



# Flexing Phenomena of Students in Surabaya in the Perspective of Digital Economic Actions

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**Abstract.** The high use of social media in Indonesia has resulted in the emergence of a new phenomenon called flexing, which can be expressed as showing off wealth. Similarly, in Surabaya, many students are active users of social media. Their activities on social media in the form of posting photos, videos, and others can be categorized as flexing. Various impacts can arise from these actions, including causing widespread admiration so that people put full trust in them. Furthermore, people who have believed can do everything, for example making investments, and so on which have an impact on losses. In the perspective of digital economic crime, the existence of this loss is sufficient to qualify as an element of a criminal offense. So this legal research wants to answer the formulation of the problem: How is flexing qualified as a criminal offense? The urgency of this research is to find a legal concept of the flexing phenomenon that qualifies as a digital economy crime. The method used is the Statute Approach, which traces the relevant legislation. The results show that not every flexing is absolutely qualified as a criminal offense, requiring certain conditions to be met.

**Keywords:** Flexing, Digital Economy, Crime

## 1 Introduction

The phenomenon of flexing mainly through social media is increasingly being practiced by many people, from many walks of life. This happens because social media has become a very popular platform, and is widely used by the public. For example, the case of the wife and children of DKI Jakarta Provincial Government officials who are considered by the public to often show off luxury bags. Another case is the case of police officials in East Java who are also considered by the public to do the same thing, previously also the case of Mario Dandy who showed photos of luxury on his social media. Similarly, the Binomo case by Indra Kenz, which also displays luxury. These actions sometimes cause mere admiration for the public, but can also potentially cause public trust to do something. For example, in the case of Indra Kenz, people believe that through investment, they can become successful. This is related to irresponsible business practices or marketing in the digital era, the target is consumers who are less careful will easily slip. Many victims of the Binomo case, DNA Pro, Robo Trading, online system loans that are not registered with the Financial Services Authority, and other cases. Likewise in Surabaya, the city with the second largest internet usage in Indonesia, there are many flexing phenomena, most of which are carried out by students. In the context of business, the utilization of the

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role of educational institutions is needed in the process of education, monitoring, and business supervision. Meanwhile, in the legal context, especially criminal law, determining actions that have an impact on the loss of the wider community is qualified as a criminal offense. In short, flexing can lead to criminal offenses. The main one is digital economy crime, because the mode used is economic activity through digital devices. Based on observations, it is known that there are students as owners of social media accounts who have a firm affiliation with business actors, there are also those who are account owners as business actors, or not in relation to it all. For those who have a firm affiliation with business actors, it is evidenced by students as account owners who endorse goods or services from business actors. In order to attract the public, the nuances of luxury are displayed. This is so that it is possible for the public to be tricked, to believe so that they spend a certain amount of material in relation to investing or buying goods or services. Meanwhile, account owners who are indeed business people, namely students, are indeed startup business people. So that he carries out social media activities entirely for the benefit of his business, initiation and others also come from within himself. Meanwhile, what is not related to everything, namely the flexing that is done is not related to material matters at all. Both those handed over to business actors, and for their own interests. Departing from this background, the problem formulations to be answered in this study are: How can flexing be qualified as a criminal offense?

## **2 Method**

The method used in this research is socio-legal, which is based on a legal approach and a social approach. As a legal research, the approach used is the Statute Approach, which analyzes based on the relevant laws and regulations to find the full concept of criminal acts in relation to the digital economy. While the social approach used in this research is descriptive qualitative, which describes the flexing phenomenon that occurs and at the same time is carried out by students in Surabaya.

## **3 Result and Discussions**

### **3.1 Flexing Phenomenon of Students in Surabaya**

In the current state of the digital era, social media has a very significant role in influencing the interest of individuals or communities to participate in digital businesses. Especially in the context of the digital economy, social media has become an important tool in supporting the promotion of online businesses, especially start-ups that can be divided into two categories, namely e-commerce and Financial Technology (FinTech) [1]. E-commerce serves as a platform for online transactions, while FinTech focuses on technological innovation in the financial sector. The synergy between e-commerce and FinTech helps strengthen this digital business ecosystem. E-commerce provides a platform for commerce, while FinTech helps simplify the transaction process, making it more efficient and more accessible to the

