

The Investigation of Prostitution Service Providers through Social Media Information and Electronic Transactions

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Abstract.

The purpose of this research is to study and obstacles analysis and solutions in the process of investigating prostitution service providers through information media and electronic transactions. The specification of this research is the normative juridical method. The results of this study indicate that the investigation process carried out by the Cirebon City Resort Police in tackling the crime of online prostitution, investigators carried out several internal stages, including through the investigation process by disguise and trapping the perpetrators. And the obstacles experienced by the Cirebon City Police in the investigation process include collecting sufficient evidence and determining suspects. This is because there are no special rules regarding the investigation of online prostitution, so that investigators conduct undercover investigations as stipulated in the National Police Chief Regulation Number 6 of 2019 concerning Criminal Investigations, then the diversity of laws governing online prostitution, perpetrators falsify real identity, and unprofessional human resources in dealing with cases related to cybercrime. And the solution is the government should implementing truly the Act No. 11 of 2008 concerning Information and Electronic Transactions jo Act No. 19 of 2016 concerning Amendments to Act No. 11 of 2008 concerning Information and Electronic Transactions, Act No. 21 of 2007 concerning Eradication of the Crime of Trafficking in Persons, and Act No. 23 of 2002 concerning Child Protection.

Keywords: Crime; Investigation; Online; Prostitution.

1. Introduction

When human civilization has entered the reform era, a new problem of prostitution arises. According to James A. Inciardi, prostitution as quoted by Topo Santoso is "The offering of sexual relations for monetary or other gain".¹ The forms and mechanisms of prostitution are very diverse, namely organized and unorganized. The first to be organized is with the emergence of localization, for example massage parlors, brothels, nightclubs, etc. Both disorganized can be found in call women and women selling themselves on the roadside.²

Various kinds of cases related to criminal acts, prostitution cannot be separated from the discussion about prostitution service providers. Prostitution has been strictly prohibited in the Criminal Code (KUHP) as well as in existing legislation outside the Criminal Code and has become a very serious problem in criminal law because it has an impact on society and the state. Prostitution via the internet has now become a prostitution business trend. This prostitution business manager takes advantage of free domain to carry out his crimes.

¹ Topo Santoso, (1997), *Seksualitas dan Hukum Pidana*, Ind-Hill-Co, Jakarta, p.134

² Khumaerah, N. (2017). Patologi Sosial Pekerja Seks Komersial (PSK) Persfektif Al-Qur'an. *Jurnal Al-Khitabah*, 3(3)

Strict legal sanctions and the eradication of this entrenched social disease have become a great hope for the community. However, in the reality found in the field, it seems that prostitution service providers are left untouched and not acted upon due to confusion from law enforcers in applying legal instruments that are in accordance with the actions committed by the perpetrators. Business facilitated by technology provides space for pimps to avoid legal entanglement due to the absence of regulations that clearly regulate it. Because the emergence of crime broadly consists of two parts, namely, internal factors are the causative factors from within humans themselves without environmental influences such as emotional levels, psychiatric disorders, personality (personality), gender, position in the family.³

Prostitution is a job that is surrendering or selling services to the public to perform sexual acts by getting wages in accordance with what was previously agreed. Prostitution workers are better known as Commercial Sex Workers (PSK).⁴ This online prostitution is a new mode by offering women through a social media application mi chat. The owner of this mi chat social media account displays photos of the woman in minimal clothing who is ready to serve customers. The fans only need to contact via the chat that is displayed, then this service user goes to the hotel room or to the hotel apartments that have been informed by the service provider.⁵ If we want to deepen the understanding of the meaning of online prostitution is prostitution transaction that uses the internet as a means of liaison between commercial sex workers with who wants to use his services. So the Internet only as a means of supporting or connecting only.⁶

Positive legal provisions that exist in Indonesia can only impose criminal liability on those who help and providers illegal sex services, meaning that criminal responsibility is only given to pimps or pimps, as well as commercial sex workers, on the other hand, there is no article that regulates users of commercial sex services.⁷ The pornography law regulates the crime of pornography in ten articles, namely: (1). The crime of pornography is producing, making, reproducing, duplicating, distributing, broadcasting, importing, exporting, offering, trading, renting and providing pornography (Article 29 in conjunction with Article 4 paragraph 1). In this crime there are 12 forms of prohibited acts against pornographic objects. (2). One of them is the crime of providing pornographic services as regulated in Article 4 paragraph 2 in conjunction with Article 30 of Act No. 44 of 2008 concerning Pornography.

Although the regulation regarding the prohibition of online prostitution has been clearly formulated in positive law, law enforcement in this case is very difficult

³Arif Zaenal Abidin, Implementation of Online Prostitution Crime Investigation in Polres Cirebon City Jurisdictions, *Jurnal Daulat Hukum*, Volume 1 Issue 3 September 2018, p. 726.

