

## Policy Reform of The Concept of Adultery in Article 411 of Law Number 1 of 2023 KUHP Indonesia

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### Abstrack

The current Dutch colonial Kitab Undang-Undang Hukum Pidana (KUHP) needs to be replaced with an updated Indonesian Criminal Code. Legal scholars, especially those specializing in criminal law, have long debated the overhaul, reformulation, modification, and even reformation of the Criminal Code to conform to the guiding principles of the Indonesian nation as a whole and this discussion has been ongoing for quite some time. This research intends to evaluate the policy basis of the expansion of the definition of adultery and the values protected from the expansion as stipulated in Article 411 of Law Number 1 Year 2023 on the Criminal Code. This research is a descriptive study that uses a normative legal approach. Secondary data and document study are used in data collection. A qualitative approach was used to analyze the data. The research findings show that the criminal policy perspective is the basis for the expansion policy that contains a definition of the offense of adultery that is problematic as a policy because it does not reflect the principles that guide Indonesian society and the nation as a whole. With the way the article is currently written, for every person who has sexual intercourse with anyone as long as he is not his husband or wife and does not regulate the imposition of punishment for convicts who are single. The findings in this study highlight the importance of policy implementation of expanding the concept of adultery to ensure that justice is maintained and equal protection is given to all parties accused without sufficient evidence.

## 1. Introduction

Reforming the legal definition of adultery is essential to recognizing the dynamics of society's evolving relationships and norms. The concept of adultery has historically centered on the married woman and the potential consequences for her lineage.<sup>1</sup> Many people are hoping that the Indonesian Criminal Code will bring many new reforms. Article 411 of the KUHP, which states that adultery is still a criminal offense, According to this article, adultery is referred to in Dutch as *termazina*. This definition is much more limited compared to what is considered adultery.<sup>2</sup> According to the rules of this article, the perpetrator of adultery is one or both of the perpetrators who were married at the time of the affair. Sexual behavior between an unmarried couple cannot be considered an offense of adultery because the couple is not married.<sup>3</sup> In the perspective of criminal law, adultery is known as *overspelt*, or as stated in Article 411 of the Criminal Code, which analyzes the explanation of the term *overspelt* for a married man or woman who commits adultery with a person of the opposite sex who is not their spouse. Adultery is punishable by nine months' imprisonment but is a complaint offense that requires a report or complaint to the police for further investigation.<sup>4</sup>

Further investigations are needed to determine the certainty that the law is being followed and that the values of society must be accommodated in the criminal law.<sup>5</sup> This is in line with the spirit of the people theory put forward by historian Friedrich Carl Von Savigny, which holds that the concept of law must reflect the spirit of a nation,<sup>6</sup> Furthermore, Von Savigny argues that the law must come from the customs and beliefs of the community where it is implemented.<sup>7</sup> The basic concepts embraced by Indonesian culture do not align the adultery law in the existing Criminal Code with the overarching ideas espoused by Indonesian culture. Religious and communal values permeate Indonesian society. Adultery, in its various forms, is a terrible crime that is expressly prohibited in Indonesia. This applies regardless of whether the behavior in question is committed by a married or unmarried couple (single). For example, religious values play an important role in the formation of moral values for a group of people to build fundamental knowledge of moral norms as a reflection of Indonesian society that respects Pancasila.

Broadly speaking, adultery in the Criminal Code is a minor crime, which is a private offense that only concerns individuals in a marriage, namely husband and wife. This is because the current Criminal Code is a legacy of Dutch colonialism. Therefore, the definition of adultery in the Code, according to Harkristuti Harkrisnowo, reflects the values adopted by Western European society, where the Code originated, rather than the values adopted by Indonesian society.<sup>8</sup> It was imposed by the Dutch in Indonesia during the colonial period.<sup>9</sup> Originating from the Dutch Penal Code, this Continental legal code was influenced by Roman law in the canon law of the Catholic Church. The fact that adultery was considered a crime attests to this origin. Indeed, as cited by Sweeny, Douglas Greenberg states that adultery laws were originally the cornerstone of a legal system that emphasized religious morality.<sup>10</sup> Since the culture of Indonesian society is based on kinship, social class, and religious beliefs, adultery

- 1 Nelufer Yesmen and Md Mazharul Hasan Nahid, "The Condition and Consequences of Adultery in Bangladesh," *Scholars International Journal of Law, Crime and Justice*, 2020, 32–38.
- 2 Ira Alia Maerani, "Kebijakan Hukum Pidana Dalam Upaya Penanggulangan Tindak Pidana Pers," *Jurnal Hukum* 29, no. 1 (2014): 1124, <https://doi.org/10.26532/jh.v29i1.329>.
- 3 Zulfiqar Bhisma Putra Rozi, "Perkembangan Delik Zina Dalam Yurisprudensi Hukum Pidana," *Veritas et Justitia* 5, no. 2 (2019): 286–301, <https://doi.org/10.25123/vej.3612>.
- 4 Anis Widyawati, "Criminal Policy of Adultery in Indonesia," *Journal of Indonesian Legal Studies* 5, no. 1 (2020): 171–86, <https://doi.org/10.15294/jils.v5i1.36786>.
- 5 Widya Amanda, "Pidana Kerja Sosial Dalam Pembaharuan Hukum Pidana Nasional" (Universitas Sumatera Utara, 2018).
- 6 Muhammad Erwin, "Filsafat Hukum Refleksi Kritis Terhadap Hukum, Jakarta, PT," *Raja Grafindo Persada*, 2011.
- 7 Mory Amdiya Dewi, "Sosiologi Hukum," *Istishab: Journal of Islamic Law* 2, no. 01 (2021): 72–82.
- 8 Harkristuti Harkrisnowo, "Tindak Pidana Kesusilaan Dalam Perspektif Kitab Undang-Undang Hukum Pidana," *Pidana Islam Di Indonesia; Peluang, Prospek Dan Tantangan*. Jakarta: Pustaka Firdaus, 2001.
- 9 Kode ini diperkenalkan oleh belanda pada tahun 1918, Awalnya bernama *Wetboek van Strafrecht*. Setelah kemerdekaan penerapannya disetujui oleh UU No. 1/1946 untuk wilayah jawa dan madura dan UU No 73/1958 untuk wilayah lain atau wilayah Indonesia. Lihat Neng Djubaedah Perzinahan dalam peraturan Perundang-undangan di Indonesia Ditinjau dari Hukum Islam (Jakarta: Kencana, 2010). Pp.64-65.
- 10 Joanne Sweeny and Joanne Sweenydr "Undead Statutes: The Rise Fall, and Counting Uses Of Adultery and Fornication Criminal Laws," *Loy. U. Chi. LJ* 46, <http://lawcommons.luc.edu/lucj/vol46/iss1/4> (2019): 46.

not only affects the personal difficulties and freedom of one person but also affects the interests of many people. Individual, but also relates to the interests of a large number of people; in this case, society and the values to which it adheres.<sup>11</sup>

Trust principles contain a set of rules designed with the aim of assisting human personal regulation through control of what the person believes in.<sup>12</sup> All religions in Indonesia forbid adultery because it violates moral and religious principles, religious principles and ethical standards. The principle of decency is the main principle on which it is based. It can be communicated through one's actions or attitudes, i.e., through the belief that one should have good morals.<sup>13</sup> The government in charge of the Dutch colonies at the time initially drafted the Criminal Code. In keeping with the topic of the debate, it is important to draw attention to the fact that the overhaul of the criminal code had at least two main objectives.

