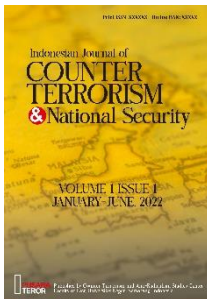


Law Enforcement Arrangements in Online Prostitution in Indonesian Security Context

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ABSTRACT: This research is descriptive normative legal research with a statutory approach, which examines laws and regulations related to the legal issues raised and an analytical approach. the text of a statute. The type of data used is secondary data. The secondary data sources used include primary legal materials, secondary legal materials, and tertiary legal materials. The data collection technique used is the study of documents or library materials. The study of documents or library materials includes efforts to collect data by visiting libraries, reading, reviewing, and studying books, literature, articles, magazines, newspapers, scientific essays, papers, internet related to the object of research. The results of the study show that Indonesia's positive legal regulations regulate crime of pornography on the internet (cyberporn) as a cybercrime including Article 281-283 of the Criminal Code (KUHP), Law Number 8 of 1992 concerning Film, Law Number 36 of 1999 concerning Telecommunication, Article 5 paragraph 1 and Article 13 paragraph (1) letter a of Law Number 40 of 1999 concerning the Press, Article 36 paragraph (5) of Law Number 32 of 2002 concerning Broadcasting, Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE Law) and Law Number 44 of 2008 concerning Pornography. The regulation is considered inadequate when it comes to the current development of pornography on the internet (cyberporn), including the provision of unclear limits on pornography, the authorities to take certain actions in dealing with the problem of pornography, the threat of punishment that is too light, the lack of clarity on the parties deemed appropriate for the crime. accountable for crimes categorized as pornography, and inconsistent law enforcement.

KEYWORDS: Prostitution, Cyberporn, Law Enforcement, Security

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I. INTRODUCTION

The development of science and technology, especially information and communication technology, has had a major impact on human life today. With the sophistication of communication tools, we can know all information from any part of the world immediately. However, technological developments are not always good. As technology develops in this sophisticated era, it is often misused by certain parties, especially prostitutes in carrying out their work by offering themselves online or being offered online through online media which is more practical and affordable. Customers will also benefit more because their access will be easier and more efficient.¹

Advances in technology and information have a positive influence on the development of social and economic activities of the world community. However, the development of technology and information does not only have a positive influence, but also has a

¹ Eko Noer Kristiyanto, "Jangkauan Hukum Nasional terhadap Prostitusi Daring." *Jurnal Penelitian Hukum De Jure* 19, No. 1 (2019): 1-10; Yayat Hadiyat, "Pola komunikasi prostitusi daring di Twitter." *Jurnal PIKOM (Penelitian Komunikasi dan Pembangunan)* 18, No. 2 (2017): 125-136; Handrini Ardiyanti, *Prostitusi Online: Cybercrime, Cyberlaw, dan Media Literacy*, (Jakarta: Pusat Pengkajian, Pengolahan Data dan Informasi (P3DI) Sekretariat Jenderal DPR-RI, 2009).

negative influence. This negative influence can be seen along with the emergence of a new crime, namely cyber crime, namely in the form of online prostitution.² Regulations regarding the prohibition of online prostitution have been clearly formulated in Indonesia's positive law, namely in the Criminal Code, Law Number 11 of 2008 concerning Information and Electronic Transactions, and Law Number 44 of 2008 concerning Pornography. However, enforcement in this case is very difficult to do, because in online prostitution transactions that cross borders (borderless).³

The disappearance of the boundaries of space and time on the Internet changed many things. The rapid development in the use of internet services ultimately invites the occurrence of crime, which is better known as Cybercrime. Cybercrime is the development of computer crime. Indonesia as one of the most densely populated countries in the world cannot be separated from these problems. Indonesia accounts for 2.4% of cyber crimes in the world. This case increased by almost 1.7% compared to 2010 where Indonesia was

² Raodia Raodia. "Pengaruh Perkembangan Teknologi Terhadap Terjadinya Kejahatan Mayantara (Cybercrime)." *Jurisprudentie: Jurusan Ilmu Hukum Fakultas Syariah dan Hukum* 6, No. 2 (2019): 230-239; Renny NS. Koloay, "Perkembangan Hukum Indonesia Berkenaan dengan Teknologi Informasi dan Komunikasi." *Jurnal Hukum Unsrat* 22, No. 5 (2016); Richiyanti, Shilvi. "Pengaruh dan Penanganan Cybercrime dalam Perkembangan Teknologi Informasi." *Kodifikasi* 2, No. 2 (2020): 46-56.

