

ONLINE PROSTITUTION CRIMINAL ENFORCEMENT

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Abstract

The purpose of this study is to find out and analyze the law enforcement of online prostitution. To find out and analyze the factors that cause the practice of online prostitution. To find out and analyze the obstacles and solutions in law enforcement of online prostitution. This study uses an empirical juridical approach, with descriptive research specifications. analysis. The data used in this study is secondary data obtained through literature study. The results of this study are the Law Enforcement of the Crime of Online Prostitution is the perpetrators can be sentenced to Article 296 and Article 506 of the Criminal Code, Article 27 in conjunction with Article 45 of Law No. 11 of 2008 in conjunction with Law No. 19 of 2016 concerning electronic information and transactions and Article 4 in conjunction with Article 30 of Law No. 44 of 2008 on pornography. Factors That Cause Online Prostitution Practices as follows: Lifestyle Factors, Economic Factors, Low Education Factors, Misappropriated Technological Advancement Factors, Free Association Environmental Factors, Lack of Parental Supervision Factors. The obstacle is Legal awareness of the community is not yet optimal, There are limitations in facilities and infrastructure, Very few cases have reached trial. The solution is to build partnerships with the wider community, improve facilities and facilities.

Keywords : Law Enforcement, Crime, Online Prostitution

1. Introduction

Based on the fourth paragraph of the Preamble of the 1945 Constitution, there are four (4) interesting places for the State of Indonesia as follows: Protect the entire Indonesian nation and the entire homeland of Indonesia, promote public welfare, educate the nation, and participate in carrying out world order based on eternal peace and justice. social.¹

Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) affirms that the Unitary State of the Republic of Indonesia concerning state law (rechtstaat).² In Indonesia, in order to enforce state law as aspired, efforts need to be made so that the public knows the ins and outs of the law. Indeed, today in an effort to ensure the maintenance of steady national stability to support the implementation of development, the government has made various efforts, but in reality they are only

¹ Muhammad Adib, Sri Kusriyah and Siti Rodhiyah Dwi Istinah, 2019, The Giving Of Disciplinary Penalty of Civil Servants Based On Government Regulation Number 53 of 2010 in Governments of Demak Regency, in Jurnal Daulat Hukum Volume 2 (4), Published Master Of Law, Faculty of Law Unissula, p. 444, <http://jurnal.unissula.ac.id/index.php/RH/article/view/8239/3862>

² Bambang Waluyo 2004, *Pidana Dan Pemidanaan*, Sinar Grafika, Jakarta,, p. 33.

the actions of members of the community that disrupt security and public order, either directly or indirectly, which will affect the pattern their life.³

Law enforcement in the Pancasila State should be understood not only from the point of view of efforts and approaches for the strength of the law in the midst of social life but more importantly it needs to be seen from the point of view of the basic values and principles of our social, national and state life.⁴ However, in order to enforce the real law, there are still many problems and problems faced by the State of Indonesia in eradicating societal ills.

Cybercrime is a social phenomenon that has led to the realm of criminal law, namely in the form of crime. Cybercrime is not only considered as an individual problem, or local, or national, or regional, but has become a global problem. Every country should care about tackling these high-tech crimes, both through non-criminal policies and criminal policies. Therefore, cybercrime is a global challenge that must be fought together, there is a phenomenon that the internet is not only used as a medium that makes it easier for humans to carry out their activities, but also there are several parties who use the internet in different ways, namely the misuse of technology used to promote online prostitution.⁵

Law is the whole norm that lives, develops, and applies in social life which contains orders and prohibitions that maintain order in a society. Laws are made in order to protect the interests of certain people and to create order, security and comfort in social life.⁶

The impact given by the ease of technology is misused by parties who provide online prostitution services. Prostitution in Indonesia is considered a crime against decency or morality and is against the law. The practice of prostitution is a form of social deviation that has been carried out since ancient times until now. Prostitution is an event of selling oneself by trading body, honor and personality to many people to satisfy sexual desires in exchange for payment.⁷

The purpose of this study was to identify and analyze the law enforcement of online prostitution. To find out and analyze the factors that cause the practice of online prostitution. To find out and analyze obstacles and solutions in law enforcement of online prostitution.

