

Sexual Gratification As A Serious Threat In Modern Criminal Reasoning On Aspects Of Judges' Considerations In Court Judgment

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Objective: This research aims to examine and analyze the problem of sexual gratification as a serious threat in modern criminal reasoning.

Methodology: In this research, the authors used a normative juridical method. This method was employed to examine many types of legal materials by referring to diverse norms found in legislation and encompassing several related legal principles, history, doctrine, and jurisprudence. Thus, this method applied a statutory approach.

Finding: Over time, since all kinds of gifts within the scope of gratification have developed, the segmentation has become wider. This suggests that valuable facilities and objects are not only money and luxury facilities but also anything that can facilitate all kinds of individual biological needs, such as sexual. Sexual gratification, which originated from prohibited activities against the law with different scopes, such as prostitution, has now been targeted as a gift in the form of sexual facilities as an effort or reward for prohibited services provided by legal subjects in the Corruption Eradication Law. In relation to several things, in this aspect, the regulation in practice still has difficulty enforcing the law on the issue of gratification, considering the difficulty of providing evidence in the regulation. As such, an alternative step in this aspect is to find a legal breakthrough, one of which is using the judge's authority at the examination stage. As happened in Court Judgment Number 87/PID.SUS/TPK/2013/PN.BDG, the fact was discovered that one of the witnesses in court stated that the Defendant asked for sexual services every Thursday or Friday night, but this was not considered in legal considerations. In fact, her statement should have been used as evidence against the Defendant. For this reason, modern criminal reasoning in the form of adjustments to the development of sexual gratification crimes is an effort to protect the nation. In arrangements relating to gratuities, there is a context relating to "other facilities";

here, it is considered that the context of sexuality can be included in the realm of gratification. In the context of "means," it is often categorized as a form of tool to achieve a desired goal.

Application of this study: It is expected that this research can support literacy in society in all segments in responding to developments in the context of gratification to carry out prevention and legal developments regarding society's need for protection from threats, especially regarding morality in society. Sexual gratification is considered to be a serious threat to the moral values that live in society, considering that sexual gratification is not only a loss to the state but also a threat to the norms of decency that live in society.

Novelty/Originality: In contrast to previous research, this research focuses on aspects of sexual gratification and the impact of morality in the interests of modern criminal law in criminal acts of corruption, which have not been specifically researched until now.

Keywords: Criminal Act; Corruption; Sexual Gratification

ABSTRAK

Tujuan: Penelitian ini bertujuan untuk mengkaji dan menganalisis permasalahan kepuasan seksual sebagai ancaman serius dalam penalaran pidana modern. **Metodologi:** Dalam penelitian ini penulis menggunakan metode yuridis normatif. Metode ini digunakan untuk mengkaji berbagai jenis bahan hukum dengan mengacu pada beragam norma yang terdapat dalam peraturan perundang-undangan dan mencakup beberapa asas hukum, sejarah, doktrin, dan yurisprudensi yang terkait. Dengan demikian, metode ini menerapkan pendekatan perundang-undangan.

Temuan: Seiring berjalannya waktu, sejak berkembangnya segala jenis pemberian dalam lingkup gratifikasi, maka segmentasinya menjadi lebih luas. Hal ini menunjukkan bahwa fasilitas dan benda yang berharga bukan hanya sekedar uang dan fasilitas kemewahan tetapi juga segala sesuatu yang dapat memfasilitasi segala macam kebutuhan biologis individu, misalnya seksual. Gratifikasi seksual yang bermula dari kegiatan-kegiatan yang dilarang melawan hukum dengan cakupan yang berbeda-beda, misalnya prostitusi, kini di sasaran sebagai pemberian berupa fasilitas seksual sebagai upaya atau imbalan atas jasa-jasa terlarang yang diberikan oleh subjek hukum dalam UU Pemberantasan Tipikor. Terkait dengan beberapa hal, pada aspek ini, peraturan tersebut dalam praktiknya masih mengalami kesulitan dalam menegakkan hukum terhadap masalah gratifikasi, mengingat sulitnya pembuktian dalam peraturan tersebut. Oleh karena itu, langkah alternatif dalam aspek ini adalah dengan mencari terobosan hukum, salah satunya dengan menggunakan kewenangan hakim pada tahap pemeriksaan. Sebagaimana terjadi dalam Putusan Pengadilan Nomor 87/PID.SUS/TPK/2013/PN.BDG, ditemukan fakta bahwa salah satu saksi di persidangan menyatakan bahwa Terdakwa meminta layanan seksual setiap hari Kamis atau Jumat malam, namun hal tersebut tidak dipertimbangkan dalam pertimbangan hukum. Padahal, keterangannya seharusnya dijadikan alat bukti yang memberatkan Terdakwa. Untuk itu penalaran pidana modern berupa penyesuaian terhadap perkembangan kejahatan gratifikasi seksual merupakan upaya perlindungan bangsa. Dalam pengaturan terkait gratifikasi, terdapat konteks yang berkaitan dengan "fasilitas lain"; di sini, konteks seksualitas dianggap bisa masuk dalam ranah gratifikasi. Dalam konteks "sarana", sering kali

dikategorikan sebagai suatu bentuk alat untuk mencapai tujuan yang diinginkan.

