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Law Research Review Quarterly is a double blind peer-reviewed journal published by Faculty of Law, Universitas Negeri Semarang, Indonesia, and the journal has been implemented the full system of open journal system (OJS). The Law Research Review Quarterly initially published research articles that had been disseminated in the National Seminar on Law at the Semarang State University and published in Bahasa Indonesia since 2015. Then, since 2020 starting from Volume 6 Number 1,

Seminar Nasional Hukum Universitas Negeri Semarang changed to Law Research Review Quarterly (with new ISSN 2716-3415) and published four times in one year (every February, May, August, and November) and exclusively publishes in English and Bahasa Indonesia. The Law Research Review Quarterly aims to be a forum for law activists, legal practitioners, academics, law fighters, law enforcement officials, and students in developing scientific fields of law in various researches, both normative and empirical research (Research Article and Review Article). Law Research Review Quarterly publishes articles related to the law (but not limited to): Criminal Law, Civil Law, International Law, Procedural Law, State administration law, Constitutional Law, Business Law, Law and Society, Islamic law, Customary Law, Environmental Law, Law and Human Rights, law of technology, Health Law, Law of the Sea, Diplomatic and consular law, Humanitarian Law, International Organizational Law, Comparative Law, Tax Law, International Economic and Trade Law, Law and Public Policy, Anti-Corruption Law, Anti-terrorism law, Law of Intellectual Property Rights, Land Law, Legal Reform, Insurance Law, Legal Aid, Law Justice and Crime, and others relating to the study of law and its various aspects (including political, economic, social and cultural).

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Issue: Law, Democracy and Crime: How Society Responds the Imbalance?

Editorial

Crimes and Society, How Do the Law Respond to Disruptive Conditions?

Ridwan Arifin

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Various crimes today are developing in a new direction, increasingly sophisticated, and modern (Juliana & Arifin, 2019). Even with motives that were never considered by humans in previous periods. The development of crime is also accelerating along with the development of society and information technology, especially in the era of disruption (Muthia & Arifin, 2019; Nurdiana & Arifin, 2019; Putri & Arifin, 2019; Arifin, 2020). This edition of the Law Research Review Quarterly explores a new nuance, with a fresh look and direction. This year's Law Research Review Quarterly Volume 6 Number 1 (February 2020) provides several articles relating to crime and various developments in society.

Reksi Yanuar Anantio, et al, looked at the phenomenon of crime among adolescents, especially in the aspect of criminology. The article emphasizes that deviant behavior (drunkenness) among adolescents is triggered by various factors, ranging from the environment, economy, education and even to the problem of family homes (Anantio, Ivan, Kurniawan & Dewangga, 2020). In line with Anantio, et.al, Nurul Izzah Millennia, et al., Seeing the phenomenon of juvenile delinquency and criminality that emerged from the punk community in the Ngaliyan area of Semarang City. This paper underlines that the Punk community triggers several crimes, especially on the streets, for example theft, pickpocketing, mugging, fighting, drugs abuse and narcotics, or even sexual violence. In addition, according to this paper, the existence of the Punk community in the Ngaliyan region and number of regions in Indonesia is triggered by problems with broken homes and dropouts (Millennia, Anan, Lestari, Arifin & Hidayat, 2020).

Another articles written by Riyan Gunawan et al, Behavior Motives and Legal Study of Commercial Sex Workers Around Pemalang District Terminal Area, and also articles written by Andri Aditya Wicaksono, et al, Criminological Aspect on Case of Prostitution around Poncol Station Semarang, are both see prostitution as a form of community disease and trigger various criminal acts in the community. Both writings look at prostitution in social, legal, and criminological aspects, both of which examine directly the location of prostitution. Prostitution, according to the two writings, is caused by various factors, one of which is economy. However, in the practice of prostitution there are also many cases of crime, such as trafficking in persons, sexual violence, drug abuse, and even extortion. The two writings also underline that, in Indonesia so far only only sanctioned sex workers (illegal) and pimps, but did not touch those who used the services of sex workers (Wicaksono, Saefudin, Ramadhan, Pangestu & Arifin, 2020; Gunawan , Mahendra, Zakaria & Qoyum, 2020).

Law Research Review Quarterly at this edition also presents three review articles. Articles written by Yared Hetharie and Yosia Hetharie, *Humanitarian Law Perspectives on the Protection of the Rights of Children in Armed Conflicts*, look at how to protect children and fulfill their rights in the context of humanitarian law. The paper analyzes how international law—international humanitarian law—regulates the protection of children in situations of armed conflict (Hetharie & Hetharie, 2020). Then, the Legal Protection Regarding the Medical Record of Prospective Workers in the Job Recruitment Health Test, an article written by Faisal Herisetiawan Jafar, underlines the legal protection of medical records in employment recruitment in Indonesia. In many cases, medical records can be misused, even though this is important and very privacy. The last article written by Ayon Diniyanto, *Bureaucracy in Perspective of Government Administration Laws*, emphasized bureaucracy in the perspective of administrative law in Indonesia (Jafar, 2020; Diniyanto, 2020).

Finally, we also want to underline that various crimes that arise in the community continue to develop with new motives, so that a quick response from law enforcement is needed. We would like to express our deep gratitude to the entire Editorial Boards Team and Reviewers who have provided input for the publication of this edition of the journal. We wish you a happy reading!

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Quote

**Punishment is
justice for the
unjust**

Saint Augustine



Issue: Law, Democracy and Crime: How Society Responds the Imbalance?

Research Article

The Islamic Taste in Laws and Regulations Establishment: Case of Gorontalo Province, Indonesia

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Abstract: The presence of a local regulation containing religious teachings has recently been challenged in the form of criticism, which considers that the existence of this regulation product is a form of discrimination and is not effectively implemented. The results of the study, Gorontalo Province, dubbed "Serambi Madinah", the majority of the population is Muslim, putting religion as the main thing in the affairs of life. The urgency of the teachings of Islam in the formation of legal products in Gorontalo is based on several things, in addition to being considered a local wisdom, the law instead presents justice, prosperity and prosperity for its people and serves as a benchmark for how to live a national life based on Pancasila without violating the value of tolerance towards other people. Local regulations based on religious teachings also contain solutions to overcoming the problems of poverty, economic, social and cultural areas that originate from the Qur'an where the teachings are for the salvation of humanity from moral damage. Therefore, it is important to present regulations containing the content of Islamic teachings as a form of preventive and repressive measures for all forms of crime and deviant behavior. Islamic teachings are considered important to be the substance, in addition to supporting parents to provide assistance to children's activities, it also supports the government in carrying out its duties and responsibilities in social affairs.

Keywords: Urgency, Content Material, Islamic Teachings, Islamic Values, Regional Regulations

Introduction

The phenomenon of the birth of various legislative products often creates problems concerning harmonization (the relationship between legal provisions with one another), the problem of hierarchy and the extent of its benefits and implementation in society. The important thing that the government must pay attention to is improving the quality of responsive laws and regulations so that the resulting law can be useful and answer a variety of issues, particularly regarding social problems (Arifin, 2017; Arifin 2020).

The reality shows a variety of laws and regulations both central and regional in its application, there are still obstacles, especially in efforts to provide justice and certainty, especially the legal needs of the community, as evidenced by the existence of various legislations that were canceled including Regional Regulations (Niravita, 2020). Meanwhile, the central government in the concept of regional autonomy has handed over most of the regional interests to be managed independently, including in terms of the formation of regulations (legal products). The essence of regional autonomy, according to Syafrudin (1985), is to regulate and manage the household in accordance with applicable laws and regulations,

meaning that the existences of local regulations cannot be separated from the applicable national and comprehensive laws and regulations.

At present, serious attention needs to be paid to the preparation of local regulations, whether they accommodate the needs of the community and local wisdom. Manan (1995) said that the making of regional level legislation is not just looking at the limits of formal competence or the interests of the region concerned, but it must also be seen the possibility of its impact on other regions or national interests as a whole and its preparation cannot be separated from the National legislation system. Therefore, in the formulation and formulation of content material an understanding of the regulation of the regulation is required as well as understanding the target (direction) that will be realized, the scope of the regulation, especially its effectiveness in society.

Content of Laws and Regulations is material contained in Laws and Regulations in accordance with the type, function, and hierarchy of Laws and Regulations (article 1 number 13 of Law No. 12 of 2011). Based on these provisions, the material contained in the legislation must be adjusted to the type and level of regulations that are formed. Simply put, the material contained in a product of the legislation cannot conflict with the material contained in the above laws and regulations as emphasized and explained by Syamsudin (2013).

1. The contents of the Act contain:
 - a. Further arrangements regarding the provisions of the 1945 Constitution of the Republic of Indonesia
 - b. An order of the Act to be regulated by the Act.
 - c. Ratification of certain international agreements.
 - d. Follow up on the Court's decision.
 - e. Meeting the legal needs of the community (article 10 Paragraph (1)).
2. The contents of PERPU are the same as those contained in Law (article 11).
3. The contents of PP contain material to carry out the law, as appropriate (article 12).
4. The content of the PerPres contains material that is ordered by law, material to implement PPs, or material to carry out the administration of government power (article 13).
5. The contents of the Regional Regulation (at the Provincial, Regency and City level) contain content in the context of the implementation of regional autonomy and assistance tasks as well

as accommodating the special conditions of the region and/or further elaboration of legislation (article 14).

Gorontalo Province is one area that seeks not to separate religious values in the regulation of people's lives. Since its inception, Gorontalo has a majority Muslim population its socio-culture is thick with Islamic culture, so the value of religion has become an influential factor in the preparation of regional regulations. Many Syari'ah regional regulations in this area, for example Zakat Management (Bone Bolango Regency), Control and Supervision of Alcoholic Beverages (Gorontalo City), Provincial Regulations on Obligatory Reading of the Qur'an and Regional Maksat Regulations, all of which contain material the content of Islamic teachings.

However, the presence of a local regulation containing certain religious teachings or what is called the Shari'ah Regional Regulation has recently been challenged in the form of criticism from politicians and even academics, who consider that the existence of this regulation product is a form of discrimination and a waste of time. Even though each region has needs, especially for some regions it is very concentrated on religious teachings, such as Aceh which is thick with Islamic teachings. The existence of regional autonomy should open up opportunities to voice aspirations, including a shared desire regarding the need for religious life (for the function of order) to be formally regulated by the regional government. Even though it raises pros and cons, inevitably we have to accept the reality and the reality of the uniqueness of this country.

Meanwhile, regarding the aspirations of the public regarding the need for regulations concerning religious life, of course, it must be studied systematically and deeply to the extent to which the substance of the regional regulation provides an influence on the survival of religious communities. In addition, the content of the Regional Regulation should have the linkage of noble values in life that has accumulated in the principles of Pancasila, which is the main benchmark in the formation of laws and regulations. If not, of course the community will reject even harm the integrity of the nation.

Conversely, a number of observers revealed that religion is a private domain and the government (state) must not regulate it. That is, it is an individual matter with his God. Another reason is that religion is governed by the central

government and not the regional government, as stated in Law No. 23 of 2014 concerning Regional Government. Article 10 (Paragraph 1) of this Law states, absolute government affairs (fully the authority of the Central Government) include: (a). foreign policy; (b) defense; (c) security; (d). justice; (e) national monetary and fiscal; and (f). religion. The government in the regions is limited to taking care of economic, employment, education, health and so forth outside of religion.

In addition, some parties considered that the presence of a local regulation with a religious background gave rise to various problems, including becoming a political commodity, and eliminating public confidence. Besides that, many people expressed that the adoption of Perda based on religion is often discriminatory towards women and minority religious groups which sometimes assumes women as subjects and perpetrators (such as adultery) and can certainly disrupt the community's life system (Bhaskara, 2018; Dwiastono, 2019; Hafizhah & Nashrullah, 2018; Al Ayyubi, 2013).

However, Gorontalo as the Serambi Madinah region that upholds customs and religion has the desire to put all its life activities on a legal norm that is considered not only to have a clear purpose (certainty), but also in terms of benefits. By him the researchers considered that the drafting of the Gorontalo Province Regulation was oriented to the goal of realizing all forms of life that uphold religious values and decency as stated in the Basic Principles (Pancasila) especially the First Principle.

In this regard, based on the above background the researcher is interested in studying the Urgency of the Content of Islamic Teaching Material in the Formation of Regional Regulations in Gorontalo Province.

From the background that has been described above, the problems that can be researched and discussed can be formulated namely: What is the urgency of establishing Local Regulations in Gorontalo Province?

Method

This type of research is empirical. This type of empirical legal research or commonly referred to as Sociological Legal Research is research conducted with an approach to the reality of law in society. This research is based on the presence of symptoms

in the form of a gap between expectations (*Das Solen*) and reality (*Das Sain*) in the field of law (Nawi, 2013). In this connection, the research orientation is Law in Action and is carried out with several approaches namely Historical Approach and Case Approach (Soekanto, 2007; Arifin, Wasipiah & Latifiani, 2018; Arifin, Alkadri, Sari, Resthiningsih & Holish, 2019).

Result and Discussion

Islam is a celestial religion which has very perfect teachings. All problems are regulated in Islam so that there is not a single problem that has no provisions in Islam. The perfection of Islam is supported by the three sources of teachings namely Al-Qur'an as the main basis in Islamic law, As-sunnah and *ijtihad/ijma* 'as supplementary sources. Islam is developing very rapidly throughout the world at an amazing speed, which is very interesting and needs to be known that the Dinul Islam brought by the prophet Muhammad SAW is a religion that is at once a view or a way of life. The sources that come from Islam are the proven teaching sources, which are aimed at the benefit of mankind, overcoming various problems such as faith, social, economic, scientific, technological, and so on (Mustofa, 2017).

According to Amir Syarifuddin, what is meant by Al-Qur'an is Arabic lafadz that was revealed to the Prophet Muhammad, which is quoted *mutawatir* (Syafudiin, 2000). The laws contained in the Qur'an there are 3 types, namely: *first*, the laws of *I'tiqadiyah* namely behavior related to people who believe to believe in Allah, his angels, His apostles, and days later. *Second*, the laws of morality, namely laws relating to worship such as prayer, fasting, zakat, pilgrimage, and these laws were created with the aim of regulating humans with their gods. *Third*, *amaliyah* laws namely laws relating to words, deeds, agreements in muamalah fellow human beings such as buying and selling, trade transactions, the law of objects, *junayat* and *uqubat* (Manan, 2006). Because of the position of the Qur'an as the main source in establishing the law, then if someone wants to find a law for a problem then the first action is to find the answer in the Qur'an. As long as the law can be resolved in accordance with the provisions set out in the Qur'an, it is not permissible to look for answers elsewhere.

Meanwhile, Gorontalo Province which has the nickname '*Bumi Serambi Madinah*' upholds customs and religion so that all forms of life activities are not only based on customary norms, but also legal norms based on religious teachings. Adati's motto of *Hula-hula to syaraa, syaraa hula-to-hulai*, which means Adat with Syara based, Syara with based on *Kitabullah* makes it clear that Gorontalo society is thick with adat based on religious teachings based on Islamic scriptures (*Kitabullah*), so that it can be understood that Shari is based on Shariah 'at Islam is useful to encourage and strengthen the Gorontalo community to fulfill their obligations as servants of God.

The many regulations that contain the teachings of Islam as mentioned earlier certainly have goals and benefits for the people. By him the researchers in this article will describe some of the background and importance of a local legal product (Perda) that contains religious teachings based on interviews with the leaders.

According to Gorontalo Province DPRD Member Adhan Dambea, since its inception Indonesia has been imbued with religious values both listed in the First Pancasila precepts, as well as the Constitution or the 1945 Constitution of the Republic of Indonesia. Similar to state organizations, the Gorontalo region also places religion as an important part of life and community order which is considered as a local wisdom that applies in this area. According to him, in the life of the nation and state, there are rules that refer to shari'ah such as the marriage law even to the problem of the management of the pilgrimage. The content of religious teachings is applied in the Perda as a form of local government love for the community to have obedience to religion and Allah SWT. The local regulation containing religious teachings actually becomes a benchmark of how to carry out national life based on Pancasila and there is no substance that violates the value of tolerance towards other people.

Adhan argues that on the contrary, minority groups are still protected from the presence of Sharia Regulations. Mutual respect and freedom for other religions in worship is maintained. Therefore, it becomes something that is questionable if there is a problem about this, where the Regional Regulation actually brings justice, prosperity and prosperity for its people. The reality that can be seen is the presence of the Regional Regulation in Gorontalo Province on the Eradication of Alcoholic and Immoral Beverages. The impact is not only felt

by the Muslim community but also for other people. The reason is very clear that humans will not be able to escape all forms of disobedience and ugliness if this is not given a limit. As stated in Article 9 of Gorontalo Province Regional Regulation Number 10 of 2003 concerning Prevention of Immorality, that it is an obligation for every Muslim child to avoid illicit drinks as a form of obedience to Allah SWT. Gorontalo Provincial Government realizes that the circulation of liquor in the field cannot be dammed due to the rise of factories and places for the manufacture of alcoholic beverages, by implementing the Local Regulation of At least the Government participates in protecting the community by reminding them of a legal product that must be obeyed and protecting themselves from negative things.

Based on the description, the researcher considers that the formulation of the Local Regulation on the Immunity of Gorontalo does not impose the community's right to carry out activities, but rather gives positive direction including helping with national legal issues by emphasizing the social interests of the local community, because the substance of the Local Act of Maksud does not contain dangerous things but aims to save the generation as nation's assets.

The same thing was expressed by Tahir Badu, Legislative Member of Bone Bolango Regency who said that there were regulations relating to the teachings of Islam in his area, namely Regional Regulation Number 11 of 2012 concerning Management of Zakat. According to him, although this regulation was made and in it contained religious teachings, but the aim was merely to improve the welfare of the community. Potential funds obtained from zakat are considered a solution that can be utilized for efforts to reduce poverty in the surrounding area. According to him, the amount of Zakat in the community is indeed quite large, this if not managed properly will be a detrimental thing. This regulation is based on the results of deliberations with local government elements, the National Amil Zakat Agency (Baznal), the Office of the Ministry of Religion, as well as representatives of adat holders and shar'i employees in the Bonebolango Regency. Tahir Badu explained that zakat itself has long been prescribed and developed since the time of the Prophet Muhammad, and is the main joint of the realization of one's faith, as well as prayer because it is a part of the pillars of Islam.

The values of Islamic teachings included in the Regional Regulation in Bone Bolango, especially Regional Regulation No. 11 of 2012 is only intended and required for Muslims, but the objectives to be achieved by this regulation are so great, besides how Muslims can fulfill obligations as guided by religion, but also improve the function of religious institutions services in an effort to realize the welfare and justice of the community. So that it would not hurt at all if the teachings of Islam specifically become the substance of the regulation of regional legal products.

The same thing is also acknowledged by the religious figure Syaifudin Mateka, that Islamic values or Islamic sharia in positive legal products actually reinforce what we will practice in everyday life based on the teachings of the Islamic religion. An example is the obligation for Muslims to read the holy book, the presence of the Perda Baca Write Al-Qur'an gives benefits because in it there is a form of affirmation that was built by the local government through the Perda. Syarifuddin revealed that with the establishment of the Perda on Al-Qur'an Reading Obligations, schools were helped by the requirement to have Al-Qur'an's literacy certificates, making it easier for Religious Teachers and supporting other religious activities. With the support of a clear legal umbrella, the implementation of people's lives, especially in carrying out their obligations as Muslims, becomes more maximal. Similarly, the substance of the Prevention of Immorality contained in the Perda has the power to be obeyed and obeyed by the community. So that Islamic values (teachings) become an important substance not only in shaping public morals and order in general, but also in how society can carry out its obligations as God's people. According to Syarifuddin, the Holy Qur'an has stated firmly about something that is halal and haram, but because there are still many violations against it, it is necessary to make human law in obtaining its rights, including how to live in a comfortable and free from crime.

Islamic teachings have a direction and purpose to instill a social life which will be useful now and in the future. In addition, Islam teaches solutions to obstacles both in society and in individuals. Syarifuddin said, in Islamic teachings it contains a lot of education that helps the community so that if it is formed through government legal products, then of course it can have a wider impact and help overcome various bad situations and conditions in the future.

Syafruddin (1985) also emphasized that, Islam teaches not to despair and to deal with something seriously in order to form a more resilient young generation and have the spirit to rise again in maintaining the vision and mission of the country. The drafting of a binding regulation encourages a person to prioritize common sense especially considering the legal sanctions given by the state. Therefore, the government needs to make a strategy through drafting regulations that have a deterrent effect that is reinforced by religious teachings that have absolute truth and originate from the Creator.

Based on what the speaker explained, that the application of the teachings of Islam through regulations in this case the Regional Regulation has great benefits not only for Muslims but for adherents of other religions, such as today too many died because of being killed, too many people gave birth outside of marriage, many people collide on the road because of an accident, the cause is there are people drunk on the street who can no longer preach halal haram. Not infrequently the source of crime from the influence of liquor, which needs to be eradicated and if necessary there is a special law on it, not only contained in the Regional Regulation to give a deterrent effect to the perpetrators of crimes, he said.

Basically the teachings of Islam have a deterrent effect for others, for example cutting off hands for thieves, stoning for those who commit adultery and the value of Islamic sharia when in Perdakan the aim is to support a more organized society, because, if God's law is upheld the one who feels safe is not God but His servants who legalize God's law, Syarifuddin continued. In addition, if something does not have a negative effect, then of course there is no need for punishment. He added, if there is a formation of shari'a regional regulations, it should include *mudharat* or consequences it is useful to determine what type of punishment will be obtained later. Even in the future, it is necessary to form and strengthen regulations that contain Islamic teachings especially for adolescent children, to conduct more intense socialization especially to parents about the importance of obeying the law and sanctions that can be violated, so that the implementation of regulations does not experience obstacles such as a rejection (Syaifudiin, 2000; Syafruddin, 1985).

Meanwhile, Gorontalo community leader Arifin Tahir said, Islam is a religion full of peace and purity. This means that all forms of teachings

in it for human safety primarily from moral damage. Islamic teachings derived from the Qur'an are human guidelines for shaping personality and are often used as a source of law, especially in controlling human behavior. One example is found in several regulations that contain the substance of religious teachings (Islam), for example related to eradication of immorality. Many religious values have become a reference for local governments to change people's behavior from previously negative to more positive. Arifin explained, in the era of Gorontalo Mayor Adhan Dambea's leadership who was so enthusiastic in eradicating the circulation of liquor even though there were still some obstacles. At least this is one of the roles of the teachings of the Islamic Religion which becomes a reference and is used as a basis and basis for changing human personality through clear regulations. The teaching of Islam in addition to being used to form order in life, but also to organize one's faith, and increase piety to Allah if this is firmly sounded in the article of regulation.

In addition, many incidents and problems related to the development of future generations such as Free Sex, LGBT, Radicalism and Intolerance need to be done early as a form of preventive action that needs to be presented through the concept of regulation containing content of Islamic teachings, as well as supporting parents to be able to provide assistance to children's activities, for example when he is required to master the reading and writing of the Qur'an before entering and registering for school (Masyhar, Arifin & Fuad, 2018; Masyhar, Rasdi, & Harmoko, 2019; Harmaji, 2018; Harahap, 2016; Kosciw, Bartkiewicz, & Greytak, 2012; Prasetyo & Perwiraningtyas, 2017). According to Arifin, religious education alone is not enough if it is not pushed by regulations which are forced to be followed. The government realizes that the magnitude of the responsibility to educate children today is more difficult than ever before. Therefore, in carrying out the principle of regularity we must encourage the government to carry out its duties and responsibilities, especially regarding community affairs.

Obstacles in life certainly vary over time, many religious education including Islam have not reached the peak of the real goals in every activity of children, many deviant behavior due to technology that is increasingly advanced and form a generation of lazy and no longer sensitive to the circumstances, even lack of motivation and ignore the bad consequences that will occur. Therefore,

this burden is no longer surrendered to parents and schools, but an important role of the government is needed in developing a clear legal product in order to minimize the impact going forward.

Conclusion

Gorontalo Province, as *Bumi Serambi Madinah* has a majority Muslim population, placing religion as the main thing in the affairs of life as outlined in the form of regional regulations (Perda) that contain Islamic teachings. The aim is to protect future generations and give direction to human development. The importance (urgency) of Islamic teachings in the formation of legal products in the regions (Perda) is based on several reasons namely, in addition to being considered a local wisdom, the Regional Regulation actually presents justice, prosperity and welfare for its people as well as being a benchmark of how to live a national life based on Pancasila without violate the value of tolerance towards other people. Local regulations compiled based on Islamic teachings also contain solutions to overcoming problems such as poverty, economy, social and culture in the regions. Islamic teachings derived from the Qur'an also contain peace and purity and forms of teachings for the sake of human salvation from moral damage, as a guideline for humans to form personalities and not infrequently used as a source of law, especially in controlling human behavior such as free sex, LGBT, Radicalism and Intolerance.

Furthermore, it is need to do early treatment of all forms of crime and deviant behavior as a form of preventive action by presenting regulations containing material content of Islamic teachings. The content of Islamic teachings is important to be the substance in the law, in addition to supporting parents to provide assistance to children's activities, also supporting the government in carrying out its duties and responsibilities, especially regarding social affairs, and the presence of Islamic values in positive legal products is needed to strengthen what will be practiced in everyday life and contains solutions to obstacles both in society and to one's individual.

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Issue: Law, Democracy and Crime: How Society Responds the Imbalance?

Research Article

Liquor among Teens: A Criminology Study

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Abstract: This study aims to determine the effect of expectations on alcoholic drinks on the consumption of alcoholic drinks. Expectations on alcoholic beverages consist of positive expectations and negative expectations. Expectations on alcoholic drinks in this study refer to the notion that expectations are beliefs held by individuals in alcoholic drinks. Alcoholic drinks or, often called liquor (alcohol) is one type of beverage that contains addictive substances (alcohol). More than 13 million people consider themselves alcoholics. Consumption of alcoholic drinks is divided into three types, namely (1) users, (2) abusers, and (3) dependency. The study was conducted on teenagers in Ambarawa who consume alcoholic beverages using quantitative methods with a survey model that is often also referred to as correlational research.

Keywords: Consumption of alcoholic drinks; Expansion of alcoholic beverages, Teenagers

Introduction

Recently, alcoholism has caused problems that affect the condition of order, security, crime and violence. The culprit is aware of the dangers of the influence of alcohol on the human body when misused, so that the order, supervision and control are very necessary. Alcohol abuse by teens shows an increasing tendency, the consequences are felt in the form of delinquency, fights and immoral acts. If the situation is left then a disaster will occur. Teenagers who are alcohol poisoned will become teens who are not productive for development.

Research in the United States shows that there are two-thirds of the population aged 18 or over who drink alcoholic drinks at social events of more than 100 million people or 40% of the population. This number does not include children and pre-adolescents who are increasing in number following the example of their parents who consume alcohol at an early age. One study

conducted in the United States by Merwyng Hardinge 2003, showed that 80% of young people aged 15 to 17 drink alcoholic beverages, a quarter of them drink it every week and half of junior high school kids have tried drinking alcoholic beverages. Excessive alcohol users to become acute rarely cause death but death is often an indirect result. For example, traffic accidents, drowning and so on.

In Indonesia, in the records of the National Anti-Miras Movement (Genam), each year the number of victims killed by drinking, reaches 18,000 people. Recently, for example 14 people died as a result of mixed alcohol on Jalan Remaja III Number 12, Sumur batu kemayoran. According to the coordinator of Genam in Indonesia Fahira Fahmi Idris, alcohol regulation never seems to be considered important, although it has a very serious impact among teenagers. Impacts arising from circulation that are free from alcohol such as the destruction of our social order, not even a few criminal cases that claimed lives due to alcohol in Indonesia. From the results of my research, the

factors of the dominant causes of juvenile delinquency consume liquor in Selur Village from 1 respondent (75%) causing delinquency from 3 factors: family, environmental and (25%) knowledge.

Factors affecting alcohol use, family factors including, marital conflict, separation from family, domestic violence, weak, erratic or inconsistent discipline, lack of parental supervision or excessive dominance of one family member, lack of adolescent knowledge about the impact, the risk of consuming liquor and the lack of education about liquor finally teens want to try about alcoholism. Busy parents or family and their respective activities, lack of affection and some teenagers on these occasions among adolescents trying to find escape by drinking. Facilities and infrastructure, as an expression of affection for their children, sometimes parents provide excessive facilities and money.

But it was misused to satisfy all his desires including starting from liquor. Inferiority personality, low self-esteem in the social community because it cannot overcome these feelings so as to cover up the shortcomings and in order to be able to show their existence. Therefore abusing drinks so that they can get what they dream of, among others are more active, bolder and more emotional. Adolescent emotions in general are still unstable when at puberty, at that time usually want to be free from the binding of rules imposed by parents to fulfill their personal lives so that it creates personal conflict. In an effort to carry out the personal conflict he seeks escape by drinking alcohol with the aim of reducing addiction and the rules given by parents.

The impact of alcohol has been proven to be a cause of various diseases. From simple to very dangerous diseases such as the liver will damage liver tissue, interfere with absorption of food substances and cause malnutrition, increase blood pressure, make the heart rate become abnormal and reduce sexual desire. Against the brain can result in loss of self-control, make a staggering, disrupt the ability to speak, reduce intellectual ability, resulting in memory loss (blockout) causes amnesia and damage nerve tissue. Damage to the nerves or other so-called polyneuropathy is also associated with inflammation of the stomach pockets and hardening of the liver.

Based on the picture above, parents are expected to limit the association of teenagers so that they are not influenced by their friends to

drink. And families are expected to be able to provide positive moral support to adolescents so as not to fall prey to consuming alcohol. Teenagers besides needing material, also need attention and affection from their parents. Therefore, the free time that teenagers have can be filled with positive activities as well as recreational facilities.

This paper discusses four main points, namely regarding (1) why is it illegal to distribute alcohol or consume it in Indonesia? (2) what makes teenagers feel addicted to consuming alcohol or alcohol? (3) what is the effect of using alcohol? and (4) what is the solution to deal with adolescents who are addicted to alcohol?

Method

The method of approach used by researchers is the empirical juridical approach. A sociological juridical approach is to identify and conceptualize law as a real and functional social institution in a real-life system (Soekanto, 1986). This approach emphasizes research aimed at gaining empirical legal knowledge by jumping directly into the object, namely knowing how teenagers initiate a drinking party that takes place at Ambarawa Square, Semarang Regency.

This type of research is empirical juridical or sociological law and can also be referred to as field research, which examines the applicable legal provisions and what happens in reality in the community, or in other words, is a study conducted on the actual situation or real conditions that occur in community with a view to knowing and finding the facts and data needed, after that it leads to the identification of problems that ultimately lead to problem solving (Bambang, 2001).

The location of the focus of the study was the Ambarawa Square in Semarang Regency. Data collection techniques in this study by interviewing teenagers who consume alcoholic beverages and giving questionnaires that contain questions about what causes these teens can become addicted in consuming alcoholic drinks. In this study, the interviewees gave 6 questions including: (1) have you ever consumed or consumed alcohol? (2) Since when did you start consuming alcohol? (3) What kind of alcohol is often consumed? (4) how much money should be spent to consume alcohol? (5) what is the background or reason for consuming

alcohol? and (6) what are the effects on the body after consuming alcohol?

Result and Discussion

A. Crime in Various Perspectives

1. Crimes in terms of Criminology

Crime is a complex phenomenon that can be understood from a variety of different sides. That is why in daily life we can catch comments about a crime that is different from one another. In our experience it is not easy to understand the crime itself. The effort to understand the crime was actually centuries ago thought by famous scientists. Plato for example stated that gold is the source of human evil. Aristotle said that poverty leads to crime and rebellion.

The great evil is not done to obtain what is necessary for life, but for luxury. Bonger puts one more past writer, Thomas More. The author of this Utopia book tells us that the harsh sentences imposed on criminals at that time did not have much impact on eliminating the crimes that occurred. For this reason, he said, a search must be made for the causes of crime and eliminating these crimes (Santoso et al., 2001).

Opinions of the scholars mentioned above are then accommodated in a science called Criminology. Criminology is a branch of science that emerged in the 19th century which is essentially a science that studies the causes of evil. In another sense, in terms of its criminology, crime is any particular action or action whose actions are approved by the community to be defined as crime. This means that every crime does not have to be formulated in advance in a criminal law regulation. Therefore every act that is anti-social, detrimental and irritating to society, can be considered criminologically as a crime (Santoso, et.al., 2001).

2. Crime in terms of the legal aspect

According to the view of law, what is meant by crime is human actions that violate or contradict what has been determined in the rule of law, or more specifically that acts that violate the prohibitions set out in the rule of law, and do not fulfill or go against the commands set out in the rule of law applicable in a society where the person concerned lives in a community group. Crime is an act committed intentionally (doleus) and done consciously with a specific intention to benefit

oneself that harms others or society (Wijayanta, 2014). According to the view of the law there is one aspect that can make teenagers brutal in association, one of these aspects is the criminal etiology of the sociological aspect. Crime etiology from the aspect of sociology examines social or social factors that influence the occurrence of crime or perpetrators of crime. From some of these theories there is one theory that studies about juvenile delinquency namely the theory of delinquent sub-culture, this theory has the main thoughts about:

- a. because of juvenile delinquency from class differences among children.
- b. differences in morality and values between families.
- c. association arising from children.

