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Law Enforcement Against Co-Habitare Criminal Acts in Indonesia (Case Study in Namo Bintang Village)

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Abstract. *The criminal act of co-habitare (cohabitation without marriage, locally known as "kumpul kebo") refers to an act committed by living together in one residence without a legally valid marital bond, and cases of this criminal act are increasingly prevalent in Namo Bintang Village, Pancur Batu Sub-district. The government has enacted Law Number 1 of 2023 concerning the Criminal Code (KUHP), as elaborated in Article 412. This research employs an empirical method, namely by conducting research and data collection in Namo Bintang Village, and the data obtained were analyzed in order to resolve the problems occurring. The factors causing co-habitare criminal acts in Namo Bintang Village are due to many couples who do not understand the applicable law, are not permitted to marry, and are unwilling to enter into a marriage recognized by their religion and administratively acknowledged by the state. The preventive measures undertaken by the village government include socialization regarding the impact and dangers of cohabitation to the local community and newcomers. Should cohabitation crimes become increasingly rampant and cases continue to rise, the village government together with law enforcement, namely the police, take repressive action by investigating and apprehending perpetrators of co-habitare crimes by enforcing the applicable regulations and laws.*

Keywords: *Criminal Act; Co-Habitare; Law Enforcement.*

1. Introduction

Law is a standard of human behavior that plays a role in achieving the welfare of life for society. In law, the adage Ubi Societas Ibi Ius (Where there is society, there is law) is well known. Law is therefore a manifestation of the people themselves. Human civilization, to a greater or lesser extent, relies on norms (rules) as a support for achieving the goal of order and regularity. Through norms, society builds an orderly pattern of communal life. These norms warrant

deeper examination, as they emerge from a wide variety of procedures with distinct characteristics. Differences among normative systems can be observed from two perspectives: the ideal and the factual(Sholikah et al., 2023)

Human social life requires norms or standards that guide how individuals ought to live, so that shared interests within a social unit may be safeguarded. Broadly, norms are distinguished between ethical norms and legal norms. Ethical norms encompass moral norms, religious norms, and norms of propriety (decency). Ethical norms arise from within the individual, in the form of a drive to live appropriately. Norms may also arise from human relationships, since human life has two dimensions: the personal dimension and the interpersonal dimension. Norms related to the personal life of an individual include, for example, religious or faith-based norms. Norms governing interpersonal life include moral norms, norms of propriety, and legal norms. The problematic phenomenon closely related to culture, norms, and standards is the act of cohabitation. Cohabitation is a phenomenon that is increasingly prevalent in society and frequently causes public unrest.(Susila, 2023)

The term cohabitation does not mean "sexual intercourse" or "adultery" as understood by some parties. Cohabitation is the equivalent of the Indonesian term "kumpul kebo," which in the 1970s was popularly known as samen leven. Under Article 412 of Law Number 1 of 2023 concerning the Criminal Code,2 cohabitation may be defined as a couple living together in one dwelling without a legally valid marital bond. This act of cohabitation has harmful consequences, particularly for adolescent girls who become pregnant outside of marriage, and carries the potential for abortion. Cohabitation frequently occurs as a lifestyle choice or as a means of getting to know one's partner and saving on housing costs, as a result of permissive social norms, environmental influence, insufficient parental supervision over children, and a lack of strong religious conviction.

The reform of criminal law through the formulation of criminal provisions regarding cohabitation can essentially reflect the ethics, norms, and universal religious values of society. Among the various factors that trigger cohabitation, one is the widespread prevalence of free sex in contemporary society resulting from various influences received from within the environment and from the internet, which may give rise to the cohabitation offense.3 The application of this article also constitutes a form of respect for the values of marriage upheld by Indonesia, as set forth in Law Number 1 of 1974 in conjunction with Law Number 16 of 2019 concerning Marriage.(Daarul et al., 2025)