Kegunaan: *Diharapkan penelitian ini dapat mendukung literasi masyarakat pada semua segmen dalam menyikapi perkembangan dalam rangka gratifikasi untuk melakukan pencegahan dan pengembangan hukum mengenai kebutuhan masyarakat akan perlindungan dari ancaman khususnya mengenai moralitas dalam masyarakat. Gratifikasi seksual dinilai dapat menjadi ancaman serius terhadap nilai-nilai moral yang hidup dalam masyarakat, mengingat kepuasan seksual tidak hanya merugikan negara tetapi juga merupakan ancaman terhadap norma kesusilaan yang hidup dalam masyarakat.*

Kebaruan/Keaslian: *Berbeda dengan penelitian-penelitian sebelumnya, penelitian ini berfokus pada aspek kepuasan seksual dan dampak moralitas untuk kepentingan hukum pidana modern dalam tindak pidana korupsi yang hingga saat ini belum diteliti secara khusus.*

Kata Kunci: *Tindak Pidana; Korupsi; Kepuasan Seksual*

INTRODUCTION

Given the nation's relatively high corruption index, the repercussions of criminal acts of corruption in Indonesia are exceedingly severe. Corruption is not merely regarded as a criminal act; it also has a detrimental impact on culture. As part of the prevalent culture of corruption in the field, gratification and bribery permeate every facet of bureaucratic interactions under the pretext of expressing gratitude for prompt service. In this regard, Indonesia has regulations, such as Act No. 20 of 2001 on Amendments to Act No. 31 of 1999 on Corruption Eradication. In connection with the above, at least seven distinct categories of criminal acts fall under the term corruption (Ermansyah Djaja, 2010: 52): 1) Losses to state finances, 2) Related to bribery, 3) Related to embezzlement of office, 4) Related to extortion, 5) Related to fraudulent acts, 6) Related to conflicts interests in procurement, and 7) Relating to gratuities.

Gratification, as Article 12B section (1) of Act No. 20 of 2001 defined, is all activities in the form of gifts, whether in a broad sense such as money, goods, rebates, interest, commissions, interest-free loans, travel tickets, lodging facilities, and various other facilities, which can be equated with gifts with various means of giving, both direct and electronic.

As time goes by, all kinds of gifts within the scope of gratification have developed so that the segmentation has become wider. This denotes that valuable facilities and objects are not only money and luxury facilities but also anything that can facilitate all kinds of individual needs of a biological nature, such as sexual. Sexual gratification, which originated from prohibited activities against the law with different scopes, such as prostitution, has now been targeted as a gift in the form of sexual facilities as an effort or reward for prohibited services provided by legal subjects in the Corruption Eradication Law.

Sexual gratification is a reality that has attracted the attention of many parties from the segmentation of legal certainty, considering that sexual gratification has not been regulated at all in regulations in Indonesia. The scope of sexual gratification, if specified, is not only about sexual services but also about everything that creates biological pleasure and enjoyment, which is given or awarded to obtain benefits for the perpetrator of the gratification according to his wishes.

As a comparison, there is the example of the IEM case, a member of the House of Representatives of the Republic of Indonesia, who was caught in a corruption case for the PLTU Tarahan project, Lampung. When the witness, namely PS, was questioned, there was information that said IEM received sexual gratification around 2002 or 2003 when they met FD at a Paris club. After that, they left the club with the woman hired by FD to spend the night with IEM in Paris. Furthermore, after undergoing trial in 2011, IEM was sentenced to three years in prison by a judge and fined 150 million rupiah. The panel of judges who examined this case stated that the Defendant violated Article 11 of Act No. 31 of 1999 and Act No. 20 of 2001 on Corruption Eradication as an alternative charge (Mulyawati, 2014: 125).

The case above raises the question of whether sexual gratification can be considered a prohibited practice and whether the Corruption Eradication Law can prove and persuade the perpetrator (giver and recipient) to be satisfied. Of course, this cannot be separated from the authority of the judiciary in carrying out the role of implementing the evidentiary system in trials of criminal acts of corruption, which has the right to freely express opinions on the case during the review and delivery of decisions. The results of the public prosecutor's statement and the defendant/lawyer's statement are supported by the judge's confidence.

The need for the judge's attitude in making decisions takes into account many things, and the role of the judge in acts of sexual gratification in situations like this is highly anticipated by the litigants. As administrators of justice, judges have the power to interpret applicable laws and regulations to prove that the Defendant is guilty or innocent by making the fairest possible decision (N. Mauliddar, 2017: 157).

In Court Judgment Number: 87/PID.SUS/TPK/2013/PN.BDG against Defendant ST, if the decision handed down to the Defendant is paid attention, the element of sexual gratification received by the Defendant, as stated by one of the witnesses examined during the investigation and before the trial, was not taken into consideration by the judge in handing down a verdict against the Defendant.

Furthermore, corruption, which is inextricably linked to a negative culture that must be

eradicated, is now developing into a more dangerous area and cornering the eastern values of the Indonesian nation with the presence of the phenomenon of sexual gratification. This criminal act of gratification falls within the purview of corruption, as it serves not only to amass personal wealth but also to gratify sexual desires. Undoubtedly, this threat poses a risk not only to state finances but also, more broadly, to the nation's culture; thus, a thorough review of the legal standing of such criminal acts is imperative.