In addition, there are also structural theories and process theories, this theory is focused on the organized society and the impact of behavior. Structural theories are also commonly called strain theories because "their assumptions that a disorganized society creates strains which lead to deviant behavior". Strictly speaking, the basic assumption is that society creates tension and can lead to deviant behavior. While the theory of processes, discuss, explain and analyze how people become criminals.

3. Criminology Theories in this Research Study

Criminological theoretical schools of thought are perspectives (terms of reference, paradigms, perspectives) used by Criminology in viewing, interpreting, analyzing crime phenomena.

1) *Spiristic or Demological Approach*

- a. Basing on the existence of other powers or spirits (spirits)
- b. Explanation goes beyond the empirical world, not bound by material / physical boundaries
- c. Operate in ways that are not subject to limited human control or knowledge
- d. Explanation of a phenomenon is difficult to understand by human reason.

2) *Naturalistic Approach*

- a. Basing ideas and interpretations of objects and events and their relationship with the world that exists
- b. The explanation lies in what is known or assumed to be true according to physical or empirical facts and the material world
- c. Operate in ways of limited human knowledge

- d. The explanation can be understood and understood
- 3) *Theories of Classical Criminology Theoretical Thought*
- Intelligence and rationality determine human behavior (free human beings)
 - Conception of crime from statutory restrictions
 - Funding as a justification in criminal politics
 - The task of criminology is to make a pattern and test a punishment system that can lead to crime
 - The forerunner to the classical theoretical school of thought was Cesare Beccaria (1764)
- 4) *The flow of Positivist Criminology Theoretical Thought*
- Human behavior is determined by factors outside its control, both biological and cultural (human beings are not free)
 - Conception of crime from biological (biological determinist) and cultural (biological determinist) and cultural (socio-cultural determinist) boundaries
 - Dissemination and resolution of crime causes as priorities in criminal politics
 - The task of Criminology is to scientifically analyze criminal etiology on the characteristics of criminals from physical, social and cultural aspects
 - The pioneer of Positivist theoretical school of thought was Cesare Lombroso.
- 5) *Flow of Critical Criminology Theoretical Thinking*
- Human behavior is determined by a process (social construction)
 - Conception of crime from the constraints of social construction, both from the interactionist approach and the conflict approach
 - A more democratic society by reducing discrimination and a more humane approach by reducing labeling
 - The task of criminology analyzes the processes by which an evil seal is applied to certain actions and people
 - Pioneers of the Critical Criminology theoretical school of thought

B. Liquor in this Research

Liquor is any type of intoxicating beverage, so that by drinking it becomes lost consciousness, which includes liquor such as wine (khamar) drinks

that contain lots of alcohol, such as wine, whiskey brandy, champagne, malaga and others. Alcoholic drinks are drinks that contain ethanol. Ethanol is a psychoactive substance and its consumption causes loss of consciousness. Liquor (alcohol) has various groups, especially ethanol ($\text{CH}_3\text{CH}_2\text{OH}$) with certain levels that can make the drinker become drunk or lose consciousness if taken in certain amounts.

Liquor or alcoholic beverages are drinks that contain ethanol. Ethanol is a psychoactive substance and its consumption causes loss of consciousness. In various regions, there are many types of alcohol. Liquor includes all types of drinks containing alcohol (its chemical name is ethanol). According to archaeological records, alcoholic drinks have been known to humans since approximately 5000 years ago. Alcoholic drinks are a part of everyday life in certain cultures.

In Indonesia, liquor is known, namely tuak, ciu, sipo, wine and mouse stamp. Alcohol is a central nervous system suppressant although small amounts may have a mild stimulatory effect. The psychoactive material contained in alcohol is ethyl alcohol obtained from the fermentation process of honey, fruit sugar or tubers. Popular names: liquor (liquor), kamput, tomi (tilted hat), mouse stamp, balo etc. Alcohol can be made through the fermentation process (fermentation) of various types of ingredients containing sugar, such as fruits (such as grapes and apples), grains (such as rice and wheat), tubers (such as cassava), and honey. Through the fermentation process alcohol can be obtained with a level of 14%. Higher levels of alcohol can be obtained through distillation. Apart from the fermentation process, alcohol can also be made from ethene, a product of petroleum.

Chemically alcohol is a substance whose functional group contains an OH group. Alcohol is obtained from the fermentation process of substances containing carbohydrate compounds such as sugar, honey, wheat, fruit juice or tubers. The type and class of alcohol to be produced depends on the ingredients and fermentation process. From the fermentation, alcohol will be obtained up to 15% but through the distillation process it is possible to obtain alcohol with higher levels or even up to 100%. There are 3 classes of alcoholic drinks, namely:

- Group A; ethanol content of 1% -5% for example and palm wine and beer
- Group B; ethanol content of 5% -20% for example wine and wine

c. Group C; ethanol content of 20% -45% for example whiskey and vodka.

The history of liquor began in the 17th century, in the middle ages the kingdom began to develop various cultures such as sugar cane and rice. From the two commodities, wine is made from fermented rice, molasses and coconut. This drink was produced from the end of the 17th century until the 19th century and is a popular drink in Europe, especially Sweden. This drink is also commonly known as the *Batavia Arrack van Oosten*.

During the reigns of the kings (Surakarta and Yogyakarta palaces) before Indonesia's independence, there was a tradition at festive harvest festivals or the reception of royal guests by holding traditional parties and dances such as Tayub, Sinden Ledek, and so on. These events are rife after the Dutch intervened to slowly bring down the power of the palace. At the event, although it took place during the day, there would be a drinking event "*Ciu Bekonan*" for drinking, both among the courtiers and the people around the kingdom.

At that time despite the efforts made clandestinely but has produced something called "*ciu*" with alcohol content that is still low. *Ciu* or which is well known as "*Ciu Bekonang*" in the early days of its production is indeed consumed for liquor and drinking.

Ahead of Indonesia's Independence in 1945, the home industry craftsman "*Ciu Bekonang*" was only around 20 people and the production was more or less only 10 liters per day. Production equipment is still very simple. Sales are carried out clandestinely and to certain people who like to get drunk. Between 1961 and 1964, the alcohol industry "*Ciu Bekonang*" had begun to progress. Progress in terms of increasing alcohol content from 27% to 37% with equipment that is also still very simple. Alcohol yields that are still 37% are contained and their alcohol levels increased.

From the number of workers there has also been an increase to around 30 alcoholic artisans. The results have been marketed to almost all residencies in Surakarta, Surabaya, Kediri, and others. In the 1980s, the Second Level Local Government of Sukoharjo (Department of Industry) disbursed Rp2,000,000 in assistance to increase production of "traditional" drinks this. The result, the level of alcohol can be increased to 60%. In 1997 there was a text of agreement with the large alcohol industry in Karanganyar (Central Java) namely PT. Indo Acidatama Chemical Industry.

Until 2000, with more modern equipment, alcohol alcohol content was successfully increased to 70% or even 90%.

C. Legal arrangements regarding alcohol in Indonesia

In Indonesia the sale of alcoholic drinks is limited and those who are allowed to buy are 21 years old. Some ethnic groups in Indonesia use alcoholic drinks at certain events both in rural and urban areas. They also produce alcoholic drinks with various names such as mouse stamps, etc.

The body's tolerance limit for alcohol in a day is divided into two quantities, namely: 100 ml in a day the human body can hold wine or wine in one dose and 285 ml for the second dose where the alcohol content is lower at around 5 percent only, if it exceeds the human dose can not tolerate it and will experience the negative impact of alcohol and if they cannot control themselves there will be riots that unsettle others. Alcoholic drinks (alcohol) in Indonesia have been regulated in the Criminal Law in Article 300 & 536 of the Criminal Code, this Law regulates alcohol dealers and alcohol users.

D. Factors Cause Adolescent Consuming Alcohol

Some of the factors that cause consumption of alcoholic drinks by adolescents are genetic factors, family influence, certain aspects of relationships with peers, ethnicity, and personality characteristics. Information obtained by adolescents through the social learning process of the environment about the consumption of alcoholic beverages provide an important role in the behavior of the consumption of alcoholic beverages.

That is because during the development period adolescents spend more time with the social environment. If many individuals in their environment consume alcoholic drinks, it is very likely that teenagers will also consume alcoholic beverages (Wardah, 2012).

In almost all places, both religiously and legally, alcohol abuse is strictly prohibited. This is because of the negative effects caused by alcohol itself both from the health, social, security. Although it has been banned but acts of alcohol abuse still occur. In fact, almost anyone can become a person whose life depends (dependent) on drugs that are additive, especially alcohol. Addiction usually occurs if the person concerned is constantly accustomed to drinking in high doses.

However, from the survey results it is known that only 10% of people who ever drink alcohol become alcoholics. So, it can be concluded that there are certain factors that can cause a person to become alcoholic. These factors can be divided into two, namely internal factors and external factors. Internal factors are factors that originate in a person, be it genes, stressed psychological states, personality distortions, or a state of low spiritual level of a person. While external factors are factors that originate from the individual's own environment, both because of economic conditions, education, culture, background of life, and because of the lack of influence of the social counterparts of society (Mc Cambridge, 2019).

From the results of studies conducted in America, more than 85 percent of the population in the US ever consumed alcohol at least once in their lifetime and about 51 percent of all adults in the US are alcohol users who are fairly routine until now. Alcohol abuse is more common in low-income people and lack of education.

1. Low Level of Education and Economic Community

Due to the low level of education and economy of the community, many of the teenagers and adults are unemployed, wanting to work as civil servants is impossible because they only graduated from high school, want to open a business but no capital, their choice is only to work as a farmer, but many teenagers who feel prestige and ashamed to pursue the work, especially to their friends who are from outside the Sidemen area. there is no activity, they prefer to gather with each other, gamble, while accompanied by drinking, of course. In all parts of the world gambling and drinking behavior is the main cause of poverty in an area, so that the area becomes difficult to develop and compete with other regions (Budiman, 2002).

2. Culture and Life Background

One of the factors that encourage the development of alcoholic drink behavior is the culture and background of one's life (Garry R. Collins, 2000). Because of these entrenched habits, there is a tendency to rationalize norms and values according to their own perceptions and interests. This deviation of behavior in the form of drinking is done by following the flow of other actors through a process of imposition, this is in accordance with the neutralization theory put forward by Matza and Sykes.

So indirectly the culture of the community helps foster deviant behavior in the community in the form of drinking alcohol. The background of one's life also influences one's behavior in society including various forms of irregularities such as drinking alcohol. People who in childhood get along with drunks would naturally be inclined to become drunkards too. That is because in a social environment, a person tends to try to be accepted by his social group by following their behavior and lifestyle.

3. The Absence of The Role of Parents and Community Leaders as Social Control

Childhood and adolescence is a period where a person learns to imitate the various behaviors of people who are in his environment to be understood and as a form of value that is often referred to as the imitation process. In the imitation process parents are very important role in shaping the personality of a person, child children will tend to imitate the deeds of parents who are considered the closest person (Solina, 2018).

The problem that occurs is the number of parents who instead of setting a good example, they actually drink liquor in front of children without thinking about the impact that will arise. Children who witness their parents drink get the value that as if drinking liquor is something that is natural so they tend to behave the same as their parents (Lange, 2017). Apart from being a bad example given, another problem is the absence of the role of parents as social control so that norms and noble values that should be maintained seem neglected.

As a result of the lack of social control, it causes various forms of social deviation. Social deviations can be interpreted as behavior that does not succeed in adjusting to the norms in society, meaning that such deviations occur if someone does not adhere to the standards of norms that already exist. Dysfunction from deviant behavior can threaten social life, because the existing system can not work properly because there are individuals who cannot carry out their duties in the community system as well.

E. Analysis of Results of Field Research Findings

In the discussion, researchers will interpret the themes that have been obtained from research that focuses on the factors that affect street children consuming alcoholic beverages.

1. Trying Factor

The results showed that the ignorance of the informants about alcohol was able to make them interested and had the intention to try. This research is also supported by Anderson (2007) lack of knowledge of adolescents about the effects, risks of consuming alcohol, and lack of education about alcohol, finally teens want to try about alcohol.

The results of this study differ from the opinion of Teguh in Persons (2008), who argues that usually someone is involved in alcohol abuse because they want to prove or show courage to others, to break away from loneliness and gain emotional experience, seek and find meaning in life, eliminating anxiety and frustration in living life, following the wishes of friends in establishing solidarity, and consuming liquor because it is driven by curiosity.

2. Factors influencing association with peers

The results of this study indicate that a great influence comes from friends who often hang out with them and often invite them to drink together, which is able to make teens fall into the problem of drinking. The thing that causes some teenagers to fall into the problem of drinking is because they are influenced by the social environment, among others, as follows: adolescents who always drink alcohol always have a "user group".

Initially teenagers only dabbled because some family or friends used it, but some later became a habit. In adolescents who are "disappointed" with the condition of themselves and their families often become more willing to sacrifice any good relations with their peers. The existence of "invitations" or "offers" from friends and the many films and entertainment facilities that provide examples of "models" of modern interaction "usually encourage teens to drink in groups.

If adolescents have become accustomed to drinking alcohol and because it is easy to get it, then teens will use it themselves so that unwittingly addictive over time. The use of liquor among teenagers is generally because it promises to be something of a sense of pleasure, comfort, pleasure and calmness.

3. Family environment

The results of this study indicate that the attitude of parents who deliberately let their teenage children consume alcohol has been considered to be a normal thing, even some teenagers also experience conflicts in their families that can cause

deterioration of communication between family members, so some teenagers risk doing negative things and choose the way to vent those emotions by consuming alcohol.

This can be said the worse the level of communication between adolescents and their parents, the greater the likelihood of teens engaging in risky behavior. The lack of close relations between adolescents and their parents, causes teens to be closer to their peers.

Adolescents who have a good relationship with their parents tend to be able to avoid the negative influence of their peers, compared with adolescents who have less good relations with their parents. The development of late adolescents has begun to be able to control emotions.

Teenagers who develop in an environment that is less conducive, emotional maturity is inhibited. So often experience negative consequences in the form of behavior such as aggressive: fight, stubborn, fight, like to disturb and others, run away from reality (regressive) like daydreaming, quiet, happy to be alone, consume tranquilizers, liquor, or illegal drugs.

Another thing that can cause wrong relationships with adolescents is that many parents limit their children's relationships because of their parents' lack of trust in choosing friends and are afraid that their children will fall into promiscuity, especially at the age of the child. -adolescence.

However, the limitation of association should be done by seeing and studying the relationships made by children in advance. Do not let the limitation of association will lead to bad things for children's development, for example, lack of association. If the limitation of this association really needs to be done, then still give justice to the child by allowing relationships and getting to know the environment around him. Informants 1 and 2 said that there were no real family members consume but from their relatives there are those who join to consume

While informants 9 of their own biological family members who consume, such as the informant's brother and father. Teenagers can get to know maybe because of lack of parental attention, lack of love from family. Should be from the scope of the family itself can be more communicative to other family members and provide positive examples, especially to their children, and can give more attention and love to their children, because the scope of the family is the scope that will be

most often encountered by adolescents by friends and others around him.

4. Lack of Support from the Community

The results of this study indicate that informants 5 who are usually drunk around the village area. Adults or communities in the village like silent without acting or reminding teenagers who are getting drunk, and the community as if they tend to remain silent without any protest if there is a drink around. This is slightly different from the explanation of Zakiyah Derajat (1983), if the elderly or adult groups in the community have a fixed stance that children must submit to and obey the rules, for their hereditary habits without being allowed to submit rebuttal and questions, then children will feel that parents and adults do not understand and do not respect them.

As a result they will defend themselves against the unpleasant treatment of the community, even they will always try to investigate the mistakes of parents and adults as an excuse for their treatment. Their appreciation will be lost to parents and adults not because of their iniquity or badness, but as a result of their lack of ability to accept and understand the actions of parents who show lack of understanding and respect for them or arises, which is called the delinquency of teenagers.

Conclusion

Thus, from the research friends that have been concluded that parents in Ambarawa have a positive perception of the consumption of adolescent liquor in their environment. Positive perceptions referred to, marked include:

First, Awareness of Parents in Ambarawa about consuming liquor of teenagers, 63% consider juvenile delinquency in Ambarawa still at an ordinary level; 71.7% stated that the consumption of adolescents to date is still at an ordinary level (not to disturb); 89.1% are aware of the need for a forum or organization for young people in Ambarawa to channel their talents, interests and hobbies and as a step to prevent teenagers from consuming alcohol; 84.8% consider and realize that parents are still less attentive and less concerned about their children consuming alcohol; 60.9% realize that educational institutions in Ambarawa also give less attention and concern to adolescents who consume alcohol; and as many as 56.5% of

parents realize that the attention and concern of the local government towards adolescents who consume alcohol in Ambarawa is also lacking.

Second, The acceptance of parents regarding consuming alcohol that has been carried out by adolescents in Ambarawa, states that consuming liquor made by adolescents can be tolerated and only given understanding or advice; 97.8% responded by handing over teenagers who consume alcohol to their parents; 67.4% stated that it was very necessary to provide guidance to teenagers who had consumed liquor in Ambarawa; and as much as 67.4% perceive that to prevent teenagers from consuming alcohol can be done by providing education, knowledge, and advice to adolescents not to consume alcohol because it violates norms and is prohibited by religion.

Third, Parental assessment also assesses about consuming adolescent liquor, 69.6% of parents consider that consuming alcohol carried out by adolescents is still at the level of ordinary liquor and is still understandable; 69.9% assess the impact of consuming teenage liquor is still at an ordinary level and can still be controlled; 82.6% thought that drinking alcohol by adolescents was due to lack of education and care from family or parents; 58.7% of parents considered that those who should be responsible for the consumption of alcoholic drinks carried out by adolescents were family or parents, and as many as 97.8% considered that apersuasif (persuading, inviting and educating) was the way to overcome the consumption liquor that teenagers have done in Ambarawa.

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Issue: Law, Democracy and Crime: How Society Responds the Imbalance?

Research Article

Criminological Aspect on Case of Prostitution around Poncol Station Semarang

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Abstract: Prostitution is an anti-social sexual deviation because it violates the norms of decency, norms of decency, customary norms and religious norms. This prostitution occurs in society in the form carried out by a group or individual in an organized manner consisting of pimps, the purpose of getting wages or rewards from those who have used their services. there are two parties namely PSK (Commercial Sex Workers) and masher men as customers. In the Criminal Code (KUHP) only regulates pimps, not yet regulating PSK and its customers. This has an impact on the development of prostitution in people's lives. Prostitution is regulated in Article 296 and Article 506. There are various factors behind the occurrence of this prostitution, such as economic factors caused by economic pressures and life burdens, there are also social factors such as the social environment, and family factors due to divorce or family problems. This study aims to find out what factors underlie the phenomenon of a CSW and analyze based on the perspective of criminological law. This research is located at Semarang Poncol Station on Jalan Imam Bonjol Semarang. This research uses an empirical and qualitative juridical approach. The results of the research and discussion show that the author obtained, among others, can be explained through the formulation that we discussed, namely: The characteristics that exist in the perpetrators of street prostitution, the impact on prostitution, technicalities in transactions between customers and prostitutes, and theories justify the existence of deviations in prostitution.

Keywords: prostitution, criminology, commercial sex workers, Poncol station

Introduction

Prostitution is a social phenomenon which in practice not only discusses the sexual relations between victims and perpetrators, reveals the dark side of humans, but also studies how they covertly enjoy and utilize the existence of prostitution. Etymologically the word prostitution from the Latin word "*pro-stituere*" means to allow oneself to commit adultery, commit prostitution, sexual abuse and agitation. Whereas the word "*prostitute*" is termed as WTS or *Wanita Tuna Susila*. Someone

who sells sexual services is called WTS, which is now often referred to as Commercial Sex Workers (CSWs) (Siregar, 2015). Prostitution can also be interpreted as a job that is surrendering or selling services to the public to perform sexual acts in exchange for compensation in accordance with what was previously promised by hanging off the roadside or in a localization area. There are so many in this country doing this work with different backgrounds.

In Indonesia, prostitution is considered as a crime where in its scope there is a violation of moral values, moral values, and is an act against the

law. In this case, the subject of prostitution is generally a woman. There are so many cases of female prostitution that are the main target of pimps (pimps) or masher men so that women become victims. Women are often tricked by the lure of money or easy jobs with high salaries, but in the end, they fall into a vicious circle. However, there are also other factors that women volunteer to make themselves as perpetrators or victims in the world of prostitution. Small examples of economic factors or factors of household problems that cause a woman to divorce her husband, solitude makes a woman clogged and then participate in the world of prostitution. The invitation factor for friends can also affect a person's mind or because he himself doesn't know what to do to fulfill his life's needs.

Prostitution is a practice of satisfying lust that is carried out by individuals or groups of people as commercial work. In prostitution there are elements contained, namely transactions, infidelity, emotional indifference, and livelihood. When viewed from the prevailing norms and developing in the community whether in terms of customary law, religious law, or normative law of prostitution and prostitution is an act that deviates and acts that can not be justified. But even though it is seen as deviant and the evil deeds of prostitutes (prostitutes), and customers (clients) cannot be convicted.

In normative law enforcement, article 296 states: "*Anyone who intentionally connects or facilitates obscene acts by others with others, and makes them livelihoods or customs, is threatened with a maximum imprisonment of one year and four months or a maximum of one thousand rupiahs in fines*". Article 506 states: "*Anyone who benefits from the obscene acts of a woman and makes a living, is threatened with a maximum sentence of one year*" (Moeljatno, 2008).

The existence of laws governing prostitution, article 296 and article 506 of the Criminal Code can only criminalize the pimp only because it only regulates who is the liaison and cause of a woman and a man can commit adultery. The regulation does not regulate in detail the perpetrators and victims in the practice of prostitution.

The number of brothels in cities is caused by the fact that in normative law enforcement there is no specific regulation on prostitution. Indeed, our normative law is the Criminal Law Act of Westerners who do not really take care of private life, especially if the perpetrators or victims of prostitution do so voluntarily or forced with

economic conditions that squeeze the necessities of life. Things like this that make prostitution as allowed or given permission to stay alive and develop in the community. But there is also the role of the community so that prostitution remains in their environment. Like letting them prostitutes and customers do the action to be indifferent or support their activities. People sometimes are not too concerned with moral values or moral values that should be upheld in their environment. Their own background or environment can also determine why people can act in this way.

In practice, prostitution itself in Indonesia is divided into two, namely:

1. Registered prostitution, where there is supervision from the police and cooperation with social services and health services to look after prostitutes. Those prostitutes are usually placed in a special localization place in a certain area, which then periodically they can check themselves into the health facility that has been provided to secure health and general conditions.
2. Unregistered prostitution, which in practice is carried out in disguise and wildly, both from person to person or from a group. Their actions and organization are not clearly organized. They can look for themselves, brokers, or calls.

There are separate obstacles if you want to eliminate prostitution itself, reasons for divorce, resignation to the situation, first become a victim and then even plunge into prostitution, and also the most recent is economic reasons. Economic reasons make the intention to eliminate prostitution more difficult because they prostitutes will question their fate to those who want to eliminate the job. Prostitution and prostitution that have become a habit in the community become a separate commodity for those who are accustomed to doing it. They consider the work to be limited to the use of goods and services. In addition to personal reasons that are inhibiting factors, there are also obstacles from their pimps who threaten victims not to go out of business. There are also networks that influence the difficulty of eliminating this prostitution business, such as social networks, prostitution business networks, the role, functions and marketing of pimps.

Social network is the result of an interaction relationship between one individual and another that causes an action to occur. In this case analyzing social networks wants to study the

regularity of individuals and groups behaving rather than the regularity that they should do.

Prostitution business networks are inseparable from the activities of prostitution business people who then make prostitution a work that has a working system in it. The actors have their respective roles in running this business so that it can run well.

The role, function and marketing of pimps in their implementation governs the pattern of rules that connect one point to another, which then arises a bond between them, then creates laws to regulate the relationships they create. Marketing is done by pimps in the outline of connecting customers with prostitutes who carry out the work.

The existence of a system in such a way as to create its own structure in the business of prostitution, the aim is to protect and meet the needs of supply in accordance with demand. This promotion was carried out to introduce a new distribution.

Networks like this are just people who are indifferent to allowing this evil thing to happen. The community is not to pull them out of the network but instead to label them with a bad name, which in turn makes the residents even more inclined to carry out work in a pimp network and network or prostitute themselves. Things like this that make prostitution difficult to destroy.

We know that the rights of every person to his personal self cannot be contested, we also recognize how someone uses their sexual rights. But what does this mean for human rights if every day many women enter the world of prostitution. Prostitution is an act of violence that makes the last reason to fulfill their needs. As long as what becomes a problem a person is unable to meet his needs, then to eradicate prostitution down to its roots only becomes a wishful thinking. Providing education, socializing understanding of prostitution, fighting the dangers of prostitution and empowering productive women is a way to prevent or eliminate prostitution. Eliminating prostitution is a reason for creating jobs, eliminating the wage gap of women and men workers, and providing education without burdening their expenses. The point is that the work of prostitution and the prostitution business is the last reason they can take because they are resigned to the situation.

The problems discussed in this research and paper include:

1. What are the characteristics of commercial sex workers in the Poncol Station area?

2. What is someone's background as a CSW?
3. How is the technical PSK transaction in Poncol Station area?
4. What is the theory that can justify commercial sex workers?

Method

A. Research Types and Approaches

1. Research Types and Approaches

The research approach method used in this study is a qualitative empirical approach, namely in this research and writing by explaining and describing phenomena that are then analyzed both normatively and socially. Utilization of this method approach according to researchers in accordance with the object under study, not using numerical data will still use qualitative data to make observations which means to see the phenomena that occur at the study site and get data with interviews that is qualitatively.

2. Types and Sources of Data

The research has sources of data which will support the results of the research conducted. The data source is very important because with the data source, the research / report carried out will produce maximum results and the data presented is not wrong data but reliable data on empirical data in accordance with the facts in the field. Data sources used are:

1) Primary Data

Primary data sources are data obtained from the source, observed and recorded for the first time. Data collection is done during observation that is focused on the object of direct research that is on the resource persons directly related to the research conducted (Syatori & Gozali, 2012). This primary data collection uses the method of direct interviews so that the primary data obtained is in accordance with the reality in the research location.

2) Secondary Data

Secondary data is data obtained from other parties such as scientific journals, or secondary references in addition to clarifying research on this issue (Marzuki, 2002; Arifin, Waspihah, & Latifiani, 2018). Secondary data conducted in this research is looking for additional data sources other than the culprit, residents around the location of the study site both local residents or online motorcycle taxi and references from books and journals that are

normative in order to support the primary data that has been presented, but for get this secondary data must be able to compare with the primary data that has been obtained if the relevant competing data and support is entered and that is not suitable to be replaced with another, so secondary data is not merely used directly but must be considered first.

B. Data Collection Method

Data collection methods are the most important thing in conducting research because using data collection techniques will obtain data that can be trusted authenticity, in conducting this research the data collection techniques used are:

1) *Observation*

Observation is a systematic observation and recording of the phenomena under study. Of the various observational methods that can be carried out, this study uses field observations which means that direct research is carried out around the research location, namely by coming to an *angkringan* or place to eat to make direct observations observing what happens in the vicinity of the research location.

2) *Interview*

Interview is the process of obtaining activities for research purposes by means of question and answer, face to face between the interviewees or the interviewer with the answerer or respondent by prioritizing a tool called a guide. The interview used by structured interview researchers is that the researcher prepares in advance by preparing questions relating to the perpetrators, so that the questions given are structured and have clear guidelines. Interview guidelines that are clearly used from the formulation of the problem are still in further detail so that the results of the research conducted produce data in accordance with the facts, this interview is addressed to Mr Bambang as an online motorcycle taxi located in the vicinity of the research location and our main resource person is Mawar as a commercial sex worker. The tool used during the interview is to use a digital camera to record video and sound.

C. Research Location

The location of our research is around Pocol Station precisely along Jalan Imam Bonjol Semarang and Jalan Tanjung close to Poncol Station. The location of the study that we were aiming at was many CSWs who were hanging out and we got the CSW resource persons who were on Jalan Tanjung.

- 1) Along the road in front of the Poncol station to the old city powder
- 2) *Angkringan* of local residents
- 3) Hotels to serve the customers
- 4) Roadside around the poncol

D. Research Schedule

Table 1. Schedule of Research

Date	Time	Activity
Wednesday, 10 April 2019	22.00 – 00.30	Identifying the surrounding environment, seeking information through local residents, looking for informants related to the party, looking for the target group
Sunday, 28 April 2019	21.00 – 23.00	Identify the types of sex workers and the hours of attendance
Monday, 29 April 2019	20.00 – 24.00	Interview with the PKK who has agreed to conduct an interview first

Explanation

Wednesday, April 10th was the first time we conducted an investigation of our object, Commercial Sex Workers (CSWs), we began by identifying the environment of PSK itself, which is along the Poncol station road to the direction of the road to the old city, not only that we also mingle with the public in the latest information and also you learn to find the target to distinguish the person turns out to be a sissy or not that we need to know too of course. On that first day we also did a team division to identify those who were mingling and those around to see the environment. Our initial plan was to only want to see the conditions in the field in preparation for our next observation. We got speakers from the online motorcycle taxi and the seller there. When we dig up information through informants we get direction and right away we look for our research object so that we can get an object that is CSW.

Sunday, April 28. On this date is the second time we conduct research on an area that is famous for being an area in the city of Semarang which has nightlife in the city of Semarang itself. The plan we will do on the second day is an interview with the informant namely PSK but it is predicted that on that day the weather did not support because it was raining and on Sunday it turned out that our informant was not in place so our plan at the beginning to interview failed. Therefore we carry out the transfer of plans by continuing our

identification in the surroundings of the location. When doing the field research, we get a phenomenon that on the first day we have not gotten there is a way of accounting and delivery of prostitutes to mamgkal. After getting a new identification we decided to return home.

Monday, April 29. On the third day, we used it maximally to interview the prostitutes who were willing to be interviewed by us, we conducted the interview in the hotel room. But we as students will still not like that. Before conducting the interview, we had an agreement with the resource person that there was a rent to pay because the informant said that he had taken up his working hours, so we decided to pay for the smooth running of our duties. Initially our plan involved interviewing all, but from the interviewees it only asked for a maximum of two people, so we divided the assignment into interviews and others identified the exact environment around the characteristics of CSWs in the locations around the study.

Result and Discussion

A. Overview of Criminology

Criminology is the science of law aiding criminal law to provide an understanding of crime, because the perpetration of crime and efforts to tackle crime, aims to minimize the rate of development of crime. Criminology comes from the Latin *crimen* and Greek *-logia*, etymologically, *crimen* comes from the word *crime* and *logos*, *crime* means *crime* and *logos* is *knowledge*, so *logos* can be interpreted as *criminology* is a science that is related to *crime*. demonstrate scientific knowledge about the nature, extent, causes, and control of criminal behavior both within individuals and in social, cultural, political and economic life.

According to W.A. Border criminology as a scientist who has the authority to investigate the symptoms of crime as widely as possible (critical criminology and pure criminology). Theoretical criminology is experience-based science, which, like other similar sciences, pays attention to symptoms and tries to investigate the causes of the crime, etymology (Utari, 2012). Criminology is a scientific tool for the study of crime and criminals. In this form of science, criminology is "the body of knowledge" the scope of the crime is a) the person who commits crime b) the cause of the crime c)

prevents the crime of d) ways to cure the person who has committed the crime.

Criminology formulation according to Wolf Gang Savitr and Jhonston is: "Criminology is the science that uses scientific methods in studying and analyzing orderliness, uniformity, patterns and causal factors related to crime and criminals and social reactions to both" (Simanjuntak, 1981).

Criminology is a discipline to study crime, basically it depends on other disciplines that study crime, Criminology is a collection of various disciplines that study crime. So criminology is "interdisciplinary" meaning that the discipline is not independent but rather from the results of other studies of crime. This approach is the approach of various sciences to the same object, namely crime. Criminology with its scope examines:

- a) People who commit crime.
- b) The cause of committing a crime.
- c) Prevent crime.
- d) Ways to heal those who have committed a crime.

B. Overview of Prostitution

1. Definition of Prostitution

Prostitution in criminology in Latin that is "*pro-stituere*" means allowing oneself to commit adultery, conduct prostitution and repeal. Whereas the word 'prostitute' refers to the word *TunaSusila* (WTS), which means a wretched person or a matter of selling themselves as work is surrendering or selling services to the public to perform sexual acts by getting rewards in accordance with what was promised previously. In practice, an actor wants this because there is a desire to get a reward. Someone who does the work can be said as a Commercial Sex Worker (CSW). Prostitution or prostitution is the practice of relations done for a moment, carried out with anyone to get rewards in the form of money.

HMK Bakry declared prostitution as strong as adultery. Prostitution is a woman who surrenders her body to a man for swimming and receives the stipulated reward. Dr. H. Ali Akbar also proposed a restriction, that prostitution was an act of adultery, because it was outside a legal marriage (Ashari, 1986).