³ Anisya Ines Safitri, Aldo Andrieyan Putra Makaminan, and Mujiono Hafidh Prasetyo. "Kebijakan Hukum Pidana dalam Upaya Penanggulangan Cyber Prostitution." *Jurnal Pembangunan Hukum Indonesia* 3, No. 1 (2021): 70-79; Gea Illa Sevrina, "Kebijakan Kriminalisasi Terhadap Praktik Prostitusi di Indonesia." *Law and Justice* 5, No. 1 (2020): 17-29; Hervina Puspitosari, "Upaya Penanggulangan Prostitusi Online Internet Berdasarkan Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (ITE)." *Surakarta: Jurnal Komunikasi Massa* 3, No. 1 (2010).

ranked 28th.⁴ This is none other than due to the continued increase in the number of internet users in Indonesia. Moreover, now that Indonesia is in the top five social network users in the world, it is alleged that cyber criminals are even easier to carry out their actions. Cyber criminals take advantage of friendship networks through social networks, because most social network users simply trust the links or content they receive from fellow friends. Without further confirmation or checking, users of these social networks have direct access to the web or sites they receive, which unwittingly contain malicious programs.⁵

One of the functions of the law is to ensure the smooth running of the national development process while at the same time securing the results that have been achieved, must be able to protect the rights of internet service users as well as take firm action against cybercrime

⁴ Dodo Zaenal Abidin, "Kejahatan dalam Teknologi Informasi dan Komunikasi." *Jurnal Processor* 10, No. 2 (2017): 509-516; Nurbaiti Marufah, Hayatul Khairul Rahmat, and I. Dewa Ketut Kerta Widana. "Degradasi Moral sebagai Dampak Kejahatan Siber pada Generasi Millennial di Indonesia." *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 7, No. 1 (2020): 191-201.

⁵ Rizqiya Windy Saputra, "A survey of cyber crime in Indonesia." *2016 International Conference on ICT For Smart Society (ICISS)*. (IEEE, 2016); Hatta Muhammad, "Efforts to overcome cyber crime actions in Indonesia." *International Journal of Psychosocial Rehabilitation* 24, No. 03 (2020): 1761-1768; Imam Mahdi, and Juhriyansyah Dalle. "Examining the Adequacy of Constitutional Laws Related to Cybercrimes in Indonesia." *International Journal of Cyber Criminology* 15, No. 1 (2021): 122-132; Muhammad Hatta, et al. "Efforts to Overcome Cyber Crime Actions in Indonesia." *Journal of Physics: Conference Series* 1114, No. 1 (IOP Publishing, 2018); Y. C., Mahendra, and N. K. D. S. A. Pinatih. "Mapping on Cyber Threats in Indonesia Related to Indonesia's Cyber Security Agenda." *B-SPACE 2019: Proceedings of the First Brawijaya International Conference on Social and Political Sciences, BSPACE, 26-28 November 2019, Malang, East Java, Indonesia*. (European Alliance for Innovation, 2020).

perpetrators. Judging from its nature, Cybercrime is included in the borderless crime category (crimes without limitations of space and time), so that in eradicating Cybercrime, complex, integrated, and continuous steps are needed from many parties, not only the task of law enforcement. Definition of Cybercrime To facilitate understanding, here are some opinions about what is meant by Cybercrime.⁶ According to Gregory, cybercrime is a form of virtual crime by utilizing computer media connected to the internet, and exploiting other computers connected to the internet as well. The existence of security holes in the operating system causes weaknesses and opens holes that can be used by hackers, crackers, and script kiddies to infiltrate the computer.⁷

As a country whose ideology is Pancasila, prostitution has harmed the identity of the Indonesian nation, which has upheld its values. So that it can be said that prostitution is a deviant act which is a disturbance or obstacle in Indonesia. For this reason, serious handling of prostitution is needed, especially online prostitution which is currently rife in Indonesia, cooperation between the government and law enforcement and also the community here is very much needed in handling and preventing this online prostitution.