In analyzing the objectives of criminal law reform towards updating the concept of adultery in Article 411 of Law No. 1 of 2023 on the Criminal Code, it is important to consider shifting societal and global perspectives on personal autonomy, privacy, and individual rights.<sup>14</sup> The wave of global reforms, which has been observed between 1945 and 2005, reflects a reshaping of the model of world society around individuals rather than collective entities.<sup>15</sup> During this period, there has been a clear erosion of worldwide support for criminal laws that aim to protect collective entities such as families and nations. The societal shift towards valuing personal autonomy and individual rights has affected the objectives of criminal law reform regarding the concept of adultery.<sup>16</sup>

The offense of adultery in Law Number 1 of the Criminal Code (KUHP) is regulated in Article 411 as follows:<sup>17</sup>

1. Zina (adultery and fornication) shall be punished by a maximum imprisonment of five years:
  - a) A married man has sexual intercourse with any woman who is not his wife.
  - b) A married woman has sexual intercourse with any man who is not her husband.
  - c) A single man having sexual intercourse with a woman, knowing that his partner is a married woman.
  - d) A single woman who has sexual intercourse with a man, knowing that her partner is a married man.
  - e) Every man and every unmarried woman have sexual intercourse.
2. No prosecution shall be instituted against the criminal offense as referred to in paragraph (1) except upon the complaint of the insulted spouse or the insulted third party.
3. Upon the complaint as referred to in paragraph (2), Articles 25, 26, and 28 shall not apply.<sup>18</sup>
4. A complaint may be withdrawn as long as a legal investigation has not been initiated.

According to the research findings, the definition of adultery needs to be expanded due to the increasing prevalence of sexual relations that do not involve marriage or other forms of official commitment, both from a religious and legal perspective. Additionally, the Dutch colonial Criminal Code does not allow for, restrict, or place limitations on behavior that is against certain religious laws. The National Criminal Code provides restrictions on adultery. Some jurists consider the adultery articles in the Criminal Code to have gone beyond criminalization. In addition, they assert that the maximum prison sentence of five years for adultery and fornication is so severe

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11 A Widiada Gunakarya, "Politik Hukum Pidana Persepektif Pembaharuan Hukum Pidana Dalam KUHP" (Malang: Setara Press, 2021)

12 Purnadi Purbacaka and Soerjono Soekanto, "Perihal Kaedah Hukum," 2018, 100.

13 Ibid Hal. 35.

14 Mary Lynn Miller Henningsen et al., "Student Disclosures about Academic Information: Student Privacy Rules and Boundaries," *Communication Reports* 32, no. 1 (2019): 29–42.

15 David John Frank, Bayliss J Camp, and Steven A Boutcher, "Worldwide Trends in the Criminal Regulation of Sex, 1945 to 2005," *American Sociological Review* 75, no. 6 (2010): 867–93.

16 Liming Wang and Bingwan Xiong, "Personality Rights in China's New Civil Code: A Response to Increasing Awareness of Rights in an Era of Evolving Technology," *Modern China* 47, no. 6 (2021): 703–39.

17 Badan Pembinaan Hukum Nasional, Hak Asasi Manusia, and Republik Indonesia, "Draft Naskah Akademik Rancangan Undang-Undang Tentang Kitab Undang-Undang Hukum Pidana (KUHP)," *Badan Pembinaan Hukum Nasional*, 2015.

18 Ketiga pasal tersebut mengatur tata cara pengaduan secara umum, pengecualian pasal-pasal tersebut dalam delik perzinahan berpotensi menimbulkan ketidakpastian hukum dan subjektivitas prosedur penyidikan perzinahan.

that it is equivalent to a sentence for theft.<sup>19</sup> Although the majority of the population is Muslim, Indonesia is not an Islamic state, and some groups do not agree with this expansion. Conservatives and fundamentalists, therefore, see the most that can be achieved in this context. For them, adultery and sexual immorality should be criminalised, as these acts are against Islamic morality.<sup>20</sup> Given that Islamic criminal law has not been fully implemented, the criminalization of adultery in the law cannot be categorised as hudud anymore; instead, it is relegated to ta'zir (crimes that refer to punishment for violations of the discretion of judges or state authorities) Neng Djubaedah.<sup>21</sup> A group of Islamic fundamentalists from the Jemaah Tarbiyah movement filed a judicial review petition to the Constitutional Court (MK) on Articles 284, 285 and 284 of the Constitution,<sup>22</sup> 292<sup>23</sup> of the existing Criminal Code. The demand is for greater criminalization of homosexuality as well as expansion of the offences of adultery and rape. The application was filed in May 2016 with case number 46/PUU-XIV/2016.<sup>24</sup>

There are different ways to build and formulate a good criminal law, especially in terms of determining criminalization policy. Regarding the process of determining criminalization policy, a number of different approaches are required. When formulating policies related to this topic, these approaches are necessary. The strategy must still consider the characteristics of criminal politics, especially rationalisation.<sup>25</sup> Policy and value approaches must be considered in any rational discussion of criminal politics, both policy and value approaches. The politics of criminal law cannot be separated from the politics of crime, which must also be directed at policies and values to decide on criminalization and rationalisation policies. Which makes values a factor in the decision-making process of criminalization and punishment policies. These two policies are at the centre of the debate over the implementation of punishment.<sup>26</sup> On the one hand, we can look at the policy approach from the point of view of the values associated with punishment. On the other hand, the policy approach perspective is related to the core values that are taken into consideration when looking at the objectives of criminal law. According to Bassiouni, the objectives of criminal law are usually achieved so that the interests of society can be maintained, and these interests usually contain certain values.<sup>27</sup>