Three main elements in the practice of prostitution, as explained by Anwar & Adang (2008), are:

- a. Payment, this is done after an agreement between the perpetrator and the customer, in

return for an action that has been done, namely the fulfillment of satisfaction by the perpetrator.

- b. Promiskuitas is the practice of doing free sex by anyone often with a different partner by not choosing whoever the partner is invited to without any binding rules
- c. Emotional indifference, customer relationship and no relationship whatsoever any relationship is limited to the customer to satisfy his lust, without the feelings carried by each other, because the psk is just looking for reward.
- d. Livelihood. While certain groups view prostitution as a woman who is immoral, cannot stand the faith and as an anti-starch attitude towards prostitutes who for various reasons enter the dark world without regard to the connection with various aspects of community life that have a relationship with prostitution.

According to Kartono, prostitution or what is often referred to as prostitution is prostitution or what is often called prostitution is satisfying sexual desires, this is the oldest work of humans themselves (Bagong, 2012). Surely this is a hereditary problem in society because everyone's social life is different and the factors are different.

2. Legal Basis of Prostitution

With regard to prostitution, the Criminal Code regulates it in two articles, namely Article 296 and Article 506. The Criminal Code makes a deliberate act of causing or facilitating acts of violating the decency with a third person as a livelihood or as a habit set out in article 296 which reads: "*Anyone who intentionally causes or facilitates obscene acts by others, and makes them livelihood or habit, is threatened with a maximum imprisonment of one year and four months or a maximum fine of fifteen thousand rupiah*" (Hamzah, 2008).

Article 506 of the Criminal Code is regulated regarding criminal acts as pimps or pimps who take advantage of acts that violate decency and profit from acts that violate the morality which is attributed by a woman or man, which reads: "*Anyone who withdraws the profits from the obscene acts of a woman and makes them a prostitute, is threatened with a maximum imprisonment of one year*" (Hamzah, 2008).

3. How to do Prostitution

Prostitution activities are determined by someone with the modus operandi in WTS in carrying out their activities. Some stand alongside the road, sit in city parks, some do it in bars, some

wait for phone calls, some occupy certain locations as practice prostitution, there are also those who do it under the guise of a massage or karaoke parlors. These various ways they offer a variety of sexual services, and therefore can be classified as several activities, ranging from ways, with this classification so it makes it easy to foster prostitution both mentally and spiritually, such as health care, the system of each classification is different with various motives, places, customers.

4. Street Prostitution

Prostitution which includes this street is often referred to as prostitution or streetwalker prostitution. This type is commonly found in big cities in the provincial capital in Indonesia. The WTS at this activity often stood waiting for men or guests at a certain roadside, especially at night around 21:00 - 05.00 in the morning. Usually these prostitutes can easily be identified by our behavior that they can show. These prostitutes are usually easily found in dim places while waiting for a man or his date, they have the courage to not hesitate to tease the men who pass in front of him, or give signs such as waving, winking and other movements that can provide attention to men. In general, services provided by this type of prostitution are provided to men or low-income customers, for example laborers, motorcycle taxi drivers, drivers and other small traders. This is due to low sexual service tariffs and affordable for those on low incomes.

If viewed from an economic perspective, the perpetrators of prostitution can be said to be a weak economic group and to fulfill their daily needs they are willing to provide sexual services to men who need them. Therefore, the impact of this prostitution is health, due to frequent changes in partners and do not know that each customer has a disease or not, but it can also be caused by rarely checking his health, especially the genitals. In street prostitution this is not tied to pimps or pimps, they do it on their own basis and the rewards they receive themselves are without anyone else's. But there are also those who share the benefits to protect and protect them from acts of customer violence or non-payment.

5. Prostitution Calls

Prostitution like this can be said as a Call Girl, in prostitution is carried out with the presence of other parties such as intermediaries called pimps, so that the prostitution is controlled by pimps. One of

the underlying characteristics of this type is that prostitution is not done in the same place, but a place that always changes according to the agreement of both parties, usually done in hotels, recreation areas or mountains. When compared with call prostitution, the bargaining power of prostitution is higher at a cost of hundreds for short time. The income from the results is divided by pimps.

6. Prostitution of a brothel

This prostitution as a practice of prostitution, where its existence can be found in certain places, in the form of houses called brothels, where every brothel has guards as pimps as intermediaries. In this type there are social factors because it provides employment to various parties around the environment, including selling food, laundry, drug dealers, hotels.

7. Covert Prostitution

This prostitution is on the street with illegal covertness, which is also biased through pimps or pimps, usually this type of prostitution can be found under the guise of a spa salon, or the internet. They do not work alone, but there are various parties that protect their activities.

8. Types of Prostitution

a. Prostitution activities are divided into two types, namely:

1) *Registered prostitution*

In general, they are localized in a certain area, have a legality in place, namely localization, the government has a role in this regard, namely in the field of health and safety, residents must periodically check themselves with doctors or health workers, checking in the form of HIV / AIDS and the health authorities provide contraception every examiner. The perpetrators are supervised by the police in collaboration with the social and health services,

2) *Prostitution that is not registered is not a localization.*

They carry out prostitution in a dark and dark. Both individually and in groups. The deeds are not organized and the place is not certain, it can be in a place, either looking for prey alone or through brokers and vocations. They do not register themselves with the authorities. So. the crime is very doubtful.

b. According to the amount of prostitution is divided into 2 types, namely:

1) *Prostitution that operate individually can be called a single operator or street prostitute.*

They usually hang out on the edge of city streets, stations or places that are considered safe. These prostitutes carry out their profession in disguise.

2) *Prostitution which works is arranged in collaboration with the help of organized and neat syndicates and organizations.*

They do not work alone but are regulated through an organizational work system. Usually in the form of border houses, bars, casinos.

c. According to the classification or localization:

1) Isolated segregation or localization, isolated by the residence of the population. As is the case with localization in Sillir Solo and Gang Dolly in Surabaya. These are what later become prostitutes on the streets in cooperation with pedicab drivers and traders.

2) Calling at home, this has a special characteristic where only the related parties know, without the presence of other parties so that the activities are more closed and organized.

3) There is abuse behind the front of a respectable organization or business such as (beauty salon, massage salon, restaurant, internet cafe, karaoke place, etc.). Here there has been a good organization that involved security people such as the police.

9. Types of Prostitute

Reekless distinguishes prostitutes for eight types as quoted by Ayu (2011), which is as follows:

1) Professional Prostitute is that they do prostitution as the main income because they do not have other jobs, the habit that is carried out is sexual relations with other people as a habit to make money or simply to gain profit.

2) Occasional Prostitutes, those who have certain jobs, but at any time use the opportunity for prostitution

3) One-man Prostitute is those who sell themselves to a certain person and behave as a pet to get benefits and money.

4) Promicious adulteress, are those who have a husband but have relationships with others.

5) Adulteress with one man, adultery committed with someone, even if he himself has a husband, but having a secret relationship and not solely for the needs of money and profits.

- 6) Promiscuous unattached, those who are not married or those who have become widows, or those who are separated from their husbands, or divorced, have sexual relations with several people without taking advantage.
- 7) Unconventional, are women who enter an unofficial household and act as husband and wife, or those who have sexual relations before a legal marriage.
- 8) Doubtful, women who are doubtful whether prostitutes or adultery

C. Results of Interviews with CSWs

The interviewee we named was Ibu Lily, who we disguised her name as a PSK (Commercial Sex Employee) on the Jalan Imam Bonjol Semarang around Poncol Station, she was 34 years old, living in Semarang, having 2 children aged 16 years and 7 years, at first Ibu Lily works as a karaoke guide in Galpanas Karangjati, but behind the work there are irregularities such as free sex and alcohol every day, she thinks if this is done until old age it will have an impact on her health and therefore move to prostitution in poncol.

From the work, there are several factors and background underlying Lily's mother to work as a prostitute, namely the economic crush because she is a widow who has divorced from her husbands so that she has the financial burden of the needs of the child who is borne alone to support her family, Lily's mother also does not have a job and lack of skills and education even though he did not graduate from junior high school, this is what forced Lily's mother to become a prostitute. CSWs

located around Poncol station on the Imam Bonjol road, have different physical characteristics of CSWs in other brothels, from clothes already seen usually wearing minimal clothing, but there are also those wearing modestly covered clothes, but if we see someone hanging around road or on a motorcycle without doing any activity then we can guess as CSW.

To follow up on irregularities in the community, the government took actions through the municipal police officers who raided prostitutes along the Imam Bonjol road. If the prostitute was caught once, rehabilitation measures were carried out in Solo for three months. After leaving the sex workers there were given severance pay for businesses and cooking utensils such as magicom and dispensers. From the government's efforts, the rehabilitation measures did not change the situation and had a deterrent effect on CSWs, the CSWs

were doing the same thing as making money by selling themselves.

In carrying out the work, the prostitutes do not have pimps, they work privately without any party to regulate, the prostitutes work carefully by not committing crime, if there are customers who do not pay, what will be done is to report to the local hotel security. The prostitutes are not tied to the place of subscription. Ibu Lily only serves pelanggan who are in poncol and do not serve it online or elsewhere through whatsapp, every night Lily mother works from 21.00 to 05.00 am, from there getting customers between 3-5 with a cost per person Rp. 150,000 includes room Rp.30,000 and contraception but there are also customers who bid up to Rp.100,000, the price here is adjusted based on the agreement between the prostitute and the customer.

Technical in conducting transactions, So Lily's mother sat along the way of Imam Bonjol, after that there will be customers who come to see Mrs. Lily to talk about prices, places and negotiations, after everything is agreed between the customer and the prostitute, the customer pays according to the agreement at the beginning paid to the prostitute and The prostitute handed over a sum of money to the hotel Rp.30,000 and took the spray bed that had been provided, after that they would go to the room and have intercourse, mother Lily wanted every time she was obliged to use contraception this was done as an effort to avoid disease, the relationship done within the specified time that is 30 minutes, if the customer wants to add then pay according to the first agreement. According to information from Lily's mother, she has never been treated with violence or crime from customers, because she also chose pelanggan when in a state of severe intoxication would be refused to look after herself.

The government through the local puskesmas health service provides biweekly services in the form of blood tests and HIV/AIDS as well as getting one box of contraception free of charge. To get the service the CSWs must come to the local puskesmas, but there are also CSWs who do not use the facility for fear of positive results affected by the disease.

From the family, Lily did not know the work she did as a commercial sex worker. The child of Lily's mother did not know that she was a prostitute. privacy from the surrounding environment.

The impact that changed his life was a helped economy, he intended to stop being a prostitute for

fear that if his family found out about his work then it would certainly be a moral burden and negative view of the surrounding environment, Lily's mother intended if having capital would be used to open a business and send her child to school successful people. Lily's mother expects her child not to behave like her mother and expects to be a well-educated person.

D. Characteristics of a CSW in Poncol Station Area

Prostitution is a form of sexual deviations with impulsive or unintegrated patterns of impulse organization or sex drive in the form of impingement of sexual desires without control with many people (prosmicity), accompanied by exploitation and commercialization of impersonal sex without affection. Then Prostitution is an event of selling themselves (prostitution) by selling bodies, honor, and personality to many people to satisfy sexual desires in return in the form of payment. Prostitution can also be interpreted as an act carried out by a woman or a man who gives up his body to commit sexual acts in a sexual manner with the payment of wages.

From the point of view of prostitutes, prostitution may be analyzed more useful in terms of work rather than being seen as merely a free sex activity. This means that the exchange of money makes what he does illegal, and the exchange of money is why he does it. But from the customer's point of view, prostitution is usually about sex (sexually satisfying lust). More importantly, the public and the legislature view prostitution especially about sex outside the boundaries of marriage, aberrant sex, sex without the intention to reproduce, pay for sex (Lucas, 1995).

Prostitution and Prostitution are real forms of a moral deviation that lives and develops in the community. In its development, prostitution is difficult to separate from life in society. There are so many factors that cause and effect prostitution is growing day by day. Of legal norms that are not properly enforced or moral values that are increasingly eroded by the times. There are also other factors such as the opportunity to create a place to be a place for transactions related to prostitution or economic background that encourages someone to get involved in the world of prostitution. So it can be concluded that Prostitution is an attempt to trade sexual activities outside of marriage in exchange for material rewards. While prostitutes or what we can call CSWs (Commercial

Sex Workers) are defined as women or men who engage in sex outside of marriage in exchange for material rewards. Many ways to identify their members who play the role of running the world of prostitution.

Prostitution organs that can be identified by their characteristics in the world of prostitution are three, namely commercial sex workers, customers and pimps. CSWs are in fact those who are very active because they carry out the work according to their agreement with the customer or with their pimps. However, prostitutes can also work alone without pimping this they do by creating their own community. They can determine their own place, a comfortable place for them to work.

If they carry out the work individually without pimping, we can identify them with the habit of sitting on the side of the road while waiting for their customers to dress well and attract their customers, they are always patiently waiting without someone's supervision. As for the confession of a person we interviewed, in carrying out his work as a prostitute, he stated that there are two types of prostitutes, namely prostitutes who work alone or prostitutes who are sold by people or their own husbands. He stated that in the Poncol Station area there were no pimps who held prostitution. The characteristics of a prostitute working alone in the Poncol area are:

1. There is no supervision from thugs or the like
In carrying out the action, Poncol CSWs who work alone without influence from other people are found alongside the Imam Bonjol road near Poncol Station. They usually sit with friends or sit alone there are also those who bring motorcycles parked alongside the road.
2. Usually sitting on the side of the road or on a motorcycle
Those who work as Poncol prostitutes in selling themselves, the way they do is by sitting on the side of the road by offering their smiles so that those who intend to look for CSWs are interested in it.
3. Dressing normally, sexy and conspicuous
In carrying out their work, the Poncol CSWs in wearing clothes are indeed varied, some who use plain clothes or conspicuous sexy clothes. This is sometimes rather difficult to determine which CSWs are and where residents around who are having needs outside the home.

4. Dress up strikingly

To attract customers, CSW Poncol are competing to make up themselves to attract customers.

Whereas the characteristics of commercial sex workers sold by pimps, thugs, or their husbands are:

1. There is supervision from the pimp or from the husband who sells it
Whether or not there is supervision from someone, it can be seen from around the PSK Poncol that is hanging. The supervisors of the CSW are usually the husbands or thugs around, the hoodlums or the PSK husbands watch by sitting or hanging out near the Poncol CSW.
2. Sitting on the edge of the road or on a motorcycle or localization
Like other sex workers, sitting on the side of the road or waiting on a motorbike is one way for them to choose their existence in finding customers.
3. Dress sexy and flashy
In carrying out their work, the Poncol CSWs in wearing clothes are indeed varied, some who use plain clothes or conspicuous sexy clothes. This is sometimes rather difficult to determine which CSWs are and where residents around who are having needs outside the home.
4. Dress up menor
To attract customers, PSK Poncol are competing to make up themselves to attract customers.

Identification of the characteristics of CSWs who work alone with CSWs that are sold is the first subject. Then, the CSW we interviewed is an example of a CSW who works alone because he is forced by his economic situation, he becomes the backbone of the family especially in meeting the necessities of life because he does not have a husband. He also revealed how to distinguish the characteristics of female prostitutes with the characteristics of transvestite prostitutes in Poncol.

The characteristics of transvestite sex workers are:

1. In terms of appearance looks like a woman but somewhat like a man
This physical characteristic makes it possible for customers to identify whether it is a woman or a transsexual, transsexuals declare

themselves to be homosexual, so they serve men who want to with them.

2. In terms of face looks like a man
Indeed, however, men dressed up as female adolescents look like men, especially the transvestites who become CSWs in Poncol are mostly middle-income and below. They don't have enough money to operate to perfect their desire to be a woman.
3. From the sound is a bit rough like men
We can get these characteristics when we interact directly by inviting them to chat, because when they talk that they often slip up with the male voices they say.
4. Has a feminine nature
To maximize their character to become a prostitute, they also changed their attitudes from masculine to feminine. This they do to perfect their character in carrying out work as a homosexual prostitute.
Such characteristics will distinguish Poncol CSWs from one another. Kartini Kartono also explained about the special characteristics for CSWs. The characteristics of the CSWs delivered by Kartini Kartono:
 - a. Female, the opposite sex is a gigolo (prostitutes, men, male prostitutes).
 - b. Beautiful, beautiful, beautiful, sweet, attractive attractive, both face and body. Can stimulate male sex appetite.
 - c. Still young. 75% of the total number of cities is 30 years. The most is 17-25 years. Low and middle-class prostitution often employ pre-pubescent girls aged 11-15, which are offered as new goods.
 - d. Very flashy clothes, colorful, often strange or eccentric to attract the attention of men. They are very concerned about their outward appearance, namely: face, hair, clothes, cosmetics and stimulating perfume.
 - e. Using sexual techniques that are mechanical, fast, not present psychologically (afweijg, absent minded), without emotion or affection, can never achieve provocative orgasms in coitus, and are usually done roughly.
 - f. Are very mobile, often move from one place or city to another place or city.
 - g. Professional prostitutes from the middle class mostly come from economic start and low social start, while prostitutes from high class (high class prostitutes) are generally educated in junior and senior high school, or academic

and college graduations, who operate amateur or professionally.

- h. 60-80% of these CSWs have normal intellect. Less than 5% are those who have weak memories (feeble minded). The rest are those who are on the boundaries, who do not determine or are not clear in their intelligence degrees.

Kartini Kartono (1981) explains that since human existence, prostitution has existed, and will continue to exist as long as human life still exists. This is based on the assumption that instinctively, humans both as individual creatures and as social creatures, through various means and efforts in the form of culture, have the will, among others:

1. Defend himself from the existing disturbances and challenges.
2. Maintaining life and developing life.
3. Maintain the life of his generation through marriage.
4. Holding sexual relations between the two sexes to meet the biological, and others.

Then seen from its development, there are differences between CSWs from one another as explained by Indarto (2015), namely:

1. Street Walker, which is a type of commercial sex workers who directly look for and find their customers, he is more in a public place, on the highway or the terminal. As a result of their activities in public places, they are often the subject of PP satpo's activities. The rates they put are cheap and in conducting transactions they can do it directly at the place where customers and CSW meet.
2. Bar Girl, which is a type of commercial sex workers that is usually done in an open place for those looking for and transacting with customers, in an open place but in a closed scope. Often the transaction system can be done through brokers or pimps (pimps), but not all is done through intermediaries they can do it themselves.
3. Call Gril, which is the most private type of CSW, generally the meetings and technical transactions they take place at an agreed place. CSWs who do this work are difficult to identify because of their private nature.
4. Other sex work, which in the subject is mostly done by teenage children where they do on the basis of like and like not to be paid.

The customer is an important subject of an act of prostitution. Customers who pay for sex workers are usually only looking for sexual satisfaction,

they will never be satisfied. Prostitution states that it is a place of escape for single men or those who have greedy sexual appetites (Walor-Sagura, Exposito, & Moya, 2011). In our observations, we can identify how customers who are looking for CSWs in the Poncol Station area. The characteristics of someone who is looking for CSW are:

1. Bring a motorcycle
Most CSWs Poncol customers bring motorbikes because this will make it easier for them to get to the place they are going to after the agreement.
2. Wear clothes that are neat, jacketed and helmeted
Wearing neat clothes and jacket are used to disguise themselves so as not to get caught by the closest people because most customers buy prostitutes because they are dizzy with the situation or because there are problems in their household or just looking for sexual satisfaction.
3. In choosing prostitutes they walked up and down along the Poncol Station road
Lots of CSWs in Poncol Station, whose working hours fail at the length of the Ponco Station road. Customers will walk here and there to choose which CSWs is suitable for him.

E. Background Someone Becomes CSWs

CSWs are one of the many problems that have arisen among Indonesian people. Being a prostitute is clear that it violates the norms prevailing in society, and violates the religious norms. In addition to violating the norms of the norm also contradicts the laws and regulations, but there is no rule that can protect from not doing the work. Sociologically CSWs are acts that are contrary to social norms, values that apply in society. This behavior often occurs because the community has ignored the norms, values that apply so that the behavior gives a negative assessment on a prostitute.

In general, someone who enters into the world of prostitutes is caused by a lack of life, through invitations from friends, disharmony within a family, and indeed finding out for themselves about CSWs. In the life of globalization to get a job is not easy to return both hands. Getting a job must also be supported by a skill, education, and an experience at work. The needs of globalization are now most needed, namely working to get money to

meet their daily needs. According to the results of observations that have been made factors that influence someone to become a prostitute are:

1. Economic Factors

The dominant factor behind the foray into the world of sex workers is the lack of an economy, the difficulty of finding a job without the support of education or skills so it is difficult to find decent work. Therefore, in order to get an income for everyday needs, someone chooses easy work and does not require complicated requirements. Therefore, someone chooses to become a prostitute because it is easy to do. Like Lily's mother, she chose to become a prostitute because she had to fulfill the needs of her two children because she had divorced her husband, which caused her to be able to fulfill the life of her child, and Lily's mother did not have the ability, proficiency in work, and low education even junior high school did not graduate

2. The Difficulty Factor of Finding a Job

The next factor is the difficulty of finding work, the intended work is decent work or work that does not conflict with the rules, rules, norms that apply in society. The ability to get decent jobs is the main thing that is able to compete with others to get a job supported by the ability, skills, expertise in a field or other fields. However, getting a decent job is not easy to have to have high interest and competitiveness. These things are difficult to do, therefore the community prefers easy work and gets a decent income and is able to meet their daily needs. And the uneven development of employment opportunities for the community is still minimal. Therefore, the community prefers to become a prostitute because they have just broken up to look for a job, as experienced by Lily's mother who does not have proficiency in employment plus she is a widow who must meet the needs of her two children, so she must do to become a Even though the prostitute knows that the work is contrary to the norm, the rules in the community and lying to his child, his work is to be found in a place where he eats like a *penyetan*.

3. Factors of Low Education Level

Education is the most important thing in a person's ability to compete with others. Education is also a transformation, inheritance, and values that are in society. The role of education is very important because as it develops, advancing development in the community automatically issues that arise and appear are new problems and must be faced with educational abilities. It is said that someone who has a high education will bring a

fortune to himself and someone who has low education plus does not have special abilities it will be difficult to compete with others. Similar to being a prostitute, he had given up hope in the field of education because it was principled that high schools needed high costs. Like Lily's mother, she even graduated from junior high school and was not equipped with special abilities, so she prefers to become a CSW whose work is easy and uncomplicated and able to fulfill her family's daily life.

4. Income factors become more adequate CSW

The choice of working to become a commercial sex worker also has a consideration in his income, even the prostituted income is able to exceed the adequacy of daily life. In terms of morals and instincts a prostitute also needs food and daily needs. One last resort is to make his body as capital to get money, but it is becoming more and more common place so he prefers to become a prostitute rather than looking for other jobs, the aim is also the same to fulfill his daily needs. Ibu Lily, a prostitute who also has a tariff, is also the result of observations that have been made to determine the tariff, usually the agreement between the prostitute and the customer. Ibu Lily has determined the price of the item is Rp. 150,000 including room loan of Rp. 30,000, sometimes there are also customers who bid Rp. 100,000, according to the agreement with the customer and get contraception when having sex.

5. Family factors

In addition to the factors above that cause a person to become a prostitute is a family factor. Against the background of the disharmony of a family, the demands to meet the needs of the family and others, our resource person, Ms. Lily, is also one of the factors, namely the family, because she has divorced her husband and she lives with her two children. Her children are only 14 and 7 years old, so Lily's mother must be willing to work to meet the family's needs as a demand from her family. However, Lily's mother hopes that her two children will not become like her, that is to become a prostitute and have to be highly educated. He also had the intention to become a prostitute, but was worried that he would not be able to pay for his two children's schools, and always lied to his two children that he did not work as a prostitute.

F. Technical Ordering of Poncol CSWs

Based on our research on CSWs in Poncol, we found many things there plus a lot of other things

about the technical or procedures carried out to be able to get room service for the connoisseurs or seekers of services from sex workers. Regarding the mechanism contained in it, of course to be able to get room service, there are specific stages or ways that can be done can be online through social media or online booking or directly or offline booking. If you make an online booking a person who wants to enjoy the services of a prostitute usually has a relationship via social media to determine when to have a meeting and conduct sexual services, usually those who use online booking are those who have previously been comfortable with the services provided by prostitutes who he found that later made him his customer, in this way of booking, both parties must have made sure they would give and receive services while they were still in chat, but later after agreeing to meet, he would get it. From the answers of the CSWs that we meet say that they usually even have to be a little inconvenient because sometimes they only briefly provide services to consumers even though their body position is very tired. Usually the CSWs who can use the online booking system are young CSWs who are still in their 20s because in our opinion there are also quite noticeable differences especially in the tastes of the CSWs themselves who can usually increase their passion in choosing and deciding which CSWs to choose. will accompany them.

The second method is the conventional way because it does not use the role of the media in attracting consumers from the services of CSWs. This method is usually used very easily where the searcher must find and choose which CSW he will use, based on the information of the CSW we interviewed, in Poncol area still uses the offline booking system, where CSWs usually hang out or peddle themselves on the roadside by staying quiet and teasing those who pass by either a car or motorcycle which after finding the choice of the prostitute, therefore they agree on the price that will later be accepted by the prostitute as service fees used in serving their sex consumers, after the price is agreed they will go directly to the hotel usually determined by the prostitute to be able to get these services.

However, those found in the area around Poncol itself prefer to use the offline booking system which can usually be found almost every night starting at 20.00 WIB which, usually we find very many PSKs that are on Jl. Imam Bonjol, there are many CSWs who have prepared themselves for

later at a price (disawer), usually they are also on the motorbike while showing their spoiled attitude to everyone who passes there. We also get information that we can see that it is PSK or not based on their characteristics. Most of these offline booking systems are carried out by way of consumers' deal prices and when the meal is dealt, they will immediately go to a hotel room that has been provided by the prostitute. The information that we got was also derived from observations of local residents who also had one of the questions we asked about CSWs in the Poncol area. In addition, we also got information that in the region did not know pimps so that the CSWs in the Poncol area are selling themselves to consumers independently without any intermediary in them. So really from the PSK.

After that we also found information about the cost of PSK services to consumers. It turned out that the price was varied to millions, but according to information from our informants that the lowest price of CSWs was Rp. 120,000, - but as he said the last person there are still those who bid even to the lowest price up to Rp. 10,000; -. That price also does not include the cost of renting a hotel room that is used by CSWs with their customers later, for the price of renting a hotel room, we take the example of the hotel "XX" worth Rp.30,000, - for usage time for 30 minutes, for prices from other hotels too the same is not different because in Poncol itself hotel prices for CSW services are equated.

Not only about the technicalities but from the two booking systems that we explored, there are advantages and disadvantages that we can see directly. Of course, we find this information from our resource persons.

The advantages of online booking systems include:

1. It's easy and usually not difficult to make an appointment with a prostitute,
2. The prostitute immediately has a customer who will definitely come to him, without having to search on the side of the road,
3. Can add potential customers than the CSW itself because surely, there are certain people who also provide social media info that CSW who can order online.
4. CSWs can arrange their own time in serving their customers later.

Weaknesses of the online booking system include:

1. Making a new veiled system for johns who want to get sexual gratification,
2. It could be that online ordering is a trap of people who really want to act evil to the prostitute,
3. Sometimes it is misused by parties who are not responsible for extortion or other evil things.

There is also the advantages and disadvantages of the offline booking system. The advantages of the offline booking system include:

1. The method used is relatively easy and fast and can avoid unwanted things
2. The prostitute can see directly about the prospective customer whether he thinks is appropriate or not for him to serve
3. No need to fear the abuse of social media contact that is owned by the CSW

The disadvantages of the offline booking system include:

1. Sometimes CSWs have to wait and search directly on the side of the road
2. Sometimes when the weather is not good and it does not support CSWs, it does not become open for sex
3. Fear of raids when they are looking for consumers on the side of the road
4. Sometimes there are also those who do evil to the prostitute, for example, even being kidnapped and thrown in another city after being served

G. Criminological Theories that Justify CSWs

Criminology or often referred to as crime is a phenomenon that often occurs among the community, be it a crime that has victims or not. One type of crime, namely prostitution or commercial sex work (CSWs), sometimes causes confusion that CSWs are criminals or victims of crime. When viewed from the perspective of criminology, a commercial sex worker is a perpetrator supported by evidence - including allowing themselves to commit adultery, selling sexual prosecutors (prostitutes), prostitutes surrendering, offering themselves and selling themselves. There is no coercion in the prostitute so it can be said that he has committed an act of crime, because it has violated moral values, moral values and is an act against the law. Criminology, there are theories that cause a person to commit a crime, according to the results of observations that have been done by a prostitute, there is also a connection with the theory of criminology. Criminological theories relating to CSWs of observations include:

1. Differential Association Theory

Crimes committed by someone because of the results of imitations or seeing acts of crime that continuously occur in the community, so that the impact on individuals to commit similar crimes (Dirdjosisworo, 2002). Before becoming a prostitute Lily's mother is our guest speaker working in a nightclub, she worked as a karaoke guide in the Galpanas Karangjati area. Every day he was required to drink - drink every day he also saw sex activities freely carried out there. However, being a karaoke guide there were demands to drink every day, he finally decided to become a prostitute, according to him the impact of old days was less dangerous compared to drinking.

If it is related to criminological theory, the emergence of crimes committed by Lily's mother is caused because she sees daily matters relating to sex, in her workplace such activities are common and every day she sees these activities, with the impact given is lighter than in becoming a karaoke guide, then he prefers / imitates as commercial sex workers who according to him are more relaxed and more profitable in terms of income and health. Health as a prostitute in the Poncol station area is guaranteed, because every 2 weeks there is an examination on HIV / AIDS and free distribution of condoms for the health of the prostitute.

2. Anomie's Theory

Crimes that arise without the norms of society that causes social irregularities in the loss of stakes in the community, knowing the wrongdoing, but still committed because of certain factors (Atmasasmita, 2005). The crimes committed by Lily's mother belonged to the anomie criminology theory group because she knew the actions she did would have an impact on her family's self-esteem, therefore she was forced to lie for it all. She always kept it a secret from her family and the surrounding community, because it really needed a life necessity, Lily's mother had to keep doing her prostitute work, every night when she was asked by her son, he answered working in a place to eat like a *penyetan*. Lily's mother did this so that her child would not be disappointed and ashamed of his real work, because the act was deviant to the community, he knew his actions were not good, so he didn't dare to convey his true condition to his child.

3. Conflict Theory

Conflict theory here is not conflict theory because there is a clash of culture or the like. The theory of conflict that causes a person must commit a crime because of the conflict experienced by each person - each. This conflict theory is also one of the factors in the emergence of a crime committed by someone. As experienced by Lily's mother, when she first became a CSW also because there was a conflict in her family, before becoming a widow, Lily's mother had a husband to make ends meet and her two children. However, due to an accident she divorced her husband, therefore Lily's mother had to be able to meet the needs of her two children.

Family conflict experienced by Lily's mother certainly has a great impact both in terms of economic, and psychological. If he wants to continue to meet the needs of his child, with the condition of Lily's mother, her education does not graduate from junior high school and does not have a skill, then the work she can do is to become a prostitute. Economic needs are the main factor because he needs money for the sake of his two children, the needs of their children's lives, food, shelter, and education. Lily's mother kept trying so that her son did not know the work he was doing and he hoped his two children would not be like him who became a prostitute but should be able to achieve higher education.

4. Theory of Social Control

Individuals in the community have a tendency to do good or not, it is influenced by environmental factors surrounding the community, behaving well or evil depending on the condition of the surrounding community. A person becomes good when his environment makes him a good person, and he will do evil if the environment around him makes him evil.

The theory of social control can be viewed as a theory that condemns the role of the surrounding community. The role of the most mediating community is someone who commits a crime or not. As experienced by Ms. Lily, before becoming a prostitute she became a karaoke guide in the Galpanas Karangjati area. Every time he works in the environment around the karaoke, on average he does a deviation which makes someone become evil, that is, the practice of prostitution, free sex, and drinking, eating it has an impact on Ms. Lily so that she commits similar acts of evil. because the environment around him made him work as a prostitute.

Conclusion

From our observations, it can be concluded that prostitution is a deviant act. Many factors behind a person can enter the world of prostitution. Family problems are usually what often happens, making someone despair and enter into this vicious circle. Prostitution is a place for seekers and lust satisfying their affairs. prostitution is seen as something that deviates by society, moral values increasingly eroded in it. Prostitution is also seen as a job, not merely satisfying sexual desire. In the world of prostitution, the work of CSWs is generally undertaken by women. A profession where a woman sells herself is contrary to the norms prevailing in the community. However, they do the profession because they have their own reasons. I don't think there will be women who have aspirations to become prostitutes. Many factors in life force them to fall into the world of prostitution.