⁶ Azeez Nureni Ayofe, and Barry Irwin. "Cyber security: Challenges and the way forward." *Computer Science & Telecommunications* 29, No. 6 (2010); Azeez Nureni Ayofe, and Osunade Oluwaseyifunmitan. "Approach to solving cybercrime and cybersecurity." *arXiv preprint arXiv:0908.0099* (2009); Sunakshi Maghu, Siddharth Sehra, and Avdesh Bhardawaj. "Inside of Cyber Crimes and Information Security: Threats and Solutions." *International Journal of Information and Computation Technology* 4, No. 8 (2014): 835-840.

⁷ Mark A. Gregory, and David Glance. "Predictions." in *Security and the Networked Society*. (Cham: Springer, 2013), pp. 289-297. See also Mark A. Gregory, and David Glance. "Cyber crime, cyber security and cyber warfare." in *Security and the Networked Society*. (Cham: Springer, 2013), pp. 51-95; Alisdair A. Gillespie, *Cybercrime: Key issues and debates*. (London: Routledge, 2015).

II. METHODS

This study uses a normative legal research type, using a statute approach. The legal approach is carried out by reviewing all laws and regulations related to the legal issues being handled related to online prostitution.

III. ONLINE PROSTITUTION: THE LEGAL LIMITATIONS

Prostitution comes from the Dutch language, namely *prostitutie* and in English it is prostitution which means prostitution. Prostitution according to Soejono Soekamto can be interpreted as a job that is surrendered to the public to perform sexual acts for wages. In terms of regulating online prostitution activities, it has been clearly formulated in positive Indonesian law, where the regulation contains the principle of *lex specialis derogat legi generalis*, that special rules override general rules. Pornography on the internet is related to possessing, creating, importing, displaying, publishing and/or distributing pornography.

Pornography on the internet is also related to the content of the site that is presented to its accessors, so the Convention on Cybercrime from the European Union categorizes this pornography in the category of Content-related offenses contained in Title 3, article 9. An interactive global communication network through internet relay chat facilities (chattiny) can be used to disseminate information about pornographic stories or images (both for the dark side and the bright side of pornography) or also called cybersex. There are two forms of cybersex in chat rooms, namely Computer mediated interactive

masturbation in real time and Computer mediated telling of interactive sexual stories (in real time) with the intent of arousal.⁸

Victims of immoral acts in this virtual world can be minors and even teenagers, porn sites that are scattered in the virtual world make many parties who should not be eligible to access them even browse to the site.⁹ Indonesia, which is oriented to the east in terms of association and ethics, considers someone who is either a minor or an adult who accesses pornographic sites a taboo subject. Problems that arise due to the presence of pornographic sites, both those belonging to Indonesian nationals and people abroad, make the public need to be aware of the behavior of children and adolescents in their families so as not to see pornographic sites, but not only the public who have a role to play to prevent this cyberporn crime, but law enforcement also needs to. In Indonesia, a clear legal umbrella in law enforcement against cyberporn crimes is the existence of Law Number 11 of 2008 concerning Information and Electronic Transactions.¹⁰

⁸ Amalie M. Weber, "The Council of Europe's Convention on Cybercrime." *Berkeley Technology Law Journal* 18, No. 1 (2003): 425-446. Please also see Jonathan Clough, "A world of difference: the Budapest convention on cybercrime and the challenges of harmonisation." *Monash University Law Review* 40, No. 3 (2014): 698-736; Lorenzo Picotti, and Ivan Salvadori, *National Legislation Implementing the Convention on Cybercrime—Comparative analysis and good practices.* (Directorate General of Human Rights and Legal Affairs Council of Europe, 2008).

⁹ Solène Neyret, et al. "An embodied perspective as a victim of sexual harassment in virtual reality reduces action conformity in a later milgram obedience scenario." *Scientific Reports* 10, No. 1 (2020): 1-18; Philip Brey, "The ethics of representation and action in virtual reality." *Ethics and Information Technology* 1, No. 1 (1999): 5-14.