public. For example, FinTech has made online payments more practical and faster, which benefits both companies and individuals. In addition, the role of social media has also changed the way e-commerce operates. E-commerce has evolved into the concept of "social commerce," where social media becomes a direct platform for shopping [2]. Business models such as affiliate programs invite people to participate in product purchases through social media. Today, the promotion of goods and services can be done directly through social media, often involving influencers or influential figures, without going through the intermediary of large companies such as Lazada or Shopee. Thus, it can be believed that social media plays a major role in supporting the growth of digital businesses, especially in the context of e-commerce and FinTech, and has changed the way we interact with the digital economy as a whole. In relation to flexing carried out through social media, there are several motives, in addition to expecting recognition from the public, it is also possible that the motive is to move people to believe and do something [3]. Departing from this motive, it can then be explored the fulfillment of criminal qualifications in it, so that it can be sorted out firmly flexing which qualifies as a criminal offense and not. Students in Surabaya, when considered based on the background of social media, two motives can be traced. The first motive is not related to efforts in order to seek profit; and the second motive is related to their efforts in seeking profit. The second motive can be realized by students in various forms, including: endorse or affiliate a trade or business activity, run their own trade, become an influencer, and others. Trading through electronic systems has become a new chapter in trade in Indonesia, this is also inseparable from the role of international trade. Talking about trading through electronic systems, which is a part or element of trade, in principle is regulated in the Law of the Republic of Indonesia Number 7 of 2014 concerning Trade (Trade Law) [4]. The existence of this Trade Law is to revoke and declare invalid:

1. Law Number 2 of 1960 concerning Warehousing, which has been amended by Law Number 11 of 1965 concerning the Stipulation of Government Regulations in Lieu of Law Number 5 of 1962 concerning Warehousing, is now considered a law (published in the State Gazette of the Republic of Indonesia of 1965 Number 54, with an addition in the State Gazette of the Republic of Indonesia Number 2759).
2. Law Number 10 of 1961 relating to the Stipulation of Government Regulation in Lieu of Law Number 1 of 1961 concerning Goods, now considered as law (published in the State Gazette of the Republic of Indonesia of 1961 Number 215, with the addition in the State Gazette of the Republic of Indonesia Number 2210).
3. Law No. 8 Prp of 1962 which regulates the Trade in Goods under Control, is available in the form of a law (found in the State Gazette of the Republic of Indonesia Year 1962 Number 42, with the addition in the State Gazette of the Republic of Indonesia Number 2469).

However, when the Trade Law comes into force, all laws and regulations related to Trade are declared to remain in force as long as they do not conflict with the provisions in the Law. Based on the provisions of Article 1 number 1 of the Trade Law, what is meant by trade is an order of activities related to transactions of Goods

and/or Services within the country and beyond national borders with the aim of transferring rights to Goods and/or Services to obtain rewards or compensation [5]. The scope of trade regulation in the Law, as stated in Article 4 paragraph (1) letter e of the Law, also includes trade through electronic systems. The definition of trade through the electronic system itself is contained in the provisions of Article 1 number 24 of the Law, namely trade whose transactions are carried out through a series of electronic devices and procedures. Furthermore, the regulation of trade through electronic systems in the Trade Law is contained in Chapter VIII of the Law, which consists of Article 65 and Article 66. Based on the provisions of Article 65 of the Law, it is stated that:

1. Every individual or organization involved in trading Goods and/or Services through electronic systems must provide accurate and comprehensive data and information.
2. It is not allowed for individuals or organizations involved in the trade of Goods and/or Services through electronic systems to use data and/or information that is not in accordance with the preceding provisions.
3. The utilization of electronic systems must comply with the regulations described in the Electronic Information and Transaction Law.
4. The required data and information shall, at a minimum, include: identification and legal status of the business actor as a producer or distributor, technical specifications of the Goods offered, technical requirements or qualifications of the Services offered, price and payment procedures for the Goods and/or Services, and delivery mechanism of the Goods.
5. In the case of a dispute arising in relation to a trade transaction through an electronic system, the parties involved in the dispute may seek settlement through the courts or alternative dispute resolution options.
6. Business Actors who conduct trading in Goods and/or Services through electronic systems without providing accurate and complete data and information, as described in point 1, will be subject to administrative sanctions in the form of license revocation [6].

#### Bottom of Form

Based on these provisions, what can be seen is the regulation of business actors and the use of electronic systems. Business actors as in Article 1 point 14 of the Law, in essence, are every individual Indonesian citizen or business entity in the form of a legal entity or not a legal entity established and domiciled in the jurisdiction of the Unitary State of the Republic of Indonesia that conducts business activities in the field of Trade Further technical arrangements regarding trade through electronic systems as based on the provisions of Article 65 of the Trade Law will be regulated in a Government Regulation, in this case the Government Regulation of the Republic of Indonesia Number 80 of 2019 concerning Trade through Electronic Systems. Based on the provisions of Article 4 paragraph (1) of the Government Regulation, the parties referred to in the trade are: Business Actors, Consumers, Individuals, and state management agencies in accordance with the provisions of laws and regulations [7].The flexing phenomenon when associated with these provisions does look

impressive, how the digital platform is described as greatly changing the current business style. There are business actors, for matters of getting potential consumers, who can take advantage of the role of students as owners of social media accounts. The affiliation between account owners and business actors is not done strictly, in the sense that it becomes difficult to identify who influences and who is influenced.