Cohabitation is classified as a minor criminal offense that is more of a private matter but nonetheless greatly disturbs the community. Similarly, when Indonesians observe such phenomena, they often react one-sidedly and seek

quick resolution, with mutual blame-casting. On the other hand, there are those who support the policy of treating cohabitation as a crime. Accordingly, those who agree have joined in supporting the inclusion of cohabitation as a criminal act in the Draft Criminal Code, on the grounds that cohabitation is deviant behavior that highlights social problems in society, even though there were previously no regulations governing it. The clear direction is to make such regulation a concrete provision by criminalizing it as a crime. The criminalization of cohabitation was included in the Draft Criminal Code as a consequence of societal realities that called for it. "Cohabitation is behavior that violates social norms even though, juridically speaking, there was at the time no law capable of imposing criminal sanctions on individuals who engage in sexual relations outside of a legitimate marriage."(Lestari, 2019)

To this day, many regions and villages enforce norms against such violations, so that perpetrators are often confronted by village heads and local communities who regard cohabitation as disruptive.6 In practice, Indonesia's criminal justice system has insufficiently implemented the goals of law, namely legal certainty, justice, and utility. Cohabitation is particularly likely to occur in peri-urban areas; the location chosen by the researchers is Namo Bintang Village, Pancur Batu Sub-district, Deli Serdang Regency, North Sumatra Province. Many boarding houses populated by students from various regions can be found in Namo Bintang Village, giving rise to numerous social groups.(Maulana & Hatta, 2024)

A social environment that tolerates cohabitation or even reinforces such behavior causes cohabitants not to discontinue cohabitation but rather to maintain it. In efforts to combat crimes such as cohabitation, one approach is the use of criminal law with its associated sanctions. In line with this, Barda Nawawi Arief argues that criminal law policy in combating crime is essentially part of law enforcement policy (particularly criminal law policy).7 There are many approaches and efforts that can be undertaken to address it.

The primary issue in this research is that criminal law pertaining to cohabitation must no longer be governed by the principle of ultimum remedium, but rather by that of primum remedium. The principle of ultimum remedium requires that other sanctions be considered before resorting to the harsh and incisive sanction of criminal law; criminal law is employed only when other legal functions prove insufficient. Nevertheless, criminal law enforcement with harsh and incisive sanctions must still be pursued in order to minimalize suffering for the perpetrator to the greatest extent possible. According to the researchers, cohabitation offenses should ideally be resolved through out-of-court mechanisms to reduce case backlogs in courts and to allow for family-based resolution.(Wowor, B. Y., Paransi, E., & Bawole, 2024)

Namo Bintang Village has 7 hamlets, comprising both indigenous residents and newcomers. The indigenous residents have, from generation to generation since their ancestors, made the village their place of residence, as evidenced by self-built (non-subsidized) homes, while newcomers people from outside the region have taken up residence in subsidized mortgage housing (KPR), which has become the dwelling place for those engaged in cohabitation.

Cohabitation cases in Namo Bintang Village, Pancur Batu Sub-district, have occurred since 2018 as stated by the Head of Namo Bintang Village, who is now in his third term of office. He stated that since the large-scale construction of KPR housing, many newcomers from outside the region have been purchasing subsidized homes and placing women who are neither their legal wives nor immediate family members in those residences.

This is evidenced by the fact that many residents living in the housing complex are unable to produce identification documents such as a National Identity Card (KTP) or Family Register Card (KK). The village government has also conducted inspections through hamlet heads, confirming that many residents in those housing complexes could not present identification, leading the village government to classify their behavior as co-habitare criminal acts.

2. Identify the Problem

Based on the background above, the formulation of the problems in this Based on the background described above, this research formulates three primary problems. First, what are the causative factors behind the occurrence of co-habitare criminal acts in Namo Bintang Village, Pancur Batu Sub-district, Deli Serdang Regency? Second, how has law enforcement against co-habitare criminal acts been carried out in Namo Bintang Village in light of the enactment of Article 412 of Law Number 1 of 2023 concerning the Criminal Code? Third, what efforts have been undertaken by the village government and law enforcement authorities to prevent and combat co-habitare criminal acts in Namo Bintang Village, Pancur Batu Sub-district?