In a previous study by Simon Butt (2018), for example, “Religious conservatism in Islamic criminal law and the judiciary in Indonesia: a tale of three courts,” Simon Butt’s research investigated the interests of conservative Muslims who were asked by the Constitutional Court to expand the definitions of various moral offenses in the Criminal Code in accordance with Islamic conceptions and same-sex sexual relations. The research uncovered key legal flaws in each decision and considered why the three courts in question appeared to be pursuing similar goals in these cases.<sup>28</sup> On the other hand, Jae Joon Chung and Junxia Liu’s (2018) study entitled “Abolition of adultery laws in South Korea: A Critique” focuses on the need to protect women’s rights by exploring legal changes and unconstitutional decisions relating to adultery laws in Korea. The results of the study show that the consequences of the decision to abolish the law will undermine the process of seeking to improve women’s rights

19 Supriyadi Widodo Eddyono, Anggara, and Syahril Martanto Wiryawan, *Meninjau Kebijakan Kriminalisasi Dalam RKUHP 2015* (Institute for Criminal Justice Reform, 2015).

20 Mara Sutan Rambe, “Proses Akomodasi Hukum Islam Kedalam Hukum Pidana Nasional,” *Jurnal Cita Hukum* 3, no. 2 (2015): 225–46, <https://doi.org/10.15408/jch.v2i1.1846>.

21 Neng Djubaedah, “Perzinaan : Dalam Peraturan Perundang-Undangan Di Indonesia Ditinjau Dari Hukum Islam,” 2010, 376.

22 Pasal 285 Barangsiapa dengan kekerasan atau ancaman kekerasan memaksa seseorang perempuan melakukan persetubuhan dengannya diluar pernikahan diancam karena melakukan pemerkosaan dengan pidana penjara paling lama dua belas tahun

23 Pasal 292: Setiap orang dewasa yang melakukan perbuatan cabul dengan anak di bawah umur yang sesama jenis kelamin yang ia ketahui atau patut ia duga sebagai minoritas diancam dengan pidana penjara paling lama lima tahun.

24 Mahkamah Konstitusi Republik Indonesia, *Ringkasan Perbaikan Nomor 46/PUU-XIV/2016 Perbuatan Perzinahan, Pemerkosaan dan Pencabulan*.

25 A Widiada Gunakarya, “Politik Hukum Pidana Perspektif Pembaruan Hukum Pidana Dalam KUHP” (Malang: Setara Press, 2021).

26 Gunakarya.

27 Gunakarya.

28 Simon Butt, “Religious Conservatism, Islamic Criminal Law and the Judiciary in Indonesia: A Tale of Three Courts,” *Journal of Legal Pluralism and Unofficial Law* 50, no. 3 (2018): 402–34, <https://doi.org/10.1080/07329113.2018.1532025>.

as a whole.<sup>29</sup> Research relevant to the topic by Kukuh Dwi Kurniawan (2022) entitled *Porn Video as Evidence of Adultery: A Comparative Study of Indonesian Criminal Law and Islamic Law*. In the results of his research, he found that according to Indonesian criminal law related to the decision of the Constitutional Court No. 20/PPU-XIV/2016, there are restrictions on videos that are used as evidence in court, namely that how to obtain them must be in accordance with applicable laws.<sup>30</sup> The relevance of the title “Porn Video as Evidence of Adultery” to the policy of reforming the concept of adultery in Article 411 of Law Number 1 Year 2023 of the Indonesian Criminal Code lies in its potential influence on law enforcement in adultery cases. In the context of updating the concept of adultery, the inclusion of evidence such as pornographic videos can affect the legal process and enforcement of the article. The utilisation of evidence such as pornographic videos can be part of a more effective law enforcement effort against adultery offences in the eyes of the updated law. The Constitutional Court Decision No. 20/PUU-XIV/2016 has relevance to the discussion of the renewal of the concept of adultery in Law No. 1 of 2023 concerning the Criminal Code because the decision discusses the limits that must be considered in regulating adultery in Indonesian law. In this decision, the Constitutional Court emphasised that the definition of adultery contained in the previous Criminal Code must not be discriminatory and must be in accordance with constitutional values that uphold justice and equality. Thus, this decision can serve as a foundation for the reform of the concept of adultery in Law No. 1 of 2023 on the Criminal Code, which may include the expansion of the concept of adultery to better reflect inclusive and non-discriminatory constitutional values.

In contrast to previous studies, this research focuses on exploring the criminal policy basis of the expansion of Article 411 of the Criminal Code, which contains the definition of the offence of adultery, which is problematic as a policy because it does not reflect the principles that guide Indonesian society and the nation as a whole. The purpose of this research is to investigate the topic of criminal law reform policy. Criminal law reform raises a number of policy questions, with the expansion of the definition of adultery contained in Article 411 of the Criminal Code being the main topic of this discussion. The aim of this research is to ensure that laws adapt to and accurately represent the changing values, norms, and requirements of society. This research seeks to modernise and modify the notion of adultery in criminal law to suit contemporary circumstances and societal demands, taking into account the social, cultural, and value transformations taking place. In addition, an additional objective of expanding the definition of adultery is to increase the effectiveness of law enforcement efforts relating to offences involving extramarital sexual relations. Thus, the ultimate goal is to maintain morality and stability in society, ensuring justice, security, and protection in the field of law. In relation to the expansion of the concept of adultery in Article 411 of Law No. 1 of 2023 on the Criminal Code, the purpose of the research on protected values is to identify societal values that are considered important and should be safeguarded in relation to adultery. As well as to examine the consequences of expanding the definition of adultery on the moral, cultural, and social values upheld by society. In order to protect socially significant values, this research is expected to contribute to a more comprehensive understanding of the consequences associated with expanding the definition of adultery. Regarding research relevant to the topic of this study, the author will describe it in the bibliographic analysis scheme in the results and discussion.

Based on the background description above in this paper, there are two problems that are studied scientifically, namely: first, how is the determination of the policy basis for the expansion of the concept of the crime of adultery in Article 411 of Law Number 1 of 2023 concerning the Criminal Code? Second, how are the values protected due to the expansion of the criminal offence of adultery due to the expansion of Article 411 of the Criminal Code of 2023?

## 2. Research Methods

This research uses normative legal research methods based on the examination of legal norms, particularly legislation documented in laws and law books. The analysis mainly centres on legal standards documented in literature and legislation. This research uses law as a system of norms in order to provide justice to the problem of legal vagueness, develop precise definitions of legal principles that can be applied to specific situations that

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29 Jae Joon Chung and Junxia Liu, “The Abolition of the Adultery Law in South Korea: A Critique,” *Asian Journal of Women’s Studies* 24, no. 2 (2018): 205–23, <https://doi.org/10.1080/12259276.2018.1464108>.

