

## Criminal Responsibility for Parties Involved in Online Prostitution

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### Abstract

*Fulfilling the needs of life is important for every human being because of the need for work, the choice of negative work makes individuals not care about the causes and consequences, the most important thing is how their life needs are fulfilled. For this reason, one of the jobs that online prostitution is one of the jobs that involves meeting the needs of human life easily. Online prostitution itself has become a common thing in the life of the community environment, basically online prostitution itself is one of the activities that has many negative impacts on a person's life. The focus of this research is on how the criminal liability of the parties related to online prostitution where an act of online prostitution activity is one of the phenomena where this is very easy to spread and also very complex in the world of the existing digital era so that in the context of a criminal law that is used to be able to provide the existence of a criminal liability that exists to the party who is involved in the online prostitution activity itself. This research uses the Normative Juridical method with the Law approach and conceptual approach. The results of this study found that the criminal liability of the parties involved in online prostitution if the parties meet the elements in the Criminal Code rules or outside the Criminal Code which regulates online prostitution. The parties involved in online prostitution can be subject to sanctions if online prostitution is carried out in areas where there are local regulations on prostitution. The conclusion that the criminal liability of the parties involved in the online prostitution case itself will depend on the facts that have been found so that this law is designed to be able to provide protection to the community and also provide punishment to individuals who are involved in this illegal act.*

**Keywords:** Online Prostitution; Parties; Criminal Liability

#### History:

Received: November 25<sup>th</sup> 2023

Accepted: February 1<sup>st</sup> 2024

Published: February 11<sup>th</sup> 2024

**Publisher:** Universitas PGRI Madiun

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### Introduction

An action that involves doing work that is considered illegal has occurred a lot and often occurs among adults (Kleden, 2019). Where online prostitution activities themselves are used by them in order to fulfill their own needs to be able to get a luxurious life, this results in a method or all actions being used haphazardly to be able to get a luxurious life for the perpetrators. . In this case, prostitution itself is a translation from English which is translated as prostitution so it has the meaning of prostitution, immorality, so in Indonesian it itself has the meaning, namely (WTS) or can be interpreted as Tiuna Susila Woman. Prostitution itself has a meaning in the Big Indonesian Dictionary which means it is one of the activities related to work where the work is offering and also selling the services they have to prospective buyers so that later they will be given services in the form of sexual acts or actions in return. Which has been agreed upon by both parties. This prostitution incident itself is a practical act that uses the body to carry it out so that later it will be said to be a short-term sexual act, because later this activity will not only be carried out by one person but by many more people so that they can get a lot of rewards or income. which will later be paid by these customers. So in this prostitution activity itself there are three elements in it which

contain an element of payment where this payment is a reward from the buyer, secondly there is promiscuity because this is done by more than one person, even dozens if this incident has been around for quite a long time, and thirdly, there is emotional release.

So the meaning or definition of online prostitution itself consists of two words, namely the first is prostitution and the second is online, for prostitution itself it has been explained that this is a work activity by providing services while for online it means describing how the place or activity will be. This will be done in prostitution later, the word online means that it describes an action related to the internet or cyberspace so that the meaning of online prostitution itself is sexual service activities through cyberspace, so that both parties do not have to meet each other to be able to do it. carry out prostitution activities themselves. In the future, online prostitution will involve women being employed by pimps so that there will be a leader in this matter. The pimp himself will provide various services to various women who will work to provide sexual companionship for men who will purchase the prostitution services.

Basically, in online prostitution activities, every country has a policy so it can be concluded that in this world there are four similar policies in online prostitution activities where these policies consist of (Sevrina, 2020):

1. Legalization, where the word legalization is an action or activity that directly legalizes or allows the practice of prostitution it self.
2. Criminalization, this will result in the perpetrators of prostitution themselves being involved so that this action is called a criminal act.
3. Decriminalization, for this case we will make efforts so that these perpetrators are not designated as criminals in prostitution activities
4. Abolition, the existence of abolition activities in the act of prostitution directly, this abolition itself will be removed from the roots because this is considered an act of slavery.

In this case, the country of Indonesia itself has a policy that they implement in this act of prostitution itself, where of these four things, Indonesia only chooses one policy that they implement in their country, namely, in this act of prostitution itself, Indonesia carries out a criminalization policy which creates the existence of these perpetrators. it is directly assumed that the action they took is a criminal act which must directly be given or subject to criminal sanctions. However, the policies taken by the Indonesian state itself cannot yet be directly applied to online prostitution because there are no rules or laws that explicitly regulate the prohibition of online prostitution.