One of them is the woman whose initials Lily we have interviewed, she revealed everything in Poncol Station related to this prostitution. He explained why he became a prostitute. The economic pressure he suffered was why, he worked as a prostitute to meet his daily needs. With work hours of 10 to dawn approx. He did not have a husband because there was a problem that happened to him, the necessities of life and the cost for his child made him confused what to do. Then, he took the road as a prostitute until now. His children do not know his mother as a prostitute, whose children know his mother goes to work. Lily said that in the Poncol Station area, it was not only female prostitutes who hung there, but also transsexuals. The harshness of life makes humans will undergo anything to fulfill what humans need. Run a woman who sells herself under the circumstances of Poncol Station, there are also transvestites and women who are sold by their own husbands or sell other people. It is sad when we see this, is this evidence of the inability of the state to overcome poverty.

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Issue: Law, Democracy and Crime: How Society Responds the Imbalance?

Research Article

Punk Community in Criminology Study (Study in Ngaliyan District, Semarang City)

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Abstract: The purpose of this research is to find out what criminal cases were carried out by punk children, then what factors behind them committed the crime, and why they could enter the punk community. Punk kids are always associated with a negative action, look weird, steal, children are slang, immoral, and other negative things. Sometimes punk children choose to live on the road not only a factor in the conditions of economic difficulties, but also because they enjoy environmental conditions on the road, they feel their families do not care, and lack of education. The research method used in conducting research on the criminal acts of punk children community is to use qualitative research methods with a sociological juridical approach. Qualitative research methods according to Lexy J Moleong are research that intends to understand the phenomenon of what is understood by the subject of research, such as behavior, perceptions, motivations, actions, etc., holistically and in description in the form of words and language in a natural context Data collection uses quantitative methods. The results of the study concluded that criminal acts or crimes by punk children were carried out due to economic, family, environmental factors, and lack of education.

Keywords: Crime, Punk, Community, Deviance Factor

Introduction

Criminology comes from the Latin *crimen*; and Greece, which refers to scientific studies of the nature, extent, causes, and control of criminal behavior both in individuals and in cultural, social, and political, and economic life (Utari, 2012; Juliana & Arifin, 2019). The scope of criminology covers three main things, namely the process of making criminal law, and criminal procedure, criminal etiology, which discusses theories that cause crime, reactions to violations of the law. Criminology is closely related to crime and even

criminology discusses crime, and perpetrators of crime.

Crime itself has the meaning of an act that violates legal norms (criminal law), adverse behavior, behavior that causes victims. according to criminology in Indonesia, crime is seen as behavior that has been decided by the court, behavior that needs to be criminalized, population of detained perpetrators, acts that violate the norms, actions that get social reactions.

According to Moeljatno, crime in Dutch is called *misdriften*, which means an act that is despicable and related to the law, meaning that it is nothing other than breaking the law "Regarding the definition" of crime is part of an act against the law

or offense (Moeljatno, 1993). In a crime case there must be a perpetrator and a victim. The perpetrators according to the criminal law code formulated in article 55 paragraph (1) are "convicted as perpetrators of a criminal offense: those who commit, who order to do, who take part in committing, and those who deliberately encourage others to commit acts (Moeljatno, 2011; Arifin, 2020; Muhtada & Arifin, 2018). The causative factor for the existence of a crime could be due to family, economic, social, and political factors. Perpetrators can also be individuals or groups. One group that is often considered by the public to commit a crime is the punk group. Why is that punk group considered a group that likes to riot and commit crimes? Is it because their clothes are randomly scrambled and like to roam the streets.

Punk was born in the United Kingdom, punk is a form of disappointment of young British people to the situation and political conditions during the 1970s. They come from working class youths, such as workers who feel disappointed with the moral decline of the government and the mainstream cultural community and also the prolonged economic slump. The ideology carried by the punker is anti-establishment where they want to live independently, and do not depend on the capitalist culture that is carried by the upper classes (Al Ramadhan, 2016). The ideology adopted represents a protest against social inequality, the context of anarchism which is understood is the nature of violence is always attached to punk and punkers so that they are always constructed as a negative community. The negative construction creates stereotypes which then marginalize punkers so that they often experience rejection in social life.

The rejection that they often experience because of their lifestyles and mindset that is considered unusual by the mainstream groups finally punker made an ethic of living that is, DIY (Do-it-yourself). DIY emphasized that punker does not need anyone to survive. But punk ideology quickly spread by using DIY ethics. Their style of dress is also a way to confirm their identity (Al Ramadhan, 2016).

Formation of punk culture is influenced by and manifested in four main elements, namely music, fashion, community and thought. The punk movement is often seen as a youth culture based on the anxiety of teenagers. However, punk as a subculturalization is far more advanced than rebellion and fashion because punk generally seeks a lifestyle that is different from the norms of society. The

punk aspect is one of the most important factors that triggers an independent subculture. DIY ideology was the one who kept the punk subculture alive from 1970 to the present (Moran, 2010). In the life of the punk community a lot of things are obtained according to the members, especially freedom of expression. This freedom of expression is in the form of freedom of dress, freedom of association, freedom of lifestyle and so on.

Punk continues to grow throughout the world, including to Indonesia. Punk first appeared in Indonesia in big cities like Jakarta, Bandung, Yogyakarta and Bali. According to Fathun (2009) in his essay the spread and formation of punk culture in Indonesia is divided into four major periods. The first period was pre-punk in Indonesia which occurred in the late 1980s. The birth of cultural groups such as punk culture brought four elements, namely: music, fashion, hangouts and thought (Thompson, 2004).

The career has divided the punk period into several periods, namely the pre-Jakarta punk period in 1980 (research centered on Jakarta), the period of the birth of the first punk 1989/1990 to 1995, the second period of punk from 1996 to 2001, and the period of Indonesian punk go international from 2001 to with 2006. (Karib, 2009; Al Ramadhan, 2016).

Pre punk period of Jakarta in 1980 the condition of the musical journey at that time was marked by the booming trash metal music stream among young people at that time. This is evidenced by the presence of bands that stole the flow of trash metal, including sucker heads, Pinthfull death, and rotors. At the center of the tornado, the music at that time in Putrano's opinion in Karib (2009) was Pid Pub. At that moment the existence of the punk in Jakarta had not yet been smelled. However, the unwitting pub also became the forerunner of the punk community in Indonesia because some trash metal fans would later become the pioneers of the formation of punk groups. The meeting of one of the pioneers named Beri and Acid who later gave birth to the punk generation was pronounced. The appearance of the pioneers was easily detected because of his style of dress, and hair style.

The period of the birth of the first punk 1989/1990 to 1985 the presence of the first punk generation could not be separated from bands such as Anti-Septic, Young Offender, South Sex, and South Primitiv. The appearance of these punk kids with unique physical identities or appearances is not yet acceptable. Not infrequently there are often

fight between punk kids and community groups that occur because of misunderstandings. Because they were not accepted by the community, they decided to create their own exclusive group. The first generation did not make their own cultural fences they tried to use technology even though it was not as sophisticated as now. In 1994 one band experienced a decline in existence due to many things one of them because many members overdosed due to drugs, after that several other members left and made their own band.

The second period of punk from 1996 to 2001 after the dissolution of the YO band and made the punk culture even more widespread, until punk could get to the international scene. With its independence punk was able to hold a concert independently (Al Ramadhan, 2016). At present, young people with different dress styles and unique lifestyles can generally be found in various cities in Indonesia. These punk kids not only work but they also often hold banquets together (parties, music performances, and drinking). Usually on Sundays it is often used as a time to gather by them and hold joint actions, and in the event there will usually be various streams from the community itself demonstrating their respective abilities. On this occasion they dressed up as we would like to go to a shopping center which they called with ngedress (using their complete attributes without lacking anything).

Seeing from its history Punk is actually a cultural community that emphasizes more on a free life, punk was originally a music community that brought trash metal flow. In the world of punk there are various types of punk that carry different ideologies, as explained by Mukhlis (2018), including:

- a. Anarcho Punk is one community that is very hard and idealistic with the ideology they profess. They close themselves with others and violence has become a part of themselves, they often clash with their fellow communities.
- b. Crust Punk is famous for its shriveled appearance and its criticism is very spicy, they choose to live wandering and migrating
- c. Glam Punk members of this community are artists whose daily experiences are expressed in their own work. They are opposed to disputes.
- d. Nazi Punk is the smallest minority in the punk subculture. Its members are of the ideology of white nationalist ideology which is closely related to white skinheads.

- e. The Oi they usually sleep on the streets of busking, they are hardworking. but often cause trouble
- f. Querrcore members consist of people who are generally sick, namely lesbians, homosexuals, and bisexuals.
- g. Riot grrrl often raised issues about rape, domestic violence, sexuality, and empowering women.
- h. Scum punk they are very concerned with comfort, cleanliness, moral goodness, health, and respect for themselves, as well as others. They try to stay away from dangerous drugs like drugs.
- i. Skate punk members like to skate board
- j. Ska punk is a combination of jamaika or reggae music

After knowing what is punk, its history, ideologies, types of punk, then what needs to be known is what factors cause a person to enter the punk community. These factors include internal factors. These internal factors can be in the form of the need for freedom, then the need for existence. In addition to internal factors, there are also external factors that cause them to join the punk community, which include disharmony between families, being influenced by friends, teenagers' interest in the punk community, needing a lot of friends, and a lack of economics for the lower classes.

In the perception of the punk community is always considered negative, criminal and ringleader, this happens because the appearance of punk children who are not normal and different from the general public, punk dress up with mohak hair, tangled clothes, seem untidy, and also dirty. Punk kids from the lower classes who often sing and sleep on the streets are often seen poorly by the public because they sometimes steal food at the warungs when they are starving.

Method

This research focuses on the symptoms that occur in society, the factors that influence the phenomenon of the focus of discussion and socio-cultural phenomena in certain communities. In this study the authors used a sociological juridical research approach. The problem that is the subject of this research is to remember to relate and relate social factors to juridical factors.

Soerdjono Soekanto (1986) and Arifin et.al. (2018) states that the sociological juridical approach is to identify and conceptualize law as a real and functional social institution in a real living system. This sociological juridical approach is based on the problems that occur in society, both actions taken by humans in the community and the implementation of law by social institutions (Sunggono, 2006; Arifin, Waspiah, & Latifiani, 2018).

The phenomenon of actions and behavior carried out by members of the punk community who have been labeled criminal acts by people who feel they have been troubled by all forms of actions they take. The formation of this punk community is actually a form of protest and expresses criticism and opinions towards the authorities. By using this method of sociological juridical approach, it will be able to examine more deeply what are the causes of bad behavior from the punk community, forms of punk children's actions, how to deal with and cope with these actions, as well as finding the best solutions for crime from the punk community. can be resolved based not only in terms of the prevailing positive and juridical norms but also in terms of norms that live in people's daily lives.

This research was conducted by a team of writers in 2 places, in the Ngaliyan area, Semarang City and in the East Kriyan Village, Cirebon. Precisely at 1). Jl. Ngaliyan 234, Ngaliyan, Kec. Ngaliyan, Semarang City, 2). Jl. Prof. Hamka, Tambakaji, Kec. Ngaliyan, Kota Semarang, 3). Kampung Kriyan Timur, RT 02/16, Cirebon. In several locations in Ngaliyan, Semarang City and surrounding areas, punk punk groups are often found. But their existence is not permanent but nomadic or nomadic. So this research was conducted by adjusting the place / location of one or several members of the punk community. The author feels that this is in accordance with the focus of research that focuses on the causes and forms of criminology carried out by punk children or the punk community.

The location that the author chose is a location that is often encountered and a gathering place for punk kids. Indirectly, people can not see and distinguish whether a person is a punk or not because people often assume that the street children they meet on the street are also part of punk kids. In addition to taking action punk children always take actions that are always assumed negatively by the public, they also do some positive things that are not widely known by the general public. The

writing team felt the facts behind the good actions and the bad domination of punk menark to be used as research.

Result and Discussion

A. Definition of Punk Community

Community is a collection of various populations that live at a certain time and area that interact with and influence one another. Communities have a more complex degree of cohesiveness when compared to individuals and populations. The formation process is horizontal because it is carried out by individuals of equal position (Alfiansyah, 2017).

The Indonesian Wikipedia explains the notion of community as a social group of several organisms that share the environment, generally having the same interests and habitats. In the human community, the individuals within it can have intentions, beliefs, resources, preferences, needs, risks and a number of other similar conditions. Community is a group of people who care about each other more than they should, where in a community there is a close personal relationship between the members of the community because of the similarity of interests or values.

Punk children is a movement of a group of young people who experience economic and family problems, and freedom to inspire, expressions with different styles. Punk seeks to insinuate entrepreneurs in their own ways, through songs with music and lyrics that are simple but sometimes rude and jerky.

The life of a punk who is often found can be concluded that there is no age restriction in the world of punk. The characteristics of punk children as explained by Haryanto (2019) are as follows:

- 1) Being in a public place (streets, markets, shops, entertainment places)
- 2) Good looks (standing hair or Mohawk, wearing earrings, chains, boots, tight jeans and shabby clothes, leather jackets).
- 3) Derived from families who are not harmonious and unable
- 4) Doing activities as a punk.

Although common characteristics are known, it does not mean that punk children are a messy youth, rubbish to society. In their lives they still have diversity due to differences in family

backgrounds, length of stay in the streets, neighborhood, occupational choices, relationships and even income patterns.

In carrying out his life punk can be used as an ideology, lifestyle and as a genre of music. Punk as an ideology underlies the ideology of anarchism. Secare etymology, anarchism is the basic word of anarchy which ends with ism.

Punk as a lifestyle is more famous than the fashion worn and the behavior they display, such as Indian tribal mohawk haircuts, or cut and colored with bright colors, boots, chains and spikes, body piercing, leather jackets, pants tight jeans and worn clothes. Such appearances are very prominent in this community and are characteristic of punk kids. This unusual outfit also causes a negative public stigma against punk kids.

Lifestyle is the result of one's interpretation of the environment from an early age, the formation of lifestyles is obtained by children from experience, if the style has been formed, the child's response to new situations will be determined by that unique lifestyle. The way to do is his lifestyle.

Punk as a genre of music is a grouping of music according to their similarities with each other. A genre can be defined by music technique, style, context, and theme of music. Punk is one of the genre of loud music. Overall streams in this rock, including Classics Rock, Progressive rock, alternative rock, hard rock, punk rock, heavy metal, speed metal, thrash metal, grindcore, death metal, black metal, gothic, and doom (Alfiansyah, 2017).

Punk music actually does not appear solely because of the boredom of young people towards the concept of music that has come first, the essence of punk is not just a tone revolution. It can be said that punk is a community of antitrust musicians, therefore in principle their position is opposite to industry circles. Music punk people are more driven by a number of things that clump in the bottom of their souls, whether the outcome will be liked or not. But one thing that will not change is the essence of the spirit of punk as a suggestion of rejection of the values of establishment.

Music is one of the punkers' self-expressions, which is lived up to the mood, so it's no wonder that there is an element of violence not only on pogo or on the music, but also on lifestyle. In this type of song will be found several symbols that indicate the strength and choice of the ideology of the singer or singer group.

Actually they are people who are anxious to find solutions to destroy the tyrants. Then the unrest

they manifested by rebellion with various forms both through music, propaganda, and making their own products. Basically they want to be able to create their own currents. Thus the punk child has a purpose in life in his own way and the target is familiar and must have a strategy in realizing all the will of the punk child.

Punk as a form of expression of rebellion and social protests before, punk as a new container for the outburst of dissatisfaction from young people who deprive their rights. This dissatisfaction is not only dominated by culture, but with what is observed as a sense of community with failed forms of rebellion. The essence of punk is the spirit of anti-adjustment from resistance to the government and facing the government and the rejection of the most legitimate authority. Then punk can be a social space and a place of self-disclosure for young people who are dissatisfied and become a source of political protest and criticism.

Punk communities can be categorized as informal social groups. The informal group has no official status and is not supported by written statutes and bylaws, has a division of tasks, certain hierarchical roles. As well as the norms of the behavior guidelines of its members.

B. Description of the Life of a Punk Community

In general, punk's daily life is hanging out, busking to buy food together and participating in special punk events. Factors for punk children can be classified into two (Haryanto, 2017), namely:

1) *Internal factors*

- a) Lazy nature and do not want to work
- b) The dream of freedom. Sharing problems faced in the family that can cause rebellion in him and try to find a way out. A child feels bored and tortured at home because every day watching his parents fight and not paying attention to them, in the end he chose to be a punk because they have many friends who can accommodate their complaints.

2) *External Factors*

- a) Influence of friends. The influence of friends is one factor that causes them to be punk kids. The influence of friends becomes a big impact.
- a) Violence in the family. Violence in many families was revealed as one of the factors that drove them to run away from home and become punk kids.
- b) Thought of punk kids. Thought punk children most of them want a pattern of free

life of expression without following the rules of the family or from the state or government that restrains itself. So they decided to fight by becoming or following one member of punk.

C. Public's View of Punk Community

The public's view of the punk community in terms of their style of makeup, quite disturbing comfort, various negative meanings are often applied to punkers. Usually their characteristics can be seen from the clothes used, such as boots, haircuts and colored with bright colors, wearing chains, leather jackets, tight jeans and worn shirts. One's behavior is influenced by symbols given by others, so the symbols given by the community to the punk community are symbols of discomfort, discomfort and unrest.

The existence of the punk community is still considered a social problem in society. The appearance of an identical punk is considered a social problem in society. Appearance of punk kids who are identical with black clothes and dirty looking makes people see them as uncomplicated. Gathering at crossroads and doing activities like street children like busking, for some people is something that damages views. In addition to negative reactions, people also react apathetic or indifferent to punk children.

The phenomenon of punk kids who are considered as one of the social ills needs to be minimized. In this case, it needs to be straightened out in a better direction by prevention, not by anarchist or violent means. Basically, they are an intelligent community and have the creativity that must be developed.

When viewed from the perception of society, the phenomenon of children is an abnormal thing. This phenomenon is something that is not feasible for people who are educated, because the behavior and attitudes of punk children are not in accordance with existing norms. Besides punk does not have extensive knowledge, skills that are not channeled, not independent, irresponsible, not easy to adapt to new people and lack of benefits to others.

D. Criminology Theories concerning to the Case

Theory functions as a tool to facilitate and understand a problem. In this paper explains several theories that can be used to understand the problems of punk kids. However, there are many other criminological theories that can be used and

cannot be explained in this paper. Almost every theory has different characteristics in understanding society because the originator has a paradigm that is not always the same. However, because theory is a tool the truth of the contents of a theory can still be debated, refuted, quarreled, and possibly refined based on the latest research results. Some theories used in the discussion of this paper are as follows:

1) Anomie theory

The theory of anomie was put forward by the French sociologist Emile Durkheim and Robert Merton. Durkheim's opinion was put forward earlier than Merton. Durkheim uses the term *anomie* to refer to a condition that is experiencing de-regulation (Hardianto & Qamar, 2018). According to him, rapid and tense social change in society has a great influence on all groups and communities. The main values and values that have been accepted by the community are blurred and even disappear. These conditions encourage the uncertainty of norms and even the absence of norms.

The state of deregulation is defined as a condition where non-observance of the rules that exist in society, and community members do not know about what is expected by others. This situation is considered as the cause of deviant behavior.

Robert Merton further revealed that deviant behavior is considered as an abnormal behavior because the behavior originates in individuals (Hardianto & Qamar, 2018). Deviant behavior arises because there are a number of people who feel the gap between the ideals owned by the means available to achieve these goals (Hardianto & Qamar, 2018).

In every practice, not everyone can use the available means to achieve goals. Because of this, many people impose their will to achieve their goals, even though the method used is against the law. The way to achieve goals that violate this is called crime. The discrepancy between the facts and the delusion results in tension and frustration which in turn will cause a psycho-physical response to the individual and ends with violence or resistance. People who suddenly get more wealth than they ever dreamed have a tendency to believe that nothing is impossible.

According to Emile, anomie theory consists of three perspectives, namely:

- a. Humans are social creatures
- b. The existence of humans as social creatures

c. Humans tend to live in society and their very existence depends on the community as a colony.

2) Theory of Social Control

John Hagan asserted that social control theory departs from the assumption that every individual in society has an equal chance of becoming someone who violates the law or obeys the law. The social control theory poses a fundamental question as to why not everyone violates the law or why there are people who obey the law (Hardianto & Qamar, 2018). According to social control theory, humans have the freedom to act, and the determinant of a person's behavior is social bonds that have formed. These social ties are interrelated between one community and another.

The behavior of a person who is good or bad depends entirely on the surrounding community. Everyone who is weak or even broken with social ties will tend to do bad behavior. This also happens if the social control institution experiences a decline in authority, both formal and informal control institutions. Statutory regulations made by the state in writing that function to regulate people's lives, are called formal control institutions. Informal social control institutions include unwritten laws whose validity is recognized by the community. However, informal means of control are sometimes more binding than means of control in the form of written law. This theory is too see that humans and every human can do evil if given the opportunity.

3) Labeling theory

Labeling is a definition that when given to someone will be the identity of that person and describes people with what type he is. By labeling someone, we tend to see him as a whole person, and not in his behavior one by one.

The nickname theory simply states only two things. First, people behave normally or not normally, deviate or not deviate, depending on how other people judge it. That judgment is determined by the categorization that is already attached to the thoughts of others. Everything that is considered not included in the categories that are considered standard by the community, will automatically be said to deviate.

Second, that assessment changes from time to time, so that people who say today are declared sick can be declared healthy (with the same symptoms) a few years later or vice versa. When someone gets a nickname that leads to crime or criminal behavior, then that person can be vigilant to see their negative side (for example people who are given the

nickname naughty, criminal, etc.). Labeling theory focuses more on understanding juvenile delinquency because this happens all the time when adolescents try to shape their identities.

In principle, social designation is formed by systematization (Ahmadi & Nur, 2005), as follows:

- 1) People can be seen in behaviors that are at risk of being labeled as perversion, delinquency, or crime
- 2) There are two types of behavioral deviations
 - Primary deviance, which assumes that everyone has the same opportunity to violate social norms and regulations with or without clear reasons.
 - Secondary deviance, i.e. after deviant behavior is carried out and labeled as a trouble maker or problem maker, then this nickname will stick and direct it to make more deviations (this is the focus of dubbing theory)
- 3) Secondary deviance is formed after the community / social care and be careful of the behavior of the first deviation
- 4) Only after the nickname is attached does the movement of criminal behavior actually increase.

The nickname theory is important, because this theory departs from the assumption that no action is intrinsically criminal. The definition of crime is determined by the ruling party, through the formulation of law and interpretation by the police, the court, and penal institutions. According to this theory, the labeling process is so powerful that victims of this mistaken definition cannot withstand its influence. Although, at first it was against their will. The impact of this nickname is more severe, especially for people who are in a weak position. In other words, this theory states that how self-identity and behavior are influenced or created by social systems.

In sociology and criminology, this theory focuses on linguistic tendencies which the majority have a negative label rather than the actual state or like a deviation from the norm and this is related to self-concept. In a sociological view, labeling relates to someone who is then labeled as having little chance of confirming the true meaning of the assessment (Ahmadi & Nur, 2005).

In summary, John Hamlin states that the basic assumptions of dub theory (Ahmadi & Nur, 2005), can be written as follows:

- 1) It is the application of the symbolic interaction theory of George Herbert Mead that focuses on deviant behavior and the processes of social

audiences that create deviations and deviations (deviant people) which cause it to behave as labeled by the community.

- 2) Is a process of transfer and take place between behavior and actors, labels are easily transferred from one to another
- 3) Labels relate to how norms and behavior are formed, but the relationship is broken easily
- 4) Is a theory that changes a person's identity, by changing his primary behavior into secondary behavior
- 5) Not everyone getting a label will have the same impact. Some people might like it, but others don't.
- 6) There are dangerous consequences for abduction victims
- 7) Nickname theory does not specify what nickname is given first, but how it survives with the nickname given.

According to Becker and Lemert, there are four basic elements of nickname (Ahmadi & Nur, 2005), namely:

- 1) Social labels are given on certain behaviors
Social conditions create norms and rules that require every individual to follow them, and if they do not follow it will be defined as abnormal behavior.
- 2) Crime is mostly caused by social regulations
When regulations are considered as something that must be obeyed, it will depend on the moral significance of the community. For example, free sex.
- 3) Social control exacerbates criminal problems
- 4) The existence of interconnected power between people who are given the nickname given.

Nickname theory sees that sometimes humans are helpless victims of interpretations or labels given by others in such a way that their social identity can be forced upon them even if it is against their will. Observations or cases of ex-convicts in our country show that the nickname given by the community to the former resulted in some of the ex-convicts internalizing the nickname so that it became part of their self-image and awareness.

E. Punk in Indonesia and Criminological Actions

In the history of punk kids in Indonesia and related to criminal acts by punk kids, we got information from UIN Semarang students who are still active with their punk community. According to the SQ guest speaker UIN Walisongo Semarang

who is still active in the punk community, he believes that "in the country where punk was born, Britain, Punk was a form of British youth's disappointment with the political situation and conditions in the 1970s. They come from working class youths, such as workers who feel disappointed with the moral decline of the government and the mainstream cultural community and also the prolonged economic slump. but when punk enters the State of Indonesia it is misunderstood and the punk community in Indonesia is not in accordance with the principles of punk. One of the principles of punk is DIY (Do It Yourself) or be yourself, "

The rejection that they often experience because of their lifestyles and mindset that is considered unusual by the mainstream groups finally punker made their own ethics of living, namely DIY (Do-ItYourself). DIY emphasized that punker does not need anyone to be able to survive. But Punk ideology quickly spread by using DIY ethics. Punker spreads his ideology and ideas including music and fashion.

Moore and Roberts's study was carried out using a historical-comparative methodology with primary and secondary sources including ethnographic data and other archival material from other studies of the punk subculture. The Moore and Roberts Study examined three different cases in which the DIY subculture was involved in the political agenda at the time: Rock Against Racism, the "hardcore" movement, and "riot grrrl". Once the bastards stick to political agendas they use DIY ethics to enhance subcultural relations ideally. Rock Against Racism is a movement where bastards discuss the idea of anti-racism, while the "hardcore" movement is a rebellion against President Reagan's actions. The "riot grrrl" movement is a way for women to create networks with other individuals who share their feminism beliefs. In their analysis, Moore and Roberts discuss how the punk subculture as a whole is shaped by music and general similarities. individual larity involved. Once punk decides to voice their political views, they look to DIY ethics to share their views with other punks. They may publish their political views on fanzines that are distributed to other punk collectives. The global network involved in sub-structuralism depends on each other to support tour bands who travel to play scenes around the world.

The birth of the punk community in terms of criminology occurred in accordance with Anomi's theory. According to Robert T Merton, the

anomie theory initially described the delinquency behavior with certain stages in the social structure that would give rise to, give birth to and grow a condition against a violation of community norms which was a normal reaction. For this reason, there are two elements underlying the formation of punk in terms of social and cultural structure. Concretely, the element of culture gave birth to goals and the structural element gave birth to means. Goals are defined as human goals and means are defined as rules and ways of control that are institutionalized and accepted as a means of achieving goals.

According to SQ, punk and criminal have to divide punk children into 3 categories from an economic perspective. (1) First is lower class punk, second is middle class punk and third is upper class punk. Lower-class punks who are less economic than having to take to the streets to make a living. They joined our community because initially from the problem of broken home, looking for freedom and some who just wanted to play. (2) Furthermore, the middle class, namely people who enter punk because they are depressed by the rules of their parents until they want to seek freedom and enter punk. And there they felt many things when they joined punk. (3) And finally the upper class punk is a collection of punk kids who are economically rich, perhaps the majority of people who belonged but lacked affection from parents and finally sought refuge in the punk community. And related to SQ crime revealed that not all who commit crimes are punk. But in reality, there are many media that label that punk is the culprit while we have our own principles and punk's aim to fight against government injustice. But it cannot be denied that punk children from the lower classes committed criminal acts because of economic pressure. It must be stressed that punk children have their own goals and principles to eradicate the injustice of the government. There is resistance because of injustice. the formation of punk culture as a counter-culture is based on 4 main elements; music, fashion, community and thought; the spread of punk culture in Indonesia through the four elements. And that's the way punk kids put up a fight against the government. It should be underlined that actually punk children are not all economically poor, but the majority of punk children are victims of government discretion. And the fight arose until finally causing a criminal act because of some pressure.

Why do punk kids commit crimes? In the past, punk kids shrieked in dressing because they

used principles only because they were against the government through songs (metal, punk reggae, etc.). before it can still be distinguished punk kids or not. And if now it's hard to tell which real punk kid isn't. In fact, according to the media, punk children commit crimes, but those who do are not punks, but every mistake is seen by punks who commit them. In terms of idealism, punk children are superior to others, and now our resistance is through resistance music. And we can be sure that today there are many who are not pure punk because they have been contaminated with others who are not real pure punk and who triggered criminality because punk is considered inferior in terms of humanity. down on the streets. And the fading of the principles of punk kids is also what we can call the things that trigger crime against punk community.

SQ added that related to the case of an unjust government, punk children used the principle of nihilism which means they did not believe in injustice, which means that when there is injustice, a resistance is born. Punk talks about freedom, self-control without norms that ensnare, many people who think that punk children are none other than thugs, drunkards, trash for the community and so on but they are wrong punk has its own community that is anti-oppression, anti-restraint and anti-establishment but there are also many kids who claim to be punk without knowing what punk really means. Punk is not just music, not just fashion but punk is a lifestyle that has its own idealism. Punk's journey is not without purpose, with its existence proven to be small but still meaningful. Although it is known that there are general characteristics, it does not mean that punk children are sloppy young people, rubbish to the community. In their lives they still have diversity because of differences in family backgrounds, length of time in the streets, neighborhood, choices, jobs, relationships and parenting patterns.

Factors underlying today's young people follow the flow of punk, among others, the environment and conditions of family residence much influence on the problem of delinquency so that children often skip school. Then the social and economic conditions of parents also influence, for example those in the poverty line and the inability of parents to establish good ties with their children (Haryanto, 2012).

Children become punk children who take to the streets in addition to looking for freedom, hanging out, the influence of friends, seeking calm

due to violence in the family, frustration in their lives and to meet daily needs such as eating, sleeping and looking for shelter. They decided to live on the road to avoid problems, but from the observation data collection in Ngaliyan it is not uncommon on the road that they sometimes get bigger problems. The figure of punk kids popping up in the city, be it in the storefronts, at the station, terminal, market, roadside, tourist attractions.

Punk fashion is a manifestation of their motto. They express themselves in a way that is extraordinary different from the others. Their appearance is far more shocking and frighten people around them. Identical to their style with inappropriate objects such as pins, plastic clothes clips, television components, razors, tampons that are the usual accessories for punk kids and sometimes they even smear blood on brand T-shirts and their hair dyed with spike style , Mohawk, bihawk and quarter.

The reason punk has their own fashion to represent resistance to the upper (middle) class. In communicating the resistance, punk children use attributes that conflict with those of the upper classes. For example the use of boots that represent the workers; high-value metal-based accessories differ from high-grade metal-based accessories; tight and torn jeans as a form of rebellion against the bourgeois dapper style; and spike and mowhak haircuts imitating the hairstyles of ancient Indian Mohican tribes as a representation of resistance to dominant power (Haryanto, 2012), in this case entering into the labeling theory which explains why and how certain people are given a distinctive stamp or label, giving influence as a consequence of a perversion of behavior. Labeling theory is related to the style or fashion of punk as their label and applies aspects of labeling theory that people become criminals not because they break the law but because it is determined by the ruling authority.

F. Crimes Committed by Punk Community

Crime and crime have become its own social problems for almost the entire world community. Moreover, at this time the rampant cases of crime that occurred where the culprit is a child. the development of the crime lately not a few children involved in crime. Lately we often see and hear the mass media incessantly preaching various kinds of crimes committed by children.

In Indonesia, there are several types of child crime that are associated with parents' negligence in conducting care. If negligence is

found, then the parent will take responsibility for the crime committed by the child in a criminal way. According to Caspi and Molfit's research (2001 in Davies, Hollin and Bull, 2004) the behavior of child crime from small crimes such as stealing to serious crimes such as murder has emerged from childhood but will reach its peak in adolescence, namely vulnerable age 16-18 years . The United States Department of Justice in 2006 also found that around 10 percent of the killings occurred were committed by juvenile offenders (Ihsan, 2016).

The life of a punk is known to be hard and full of various exploits. We can liken a punk child like a human figure like a wolf who always preys on other humans easily found in street life. The streets are like wilderness that enforces the law of the jungle, who is strong he will be the winner. So, when children, especially punk children who in normal life are still marginalized, right enter the world of punk. Punk community is one community that is very tasteful. Bad experiences that are often heard have been experienced, making punk children are required to connect their creativity which is not only getting money to finance his life but also in an effort to protect himself from various threats that exist. When the danger is threatening, any action will be lawful for him.

From the information from the initials AL, who is domiciled in Jakarta and migrated to Semarang due to a big fight between parents and children. From the information of a guest who lives and makes a living on the road explains that the occurrence of criminal acts committed by children on the street due to economic pressure. Criminal acts committed such as begging, stabbing and theft or pickpocketing. What is meant by economic pressure is when a psychic situation forces to commit criminal acts and the coffers of money generated by the job of guarding parking are insufficient as a result turn to things that hurt others and lead to murder. The action was not carried out as often as possible, only done when the circumstances were urgent and together with his friends. The majority of those who go down the street do not have a house for shelter (nomadic)

Not only criminal acts committed. The violations committed with his friends such as Dosping namely taking illegal drugs that should not be intended for human consumption without doctor's advice, and also drink containing alcohol. As a result of the influence of alcohol can trigger fights with his opponent. This is very dangerous can take lives.