30 Kukuh Dwi Kurniawan, “Porn Videos as Evidence of Adultery: A Comparative Study of Indonesian Criminal Law and Islamic Law,” *Legality: Jurnal Ilmiah Hukum* 30, no. 2 (2022): 166–81.

require legal resolution, and identify legal regulations.<sup>31</sup> The analysis is made using primary legal sources of Law Number 1 Year 2023 on Criminal Code and secondary legal sources of articles and news reports, journals, books, and official government documents. In the data analysis, the method used is a conceptual approach to analyse the legal challenges that arise in order to incorporate the expansion of the concept of adultery into the legal framework of Law No. 1 of 2023 on the Criminal Code. This approach is important in order to understand the perspectives and doctrines that emerge in legal science that can be the basis for building legal arguments. In this study, the conceptual approach is used to assess the constitutional rights of adultery perpetrators. The conceptual approach is used to explore and inventory regulations and doctrines on adultery contained in primary legal materials relevant to this research.

Furthermore, each primary and secondary legal document mentioned above will be analysed prescriptively, which combines descriptive and predictive analysis methods. The expansion of the concept of adultery is described by descriptive analysis, while the predictive analysis of the impact of the policy reform of the concept of adultery on the protected values due to the expansion of the criminal offence of adultery in articles 411-413 of the Criminal Code of 2023 is applied in legal practice in the field.

### 3. Research Results and Discussion

It is important to understand the policy theories relating to criminal law in relation to adultery in order to assess and amend current laws and procedures.<sup>32</sup> In an effort to reduce women's vulnerability to abuse and harm inflicted by their partners, legislators implemented reforms relating to property law, child custody, divorce, and adultery.<sup>33</sup> An in-depth understanding of the current state of the law on adultery and an exploration of possible policy changes can be reached by being aware of the social and environmental factors that make some policy options more feasible while limiting others.<sup>34</sup>

Law Number 1 Year 2023 on the Indonesian Criminal Code presents a policy of updating the concept of adultery through Article 411. This article revisits the traditional view of adultery, focusing on a more inclusive and contextual approach. The reform reflects an attempt to keep up with the development of modern social and cultural values in Indonesian society by providing a more thoughtful assessment of adultery. In addition, this policy is also expected to create a fairer legal foundation that is in line with human rights principles, making adultery-related punishments more proportional and rehabilitative. Related to previous research studies described in the introduction of this research, this discussion will describe literature derived based on search results from the date base of Google Scholar for keyword searches and titles. Several words that are often used in titles and research are obtained, as shown in the figure below:

**Table 1**  
**Frequently Used Words in Research Titles and Abstracts**

Term	Occurrences	Relevance Score
Adultery	807	0.0623
Woman	155	0.1163
Law	110	0.0893
Marriage	110	0.0998
Case	83	0.1401
Man	78	0.1275
Study	78	0.2063

31 S H I Jonaedi Efendi, S H Johnny Ibrahim, and M M Se, *Metode Penelitian Hukum: Normatif Dan Empiris* (Prenada Media, 2018).

32 Bradley Campbell, "Social Justice and Sociological Theory," *Society* 58, no. 5 (2021): 355–64.

33 Lucy Williams and Sandra Walklate, "Policy Responses to Domestic Violence, the Criminalisation Thesis and 'Learning from History,'" *The Howard Journal of Crime and Justice* 59, no. 3 (2020): 305–16.

34 Priccilar Vengesai and Sibongumuzi Zibusiso Mnkandhla, "The Dilemma of Gender Inequality in the Delict of Seduction: A Zimbabwean Perspective and Some Lessons from South Africa," *De Jure Law Journal* 55, no. 1 (2022): 107–23.





### 3.1 Policy Basis for the Expansion of the Concept of Zina Crime in Article 411 of Law Number 1 Year 2023 on the Criminal Code

According to what Hamzah said, the act of adultery is an offence of decency, which is included in it. This aspect of criminal law is not objective, and its application varies greatly from one nation to another. This opinion refers to the concept that the religious values and morality of a nation have a significant influence on the frequency of adultery committed in that society. The moral standards of a nation have a big impact on the prevalence of the crime of adultery. Of course, each country has its own characteristics. This is in accordance with the reality in Indonesia, where the regulation of the offence of adultery is getting greater attention in terms of its formulation. This is also consistent with the reality in other countries.<sup>35</sup> Considerations relating to the construction of the formulation.<sup>36</sup> In addition, according to Soesilo, adultery is an act of cohabitation committed by a man and a woman who have been legally bound in a marriage; this definition describes the act of living together. In order to meet this requirement, the two people must engage in sexual activity because they enjoy it rather than because they find it repulsive. In other words, this requirement must be met before sexual activity can take place. Because it is something that both of them enjoy doing, and there is no pressure from the other party. The definition of adultery found in Article 411 of the latest version of the Criminal Code is in line with Soesilo's view. It is said that adultery is an act of sexual intercourse between a man and a woman, one of whom is married (husband or wife). That is, adultery is an act of sexual intercourse between a man and a woman who are married (the husband and wife of a male and female couple). The sexual intercourse occurs because both individuals are interested in doing so. The author of the article explains that one must have malicious intent to commit adultery.<sup>37</sup>

Article 411 of the Criminal Code is directly comparable to Article 241 of the Dutch Criminal Code (Nederlandse Wet op Strafrecht). On the other hand, the article has been removed from Dutch law since 1971. The Dutch social consensus is that the offence does not directly impact the victim. This crime has been made illegal in almost all the countries that make up Western Europe. Japan and China do not have sections in their constitutions that address decency. They classify rape as a crime against the human body, even though it targets the sexual organs. Inevitably, extramarital sexual activity before marriage is bound to occur.<sup>38</sup> The offence described in the first paragraph of Article 411 of the Penal Code is referred to as dishonesty rather than adultery. According to paragraphs 1 and 2 of Article 284, a married person is considered to have committed adultery when they have sexual intercourse with another married or unmarried person.

