

Judul : House to debate adultery provision in KUHP bill
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House to debate adultery provision in KUHP bill

Nurul Fitri Ramadhani

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The Constitutional Court's (MK) rejection of a petition to outlaw all forms of premarital sex, including homosexuality, may prove to be a short-lived victory for civil rights defenders, with some lawmakers saying they wished to incorporate the controversial petition in the Criminal Code (KUHP) bill, which is set to be passed into law this month.

The House has been deliberating the bill since 2015, but remains divided on several provisions, including on capital punishment, adultery and the treatment of the lesbian, gay, bisexual, and transgender (LGBT) community.

Lawmakers said they wanted to resolve the issues this month to replace the current Criminal Code — which was based on Dutch colonial laws and has been in place since 1946 — by the end of this month.

The current Criminal Code outlaws extramarital sex, but the draft revision bill expands on this by outlawing consensual sex between two unmarried people.

The adultery provision was the subject of a judicial review petition that was rejected by the Constitutional Court in December, in

Lawmakers want to pass KUHP bill this month

House may expand legal definition of adultery

a close 5-4 vote. The court argued that the petitioners' request was beyond its authority, suggesting they bring the case to the House.

Nasdem Party lawmaker Taufiqulhadi told *The Jakarta Post* on Tuesday that the issue of adultery was a sticking point in the deliberations, with some lawmakers arguing that premarital sex should not be criminalized.

The last time the House discussed the issue of adultery was in December 2016. At the time, only three factions — the Golkar Party, the Indonesian Democratic Party of Struggle (PDI-P) and the Hanura Party — were of the opinion that the article went too far into citizens' private lives. The three parties only controlled 216 of the 560 seats at the House.

"Personally, I agree that it should be a crime, so that there would be no legal vacuum," the NasDem politician said, adding that the article, along with other pending ones, would be decided by mini-factions in the bill's

working committee.

Muhammad Syafi'i, a House member from the Gerindra faction, seemed confident that the bill would be passed soon, despite the protracted deliberations.

"The definition of adultery has been expanded to include premarital sex of any kind, including homosexual sex," he said. "It was resolved in the special committee and the working committee."

Committee members from the PDI-P, Golkar and Hanura did not reply to the *Post's* requests for comment on Tuesday.

Activist groups under the National Alliance for Criminal Code Reform urged the House to reconsider pushing the bill through too hastily, saying that it had not taken into account suggestions from civil society groups.

Erasmus Napitupulu from the Institute for Criminal Justice Reform (ICJR) said that besides the issue of adultery, there were still many articles in the bill that were pending further deliberations. The government had yet to provide the rationale behind many of the bill's provisions, he added.

Adultery was punishable by up to five years' imprisonment in the bill, up from nine months in the current law, which meant that au-

thorities could arrest and detain suspects before trial.

"Is that really necessary for something that is so private?" Erasmus said. "With this bill, your taxes and mine will be used to enforce unnecessary laws. At a time when we are grappling with serious crimes like cybersecurity, corruption and terrorism, this bill focuses on too many inconsequential crimes."

He added that the bill contradicted President Joko "Jokowi" Widodo's promise to eliminate overcapacity in prisons.

"President Jokowi has often said that the prisons are overcrowded," he said. "But the articles in this bill only add to that problem. The president's noble intentions have not been implemented well by the Law and Human Rights Ministry and the [...] House."

Institute for Policy Research and Advocacy (Elsam) researcher Adzkar Ahsinin echoed Erasmus's comments, saying he articles related to adultery, LGBT persons and the death penalty "had the potential to restrict and violate citizens' individual rights."

"Sexual orientation and morality should not be interfered with by anyone, including the state." (kmt)