⁴Kondan Siregar, MA, (2015), *Model Pengaturan Hukum Tentang Pencegahan Tindak Pidana Prostitusi Berbasis Masyarakat Adat Dalihan Na Tolu*, Penerbit Pertama Mitra Handalan, Medan. p.2

⁵ Sutarman, (2007), *Cyber Crime Modus Operandi dan Penanggulangannya*, Laksbang PRESSindo, Yogyakarta, p. 67

⁶Ratih Mega Puspasari, Reconstruction of Criminal Sanctions On Actors Of Online Prostitution Based On Justice Value, *Law Development Journal*, Volume 1 Issue 1, June 2019, p. 34.

⁷ Saraswati. NKAG. (2018). Pertanggungjawaban Pidana Pengguna Jasa Prostitusi Menurut Hukum Positif Di Indonesia. *Kertha Wicara: Journal Ilmu Hukum*, 7(4)

to carry out. This is due to the difficulty of determining the jurisdiction of online prostitution.

2. Research Methods

The research specification in this study is the normative juridical method, this is descriptive analytical, the data used are primary data and secondary data, using data collection by interviews and literature studies, qualitative data analysis, problems analyzed by theory, law enforcement and legal certainty.

3. Results and Discussion

There are several obstacles faced by the police in handling several cases regarding online prostitution based on direct interviews from the investigators of the Cirebon City Police PPA unit.

The first obstacle is the diversity of laws that are enforced. One obstacle that is quite difficult to handle in cases of prostitution through online social media, is that the police have a little difficulty determining the law that will be used to ensnare the perpetrators. As we know in the case of online prostitution, there is a diversity of laws that apply in Indonesia. The police are only tasked with ensnaring the actions contained in the law, not as lawmakers, so that accuracy and precision are needed in seeing what actions the perpetrators take and what articles will be applied to the perpetrators, this is also related to the investigator can analyze whether the criminal elements have been met, so that the process can be continued to the prosecutor's office and court.

If in the usual case of prostitution, the perpetrator is charged with Article 296 of the Criminal Code and Article 506 of the Criminal Code because it contains elements of prostitution as a livelihood and there are pimps in it. However, in the case of online prostitution, because it uses online social media, it cannot be charged with Articles in the Criminal Code, and it refers to Act No. 11 of 2008 concerning Information Technology and Electronics in Article 27 paragraph (1) which because it contains elements of decency, but even that article does not mention the word "prostitution", then added with Act No. 21 of 2007 on the Eradication of Criminal Acts of Eradication of Persons, this case refers to the crime of trafficking in persons. If the victim is still a minor, the regulation uses Act No. 23 of 2002 concerning Child Protection.

The second obstacle is the difficulty of collecting evidence. Investigation is a series of processes to collect evidence and suspects. Investigation is a series of actions by investigators to seek and collect evidence so that suspects can be found.⁸ Meanwhile, according to K. wantjik Saleh quoted in the legal journal Sahuri Lasmadi, self-investigation is defined as:⁹ "Efforts and actions to seek and find the

⁸ Hibnu Nugroho, 2012, *Integralisasi Penyidikan Tindak Pidana Prostitusi di Indonesia*, Media Aksara Prima, Jakarta, p.1

⁹ Sahuri Lasmadi, *Tumpang Tindih Kewenangan Penyidikan Pada Tindak Pidana Prostitusi Pada Perspektif Sistem Peradilan Pidana*, Jurnal Ilmu Hukum, Volume 2, No. 3, Universitas Jenderal Soedirman Fakultas Hukum, Purwokerto, July, 2010, p. 10.

truth about whether a crime really occurred, who committed the act, what was the nature of the act and who was involved in the act."

In criminal acts of online prostitution, investigators find it difficult to collect sufficient evidence, so that with the policy of the Indonesian National Police Chief Regulation Number 9 of 2019, investigators or investigators can undercover to assist investigators in eradicating the crime of online prostitution.

Prior to conducting an investigation, we conducted a case and prepared a plan for the investigation to be carried out. Because Act No. 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons does not regulate the procedure for investigation, we, with the policy of Perkapolri Number 6 of 2019 determine to conduct an undercover investigation to collect evidence and identify the suspect.¹⁸ From this it can be seen that investigators can only collect evidence and find the suspect only by undercover, if this process is not carried out, it is very difficult to collect evidence of what the perpetrator has done.

In handling several cases of online prostitution, the police experienced a little disturbance regarding the identity of the perpetrators and victims, because every time they operate they always use a pseudonym so that the traces are not known by the apparatus, making it difficult to identify or trace. As for the names used on the MiChat accounts listed are not real names, they deliberately use interesting names to impress others. And not infrequently they also commit fraud, where when the money has been transferred to the e-wallet they even block our contact. From this it can be seen that the perpetrator or the target of the operation has prepared a disguise and even deceived customers for their personal interests.

For the internal police, the obstacle faced is limited human resources in the field of information technology. Advances in increasingly sophisticated technology and the lack of knowledge and training of law enforcement officers at the Cirebon Police have made this an obstacle. Human resources who are experts in the field of cybercrime are very limited, so not all Satreskrim are experts in this field. The absence of IT experts in the process of investigating online prostitution in the jurisdiction of the Cirebon City Police Resort also makes it difficult for investigators to uncover the crime of online prostitution itself. In the absence of people who are experts in these fields, the performance and professionalism of investigators does not run optimally.