3. Research Objectives

This research aims to examine and analyze three principal matters corresponding to the problems formulated above. First, this study seeks to identify and explain the factors that cause co-habitare criminal acts to occur in Namo Bintang Village, including legal unawareness among cohabiting couples, prohibition from marriage by family, and the unwillingness of the parties to enter into a legally and religiously recognized union. Second, this research aims to assess the implementation of law enforcement against co-habitare criminal acts in Namo Bintang Village following the enactment of Article 412 of Law Number 1 of 2023

concerning the Criminal Code, and to evaluate the extent to which such enforcement has effectively reduced the number of cases. Third, this study aims to describe and analyze the preventive and repressive measures adopted by the village government and the police in combating co-habitare criminal acts, and to assess whether those measures are sufficient to minimize the prevalence of cohabitation offenses within the community.

2. Research Methods

This research uses an empirical juridical method, namely research conducted by directly examining conditions in the field to answer the legal issues being studied. The approach used is a field research approach combined with legal analysis. The empirical approach is used to examine the actual conditions of co-habitare criminal acts occurring in Namo Bintang Village, Pancur Batu Sub-district, Deli Serdang Regency. Data collection was carried out through interviews with the Head of Namo Bintang Village and hamlet heads (neighborhood heads), as well as through direct observation of conditions in the field.(Purwaka, 2022)

The types of data used consist of primary data obtained directly from research subjects through interviews and observation, and secondary data obtained from laws and regulations, legal books, and scientific journals relevant to the subject matter. Primary legal materials include Law Number 1 of 2023 concerning the Criminal Code (KUHP), particularly Article 412 governing co-habitare criminal acts, and Law Number 1 of 1974 in conjunction with Law Number 16 of 2019 concerning Marriage. Secondary legal materials include doctrines, books, and legal journals. Tertiary legal materials include legal dictionaries and encyclopedias. Legal materials were collected through field research and library research. The analysis was carried out qualitatively using a descriptive-analytical method, by systematically interpreting factual conditions and applicable legal norms to answer the research problems.(Hafrida et al., 2024)

3. Results and Discussion

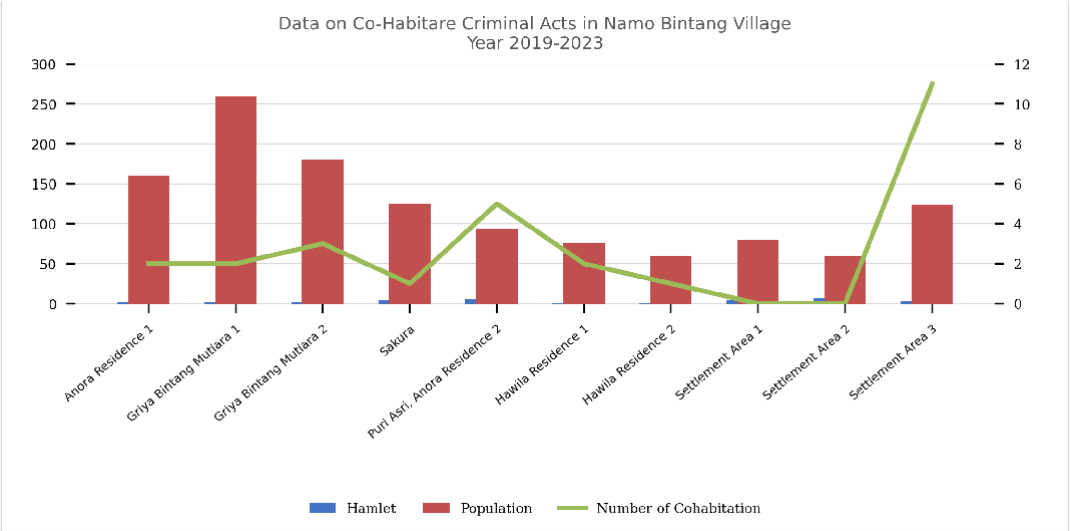
3.1. Law Enforcement Against Co-Habitare Criminal Acts in Namo Bintang Village