For that reason, the authors, in this case, are interested in studying sexual gratification as a serious threat in modern criminal reasoning, considering that in the modern era, it turns out that perpetrators of criminal acts of corruption do not only want to enrich themselves. This research focuses on the aspect of sexual gratification and the impact of morality in the interests of modern criminal law in criminal acts of corruption, which has not been specifically researched until now. Based on this, the issue to be raised is how criminal law responds to the development of acts of gratification in the realm of sexuality. Also, how does modern criminal reasoning adapt to the need for protection from sexual gratification anomalies in Court Judgment Number 87/PID.SUS/TPK/2013/PN.BDG?

RESEARCH METHOD

In this research, the authors used a normative juridical method. This was utilized as an attempt to analyze various types of legal materials through reference to various kinds of norms contained in legislation. It also involved several related legal principles, history, doctrine, and jurisprudence. Thus, this method employed a statutory approach.

RESULTS AND DISCUSSION

Gratification as an Aspect of Corruption Crimes

Before discussing sexual gratification in-depth, it would be good to try to explore the phenomenon of gratification. In Act No. 20 of 2001 on Corruption Eradication in Article 12B section (1), gratification is translated as all kinds of gifts, which include money, goods, rebates, commissions, interest-free loans, travel tickets, lodging facilities, interest-free loans, travel tickets, lodging facilities, tourist trips, free medical treatment, and other facilities. In this case, giving gifts to either civil servants or state administrators is not necessarily considered a criminal act of corruption if the gift does not conflict with existing regulations.

Various types of gratification cases are highlighted with the emergence of new forms, namely sexual gratification. This form of bribery is often referred to as a one-night stand/sexual services bribe. In fact, many cases have been brought, but still no one has

executed the sentence. Many people believe that a civil servant receives money for sex to complete cases of purchasing goods and services or to satisfy conditions so that the resolution of the case goes smoothly.

In the regulation in question, both civil servants and state administrators are allowed to accept gifts from other people outside of the salary given by the state, provided that the receipt of the gift has been reported first to the Corruption Eradication Commission (KPK) through a reporting scheme no later than 30 (thirty) working days from the date of giving (Destyani A & Gialo, 2019: 163-190). If the civil servant or state administrator does not report to the Corruption Eradication Commission (KPK) according to the specified schedule, accepting the gift can automatically be interpreted as an unlawful act, which will result in sanctions under Article 12C. As such, from this context, it can be interpreted as:

1. A gift that can be interpreted as having something to do with the position of the civil servant or state administrator who receives the gift, where the giver has an interest in that position.
2. A gift in any form that is not at the request of the recipient but at the initiative of the giver to authorized officers or officials with the aim of obtaining instant special services.
3. A gift in any form when carrying out duties outside of salary or other facilities provided by the state, which are not reported to the Corruption Eradication Commission (KPK) no later than 30 (thirty) working days from the date of giving.

Sexual Gratification as an Anomalous Challenge in Criminal Law Enforcement

The concept of gratification, as stated above, has been regulated in Articles 12B and 12C of Act No. 20 of 2001 on Corruption Eradication, where from the context of gratification, there is a general meaning (Iqbal M., 2018) as follows:

"Gratification is a gift in a broad sense, such as money, goods, rebates, commissions, interest-free loans, travel tickets, lodging facilities, tourist trips, free medical treatment, and others. In this case, gratification has a regulated scope such as gratuities obtained both from within the country and abroad, either by electronic or non-electronic means."

From the explanation above, it can be seen that in Article 12B section (1), the context of the gratification content has fairly neutral content or does not explain in detail the negative meaning or the meaning that the item being gifted is an item that is in fact prohibited or not prohibited (Azizah A & Sudarsana, 2010). Because it is used as a gratuity, it becomes the object of Article 12B section (1), but still, the meaning of a gift, in this case, is a gift in general scope or not specifically a gift, which, in fact, is realized unlawfully or not against the law (Iqbal M., 2017).

Accordingly, from that, it can be seen that the term gratification does not all mean that it is contrary to the law; in other words, gratification will become a crime if the activity meets the requirements specified in Article 12B (Doni Murhadiansyah, 2010: 3). Departing from that, gratification, which has a neutral meaning indicating that not all gratification is contrary to the law, will actually change its meaning to become contrary to the law if this gratification is manifested as an activity for the purpose of bribing a state administrator and civil servant, in the way they receive it, where the giving of the gratification is closely related to their position or duties.

From the elucidation of Article 12B section (1), there is an interesting thing to review, namely that gratification is a classification of a gift in the form of objects, goods, or facilities, which does not clearly position where sexual gratification is located. Sexual gratification is an anomaly with an unclear position in Article 12B, considering that gratification in this Article only covers tangible objects and facilities, while sexual facilities are not categorized as tangible since they are private or closed.

The commercialization of sexuality in the form of prostitution is nothing new in Indonesia. In this case, even though it is called a social disease, sexual prostitution always finds its place in the corners of the city under the pretext of economic needs and disparities related to social welfare, so it is quite difficult to eliminate permanently (Mahardhani, N.M & Artha, I.G, 2018). Over time, the existence of sexual prostitution in Indonesia has begun to experience striking developments, with many public figures considered to be involved in this activity, making it not only a negative effort to meet the economic needs of the perpetrators but also developing into an effort to fulfill a lifestyle. Many perpetrators of sexual prostitution no longer have problems with economic pressure but rather with efforts to fulfill a lifestyle that is closely related to the high culture of hedonism in Indonesia.