³ Anton Susanto, Ira Alia Maerani and Maryanto, 2020, *Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction)*, in Jurnal Daulat Hukum Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 21, <http://jurnal.unissula.ac.id/index.php/RH/article/view/8402/3928>

⁴ Sukanton Marmosudjono, 1989, *Penegakan Hkum di Negara Pancasila*, Pustaka Kartini, Jakarta, p. 9

⁵ Widodo, 2013, *Aspek Hukum Pidana Kejahatan Mayantara*, Ctk. Pertama, Aswaja Presindo, Yogyakarta, p. 9 and 10

⁶ Boma Wira Gumilar, Gunarto and Akhmad Khisni, 2019, *Reconstruction of Life Imprisonment in Prison System in Indonesia*, in Jurnal Daulat Hukum Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 499, <http://jurnal.unissula.ac.id/index.php/RH/article/view/8348/3871>

⁷ Kartini Kartono, 1981, *Patologi Sosial*, Rajawali Pers, Jakarta, p. 200

2. Research methods

The approach method used in this research is empirical juridical. In this study, the method used is a descriptive analysis method. The data analysis used in this research is qualitative data analysis, namely everything stated by the respondent, both in writing and verbally, as well as real behavior that is studied and researched as a whole. Then the data that has been collected from the results of the research is then processed. First, the data is selected on the basis of reliability and validity. Data with low reliability and validity, incomplete data are dropped or supplemented with substitutions.

3. Discussion

3.1. Online Prostitution Law Enforcement

In the practice of living in society, social problems often occur and will continue to develop in line with the times, especially those related to the problem of prostitution or usually known as prostitution. Prostitution if interpreted from the Latin, namely *prostiture* which means allowing oneself to commit adultery, commit prostitution, prostitution, obscene. The meaning of prostitution from English is prostitution which means not much different, namely prostitution, prostitution or immorality.⁸ Prostitution is contrary to the sociological definition of crime (Sociological Definition of Crimes), because it is categorized as an evil act that is contrary to and violates norms in social life such as legal norms, religious norms, and moral norms.

Information and communication technology are 2 (two) things that are always developing and always new in the past few years that have an impact on human life. Various actions of a person often by benefiting from efficiency, by taking advantage of the development of information and communication. The development of technology and information only provides convenience and progress, on the other hand it can create new problems when its use is not as it should be. Cyber crime is a new crime that exists in society.

Inter-connection network (internet) has become a new part of human life that can no longer be separated to unify boundaries and differences. It is undeniable that the internet has greatly changed human lifestyles and has created a new phenomenon that can change conventional communication. Advances in technology in the field of information and telecommunications have changed the characteristics in terms of crimes that exist around the domestic area shifting into transnational areas.⁹

The rapid advancement of information and communication technology makes it easier for people to obtain information, because in just seconds, news can be accessed. Online media uses web-based technology that turns communication into

⁸ Rhiza, Alvionita, Pramesthi Dyah S, 2013, "*Kajian Yuridis Terhadap Prostitusi Online (Cyber Prostitution) di Indonesia.*" *Jurnal Hukum Universitas Negeri Surakarta* Sebelas Maret 2, no. 3 p. 307-316

⁹ Harahap, Alfi Ardiansyah, I Gusti Ngurah Parwata, 2018, "*Tindak Pidana Prostitusi Online Di Wilayah Hukum Polda Bali.*" *Jurnal Hukum Universitas Udayana*, no. 4, p. 1-11.

interactive dialogue. Utilizing social media users can easily participate, share, and create content including blogs, social networks, wikis, forums and virtual worlds. Blogs, social networks and wikis are the most common forms of social media used by people around the world. Social networking is a site where anyone can create a personal web page, then connect with friends to share information and communicate. The largest social networks include Facebook, Myspace, Whatsapp and Twitter. Traditional media uses print media and broadcast media, then social media uses the internet. Social media invites anyone who is interested to participate by contributing and giving feedback openly, giving comments, and sharing information in a fast and unlimited time.

Online prostitution is actually a part of crime in cyberspace, although the internet network is not the main tool in realizing the act of prostitution, but at least the internet network is used as a means to gather information to expand the prostitution market. The Criminal Code does not yet contain regulations for online prostitution, but the Criminal Code and the Draft Criminal Code regulate and make pimps illegal. The Draft Criminal Code clearly prohibits people from roaming or being on the street or in public places with the aim of prostitution, but prostitution or prostitution itself is not prohibited. The Draft Criminal Code prohibits prostitution, of course the prohibition of prostitution is not limited only to people who roam the streets and in public places or in the open. Prostitution in any form, anyone, and any place such as a closed place must still be prohibited. But the fact is not so, there is no rule of law regulating prostitution in a closed place.

This can be found in the articles that regulate crimes against decency in Chapter XIV of the Criminal Code Articles 281-299 concerning violations of decency in the third Book of Chapter VI LUHP Articles 532-535. The regulations regarding prostitution are contained in the Criminal Code. Articles 295 and 506 of the Criminal Code previously mentioned use the word "whoever" is used to refer to the subject who is a pimp. Who acts as an intermediary between commercial sex workers (PSK) and those who use their services. The main point of the two articles above is actually no different, namely focusing on regulating punishments for those who seek profit in this prostitution practice, namely pimps. The shortcoming in the Criminal Code to date is that there is no regulation that illegalizes parties such as website owners, users and commercial sex workers.