Street life turns out to be not as bad as one might imagine, among a group of punk kids often identified with liquor, drugs, free sex. There is still a speck of light that gives hope that propaganda among those who are considered marginalized is still there and might be done. Sometimes they feel they do not have God as their creator because they do not want their lives to be regulated, there are also those who feel that they still have God even though sometimes they have never done any obligation as a Muslim. Those punk kids still believe in God as the creator and still feel religious even though the punk kids perform their duties like prayer only sometimes because everyone has their own character and personality.

Besides the criminal acts of punk children, there are also actions to show the concern of punk children towards social inequalities that occur in society. One example in Semarang is the punk community which established the Satriots Community with the Muslim Punk label as an effort to improve human resources in the community. The life of a punk who is known by the community as a community that doesn't care about people's lives is not as bad as imagined. The public's view of punk community is still bad.

So powerful in declaring violence in the Criminal Code one of which is street crime such as theft, extortion, rape, torture, acts of violence against people or goods, drunk behavior in public, which certainly can disturb public order and cause unrest in community (Fadlina, 2014).

According to the informant, he admitted that committing a crime was due to economic pressure and was spiked with revenge for words with his friend plus the influence of alcohol and drugs. He added that during the crime he did not take casualties. The average punk kid who committed a crime with him ranged from 13-20 years. The motive for joining a punk child is to look for attention to the imbalance that occurs between parent and child. Those who commit crimes are one of the victims of criminal acts in their area, the factor triggers the birth of the evil nature that exists in children. Criminologically based on sociological crime is a pattern of behavior that is detrimental to society or in other words there are victims and a pattern of behavior that gets social reactions from the community. These social reactions can be formal, informal, and non-formal reactions.

One of the most troubling forms of crime is theft. Imagine, this type of crime when viewed in terms of quantity is the type of crime that is most

often encountered. If viewed in terms of quality, theft has increased in quality. This can be seen from the variations in the mode carried out by the thieves. Variation of theft developed with the times and technology. The perpetrators are good at utilizing technological sophistication even though there are still perpetrators of theft who use the conventional mode to launch the action. As it is known in crime cases there are always victims, where the victims are those who have suffered physical or psychological losses, property, and life salvation. The most common thing is that the victim feels trauma and fear after experiencing a crime where this greatly affects his psychological condition. Not a few also the victims took their revenge by following the perpetrators' behavior. In accordance with the acknowledgment from the AL sources that those who committed a criminal act were those from criminal victims.

The trauma, worry and fear experienced by victims of crime are a common psychological impact. This certainly greatly affects the welfare of life or well-being victims. Well-being can refer to many meanings such as pleasure, life satisfaction, positive emotions, meaningful life or feeling meaningfulness (Wildani, 2014). According to Ryan and Deci (in Wildani, 2014) there are two approaches in explaining well-being, psychological and subjective. Where the psychological concept of viewing well-being is not only as pleasure, but also the realization of the potential of an individual in identifying who he really is while the subjective concept of looking at well-being is composed of subjective happiness and focusing on the individual's experience. Where the concept of subjective well-being emphasizes more pleasant and unpleasant experiences obtained from an individual's assessment of the experiences that occur in his life (Wildani, 2014; Nathania, 2017).

In Indonesia, there are several laws and regulations governing children, for example Law No. 11 of 2012 concerning the Criminal Justice System for Children, Law Number 4 concerning Child Welfare, Law Number 39 of 1999 concerning Human Rights, Law Number 23 of 2002 concerning Child Protection and various other regulations relating to the problem of children (Ihsan, 2016).

The definition of a child based on Article 1 point 1 of Law Number 23 of 2002 concerning Child Protection is: "A child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb." While based on Article 1

paragraph (3) of Law no. 11 of 2012 concerning the Juvenile Criminal Justice System also describes children in conflict with the law, namely: "Children in conflict with the Law, hereinafter referred to as Children, are children who are 12 (twelve) years old, but not yet 18 (eighteen) years old who is suspected of committing a crime. "

The next criminal offense committed by punk children from the lower to middle class phenomena of begal or robbery in the street and become very popular in the community. Citizens are troubled by the actions of gang members accompanied by violence and sharp weapons. This action became a frightening specter on the streets for all Indonesian people. Not only occurs in the suburbs, but this phenomenon is like snowfall, becoming an acute phenomenon that has been troubling people in various regions in Indonesia. Starting from Sabang to Merauke. Today's adolescent behavior is increasingly contrary to the norms prevailing in Indonesia. With the rapid development of technology, followed by a lot of misuse of the technology for negative things. According to the SQ informant, this is not in accordance with the principle of punk children who stand for injustice committed by the government. But because of the lack of work and the high necessities of life the way a criminal action becomes the most effective solution. From the point of view of Anomie's theory, namely having desires to be fulfilled their needs so as to justify all means to carry out all actions with a record that their needs are met. Anarchist begal groups are social structures formed informally created by communication between members.

G. Factors underlying the Criminological Actions of Punk Community

According to the resource person with the initials AT the factors behind the occurrence of criminal acts committed by the lower middle-class punk community namely: The influence of drugs and alcohol, High unemployment. Perpetrators of crime victims. Theories of crime according to Nature (in Sohopi, 2014) there are several theories underlying the occurrence of crime.

First, labeling theory. Give a label or stamp to someone who often commits a crime as a result of the community's reaction to the action taken. Second, cultural deviance theories (cultural deviance theories). This theory of cultural deviation focuses on the social forces that cause people to carry out criminal activities. Cultural deviance

theories are further divided into two, namely social disorganization theory which focuses on the development of areas with high crime rates and is associated with the disintegration of conventional values caused by rapid industrialization, increased immigration, and urbanization and different association theories which are individual approach to a person in the life of his community, because his experiences grow into villains These individuals or groups of individuals are sure and conscious of doing unlawful acts. With the reduced sense of solidarity of citizens living in urban areas and the still many cases of crime that occurred in Jakarta shows that there are factors of cultural deviation, namely social disorganization theory. Crimes occur due to changes in values due to the rapid industrialization process

Third, economic factor theory. A low economy tends to make individuals commit crimes (Sohopi, 2014). According to the first subject the economic level of urban society is more difficult to find work especially, to make a living

"We are very difficult here to get a job, just working as a parker is already grateful than not at all. We are doing things that are clearly violating the law because we are forced to because of guarding this parking is not enough to make a living."

According to SQ sources, today's criminal acts committed by punk children are not a reflection of the noble principles of punk, but a contraction from the influence of other communities. In answering: why a child commits a crime, what is found is not a single factor but several factors which together cause child crime, both internal and external factors. In the internal context, what influences a child's crime is personality, self-concept, social adjustment, developmental tasks and low problem-solving ability. While external factors are how the family environment such as parenting, school environment and peer environment affect children. According to Tutus Kusniyah the factors behind the occurrence of criminal acts:

A. Internal Factors

When discussing the problem of delinquency or criminal actions committed by children, the thing to know is what is the background or factors that cause children to commit criminal acts. Internal factors that influence delinquency behavior by children, are aspects of personality that originate from within the child such

as low self-concept (Yulianto, 2009), social adjustment and low problem solving abilities, excessive attitudes and low self-control. The concept of self is how individuals perceive themselves including physical aspects and psychological aspects. The physical aspect is how the individual views his body condition and appearance. While the psychological aspect is how the individual views his abilities, self-esteem and self-confidence of the individual.

In this condition, the psychological condition of children during adolescence has characteristics that are unstable, difficult to control, fight and rebel, have a high curiosity, are aggressive, are easily aroused and have high loyalty. As explained above, that the first environment of a child is a family environment, when stepping on adolescence, the child begins to recognize and interact with the environment other than the family environment. In this situation, children tend to compare conditions in the family environment, the school environment, the environment of their peers or even the social environment in which each of these environments has different conditions. Differences in various environmental conditions cause adolescents to experience confusion and find out and try to adapt to be accepted by the community (Sarwono, 2013). At the time of experiencing the multiple conditions, adolescent psychological conditions are still unstable, so that it can lead to delinquency and criminal behavior committed by adolescents.

B. External Factors

The big external factor influencing children with crime is the family in this case the condition of the family environment. The condition of the family environment during the development of children and adolescents has long been considered to have a relationship with the emergence of antisocial behavior and crime committed by adolescents. Several studies on the development of delinquency and criminality in adolescents, found that crime is caused by the experience of poor parenting. The third pattern of parenting for children, namely authoritarian, permissive and uninvolved parenting causes a child to behave anti socially.

When children experience poor, abusive, neglected care and there is violence in the family when the child is in the early development of children, then the child will have low self-esteem, will also develop such violent behavior in siblings

and also develop antisocial behavior . Then when children start entering the school environment, children with low self-esteem will get isolation from their peers and experience difficulties in school, play truant, and experience failure in academic activities at school. The children then develop into adolescents who have a tendency to associate in gangs, and deviant peer groups, as well as self-direction in violence, because they think that peers can accept their conditions.

As they grow older, they will continue violent behavior, acceptance and violence in personal relationships, and continue in the cycle of violence when they get married and adopt a parenting style that contains elements of violence on their children. So that their children will develop into individuals who commit delinquency and criminal acts. This is similar to research that shows that aggressive behavior or aggression has a genetic contribution or is inherited by parents in their children, especially in antisocial behavior. Poor family relationships between parents and children are also genetic or inherited. The mechanism of development of antisocial behavior above is in the form of a cycle, so that acts of violence or improper care by parents will form a chain of development cycles that cause children to commit violent behavior or even criminal acts.

Conclusion

This research concludes that crime itself means an action that violates the legal norms (criminal law), harmful behavior, behavior that causes victims. according to criminology in Indonesia, crime is seen as behavior that has been decided by the court, behavior that needs to be criminalized, population of detained perpetrators, acts that violate the norms, actions that get social reactions. The crime committed by punk children is caused by various factors, especially from family, education and economic factors. For the family itself, it is best to educate children as well as possible so as not to break the home destroying the child's future. Government institutions should provide wider employment opportunities for small communities so as to reduce the risk of criminal activities committed by the community. And for people, don't always judge and label someone bad from their appearance because what was good can turn bad because of labeling.

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Issue: Law, Democracy and Crime: How Society Responds the Imbalance?

Research Article

Behavior Motives and Legal Study of Commercial Sex Workers Around Pemalang District Terminal Area

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Abstract: Prostitution comes from the word *prostitutio* which means things to place, confront, offer. There are also other articles selling, peddling, but generally interpreted as surrender to many people by getting a reward for fulfilling that section of the person. Prostitution or prostitution is a serious problem and needs improvements that need to improve society, this disease develops very rapidly in the community. In addition to the social forms of social norms, prostitution is also a form of immorality in any religion that is not permitted and rejected. Although prostitution is issued in religion or law, many of these prostitution practices occur in Indonesia. Prostitution is a lucrative and promising business place for so many people to believe in their pride. It is necessary to establish a new criminal law legislation to provide legal attention to the imposition of sanctions aimed at commercial sex workers and users of services. Because the criminal law currently in force in Indonesia is considered not in accordance with the current state of Indonesia.

Keywords: Commercial Sex Workers, Prostitution, Behaviour, Legal Study, Crime

Introduction

In social life there will always be social problems that continue to develop along with the times, especially those related to prostitution or prostitution. Prostitution is etymologically derived from the word *prostitutio* which means placing, confronting, offering. There are also other meanings of selling, peddling, but in general are endowed as surrender to many kinds of people by getting retribution for sexual gratification of that person. So Prostitution is an activity where there are identifiable provisions, namely the exchange between money and sex. Prostitution is contrary to the sociological definition of crime (Sociological

Definition of Crimes), because it is categorized as an evil act that contradicts and violates norms in social life because it is not only prohibited by legal norms and religious norms, but also contrary to (norms) morality in every human conscience (Anindia, 2019). Sutherland is of the opinion that criminal acts are violations of criminal law, not to blame the degree of decency, reproach or dishonesty of all acts not a crime that is prohibited by criminal law.

Human trafficking is a problem that we have heard all too often. Trafficking in persons is not a new problem but a problem that often occurs especially in developing countries. One form of human trafficking we often are prostitution or prostitution. Prostitution is a form of prostitution

which is related to decency and is against social norms. Usually women and children become victims of trafficking. Many acts of prostitution are spread in the community. Prostitution or prostitution is a serious problem and prevention efforts are needed as well as improvement because the disease of this community develops very quickly in the community. In addition to prostitution is a form of deviation from social norms, prostitution is also a form of immoral behavior which in any religious teaching is strictly prohibited and prohibited. Although prostitution is prohibited in religion or law, many of these prostitution practices occur in Indonesia. Prostitution is a lucrative and promising business venue so that many people sell their pride.

In practice this prostitution is carried out clandestinely or openly. Forms of prostitution carried out openly and organized are usually held in various forms, some are centered on an area or place that is deliberately made as a place of localization. This localization began in the 1970s with a rationale for applying discipline and control of prostitution (Patnani, 1999). In addition, commercial sex workers are expected that with the localization they will not carry out illegal operations in various places, but there are many pros and cons to this localization. In addition to prostitution which is carried out openly, there is also the practice of prostitution which is carried out by stealing both individuals and organizations. There are home-based prostitution which are self-managed and some are in the form of entertainment places like karaoke but provide prostitution services.

In general, the cause of trafficking in persons is due to difficult economic problems and the low level of education of a person (Nuraeny, 2013). Prostitution or prostitution is an act of selling sexual services with the aim of earning short money. Someone is trapped into the night world so as to become a prostitute solely not because of their own desires, but sometimes there are also deliberately plunged by elements with personal interests. We can refer to this person as a pimp. A pimp is someone who distributes the services of prostitutes or who we are now familiarly known as commercial sex workers (CSWs). The pimps are tasked with finding commercial sex workers for customers who want to use their services and then get a part of the transaction received by the commercial sex workers.

Prostitution is a form of crime that is difficult to be eliminated because many are supported by various factors such as economic factors in meeting the needs of daily life. This desire is caused by the result of human biology. Someone doing work as a commercial sex worker is driven by a state of limited economic factors, so a person plunges into the world of prostitution to meet personal needs and the needs of his family. Commercial sex workers do not know any other way to be able to maintain their lives apart from doing the work of being a commercial sex worker. This form of prostitution or prostitution is seen as a disease of society that has a long history and is considered as a form of deviation from marriage. At present there are still many practices of prostitution in various regions in Indonesia. This is considered as if the government allowed and legalized the practice of prostitution and was seen as something natural.

Commence and Soedjono provide the meaning of prostitution as one of the acts in which a woman trades or sells her body with the aim of obtaining payments from men who come to pay her and the woman has no other livelihood in her life unless obtained by having a relatively short relationship with many men (Godwin, 2012). When viewed from the aspect of education, prostitution is an activity to reduce one's morale or what is called demoralization. Viewed from the economic aspects of prostitution is considered as a form of labor extortion. Health prostitution activities have a very serious impact given that transmission of venereal diseases such as HIV / AIDS due to frequent changes in partners. This venereal disease is very dangerous because there is no antiseptic that can cure the disease. HIV / AIDS leads to the death of someone who suffers. This disease can be transmitted through bodily relations between commercial sex workers and lovers of prostitute services. Prostitution can also lead to various crimes committed by commercial sex workers and connoisseurs of his services.

Prostitution or prostitution is a problem that is very difficult to handle considering that in the Criminal Code (KUHP) there is not a single article that regulates prostitution. Prostitution is also difficult to say as a crime because there are no victims of crime. According to criminology, prostitution or prostitution can be called a victimless crime (all victims who have a role and are involved in prostitution) no one is harmed either lovers of prostitution services, commercial sex offenders and pimps (Alam, 1984). If we look at the

Criminal Code Article 296 and Article 506 the offense is not directed at the woman, but rather at the owners of brothels, the pimps. These articles are very difficult to apply to commercial sex workers and connoisseurs of prostitute services. Although the application is difficult for prostitutes and commercial sex workers, enforcement still must be carried out firmly by law enforcement officials. The community also has an important role in efforts to help eradicate the problem of prostitution that is increasingly prevalent.

Sex itself becomes a commodity which is contested in society, there are groups of people who describe it as a right of life that should be enjoyed by not contradicting how to use the interests of sexuality rather than for the public interest by way of trading it. The long debate in understanding sex from various perspectives that distinguishes the viewpoint of community groups, let alone transport sex commercialization as a social phenomenon that exists in our midst as it is today. Sex is not a taboo when placed in an actual place, according to religious rules, customs and social values that are the traditions of society.

When sex is traded like commodities such as goods and services on the market, there is a deviation and intersection between various perspectives of the public and usually the sharp focus of society is the commercialization of female sex. Until the term for them is known as Commercial Sex Workers (CSWs). Through efforts to sell and buy bodies, through selling and guaranteeing sexual satisfaction they offer. The goal is to get money easily for reasons that try to justify their actions. In this case, when sex is traded, it cannot be separated from a network that always coordinates Commercial Sex Workers (CSWs). A social reality that exists in community groups and becomes an exciting scene through efforts to recognize and search for self-identity as a profession of commercialization, as a job occupied by CSWs. There are groups of people who hate them, but not a few who adore him as peddlers sexually fulfilling for a moment. Even the commodities of sexuality create jobs by offering benefits and meeting the needs of life at large. Especially for businessman and entertainment enthusiasts and those who depend on the income in it. The human element, with human feelings and instincts, has become an inner contradiction for CSWs, women who are good in the categorization of society will certainly not be able to carry out and

play the role of life as CSWs who try to ignore their feelings.

In carrying out their activities, each actor has their respective roles. A pimp in their search for prostitutes will give information to one another in their profession. A pimp will supervise several areas that have become part of his jurisdiction to find a prostitute and each pimp also instills a trusted person to find a prostitute. Pimps are responsible for and management of all prostitution business activities to the security level of cooperation, namely individual officers, in short they are security coordinators who must secure prostitution business activities from the interference of local law enforcement officers. Forms of prostitution such as the practice of selling sexual services are considered as a disease of society that has a long history, even considered as one form of deviation from the norms of a sacred marriage. However, the development of the practice of prostitution cannot be separated from the cultural values of the people in omission that provide opportunities for this practice to continue to develop from time to time

New criminal law regulations need to be established to provide legal attention to the imposition of sanctions aimed at commercial sex workers and users of their services. Because the criminal law laws that are now in force in Indonesia are considered to be incompatible with Indonesia's current situation. Criminal law law is the result of the legacy of Dutch colonialism from ancient times, of course the law is no longer in accordance with the current situation that is increasingly complex all aspects of the existing problems. If we look back at Article 296 with Article 506 of the Indonesian Criminal Code, it is not aimed at commercial sex workers but is aimed at their pimps. In the Criminal Code, prostitution is categorized as an offense against a criminal offense. Other legislation that can be used to ensnare the practice of prostitution is Law Number 21 of 2007 concerning Trafficking in Persons which refers to the eradication of the crime of trafficking in persons which includes the practice of prostitution.

Method

The research approach used in this study is the sociological normative approach. This sociological approach is carried out by engaging directly in people's lives based on experiences and events that

are experienced directly by the community. In this case it is intended that the truth can be proven or can be felt with the five senses is not a fiction. This research is not only normative which is only focused on norms, but also social phenomena that are directly related to human behavior in the midst of community life that are interesting to study.

This type of research is another approach from examining law as an object of research. In the sense of law is not only seen as a discipline of perspective and applied but also as a legal reality. Basically, this research uses a case study in the form of community legal behavior and is manifested as real behavior as a social phenomenon that is unwritten and experienced by every community in the interaction between community members. The data generated in the study also did not contradict the positive law but was produced from the observation process at the location that was made the research. Sociological research is research that involves a reciprocal relationship between law and other social institutions. This research is non-doctrinal and empirical which means that the data obtained is based on data in the field. The sociological approach involves the steps of observation.

Result and Discussion

A. Prostitution in the Perspective of Anomic Theory

In an anomic theory put forward by Emile Durkheim, it is stated that anomaly or without norms are common conditions in society because of the failure of individuals to internalize community norms, inability to adapt changing norms or even conflicts within the norms themselves. The tendencies of urban society lead to changes in norms, confusion and slackening social control over individuals. The emergence of individualism and new lifestyles are emerging which give greater freedom but also increase the possibility for deviant behavior. In modern society characterized by restraints on weak individuals. Durkheim sees anomy in modern society as produced by individual aspirations and ambitions and the search for new pleasures and sensations that are out of reach even in prosperous times. The peak of anomy varies in two social conditions namely social integration and social deregulation.

In Durkheim's view, crime is not seen from the aspect of its intrinsic value but because the act

referred collectively is defined by the community as an act of crime. Evil develops in the direction of social conditions in every life of society, these social conditions or conditions cannot be avoided or negated with regard to evolution in the moral and legal fields. crime is seen as a functional aspect. Evil is a product of every existence of norms. Crime in this case is considered as a prerequisite for social change. Crimes are needed to drive change in people's lives. There is an important element in creating social solidarity which is an embodiment of collective consciousness. Shifting society from traditional to modern society is marked by anomic turmoil.

Social control theory has a different approach: this theory is based on an assumption that the motive for committing crime is part of humanity. As a consequence, social control theory tries to find answers why people don't commit crimes. Social control theories examine the ability of social groups and institutions to make their rules effective. The theories of strain and cultural deviation both assume that social class and criminal behavior are related, but differ in terms of the nature of the relationship. Adherents of strain theory assume that all members of society follow a set of cultural values, namely middle class cultural values. One of the most important cultural values is economic success. Because people from the lower classes do not have legitimate means to achieve this goal, they become frustrated and turn to using illegitimate means in the decision. Very different from that, cultural deviation theories claim that people from the lower classes have a different set of values, which tend to conflict with the values of the middle class. As a consequence, when lower class people follow their own value system, they may have violated conventional norms. If sorted according to Merton's theory of social tension, it refers to the anomic theory put forward by Durkheim. In modern society, traditional norms and standards become neglected without being replaced by new ones, resulting in the collapse of social norms that govern a person in behavior. Conditions without these rules are usually called anomies, conditions where there are no norms that apply and regulate people's behavior. The next stage that occurs due to anomy is the tension in the community. These tensions can lead to irregularities that arise due to economic imbalance and differences in opportunities that exist in society. So that in the end, both anomy and tension can lead to deviant

behavior in society as a form of adaptation carried out by the community (Rosyidah, 2018).

One way to study a society is by looking at its component parts in knowing how each relates to each other, our example looks at the structure of a society to see how it functions. If society is stable, then its parts operate smoothly, social arrangements function. Such a society is characterized by cohesion, cooperation, and agreement. However, if the component parts are arranged in a situation that endangers social order, the structure of the community is called dysfunctional (not functioning). Thus, the structuralist functionalist perspective was developed by Emile Durkheim before the end of the 19th century.

Durkheim believes that if a simple society develops towards a modern society and a city, then the intimacy needed to continue a set of common norms will decline. Groups are fragmented, and in the absence of a set of general rules, the actions and expectations of people in one sector may conflict with the actions and expectations of others. With unpredictability of behavior, the system will gradually collapse, and the community is in anomalous condition.

The best illustration of Durkheim's concept of anomie is in a discussion about suicide that occurred in his country, France, and not about crime. When Durkheim analyzed statistical data he found that suicide rates increased during sudden economic changes, both changes. That is great depression or unexpected prosperity. rapid change people suddenly crash into one way / way of life that is not known (unfamiliar). The rules that once guided behavior were no longer held. It is a difficult point to understand why under these circumstances (sudden economic downturn) suicide rates increase, but why do people also fall in their decisions like that when there is sudden prosperity? According to Durkheim the same factors have worked in both situations. It is not the amount of money that is there that causes it, but sudden change. People who suddenly get more wealth than they ever dreamed have a tendency to believe that nothing is impossible. Like Durkheim, Robert Merton links the problem of crime to anomie. But Merton's conception of anomie is somewhat different from the conception of anomie from Durkheim. The real problem, according to Merton, is not created by sudden social change but by social structure that offers the same goals to all members without providing equal means to achieve them. The lack of integration between what is demanded

by culture (which drives success) and what is permitted by the structure (which prevents it from achieving success), can cause norms to collapse because they are no longer effective in guiding behavior.

Merton borrowed the term "anomie" from Durkheim to explain the collapse of this norm system. Merton's concept of Anomie is different from what is used by Durkheim, who gives Anomie's limits as a condition without norms or without expectations (Normless). Typology. Merton's adaptation to Anomie is known as tension theory. This theory assumes that evil arises. As a result, if individuals cannot achieve their goals through legal channels or withdraw from social interaction because of their anger. Merton argues, that in every society there are certain goals that are inculcated to all citizens, to achieve these objectives there are means that can be used. Because in reality, not everyone can use the available facilities, resulting in uneven circumstances in the means and opportunities to achieve these goals.

In subsequent developments Merton no longer emphasizes the uneven distribution of available facilities, but rather emphasizes the differences in the structure of opportunity. According to Merton in every Society there is. Social structure in the form of classes and this causes differences in opportunities to achieve goals (Lower class) have a smaller chance of achieving goals when compared to those who have higher classes (Upper Class). This situation causes dissatisfaction, frustration and the emergence of irregularities among residents who do not have the opportunity to achieve these goals. This situation will lead to a situation where citizens no longer have strong ties to the means / opportunities available in the community. This situation is called anomie. Merton thematically directs people's attention to the actual situation in which a crisis occurs in a particular socio-cultural context. This surrounding context is analytically separated on aspects of cultural structure on the one hand, and aspects of social structure on the other. Here the cultural structure is defined as a set of organized normative values that govern general behavior for members of a particular community or group. Whereas social structure is a set of organized social relations in which members of the community or group are involved.

The crisis arises when cultural values governing the selection of objectives and tools are threatened because they are in a structured capacity.

Socially, community members are unable to act in accordance with these normative values. The above gap is then understood as the cause of anomie symptoms, which is a relative condition of norm blurring in a society. What happens is the damage or distortion in the cultural structure in regulating the general behavior of community members. Practical understanding, thus, refers to the presence of constraints in actual conditions such that resulting in the selection of goals and tools in accordance with the rules and normative values tends not to be interpreted or realized in the actions of the people concerned (Zain, 1992).

In view of the above discussion, social norms clearly forbid prostitution, and there is also a law on the practice of prostitution in terms of Juridical law in the Criminal Code (KUHP) that is they provide a means of intercourse (Article 296 of the Criminal Code), and they who sell women and men under the age to become prostitutes (Article 297 of the Criminal Code).

The world of health also shows and warns of the dangers of terrible venereal diseases such as HIV / AIDS due to prostitution in the community. That, the State of Indonesia has made a special law on pornography and porn-action, namely Law No. 44 of 2008 (Djubaedah, 2008).

As a result of the crush of economic conditions coupled with incompetence of the government in one of them curbing the mafia prostitution under the guise of labor distribution services, not a few people are forced to undergo this. The behavior of prostitution lately is increasingly prevalent in the Indonesian community, this is evident from the increasing number of abortions caused by sex outside marriage, localization of prostitution and condom giving and the availability of facilities, such as discotheques and accommodation places: hotels, motels villas and so forth (Malik, 2003).

According to the data obtained, it is estimated that 30% of prostitutes or commercial sex workers (CSWs) in Indonesia are lived by children under the age of 18 years. This was stated by Deputy for Child Protection at the State Ministry for Women's Empowerment Dr. Surjadi Soeparman MPH (Matabumi, 2016).

In the midst of efforts to realize the welfare of Indonesian children, we are faced with many problems of social welfare of children in recent years, even though it is difficult to obtain accurate and up-to-date data. The following is data on child prostitution in 2001, to be exact on March 1, the

number of refugees 1,081,341 people or 240,840 families spread in 20 Provinces in child prostitution areas, there were sexual exploitation of 40-70 thousand children under 18 years of age (MOSA, 2016).

Underage children or teenagers are children who are not old enough to do the work that adults do which is the same thing in this case among adolescents or minors who engage in commercial sex workers (CSWs). This is clearly a deviation of behavior or perversion in violation of the law committed by children caused by various factors including the development of globalization in the field of technology, communication, technology that is very fast, wrong parental guidance on them and the environment that makes the underage or teenagers want to do and style as they are. In addition, children who lack or do not receive love, care, guidance and guidance in the development of attitudes, behavior, self-adjustment and supervision from parents, guardians or foster parents will be easily dragged into the flow of social relationships and the environment is less healthy and detrimental personal development (Dirdjosisworo, 2006).

Basically, social and moral problems are the biggest problems of the traditional order and behavior of Indonesian people, which are still very thick with eastern culture. One of the problems that attracts attention in society lately is prostitution committed by minors. Prostitution as a social problem that is old but is always being discussed by people until now, no responsibility for victims is teenagers who are still innocent and easily influenced, while the rules contained in article 296 of the Criminal Code have not been explicit and clearly regulates prostitution itself because the article only focuses on providers or facilities that support the holding of prostitution. The business of prostitution never loses, considering the amount of profit gained from carrying out these activities. The size of the profit depends, among other things, on how the business manager packs his "merchandise".

It is not enough to stop there, they even with the courage to run tips to dredge money that is "trendy" to supply underage girls to satisfy the impotence of male fad. Many nightspots provide these underage girls to carry out direct sex transactions, due to the availability of legal and illegal facilities. Seeing the increase in the number of prostitution of minors in Indonesia, it is very difficult for the government to determine the sanctions that can be given to prostitutes under the age. Therefore from that, it takes the role of the

community and the relevant government parties to get involved directly in its handling. However, the effectiveness of the law must be in line with public compliance in general. Because on the other hand, the National Police of the Republic of Indonesia will also find it very difficult in the field in eradicating prostitution, both in the form of sanctions or in handling it without the support of the entire community, especially the handling of prostitution of minors. Therefore, relating to underage commercial sex workers or teenagers is a very serious problem. Collaboration between the closest people, the people around and the role of the community is needed, that is the community has the right to get the widest opportunity to play a role in protecting children, (Amendments to the Child Protection Act, Article 72 paragraph (1), RI Law No.35 of 2014), in tackling permasalahan this commercial sex work. The role of the community is carried out in accordance with applicable laws and regulations.

B. Characteristics of Prostitution

Sexual exploitation are those who are involved in prostitution, services or sex workers or become objects of pornographic activity caused by threats, coercion, kidnapping to be treated wrongly, being trafficked or being victims of fraud. The exploitation of prostitution of others is an activity to obtain money and other benefits from prostitution of others in prostitution or sexually (Farhana, 2010).

In more detail, Koendjoro mentioned that there were at least six external factors that caused why girls were involved in the portitalization business. First, due to the shifting of the concept of reproduction to the concept of reaction in sexual intercourse that causes children to be an outlet for satisfying sexual appetite for adults, secondly, the users of prostituted children's services have a kind of belief that sexual relations and children are considered to be of their youth and bring in certain hokkie (fortune). Third, for parents in certain areas, girls are considered as paddy or dhuiwit gedhe, fourth is peternelistic culture and male egoism that demands deviant sexual satisfaction; fifth, structural poverty can be found in the case of a homeless child giving birth to street children, which later will become prostitutes, envy, child prostitutes as a learning process. This case can be encountered in a child who becomes a prostitute because his parents are prostitutes on guard (Suyanto, 2010). Crime is defined as an act that

violates the law or that is prohibited by law. Understanding of this crime we find in laws, government regulations and others. However, the existing rules are limited in time and place, although we have clearly seen the goodness, namely the existence of a legal certainty, because that people will know what is evil and not evil (Saherodji, 1980).

Before discussing further about prostitution, it must first be understood what exactly is the meaning of prostitutes. Based on the Big Indonesian Dictionary (KBBI), the term prostitute says the basis of "lacur" which means poor, wretched, failed, unlucky, or not so. The word prostitute even has a bad meaning, prostitutes whore in prostitution places (Koenjoro, 2004).

Meanwhile, according to Tjahyono and Ashadi Siregar, the meaning of prostitution is the act or practice of a woman who is bitch, wild, naughty, violators of moral norms who want a man to have sexual relations with her by providing payment (Purnomo & Siregar, 1985).

Commence said that: Prostitution or prostitution is an act of a woman trading or selling her body which is done to get paid from the men who come, and the woman does not have any other income except for those obtained from intermittent communication with many people (Soedjono, 1977). In the Indonesian Criminal Code (KUHP) that applies currently regarding the term prostitute is not clearly regulated, only about those who seek benefits from others who run themselves as satisfying the desires of men with wages, known as Germo and regulated in Article 297 of the Criminal Code, namely: Trafficking of minors and men who are minors is threatened with imprisonment for a maximum of six years. Reekless distinguishes prostitutes for eight types (Bawengan, 1977), which is as follows:

- a. Professional Prostitutes, are those who carry out prostitution as a source of life with no other work. Sexual intercourse is carried out as a habit of making money or solely for mere gain;
- b. Occasional Prostitute, those who have certain jobs, but at any time use the opportunity for prostitution;
- c. One-man Prostitute, are those who sell themselves to a certain person and behave as a pet to get benefits and money in return;
- d. Promicuous adulteress, are those who have a husband but have relations with others;
- e. Adulteress with one man, adultery with someone, even though he himself has a husband,

- but entered into a secret relationship and not solely for the needs of money and profits;
- f. Promiscuous unattached, are those who are not married or those who have become widows, or those who are separated from their husbands, or those who have been divorced, have sexual relations with several people without collecting profits;
 - g. Unconventional, are women who enter an informal household and act as husband and wife, or those who have sexual relations before a legal marriage;
 - h. Doubtful, doubtful woman whether prostituting or committing adultery.