Article 411 broadens the scope to include married and unmarried men and women who participate in (complicated) sexual activity with a married person who participates in or complicates relations with a married person. If a man has sexual intercourse with a married woman, as described in Article 411, paragraph (2), letter a, then the man is not free from the consequences of his actions. A woman is also not exempt from this rule. Consequently, a man who is a Muslim is exempted from the provisions of Article 27 of the Penal Code. Citizens who commit adultery with a married woman are subject to the penalties outlined in Article 411 of the Criminal Code, regardless of whether the woman is Muslim, Christian, or another religion. Married men are also subject to the provisions of the article. This is due to the fact that there is much room for improvement in various areas, including its rules and regulations, its law enforcement, its facilities, its socio-economic and cultural components, and its culture.<sup>39</sup>

Adultery undermines the institution of marriage by violating the bonds of fidelity and commitment between spouses, eroding trust, and potentially leading to the dissolution of families with far-reaching social consequences. The main objective of amending Law No. 1 of 2023 on the Criminal Code regarding the definition of adultery is to establish a legal framework that is more aligned with the principles of justice and human rights. The modification

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35 Andi Hamzah, *Delik-Delik Tertentu Di Dalam KUHP (Speciale Delicten)* (Sinar Grafika, 2009).

36 Wahyuddin Naro et al., "Shariah Assessment toward the Prosecution of Cybercrime in Indonesia," *International Journal of Criminology and Sociology* 9 (2020): 572–86, <https://doi.org/10.6000/1929-4409.2020.09.56>.

37 H Ashari and H Hasan, "Kriminalisasi Terhadap Perempuan Dalam Makna Perzinaan; Studi Komparasi Antara Sistem Hukum Positif Dan Pandangan Ulama Mazhab," *Shautuna: Jurnal Ilmiah Mahasiswa Perbandingan Mazhab Dan Hukum* 3, no. 1 (2022): 25–40.

38 Hamzah, *Delik-Delik Tertentu Di Dalam KUHP (Speciale Delicten)*.

39 Sahran Hadziq, "Pengaturan Tindak Pidana Zina Dalam KUHP Dikaji Dari Perspektif Living Law," *Jurnal Lex Renaissance* 4, no. 1 (2019): 25–45, <https://doi.org/10.20885/jlr.vol4.iss1.art2>.



also aims to enhance the protection of adultery victims, strengthen law enforcement efforts against adultery perpetrators, and advocate for the social value of family. It is hoped that this measure will enhance the credibility of the institution of marriage and foster unity within family units. It is no longer a private matter but something that has entered the realm of public affairs. Therefore, the policy view that establishes the offence of adultery as a complaint offence, as in Article 411 of the KUHP, is very inappropriate and should be abandoned. The decision to include Article 411 in the KUHP is a very foolish act. It also does not contribute to the goal of reducing criminal offenses. It is tantamount to giving someone (especially husbands) the feeling that they have the freedom to commit the crime of adultery, which is particularly problematic in a society where the majority of wives are considered weaker than their husbands. To put that into perspective, the policy On the other hand, this strategy could potentially lead to other offences, such as abortion and prostitution.

Furthermore, the expansion of the notion of adultery contained in Article 411 of the Criminal Code makes it a crime for unmarried people to have sexual relations outside the context of their marriage. From a value-based perspective, such developments are consistent with the ethical standards held by various religious communities in Indonesia. According to Mulder, the policies governing criminal law are those that determine (1) the scope of the problem, (2) the preventive measures that can be taken, and (3) the processes followed during investigation, prosecution, trial, and sentencing.<sup>40</sup> On the other hand, Soedarto argues that legal policy is:

- 1) Establishing state policy through institutions that have the authority to form the desired laws and regulations is expected to be used to reveal things found in people's lives, realise what is desired, and try to create useful laws and regulations in accordance with certain situations and conditions.
- 2) Implement laws and regulations that are in accordance with certain situations and conditions.

According to Arief, one of the steps that must be followed to launch and create new criminal law rules is a procedure known as criminal law politics. This is in line with what is expressed by Arief, who says that the politics of criminal law is one of the procedures that must be taken to initiate the process of initiating and formulating legislation on criminal acts in order to authorise legislation on criminal acts for the benefit of society.<sup>41</sup> If discussed further about the definition of criminal law politics, then the issue of criminal law material studies is related to the policies that must be determined in the context of making and formulating a good criminal law. These policies must be determined in the context of making and formulating a good criminal law. The subject of the material study of criminal law related to the discipline of criminal law is, among others:

- a. Policy on the determination of criminal offences.
- b. Policy on criminal liability.
- c. Policy on the determination of criminal offences and punishments.
- d. Policies regarding the determination of the implementation of criminal prosecution.<sup>42</sup>

If the basic view of the value of criminal law is the same as the value of Dutch heritage criminal law (*Wetboek van Strafrecht*), then there will be no criminal law reform. This is because such a view ignores the ideals of criminal law that must be achieved. Therefore, every effort to change the criminal law must pay attention to existing policies and values. Methods based on existing policies and values. The principles of Pancasila should be the foundation for any criminal law reform efforts. It is the cornerstone of the life of a society that has been working towards this goal for a long time. These principles are drawn directly from the fabric of Indonesian civilization. They provide a healthy balance between the principles of democracy, social justice, humanism, nationalism, and religious dogmatism.<sup>43</sup> According to Bassiouni, the goals that criminal law seeks to achieve can be identified in practice through the protection of social interests, when one considers the social interests protected by certain values one can have a better understanding.<sup>44</sup> In addition, the severity of the punishment must be proportional to the needs and priorities of society as a whole. On the other hand, the imposition of criminal sanctions must be in line with the existing boundaries of society in order to be acceptable. Bassiouni argues, based on this view,

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40 Barda Arief Nawawi, *Bunga Rampai Kebijakan Hukum Pidana (Cetakan Pertama)* (Prenada Media, 1996).

41 Gunakarya, "Politik Hukum Pidana Dalam Persepektif Pembaharuan Hukum Pidana KUHP."

42 Barda Nawawi Arief, "Pembaharuan Hukum Pidana Dalam Perspekti Perbandingan," *Hukum Pidana Dalam Perspektif Perbandingan*, *Cetakan Kedua, PT Citra Aditya Bakti, Bandung* (2005): 77–78.