Online prostitution can be called illicit sex. According to article 284 of the Criminal Code, if adultery occurs, the only party who can complain about the crime of marriage is the husband or wife who has been tainted. According to these articles, the crime of adultery is a complaint offense, not an ordinary offense. According to Law Number 11 of 2008 concerning Electronic Information, the law in a country functions to regulate and protect the public. The development of culture and technology changes the order of people's lives.¹⁰Technological advances that change people's lives are made easier by the presence of technology that aims to simplify daily life. Everything that has a

¹⁰ Erdianto, 2011, *Pengujian Perundang-undangan Hukum Pidana oleh Mahkamah Konstitusi Dalam Kaitan dan Perlindungan Hak Asasi Manusia*, Jurnal Konstitusi, vol VI, p. 43-68

good effect must have a bad effect. Technological advances are like that, many also misuse the technology.¹¹

Law Enforcement of the Crime of Online Prostitution is the perpetrators can be sentenced to Article 296 and Article 506 of the Criminal Code, Article 27 in conjunction with Article 45 of Law No. 11 of 2008 in conjunction with Law No. 19 of 2016 concerning electronic information and transactions and Article 4 in conjunction with Article 30 of Law No. 44 of 2008 on pornography. Based on the results of the investigation conducted, it is known that the perpetrators of online prostitution crimes use social media such as Michat, Twitter, Facebook, WhatsApp as a transaction medium. Customers can transact or rent women who are displayed on the provided social networking pages. In the case of online prostitution, investigators only get reports from the public. Due to the limitations possessed by investigators in terms of technology, therefore in this case investigators carry out their actions by reconnaissance, and disguises.

3.2. The Factors That Cause the Practice of Online Prostitution in the Legal Territory of the Cirebon City Police

The use of internet technology has formed a new world society that is no longer hindered by the territorial boundaries of a country that were previously determined to be very essential, namely the "world of mayantara" (a world without borders) or "virtual reality" (virtual reality). as a form of crime caused by the development and progress of information and telecommunications technology, namely crimes related to internet applications which in foreign terms are called cyber crime.¹² Historical records show that several cases of alleged pornography failed to be punished because expert witnesses in court succeeded in convincing the judge that violating decency, even if proven, did not mean pornography.

Sexual harassment is an unwelcome approach to sex-related behavior, including requests for sex, and other behaviors that verbally or physically refer to sex.¹³ Sexual harassment can occur anywhere, whether in public places such as buses, markets, schools, offices, or in private places such as home. In the case of sexual harassment, it usually consists of 10 percent swear words, 10 percent intonation that shows insults, and 80 percent non-verbal.¹⁴

The reason for high-level prostitutes lies in their economy in the sense of fulfilling their life that requires luxury, or for special causes that are found in their biological and psychological factors. There is also a woman who thinks that doing

¹¹ Erdiansyah, 2015, "Trapping the Actors of the Crime of Prostitution Online", Jurnal Daulat Hukum 1, no. 3, p. 725-730

¹² Barda Nawawi Arief, 2006, *Tindak Pidana Mayantara, perkembangan kajian cyber crime di Indonesia*, Raja Grafindo Persada, Jakarta, p.19

¹³ Munawwarah and Eko Soponyono, 2019, Sexual Harassment Criminal Law Policy In Criminal Law Revision Of Indonesian, in Jurnal Daulat Hukum Volume 2 (3), Published Master Of Law, Faculty of Law Unissula, p. 421-422, <http://jurnal.unissula.ac.id/index.php/RH/article/view/5674/3423>

¹⁴ Regina Ignasia Gerungan, "Perlindungan Terhadap Korban Tindak Pidana Pelecehan Sexual Di Tempat Umum Di Kota Manado", Lex Crimen, Vo.II/No.1/Jan-Mrt/2013, pp. 70

prostitution is very profitable in living it. A person can be a prostitute or a defendant by his closest environment through a relationship.

Factors That Cause Online Prostitution Practices are Lifestyle Factors, Economic Factors, Low Education Factors, Misappropriated Technological Advancement Factors, Environmental Factors Free Association and Lack of Parental Supervision Factors

3.3. Obstacles and Solutions in Law Enforcement of the Crime of Online Prostitution in the jurisdiction of the Cirebon City Police

Talking about prostitution in Indonesia will directly touch on the structure of society, the price of women, and moral issues. Although prostitution according to positive law in Indonesia is still controversial about whether it is legal or not. Some experts argue that prostitution is a crime, but there are also those who argue that prostitution is not a crime. Apart from that, prostitution is a social problem.