Prostitution activities are divided into two types (Ayu, 2011), namely:

- a. Registered prostitutes Generally they are localized in a certain area. Occupants should be checked periodically by a doctor or public health and safety officer. The culprit is overseen by the police in collaboration with social and health services. But the reality of this method is inefficient because of the fact there is no collaboration between prostitutes and health workers.
- b. Unregistered prostitution is not a localization Those who carry out prostitution in a dark - dark and illegal, both individually and in groups. His actions were not organized and the place was not certain. So that his health was greatly harmed.

When related to the activities of prostitutes or their activities that prevent prostitution, Reekless also stated four types of prostitutes (Bawengan, 1977), are as follows:

- a. Brothel Prostitute, their operation is carried out somewhere in the house, organized and awaits male customers to visit the place;
- b. Call-Girl Prostitute, where their operations are in hotels or apartments of regular residences. He was called by telephone or through intermediaries;
- c. Street or Public Prostitute, this type operates in the streets or public places and takes its customers to certain places. Usually they are freer than the first type because they are not organized, or are merely accompanied by those who are their bodyguards;
- d. Unorganized Professional Institution, where their operation is an apartment or flat that he lives alone. This type can be classified as upper level or usually carry out operations alone. The links used are for example taxi drivers or

selected people who know the ins and outs of getting a subscription.

C. Prostitution Motive around the Pemalang Terminal

Factors underlying the background as CSWs In the current era of globalization, it is one of the difficulties to get a job, and money to meet the needs of daily life, one of which is to work. However, to get the job we want is not as easy as turning the palm of the hand. Various kinds of requirements are put forward as well as intense competition more and more and if we do not have these requirements are said to fail in getting the job. So that many of them who have difficulty finding work, finally forced to work in the shadows, which is a job that deviates from the norms of society one of the cases is work in the field of prostitution.

In Indonesia, Prostitution activities are very common lately to be found, both in rural and urban areas. Like the place where our group visited, which is around the Pemalang district bus terminal where in this area there is a substitute place under the guise of a karaoke place. After we look directly into the field and explore or explain this phenomenon. It is known according to the informants which are the CSWs, in general, they plunged into CSWs starting from the background because their lives are completely lacking. The economic pressure forced them to work as CSWs, even though in the view of the community CSWs are jobs that deviate from social norms, they do not care much about it.

In addition to economic factors, there are several other factors that make them sex workers, including some who have been victims of rape so they feel depressed and no longer care about maintaining their dignity. Then on the other hand there are CSWs who become victims of human trafficking, initially in their home regions, they are promised jobs, to be employed outside the city with lucrative income, but in reality they are instead turned into CSWs by pimps or people who once offered work . Because they have already jumped into the world of prostitutes and get good money, finally they do not care about the initial goal, they think this is still better than having to be unemployed at home which will certainly always bother parents.

Besides that, to start engaging in the world of prostitution, they also have different ways and processes. Some initially joined friends, but some also sought out information on CSW themselves.

Most of them prostitutes came from outside the area where they had also previously hung elsewhere. Because their place of substitution has been evicted by the local government, they finally split up to find other substitutes that are still operating, including the place we studied, which is around the Pemalang district terminal. From a number of commercial sex workers here, it is known that on average they have already been married so that the age of commercial sex workers is around 25-50 years old.

The location of the Terminal right on the edge of the main road north coast, is a reason for the CSWs to hang out in the place, besides being crowded because it is possible to be visited by many people also based on the recognition of one of the CSWs namely MM "This place is nice, free so if you want to stay just standing on the side of the road or just sitting in small stalls around the terminal, the local people are also not too concerned about our existence ". The background of why this constitutional place is still safe because there is interference from unscrupulous officers who help smooth out this constitutional activity. According to Mm's confession, the prostitutes here must pay dues every month or they know it as security money. So they are the officers of this apparatus who had previously received money from the prostitutes, they helped by leaking the suspect if there was a raid plan from the municipal police or other authorized government institutions.

Then in addition to the factor of the existence of these officers, on the other hand the majority of indigenous people have a small shop and room plots that are usually rented out to CSWs, of course this can benefit them economically so they actually tend to support the existence of this place where prostitution is substituted. Without pressure, without ties and far from the family residence this is the reason they chose a location in this region. The prostitutes are also just ordinary people who do not want their freedom to be governed by rules that can fetter or harm them. So that with the comfort they feel at the moment, it is feared that it will cause and arise new problems that will spawn new prostitutes who feel tempted because of a reasonable income, and besides that it will become a social disease for the surrounding community, because the existence of these CSWs will cause social upheaval especially impacting to the harmony of the household community. And the most fatal is about the problem of venereal diseases such as HIV/AIDS and so on.

So it can be concluded that related to the motive or background why the prostitutes do prostitution is, these factors include:

1. Economic Factors

The dominant factor that makes them work as a prostitute is because of economic factors. Operational economic factors are difficult to meet their daily needs because there are no jobs that generate enough money to meet their daily needs. As Mm said, One of them was where Mm was forced to work as a CSW because there were no jobs that could meet the daily needs of his family. This is in accordance with the admission of Mm who said: "Husband cheating and running away with other women, children also have to eat so they are forced to because of economic problems mas, to meet the needs of everyday life" The same thing was also expressed by Ds in short: "Get money to buy daily needs "Looking for money to meet daily needs is the reason they work as prostitutes. This is in accordance with what Soekanto said, saying that the cause of prostitution can be seen from its exogenous factors such as economic factors. Economic factors or pressures that make them plunge into prostitution are a consequence of the existence of structural poverty which becomes a naked reality before our eyes. This is the impact of a policy structure that does not favor them.

2. Difficult to find work

Every human being is given the freedom to choose the type of work in accordance with the ability and pleasure. But life in this world is not without limits. Even if we do not limit ourselves, we will get certain restrictions such as restrictions on the basis of social norms and religious norms. So from these limits there is work that seems to be within the limits of what can be done and some who are not allowed. When it comes to normative boundaries, the views on work will vary. However, in reality, despite the limitations there are still many people who choose to work as CSWs. A job that is controversial and full of problems. This is as expressed by Mm: "Yes, because there is no work, mas, what else can I do, now it's hard to find work, mas" a junior high school graduate like me. " Actually the problem of CSWs is a problem that is not entirely derived from the mistakes of CSWs, but sometimes sociologically the problem arises because one of the community institutions, namely in the economic sector, is not functioning properly. It is this dysfunction that will create imbalances in

the functioning of the institution which will spread to other fields. Coupled with the inequality of development that exists in society sometimes makes some people do not have the opportunity to improve life to a better level.

3. *Low Level of Education*

Education is a transformation of cultural heritage such as knowledge, values and skills, one of which is channeled through educational institutions. The role of education in the drama of life and the progress of humanity is increasingly important. This is due to the growing development of human civilization which also automatically develops life problems faced by humans. The high level of education a person takes will lead to the luck of a particular life compared to someone who only has a low level of education and is also supplemented with no special skills. This is the same as what happens with prostitutes. They are only poorly educated which makes it difficult for them to find work. As Mm said: "I only graduated from junior high school" The same thing was also expressed by Au who was also a junior high school graduate: "Wow, my education is low, bro. Only high schools cannot have high school and no money." profession. With a high level of education, people can freely choose the jobs and positions they want. But on the contrary, people with low levels of education as if they no longer have the opportunity or opportunity to be able to get the job they want. In addition to being poorly educated, the lack of special expertise possessed by commercial sex workers also renders them unable to find work as they should. With only capital they can afford to get the money they want without having to show a diploma what they have.

4. *Income Factor*

Becoming More Adequate CSWs to Meet the Needs The choice of working as a CSW does not just emerge but is based on a variety of considerations, one of which is due to the result of being more self-sufficient. This is evident from the average Commercial Sex Worker informant who has previously worked in another field. Like the testimony of the Mm, who said: "...it was very difficult to sell and join the person in the trade, but because they did not sell, I even lost money. I worked like this again" The income they get per day is not much between Rp. 250,000 - Rp. 450,000 can produce 3 million more. This was revealed by Ds who said: "You don't have to, at least 2500,000,

at most 450,000, sometimes." In terms of morals and instincts, a prostitute is also a human who needs food and something to survive. So there is no harm if they work using their bodies as capital, because that is all they have. However, selling themselves is one of the points of despair where there is no longer a way to make ends meet, but that also turns into dependency where they easily get rupiah for rupiah just by satisfying the passions of the johns and they themselves also feel satisfaction.

5. *Family factors*

In addition to the factors above, one of the factors that made CSW plunge into the black world was due to problems in the family. Problems faced in the family require them to work as CSWs. As the testimony of the Mm, which said: "I work like this, I have to do it because my husband has left me and the children, he left without saying goodbye, I don't know where, I heard about getting married again with other women, so yes I don't want to earn money. mas for my child, to buy food for my son who is still in school "Unlike the recognition of Ds, and Au who do not have a husband. They claimed they were forced to do this because of the demands of their parents, "instead of the *anganggur* mas at home, right with this I can help my parents mas, even though my parents actually do not know if I work like this".

From the perspective of labeling, the problem of poverty in this family is relative depending on how the interpretation of each person. Even though by using certain standards someone has been declared no longer poor, but he still feels in a poor condition if he is interpreted to still be in that condition. Departing from the word globalization, lifestyle and physical needs change. This is also the reason why a woman becomes a prostitute. The problem of CSWs in the community is increasingly growing. Many factors why a person goes through work as a prostitute. Whatever the factors and causes, people still have different perceptions or views about the work. Perception or view is an experience about objects, events or things that are obtained by concluding information and interpreting it through his eyesight, hearing or feeling. From the condition of different social backgrounds of the people, it is possible to get a picture of their views on the problem of CSWs that are in their area. From the information of several local residents, information was obtained that the presence of CSWPSK in their area was actually not

unknown to the residents. Almost all community members are aware of CSWs who use their area as a base.

This is according to Mr. Mt: "Yes, everyone in this area knows that there are women there, but I also never know the people directly" This was also confirmed by one of the informants, namely Ms. Ms who said that: "Yes, taulah mas" The area that had long been used as a base for CSWs would bring a negative view of the community, even though that view was only used as a mere steam without any real action. The findings of the research in the field there are negative views from the public about the existence of CSWs as expressed by Ms. Ms: "Yes, do not agree, mas, our village uses such a place, it is the neighbors here as well as talking to them, not really this bro, a girl Girls like that are here "This was also conveyed by Mr. Mt" Yes actually not in agreement but also what about ya Miss is not a person here also do not know ". Negative views created by the community which then creates a label or labeling these prostitutes. It is hoped that giving a label to someone who deviates will be able to become a social sanction that can make the perpetrators of deviations no longer take actions outside the norms of society.

D. Conditions of Localization Locations in the Area around the Pemalang Regency Terminal

In this case, the problem of prostitution in a society is scientifically very dependent on the condition of the community itself. If the community is still firmly upholding the norms of decency, politeness and religion but has been possessed by the symptoms of globalization that leads to modern culture which gives birth to consumer culture to women and is forced to prostitute then the status and role of CSWs in theory anomie (goal and means) will look for ways others are in the form of place and time to carry out their role, namely to explore themselves, as explained previously.

Then the results of our observations in the Pemalang area, especially regarding the phenomenon or symptoms of social deviations are related to the place of the institution. We found various facts about the existence of CSWs in prostitution in locations near the Pemalang District Terminal. That is:

1. Most of those who become prostitutes are women who are quite old, around the age of 30-50 years, only a few are under 30 years old. And

they may have even been married before or even married.

2. The CSWs who have aged on average put a minimum tariff of Rp. 150,000, but the price can go down depending on the conditions of the prostitute, usually if their customers are quiet lower the benchmark rate. Aside from that, the place, snacks or drinks, etc., has been provided by them, so the determined tariff is clean. Unlike the young CSWs, they set a tariff of Rp. 350,000 and above, because according to them the tariff is in accordance with the service and the target is more directed to customers with middle and upper economies.
3. Then in general those who become CSWs come from outside the native people or Pemalang native people, but rather come from cities in the provinces of West Java namely Bandung, Subang, Sumedang, and Karawang. Not only that, some are from Central Java, such as from Tegal, Brebes, Kebumen, and only a small part of the town of Pemalang itself. Indigenous people or around the terminal Pemalang more activities behind the scenes, meaning more just helping to find customers, as well as renting places for the CSWs to do service or sex.
4. This prostitution place is located right on the edge of the northern coast road, near the Pemalang terminal. In the form of semi-permanent houses, in which there are small warung stalls and karaoke temples and rooms or booths prostitute peddling themselves.
5. Then the astonishing fact that we found, the location of this institution is adjacent to the police post and the existence of this prostitution was actually banned by the local government. According to the testimony we heard from some of the prostitutes, they claimed that every month they paid tax money or in ordinary language security money for officers not to be evicted, and leaked relevant information if there were raid operations carried out by municipal police or other law enforcement.
6. We also observe that the visitors to this institution are very diverse, young and old, ranging in age from 16 - 55 years with different occupational backgrounds. According to their recognition of the prostitutes, they do not care about age or occupation of their customers, what is preferred for them is the tariff to be paid.
7. Some of the CSWs who hang around the Pemalang Regency Terminal are fugitives from various regions, where they had previously been

stationed but where the local authorities have been evicted by local authorities. So they move and finally they hang out in Pemalang. The area referred to comes from cities around Pemalang, such as Tegal, Banyumas, Brebes, and several cities in West Java, namely Bandung, Sumedang, Subang and others.

8. Some people consider if prostitution in the Parangkusuma region is very difficult to eliminate. The existence of prostitution in the terminal area of Pemalang district has created various impacts that are felt directly by the surrounding community. This is reflected in those who are not happy with the presence of prostitution. There are also other factors that make prostitution in the Pemalang terminal area can last long enough. That is, because there is a kind of collusion between the perpetrators of prostitution with law enforcement. In other words, there is a kind of cooperation that can be likened to mutual benefit.
9. Conspire or *Kongkalikong* in question is the existence of parties who work together to maintain, so that this constitutional activity can run long. Namely the parties to the actors themselves in this case are the prostitutes, pimps, as well as the owner of the place with unscrupulous officials. Which according to the recognition of one of the prostitutes, each month must pay a sum of money to the person in charge, amounting to Rp 50,000 each month. This money is intended as security money, as a concrete example, so that these officers will divulge information to the perpetrators of prostitution regarding raids or other matters related to control.
10. The problem created by prostitution around Pemalang Terminal itself is because of its location in the public service area. What's more, this area is one of the tourist areas that are far outside of urban areas. It is probable that if the condition is not well controlled by the government, it can cause a bad image in the eyes of outsiders who use public transportation services. Local indigenous people and communities who are counter to the existence of this prostitution, assume that the presence of prostitution actually has a negative effect that will later have an impact on the community, both from health, social, and customs.

E. Legal Analysis and efforts to tackle the practice of Prostitution

When examined article by article in the Criminal Code none of the articles specifically regulate prostitution. In the absence of articles regulating prostitution, the act of prostituting a prostitute is not considered a crime in the view of criminal law. However evil an act if it is not prohibited in an applicable law means it is not considered a crime, it is in accordance with Article 1 paragraph 1 of the Criminal Code which adheres to the principle of *nullum delictum noela poena sine praevia lege poenale*, the main point of which states that there is no act that can be punished, if the provisions in the law do not exist in advance. Based on to this day, in Indonesia which prohibits selling sex services or engaging in other similar activities.

If we can compare, there are similarities between prostitution and drug cases. Both of these cases provide legal action for drug dealers and pimps. The difference, in the case of drugs, the user can be free from criminal legal action on the condition that he is required to carry out the rehabilitation process until recovering from drug addiction. As for prostitution cases, commercial sex workers and service users are exempt from criminal activities on condition that they "only" are required to report to the police. In this case, there is a possibility that the perpetrators of prostitution will do their actions again because they feel protected, as long as the bill that will ensnare them into the realm of law is not yet valid.

The government should also provide rehabilitation measures also for perpetrators of prostitution, both for CSWs, pimps and users of CSW services. Rehabilitation is meant to provide religious guidance, norms and law as well as psychologically. Religious guidance is the main thing given in this process. By providing knowledge about religion, it is hoped that the perpetrators realize that prostitution is prohibited so that the deterrent will do it again. May the government immediately enact a law that provides legal sanctions for perpetrators of prostitution, not just for pimps. The aim is that the perpetrators do not repeat prostitution activities again and again because they feel safe from the bondage of the law. As a result of the absence of this law, prostitutes easily "offer" themselves, even without the need for pimps' help and are not afraid of criminal sanctions.

The criminal law only prohibits those who help and provide sex services illegally as stated in the Penal Code Article 296, 297, and 506. The

Penal Code also prohibits trafficking of underage women. So based on these articles, prostitution is essentially not considered an activity that is prohibited according to the Indonesian Penal Code, but when viewed from the norms that live in society, then prostitution is a violation of social norms. The base of Indonesian criminal law is the Indonesian Criminal Code (KUHP) as what is called general criminal law.

In addition, there are also special criminal laws as spread in other statutory regulations. With regard to prostitution of the Criminal Code regulates it in two articles, namely Article 296 and Article 506. Article 296 stipulates that: 37 "Anyone who deliberately connects or facilitates obscene acts by others, and makes it a search or habit, is threatened with imprisonment for no longer than one year four months or a maximum fine of one thousand rupiah. " In addition, Article 506 also stipulates that whoever benefits from the obscene acts of a woman and makes them a search, is threatened with a sentence of at most one year.³⁸ Another provision that can be used to ensnare the practice of prostitution is Law Number 21 Year 2007 concerning Eradication Criminal Trafficking in Persons and / or Law Number 35 Year 2014 jo. Law Number 23 of 2002 concerning Child Protection, which involves involving children or other legislation related to prostitution.

The two articles above only regulate criminal sanctions given to pimps, whereas until now there has been no article that can ensnare perpetrators of prostitution. Users of prostitution services may be given criminal legal action through article 284 of the Criminal Code that regulates Adultery. However, this article will not apply if adultery is carried out on the basis of like and like without coercion. Regarding the online prostitution case, the pimp will get additional punishment, for violating ITE laws regarding information and electronic transactions. This proves that there are no specific provisions governing criminal law for prostitutes and prostitution service users.

From the description above, it can be concluded that the acts or practices of prostitution that occur a lot in the community can be seen as acts of crime and can also be seen as non-crimes especially when viewed from the point of view of criminal law so that there are currently no articles governing prostitution. Actually the presence of the practice of prostitution is very disturbing to the community, it's just that the practice continues and continues to be ignored.

The Possible Efforts to Prevent Prostitution Practices in Pemalang Terminal Based on the results of our interview with one of the community leaders on 15 March 2019 who explained that efforts to tackle prostitution practices in Pemalang District Terminal are divided into two important parts, namely preventive and repressive measures. will explain one by one these efforts to be better understood, namely as follows:

a. Preventive Efforts

This effort is a method of prevention aimed at preventing and counteracting the first practice of prostitution and this effort is always prioritized because as we know it is better to prevent than cure. The preventive measures undertaken by the government in Pemalang Regency are as follows:

- 1) Conduct counseling about the dangers of disease caused by prostitution in collaboration with the Social Service and students.
- 2) Provide positive activities to get busy so they can avoid the prostitution environment.
- 3) Carry out patrols in areas that were once used as prostitution sites and areas suspected of being prostitution sites
- 4) Placement of uniformed police officers in places that have been suspected as a gathering place for prostitution. Where in the Pemalang District terminal, in addition to the placement of uniformed police officers, assignments and placement of members of the Civil Service Police Unit in each sub-district in Pemalang Regency were an attempt to recite criminal acts in Pemalang District.

b. Repressive Efforts

This effort is a conceptual way of handling that is taken after or is being the practice of prostitution. The repressive efforts made by the local authorities both from the police and the municipal police are as follows:

- 1) Take action to supervise, regulate and prevent diseases caused by the practice of prostitution.
- 2) Give advice on healing prostitution to be taken on the right path.
- 3) The police carried out a process of investigation and then an investigation of the incoming reports regarding the practice of prostitution
- 4) The police conduct a sudden inspection at the location of prostitution. This was once done by the police who directly accompanied the Pemalang Regent to conduct a sudden inspection at a prostitution location in the Pemalang District Terminal

Conclusion

The phenomenon of the practice of prostitution is a social problem that is currently rife in Indonesia. Starting from the beginning until now this problem is a very sensitive social problem involving social, moral, ethical, and even religious regulations. Basically, no woman wants herself to be a prostitute, because prostitution is a despicable job that is very contrary to the values of life in society. Life at a time, where sex and questions related to it play an important role. Sex like prostitution carried out is a shift in moral values towards more negative. A shift in moral values generally falls over the whores of prostitution. Promiskuitas namely free sex and free sex with many men. This problem has been found around the Pemalang Regency Terminal. It is indeed difficult to guess the best way to overcome the problem of prostitution. But the community, the government, especially those closest to us, can lead to a truer way. Running the rules that are within the teachings of religion, especially the Indonesian nation, is a basic element that becomes a spiritual necessity because religious norms are still recognized as sacred rules originating from God. Prostitution as a social phenomenon is caused by various factors inherent in human life. Factors that encourage prostitution lies both in the natural aspects of humanity, especially those related to sexual desires of men and women. As well as external factors that influence such as social factors, economic factors, and culture. Where the practice of prostitution remains from time to time throughout the history of mankind after having and regulated by the institution of marriage in the relationship between men and women.

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Issue: Law, Democracy and Crime: How Society Responds the Imbalance?

Review Article

Humanitarian Law Perspective on the Protection of the Rights of Children in Armed Conflicts

Perlindungan Hak-Hak Anak dalam Sengketa Bersenjata Menurut Hukum Humaniter

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Abstract: Children are often victims of armed disputes, not only in the case they are trapped in situations of armed conflict but also children are often included directly as child soldiers, therefore children must be given protection to obtain their rights as a child in an armed dispute. Child protection is closely related to Human Rights that have been generally recognized by the international community. International legal instruments and national law have regulated the protection of children's rights. Countries that are involved in armed disputes and do not implement the provisions of humanitarian law in particular the protection of the rights of the child and are considered a war crime. This research is a legal research, which is a process to find the rule of law, legal principles, and legal doctrines in order to answer the legal issues faced with the approach used is the legal approach, which is carried out by examining all laws and regulations relating to the legal issues being addressed. Countries that have not ratified the provisions of Humanitarian law, should be able to ratify the provisions of Humanitarian law regarding the protection of children from being directly involved in armed disputes, and implement them into armed disputes, and implement them into their respective national legislation each country.

Keywords: Child Protection, Armed Conflicts, Human Rights, Humanitarian Law

Pendahuluan

Anak – anak dapat menjadi korban bukan hanya pada masa damai tetapi juga dalam konflik bersenjata. Konflik bersenjata menyebabkan penderitaan yang sangat beragam bentuknya, anak – anak ada yang dibunuh, kehilangan orang tua karena terpisah satu sama lain ataupun karena mereka sudah meninggal dunia, cacat fisik, diculik, kehilangan hak atas pendidikan dan

kesehatan, menderita luka, trauma batin dan emosi yang mendalam. Anak – anak dipaksa untuk meninggalkan rumahnya, mengungsi dan terusir dari tempat tinggalnya sendiri, anak – anak sangatlah rentan terhadap kekerasan, eksploitasi seksual, penyakit, kurang gizi, dan kematian. Anak dikerahkan dan digunakan untuk berperang pada garis depan berhadapan dengan musuh, status gadis atau anak perempuan memberikan resiko tambahan, khususnya terhadap kekerasan seksual.

Secara historis, munculnya anak-anak sebagai kombatan dan terlibat dalam konflik bersenjata dimulai pada sekitar abad ke-18. Anak-anak secara tidak langsung telah turut serta dalam konflik bersenjata (Latvey, 2003). Pada waktu itu anak-anak hanya dapat dikatakan sebagai penggembira saja, yakni sebagai penabuh genderang perang, dari sinilah perkembangan menuju sesuatu yang tidak baik yakni dengan merekrut anak-anak untuk menjadi kadet (berfungsi membantu) pada sebuah angkatan perang. Akhirnya muncul sebuah fenomena tentara anak-anak yang tergabung dalam angkatan perang. Sejalan dengan perkembangan konflik bersenjata mulailah berkembang mengenai apa yang disebut tentara anak (*child soldiers*). Permasalahan (*Child Soldiers*) ini telah benar-benar mendunia, hal ini tidak hanya terjadi di benua Afrika yang sampai saat ini terus saja diwarnai dengan perang saudara ataupun di benua Asia, tapi juga terjadi di benua Eropa, bahkan di Benua Amerika. Pada tahun 1990-an di Amerika latin terdapat tentara anak yang tergabung dalam angkatan bersenjata El-Salvador, Ekuador, Guatemala, Mexico, Nicaragua, Paraguay, Kolombia, dan Peru. Bahkan di Kolombia ada sebutan khusus untuk tentara anak yakni "*Little Bells*".

Sekitar 300.000 tentara anak di bawah usia 18 tahun sekarang ini berperang dalam konflik bersenjata di sebanyak 30 Negara. Saat ini ada lebih dari 300.000 anak-anak di bawah usia 18 tahun ikut berperang di lebih dari 30 negara. Banyak dari mereka masih remaja, namun tidak sedikit juga baru berusia 10 tahun bahkan kurang dari 10 tahun. Mereka kadang bertindak lebih kejam ketika menghadapi lawan – lawannya (Latvey, 2003).

Myanmar memiliki catatan yang terburuk mengenai tentara anak. Tentara Myanmar ini sering menawan anak laki – laki di stasiun kereta api dan bus, pasar, serta tempat umum lain, mengancam mereka akan dipenjara bila mereka menolak bergabung dengan tentara pemerintah (Wagiman, 2005). Pemerintah militer di sana diperkirakan telah memiliki 70.000 tentara anak, hal ini memegang rekor jumlah tentara anak yang terbesar di dunia, tentu saja hal ini belum lagi ditambahkan dengan tentara anak yang direkrut oleh tentara oposisi di negara itu, sehingga jumlah tentara anak yang ada di negara tersebut terus mengalami peningkatan setiap tahunnya. Fenomena ini menunjukkan bahwa anak-anak yang terlibat dalam konflik bersenjata bukan saja dipandang sebagai pelaku, akan tetapi sekaligus sebagai korban dari kebijakan militer

ataupun pemerintah negara tersebut. Dalam perspektif Hukum Humaniter jelas hal ini merupakan suatu pelanggaran hukum internasional.

Pasal 38 *The Convention on the rights of the child* tahun 1989 memberikan kewajiban kepada para pihak yang terlibat konflik untuk tidak merekrut anak – anak yang belum mencapai usia 15 tahun ke dalam angkatan bersenjata dan melibatkan mereka secara langsung dalam pertempuran. Negara harus menghormati dan menjamin penghormatan atas aturan-aturan penghormatan hukum Internasional yang relevan dalam melindungi hak-hak anak.

Pasal 77 ayat 2 *Optional Protocol to the Geneva Convention* tahun 1949 menyatakan "*The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in ostilities and in particular, they shall refrain from recruiting them in to their armed orces. In recruiting among those persons who have attained the age of eighteen years the parties to the conflict shall endeavour to give priority those who are oldest*".

Ketentuan ini mengharuskan para pihak untuk memelihara dan membantu anak-anak atas dasar usia dan alasan apapun juga. Jika seorang anak yang belum mencapai usia 15 tahun terlibat dalam pertempuran dan jatuh ke tangan musuh, anak tersebut berhak atas perlindungan khusus, tanpa mempersoalkan status tawanan perang atau bukan. Lebih lanjut Pasal 4 ayat 3 Protokol Tambahan II tahun 1977 Konvensi Jenewa yang mengatur mengenai adanya konflik internal suatu negara, menyebutkan bahwa terhadap anak-anak harus diberikan perlindungan dan tindakan yang menolong mereka ketika diperlukan, anak-anak yang usianya belum mencapai 15 tahun tidak dapat direkrut ke dalam angkatan perang atau di dalam kelompok – kelompok yang terlibat atau ambil bagian dalam suatu konflik bersenjata.

International Commite of the red cros s(ICRC) mengeluarkan pernyataan yang serupa, bahwa ada banyak anak –anak yang direkrut dan turut berpartisipasi di dalam suatu konflik, dan terlibat dalam kegiatan militer seperti memberikan informasi, sebagai kurir, pembawa amunisi, perlengkapan makanan atau tindakan sabotase (UNICEF, 2005). Konvensi tentang Hak anak (*The Convention on the Rights of the Child*) tahun 1989, yang disetujui oleh Majelis umum Perserikatan Bangsa-Bangsa pada tanggal 20 November 1989 mewajibkan negara-negara menghormati dan

menjamin penghormatan atas aturan-aturan Hukum Internasional Humaniter yang relevan untuk melindungi anak-anak (Permanasary, dkk, 1999). Disamping itu juga Protokol tambahan Konvensi Hak Anak tersebut mengatur mengenai larangan keterlibatan anak-anak dalam konflik bersenjata (*Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed Conflict*) tanggal 25 Mei tahun 2000.

Konvensi *Internasional Labour Organization* Nomor 182 tahun 1999 juga memberikan pengaturan mengenai perlindungan anak dalam sengketa bersenjata khususnya mengenai perekrutan anak untuk dilibatkan dalam sengketa bersenjata. Instrumen-instrumen seperti Deklarasi Universal Hak asasi Manusia tahun 1948, dan Instrumen-Instrumen Regional seperti Deklarasi Amerika tentang hak-hak dan kewajiban manusia yang dibuat pada tahun yang sama dan mengakui secara lebih umum hak anak untuk bebas dari kekerasan, penyiksaan, dan eksploitasi. Hak-hak ini berlaku bagi setiap orang, termasuk anak – anak, dan dikembangkan lebih jauh dalam instrumen-instrumen seperti Kovenan Internasional tentang hak-hak politik dan hak – hak sipil tahun 1966 (Permanasary, dkk, 1999). Konsensus internasional yang dikembangkan mengenai perlunya suatu instrumen baru yang akan secara eksplisit meletakkan dasar – dasar mengenai hak-hak anak khusus dan istimewa. Pada tahun 1989, Konvensi Perserikatan Bangsa-Bangsa tentang hak-hak anak diadopsi oleh sidang majelis umum. Konvensi ini dengan cepat menjadi perjanjian hak asasi manusia yang paling luas diratifikasi dalam sejarah perkembangan hukum internasional.

Instrumen Hukum Internasional dan nasional yang mengatur mengenai perlindungan anak memberikan pesan yang sangat jelas kepada masyarakat internasional dan pemangku kepentingan (*stakeholder*) di tingkat domestik bahwa suatu negara berkomitmen untuk menjamin perlindungan anak, serta menjamin penerapan undang-undang, serta kebijakan, dan program untuk mencapai sasaran itu (Permanasary, dkk, 1999). Konvensi itu mengandung standar mengenai partisipasi anak-anak dalam konflik bersenjata dan rekrutmen anak untuk terlibat dalam suatu konflik bersenjata. Negara-negara anggota tidak boleh merekrut siapapun yang berusia di bawah 15 tahun dalam bagian apapun di dalam angkatan bersenjata. Sebuah negara yang merekrut orang-orang yang berusia antara 15 sampai 18 tahun. Semua negara harus mengambil langkah-langkah yang memadai

untuk mencegah partisipasi langsung siapapun yang berusia di bawah 15 tahun dalam pertikaian, apakah di pihak pemerintah atau dipihak kelompok bersenjata lainnya (Permanasary, dkk, 1999). Berdasarkan ketentuan-ketentuan hukum internasional di atas maka dapat dikatakan bahwa penggunaan anak-anak untuk membantu kegiatan konflik bersenjata atau bahkan justru menggunakan anak-anak untuk berada di garis depan dalam suatu konflik bersenjata tidak saja merupakan pelanggaran hukum humaniter internasional tetapi juga melanggar Hak Asasi Manusia (Permanasary, dkk, 1999). Piagam PBB menyatakan bahwa salah satu tujuan didirikannya PBB adalah untuk menyebarluaskan dan mendorong penghormatan terhadap Hak Asasi Manusia dan kebebasan dasar bagi semua tanpa memandang perbedaan ras, jenis kelamin, bahasa, atau agama (Mauna, 2005).