The development of sexual prostitution also aligns with the development of corruption patterns in Indonesia, where the perpetrators not only intend to enrich themselves, but more than that, the perpetrators attempt to satisfy their sexual desires by receiving gifts in the form of sexual gratuities (Tamara, B., & Herlani, A. F, 2017). This undoubtedly changes the paradigm of corruption from initially being related to welfare issues to developing solely on the issue of fulfilling sexual desires.

If the currently regulated gratification context is looked at, sexual gratification can be associated with a facility in the form of a service. In Articles 12B and 12B section (1), the context of gratuities can be defined as "other facilities." Barda Nawawi explained that Article

12B section (1) has a double meaning relating to gratuities: gratuities worth IDR 10,000,000 or more and gratuities worth less than IDR 10,000,000.

In this context, if the value of the gratuity is less than IDR 10,000,000, the proof will be submitted to the public prosecutor, and if the value is IDR 10,000,000 or more, the recipient of the gratification is the one who carries out the proof. However, sexual gratification is not explained at all in the series of gratifications in Article 12B section (1). This is because sexual gratification does not yet have a clear value benchmark, so it is categorized as gratification that does not have a clear form if it is linked to facilities. If this is taken from the clause "other facilities," it certainly cannot be a clear explanation regarding sexual gratification. Because sexual gratification is not clearly regulated in Article 12B, it is considered very difficult to impose sanctions on perpetrators.

Even though it is not specifically stated that gratification can also be carried out with sexual services, thereby equating sexual gratification to one of the gratifications in general (Susanto, S., & Iqbal, M, 2019), the current regulations relating to gratification are deemed unable to regulate about the anomaly of sexual gratification, creating a vacuum in norms. Reflecting on Article 1 section (3) of the 1945 Constitution of the Republic of Indonesia, it is emphasized that Indonesia is a country of law, where all aspects related to the urgency of having a rule as a form of law enforcement instrument are something that must exist (Indriani, I, 2019). If viewed from this segmentation, sexual gratification should have clear and specific rules and regulations in Indonesia.

Modern Criminal Reasoning in Efforts to Adjust the Need for Protection from Sexual Gratification Anomalies in Court Judgement Number: 87/PID.SUS/TPK/2013/PN.BDG

Legal protection for a crime begins with how capable the law is of providing a clear picture of the classification of the crime to be prohibited or suppressed; hence, from this clear picture, an offense can be agreed upon. In his opinion, quoted by E. Utrecht, Simons explains in detail about an offense as an act that is punishable by law and categorized as contrary to the law, and the person who commits this is seen as guilty and must be held responsible for his actions (E. Utrecht, 1958: 255).

In the previous explanation, it was agreed that on the basis of Articles 12B and 12B section (1) in Act No. 20 of 2001 on Corruption Eradication, gratification is a crime or criminal act. Gratification is equated with the offense of bribery if the giving of the gratuity is related to a position and action that arises as a result of that impact, which creates an action that is contrary to the obligations and duties of the recipient of the gratification. The

phenomenon of sexual gratification is starting to develop as a new *modus operandi* in the development of criminal acts of corruption. Even though it was previously stated as a form of anomaly that is not specifically regulated in existing regulations, the imposition of Article 12B section (1) in cases of sexual gratification is seen as a breakthrough in law enforcement; it must be seen that the meaning of gratification here has expanded, where sexuality has been considered as something with a benchmark that must be taken into account, considering that sexual gratification is very closely linked to the provision of certain facilities (Hasby, U, 2014). The existence of sexual gratification has also been deemed a form of criminalization of activity by expanding the meaning of providing facilities in the offense of gratification as stated in Article 12 B section (1) of Act No. 20 of 2001, which explains that any gratification to civil servants or state administrators can also be considered a bribe if it is related to their obligations and duties. The punishment that threatens the offense of gratification is a minimum of 4 (four years) and a maximum of 20 (twenty) years in prison. The accompanying fine is IDR 200,000,000 and a maximum of IDR 10,000,000,000.

Extensively interpreted gratification is using an expansion of the meaning of words or terms obtained in a statutory regulation so that several anomalous events that are closely related to a crime that has been regulated can be included in it (Cainur Arrasjid, 2000: 93). The position of sexual gratification has a different understanding, where what has been obtained so far is the meaning of general gratification; here, sex has no position in the context of gratification based on Article 12B of Act No. 20 of 2001 so that it can create debate due to the absence of a position of sex in regulated gratification.

In arrangements relating to gratuities, there is a context relating to "other facilities"; here, it is considered that the context of sexuality can be included in the realm of gratification. In the context of "means," it is often categorized as a form of tool to achieve a desired goal. The case of providing sexual gratification has a clear aim as a subject of corruption law; in this case, the civil servant or state administrator can do or not do something categorized as contrary to their obligations and duties.