Prostitution itself is known as a crime related to sex, sex itself is caused by self-control which has a very low level to be able to be used as a personal gain for someone. Accompanied by the continued development of this technology, it has an effect which can have a level of influence on how the development of online prostitution can very quickly reach life in society.

The existence of freedom in the use of this technology makes it easy for all levels of society to access or carry out online activities that are used as crimes (Syafrida, 2022). Not only that, the sophistication of technology and also the freedom in using this technology itself can directly create all sites ranging from websites to applications that are used for online prostitution, this can be said to be an easy action because it doesn't have to be a hassle. These perpetrators spread their prostitution activities to provide income for their livelihood needs. A person will of course try to fulfill all forms and interests that exist in their life so that this makes a difference in each group of people in how they can fulfill their own life needs, in this day and age there are many ways in society or a person can fulfill their needs in life by working from jobs that can be said to be menial to jobs that can be completed anywhere and at any time (Nuzuli et al., 2021).

Technology certainly makes it easier for someone to get their job very easily or they can even do their job anywhere and anytime or can be called flexible (Jayakarta, 2022). However, in this case the continued growth of technological progress has a very worrying presence or can be likened to a knife that has two sides where it will depend on how someone will use this technological sophistication, whether it will be used for positive or negative things. Prostitution with the advancement of technology itself provides an act of prostitution that is carried out online so that in this very widespread phenomenon, prostitution activities can easily spread in cyberspace, this creates a possibility where individuals themselves can become involved. in online business in sexual acts. The existence of an activity in this phenomenon itself also directly gives rise to aspects of social problems, even legal and ethical aspects, which should directly impact very serious attention from the authorities and the community.

Online prostitution itself is said to be very dangerous because it can have an impact in terms of the potential to cause acts of sexual exploitation by individuals who are involved in it, especially those who are involved, where their involvement is carried out by coercion or even trapped in a circle. human trafficking. There are many negative impacts of online prostitution, not only can it spread disease due to unprotected sexual activity. Human Immunodeficiency Virus / Acquired Immuno Deficiency Syndrome (HIV / AIDS) is a very dangerous infectious disease because not only does it have a negative impact on human health but also on the country. This disease usually infects the entire immune system through sexual contact and can usually be found in commercial sex workers (Budiarsih et al., 2020). Monitoring prostitution can also be used as a threat tool to blackmail or discredit individuals so that they can be used as a means of buying and selling in online prostitution (Islamy & Katimin, 2021). It can be seen that this online prostitution activity has very, very complex legal implications so that in practical activities that involve customers, organizers or individuals who are involved fairly, this will create questions that arise regarding responsibility in criminal acts. Based on the explanation explained above, this raises a fundamental question, namely what is the criminal responsibility for the parties involved in online prostitution. So this issue is the reason for conducting legal research in order to find an answer to the formulation of the problem being studied.

## **Methods**

In this research, the Normative Juridical Method will be used with a statutory approach and a conceptual approach (District & Perak, 2021). This normative juridical approach is carried out in order to implement the use of methods that can easily understand the existence of a problem raised by maintaining or standardizing a legal field that exists in the research. The data that will be used is secondary data so that later research will be carried out by means of literature study in order to obtain various data that are in accordance with the title of the research. This is included in order to have various sources and also official documents.

## **Results And Discussions**

### **Type Of Prostitution**

Prostitution it self has various kinds where according to the opinion expressed by Kartini Kartono, the criminal activity of prostitution is divided according to or according to the activity into registered and organized so as well as unregistered.

1. Registered or organized prostitution (Localization)

In this case, a violator will be directly monitored by the police department, where they have the authority to control the provision of assistance and cooperation from social services to medical services that are needed.

2. Unregistered/unregistered prostitution

This type of unregistered prostitution itself is a category which includes all groups and individuals who have carried out prostitution activities illegally or can be said to be illegal. In this type of prostitution, the activity itself can be said to be irregular and its existence is rarely known and will have an impact on their health which will need to be questioned because in this case the activities they carry out are all illegal, of course it will not make them self-aware. check their health condition with a doctor.

### **Factor In Prostitution**

In this case, the background of an individual or someone who is eager to enter the world of prostitution can be said to be a very bad action because the environment in prostitution itself is an environment which allows someone to easily get caught in a trap. the same scope, this is motivated by the existence of various factors that can make a person fall into the scope of prostitution activities where these factors have become a reason for them to do it. The factors that cause an individual's participation in becoming a sex worker through social media are based on the following things, among others: (Maulidya et al., 2021):

1. There Are Factors Originating From Faith Or Reason

This factor shows that there is a mixture of faith and belief that a person has, which will be related to the religious teachings they follow. The understanding and knowledge they have will of course be an influence on their mindset in the future. If they understand and fully adhere to the teachings of their religion, of course they will understand that the act of engaging in prostitution itself is a sin for them.

