

# *The Penal Policy on Cyber Adultery*

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**Abstract-** Revolution of technology especially informatic technology has supported people live easier to connect each other. In the other side it has implication on people live wherein commercial interest manipulates this technology to provide, illicit sexual relationship on cyber mainly cyber adultery that involves cybersex. The negative implication of cyber adultery is not only involves husband or wife, but it has wide implication on social morality. Criminal law is left far behind revolution of cyber technology, cause of speed of revolution, meanwhile criminal law only in its evolution just cause it needs collective agreement to condemn cyber adultery as an offence, based on collective consciousness of society. This article search how to create penal policy as crime control on cyber adultery? Doctrinal research that emphasizes library research be used in this article, in lined with its purpose to know about penal policy of cyber adultery be created in criminal law. The result of this research that it has not been created penal policy on cyber adultery as an offence to punish either providers or perpetrators who enjoy its service on cybersex, so that it needed criminalize this behavior to eliminate cyber adultery which harms and threatens morality and family life.

**Keywords-** Penal, Policy, Cyber, Adultery

## I. INTRODUCTION

In the global world people hold the world on their handfull cause of cyber technology revolution. Everyone connected by cyber technology to know each other, to interlace communication to other people even with unknown people. There is positive useful of cyber technology to help people in connecting to other relate with interests such as in government, trading, and interrelation between states. Meanwhile, the negative side of cyber technology revolution is to make people using this stuff to do crimes, such as bullying, embarrassing, spreading hoax and cyber-sex. As we know that cyber-sex a behavior which is committed in adultery in virtual world.

Adultery is a sinful act in all religions and as a condemned behavior in all society, eventhough this behavior was done based on love, but there is disadvantages to other party. Many countries consider it as a private matter, especially in liberal countries so that no punishment can be imposed to the perpetrator of adultery. The underlying reasons why adultery is not created as a crime that there is no victim involves in this behavior, or as a victimless act, in line with a judgement that adultery is a private matter that should not be regulated by the state. Crime commonly labeled

victimless include drug use, gambling, prostitution, pornography, adultery, and sodomy [1]. Meanwhile a behavior created as a crime on ground that it cause harms to others, injury to oneself, and danger to morality.

Adultery is considered illegal in 21 American States, including New York, although surveys show that while most Americans disapprove of adultery, they dont think of it as a crime. More than 60 countries around the world had done away with laws that made adultery as a crime. Meanwhile, adultery is prohibited in Sharia or Islamic Law, so it is a criminal offence in Islamic countries such as Iran, Saudi Arabia, Afganistan, Pakistan, Bangladesh, and Somalia. Taiwan punishes adultery by up to a year in prison and it is also deemed a crime in Indonesia.

Meanwhile cyber world provides cyber-sex which manipulates commercial interest of provider into cyber technology. This commercial manipulation was responded by adulterer as a chance to commit adultery in cyber world. Commonly, Cyber adultery which involves cyber-sex was committed by the adulterers who have intimate relationship in the real world and then continues in the cyber/virtual world, even that committed by adulterer that unknown each other before and get sexual relationship in virtual space by hiding original identity one to other.

Branwyn give a meaning cyber-sex as mental masturbation which is committed by combines telephone, internet dating, and voyerism. Mental masturbation means that sexual activities in cyber-sex is committed beyond physically contact.

Revolution on cyber technology has left criminal law so far behind to respond negative impacts of cyber technology revolution. It happens in cyber adultery control as a crime in lines with destruction impacts to society. It is needed penal policy strategy to control cyber adultery by creating determinant aspects which is considered in its establishment as a crime.

Some articles that examines relate with cyber adultery, inter alia: Victimless Crimes, which discuss on conceptual of victimless crimes and morality reasoning in establish victimless crimes as punishable conducts. Other research on title “*Mereguk Kenikmatan Di Dunia Maya Virtualitas dan Penubuhan Dalam Cybersex* (“Gulping Pleasure in Virtual World and Sexual Intercourse in Cybersex”) that discuss about anatomy on cybersex phenomena, which comprises of motivation on cybersex, character of perpetrators and behaviors, advantages and disadvantages of cyber-sex. The other article discuss on Internet

Addicted Disorder, that examines internet addicted in pathology design, obsessive / compulsive disorder as addicted behavior beyond control. This research's purpose is to identify the types of internet addicted, that covers of addicted cyber – sex (cyber-sex), cyber addiction-relational (virtual relations), and addicting to gaming net (virtual games or role), addicted of the web or information overload (obsessive search for information), and addicted of computer or computer addiction.

This research urgent to be committed with a purpose to know how penal policy strategy to eliminate destructive impacts of cyber adultery to protect moral of society.

## II. RESEARCH METHOD

The research is an effort to find out the object to be examined to get answer of problem questions clearly. Juridical empirical in this research was excavated throughout empirical events on cyber adultery and its social implication in mass media. The Doctrinal method to be used in this research which emphasizes on literatures research to find conceptual of penal policy strategy on cyber adultery to protect moral of society. By qualitative approach this research used descriptive analyze method to describe crime control throughout a strategy of penal policy on cyber adultery to be punishable behavior.

