. However, there are overarching prohibitions that pertain to offences against decency.

Offences against decency encompass a range of transgressions that pertain to matters of propriety, possessing expansive interpretations, definitions, and limits that give rise to societal ideas of moral standards. In essence, it may be argued that every offence or criminal conduct inherently involves a transgression of moral principles, establishing a connection between the law and the fundamental ethical standards (Arief, 2014). According to Leden Marpung (1996), an examination of societal perceptions of decency reveals that these perceptions mostly revolve around judgments of appropriate or inappropriate conduct, particularly in the realm of sexual offences.

Penal policy is a strategic framework to deter illegal behaviour through criminal sanctions. Penal policy is synonymous with criminal law policy. The penal policy can be understood as a strategic framework for implementing criminal rules by the prevailing circumstances (*ius constitutum*) and anticipated future developments (*ius constituendum*). In order to address incidents of swinger crimes, the Indonesian government presently implements punitive policy through the utilisation of criminal law mechanisms. The regulatory framework for the criminal policy under consideration is established under the Criminal Code (KUHP). The pertinent legal provisions applicable for prosecuting those engaged in swinger activity are Articles 296 and 506. The phrasing utilised in each of these articles is as follows: Article 296 of the Indonesian Penal Code (KUHP) stipulates that anyone who knowingly engages in the facilitation or assistance of indecent actions between others and does so as a regular practice or for financial gain may be subject to a maximum penalty of one year and four months of imprisonment or a fine not exceeding one thousand rupiahs. According to Article 506 of the Indonesian Penal Code (KUHP), individuals who get financial gain from the immoral actions of a woman and make it their means of subsistence may be liable to a maximum prison sentence of one year.

By examining the table presented below, it becomes evident that there are discernible distinctions between the two articles under consideration.

<i>No.</i>	Article 296.	Article 506.
	Elements of deeds that must be fulfilled	
1.	Whoever. The element of whoever is a person	Whose stuff? The element of whoever is a person
2.	On purpose. Element is	There is no word intentionally.

	intentionally defined as doing an act or action that is prohibited in a desired and known manner.	
3.	Associate or facilitate lewd acts by others with others; (Touts) profit from the lewd deeds of a woman	(Pimping) Make it a livelihood or habit. Make it a search.
4.	Threatened with imprisonment for a maximum of one year and four months or a maximum fine of one thousand rupiah	threatened with imprisonment for a maximum of one year

In the context of the two articles as mentioned above, upon analysing them through the lens of their respective behaviours, the phrase "indecent act" emerges. According to Soesilo (1991), an indecent act can be characterised as an action that transgresses societal standards of decency or is deemed obscene, primarily within the context of sexual desire. After conducting a more thorough analysis, it becomes evident that this phrase spans a wide array of behaviours that transgress societal standards of morality or involve explicit content within the context of sexual attraction. Instances of sexual coercion, sexual violence, sexual harassment, sexual abuse, and rape all encompass indecent actions within the domain of sexual desire and transgressions against societal norms, notwithstanding the distinct categorisation of rape in practice.

The inclusion of the phrase "obscene" within the definition, as mentioned earlier, of indecent conduct signifies the existence of a psychologically oppressive environment that transgresses societal norms. Hence, the conduct associated with swinger activities can be classified under this realm because of its involvement in sexually explicit acts that exhibit elements of cruelty, often coupled with deliberate cash transactions.

Non-Penal Policies in Addressing Consensual Swinger Sexual Activities Crime

Implementing non-penal policies is crucial in effectively addressing and reducing criminal activity. Crime prevention through non-penal measures prioritises the prevention of criminal activities by addressing social conditions or circumstances that have the potential to directly or indirectly contribute to criminal conduct. There is a need for increased emphasis on non-penal

interventions, particularly in light of apprehensions over the efficacy of punitive strategies in deterring or remedying criminal behaviour. Hence, it is imperative to investigate and enhance non-penal initiatives as a means of supplementing the current penal framework.

Non-penal policies, also called nonpenal policies, encompass crime prevention strategies outside criminal law. These policies may manifest in several activities, including Providing social aid and social education aimed at fostering a sense of social responsibility among individuals within the society. The promotion of mental health development through moral and religious education. Efforts aimed at enhancing the well-being of children and adolescents. The implementation of continuous patrols and monitoring conducted by law enforcement agencies, such as the police and other security organisations, as discussed by Muladi and Barda Nawawi Arief (2010).