### **3.2 Flexing as a Form Of Digital Economy Crime**

Students doing flexing can basically be outlined for economic reasons, namely that they become influencers or others so that they benefit from these activities. The acquisition of profit on the one hand is enjoyed by the perpetrator, on the other hand, it is always related to the condition of the people who are tricked into doing the actions as intended [8]. But also beyond that, flexing by students does not have a profit motive at all. The application of punishment with all its sub-systems has indeed become a fairly extensive debate not only in Indonesia, but also in other countries. In terms of determining criminal offenses as one of the sub-systems, this shows different attitudes between countries. There are many qualifications that are removed to the extreme through penal strategies, but there are also those that are not implemented in the decision-making process [9]. The same condition occurs in Indonesia, in the constitution as based on the provisions of Article 28 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945) explicitly states "the right to be free" is part of human rights. The meaning of the right to be free is part of human rights, so interpreting it must look at the concept of human rights according to the Indonesian nature, and not western human rights. As a nation, Indonesia has the identity of Pancasila. Everything is in harmony and in accordance with Pancasila, and so are human rights in Indonesia. The concept of human rights in Indonesia was formed and developed based on Pancasila [10]. This means that it is in accordance with the values of Pancasila, not individualist or other concepts as applied in other countries. The First Precept of Pancasila explicitly formulates "Belief in God Almighty", the correlation with this right is that the Indonesian people believe that everything comes from God. Not from a person's choice, because if it is a choice then a person can choose whether he will live or choose the attitude of death [11]. As a God-fearing country, Indonesia strongly forbids the loss of life, either one's own life (suicide) or the lives of others because it violates God's nature. In addition to the constitution, Indonesia upholds the right to life by ratifying the International Covenant on Civil and Political Rights (ICCPR) through Law No. 12/2005 on the Ratification of the International Covenant on Civil and Political Rights. In addition, criminal law enforcement in Indonesia implements a correctional system. The meaning is that people who have been decided by the court to be convicted, are placed in correctional institutions with the aim that these people will be specially fostered so that after the end of their sentence they can be returned to society. Convicted persons are fostered so that they can return to their activities as citizens without the labeling of "former criminals" and can again exercise their rights as citizens. Looking at pure legal theory as conveyed by Hans Kelsen [12], that the law is "orders and prohibitions". The meaning of these orders and prohibitions is that they are coercive towards human

behavior, as well as the primary rules that determine sanctions. The provisions of Article 378 of the Criminal Code, if interpreted based on Hans Kelsen's theory, contain an order for the court to punish, one of which is imprisonment. However, it turns out that its application is also related to the laws and regulations as mentioned earlier which contain prohibitions, namely the 1945 Constitution of the Republic of Indonesia which contains "free life" as well as in Indonesian Law Number 12 of 2005 [13]. It is clear that the application of pure law creates overlap, so the paradigm must be shifted. In this case, what is used as a basis is the Economic Analysis of Law, which explains the expansion of the dimensions of law through its study.