The modern penal policy is based on the essential promise that because crime is social fact and a human act, the process dealing with crime is not completed once the offence has been legally defined and equated with a penalty imposed by law ; there remains the need to understand the crime as a social and individual phenomenon; the need to prevent its commission or repetition; the need an attitude to be adopted towards as the criminal, over and beyond the legal qualification of the offence . This theory could be applied in crime control of revolution of cyber technology against any behavior which rationally has a potent to endanger to society .

## III. FINDINGS AND DISCUSSION

### *1. Cyber Technology Manipulation and Social Destruction in Society*

Revolution of cyber technology is signed by transformative of capacity of technology which has been driving force for social and culture change of society in modern era. This condition changes social culture to depend of life on cyber technology in all times, no cyber technology is no life become as a maxim in modern life. There is culture shock cause of lack of knowledge in cyber technology using. Culture shocks occurs when someone experiences confusing or troubling thoughts when living in different culture. This condition caused of personal disequilibrium, brought about by encountering unexpected or disturbing differences of behavior and

social expectations, and by difficulties in communication, wherein the Symptoms of distress may become intense, and may even lead to psychological problems.

An ecological analysis at country level indicates that societies with widespread Internet use support cultures of higher cyber-security. They also expose daily Internet users to higher cyber-crime risks.

Utilization of cyber technology has responded by people in various interests by manipulates cyber technology revolution to obtain advantages in commercial interest for money. This manipulation of cyber technology provides some pleasures that is offered to the user so that makes them unconsciously had addicted in cyber pleasures. There is social destruction which was faced by society in various aspects of life, such as moral violation, internet addicted, and some behavior which harms to other. One of manipulation on cyber technology to commercial interest is cyber-sexual as a media to excavate many advantages of cyber provider. Cyber-sexual violence refers to a form of harmful sexually aggressive behaviors committed with the facilitation of digital technologies. Such harmful behaviors can include non-consensual pornography and other image-based sexual exploitation, online sexual harassment, cyber-stalking, online gender-based hate speech, and the use of a carriage service to arrange/attempt to arrange a victim's sexual assault. The categories of cyber-sexual included : (1) non-consensual pornography or revenge porn, which is the unauthorized creation and/or distribution of sexually explicit images of the victim, (2) the actual or threatened creation and/or distribution of sexual assault images, (3) the use of a carriage service to arrange/attempt to arrange a victim's sexual assault, (4) online sexual harassment, which involves asking someone intimate questions or sending them unwanted pornographic material via the internet and cyberstalking, which involves the repetitive pursuit of an individual through electronic or Internet-enabled devices; (5) online gender-based hate speech, which involves offensive and degrading comments directed at a person or a group of people based on their gender, and (6) virtual rape, which is when a person's avatar is subjected to simulated sexual violence by other avatars .

Criminalize of cyber technology manipulation in cyber-sex needs to be criminalized as a crime on morality reason and to protect society from moral destruction. Indonesia criminalize sexual intercourse which is committed by a man and a woman who were tied in marriage and threat it up to nine months of imprisonment. It was irony if did not criminalize cyber-sexual that becomes core of adultery, especially in cyber adultery

### *2. The Nature of Cyber Adultery and Its Implication*

In line with cyber technology revolution there is manipulation of cyber technology to expand commercial interests without paying attention to legal values. The providers transform into hidden criminals who provide

pornography and cybersex which is packed in cyber dating services. They have taken many money as the big profit from subscribe on cyber dating service which provides cybersex service.

Cyber adultery or cyber-sex differs from adultery in the real world, there are a lot of considerations to commit cybersex or cyber adultery that is considered more safely than adultery in the real world, such as : venereal disease transmission, pregnancy, abortion, and broken heart. Not all perpetrators of cyber adultery involves feeling of love, they commit sex in virtual world just for fun. Here, some of people considered that cyber-sex or cyber adultery is not more than masturbation with technology intermediaries, the perpetrators of cyber-sex become victim of manipulation of cyber technology at once.

As sexual activity in cyber technology world, it is often committed in chat space of internet (such as Internet Relay Chat/ IRC atau web chats), short messenger system (SMS), webcams, voice chat system as Skype or online game as Second Life. There are the favorable reasons of cyber-sex than the real sex, include : First, cybersex give more satisfying sex desire without risks of pregnancy or venereal disease transmission; Second, cybersex give many chances to explore in sexual intercourse that it is impossible to commit in real sexual intercourse cause of physically or social norms restriction; Third, there is no need complicated business and long time to built a relationship with cyber adultery couple in the internet, so that cyber-sex make it possible either give sexual intercourse instantly or sexual satisfying quickly. Fourth, it make it possible for participants to control what they were done in sexual intercourse.