The entrance to the manifestation of regulation or countermeasures related to sexual gratification can be taken into account by the presence of the phrase "other facilities." Here, even though it is not explicitly regulated in the gratification article, sexual gratification can be equated with general gratification by paying attention to the following things:

1. In sexual gratification in the form of sexual services aimed closely at the position held by the civil servant or state administrator, in other words, the person giving

the bribe in the form of sexual gratification wants something to be done or not done by the civil servant or state administrator after receiving the sexual gratification.

2. Providing sexual gratification is contrary to the obligations and duties carried out by civil servants or state administrators. This means that sexual gratification is given as a gift because the services of the civil servant or state administrator have fulfilled the wishes or desires of the person giving the sexual gratification.

Specifically, comparative interpretation or using the method of comparative law is useful to gain insight from legal comparisons between countries. Sexual gratification is known in Singapore, where in that country, there has been gratification in the form of providing sexual services or facilities to civil servants and state administrators, in which case the perpetrator is subject to the gratification article. The sexual gratification case in Singapore has ensnared officials in the country in several sectors.

Using the Prevention of Corruption Act (Chapter 241), Singapore enforces laws related to eradicating criminal acts of corruption, but this Article does not explicitly explain sexual gratification. However, in this country, it is interpreted broadly so that general gratification can include sexual gratification. Meanwhile, in Indonesia, in Act No. 20 of 2001, the definition of gratification has a broad meaning, especially when viewed from the context of "other facilities." Even in Article 12B, there is no explicit mention of sexual relations as one of the gratifications (Hasby, U, 2014). However, if the gratification is related to a position that is contrary to the obligations or duties of a civil servant or state administrator, in this case, Article 12B can be used as a form of instrument to ensnare the perpetrator of the sexual gratification (Laksana. A.W, 2014).

Sexual gratification has its pressure pattern, where gratification is used as a modus operandi for lobbying efforts. Several cases prove that sexual gratification is something that already occurs, i.e., sexual gratification targeting individual judges at the Corruption Court in Bandung. The judge with the initials S is suspected of receiving sexual gratuities, which was revealed during an examination of a businessman who was suspected of bribing judges. The judge is said to have asked for sexual services every Thursday or Friday. In this case, S was arrested for accepting bribes from people close to him, which the Corruption Eradication Commission (KPK) suspected was related to the 2009 and 2010 Social Assistance Fund Corruption cases.

Critical Analysis of Sexual Gratification in Court Judgment Number: 87/PID.SUS/TPK/2013/PN.BDG

Giving gifts to government officials or administrators is not permitted and may be considered a bonus if the gift could influence decisions or policies and could affect the integrity, independence, and objectivity of the gift recipient.

For example, a pleasant gift is being treated to a beautiful woman to date, along with the facility of staying at a five-star hotel. This is expected to attract the will of civil servants to act or not act in accordance with the wishes of the bribe maker or giver (Adami Chazawi, 2016: 77).

If viewed from a moral perspective, sexual gratification or "sex" services greatly insult a woman's dignity (whether through a business consensus or because of compulsion). Apart from that, the act of using a woman's body as a reward or bribe to someone is a violation of the rights of a woman's body as a "thing" or "object" that has economic value (Gail Hardy, 1998: 120).

Further, proving a criminal act is one of the processes of the criminal law enforcement system. Evidence is the judge's central responsibility in deciding a case. The decision taken by the judge really depends on the evidentiary process and the available evidence.

In this decision, the Defendant's actions included several actions that were described as similar, namely accepting gifts or promising to influence the decision of the case that the Defendant submitted to court, carried out sequentially. According to Article 64 section (1), the doctrine of sequential acts (*voortgezette handeling*) has three conditions: 1) the existence of intention, 2) similar acts, and 3) the delay that is not too long and is included in the category of bribery in Article 12a of Act No. 31 of 1999 and Act No. 20 of 2001 on Corruption Eradication.

The Defendant is legally convicted and has a convincing violation of Article 6 section (1) point a, in accordance with the first major indictment. Article 6, section (1) point a, aligns with the second primary indictment. Besides, Article 5 section (1) of Act No. 31 of 1999 has been revised with Act No. 20 of 2001 on Corruption Eradication and combined with Article 64 section (1) together with Article 55 section (1) of the first Article of the Criminal Code.

In explaining the Defendant's view, it is expected that the gift giver will ignore the participation of witness DR, witness ES, and witness HN and reduce the sentence of each Defendant in his decision in the social assistance corruption case. Bandung City needs a certain amount of money and recreational facilities to be managed. The circumstances of the

trial showed that the Defendant was actively lobbying the parties, starting by promising something. They were asked to realize that the Defendant's actions, which are considered immoral, are prohibited by religion, which is contrary to the noble vision and mission of the Court of the Republic of Indonesia with the aim of restoring the image of the Supreme Court and damaging the good name of the judiciary. In fact, he knows Article 5 point 4 of Act No. 28 of 1999 on the establishment of a clean state, free from corruption, collusion, and autocracy.

With the judge's decision to sentence the Defendant, the researchers found a problem with Court Judgment Number 87/PID.SUS/TPK/2013/PN.BDG. The focus is on the issue of sexual gratification, which is involved in the series of charges, i.e., the acts carried out by the Defendant so far. Within it, the practice of sexual gratification is not explained in the indictment and verdict, and it is not discussed in detail whether it was not true in court or because it was not prosecuted. However, TH's witness statement at the trial was stated, which was previously stated to be true in TH's assessment of the BAP. Witness TH was sworn in at the trial and said, "One karaoke costs IDR 25 million, and karaoke entertainment uses a song guide, and one can order other entertainment, and it is held every Friday night." "I am a field person, but when it comes to entertainment, it turns out the Defendant is more vicious than me," said witness TH.