The utilisation of non-penal approaches exhibits a preventative impact on criminal behaviour. Preventive measures are designed to proactively address the root reasons that precede consensual swinger sexual activity. These measures can be achieved through several ways, which include: The moral approach entails the utilisation of psychological and moral development strategies, as well as the delivery of lectures and consultations about religion, morality, and law. The abolitionist approach views swinger conduct as a criminal act and emphasises the need to identify and address its underlying causes to eradicate the issue. The implementation of preventative non-penal measures at a societal level might effectively discourage consensual swinger sex behaviours by addressing the root causes of such behaviour and deterring its occurrence. This can encompass The social approach to crime prevention, which centres around modifying societal lifestyles, behaviours, and beliefs. This approach focuses on identifying and addressing the underlying factors that contribute to criminal behaviour. By effectively mitigating these factors, it is possible to achieve lasting effects, even though immediate results may not be immediate.

Religious Approach: Indonesia, grounded in the ideology of Pancasila, assigns significant significance to religion and its contribution to constructing a cohesive nation. The constitution of the nation guarantees the right to freedom of religion and the practice of worship. Islamic jurisprudence encompasses regulations about theological convictions and behavioural conduct, wherein sexual deviations and diversions from the virtuous course are not sanctioned. Within the context of Islam, the act of engaging in sexual intercourse is regarded as an essential requirement for married couples of sound mental and physical health. However, it is crucial to acknowledge that there are ethical and religious principles that must be adhered to in this regard. Islam mandates its adherents to

abstain from abhorrent and illogical conduct. According to Edi Rohaedi (2007), Islamic sexual relationships are intended to be characterised by piety, adherence to legal principles, and the primary objective of procreation, hence preserving the continuity and equilibrium of future generations.

Through non-penal measures and the adoption of social and religious methods, societies can collaboratively engage in crime prevention efforts and foster the creation of safer environments by addressing the underlying reasons for criminal behaviour. Islam recognises and accepts the potency and significance of sexual desires. The topic at hand is extensively examined throughout the Quran and the Sunnah of the Prophet, with a particular emphasis on the domain of matrimony and familial relationships. In Islamic doctrine, the expression of sexual impulses is seen as permissible alone within the context of a legitimate marriage. According to Islamic teachings, engaging in actions that are driven by genuine intentions for the benefit of Allah and align with His guidance is deemed as an act of worship, hence resulting in the accrual of rewards from Him. This encompasses the articulation of sexual desires and requirements. If individuals adhere to the appropriate goals and the parameters established by Islamic jurisprudence, they will receive divine rewards from Allah.

Nevertheless, with the societal transformations and advancements, it appears that a significant number of Muslims tend to overlook the teachings of Prophet Muhammad when it comes to engaging in intimate relations with their respective spouses. Specific individuals perceive these activities as simple habitual practices without spiritual significance. In contrast, Prophet Muhammad emphasised the notion that adhering to the prescribed guidelines for sexual relations between spouses can lead to significant blessings bestowed by Allah. The principle of kindness in the relationship between spouses is affirmed in Surah An-Nisa, verse 19 of the Quran.

The concept of "ma'ruf," referring to behaviour that is kind and courteous, aligns with the teachings of Prophet Muhammad as conveyed via his sayings (Hadith) and actions. Such behaviour is intended to foster positive outcomes within the marital relationship. Consensual swinger sexual activity is regarded as a departure from Islamic teachings about the sexual connection between spouses. This conduct has the potential to result in both physical and psychological damage.

The discussion of sexuality in the Quran necessitates a cautious approach due to its sensitive nature. The Quran addresses a range of topics about human relationships, encompassing subjects such as marriage, divorce, the behaviour of spouses within the context of family life (Ma'asyaratu Bil Ma'ruf), 'iddah (the waiting period), and matters concerning sexual deviance, exemplified by the

narrative of the inhabitants of Lot engaging in homosexual practices. This demonstrates that the Quran, being a revered religious scripture, encompasses discussions on matters pertaining to human affairs, such as the prohibition of sexual relationships, which are likewise referenced in the Hadith.

In the Quran, engaging in sexual intercourse outside the institution of marriage is subject to hudud punishments, whereas same-sex sexual encounters are regarded in a manner akin to adultery. Presented below is an illustrative instance of a Quranic passage that underscores the Islamic doctrine's proscription of sexual aberrations—furthermore, individuals who exercise restraint in protecting their intimate areas. With the exception of their spouses or those whom they hold as enslaved people, individuals will not be held accountable. However, those who seek relationships beyond these boundaries are considered engaging in acts of transgression. The verses 29-31 of Surah Al-Ma'arij.

In order to examine the matter of consensual swinger sexual conduct within the community from a religious perspective, the following measures can be implemented: Facilitating the coordination and implementation of religious practices within the local community. Exploring the role of religion as a unifying and reconciling agent within a diverse and varied society. Internalising religious information within the familial context involves emphasising the prohibition of swinger behaviour dictated by religious teachings.