Meanwhile, there are disadvantages of cybersex, such as confidentiality matter is not secure to spread it in public space. This privacy can be abused to extort couple with profit purposes. This phenomena is called as "sextortion" extortion in sexual relationship abused, which manipulate cyber-sexual relationship as a modus to commit extortion with purpose to get many profit. Sextortion practice had became such a big business that involves big money which expands this practice globally.

This research find of implication of cyber adultery or cyber which divided in : First, Psychology impact that cyber adultery harms cause addicted wherein perpetrators could not control sexual desire to commit cyber-sex to unmarried couple which potents as trigger of divorce. A husband who commit cybersex tends ignores or asks wife to give sexual intercourse like an animal. Other Psychology impact are ignorance of responsibility and roles in family, personality change, lost passion for wife. Second, physically impact like as sexual disfunction wherein cyber adultery or cybersex to be committed with out physically contacts. The man who takes cybersex just got mental stimulation as well as erotic thoughts throughout words, pictures or video in computer only give imagination and emotional without penetration, it potent cause disfunction erectile; Third, victimization on sexual commercial manipulation, wherein perpetrators especially

teenagers commit cybersex unconsciously become a target on cyber-sexual exploitation by provider for the sake of big money, there is victim and perpetrator who are untouchables by the law.

#### The Penal Policy Establishment and Determinant Aspects on Crime Control Strategy against Cyber Adultery

In many Western societies online dating has served as a provisional solution to the problems thrown up by a more individuated and segmented social setting. The stimulus for the cultivation of these online relations is the search for solutions to some of the problems confronting life in the offline world. However, the growing popularity of virtual encounters has had a significant impact on the way that men and women conduct their everyday affairs. The intermeshing of the virtual with the "real" is part of the reality of contemporary culture . Online dating can be continued to cyber-sex and cyber adultery, wherein adultery is no longer to be illegal, but can be a reason for divorce.

Difference between Indonesia and western world in giving meaning of adultery, underlied on difference of moral values that forms life guidelines. The western countries are dominated by liberalism and individualism values, that perceives adultery as a private matter wherein perpetrators have personal rights to act anything in the bedroom, no matters it carry out with wife or his affairs couple. Other reason that adultery is victimless cause of based on love each other, unless it cause divorce so that it just be a reason of it. As victims are wife and their children but it is not enough to make adultery as a crime. Vice versa in Indonesia that hold tight religious values in culture, adultery to be interpreted as a sinful conducts and moral violation which disrupt harmony of cosmos in society, so that it against material and spiritual life at once.

Indonesia have being punished adultery as complaint delict in paragraph 284 of Indonesian criminal law code by up nine (9) months of imprisonment. Considering with cyber adultery is same conduct with adultery in real, but cyber adultery have not a regulation to punish it yet. Here is needed a measure to protect society as a core of purposes of penal policy, to obtain the ultimate goal namely social welfare.

There is necessary penal policy regulate cyber adultery as a crime control to eliminate it, under reasons:

*First*, morality reason. Indonesia as a religious and traditional country so that social morality rests on religious and traditional values that crysrtalized as Pancasila, that is five priciples which be a guidelines of life Indonesian people. Pancasila refuses behaviors which on the contrary to religious, humanity, social and sociological, and justice principles. Cyber adultery is a sinful conduct so that contrary to religious, humanity, sociological and justice principles at once. It damages morality and guidelines of Indonesian people, so that needs to be punished to protect morality of Indonesian.

*Second*, Psychology reasons. There is addicted impact of cyber adultery wherein a perpetrator as a victim at once, cause of addiction which rises desires to do cyber-sex out of control. This impact can cause perpetrator be disturbed in mind. Finally, this condition can disturb daily activities of perpetrator.

*Third*, Family and marriage protection. There are damages that is caused by cyber adultery, especially to wife or husband, children and family. Their interests on happy family and healthy life are needed to be protected. Crime control which is performed by penal policy have to be create cyber adultery as a complaint delict to punish perpetrators for sake family and marriage protection.

*Fourth*, Society protection. The society protection as whole are needed against cyber adultery. As the ultimate of penal policy to obtain social welfare, wherein society can live safely, comfortable, and in properious life which supported by healthy life in material, moral, and spiritual.

The guidelines of penal policy to eliminate of cyber adultery should be done by criminalized this behavior to be a crime or an offence. But considering that cyber adultery performed in the private area between a woman and a man, it is needed a policy that can protect of privacy of perpetrators which is created cyber adultery as a complaint delict or complaint offence. The complaint offence is the offence requires either complaints of victim or certain people who have relationship with the victim such as children, husband, or wife

#### IV. CONCLUSION

Cyber adultery rises in cyber technology revolution that manipulate commercial interests for the big money to provide cybersex. No regulation which punished either providers or perpetrator who enjoy this cyber-sex, but crime control is needed to perform penal policy under some reasons to protect society's interests by criminalize cyebr adultery as an offence.

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