43 Barda Nawawi Arief.

44 Gunakarya, "Politik Hukum Pidana Perspektif Pembaruan Hukum Pidana Dalam KUHP."

that discipline in the criminal justice system should not only be pragmatic but also value-oriented. However, an emphasis on core values is also necessary.<sup>45</sup>

When discussing criminal politics (policy), Sudarto says that criminal politics is a rational attempt by society to eradicate crime. He says this when talking about criminal politics: that criminal politics is an effort made by society to eliminate crime in a logical and methodical way. The correlation between criminal politics and the expansion of the concept of adultery in Article 411 of Law Number 1 Year 2023 on the Criminal Code reflects the complex interaction between criminal policy, societal values, and political dynamics. Changes in the definition of adultery are a reflection of shifting social and cultural norms, which may be subject to pressure from particular religious or political groups. This triggers religious reactions in society, requires adjustments in law enforcement, and has far-reaching impacts on social life, including interpersonal relationships and family structures. Such reasonable efforts can be made in two ways, namely through the use of penal (criminal law) and non-penal (non-criminal law) means. Their implementation is an integrative unit that cannot be separated from other, more sophisticated policies and must be carried out on an ongoing basis. separate from each other but still related to a larger agenda, namely social policy.<sup>46</sup>

Regarding social policy, Anel argues that “criminal policy is the rational organisation of crime control by society.” the reasonable organisation of society’s efforts to control criminal activity.” According to Hoefnagels, “Criminal policy is the rational organisation of society’s reaction to crime”.<sup>47</sup> These two figures essentially affirm that criminal policy, as outlined in Law No. 1 of 2023 on the Criminal Code, includes reforming the criminal law on extramarital sexual relations as part of reforming the concept of adultery. The revised definition of adultery includes extramarital sexual relations that occur between couples where one or both persons are married. The potential objectives of this criminal policy include the regulation of society’s moral standards, the protection of the institution of marriage, and the preservation of values deemed important by the government or certain interest groups. It therefore signals an attempt to harmonize the criminal law with evolving social values and norms regarding extramarital sexual relations.

From these considerations, it can be concluded that criminal politics and criminal policy are one and the same, both within the realm of criminal policy. Both terms refer to strategies that aim to reduce the incidence of criminal behaviour by building, creating, and enforcing a legal framework that makes logical sense (reasonable reasoning). In this context, from a criminal policy perspective, crime prevention efforts are carried out through the creation and formulation of logical criminal laws. This is an important component of the efforts made towards community protection or social defense. In addition, social defence is an important component of social policy, which can be seen as an organised effort to promote the general welfare of society. The adultery articles are contained in the structure of Articles 411-413 of Law No. 1 of the Criminal Code. There is no longer a distinction in Article 411 of the Criminal Code between adultery offences committed by married or unmarried perpetrators. Therefore, adultery committed by anyone, whether married or unmarried, will be punishable by the crime of adultery. The perpetrator may be subject to criminal penalties in the future if such sanctions are prescribed in legislation. Adultery, in its various forms, is viewed by most Indonesians as a societal disease that must be avoided at all costs.<sup>48</sup> According to Kartono, the equation of adultery related to the renewal of the concept of adultery in the criminal code is that both focus on the regulation of sexual relations outside marriage. In both contexts, adultery is considered a violation of social and moral norms existing in society. Through the reform of the concept of adultery in the Penal Code, adultery was expanded to include extramarital sexual relations involving one or both married couples. The similarity lies in the attempt to regulate sexual behaviour and maintain the stability of the institution of marriage in society. Because both involve unlawful sexual activity. Prostitution is called prostitution due to its similarity with promiscuity, which is defined as irregular sexual intercourse.<sup>49</sup> Therefore, adultery is a serious social problem related to sexual relations. However, at other times, Indonesians are very easily motivated to adopt religious aspects of the legal system, including the offence of incorporating religious elements into the legal

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45 Gunakarya.

46 I Made Widnyana, *Kapita Selekta Hukum Pidana Adat* (Prenada Media, 1993).(2020)

47 Gunakarya, “Politik Hukum Pidana Perspektif Pembaruan Hukum Pidana Dalam KUHP.”

48 Fadhel Ilahi and Subhan Nur, *Zina: Problematika Dan Solusinya* (Qisthi Press, 2009).

49 Kartono K, “Patologi Sosial 3,” 2002, 45–48.

system.<sup>50</sup> Based on these explanations, the expansion of the definition of adultery contained in articles 411-413 of the criminal code is reasonable; it makes sense to use Article 411 of the National Criminal Code. This shows the social and cultural values that are important to Indonesian society as a whole as a nation.

The current Indonesian criminal code, which is a relic of the colonial era, is no longer relevant to the morals and ethics adopted by Indonesian society. Principles that are upheld by Indonesian society as a whole. Individual freedom, including the freedom to have sexual relations, is protected from the perspective of Western civilization, which supports liberalism if there is no coercion. It is still considered unimportant and does not need to be condemned. This way of thinking is certainly not in accordance with the norms of Indonesian culture. Therefore, criminal law reform based on political and value-based methods is needed in order to be in line with the spirit of criminal law reform and the core principles of criminal law reform efforts. In line with this opinion, Sudarto emphasised the importance of criminal law to pay attention to national development goals in order to realise a fair and prosperous society that is equitable, both materially and spiritually, which is based on Pancasila as the philosophical basis of the Indonesian state. Thus, Pancasila must be positioned as a basic value that is imperative for an act to be classified as a criminal offence.<sup>51</sup>

The expanded definition of adultery contained in the provisions of articles 411-413 of the National Criminal Code is consistent with the definition of adultery found in neighbouring countries such as Malaysia and Brunei Darussalam. Adultery is defined as cohabitation between a man and a woman outside of marriage under Article 2, point 1, of Selangor Sharia Law No. 9 of 1995. Article 25 Selangor Syariah Law Enforcement Committee Selangor No. 9 of 1995 determined the application of punishment to the perpetrator of adultery, which could be a fine, imprisonment, or flogging. The Brunei Darussalam Sharia criminal law of 2013 also contains provisions regarding the punishment for perpetrators of adultery in Brunei Darussalam. In accordance with Article 68 of Canon Law, a man and a woman are considered to have committed the sin of adultery if they knowingly engage in sexual activity together in the absence of a legal marriage or a relationship that can be called into question. The Brunei Darussalam Penal Code stipulates the punishment to be meted out to those who commit criminal acts in Paragraph 1 of Article 69. If a person commits adultery while already having a legal spouse (mushan) in his life, there are two different forms of punishment: the first is death by stoning. The punishment was death by stoning. (2) If adultery is committed by a person who does not have a legal spouse (ghairu muhsan), then the penalty is stoning to death. If adultery is committed by a person who is not a Muslim, then the punishment is a hundred times flogging. The punishment is a hundred lashes.<sup>52</sup> There is no clear chapter on decency in the Criminal Code of a communist country like China. This is also the case in many other communist countries. According to the Chinese penal code, acts that violate a person's body, such as assault, can be considered rape and punished as such.<sup>53</sup> Adultery is not a crime in Turkey or other liberal countries because their laws do not mention it. In their laws, adultery was not included in the act of committing a crime. In the context of family law, adultery is only one of several reasons that can lead to divorce.<sup>54</sup>

### **3.2 Values that will be protected due to the expansion of the crime of adultery in Article 411 of the criminal code in 2023**

Communities often accept the responsibility of maintaining calm and order in their neighbourhoods as part of their lives. In order to maintain order and tranquilly in their environment, this is done through the presence of established rules in the form of various norms regulating activities that should not be carried out, along with a system of mechanisms for resolving them if these actions are violated. These rules can be violated in various

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50 Indriyanto Seno Adji, "Perspektif Mahkamah Konstitusi Terhadap Perkembangan Hukum Pidana Dalam Mardjono Reksodiputro," *Pengabdian Seorang Guru Besar Hukum Pidana*, (Jakarta: Bidang Studi Hukum Pidana Sentra HAM FHUI Badan Penerbit FHUI, 2007), 2007.