2. Economic Factors

Often this economic factor is one of the reasons for someone to get involved in prostitution activities so that they can get income for their living needs because the level of living is difficult and also the existence of a need which tends not to be met, this also makes someone unable to fulfill their desires, because In their understanding, prostitution is a place to earn income in an easy way.

3. The Presence Of Sociological Factors

This sociological factor itself is a factor that comes from outside where offers or invitations will come from the environment around them, either from friends or someone who is already involved in the world of prostitution. With this, someone can easily be tempted because their very minimal education and knowledge makes it easy for victims to be tempted.

4. The Presence Of A Psychological Factor

This psychological factor itself is one of the factors that arises from within humans themselves so that sometimes there is a feeling of trauma experienced by someone from their own life journey, whether problems in the family environment or the environment around them, making this person have to take action where they should. What he took was very wrong and had a negative risk, this is one of the reasons for being able to make excuses so that he can treat the trauma he experienced.

5. There Is a Laziness Factor

The existence of a laziness factor arises because it is triggered by a condition of mental factors which can be said to be very low so that it can damage an individual's outlook and faith in their religious norms which ultimately makes them fall into the world of prostitution with only physical capital and also the ease of running. This

prostitution involves obtaining compensation in the form of money. (Maulidya et al., 2021)

### **Criminal Law Views In Online Prostitution**

Prostitution it self is often associated with human trafficking, but in the case of human trafficking and prostitution itself are two different activities but still have several similarities in them so that in this case the Indonesian state has given birth to a Law which is used to overcome the existence of a The eradication of the crime of human trafficking is based on an acknowledgment that the trafficking carried out is an act of slavery carried out in this modern era (Yusitarani, 2020). The act of human trafficking is an act that is not in accordance with human dignity and violates human rights, so firm action must be taken (Risanto et al., 2021). This has violated the dignity of a person, including women and children. The inequality that occurs within gender itself creates detrimental actions experienced by women where this female gender becomes one of the victims of human trafficking. So that this law has a general description which will later explain regarding women and children that they are the victims of criminal acts that are most often related to an activity in human trafficking. This will also review the victim that this victim was clearly trafficked for the purpose of prostitution or even sexual exploitation activities which had the task of serving the buyers.

In article 1 point 1 in Law Number 21 of 2007, it discusses the existence of an act to eradicate the crime of human trafficking. This is meant by the existence of a human trafficking activity which is one of transportation, storage and even transfer or so on. which is included in coercion which is intended as an exploitation activity. So in the context of dealing with online prostitution, this itself is a criminal law perspective which will depend on whether the activity will be categorized as human trafficking in accordance with the definition explained in Law Number 21 of 2007. However, if in this case it turns out does not involve elements in the definition, then the action will be handled in accordance with the provisions in the relevant criminal law relating to how prostitution is regulated in the Criminal Code.

### **Criminal Liability Of The Parties Involved**

Responsibility in legal terms means "attachment" or is a cause-and-effect relationship (Budiarsih, 2021). In this case, there is a criminal law which explains that people who can commit a crime will later be subject to a criminal law so that later it will be seen in every article that already exists in the Criminal Code (KUHP), which itself has conclusions in each regulation, for people who will later be said to be one of the perpetrators or objects of the criminal activity itself. In the accountability requested from the parties involved themselves in online prostitution, it will be seen to what extent the parties involved are involved in the activity because the accountability that will later be requested will be in accordance with their position, where these positions include, among others, (Tamarol, 2020):

#### **1. Pimp**

The pimp himself is one of the owners of his own online prostitution establishment, so this pimp has the authority to become one of the intermediaries who will promote his prostitutes to customers. So he is one of the people who provides sexual services where he can also provide services to minors. As a pimp, he can be charged under Articles 295 and 297 of the Criminal Code, where in this case, if the pimp is classified into the general category or adult category, the pimp will be directly charged under Article 296 in conjunction with 506 of the Criminal Code.

The minimum criminal threat that a pimp can face is being imprisoned for 3 years or the longest, namely around 15 years, in which case a fine of IDR 120,000,000 – IDR 600,000,000 is imposed. Because in this case the action carried out by the pimp

is providing sexual services by trafficking people to become prostitutes by means of violence, debt bondage, coercion and fulfilling the elements of the Crime of Human Trafficking, the pimping's actions are charged under Article 2 of the Criminal Offenses Law Human Trafficking.