Likewise, in the case decision on behalf of Izedrik Emir Moeis, during the examination of witnesses, especially PS, it was stated in the investigation report that between 2002 and 2003, they met at least three times. It was where Izedrik, Alstom Party, and Fred Perruci met at a club in Paris. Later, they left the club with three sex workers, one each. Fred Perruci then paid bars to have sex workers live in Paris. However, the judge did not consider this matter at all, with the ongoing investigation in accordance with Court Judgment Number 66/PID.SUS/TPK/ 2013/PN.JKT.PST.

Because the evidence in this case is the first witness, the witness at least must be able to provide a chronology of events, and the prosecutor can only provide testimony to that extent. In a judgment that is divided entirely, there is a receipt in the form of money; in court, only a small portion is mentioned and cannot be divided. Nevertheless, this information should be the first pointer to conduct further research on sexual satisfaction. Since TH's witness statement said he sang karaoke 12 times and spent IDR 25 million each time, according to the authors, this behavior is more immoral than receiving gifts in the form of money/goods.

Therefore, from these two definitions, the authors believe that sex is the active or

passive biological act of intercourse between a man and a woman, which takes place directly in relation to the genitals. This exhibits how difficult it is to demonstrate the practice of sexual satisfaction (Handrawan, Yuningsih and Firman Tarta, 2022). However, this is not an obstacle to proving the existence of the practice of sexual satisfaction. This means that it is final, and the decision is only based on the judge's beliefs and does not consider decisions based on facts or all the evidence presented in court.

The crimes committed by the Defendant were several acts, which were classified as similar, namely accepting gifts or promises given to influence the decision of cases submitted to him for trial, carried out consecutively. According to Article 64 section (1), the consecutive acts (*voortgezette handeling*) have three conditions: 1) there is an intention, 2) the act is of the same type, and 3) the time is not too long and falls into the category of bribery in Article 12a of the Act No. 31 of 1999 in conjunction with Act No. 20 of 2001 concerning Corruption Eradication.

The Defendant is legally convicted and has a convincing violation of Article 6 section (1) point a, in accordance with the first major indictment. Article 6, section (1) point a, aligns with the second primary indictment. Besides, Article 5 section (1) of Act No. 31 of 1999 has been revised with Act No. 20 of 2001 on Corruption Eradication and combined jo Article 64 section (1) jo Article 55 section (1) of the first Article of the Criminal Code.

In this case, what the person giving the gratuity hopes for is not to consider the involvement of witness DR, witness ES, or witness HN and to lighten the sentence for the respective defendants in their decision on the Bandung City Social Assistance corruption case, by asking for a certain amount of money and entertainment facilities to be provided for its management.

The circumstances of the trial showed that the Defendant actively mobilized the parties, starting from promising something and asking for their conscience so that the Defendant's actions were categorized as immoral and religion forbade them, which was contrary to the vision and mission of the Supreme Court of the Republic of Indonesia as an effort to restore the image of the Supreme Judiciary as well as harming the good name of the judiciary. In fact, he knows Article 5 point 4 of Act No. 28 of 1999 on the establishment of a clean state, free from corruption, collusion, and autocracy.

With the judge's decision to sentence the Defendant, the researchers found a problem with Court Judgment Number 87/PID.SUS/TPK/2013/PN.BDG. The focus is on the issue of sexual gratification, which is involved in the series of charges, i.e., the acts carried out by the

Defendant so far. The practice of sexual gratification was not explained at all in the indictment and verdict, and it was not discussed in depth whether this was not a fact at trial or because it was not pursued. However, it was mentioned by witness TH's statement in court, which TH previously declared correct in the BAP examination.

Witness TH was sworn in at the trial and said, "One karaoke costs IDR 25 million, and karaoke entertainment uses a song guide, and one can order other entertainment, and it is held every Friday night." "I am a field person, but when it comes to entertainment, it turns out the Defendant is more vicious than me," said witness TH.

Consequently, there is a legal vacuum, and even the Corruption Eradication Law itself does not seem to spell out provisions regarding sexual gratification. It should be noted that even though positivists say the connotation is open and broad. Satisfaction in the form of sexual services is already implied in the definition. When looked again, in Act No. 31 of 1999, Jo. Act No. 20 of 2001 on Corruption Eradication, gratification itself has provisions for reversing the burden of proof (ANNET and Naranjo, 2014), namely confirming them for nominal sexual gratification, i.e., all gifts can be collected in money.

Giving gratuities in the form of money or goods is always identified. If the recipient has doubts about whether the received grant is affiliated or not using his position and is afraid of being accused of corruption, he is obliged to report to the Corruption Eradication Committee within 30 working days. Can this reversal of the burden of verification be implemented using the acceptance of sexual gratification? Also, can sex always be calculated or even converted into money? The authors observe that it is not suitable for such a problem (Santoso, 2013).