Cohabitation in Indonesian society is commonly referred to as "kumpul kebo," and in Latin is termed *Co-Habitare* a term referring to the condition in which two people live together as husband and wife without a legally valid marital bond. In foreign literature, this phenomenon is known by various terms such as *samen leven*, *living in non-matrimonial union*, *conjugal union*, and *cohabitation*. For a portion of society, this practice is viewed negatively, as cohabitation between two individuals who are not married and are not legitimate partners is often associated with sexual relations outside the institution of marriage.(Sulistiyono Budi, Hari Purwadi, 2018)

Based on data obtained during research in Namo Bintang Village, the number of co-habitare cases that occurred can be described in the table and chart below:

Table 1. Data on Co-Habitare Cases in Namo Bintang Village

No.	Housing Name	Hamlet	Year	Population	No. of Cohabitation Cases
1	Anora Residence 1	2	2019	160	2
2	Griya Bintang Mutiara 1	2	2019	260	2
3	Griya Bintang Mutiara 2	2	2019	180	3
4	Sakura	5	2020	125	1
5	Puri Asri, Anora Residence 2	6	2020	93	5
6	Hawila Residence 1	1	2021	76	2
7	Hawila Residence 2	1	2021	60	1
8	Settlement Area 1	4	2022	80	0
9	Settlement Area 2	7	2022	60	0
10	Settlement Area 3	3	2023	124	11
Total				**1,218**	**27**



The data were obtained from the research location through interviews with the Head of Namo Bintang Village and the hamlet heads (neighborhood heads). The number of co-habitare criminal acts occurring in Namo Bintang Village was caused by various factors.

The co-habitare criminal acts occurring in Namo Bintang Village, Pancur Batu Sub-district, arose from several factors, among others:

a. Due to binding legal aspects

Cohabiting couples feel that the applicable law is binding once they formally register as prospective spouses.

b. Not permitted to marry

Cohabiting couples are not permitted to marry by their families, particularly by the parents of the parties, whether under the religious law they profess or under the applicable civil law.

c. The couple does not wish to marry

Cohabiting couples wish to experience freedom of expression through free association or extramarital relations. The parties regard a lawful marriage as a burden and as an impediment to their activities or a disruption to their daily routines.

d. Viewed as a first and appropriate step toward building a family

Cohabiting couples consider it a benchmark for building a family, or a means of exploring a more serious relationship commonly known as "trial and run" whereby if they prove incompatible, they may separate, or conversely, they may consider proceeding to marriage.

Cohabitation has its own patterns of communication and carries a level of satisfaction in long-term relationships, and such long-term relationships produce social impacts.

Law enforcement against co-habitare criminal acts has been carried out through the application of Article 412 of the Criminal Code, with the police cooperating with the community to undertake repressive measures in the form of the arrest of co-habitare offenders. As a result of these enforcement efforts, the number of co-habitare cases has declined. Based on data obtained at the research location, the figure for co-habitare criminal acts does not show a high number; however, when this data was collected in 2023, co-habitare criminal acts were found across all 10 hamlets both in KPR housing complexes and in non-KPR residential areas with the highest number found in hamlet 5, in the non-KPR residential area, totaling 11 cases.(Bagul et al., 2024)

After confirmation with the relevant village authorities, the number of co-habitare cases had been reduced to 2. This decrease was attributable to the enforcement of Law Number 1 of 2023 concerning the Criminal Code, specifically Article 412, which governs co-habitare criminal acts.(Antonius Padua Naicea et al., 2024)

Based on field research results, cohabitation criminal acts occurred between 2019 and 2023, with a significant increase in 2023 totaling 11 cases. In response, the village government has undertaken preventive measures to ensure that cohabitation criminal acts do not continue to occur.(Sulaiman, 2021)

Efforts to combat cohabitation crime in Namo Bintang Village, Pancur Batu Sub-district, were conducted through penal and non-penal legal policies, prioritizing both preventive and repressive measures, as follows:

a. Prevention through preventive measures:

1) Conducting socialization for the community on the impacts of cohabitation crimes.

2) Appealing to residents engaging in cohabitation with verbal warnings.