The efforts in implementing Act No. 11 of 2008 concerning Information and Electronic Transactions. This law contains regulations and sanctions against criminal acts in cyberspace criminally. The criminal incident is a series of human actions that are contrary to the law or other statutory regulations, for acts in which the punishment of prostitution using the internet is not a new thing in Indonesia, even at the Cirebon City Police itself, even before the enactment of the law. ITE, the practice of prostitution using the internet has happened a lot, even though it is still secret.

Looking for and finding acts that meet the elements of immorality related to pornography and distributing files and information so that pornographic content can be accessed, the violation of which is regulated in Article 27 paragraph (1) of the ITE Law. In general, use this Law to ensnare perpetrators if the perpetrator is only limited to doing, facilitating and or accessing something that violates immorality. However, the Satreskrim cannot immediately arrest all the owners of

the site, the sites themselves are many but are sorted based on the ease of disclosure. The difficulty for the police is that their identities (site owners or managers) mostly use fake identities.

Efforts in implementing Act No. 21 of 2007 concerning the Crime of Trafficking in Persons. In the application of using Act No. 21 of 2007 concerning the Eradication of the Criminal Acts of Trafficking in Persons oriented to prostitution or prostitution through online social media, it was initially necessary to use Article 27 paragraph (1) of Act No. 11 of 2008 concerning ITE to ensnare perpetrators of online prostitutes are called pimps because their access is via online or wireless long distance links. To capture perpetrators, service providers, and users of such access, Polrestabes must also establish cooperative relationships with all police units including the East Java Regional Police who operate through online networks to track providers and users of prostitution services.

Efforts in Implementing Act No. 23 of 2002 concerning Child Protection. Not many victims of prostitution are involved in prostitution networks. Ordinary people may find it difficult to accept the fact that children who prostitute themselves are part of sexual exploitation even though they are children decided to voluntarily become a prostitute. However, the decision of children to become commercial sex objects is unacceptable because children are not legally capable of deciding to become sex objects, in the case of online prostitution handled by the Cirebon City Police, hereby the Cirebon City Police are maximizing the law regarding child protection. This is to ensnare the perpetrators and prevent more child victims from entering the world of prostitution. The article that regulates this prostitution matter is Article 59 of the Child Protection Act.

The Cirebon City Police coordinates with the Regional Police and other institutions outside the Police such as the local civil registry to find out and adjust the real identities of the perpetrators and victims, if the perpetrator is proven to be using a false identity, the police will immediately find out and process it immediately.

Human resources who are experts in technology at the Cirebon City Police are limited, so the Polrestabes, especially the Satreskrim, have submitted an application to the head of the unit to add resources in the field of Information and Technology. In addition, the Polrestabes are always in contact with other Police such as the Regional Police and the Sector Police within the Cirebon scope for inputting data regarding the location of the incident and data of local residents who were caught in a criminal case, so everything must be related. Because each level of cases that occurred in Cirebon is different, the overflow of cases handled by each case is different-each level of police in Cirebon and in East Java is also different, all of which are adjusted according to the severity of the criminal case that occurred.

The humanitarian approach to any problem is a universal one. This is especially true for issues with very strong nuances of human rights violations, such as prostitution. So far, the approach used, especially by the government, is still not humane. If it is associated with the Yunita Alias Keyko case which involved hundreds to thousands of commercial sex workers under him, there are several problems that are motivated by various inequalities, one of which is regarding social strata and human rights. his pimp, but in this case the victim also needs material to sustain his life and in fact this is the role of the government to provide livelihoods and

compensation to the underprivileged in terms of daily living as well as in terms of education so that the human rights of everyone can be fulfilled by the state, if clothing, food, and shelter are met, so that good morals are formed from it so that a person can think twice about entering the world of prostitution. The task of the Police here is only to discipline and carry out the tasks given by the government which have been regulated in various regulations governing this prostitution issue, and the police also carry out an investigation process that has been regulated in the Criminal Procedure Code in order to seek clarity and the origin of this prostitution case.

4. Conclusion

Based on the discussion above, the obstacles experienced by the Cirebon City Police in the investigation process include gathering sufficient evidence and identifying suspects. This is because there are no special rules regarding the investigation of online prostitution, so that investigators conduct undercover investigations as stipulated in the National Police Chief Regulation Number 6 of 2019 concerning Criminal Investigations, then the diversity of laws governing online prostitution, perpetrators falsify real identity, and human resources who are less professional in dealing with cases related to cybercrime. The Cirebon Police Satreskrim has submitted an application to the head to add resources in the Information and Technology Sector, besides that the Cirebon Police have always cooperated and coordinated with the West Java Regional Police; The Cirebon Police carried out counseling to the community, the education sector, and state officials to always pay attention to the environment and friends to hang out with or colleagues in communicating.

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