Meanwhile, pimps who carry out prostitution advertising activities using technological means, namely distributing decency content through information technology, have violated the provisions of Article 27 Paragraph (1) in conjunction with Article 45 Paragraph (1) of the Information and Electronic Transactions Law which carries a maximum prison sentence of 6 (six) years or a maximum fine of Rp. 1,000,000,000.

The act of pimping, which is also prohibited by law, namely advertising sexual services, either directly or indirectly, is regulated in statutory regulations in Article 4 Paragraph (2) in conjunction with Article 30 of the Pornography Law with the threat of imprisonment for a minimum of 6 (six) months and a maximum of 6 (six) years and/or a fine of at least IDR 250,000,000 and a maximum of IDR 3,000,000,000.

## 2. Commercial Sexs Wokers

From this it can be said that sex workers are people who serve directly where they can be said to be one of the main actors involved in online prostitution. PSK cannot be said to be one of the perpetrators because PSK itself is regulated in the law where not all prostitutes work of their own accord, sometimes there are prostitutes who are hired because they are forced, so it needs to be seen first whether these prostitutes are victims or not because if these prostitutes If you are one of the victims then indirectly the prostitute cannot be subject to criminal sanctions.

Prostitutes who work of their own accord will sell or make themselves available to market their sexual services through direct advertising of sexual services or through information technology means, for example through websites, chats, etc. with the aim of finding clients as intended in Article four paragraph (2) letter d. Pornography Law and Article 27 paragraph (1) jo. Article 45 of the Information and Electronic Transactions Law consists of a maximum imprisonment of 6 (six) years and a maximum fine of Rp. 1,000,000,000. In relation to prostitution, prostitutes cannot be punished if no sexual services are marketed or advertised because there are no regulations governing prostitution, however if an area has regional regulations or regional regulations regarding the prohibition of prostitution then all prostitution activities can be subject to punishment in accordance with the provisions stipulated applies. provisions of the regional regulations.

## 3. Service User

A customer is a customer who enjoys the services of online prostitution himself, so he is someone who orders or buys services for personal satisfaction. In the provisions of articles 295, 296, 297 and 506 of the Criminal Code, there are no or no regulations that explain the punishment of service users. Users of this service may be subject to criminal charges if they commit adultery with a prostitute. A wife who feels aggrieved because of her husband's actions can report the husband's actions because he has committed an act of adultery in accordance with Article 284 of the Criminal Code. In article 284 of the Criminal Code, it must be proven that the sexual activity was carried out with mutual consent, and there was no coercion.

So that prostitution carried out within the provisions of existing law in Indonesia has been criminalized in an article, namely which regulates the existence of Electronic Information and Transactions (ITE). In this case, criminal responsibility for a party involved in online prostitution or trafficking will be seen from how the person was involved and to

what extent they have committed the illegal act so that they will be sentenced according to the articles that have been determined.

## Conclusion

From all the descriptions above, the author concludes that criminal liability for the parties involved in this online prostitution case itself will be very dependent on the facts that have been discovered so that this law is designed to be able to provide protection to the community and also provide punishment for individuals who are involved in this illegal act. In prostitution activities, the parties involved in online prostitution are pimps, prostitutes and service users. Pimps can be charged under Articles 295, 296, 297 and 506 of the Criminal Code, especially if they traffic in humans to become prostitutes by means of coercion and threats of punishment according to the Criminal Act of Trafficking in Persons. Commercial sex workers (PSK) cannot be criminally charged if they are victims of human trafficking, however if they work of their own accord and are involved in providing sexual services using technology and information, they may be subject to the Pornography Law and the Information and Electronic Transactions Law. Service users cannot be punished if they are not married, but if they are married then they can be charged under Article 284 of the Criminal Code regarding adultery complained by the wife who was harmed by the incident. The parties to prostitution can be given sanctions if the prostitution is carried out in a region or area where there are regional regulations regarding prostitution.

## Sugesstion

In this case, the author gives advice regarding the regulations in the legislation that will be given to online prostitution cases specifically so that legal justice can be easily achieved for the entire community. Law enforcement against prostitution must provide justice so that all parties can be held accountable and provide information when examining online prostitution cases.

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Indonesia Criminal Code (KUHP)

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Law Number 21 of 2007 concerning Eradication of the Crime of Human Trafficking

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