Metode

Metode yang digunakan dalam penelitian ini adalah penelitian yuridis normatif yang merupakan salah satu studi hukum yang menggunakan literatur atau peraturan perundang-undangan yang berkaitan dengan permasalahan yang diteliti, sehingga pendekatan yang digunakan adalah pendekatan perundang-undangan, dilakukan dengan menelaah semua undang-undang dan regulasi yang bersangkutan paut dengan isu hukum yang sedang ditangani (Marzuki, 2007). Penelitian ini merupakan suatu penelitian hukum yaitu suatu proses untuk menemukan aturan hukum, prinsip – prinsip hukum, maupun doktrin – doktrin hukum guna menjawab isu hukum yang dihadapi.

Hasil dan Pembahasan

Hukum Humaniter pada hakikatnya menjamin perlindungan terhadap Hak Asasi Manusia. Perkembangan hukum Humaniter tidak terlepas dari perkembangan hak asasi manusia, maka negara-negara kemudian menyetujui prinsip-prinsip perlindungan orang-orang yang terlibat dalam sengketa bersenjata baik secara internasional maupun secara nasional.

Sebagai suatu nilai yang diakui secara universal, pengakuan dan perlindungan terhadap Hak asasi Manusia merupakan tanggung jawab bersama yang bersifat lintas negara, artinya

persoalan hak asasi manusia tidak hanya merupakan persoalan internal suatu negara secara tersendiri, melainkan persoalan bersama yang mendapat perhatian internasional. Anak-anak sebagai bagian dari masyarakat internasional memiliki hak untuk diakui dan dilindungi dalam hukum internasional, ketika deklarasi tentang hak-hak anak internasional yang pertama diadopsi oleh Liga Bangsa-Bangsa.

Ada sepuluh asas atau prinsip dasar tentang hak anak yang diadopsi dalam deklarasi hak-hak anak tersebut (Joni & Tanamas, 1999), yaitu:

1. Anak – anak berhak menikmati seluruh hak yang tercantum dalam deklarasi ini. Semua anak tanpa pengecualian yang bagaimanapun berhak atas hak-hak ini, tanpa membedakan suku bangsa, warna kulit, jenis kelamin, bahasa, agama, pandangan politik dan pendapat lainnya, asal-usul bangsa atau tingkatan sosial, kaya atau miskin, keturunan atau status, baik dilihat dari segi dirinya sendiri maupun dari segi keluarganya.
2. Anak-anak mempunyai hak untuk memperoleh perlindungan khusus, dan harus memperoleh perlindungan khusus, harus memperoleh kesempatan dan fasilitas yang dijamin oleh hukum dan sarana lain sehingga secara jasmani, mental akhlak, rohani dan sosial, mereka dapat berkembang dengan sehat dan wajar dalam keadaan bebas dan bermartabat;
3. Sejak dilahirkan, anak-anak harus memiliki nama dan kebangsaan;
4. Anak-anak harus mendapat jaminan. Mereka harus tumbuh dan berkembang dengan sehat. Untuk maksud itu baik sebelum maupun sesudah dilahirkan, harus ada perawatan dan perlindungan khusus bagi si anak dan ibunya. Anak-anak berhak mendapat gizi yang cukup, perumahan, rekreasi dan pelayanan kesehatan;
5. Anak-anak yang cacat tubuh dan mental atau yang berkondisi sosial lemah akibat suatu keadaan tertentu harus memperoleh pendidikan, perawatan, dan perlakuan khusus.
6. Agar supaya kepribadiannya tumbuh secara maksimal dan harmonis, anak – anak memerlukan kasih sayang dan pengertian. Sedapat mungkin mereka harus dibesarkan dibawah asuhan dan tanggung jawab orang tua mereka sendiri, dan bagaimanapun harus diusahakan agar mereka tetap berada dalam suasana yang penuh kasih sayang, sehat jasmani dan rohani. Anak-anak di bawah usia 5 tahun tidak dibenarkan terpisah dari ibunya.

Masyarakat dan penguasa yang berwenang, berkewajiban memberikan perawatan khusus kepada anak-anak yang tidak memiliki keluarga dan kepada anak-anak yang tidak mampu. Diharapkan agar pemerintah atau pihak yang lain memberikan bantuan pembiayaan bagi anak-anak yang berasal dari keluarga besar.

7. Anak-anak berhak mendapat pendidikan wajib secara Cuma-cuma sekurang-kurangnya di tingkat sekolah dasar. Mereka harus mendapat pendidikan yang dapat meningkatkan pengetahuan umumnya dan memungkinkan mereka, atas dasar kesempatan yang sama, untuk mengembangkan kemampuannya, pendapat pribadinya, dan perasaan tanggung jawab moral dan sosialnya, sehingga mereka dapat menjadi anggota masyarakat yang berguna. Anak-anak harus mempunyai kesempatan yang leluasa untuk bermain dan berekreasi yang diarahkan untuk tujuan pendidikan, masyarakat dan penguasa yang berwenang harus berusaha meningkatkan pelaksanaan hak ini.
8. Dalam keadaan apapun anak-anak harus didahulukan dalam menerima perlindungan dan pertolongan.
9. Anak-anak harus dilindungi dari segala bentuk penyalahgunaan, kekejaman dan penindasan. Dalam bentuk apapun, mereka tidak boleh diperdagangkan. Tidak dibenarkan mempekerjakan anak-anak dibawah umur. Dengan alasan apapun mereka tidak boleh dilibatkan dalam pekerjaan yang dapat merugikan kesehatan atau pendidikan mereka, maupun yang dapat mempengaruhi perkembangan tubuh, mental atau akhlak mereka.
10. Anak-anak harus dilindungi dari perbuatan yang mengarah ke dalam diskriminasi rasial, agama maupun bentuk-bentuk diskriminasi lainnya. Mereka harus dibesarkan di dalam semangat yang penuh pengertian, toleransi dan persahabatan antar bangsa, perdamaian serta persaudaraan semesta dan dengan penuh kesadaran tenaga dan bakatnya harus diabdikan kepada sesama manusia.

Anak merupakan karunia Tuhan yang harus mendapat perlindungan, bimbingan dan pembinaan secara konsisten, karena di dalam dirinya melekat harkat dan martabat sebagai manusia seutuhnya, sehingga ia memiliki hak-hak asasi yang sama seperti hak-hak asasi yang dimiliki oleh individu-

individu lainnya (Joni & Tanamas, 1999). Secara psikologis dan biologis anak berbeda dengan orang dewasa dan rentan terhadap segala kondisi dan situasi yang dapat mempengaruhi perkembangan jiwanya. Pada umumnya anak masih labil, sehingga anak selalu digambarkan sebagai fase yang sangat penting dalam proses pertumbuhan fisik dan jiwanya. Hal tersebut dikarenakan anak termasuk dalam kelompok individu yang masih memiliki ketergantungan yang erat dengan orang lain, memiliki sifat keluguan, memiliki sifat keluguan, memiliki kebutuhan-kebutuhan khusus, serta masih membutuhkan perlindungan serta perawatan yang bersifat khusus pula.

Pasal 1 Konvensi Hak Anak menegaskan bahwa anak adalah setiap manusia yang berusia di bawah 18 tahun, kecuali bila undang-undang yang berlaku menetapkan batas awal usia dewasa yang lebih cepat.

Anak dilahirkan merdeka, tidak boleh dilenyapkan atau dihilangkan, tetapi kemerdekaan anak harus dilindungi dan diperluas dalam hal mendapatkan hak atas hidup dan hak untuk mendapatkan perlindungan dari orang tua, keluarga, masyarakat, bangsa dan negara.

Sejak abad pertengahan, hampir semua peradaban telah mengetahui peraturan guna membatasi pihak peserta tempur untuk melakukan pengrusakan terhadap musuh. Di negara-negara Iran, Yunani, Romawi, India, Cina, dan negara-negara di Afrika dan Eropa terdapat beberapa aturan guna melindungi kaum tertentu (wanita, anak-anak, orang tua, tawanan) peraturan-peraturan yang dibuat untuk melindungi wanita dan anak-anak tersebut juga melarang serangan yang diarahkan pada objek tertentu seperti tempat ibadah serta mengatur tentang metode peperangan yang tidak adil seperti penggunaan racun.

Istilah Hukum Humaniter relatif baru, sehingga perlu disosialisasikan. Menurut Mochtar Kusumaatmadja, pengertian Hukum Perang dibagi atas dua bagian (Permanasari, dkk, 1999), yaitu:

1. *Ius ad Bellum*

Sama dengan “Hukum tentang perang”, yaitu hukum yang mengatur dalam hal bagaimana negara dibenarkan menggunakan kekerasan senjata.

2. *Ius In Bello*

Sama dengan “Hukum yang berlaku dalam perang”, yang dibagi dalam dua bagian:

a) Yang mengatur “cara dilakukannya perang” (*Conduct of War*), bagian inilah yang disebut sebagai Hukum Den Haag, yaitu keseluruhan

ketentuan-ketentuan Hukum Internasional yang mengatur Metoda atau cara berperang.

b) Yang mengatur “Perlindungan orang-orang” yang menjadi korban perang (tawanan perang, angkatan perang, dan penduduk sipil). Bagian inilah yang disebut sebagai Hukum Jenewa.

Pasal 17 Konvensi IV Jenewa memepersyaratkan bahwa ketika sebuah wilayah dikepung, penguasa setempat harus mengupayakan perundingan untuk mengeluarkan anak-anak serta mereka yang terluka, sakit, berusia lanjut dan sakit-sakitan. Pasal 23 Konvensi IV Jenewa memersyaratkan bahwa semua negara harus mengizinkan masuknya perlengkapan medis yang ditujukan bagi warga sipil, dan makanan serta pakaian bagi anak-anak.

Konvensi-konvensi Jenewa tidak menyebutkan dan menjelaskan tentang kombatan atau peserta perang, tetapi langsung menyebut dan menjelaskan kriteria orang – orang yang dilindungi dan orang-orang yang ditempatkan sebagai tawanan perang. Berkaitan dengan status tawanan perang dan kombatan di atas, Protokol Tambahan I tahun 1977 memuat ketentuan tentang orang-orang yang sring dijumpai melibatkan diri atau dilibatkan dalam peperangan tetapi tidak mempunyai hak sebagai kombatan dan karenanya tidak dapat ditempatkan sebagai tawanan perang. Orang – orang tersebut adalah:

1. *Spies*

Anak-anak sering dipakai sebagai *spy* atau mata-mata dalam suatu sengketa bersenjata. Dalam pasal 46 ayat (1) Protokol tambahan I tahun 1977 dinyatakan bahwa, setiap anggota angkatan perang dari suatu pihak dalam pertikaian yang jatuh ke dalam kekuasaan suatu pihak lawan ketika sedang melakukan kegiatan mata – mata tidak akan mempunyai hak atas kedudukan tawanan perang.

2. *Mercenaries*

Dalam pasal 47 ayat (2) Protokol tambahan I Konvensi Jenewa tahun 1949 disebutkan bahwa *Mercenaries* atau tentara bayaran adalah setiap orang yang:

- a) Direkrut khusus dari lokasi setempat atau dari luar negeri untuk bertempur dalam suatu sengketa bersenjata;
- b) Melakukan, secara nyata, ambil bagian langsung dalam sengketa bersenjata;
- c) Dimotifasi untuk ambil bagian dalam peperangan secara rasional oleh keinginan untuk tujuan sendiri, dan pada

kenyataannya, dijanjikan oleh atau atas nama suatu pihak yang bersengketa, kompensasi, materi dalam jumlah yang lebih dari yang dijanjikan atau yang dibayarkan kepada kombatan – kombatan yang berpangkat dan berfungsi sama pada angkatan bersenjata pihak tersebut;

- d) Bukan berkebangsaan dari suatu pihak yang bersengketa atau bukan seorang penduduk dari teritori yang diduduki oleh suatu pihak yang bersengketa;
- e) Bukan anggota angkatan bersenjata dari suatu pihak yang bersengketa, dan;
- f) Belum dikirim oleh suatu negara yang bukan pihak bersengketa ke pertempuran untuk tugas resmi sebagai seorang anggota angkatan bersenjata;

3. *Child Combatan*

Anak-anak dalam Protokol tambahan I Konvensi Jenewa 1949 memang tidak ditetapkan mempunyai hak untuk diperlakukan sebagai tawanan perang, tetapi disebutkan harus memperoleh keuntungan perlindungan khusus yang ditetapkan dalam Hukum Jenewa, apakah berstatus tawanan perang atau tidak. Dalam Protokol tambahan memuat ketentuan yang menyebabkan pihak-pihak yang bersengketa untuk berusaha agar anak di bawah usia 15 tahun tidak ambil bagian langsung dalam sengketa bersenjata. Pasal 8 Statuta Roma menyatakan bahwa, menyerahkan anak – anak di bawah umur 15 tahun ke dalam angkatan bersenjata atau menggunakan mereka untuk ikut serta secara aktif dalam peperangan harus dianggap sebagai suatu kejahatan perang dan dihukum atas perbuatan tersebut (Soekito, 1983).

Dalam pertikaian bersenjata tidak satu pihakpun boleh menyelenggarakan pengungsian anak-anak selain daripada warga negaranya sendiri ke sebuah negara lain, kecuali untuk suatu pengungsian sementara karena alasan perawatan kesehatan atau pengobatan atau kecuali kemanan anak-anak itu di daerah yang diduduki menghendaki demikian.

Sebanyak seratus sembilan puluh dua negara telah meratifikasi Protokol serta Opsional Protokol Konvensi Hak-Hak Anak mengenai keterlibatan anak dalam konflik bersenjata. Perlindungan dan hukuman menjadi fokusnya, sementara masalah pemulihan, reintegrasi dan santunan hanya sedikit diperhatikan. Pencegahan juga dipandang oleh beberapa negara hendaknya

ditangani hanya melalui legislasi aspek-aspek perlindungan dan hukuman.

Ratifikasi suatu perjanjian internasional adalah tahap yang paling penting dalam *treaty making process*. Ratifikasi juga berarti menyerahkan sedikit kedaulatan negara kepada suatu perjanjian internasional. Ratifikasi terhadap konvensi-konvensi internasional baik yang menyangkut perlindungan hak-hak anak maupun instrumen instrumen hukum humaniter menimbulkan kewajiban pada negara-negara pihak untuk menerapkannya ke dalam perundang-undangan nasional masing-masing negara. Meskipun dalam praktek ketatanegaraan suatu negara tidak melakukan ratifikasi terhadap konvensi-konvensi internasional akan tetapi berdasarkan Konvensi Wina tahun 1969 tentang Perjanjian Internasional, ditegaskan bahwa Konvensi tersebut akan mengikat negara dan berlaku sebagai Hukum Kebiasaan Internasional (Parthiana, 2005).

Pernyataan Konflik Kepentingan

Para penulis menyatakan bahwa tidak ada potensi konflik kepentingan dalam penelitian, kepengarangan, dan/atau publikasi artikel ini

Pendanaan

Tidak ada

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Issue: Law, Democracy and Crime: How Society Responds the Imbalance?

Review Article

Legal Protection Regarding Medical Record of Prospective Workers in Job Recruitment Health Test

Perlindungan Hukum Mengenai Rekam Medis Calon Pekerja dalam Tes Kesehatan Rekrutmen Kerja

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Abstract: Health is essentially one of the supports for the welfare of human life, therefore, in order to create an increase in the degree of health, a law is needed to regulate and foster everything about health. In the process of getting a decent job several agencies or companies apply a health test at the stage of completion of work acceptance. Health checks before work are health checks carried out by doctors before a worker is accepted to do the jobs. Problems arise when the results of a medical examination or medical record in the form of a file containing records and documents about the patient's identity, examination, treatment, actions and other services that have been provided to patients out are fully provided to the agency or employer. This type of research is a normative legal research method. Normative legal research means that the existing problems are examined based on existing laws and regulations and the literature relating to the existing problems. Based on the results of the study that the authors describe, it can be concluded that in the implementation of health tests carried out by the agency or company are not allowed to take the results of the medical record unilaterally without giving access to prospective workers as parties who are the object of examination at the health test.

Keywords: Therapeutic Agreement, Medical Record

Pendahuluan

Negara Indonesia telah mengamanatkan dalam Pasal 27 (2) UUD 1945 berbunyi “*Tiap-tiap warga negara berhak atas pekerjaan dan penghidupan yang layak bagi kemanusiaan*”. Pasal ini berbicara tentang perlindungan dan hak Warga negara Indonesia dalam hal pekerjaan dan keseluruhan penunjang kehidupan, dengan ukuran kriterianya adalah layak bagi kemanusiaan.

Begitu pula dalam perlindungan kesehatan telah diatur dalam Pasal 28 H ayat (1) UUD 1945 berbunyi “*setiap orang berhak untuk hidup sejahtera lahir dan batin, bertempat tinggal dan mendapatkan lingkungan hidup yang baik dan serta berhak memperoleh layanan kesehatan*” pelayanan kesehatan ini bersifat menyeluruh, yaitu jasmani dan rohani.

Kesehatan pada hakikatnya adalah salah satu penunjang kesejahteraan hidup manusia oleh karena itu, mengenai kesehatan agar terciptanya peningkatan derajat kesehatan dibutuhkan hukum

untuk mengatur dan membina segala sesuatu mengenai kesehatan. Kesehatan adalah hak asasi manusia dan satu di antara beberapa unsur kesejahteraan, harus diwujudkan sesuai dengan cita-cita bangsa Indonesia dalam Pancasila dan UUD NRI Tahun 1945. Hukum kesehatan adalah semua ketentuan yang berhubungan langsung dengan pemeliharaan atau pelayanan kesehatan dan penerapannya. Oleh sebab itu di dalam hukum kesehatan mengatur dua kepentingan yang menjadi pihak dalam hukum kesehatan ini, yaitu:

1. Penerima pelayanan, yang harus diatur hak dan kewajibannya, baik perorangan, kelompok atau masyarakat.
2. Penyelenggara pelayanan, yaitu organisasi dan sarana-prasarana pelayanan, yang juga harus diatur hak dan kewajibannya.

Berdasarkan uraian diatas Undang-Undang Kesehatan tidak merinci secara jelas mengenai pihak-pihak yang terikat dalam hukum kesehatan, tetapi hanya memaparkan bahwa yang menjadi penerima pelayanan kesehatan ialah masyarakat sebagai pasien. Sedangkan penyelenggara pelayanan kesehatan ialah Pemerintah dan Non Pemerintah. Pemerintah bertanggungjawab atas pengaturan perencanaan, pengadaan, pendayagunaan, pembinaan, dan pengawasan dalam rangka penyelenggaraan pelayanan kesehatan, khususnya dalam menyediakan tenaga kesehatan dan sarana tempat penyelenggaraan pelayanan kesehatan tersebut. Sedangkan Pemerintah dan masyarakat bertanggungjawab atas penyelenggaraan upaya kesehatan saja.

Dalam menjalin hubungan antara masyarakat dan penyelenggara pelayanan kesehatan didasarkan pada sebuah perjanjian. Kartini Muljadi menjelaskan bahwa perjanjian adalah salah satu sumber perikatan. Perjanjian melahirkan perikatan, yang menciptakan kewajiban pada salah satu atau lebih pihak dalam perjanjian (Muljadi & Widjaja, 2004). Perjanjian adalah suatu perbuatan dengan mana satu pihak atau lebih mengikatkan dirinya terhadap satu orang atau lebih, Sebagaimana yang telah dijelaskan pada bagian sebelumnya. Perjanjian merupakan hubungan timbal balik yang dihasilkan melalui komunikasi, sedangkan hubungan antara pihak dalam perjanjian kesehatan sering disebut dengan terapeutik, terapeutik diartikan sebagai sesuatu yang mengandung unsur atau nilai pengobatan.

Istilah *therapeutic* adalah terjemahan dari bahasa Inggris. Jika diartikan kedalam bahasa Indonesia menjadi terapeutik yang berarti suatu hal

dibidang pengobatan. Jadi, perjanjian terapeutik atau transaksi terapeutik adalah transaksi antara dokter dan pasien untuk mencari atau menemukan terapi sebagai upaya penyembuhan penyakit oleh dokter yang didukung oleh dua macam hak yang sifatnya mendasar dan yang lebih bersifat individual, yaitu hak atas informasi (*the right to informations*) dan hak untuk menentukan nasib sendiri (*the right of self determination*) (Koeswadji, 1992).

Bentuk dari peraturan pelaksana dari pelayanan kesehatan adalah Undang-Undang No. 36 Tahun 2009 tentang Kesehatan, yang selanjutnya disebut UU Kesehatan. UU Kesehatan tidak menyebutkan tentang pelayanan kesehatan tetapi dirumuskan dengan upaya kesehatan, yang diatur dalam Pasal 1 angka (11) yaitu : “*Upaya kesehatan adalah setiap kegiatan dan/atau serangkaian kegiatan yang dilakukan secara terpadu, terintegrasi dan berkesinambungan untuk memelihara dan meningkatkan derajat kesehatan masyarakat dalam bentuk pencegahan penyakit, peningkatan kesehatan, pengobatan penyakit, dan pemulihan kesehatan oleh pemerintah dan/atau masyarakat*“. Dari Pasal tersebut dapat dilihat bahwa pelayanan kesehatan adalah tanggung jawab bersama antara pemerintah dan masyarakat. Dalam pelaksanaannya diperlukan beberapa unsur penting yaitu:

1. Sumber Daya Manusia, meliputi:
 - a. Profesi Kesehatan: Dokter, Tenaga Kesehatan, Apoteker, dan Bidan.
 - b. Instansi Pemerintah: Departemen Kesehatan dan Dinas Kesehatan.
 - c. Lembaga Non Pemerintah: Lembaga Swadaya Masyarakat.
 - d. Masyarakat.
2. Sarana dan Prasarana Kesehatan.
3. Peraturan Untuk Perlindungan Hukum Bagi Dokter dan Pasien

Dalam proses mendapatkan pekerjaan yang layak beberapa instansi atau perusahaan menerapkan tes kesehatan pada tahap seleksi penerimaan kerja. Pemeriksaan kesehatan sebelum kerja adalah pemeriksaan kesehatan yang dilakukan oleh dokter sebelum seorang tenaga kerja diterima untuk melakukan pekerjaan. Pemeriksaan Kesehatan sebelum bekerja ditujukan agar tenaga kerja yang diterima berada dalam kondisi kesehatan yang setinggi-tingginya, tidak mempunyai penyakit menular yang akan mengenai tenaga kerja lainnya, dan cocok untuk pekerjaan yang akan dilakukan sehingga keselamatan dan kesehatan tenaga kerja

yang bersangkutan dan tenaga kerja lain-lainnya yang dapat dijamin.

Dalam proses pelaksanaan tes kesehatan biasanya instansi/ perusahaan pemberi kerja telah melakukan perjanjian dengan pihak ketiga untuk melaksanakan tes tersebut, pihak ketiga tersebut biasa berasal dari instansi pemerintah ataupun Non Pemerintah yang bergerak dibidang pelayanan kesehatan. Pada prosesnya peserta yang dinyatakan lolos ketahap tes kesehatan akan di rujuk untuk mendantangi tempat pelayanan kesehatan untuk melaksanakan tes kesehatan. Peserta tes kesehatan pada umumnya tinggal mengikuti arahan atau alur yang telah disediakan oleh pihak pelayanan kesehatan, pada tahap ini pemeriksaan kesehatan yang dilakukan oleh pelayanan medis hanya sebatas pemeriksaan laboratorium secara lengkap atau sesuai dengan permintaan pihak instansi/ Perusahaan selaku penerima pekerja.

Kontrak terapeutik, yaitu kesepakatan antara dokter (pemberi jasa pelayanan kesehatan/praktik kedokteran) dan pasien (penerima jasa pelayanan kesehatan/praktik kedokteran), yang menimbulkan perikatan ikhtiar (*inspannings verbintenis*), yakni hubungan hukum perikatan yang berisi hak dan kewajiban secara timbal balik antara dokter dan pasien dalam pelayanan kesehatan/praktik kedokteran (Syaifuddin, 2019). Kontrak Terapeutik mengikat dokter dan pasien sebagai para pihak dalam kedudukan setara untuk memenuhi/mematuhi prestasi, salah satunya yaitu mengenai tindakan pemeriksaan kesehatan atau diagnosis.

Pihak dalam kontrak terapeutik adalah dokter (pemberi jasa pelayanan kesehatan/praktik kedokteran) dan pasien (penerima jasa pelayanan kesehatan/praktik kedokteran) namun dalam proses tes kesehatan yang menjadi pihak dalam perjanjian tidak saja antara dokter dan pasien tetapi Instansi/ Perusahaan pihak pemberi kerja juga masuk menjadi bagian dalam perjanjian tersebut. Sehingga terjadi perjanjian antara calon pekerja (pasien) dengan pihak pelayanan kesehatan, Instansi/ Perusahaan Pemberi kerja dengan Calon Pekerja (Pasien) dan terakhir perjanjian antara Pihak Pelayanan kesehatan dan Juga Instansi/ Perusahaan Pemberi kerja.

Pelayanan tindakan medis dalam perjanjian terapeutik perlunya persetujuan yang diberikan oleh pasien atau keluarga pasien sebagai penerima pelayanan kesehatan atas dasar mengenai tindakan medis yang akan dilakukan terhadap pasien tersebut. persetujuan tindakan medis dalam

perjanjian terapeutik ini disebut sebagai *Informed Consent*.

Informed Consent adalah suatu persetujuan yang diberikan setelah mendapat informasi. Dengan demikian *Informed Consent* dapat di definisikan sebagai pernyataan pasien atau yang sah mewakilinya yang isinya berupa persetujuan atas rencana tindakan kedokteran yang diajukan oleh dokter setelah menerima informasi yang cukup untuk dapat membuat persetujuan atau penolakan. Persetujuan tindakan yang akan dilakukan oleh Dokter harus dilakukan tanpa adanya unsur pemaksaan.

Permasalahan timbul ketika hasil pemeriksaan kesehatan atau Rekam Medik berupa berkas yang berisi catatan dan dokumen tentang identitas pasien, pemeriksaan, pengobatan, tindakan dan pelayanan lain yang telah diberikan kepada pasien yang keluar sepenuhnya diberikan kepada pihak Instansi/ Perusahaan pemberi kerja. Berberapa kasus pada saat pengumuman tes kesehatan dilakukan, Calon pekerja dinyatakan tidak lulus tahap tes kesehatan atau mendapat nilai yang lebih rendah tanpa adanya penjelasan dari pihak instansi/perusahaan mengenai permasalahan kesehatan apa yang menyebabkan calon pekerja dinyatakan tidak lulus, begitu pula pada pihak pelayanan kesehatan yang telah ditunjuk untuk melakukan tes kesehatan tidak memberikan hasil tes kesehatan terhadap Calon Pekerja (pasien) dengan alasan berdasarkan kesepakatan keseluruhan hasil tes kesehatan merupakan wewenang pihak Instansi/ perusahaan pemberi kerja.

Berdasarkan uraian diatas maka terdapat hal yang menjadi permasalahan penulis yaitu bagaimanakah perlindungan hukum terhadap informasi kesehatan (*rekam Medik*) yang dilakukan Calon pekerja pada tahap pelaksanaan tes kesehatan yang dilakukan suatu Instansi/ Perusahaan?

Metode

Jenis penelitian yang digunakan dalam penulisan adalah metode penelitian hukum normatif. Penelitian hukum normatif artinya permasalahan yang ada diteliti berdasarkan peraturan perundang-undangan yang ada dan literatur-literatur yang terkait dengan permasalahan yang ada. Penelitian ini bertujuan untuk mengkaji suatu rumusan masalah dalam tulisan ini dengan

meneliti peraturan perundang-undangan dalam bidang hukum kesehatan khususnya perjanjian terapeutik untuk mencari pemecahan atas isu hukum serta permasalahan yang timbul di dalamnya, sehingga hasil yang akan dicapai kemudian akan memberikan penulis artikel ini mengenai apa yang seyogyanya atau isu diajukan (Marzuki, 2010). Ada 2 (dua) bentuk pendekatan masalah yang digunakan dalam penelitian ini, yaitu pendekatan normatif-yuridis, yaitu melalui pendekatan undang-undang (*Statute Approach*), pendekatan konseptual (*Conceptual Approach*). Pendekatan Undang-Undang (*Statute Approach*) dilakukan dengan cara menelaah semua undang-undang dan regulasi yang terkait dengan isu hukum yang sedang ditangani (Marzuki, 2010). Pendekatan Konseptual (*Conceptual Approach*) dilakukan dengan melakukan analisis terhadap pemahaman melalui konsep-konsep dan prinsip-prinsip hukum yang berkaitan dengan pokok permasalahan dalam penulisan artikel ini. Dengan melakukan pendekatan yang dilandaskan pada prinsip dan konsep yang kuat diharapkan dalam penulisan artikel ini menjadi penulisan yang koherensif (Marzuki, 2010).

Hasil dan Pembahasan

Kesehatan adalah hak asasi manusia dan merupakan satu di antara beberapa unsur kesejahteraan, pemenuhan kesehatan harus diwujudkan sesuai dengan cita-cita bangsa Indonesia dalam Pancasila dan UUD NRI Tahun 1945. Upaya kesehatan dilaksanakan berdasarkan prinsip nondiskriminatif, partisipatif, dan berkelanjutan, dalam rangka pembentukan sumber daya manusia Indonesia, serta peningkatan ketahanan dan daya saing bangsa bagi pembangunan nasional.

Perjanjian terapeutik pada umumnya memuat hanya dua pihak yaitu antara dokter dan pasien, kontrak Terapeutik mengikat dokter dan pasien sebagai para pihak dalam kedudukan setara untuk memenuhi/mematuhi prestasi, yaitu dokter mengupayakan penyembuhan pasien melalui pencarian terapi yang paling tepat berdasarkan ilmu dan pengalamannya mengacu pada standar profesi dan standar prosedur operasional, sedangkan pasien berkewajiban secara jujur menyampaikan keluhan-nya agar dapat ditemukan beberapa alternatif

pilihan terapi untuk akhirnya pasien memilih terapi yang paling tepat untuk penyembuhan pasien. Sejalan dengan pengertian Veronica Komalawati yang menjelaskan transaksi terapeutik adalah hubungan hukum antara dokter dan pasien dalam pelayanan medis secara professional, didasarkan kompetensi yang sesuai dengan keahlian dan ketrampilan tertentu di bidang kedokteran (Komalawati, 1999).

Hukum kesehatan mengatur dua kepentingan yang menjadi pihak dalam hukum kesehatan yaitu, Penerima pelayanan yang harus diatur hak dan kewajibannya, baik perorangan, kelompok atau masyarakat dan Penyelenggara pelayanan, yaitu organisasi dan sarana-prasarana pelayanan, yang juga harus diatur hak dan kewajibannya. Sehingga ikatan yang lahir adalah perjanjian antara penerima pelayanan dengan penyelenggara pelayanan.

Pelayanan tindakan medis dalam perjanjian terapeutik perlunya persetujuan yang diberikan oleh pasien atau keluarga pasien sebagai penerima pelayanan kesehatan atas dasar mengenai tindakan medis yang akan dilakukan terhadap pasien tersebut. persetujuan tindakan medis dalam perjanjian terapeutik ini disebut sebagai *Informed Consent* (Triwibowo, 2014).

Perjanjian terapeutik tunduk pada asas-asas perjanjian pada umumnya. perbedaannya adalah di dalam perjanjian terapeutik pihak yang mengikatkan diri adalah orang-orang yang terlibat ataupun dilibatkan dalam penyelenggaraan upaya pelayanan kesehatan. Pihak-pihak dalam kegiatan upaya pelayanan kesehatan ini adalah dokter sebagai pemberi jasa pelayanan kesehatan dan mengupayakan semaksimal mungkin dalam upaya penyembuhan, masyarakat sebagai pasien penerima jasa pelayanan kesehatan.

Hubungan antara dokter dan pasien dilihat dari aspek hukum adalah hubungan antara subyek hukum dengan subyek hukum yang diatur oleh kaidah-kaidah hukum perdata. Kaidah-kaidah hukum perdata berisi pedoman bagaimana para pihak yang melakukan hubungan melaksanakan hak dan kewajibannya. Dilihat dari hubungan hukumnya, antara dokter dan pasien terdapat hubungan yang menimbulkan kesepakatan. Dalam hal ini sepakat untuk mengikatkan diri dalam melaksanakan pengobatan bagi pasien terbentuklah apa yang dikenal sebagai perikatan.

Hubungan dokter dengan pasien adalah setara dan dengan makin meningkatnya pengetahuan, informasi, dan pendidikan maka

pasien semakin menuntut pemenuhan atas hak-haknya. Hubungan dokter dan pasien bukan merupakan hubungan *contractual* semata. Dokter yang dibutuhkan adalah dokter yang *friendly, satisfied with service, client centered approach, best attitudes*. Pasien menghendaki agar dokter selalu bersikap ramah dan memahami kebutuhan pasien. Hubungan dokter dengan pasien dapat dilukiskan dari beberapa aspek, yaitu: bersifat religious, bersifat paternalistis, bersifat penyediaan jasa dan konsumen, bersifat upaya bersama dan kemitraan. Fakta-fakta medis yang ada (hasil pemeriksaan sesuai standar) dari sudut kepatutan dibenarkan untuk menarik kesimpulan *diagnosis* (Sitanggang, 2017).