51 Ali Rezky and Oheo Kaimuddin Haris, "Broadening of the Concept o Obscenity in theDraft o Indonesia Penal Code." *Hasanuddin Law Review* 4, No.2 (2018): 233-241.

52 Sudarti, " Perbandingan Hukum Pidana Perzinahan di Malaysia dan Brunae Darussalam, " *El-Mashlahah* 11, No1 (2021): 78-96.

53 Hamzah, *Delik-Delik Tertentu Di Dalam KUHP (Speciale Delicten)*.

54 Dian Andriasari, "Studi Komparatif Tentang Zina Dalam Hukum Indonesia Dan Hukum Turki," *Siyar Hukum* 13, no. 3 (2011): 265-79.

ways. The establishment of the aforementioned prohibited behaviours is based on the consciousness of a large number of people, which is certainly not in accordance with the basic principles adopted by society in any way in accordance with the basic morals that have been established by society and are also upheld by the members of the group.<sup>55</sup> The circumstances surrounding the creation of the community in an effort to build and formulate a good criminal law, especially with regard to the establishment of criminal policy. In order to build and formulate good criminal law, especially in determining policies on what should be criminalised, a variety of different approaches are needed. There are a number of different methods. The approach used must still reflect elements that are typical of criminal politics, including rationalisation.<sup>56</sup>

Because rational criminal politics is oriented towards two things, namely the policy approach and the value approach, the politics of criminal law is also an inseparable aspect of criminal politics. This is because rational criminal politics focuses on policy approaches and value approaches. Therefore, the control of criminalization and the policies that govern its conviction are important concerns in the politics of criminal law and its conviction, in addition to the need to be oriented towards policies and values.<sup>57</sup> On the other hand, the policy approach is concerned with the ideals that are to be achieved through the application of criminal law or that are to be defended through the application of criminal law. According to Bassiouni, the objectives to be achieved through the application of criminal law are, theoretically, embodied in the demands of a society with certain values that it wants to defend.<sup>58</sup>

Indonesia must adhere to three fundamental principles in order to maintain its status as a state under the rule of law: equality before the law, the rule of law, and law enforcement that does not go against the established legal system. It is stated in the first paragraph of Article 29 of the Constitution of 1945 that the state of Indonesia is a country that guarantees freedom of religion. As a result, principles drawn from various religions must serve as the basis for state management. A people's sovereign state that combines the management principles of various religions is characterised by its emphasis on popular sovereignty, which signifies the involvement of the people in decision-making, and its consideration of the values and principles of society derived from various religious traditions. This establishes a structure that demonstrates respect for religious diversity while protecting democratic principles and citizen participation in the process of governance. One of them is in the field of management and administration of law, which means that all types of law must be in accordance with religious principles. In order for politicians to establish and formulate criminal law, they must be able to find the values that are fostered and maintained within the state. The legislator must have the ability to find the values that continue to develop and exist within society. According to Bassiouni, the following are examples of such core values: (1) the maintenance of social order; (2) the protection of society from unjustified acts of criminality, injury, or harm at the hands of others; and (3) the enforcement of social justice.<sup>59</sup> This is done with the intention of providing justice for the people of Indonesia. The establishment of criminal legislation in Indonesia with religious justice (including religious values and values in society) must still provide justice for the people of Indonesia. National legal system because there are still many values in society that are taken from or derived from divine ideals, although there has been a national legal system. It is hoped that there will be no showdown or fight that prevents someone from getting justice. In general, the law is a symbol of the social life of society; however, the law is also generated by the existing social situation and conditions of society and is based on the values that live in society, including its shifts. In this context, Kusumaatmadja argues that the concept of law as a social norm cannot be separated from the values that live in society. If there is a change in the law, then the law itself will shift, along with the social norms that it represents. Changes also occur in social conventions.<sup>60</sup>

A civilised moral framework has always existed in every community. This has significant implications for questions of morality. Therefore, the significance of moral principles cannot be taken out of context. As a result,

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55 Umi Rozah and Erlyn Indarti, "Delik Zina : Unsur Substansial Dan Penyelesaiannya Dalam Masyarakat Adat Madura," *Masalah-Masalah Hukum* 48, no. 4 (2019): 366, <https://doi.org/10.14710/mmh.48.4.2019.366-375>.

56 Gunakarya, "Politik Hukum Pidana Perspektif Pembaruan Hukum Pidana Dalam KUHP.(2018)"

57 Gunakarya.

58 Gunakarya.

59 Ali M Zaidan, *Menuju Pembaruan Hukum Pidana*. Penerbit: Sinar Grafika (Sinar Grafika, 2015).

60 Peter Mahmud Marzuki, "Pengantar Ilmu Hukum," *Pt RajaGrafindo Persada* (Pekanbaru: Suska Press, 2008).

the meaning of moral values can never be separated from the assumptions that society has about what are considered good and bad values. The results of cases involving violations of public morality indicate this. For example, the act of committing adultery when married, commonly referred to as infidelity, is considered a form that is a violation of the standard of decent behaviour, stating that it is not appropriate for a married person to carry out such behavior. The local villagers will declare that there has been a violation of the people's way of life if they witness such behavior, which they will view as immoral. To restore the harmony of society, the perpetrator needs to be sanctioned or punished. The principles found in religious laws govern one aspect of human existence. Belief in extra-natural forces, in particular in God, has the sole function of controlling a person's life.<sup>61</sup> Adultery is prohibited by all religions in Indonesia because it is considered a violation of religious teachings, which is a violation of religious beliefs. The arrival of Hinduism brought a legacy that had a significant impact on the understanding of ethical principles. Understanding the importance of moral ideals. It is characterised by the formation of customary law based on Hindu beliefs to achieve *yamoksartam yaca iti*, which means that death will definitely come. Hindu Dharma aspires to attain *yamoksa*, which means in the spiritual context the liberation of the soul from the cycle of birth and death given by the power or influence of Yama as the God of Death, while the word *moksartam* means in the spiritual context the determination or desire of a person to achieve spiritual liberation from the cycle of birth and death and prosperity (*yaghirta*).