¹⁰ Eka Nugraha Putra, "Kejahatan Tanpa Korban dalam Kejahatan Cyberporn." *Jurnal Cakrawala Hukum* 6, No. 1 (2015): 1-12; Filbert Maneking, "Kajian Yuridis Terhadap Pelaku dan Korban Kejahatan Prostitusi Online Ditinjau dari Delik Pidana." *Lex Privatum* 9, No. 3 (2021); Fadillah Adkiras,

Etymologically, pornography means a writing related to prostitution issues and the writing is mostly in the form of fiction (fictional stories) whose material is taken from sexual fantasy, pornography usually does not have a plot and character, but has a detailed description of sexual activity, often even in a prolonged and sometimes very challenging way. In the Big Indonesian Dictionary, pornography means: (1) the depiction of erotic behavior with paintings or writings to arouse lust, and (2) reading material that is intentionally and solely designed to arouse lust in sex.¹¹

Many pornography actors take refuge in the name of art. According to Cak Kandar, art is an act or process of creation that is intentionally made to increase the creativity of human intelligence that meets aesthetic, artistic, philosophical, and moral elements. While pornography is an act that aims to create lust.

According to the Webster New World Dictionary, the word "*pornography*" comes from the Greek language which consists of two syllables, namely: *porne* and *graphein*. *Porne* = a prostitute; *graphein* = to write (from the noun *graphe*: a drawing, writing). *Pornographos* = writing about prostitutes or writing or depicting prostitutes/prostitutes. Literally, Webster's dictionary provides a definition of pornography, as follows: Writing, pictures etc. intended primarily to arouse sexual desire. The production of such writings, pictures etc.

In the use of the word's "*porn*" and "*pornography*" by definition, they have slightly different meanings. When it comes to porn, it usually

Fatma Reza Zubarita, and Zihan Tasha Maharani Fauzi. "Konstruksi Pengaturan Kekerasan Berbasis Gender Online di Indonesia." *Lex Renaissance* 6, No. 4 (2021): 781-798.

¹¹ Adami Chazawi, *Tindak Pidana Pornografi*. Malang: Media Nusa Creative, 2022); Topo Santoso, "Pornografi Dan Hukum Pidana." *Jurnal Hukum & Pembangunan* 26, No. 6 (2017): 513-522.

includes writing, pictures, paintings as well as spoken words, dances and anything that is immoral/obscene. While pornography is only limited to writing, pictures, and paintings. Limited to what can be graphed (drawn, written, or painted). According to Encarta Dictionary Tools, pornography is defined as: Sexually explicit material: films, magazines, writing, photographs, or other materials that are sexually explicit and intended to cause sexual arousal sexual images industry: the production or sale of sexually explicit films, magazine, or other materials. In the field of law or legal persons often use the word "stimulate" or "awaken" lust as the main element of the understanding of porn.¹²

As an example, in several cases related to pornography in Indonesia, several judges' decisions stated that one of the categories of porn is images or writings that can arouse sexual stimulation of those who see/read it. This is in line with the definition of pornography according to The Encyclopedia Americana, which provides a simple definition that images, writings, or other forms of communication are intended to arouse sexual desire. So here, the main element of the material called porn is that which is intentionally intended to arouse sexual desire.¹³

In the legal provisions in Indonesia, the regulation regarding crimes against online prostitution is specifically regulated in Article 27 paragraph (1) of Law Number 11 of 2008 concerning Information and Electronic Transactions which states that: every person intentionally and without the right to distribute and or transmit and / or electronic

¹² Sidney I. Landau, "Encarta World English Dictionary, and: Microsoft Encarta World English Dictionary." *Dictionaries: Journal of the Dictionary Society of North America* 21, No. 1 (2000): 112-124.

¹³ George Edwin Rines, and Frederick Converse Beach. *The Encyclopedia Americana*. (New York: Americana Company, 1904).

documents that have content that violates decency. With a systematic interpretation of the Criminal Code (as a general provision), it can be seen that the provisions in Article 27 paragraph (1) of Law Number 11 of 2008 concerning information and electronic transactions prohibit prostitution activities carried out by electronic media.

Regulations regarding crimes against prostitution are also found specifically in Article 30 *jo*. Article 4 paragraph (1) of Law number 44 of 2008 concerning pornography which formulates that: "everyone who provides pornographic services as referred to in article 4 paragraph (2) shall be punished with imprisonment for a minimum of six months and a maximum of six years and/or be punished with a minimum fine of two hundred and fifty million rupiah and a maximum of three billion rupiah." The general provisions governing online prostitution are formulated in Article 296 and Article 506 of the Criminal Code. Article 296 of the Criminal Code states that: "Whoever intentionally causes or facilitates obscenity by another person with another person, and makes it a search or habit, is threatened with a maximum imprisonment of one year and four months or a maximum fine of fifteen thousand rupiahs."