Education is a crucial factor in effectively addressing and mitigating criminal behaviour, as it has the potential to tackle the underlying factors that contribute to criminal activities, such as socioeconomic disparities, substandard living conditions, joblessness, and widespread illiteracy within a substantial segment of society. The acquisition of formal education, such as attending educational institutions, exerts a significant impact on an individual's cognitive abilities, behavioural patterns, and decision-making processes, ultimately influencing their future trajectory. It facilitates the development of cognitive capacities and fosters engagement in educational pursuits about literacy, written expression, and numerical operations, hence fostering intellectual aptitude. Acquiring formal education plays a significant role in shaping an individual's cognitive growth, influencing their decision-making abilities and subsequently impacting their prospects.

Regarding initiatives that can be undertaken within the society to discourage consensual swinger sexual conduct through an educational framework, the following options are available: Promoting early sexual education within the family, with a particular emphasis on highlighting that engaging in consenting swinger behaviour is a form of sexual deviation that may be consciously avoided. One potential strategy for raising awareness about the potential risks associated

with consenting swinger behaviour is to engage in educational outreach campaigns within the community.

The cultural approach is a theoretical framework that examines how culture influences human behaviour, beliefs, and values. It explores how individuals and groups are shaped by their culture. Culture is a powerful social phenomenon that motivates individuals to conform to the established practices and traditions of a particular collective. It is a distinctive and significant entity encompassing symbolic representations, guidance, and the facilitation of collective action. Culture refers to the deeply rooted patterns of behaviour and collective identity exhibited by a particular social group. The transmission of cultural practices from one generation to another within a society is a customary and widely accepted phenomenon. Individuals often incorporate these behaviours into their daily routines as a typical lifestyle. Each nation possesses a distinct cultural identity that is shaped by the unique habits and practices of its populace.

Indonesia is a nation that adheres to Eastern cultural norms and practices. In the realm of society life, Eastern cultures, with a particular focus on Indonesia, place significant emphasis on the practice of etiquette, sometimes referred to as "unggah-ungguh." In Indonesia, societal values and standards play a significant role in regulating several dimensions of life. The cultural disparities between Indonesian and Western societies are considerable, mostly stemming from divergent experiences, belief systems, hierarchical structures, religious practices, notions of time, spatial linkages, and other factors. Furthermore, Indonesia is renowned for its rich tapestry of varied cultures. This contrasts with Western society, as most Indonesians consider it more liberal. In Western nations, individuals typically tend towards more liberal and relaxed modes of dress. Moreover, living in Western societies is commonly seen as more permissive, characterised by prevalent practices such as alcohol consumption, casual sexual encounters, and atheism. Hence, a substantial segment of the Indonesian populace perceives Western culture unfavourably.

Regarding actions that can be conducted within the society utilising a cultural framework to deter consensual swinger sexual behaviour, the following options are available: Facilitating community engagement in the preservation of local culture, which is presently experiencing a decline. A significant number of individuals exhibit a preference for foreign cultures due to their perceived practicality and alignment with contemporary advancements. Incorporating cultural education at an early stage is vital for every individual. Nevertheless, it is lamentable that a significant number of individuals no longer perceive the acquisition of knowledge about indigenous culture as a priority, leading to the gradual decline of local cultural practices within the younger cohort and

preserving cultural values and traditions through the cultivation of adaptable and responsive manifestations that may effectively accommodate shifting circumstances and emerging contexts—endeavouring to revive the ethos of tolerance, familial connections, hospitality, and strong unity and advocating for the recognition of culture as a fundamental component of national identity.

Conclusion

Swinger consensual sex refers to a form of sexual activity that involves multiple individuals, all of whom willingly engage in the action despite its legal prohibition. The individuals participating in this activity are referred to as "victims" despite having provided their consent. Consensual crime refers to criminal activities that primarily harm entities such as the state, the legal system, or society, thereby impacting the broader public interest, including ideological or cultural aspects of the system.

From an Indonesian positive law standpoint, the Criminal Code (KUHP) does not clearly regulate consensual swinger activity, whether it is practiced alone or in a group setting. In order to address incidents of swinger crimes, the Indonesian government presently depends on punitive measures implemented through the criminal law system. The pertinent legal laws are within the Indonesian legal Code (KUHP), more notably delineated in Articles 296 and 506. The utilisation of criminal law as a means to resolve criminal offences is pervasive in numerous nations, including Indonesia. The incorporation of criminal law as a significant part of legal policy in Indonesia is seen in legislative procedures. The etiology of criminal behavior can be attributed, in part, to humanitarian and social factors that extend beyond the scope of punitive measures as standalone solutions. Due to inherent limitations and flaws within penal policies, it is imperative to supplement them with non-penal policies in order to effectively address these challenges. Non-penal strategies encompass proactive measures aimed at addressing criminal activities before their occurrence. These measures encompass a range of social, religious, educational, and cultural techniques implemented within Indonesian culture.

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