The same applies to the case decision on behalf of IEM. During the examination of the witness, namely PS, in the investigation report, there was information stating that during the period 2002 or 2003, he met at least three times with IK and AM, at which time they and FP met at a club located in Paris. Then, they left the club with three sex workers, one for each. Then, FP paid the bar to get the sex worker and stayed in Paris. However, this was not the judge's consideration at all as the investigation continued.

Then, because the evidence in this case is the first witness, the witness at least must be able to provide a chronology of events, and the prosecutor can only provide testimony to that extent. In the decision, what was thoroughly discussed was the receipt in the form of money. Meanwhile, at the trial, it was only touched on in the smallest part and was not explained. However, the allusions to this information should be an initial clue for carrying out a more in-depth investigation into sexual gratification. Since TH's witness statement said he sang

karaoke 12 times and spent IDR 25 million each time, according to the authors, this behavior is more immoral than receiving gifts in the form of money/goods.

Several records attracted the attention of researchers in this decision so that access is needed to ensnare perpetrators (givers and recipients) of sexual gratification. The researchers argue that the meaning of sex must be clearly indicated by including male and female genitalia so that if someone enters the same room with no other people, it does not mean he accepts/enjoys fair terms, such as the definition of sex. As explained in the previous chapter, according to Musdah in his book (Mapuasari and Mahmudah, 2018), sex is a concept that analyzes human gender based on biological factors (something biological), and sex is the sex organs. Michel Foucault even defined sex as a broad and shallow network, where bodily stimulation, increased pleasure, interdependence, and sexuality give rise to the concept of love and sex as a speculative factor necessary for sexual function (Crystallography, 2016).

Also, it should be noted that even though positivists say the connotation is open and broad. Satisfaction in the form of sexual services is already implied in the definition. When looked again, in Act No. 31 of 1999, Jo. Act No. 20 of 2001 on Corruption Eradication, gratification itself has provisions for reversing the burden of proof (ANNET and Naranjo, 2014), namely confirming them for nominal sexual gratification, i.e., all gifts can be collected in money.

By converting sexual gratuities into nominal terms, all gifts can be calculated in money. Giving gratuities in the form of money or goods is always identified. If the recipient is unsure whether receiving the gift is related to his position or not and is afraid of being accused of corruption, he must report to the Corruption Eradication Committee within a maximum of 30 working days. Can the reversal of the burden of proof be applied by accepting sexual gratification? Also, can sex always be counted or even converted into money? The authors observe that it is not suitable for such cases.

The researchers attempt to give an image of the type of giver as two. The first type is that the giver is not at the same time an object, he only pays for exclusive services, which are a place to do it, and then he pays the pimp/sex worker/lady escort, which can be proven to be an entertainment gift; when he paid, for example, entry to an exclusive hotel, then it is converted to rupiah. The second is the provider and perpetrator of sexual services (Mauliddar, Din and Rinaldi, 2017).

Possibly, as a sign of the sexual gratification practice, this evidence can still be converted into money. What is difficult is if the giver himself acts as a sexual servant (Arsjad,

2021). In Indonesia, this is certainly a danger and loss for the country, which can be just as big if he is proven to have misused his power using only sex but cannot be charged and is not proven to have received grants in the form of money, this does not mean that there has been no criminal act of corruption (Fariaman Laila, 2022).

The researchers themselves disagree because this is what Muslims believe, namely positive cases. Thus, if using one reason as a basis for the weakness of another, the judge is only limited to the prosecution's accusations and demands, and then the judge must also expect an element of sexual gratification in his decision (Iskandar and Kurniawan, 2020). Positivist status sees only what is written afterward, which will have the effect of making it difficult for judges to make decisions in the decision-making process. The indictment cannot convict because it is not in the indictment, so the authors really hope that by interpreting Article 12B broadly, it will allow prosecutors to include the element of sexual gratification in the indictment (Kharismunandar and Soponyono, 2020). However, this does not rule out the possibility that consolidating corruption as additional evidence, if proven, could be tedious, and if it is not included in the prosecutor's indictment, the judge could set new legal standards in the future. Judges are allowed to determine the law, but there is something implicit in the charges and indictment (Muliawan and Caniago, 2010)

According to the verdict, it cannot be punished because it is not included in the indictment, so the authors really hope that interpreting Article 12B broadly will allow prosecutors to include the element of sexual gratification in the indictment (Odhy, 2021). However, there may be aggravating things to strengthen the criminal act of corruption as additional evidence if proven and if it is not included in the prosecutor's indictment, in the future, the judge can create new legal norms. The judge is allowed to find the law, but something is mentioned in the indictment and prosecution (Fauziah, 2015).

Many interpretations of sexual gratification occur because the statutory provisions do not regulate the sound of the articles. Ultimately, there is a legal vacuum in the law. A legal vacuum can occur because things or circumstances that occur have not been regulated in a statutory regulation, or even if they have, they are unclear or even incomplete. In line with what Pameo stated, "the formation of legislation is always lagging compared to events in the development of society" (H.Arianto, 2000:12).

According to the current authors, while the Corruption Eradication Law has not yet stated and completely stipulated the regulation of sexual gratification, if this problem arises again, using an extensive interpretation is deemed appropriate. The benchmark is if the provision of sexual services fulfills two elements, namely "...related to his position" and

"...contrary to his obligations or duties" (Gubali, 2013). It is because it cannot be denied that these two are integral elements that must be inherent in an act classified as a criminal act of gratification. Because the Corruption Eradication Law does not regulate sexual gratification clearly, this interpretation can be used when the judge assesses (Nugroho, 2015).