Posner's Economic Analysis of Law can be used to explore legal issues by defining terms that differ from legal assumptions in order to acquire information on happiness maximization. This remark is strongly related to legal changes. To do this, law is transformed into economic tools designed to maximize satisfaction. The approach using this analysis must be structured with economic considerations without eliminating the elements of justice, so that justice can become an economic standard based on three basic elements, namely value, utility, and efficiency based on human rationality. The application of punishment based on the provisions of Article 378 of the Criminal Code, in principle, is born from a crime, one of the elements of which according to Sutherland and Cressey [14] "The loss caused must be a loss prohibited by law, and clearly listed in the criminal law. In the Explanation related to the Criminal Code, it is mentioned that the loss caused by the act involves material loss. The use of Economic Analysis Of Law towards the application of the punishment starts from the basic assumption that humans are essentially rational beings. With the inherent rationality of each individual, humans are given the option to choose what they believe will provide the best results they want. Given that human satisfaction is unlimited and humans are never satisfied with what they get, humans are encouraged to make the best decisions from existing choices, both individual and group [15]. As a rational being, the choices he makes are based on profit and loss, advantages and disadvantages, limited capabilities, in accordance with his level of rationality, and also looking for the best alternative to his choice. The provisions of the Article provide an open space for Judges to impose punishment, but Article 50 paragraph (1) of Law of the Republic of Indonesia Number 48 of 2009 concerning Judicial Power (Judicial Power Law) has explicitly stated that Judges must contain legal considerations in their decisions. The meaning of legal considerations here is of course the application of the Article is not merely for perpetrators who commit acts as referred to in the Article with certain evidence that the perpetrators are automatically punished with punishment. The judge in his consideration must detail the legal reasons why the punishment is applied to a perpetrator, and not choose other alternatives offered in the Article. Based on Economic Analysis of Law, the level of rationality of the perpetrator should be considered by the judge. This means whether the mens rea in the perpetrator is true to harm the material as referred to in the Law, or because the perpetrator is actually only looking for profit without knowing the impact of his actions and without thinking about destroying as intended. Also worth considering is whether the rationality of the perpetrator can run reasonably or normally, it could be that the perpetrator is under pressure (interpreted outside *vis absoluta* and *vis*

compulsiva). For example, the perpetrator for all reasons is finally trapped in a corporation, this perpetrator does not have rationality because he only complies with what the community wants. The perpetrator also does not benefit greatly from his actions, which he should receive from the price or profit. Therefore, it should be said that the perpetrator does not have rationality in his actions, and does not really seek profit from his actions. This rationality can at least be measured by the perpetrator's level of education, background, and environment.

## 4 Conclusion

In order to map out whether a person's flexing actions qualify as a criminal offense or not, the most important element is to look at the rationality of the perpetrator. Is the perpetrator really aware of the contain business that he uploads on social media can have a detrimental impact, or is there no element that is despicable.

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## Autors' Contribution

The author consists of 3 members who have shared research work jobs. Among the stages of data collection, are data analysis to research reports submitted to reviewers.

## References

1. D. A. Scheufele and D. Tewksbury, "Framing, agenda setting, and priming: The evolution of three media effects models," *Journal of Communication*. 2007.
2. A. K. & M. Haenlein, *User of The World, Unite, The Challenges and Opportunities of Social Media*. 2010.
3. F. Alonso, C. Esteban, L. Montoro, and S. A. Useche, "Knowledge , perceived effectiveness and qualification of traffic rules , police supervision , sanctions and justice," *Cogent Soc. Sci.*, vol. 1, no. 1, pp. 1–17, 2017.
4. A. W. Hertanto, "Pencantuman Batasan Tanggung Jawab Pemilik/Pengelola Situs Dalam Transaksi Jual Beli Secara Online dan Dampaknya Bagi Konsumen," *J. Huk. dan Pembang.*, vol. 45, p. 109, 2015.
5. M. A. Tabun, *Manajemen Risiko Bisnis Era Digital (Teori dan Pendekatan Konseptual*. Lombok Barat: Seval Literindo Kreasi, 2023.
6. I. Davies, M. Evans, and A. Reid, "Globalising citizenship education? A critique of 'global education' and 'citizenship education,'" *Br. J. Educ. Stud.*, vol. 53, no. 1, 2005.
7. C. A. Torres and E. Bosio, "Global citizenship education at the crossroads: Globalization, global commons, common good, and critical consciousness," *Prospects*, vol. 48, no. 3–4, 2020.
8. C. Elliott and F. Quinn, "Strict liability," *Crim. Law*, 2012.

9. B. Lewis and S. Woodward, "Corporate criminal liability," *American Criminal Law Review*. 2014.
10. "No Title." [Online]. Available: <https://blogs.worldbank.org/id/eastasiapacific/gender-dan-pendidikan-di-indonesia>. [Accessed: 05-Apr-2021].
11. P. H. L., *The Limit of The Criminal Sanction*. Stanford University Press, 1968.
12. P. DeScioli, "On the origin of laws by natural selection," *Evol. Hum. Behav.*, vol. 44, no. 3, pp. 195–209, May 2023.
13. J. J. Blazina, B. Law, K. Mcconchie, and M. J. Brundrett, "Professional Legal Training Course 2018 Criminal Procedure," 2018.
14. G. Ferguson, "Criminal Liability and Criminal Defenses," in *International Encyclopedia of the Social & Behavioral Sciences: Second Edition*, 2015.
15. Simorangkir, "Tindak Pidana Penipuan Terkait Dengan Iklan Penjualan Barang Yang Merugikan Konsumen," *USU Law J.*, vol. 4, p. 12, 2016.

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