Pada perikatan atas dasar perjanjian, apabila seorang pasien datang ke tempat praktek dokter dalam arti menerima jasa pelayanan kesehatan dari dokter, maka antara dokter dan pasien terdapat hubungan hukum dalam perjanjian terapeutik. Jika berbicara mengenai perjanjian tidak terlepas dari kata kontrak. Yang berarti bahwa, para pihak dalam perjanjian terapeutik yaitu dokter dan pasien bebas menentukan isi perjanjiannya sendiri yang disepakati bersama dengan syarat tidak bertentangan dengan undang-undang. Hal ini termasuk kedalam asas kebebasan berkontrak (Supriadi, 2001).

Dalam proses tes kesehatan yang dilakukan oleh Instansi/ perusahaan pihak yang terjaln dalam perjanjian terapeutik bukan saja dua pihak seperti pada umumnya, namun perjanjian terapeutik pada tahap ini telah melibatkan pihak ketiga yaitu Instansi/ perusahaan yang mengikatkan diri kepada pihak pemberi pelayanan kesehatan untuk mendapatkan data dan informasi kesehatan bagi calon pekerjanya, sedangkan calon pekerja mengikatkan diri kepada Instansi/ Perusahaan sebagai bagian dari proses tes masuk kerja dan terakhir Calon pekerja mengikatkan diri kepada pihak pemberi pelayanan kesehatan sebagai bentuk perjanjian terapeutik. Sehingga kebebasan berkontrak yang ada pada pasien dan dokter berubah posisi menjadi kebebasan berkontrak antara dokter selaku pemberi pelayanan kesehatan bersama Instansi/ Perusahaan sebagai pihak yang membiayai jalannya tes kesehatan.

Hubungan perjanjian sempurna terjadi antara Pihak Pemberi layanan kesehatan dengan Instansi/ Perusahaan pemberi kerja, yaitu perjanjian melakukan jasa-jasa tertentu. Perjanjian melakukan jasa-jasa tertentu diatur dalam Pasal 1601 KUHPerdara yaitu Suatu pihak menghendaki dari

pihak lawannya dilakukannya suatu pekerjaan untuk mencapai sesuatu tujuan, untuk mana ia bersedia membayar upah, sedangkan apa yang akan dilakukan untuk mencapai tujuan tersebut samasekali terserah kepada pihak lawan itu. Biasanya pihak lawan ini adalah seorang ahli dalam melakukan pekerjaan tersebut dan biasanya juga sudah memasang tarif untuk jasanya itu. Sehingga pada tahap tes kesehatan calon pekerja dibuat seolah-olah menjadi objek perjanjian bukan menjadi subjek perjanjian.

Pada tahap ini calon pekerja biasanya dihadapkan pada suatu pilihan untuk menyetujui atau merelakan dirinya mendapatkan pelayanan medis dan pemeriksaan kesehatan dari pemberi pelayanan kesehatan. Undang-undang Kesehatan dalam Pasal 5 menyatakan:

1. Setiap orang mempunyai hak yang sama dalam memperoleh akses atas sumber daya di bidang kesehatan.
2. Setiap orang mempunyai hak dalam memperoleh pelayanan kesehatan yang aman, bermutu, dan terjangkau.
3. Setiap orang berhak secara mandiri dan bertanggung jawab menentukan sendiri pelayanan kesehatan yang diperlukan bagi dirinya

Sejalan dengan pasal 5 Undang-undang Kesehatan, Persetujuan tindakan medis telah diatur dalam Pasal 45 Undang-undang Nomor 29 tahun 2004 tentang Praktek Kedokteran, selanjutnya disebut UU Praktek Kedokteran. Sebagaimana dinyatakan setiap tindakan kedokteran atau kedokteran gigi yang akan dilakukan oleh dokter atau dokter gigi terhadap pasien harus mendapat persetujuan. Persetujuan sebagaimana dimaksud diberikan setelah pasien mendapat penjelasan secara lengkap, sekurang-kurangnya mencakup: diagnosis dan tata cara tindakan medis, tujuan tindakan medis yang dilakukan, alternatif tindakan lain dan risikonya, risiko dan komplikasi yang mungkin terjadi, dan prognosis terhadap tindakan yang dilakukan. Persetujuan tersebut dapat diberikan baik secara tertulis maupun lisan.

Berdasarkan Undang-undang Kesehatan dan juga Undang-undang praktek Kodekteran secara jelas menyatakan bahwa Pasien dapat menentukan dan bertanggung jawab atas segala tindakan medis yang telah dia pilih. hal ini termaksud juga para calon pekerja yang akan memalui tes kesehatan, mereka diberikan hak untuk menerima atau menolak mengikuti tes kesehatan tersebut.

Tes kesehatan adalah hal yang lazim ada dalam rangkaian saringan masuk sebagai pegawai. Banyak calon pekerja yang merasa kecewa karena mereka tidak dapat bekerja di suatu Instansi/ perusahaan karena dinyatakan tidak lulus tes kesehatan. Banyak dari calon pekerja tersebut yang bingung karena mereka merasa dirinya sehat, tetapi mereka tidak dapat mengetahui apa yang sebenarnya menjadi masalah sehingga mereka gagal dalam tes kesehatan, karena baik secara lisan maupun tertulis, mereka tidak pernah diberikan hasil tes kesehatan/ Rekam medik tersebut.

Permasalahan yang timbul pada tahap tes kesehatan kerja banyak pelamar kerja yang tidak lolos dalam tes kesehatan, mencoba untuk meminta keterangan lisan atau salinan hasil rekam medik tersebut ke tempat mereka menjalani tes kesehatan atau ke perusahaan tempat mereka melamar kerja, namun dengan alasan “rahasia” atau “hasil milik perusahaan”, tidak satu pun dari para pelamar kerja mendapatkan hasil tes kesehatannya. Hal ini tentu bertentangan dengan Pasal 8 UU Kesehatan yang menyatakan “*Setiap orang berhak memperoleh informasi tentang data kesehatan dirinya termasuk tindakan dan pengobatan yang telah maupun yang akan diterimanya dari tenaga kesehatan*”.

Disisi lain pasien akan dihadapkan dengan keadaan bahwa sebelum melaksanakan tes kesehatan calon pekerja telah menyetujui pernyataan bahwa setiap informasi yang berkenaan dengan hasil kesehatan menjadi hak dari Instansi/ Perusahaan selaku pihak yang mempunyai kepentingan dan juga pihak yang membiayai semua proses tes kesehatan ini. Instansi/ perusahaan pelaksanaan tes kesehatan memiliki hak untuk menguasai hasil tes kesehatan para calon pekerjanya. Tentu hal ini sangat bertolak belakang dengan aturan yang diatur dalam Pasal 29 UU Praktek Kodekteran yang menyatakan “*Dokumen rekam medis merupakan milik dokter, dokter gigi, atau sarana pelayanan kesehatan, sedangkan isi rekam medis merupakan milik pasien*” sehingga Instansi/ Perusahaan hanya boleh mengambil salinan hasil rekam medik pasien atas hasil kesepakatan dan persetujuan dari calon pekerja.

Perikatan yang lahir pada perjanjian terapeutik pada tahap tes kesehatan murni merupakan perjanjian yang lahir karena kesepakatan antara pihak penyedia layanan kesehatan, Calon Pekerja dan juga Instansi/ Perusahaan. Sehingga masing-masing pihak harus tunduk terhadap kesepakatan yang telah dibuat seperti halnya pernyataan yang telah disepakati

bahwa seluruh hasil rekam medik menjadi milik sepenuhnya instansi/ perusahaan pemberi kerja. Tetapi yang perlu diketahui sumber hukum perikatan tidak hanya perjanjian tetapi juga undang-undang merupakan sumber hukum perjanjian.

Perikatan dapat timbul baik karena perjanjian maupun karena undang-undang. Demikian pula halnya transaksi atau perjanjian terapeutik pada tahap tes kesehatan tidak terlepas dari kedua sumber perikatan tersebut, karena pada hakikatnya transaksi atau perjanjian terapeutik merupakan suatu perikatan. Sehingga kedua hal tersebut tidak dapat diperdebatkan karena kedua hal tersebut saling melengkapi dan diperlukan untuk menganalisis hubungan hukum yang timbul dari transaksi terapeutik.

Pasal 1233 Kitab Undang-Undang Hukum Perdata, menyatakan bahwa “*Tiap-tiap perikatan dilahirkan baik karena persetujuan, baik karena undang-undang*”, selain perjanjian, Kitab Undang-Undang Hukum Perdata menentukan bahwa perikatan dapat lahir dari Undang-Undang dengan pernyataan tersebut pembuat undang-undang hendak menyatakan bahwa hubungan hukum dapat terjadi setiap saat, baik dihendaki ataupun tidak oleh pihak yang terikat dalam perikatan tersebut. hal ini tentu sejalan dengan Asas kebiasaan diatur dalam Pasal 1339 Kitab Undang-undang Hukum Perdata. Menurut asas ini perjanjian tidak hanya mengikat untuk apa yang secara tegas diatur, tetapi juga hal-hal yang dalam keadaan dan kebiasaan lazim diikuti (Raharjo, 2009). Berdasarkan pasal tersebut dapat ditarik pernyataan bahwa UU Praktek kodekteran menyatakan bahwa segala informasi dalam rekam medik merupakan milik pasien, dalam hal melamar kerja hasil pemeriksaan atau rekam medik tes kesehatan tetap mejadi hak dari calon pekerja baik di dinyatakan ataupun tidak dinyatakan secara jelas dalam perjanjian.

Tahapan tes kesehatan yang melibatkan instansi/ perusahaan sebagai pihak yang membiayai seluruh proses tes kesehatan tidak mengenyampingkan status calon pekerja/ pasien sebagai seorang konsumen yang diatur dalam undang-undang nomor 8 tahun 1999 tentang Perlindungan Konsumen. Sehingga pasien tetaplah seorang konsumen dari sebuah jasa pelayanan kesehatan yang tetap mendapatkan hak kenyamanan, keamanan dan keselamatan serta hak atas informasi yang benar, jelas, dan jujur mengenai kondisinya.

Kewajiban pelayanan kesehatan untuk menyimpan rahasia berlaku terhadap setiap orang, atas dasar tersebut terdapat 3 pengecualian, yaitu:

- a. peraturan perundangundangan;
- b. pemberian izin untuk mengungkapkan dari pasien sebagai yang berhak atas rahasia; dan
- c. konflik kewajiban yang berkaitan dengan perbedaan kepentingan.

Sedangkan menurut hukum positif Indonesia yang termuat dalam Pasal 48 Ayat (2) UU Praktek Kedokteran, pengungkapan rahasia kedokteran dapat dilakukan untuk:

- a. Untuk kepentingan kesehatan pasien;
- b. Memenuhi permintaan aparaturnya penegak hukum dalam rangka penegak hukum;
- c. Permintaan pasien sendiri; atau
- d. Berdasarkan ketentuan perundang-undangan.

Pengecualian terhadap kerahasiaan kedokteran dapat diungkapkan pada suatu keadaan (Suwignjo, 2019), antara lain:

1. Atas izin Pasien
2. Keperluan asuransi
3. Dokter perusahaan
4. Dokter penguji kesehatan
5. Kuasa Hukum
6. Menjalankan undang-undang
7. Pengadilan
8. Daya paksa
9. Konsultasi profesional
10. Pendidikan dan pelatihan

Adanya perjanjian antara dokter selaku pemberi jasa pelayanan kesehatan dengan instansi/perusahaan yang melaksanakan tes kesehatan mengakibatkan hasil pemeriksaan menjadi hak instansi/perusahaan tersebut namun dengan syarat terlebih dahulu pasien diberitahukan tentang hal ini. kontrak antara dokter dengan perusahaan melalui sebuah perjanjian maka hubungan dokter dengan perusahaan menjadi nomor satu sedangkan hubungan dokter dengan pasien menjadi nomor dua. Hal ini sudah menjadi kewajiban dokter untuk melaporkan hal-hal yang wajib lapor kepada perusahaan walaupun data yang diberikan hanya terbatas dan yang relevan berkaitan dengan *public health & duty to warn* (Suwignjo, 2019).

Dari pernyataan diatas bahwa pelayan kesehatan dapat memberikan informasi seputar rekam medik seorang pasien dalam hal ini calon pekerja baik kepada dokter perusahaan ataupun dokter peguji tes kesehatan apabila telah mendapatkan izin untuk mengungkapkannya. Kerahasiaan hasil rekam medik pasien tidak berlaku bagi pasien itu sendiri, sehingga tidak ada alasan

yang dapat menyatakan bahwa pelaksana tes kesehatan ataupun instansi/ perusahaan yang mengadakan tes kesehatan untuk memiliki sepenuhnya hasil dari rekam medik calon pekerjanya.

Kesimpulan

Berdasarkan hasil penelitian yang penulis paparkan maka dapat ditarik kesimpulan bahwa dalam pelaksanaan tes kesehatan yang dilakukan oleh pihak Instansi/ Perusahaan tidak diperbolehkan mengambil hasil rekam medik secara sepihak tanpa memberikan akses kepada calon pekerja selaku pihak yang menjadi objek pada tahap tes kesehatan, meskipun telah ada perjanjian yang menyatakan bahwa keseluruhan hasil tes kesehatan menjadi milik dari instansi/perusahaan namun hal itu hanya sebatas mendapatkan salinan dan sedangkan keseluruhan hasil rekam medik tetap menjadi hak dari calon pekerja sebagaimana yang telah diatur dalam Pasal 29 Unndang-undang Praktek Kodekteran yang menyatakan “*Dokumen rekam medis merupakan milik dokter, dokter gigi, atau sarana pelayanan kesehatan, sedangkan isi rekam medis merupakan milik pasien*”.

Pernyataan Konflik Kepentingan

Para penulis menyatakan bahwa tidak ada potensi konflik kepentingan dalam penelitian, kepengarangan, dan/atau publikasi artikel ini

Pendanaan

Tidak ada

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Issue: Law, Democracy and Crime: How Society Responds the Imbalance?

Review Article

Bureaucracy in Perspective of Government Administration Laws

Birokrasi dalam Perspektif Hukum Administrasi Pemerintahan

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Abstract: This paper discusses bureaucracy in the analysis of law number 30 of 2014 concerning government administration as a form of democracy implementation. However, bureaucracy in many cases shows a negative tendency (corrupt behavior, including collusion and nepotism). Various forms of bureaucracy in Indonesia in history were also formed on the basis of the regime and the tastes of the authorities. So that various negative behaviors tend to occur. This paper is a normative legal study in which the writer only analyzes based on the laws and regulations and related legal theories. This paper confirms that law number 30 of 2014 concerning government administration has explicitly set the efforts that must be made by the government in resolving various issues relating to the administration of government and bureaucracy.

Keywords: bureaucracy, government administration, good governance, democracy, public services

Pendahuluan

Negara Indonesia telah mengamanatkan dalam Birokrasi merupakan hal yang tidak baru dalam kehidupan di masyarakat. Birokrasi dalam kehidupan di pemerintahan dan pelayanan publik merupakan hal yang sering didengar dan sering dipikirkan. Indonesia merupakan negara yang menerapkan sistem birokrasi atau pelayanan dari pemerintah kepada masyarakat. Birokrasi di Indonesia jika melihat dari sejarah maka banyak sekali kekurangan. Tata birokrasi sejak zaman kemerdekaan sampai dengan sekarang memang terus mengalami perbaikan. Tetapi birokrasi dalam catatan sejarah Indonesia juga telah menjadi bagian dari sistem yang menumbangkan kekuasaan. Hal tersebut tidak lain karena pelaksanaan birokrasi

yang tidak baik dan tata kelola birokrasi yang dipenuhi berbagai problem.

Era demokrasi terpimpin yang dipusatkan pada kekuasaan satu figur yaitu Presiden Soekarno pelaksanaan birokrasi mengalami penurunan. Puncaknya yaitu terjadinya peristiwa Gerakan 30 September 1965 PKI atau biasa disebut G 30 S PKI. Walaupun G 30 S PKI bisa ditumbangkan, tetapi efek yang terjadi bagi Negara Indonesia sangat besar. Keadaan tersebut menimbulkan demonstrasi besar-besaran di Indonesia yang dimotori oleh berbagai gerakan seperti gerakan pelajar dan mahasiswa serta lain-lain. Puncak dari gerakan tersebut yaitu munculnya tuntutan rakyat atau disebut Tiga Tuntutan Rakyat (Tritura). Tiga Tuntutan Rakyat atau Tritura yaitu terdiri dari:

1. Bubarkan Partai Komunis Indonesia;
2. Bersihkan Kabinet dari Unsur G 30 S PKI;
3. Turunkan harga atau perbaikan ekonomi (Suryanegara, 2012: 456).

Jika melihat secara detail Tritura tersebut maka sesungguhnya terdapat adanya permasalahan tentang birokrasi. Birokrasi tidak mampu berjalan efektif dan akhirnya menyebabkan ketidakpercayaan dari masyarakat. Ketidakpercayaan dari masyarakat terhadap pemerintah (pelayanan pemerintah) membuat masyarakat menuntut agar terjadi perbaikan pelayanan kepada masyarakat. Artinya jika melihat Tritura tersebut maka akan terlihat adanya permasalahan birokrasi dalam skala besar. Tidak heran jika Tritura menjadi salah satu tumbangannya demokrasi terpinpin atau orde lama yang dipimpin oleh Presiden Soekarno.

Tumbangannya orde lama memunculkan rezim baru yang disebut dengan orde baru. Orde baru berjalan selama hampir 32 tahun dibawah kekuasaan Presiden Soeharto. Hampir sama dengan orde lama, orde baru juga mengalami kelumpuhan setelah tiga tahun berkuasa. Puncaknya adalah adanya berbagai aksi yang domotori oleh gerakan mahasiswa di Jakarta dan daerah-daerah lainnya. Gerakan-gerakan tersebut tidak lain yaitu untuk menuntut adanya perbaikan sistem atau reformasi. Berkaitan merupakan beberapa tuntutan terhadap orde baru:

1. Diperlukannya untuk melaksanakan reformasi secara total;
2. Meminta Presiden Soeharto mengundurkan diri;
3. Melaksanakan Sidang Istimewa MPR (Habibie, 2006: 10).

Tuntutan tersebut kemudian dilaksanakan sehingga Presiden Soeharto harus rela untuk turun tahta dari kursi kepresidenan. Jika melihat tuntutan tersebut sesungguhnya tidak hanya fokus terhadap satu atau dua hal saja seperti meminta Presiden Soeharto mundur dan melaksanakan Sidang Istimewa MPR. Ada yang lebih penting yaitu melakukan reformasi. Reformasi tidak hanya dilihat secara garis besar saja melainkan juga harus dilihat secara detail. Ada banyak hal yang sesungguhnya harus melakukan reformasi yaitu salah satunya adalah reformasi birokrasi atau reformasi tata kelola pemerintahan. Orde baru telah meninggalkan beberapa permasalahan dalam sistem birokrasi. Kondisi tersebut yang menyebabkan orde baru harus tumbang dan digantikan dengan masa reformasi. jadi tidak heran jika sekarang disebut sebagai era reformasi.

Dua orde yang pernah ada di Indonesia dalam catatan sejarah telah tumbang. Salah satu penyebab tumbangannya dua orde tersebut jika melihat secara detail disebabkan oleh birokrasi. Birokrasi menjadi bagian yang tidak terpisahkan

dalam menumbangkan dua orde yaitu orde lama dan orde baru. Hal tersebut dikarenakan pelaksanaan birokrasi yang mempunyai banyak permasalahan. Reformasi telah bergulir akan birokrasi juga akan menjadi penyebab tumbangannya masa reformasi jika suatu saat masa reformasi tumbang. Pertanyaan tersebut menjadi hal yang serius untuk dikaji lebih mendalam.

Jika melihat perjalanan reformasi yang sudah dua puluh tahun ini, penyelenggaraan birokrasi sesungguhnya telah mengalami perbaikan. Hal tersebut setidaknya dapat dilihat dari tiga hal. Tiga hal tersebut adalah:

1. Peraturan tentang Birokrasi yang sering direvisi/diperbaiki;
2. Sistem Birokrasi yang semakin baik;
3. Kualitas sumber daya manusia yang semakin meningkat.

Tiga hal tersebut setidaknya menjadikan pelaksanaan birokrasi semakin tahun semakin baik. Hal yang paling penting dalam pelaksanaan birokrasi adalah mengenai aturan. Masa reformasi telah melahirkan banyak aturan yang berkaitan dengan birokrasi. Ada setidaknya tiga aturan yang berkaitan dengan birokrasi yaitu Undang-Undang Nomor 28 Tahun 1999 Tentang Penyelenggaraan Negara yang Bersih dan Bebas dari Korupsi, Kolusi, dan Nepotisme, Undang-Undang Nomor 25 Tahun 2009 Tentang Pelayanan Publik, dan Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan merupakan undang-undang terbaru yang dikeluarkan oleh Negara Indonesia berkaitan dengan birokrasi. Ada banyak pengaturan tentang birokrasi dalam Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan. Selain itu, Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan dapat dikatakan sebagai undang-undang yang komprehensif dalam mengatur urusan yang berkaitan dengan birokrasi. Oleh karena itu perlu diketahui birokrasi dalam Perspektif Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan dan perlu diketahui juga Undang-Undang Nomor 30 Tahun 2014 dalam menghadapi permasalahan birokrasi di Indonesia.

Tulisan membahas dua hal, yakni (1) bagaimana Birokrasi dalam Perspektif Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan? Dan (2) bagaimana

Undang-Undang Nomor 30 Tahun 2014 dalam menghadapi permasalahan birokrasi di Indonesia?

Pembahasan

A. Birokrasi dalam Perspektif Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan?

Telah dijelaskan sebelumnya bahwa Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan merupakan salah satu undang-undang yang komprehensif dalam mengatur urusan terkait dengan birokrasi. Hal tersebut dapat dilihat dari berbagai materi muatan yang ada dalam Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan. Sebelum membahas terkait dengan materi muatan yang ada dalam Undang-Undang Nomor 30 Tahun 2014 maka ada baiknya terlebih dahulu membahas terkait tentang latar belakang dikeluarkannya Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

Setidaknya ada tiga latar belakang yang dipertimbangkan sehingga memunculkan Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan. Tiga latar belakang yang menjadi pertimbangan menurut Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan yaitu:

- a. bahwa dalam rangka meningkatkan kualitas penyelenggaraan pemerintahan, badan dan/atau pejabat pemerintahan dalam menggunakan wewenang harus mengacu pada asas-asas umum pemerintahan yang baik dan berdasarkan ketentuan peraturan perundang-undangan;
- b. bahwa untuk menyelesaikan permasalahan dalam penyelenggaraan pemerintahan, pengaturan mengenai administrasi pemerintahan diharapkan dapat menjadi solusi dalam memberikan perlindungan hukum, baik bagi warga masyarakat maupun pejabat pemerintahan
- c. bahwa untuk mewujudkan pemerintahan yang baik, khususnya bagi pejabat pemerintahan, undang-undang tentang administrasi pemerintahan menjadi landasan hukum yang dibutuhkan guna mendasari keputusan dan/atau tindakan pejabat pemerintahan untuk memenuhi kebutuhan hukum masyarakat dalam penyelenggaraan pemerintahan

Berdasarkan tiga latar belakang tersebut dapat disimpulkan bahwa latar belakang lahirnya

Undang-Undang Nomor 30 Tentang Administrasi Pemerintahan adalah meningkatkan kualitas penyelenggaraan pemerintahan, menyelesaikan permasalahan dalam penyelenggaraan pemerintahan, dan mewujudkan pemerintahan yang baik. Setelah membahas mengenai latar belakang yang menjadi pertimbangan dikeluarkannya Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan. Hal selanjutnya yang akan dibahas yaitu terkait isi materi muatan dalam Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan. Berikut isi materi muatan Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

BAB I Ketentuan Umum terdiri dari 1 Pasal

BAB II Maksud dan Tujuan

Bagian Kesatu Maksud terdiri dari 1 Pasal

Bagian Kedua Tujuan terdiri dari 1 Pasal

BAB III Ruang Lingkup dan Asas

Bagian Kesatu Ruang Lingkup terdiri dari 1 Pasal

Bagian Kedua Asas terdiri dari 1 Pasal

BAB IV Hak dan Kewajiban Pejabat Pemerintahan terdiri dari 2 Pasal

BAB V Kewenangan Pemerintahan

Bagian Kesatu Umum terdiri dari 1 Pasal

Bagian Kedua Peraturan Perundang-undangan terdiri dari 1 Pasal

Bagian Ketiga Asas-Asas Umum Pemerintahan yang Baik terdiri dari 1 Pasal

Bagian Keempat Atribusi, Delegasi, dan Mandat terdiri dari 4 Pasal

Bagian Kelima Pembatasan Kewenangan terdiri dari 1 Pasal

Bagian Keenam Sengketa Kewenangan terdiri dari 1 Pasal

Bagian Ketujuh Larangan Penyalahgunaan Wewenang terdiri dari 5 Pasal

BAB VI Diskresi

Bagian Kesatu Umum terdiri dari 1 Pasal

Bagian Kedua Lingkup Diskresi terdiri dari 1 Pasal

Bagian Ketiga Persyaratan Diskresi terdiri dari 2 Pasal

Bagian Keempat Prosedur Penggunaan Diskresi terdiri dari 4 Pasal

Bagian Kelima Akibat Hukum Diskresi terdiri dari 3 Pasal

BAB VII Penyelenggaraan Administrasi Pemerintahan

Bagian Kesatu Umum terdiri dari 1 Pasal

Bagian Kedua Badan dan/atau Pejabat Pemerintahan terdiri dari 1 Pasal

Bagian Ketiga Bantuan Kedinasan terdiri dari 3 Pasal

Bagian Keempat Keputusan Berbentuk Elektronik terdiri dari 1 Pasal

Bagian Kelima Izin, Dispensasi, dan Konsesi terdiri dari 1 Pasal

BAB VIII Prosedur Administrasi Pemerintahan

Bagian Kesatu Para Pihak terdiri dari 1 Pasal

Bagian Kedua Pemberian Kuasa terdiri dari 1 Pasal

Bagian Ketiga Konflik kepentingan terdiri dari 4 Pasal

Bagian Keempat Sosialisasi bagi Pihak yang Berkepentingan terdiri dari 2 Pasal

Bagian Kelima Standar Operasional Prosedur terdiri dari 1 Pasal

Bagian Keenam Pemeriksaan Dokumen Administrasi Pemerintahan terdiri dari 1 Pasal

BAB IX Keputusan Pemerintahan

Bagian Kesatu Syarat Sahnya Keputusan terdiri dari 5 Pasal

Bagian Kedua Berlaku dan Mengikatnya Keputusan Terdiri dari 4 Pasal

Bagian Ketiga Penyampaian Keputusan terdiri dari 2 Pasal

Bagian Keempat Perubahan, Pencabutan, Penundaan, dan Pembatalan Keputusan terdiri dari 7 Pasal

Bagian Kelima Akibat Hukum Keputusan dan/atau Tindakan terdiri dari 3 Pasal

Bagian Keenam Legalisasi Dokumen terdiri dari 2 Pasal

BAB X Upaya Administratif

Bagian Kesatu Umum terdiri dari 2 Pasal

Bagian Kedua Keberatan terdiri dari 1 Pasal

Bagian ketiga Banding terdiri dari 1 Pasal

BAB XI Pembinaan dan Pengembangan Administrasi Pemerintahan terdiri dari 1 Pasal

BAB XII Sanksi Administratif terdiri dari 5 Pasal

BAB XIII Ketentuan Peralihan terdiri dari 3 Pasal

BAB XIV Ketentuan Penutup terdiri dari 2 Pasal

Berdasarkan judul materi muatan yang terdapat dalam Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan menandakan bahwa birokrasi telah diatur secara detail dan komprehensif. Walaupun mungkin masih banyak beberapa yang harus diperbaiki. Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan memandang birokrasi sesungguhnya telah jauh mengalami kemajuan.

Pengaturan birokrasi dalam Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan menjadikan birokrasi lebih mudah dipahami karena sudah diatur secara terintegrasi dalam satu undang-undang yaitu Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

Hal tersebut dapat dilihat dalam Pasal 87 Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan. Pasal 87 menyatakan bahwa:

Dengan berlakunya Undang-Undang ini, Keputusan Tata Usaha Negara sebagaimana dimaksud dalam Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara sebagaimana telah diubah dengan Undang-Undang Nomor 9 Tahun 2004 dan Undang-Undang Nomor 51 Tahun 2009 harus dimaknai sebagai:

- a. penetapan tertulis yang juga mencakup tindakan faktual;
- b. Keputusan Badan dan/atau Pejabat Tata Usaha Negara di lingkungan eksekutif, legislatif, yudikatif, dan penyelenggara negara lainnya;
- c. berdasarkan ketentuan perundang-undangan dan AUPB;
- d. bersifat final dalam arti lebih luas;
- e. Keputusan yang berpotensi menimbulkan akibat hukum; dan/atau
- f. Keputusan yang berlaku bagi Warga Masyarakat.

Artinya Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan mampu menegaskan makna khususnya makna Keputusan Tata Usaha Negara yang tertuang dalam Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara sebagaimana telah diubah dengan Undang-Undang Nomor 9 Tahun 2004 dan Undang-Undang Nomor 51 Tahun 2009.

B. Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan dalam Menghadapi Permasalahan Birokrasi di Indonesia

Telah dijelaskan bahwa Undang-Undang Nomor 30 Tentang Administrasi Pemerintahan telah mengatur secara komprehensif dalam hal birokrasi. Bahkan ketentuan tentang Keputusan Tata Usaha Negara yang tertuang dalam Undang-Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara sebagaimana telah diubah dengan Undang-Undang Nomor 9 Tahun 2004 dan Undang-Undang Nomor 51 Tahun 2009

dinegasikan oleh Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

Hal tersebut menandakan bahwa Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan semakin kuat. Semakin kuatnya pengaturan birokrasi seharusnya diikuti dengan efektifitas dari hukum tentang birokrasi dalam menghadapi masalah birokrasi. Oleh karena itu apakah Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan dapat menghadapi masalah birokrasi atau dapat menghadapi permasalahan birokrasi di Indonesia? Pertanyaan tersebut tentu harus dijawab dengan tepat.

Secara normatif sesungguhnya Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan seharusnya dapat menghadapi permasalahan birokrasi yang ada di Indonesia. Hal tersebut dikarenakan beberapa hal. Pertama Undang-Undang Nomor 30 Tahun 2014 merupakan undang-undang yang lahir jauh setelah reformasi. Diketahui bahwa salah satu semangat untuk mengadakan reformasi adalah perbaikan tata kelola pemerintahan atau perbaikan birokrasi. Oleh karena itu seharusnya Undang-Undang Nomor 30 Tahun 2014 dapat menghadapi permasalahan birokrasi di Indonesia mengingat undang-undang ini dibuat dengan semangat perbaikan birokrasi.

Kedua, Undang-Undang Nomor 30 Tahun 2014 merupakan bagian dari evaluasi dan perbaikan terhadap undang-undang atau produk hukum sebelumnya terkait dengan birokrasi. Artinya materi muatan Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan lebih komprehensif lebih menjawab tantangan zaman sehingga mampu menghadapi permasalahan khususnya permasalahan birokrasi yang ada di Indonesia. hal tersebut terbukti dari Pasal 87 Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan yang mampu menegaskan salah satu ketentuan terkait birokrasi dalam produk hukum yang lain.

Dua alasan tersebut sesungguhnya dapat dijadikan sebagai alasan normatif bahwa Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan dapat menghadapi permasalahan birokrasi di Indonesia. Tetapi hasil dari Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan dalam menghadapi permasalahan birokrasi di Indonesia tidak bisa dilihat dengan jangka pendek. Perlu setidaknya lima tahun setelah Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi

Pemerintahan dilaksanakn untuk mengetahui hasil dari Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan dalam menghadapi permasalahan birokrasi di Indonesia.

Kesimpulan

Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan merupakan produk hukum yang mengatur tentang birokrasi. Birokrasi dalam perspektif Undang-Undang Nomor 30 Tahun 2014 Tentang Administarsi Pemerintahan lebih diatur secara komperhensif dan terintegrasi. Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan yang komprehensif dan terintegrasi membuat Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan semakin kuat Hal itu terlihat dari Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan mampu menegaskan makna khususnya makna Keputusan Tata Usaha Negara yang tertuang dalam Undang- Undang Nomor 5 Tahun 1986 tentang Peradilan Tata Usaha Negara sebagaimana telah diubah dengan Undang-Undang Nomor 9 Tahun 2004 dan Undang-Undang Nomor 51 Tahun 2009.

Adapun terkait dengan Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan dalam menghadapi permasalahan birokrasi di Indonesia. Secara normatif Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan dapat menghadapi permasalahan birokrasi di Indonesia. Hal tersebut dilihat dari latar belakang lahirnya Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan dan substansi dari Undang-undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

Pernyataan Konflik Kepentingan

Para penulis menyatakan bahwa tidak ada potensi konflik kepentingan dalam penelitian, kepengarang-an, dan/atau publikasi artikel ini

Pendanaan

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