It turns out that the legal provisions that occurred did not have clear legal provisions, and a complete examination of the case being handled still had to be carried out. Apart from extensive interpretation, comparative interpretation is an idealistic interpretation of laws by reviewing other norms. In this case, it is a religious norm (Nur Basuki Minarno, 2005) because sexual gratification cannot be separated from the element of biological relations between men and women and can even be with members of the same sex. If it is done outside a legal marriage and is not justified, when each other is silent, feels benefited by the act, and voluntarily does it, then is this not a difficulty in proving sexual acts outside marriage? (Suryanto, 2021). This case certainly cannot be punished if one relies on the positive law currently in force.

Anton F. Susanto, quoted by Hernold Ferry Makawimbang, said that in progressive law, implementing the law is not only with ratios and syllogisms but also with compassion, empathy, sincerity, and dare (H.F. Makawimbang, 2014). Therefore, it is necessary to continue discussing gratification or as a discourse on the forms of giving that need to be deepened. For this reason, the Corruption Eradication Law in Indonesia can be modified to incorporate Islamic law, which will later improve the law in Indonesia. Also, when the matter of sexual gratification can be revealed, it will become the sole and first reference for law enforcement institutions. The public will also welcome the response to the enforcement of a case that has damaged the moral image of the elite in Indonesia.

Lessons on Sexual Gratification in Indian Country

India is the latest Asian country to include sexual gratification in its Corruption Act in September 2018. India amended the Prevention of Corruption Act to include sexual gratification as a form of bribery. This signals legal recognition that sexual gratification is not only a moral or ethical violation but also a serious form of corruption.

Apart from sexual gratification, bribery in this amendment includes membership in expensive clubs and even luxurious entertainment. This denotes a broader understanding of how bribes can be given in various forms. The penalty for this offense in India is a maximum of seven years in prison. Updates to the Prevention of Corruption Act in India, which includes

sexual gratification as a form of bribery, are a significant step in efforts to eradicate corruption (Ali, Kashif & Khan, Mohd, 2023).

This amendment also aims to prevent corruption through increasing awareness. Organizations and government agencies are required to take proactive steps in educating employees and the public about the legal implications of sexual gratification as a form of bribery. There is an emphasis on protecting victims and witnesses in sexual gratification cases, ensuring they do not face discrimination or retaliation after reporting incidents. There are also formal procedures for reporting and investigating cases of sexual gratification as a form of bribery, with competent authorities responsible for investigating such reports fairly and thoroughly (Aksel Sundström and Lena Wängnerud, 2021). With these amendments, India demonstrates its commitment to the rule of law and ethics in government and the private sector, with the aim of creating a more transparent and corruption-free environment.

CONCLUSION

From the explanation of the results above, it can be concluded as follows. Sexual gratification is considered to be a serious threat to the existing moral values in society. This is because sexual gratification is not only a loss to the state but also a threat to the norms of decency that exist in society. Criminal law, in this case, Act No. 20 of 2001 on Corruption Eradication, does not clearly regulate sexual gratification, which creates a vacuum in norms. However, from the segmentation of the interpretation of gratification, even though using the "other facilities" instrument in Article 12B, sexual gratification must still be expressly, not just impliedly, regulated in statutory regulations. This is important, considering the urgency of sexual gratification, which is not strictly regulated, can affect the evidence that will be realized. Previously, the concept of proof of gratification stated that if the nominal value of the gratuity had a value of IDR 10,000,000 or more, it was the burden of proof on the recipient of the gratuity, while gratuities with a value of less than IDR 10,000,000 were the burden of proof on the part of the public prosecutor. In this case, the problem faced is that sexual gratification does not have a clear value benchmark because it is closed. To make it easier to prove that this type of gratification has occurred, it is time for sexual gratification to be regulated clearly in existing regulations.

Based on the legal analysis of sexual gratification in Court Judgment No: 87/PID.SUS/TPK/2013/PN.BDG, the acts of sexual gratification enjoyed by the Defendant were not revealed. Investigators and prosecutors did not consider sexual gratification to be an element of corruption. At that time, investigators and prosecutors were unable to collect material evidence that confirmed criminal acts, so judges could not issue their legal

considerations and decisions in court, but allegations of sexual gratification were found. In this case, the law enforcement judge could describe this behavior by pursuing the extent to which the witness, Toto Hutagalung, as a mediator, provided his statement and then collected other evidence. The judge could also carry out various legal interpretations of the court judgment. The Defendant legally and convincingly violated Article 12c of the Corruption Eradication Law and Article 6 section (1) point a, in accordance with the first major indictment; Article 6 section (1) point a corresponds to the second primary indictment; and Article 5 section (1) of Act No. 31 of 1999, as amended by Act No. 20 of 2001 on Corruption Eradication. Analyzing the approach of the Corruption Eradication Law with Islamic law regarding sexual gratification as a preventive effort in legal reform in Indonesia is vital, with a comparative analysis of the law against Act No. 20 of 2001 together with Act No. 31 of 1999 on Corruption Eradication. This is because the currently active law regarding the crime of sexual gratification only uses the positive law contained in the law so that it will again reach a dead end.

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