3) Conducting inspections of residents living in the housing complexes within the village.

4) Warning housing companies or developers to be selective in approving applications for subsidized housing.

b. Prevention through repressive measures:

1) Issuing warnings to those engaging in cohabitation to marry according to customary law.

2) Requiring residents who repeatedly disobey regulations and engage in cohabitation to leave the village.

The implementation of these measures aims to protect the community from criminal acts, so that the rate of cohabitation crimes can be minimized and does not adversely affect other community members.

3.2. Efforts to Combat Co-Habitare Criminal Acts in Namo Bintang Village

Crime is a social problem faced by societies in all countries since time immemorial, and is essentially a product of society itself. In a broad sense, crime is a violation of norms recognized by society, such as religious norms, moral norms, and legal norms. Legal norms are generally formulated in laws and regulations, and it is the responsibility of government authorities particularly the police, prosecutors, and courts to enforce them. Nevertheless, because crime directly disturbs public security and order, as every person desires a peaceful and orderly communal life, an awareness of high crime rates directly or indirectly drives the development of societal reactions against crime and criminals, which is essentially related to the purpose and objective of crime prevention.(Anastasya & Putri, 2024)

G. Peter Hoefnagels described non-penal efforts using the term "Prevention without Punishment." According to him, efforts falling under the term social policy, community planning, and the application of administrative and civil law are included in this category. Efforts to combat crime can be undertaken by:

a. Application of criminal law

Crime prevention is carried out by imposing primary and additional criminal penalties on cohabitation offenders.

b. Prevention without punishment

Crime prevention is carried out by imposing maximum penalties so as to deter others from committing similar or other offenses.

c. Influencing public views on crime and punishment

Crime prevention can be achieved by influencing public perceptions of crime and punishment through mass media.

Crime prevention efforts can mean creating certain conditions so that crime does not occur. Crime prevention is defined as efforts encompassing all actions with the specific purpose of minimizing the scope of crime. Crime prevention can be understood in both a broad and a narrow sense. In the broad sense, the government and society hold primary roles. For the government, all policies are implemented through legislation and official bodies aimed at enforcing central norms within society. The role of government is so broad that key and strategic approaches to combating crime include addressing social inequality, national discrimination, low living standards, unemployment, and ignorance among large segments of society. The elimination of the root causes and conditions giving rise to crime must be the fundamental strategy of crime prevention.(Danardana, 2022)

The primary challenge in crime prevention is integrating and harmonizing non-penal (non-criminal law) and penal (criminal law) activities and policies toward the suppression or reduction of factors potentially conducive to crime. With this integral policy approach, it is hoped that "Social Defense Planning" can truly succeed. In the considerations of UN Resolution No. 3 of the 6th Congress in 1980 on "Effective Measures to Prevent Crime," it is stated, among other things:

a. That crime prevention depends on the human being himself or herself;

b. That crime prevention strategies must be based on the elevation of the human spirit and the strengthening of the individual's belief in the capacity to do good.

The notes of the UN Congress on "The Prevention of Crime and the Treatment of Offenders" indicate that social, economic, cultural, and structural conditions in society are held responsible for the emergence of crime (criminogenic factors). These criminogenic factors, which are inherently social in nature, make it necessary to link criminal policy (*Criminal Policy*) with social policy (*Social Policy*), or in other words, criminal policy must also be incorporated within social policy. Of the types of non-penal efforts mentioned above, it appears necessary to prioritize them in support of the implementation of criminal law, as realized through the criminal justice system.

4. Conclusion

The factors causing co-habitare criminal acts in Namo Bintang Village are the prevalence of couples who do not understand the applicable law, are not permitted to marry, and are unwilling to enter into a marriage recognized by their religion and administratively acknowledged by the state. The preventive measures undertaken by the village government include socialization regarding the impact and dangers of cohabitation to the local community and newcomers.

Should cohabitation crimes become increasingly rampant and cases continue to rise, the village government, together with law enforcement authorities namely the police take repressive action by investigating and apprehending perpetrators of co-habitare crimes by enforcing applicable regulations and laws.

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