On the other hand, Islam emphasises the importance of upholding values. In the view of Islam, sexual activity that takes place between a married man or woman and another person who is not their husband or wife is legally an act of adultery.<sup>62</sup> Even unmarried people are subject to the same standards in Islam. In Islam, the same is considered for people who are single and those who are married. This idea makes no difference whether the culprit is a man, a woman, a widow, or a widower. Adulterers, both married and unmarried individuals, must be punished in accordance with Islamic law. This applies to both situations; the following is taken from verse 32 of Surat Al-Isra in the Quran: "And do not approach adultery; indeed, fornication is an abomination and an evil thing." Christianity also upholds a moral code of conduct. The prohibition not to commit adultery is quite clearly spelled out in the Bible. According to Deuteronomy 22:20–21, adultery can be interpreted as a form of fornication.

Significant education about the value systems to be upheld in a society that supports moral principles is provided by the increasing number of examples of modesty that have been reported in Indonesia. Ethics and principles are to be followed. The enforcement of laws against those who commit crimes of decency, including adultery, needs to be carefully scrutinised so that Christian justice can be realized. The apparatus in charge of enforcing the law should not only adhere to the current regulations but also pay attention to the rules in force and the values or norms that are in force in society. Values or norms that already exist in society, such as religious norms directed by the scriptures, and pay attention to Pancasila, the 1945 Constitution, and the 1945 Constitution. values or norms that already exist in society. In addition, pay attention to Pancasila, especially the first precept that reads "God Almighty."

God is the source of all social norms, including religious laws and regulations. They set rules for mandates, prohibitions, and promulgations. If people disobey the command and break the prohibitions, God will punish them in this world and the next. This punishment will come from God. The purpose of human rules and regulations is to discipline themselves so as not to engage in harmful behavior. According to Mertokusumo, the purpose of religious orders is to perfect humans. The commandments prohibit humans from engaging in harmful behavior. On the other hand, religious law has a transcendental quality, and the rules themselves determine the sanctions that are part of the laws. society, but governed by the laws of the religions themselves.<sup>63</sup> Adultery is one of the immoral activities prohibited by the norms of law and decency. These rules are similar to religious ones. crimes, one of which is adultery. Nevertheless, the rule of law enforces the prohibition through the legislative process, that is, by codifying the prohibition in the form of a law set forth in written form. If a person commits adultery, which is an unlawful act, then law enforcement officers have the authority to apply criminal penalties in accordance with the

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61 Purbacaka and Soekanto, "Perihal Kaedah Hukum." (2019)

62 Rahmawati,, "Tindak Pidana Perzinahan Dalam Perspektif Perbandingan Antara Kitab Undang-Undang Hukum Pidana Dan Hukum Pidana Islam," *An-Nisa'a* 8, No. 1 (2013): 13-26.

63 Hwian Christianto, *Kejahatan Kesusilaan Penafsiran Ekstensif Dan Studi Kasus, Suluh Media* (Suluh Media, 2017).

provisions of the law if the person commits adultery.<sup>64</sup>

When viewed from the point of view of its function in society, decency can be seen as having a close relationship with values, norms, and laws, as well as with morals, standards, and applicable laws. The norms of decency that have existed in society are reflected in the rules of law related to decency. The rule of law can be understood as a system of values that can serve as a guide for each person to be accepted in their respective environment for exemplary purposes and benefits. These values are basically conceptual. Nevertheless, being supported by the clear boundaries of just and civilised norms of humanity, these principles have a high degree of objectivity. civilised human values. There is no legitimate basis in law for erasing values of cultural origin. In reality, the direction in which the evolution of the law should be taken should ultimately lead to the protection of cultural values by expanding the role of society in the process.

The thoughts of politicians are more concentrated on the morals and ethics that exist in society. Nevertheless, there are many assumptions regarding value judgements that are common in society. This is debatable because there are a wide variety of opinions within society about how a subject should be evaluated. This assumption is inaccurate due to the fact that Indonesian culture already has a benchmark of superior moral values, namely the value of Pancasila. Pancasila: There are many different values that are held in high esteem in Indonesian society. Cultures of different ethnic groups can be distinguished. Respect for the principles of divinity, humanity, unity, democracy, and justice is reflected and illuminated by these differences. Therefore, there is no justification for people to ignore the principles outlined in Pancasila.

#### 4. Conclusion

The conclusion that can be drawn from this paper is related to the renewal policy of the concept of adultery as outlined in articles 411-413. The findings in this study are formulated to criminalise only married offenders and not unmarried offenders. In addition, this reform policy embodies the ethos of human rights protection, which states that law enforcement must proceed in accordance with the basic principles of justice and does not reflect the social structure of Indonesian society, which basically consists of families, groups, and religions. Therefore, to establish a more nuanced legal framework related to adultery, which includes penalties beyond criminal sanctions, Referring to the conclusion above, the Criminal Policy Perspective is used to determine the expansion of the crime of adultery; this expansion is carried out in accordance with the provisions of the National Criminal Code. The suggestions offered in this study towards the expansion of the concept of adultery from various aspects such as victim protection and gender justice, as well as field evaluation of legal proceedings applied to perpetrators and victims of adultery, Recommendations in this study should involve the community and stakeholders, such as women's advocacy organisations and research institutions, in the evaluation process and policy formulation of the expansion of the concept of adultery.

#### 5. Pernyataan Pengakuan dan Benturan Kepentingan

Artikel ilmiah kolaborasi kami yang berjudul “Kebijakan Pembaharuan Konsep Perzinahan Pasal 411 Undang-Undang Nomor 1 Tahun 2023 KuHP Indonesia” belum pernah dipublikasikan dalam jurnal/prosiding/ terbitan ilmiah lainnya dan bebas dari unsur plagiasi. Para penulis menyatakan bahwa tidak ada benturan kepentingan yang dapat mempengaruhi hasil atau interpretasi penelitian yang dilaporkan dalam artikel ini.

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<sup>64</sup> Ishaq Ishaq, “Kontribusi Konsep Jarimah Zina Dalam Pembaharuan Hukum Pidana Indonesia,” *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 14, no. 1 (2014): 81, <https://doi.org/10.18326/ijtihad.v14i1.81-100>.



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