Violence that occurs in the community is increasingly disturbing. In resolving a conflict or problem that is accompanied by acts of violence.¹⁵ In general, an act of violence can be defined as the intentional use of physical force or violence, an actual threat or violence against oneself, another person, or against a group or community, which results in injury or is likely to injure, kill, psychologically injure, or develop abnormality or loss. There are many forms of violence, including physical violence, verbal abuse, psychological violence, economic violence, symbolic violence and neglect.¹⁶

Prostitution as a social phenomenon, the system lies in conditional factors, especially the biological nature of men and women as well as relationships with various aspects of complex human life, making it impossible to completely eliminate it. So the various efforts and actions to deal with this problem are not targeted at eliminating it completely, which is definitely impossible, but rather directing it to stem its spread and prevent its various consequences.¹⁷

Hunt argues that for a social problem to exist, two conditions must be met. That is, there must be widespread recognition that the situation affects the welfare of some members of society, and there must be a belief that the situation can be changed.¹⁸ Social welfare in question is the existence of certain standards that are given to determine that everything is called prosperous, both in terms of safety, peace, and prosperity (physical, spiritual, and social) in life together.

The commonality of all discussions of laws and Islamic law regarding the crime of online prostitution, of course, is that it prohibits the practice of this activity, but of course there are more explanations regarding the differences and similarities.

¹⁵ Afandi and Umar Ma'ruf, 2021, *The Criminal Sanctions Implementation of Personnel Sexual Violence on Under Age's Children (Minors)*, in Jurnal Daulat Hukum Volume 4 (1), Published Master Of Law, Faculty of Law Unissula, p. 50, <http://jurnal.unissula.ac.id/index.php/RH/article/view/13886/5384>

¹⁶ Aan Hardiansyah, Akhmad Khisni, Jawade Hafidz, Violence in the Teaching and Learning Process Viewed from the Perspective of Criminal Law and Law No. 14 of 2005 on Teachers and Lecturers, Jurnal Daulat Hukum Vol. 1. No. March 1, 2018 ISSN: 2614-560X, Unissula

¹⁷ Yesmil Anwar and Andang. 2010, *Kriminologi*. Refleksi Aditama: Bandung Pg. 361.

¹⁸ A.S Alam dan Amir Ilyas, 2010, *Pengantar Kriminologi*, Pustaka Refleksi Books, Makasar, Pg. 23.

Regarding the differences that exist with reference to the explanation in the previous analysis, it is known that the striking difference is regarding which parties can be charged in this crime, it turns out that every law and Islamic law has differences in terms of which parties can subject to sanctions. According to the Law of the Republic of Indonesia No. 11 of 2008 concerning Information and Electronic Transactions, it can only ensnare the owner of this website or forum in accordance with article 27 paragraph (1) of the ITE Law, states "Every person intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents ...", so that the legal subject who is required to be criminally responsible in this Law is only the owner of the website or online prostitution forum. , namely as the person who distributes or transmits or makes accessible these pornographic or prostitution sites online. Meanwhile, according to the Law of the Republic of Indonesia No. 44 of 2008 concerning Pornography, more parties can be charged, referring to Article 1 paragraph (2), Article 7, Article 4 paragraph (2) letter d and Article 8 of the Pornography Law, the website owner or forums, prostitutes, pimps and server owners may be subject to using this law.

Barriers to law enforcement against online prostitution are legal awareness of the community that is not yet optimal, There are limitations in facilities and infrastructure, Very few cases reach trial

Efforts are being made to overcome obstacles in law enforcement against online prostitution, including building partnerships with the wider community and improving facilities and facilities.

4. Closing

Law Enforcement of the Crime of Online Prostitution isthe perpetrators can be sentenced to Article 296 and Article 506 of the Criminal Code, Article 27 in conjunction with Article 45 of Law No. 11 of 2008 in conjunction with Law No. 19 of 2016 concerning electronic information and transactions and Article 4 in conjunction with Article 30 of Law No. 44 of 2008 on pornography.Factors That Cause Online Prostitution Practicesas follows: Lifestyle Factors, Economic Factors, Low Education Factors, Misappropriated Technological Advancement Factors, Free Association Environmental Factors, Lack of Parental Supervision Factors.The obstacle isLegal awareness of the community is not yet optimal, There are limitations in facilities and infrastructure, Very few cases have reached trial. The solution is to build partnerships with the wider community, improve facilities and facilities.

The suggestion from this research is for the government itself with a discussion on the comparison and accountability of the perpetrators of this online prostitution crime, the government hopes that the government will immediately revise some of the articles that have been mentioned or immediately complete the Criminal Code Bill so that the Criminal Code Bill can become a positive law. For law enforcement officers, this online prostitution crime needs to be looked at comprehensively again, considering that this online prostitution crime can actually be subject to layered articles based on different legislation.

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