Furthermore, in article 506 of the Criminal Code it is stated that: "anyone who is ready to take advantage of the obscene act of a woman and make it a search, is threatened with a maximum imprisonment of one year," the juridical problem can be seen from the formulation of these articles, where punishment can only be carried out against pimps while prostitutes and their customers themselves cannot be penalized.

IV. CRIMINAL LIABILITY FOR ONLINE PROSTITUTION PERPETRATORS & THE IMPACT OF PROSTITUTION

In addition to being against the law, the element of error, which in Dutch is called *schuld*, is also the main element related to the responsibility of the perpetrator for his actions, including criminal acts or criminal acts or offenses. This element is better known as the adgium "*geen straf zonder schuld*, or *nulla poena sine culpa*."¹⁴

Referring to the provisions of Article 27 paragraph (10) of Law Number 11 of 2008 concerning Information and Electronic Transactions That: "everyone intentionally and without rights distributes and/or transmits and/or makes accessible electronic information and/or electronic documents that have content that violates decency." Criminal responsibility lies with everyone who is a legal subject, as referred to in Article 1 number 21, namely that the legal subject in question is an individual, both foreign nationals and legal entities. So that perpetrators of online prostitution must can be held accountable for their actions because they were done intentionally and against the law.¹⁵

Furthermore, in Article 52 paragraph (4) it is stated that: "In the event that a criminal act as referred to in Article 27 to Article 37 is

¹⁴ Moeljatno, *Asas-asas Hukum Pidana*. (Jakarta: Rineka Cipta, 2002); Heinrich A. Wolff, "Der Grundsatz „nulla poena sine culpa“ als Verfassungsrechtssatz." *Archiv des öffentlichen Rechts* (1999): 55-86; Anirut Chuasanga, and Ong Argo Victoria, "Legal Principles Under Criminal Law in Indonesia and Thailand." *Jurnal Daulat Hukum* 2, No. 1 (2019): 131-138.

¹⁵ Ignatius Sriyanto, "Asas Tiada Kesalahan dalam Pertanggungjawaban Pidana dengan Penyimpangannya." *Jurnal Hukum & Pembangunan* 23, No. 2 (1993): 158-172; Aryo Fadlian, "Pertanggungjawaban Pidana dalam Suatu Kerangka Teoritis." *Jurnal Hukum Positum* 5, No. 2 (2020): 10-19; Agus Rusianto, *Tindak Pidana dan Pertanggungjawaban Pidana: Tinjauan Kritis Melalui Konsistensi Antara Asas, Teori, dan Penerapannya*. (Jakarta: Prenada Media, 2016).

committed by a corporation, the criminal offense shall be punished with the principal penalty plus two-thirds." Thus, it is very clear that the legal subject who can be accounted for in the event of online prostitution is a person who is a corporation, both in the form of a legal entity and not a legal entity, with errors made intentionally and aware of the legal rules that prohibit it.

In the context of history and society, the emergence of prostitution began with the technological revolution that created computers decades ago and has now transformed into an internet network. The virtual world or has become a new world for today's modern society, in addition to living in the real world. In the early 1990s, the internet in Indonesia was still a rare item that was only consumed by a limited number of people, such as lecturers, researchers, or government officials. Only in 1994, the development of commercial internet services began, and the public could easily access them. Now, from toddlers to the elderly, they have surfed the virtual world. If initially accessing internet cafes or at home via telephone networks, now several places have provided Wifi, ranging from government offices, private, schools, campuses, airports, malls, cafes to buses. If you find it difficult to find Wifi, you just need to use a modem or more practically via Android, Ipad and even just a cellphone.

The factors that cause internet online prostitution are increasingly prevalent and continue to develop from time to time. There are five factors that cause prostitution, namely: *first*, the weak level of one's faith in God Almighty. Basically, faith is the foundation of a person in living this life. Each religion has its own rules regarding the commands and prohibitions of God, no single religion allows prostitution to occur. In his life, a person must always be on the right path, namely the path that has been regulated in religious scriptures.

Based on good faith, it is hoped that the person will be strong in undergoing the sharp currents in this life.¹⁶

Second, poverty, where poverty has forced many families to plan their life support strategies including selling morals to work and work because of debt bondage, namely the work that someone does to pay off debts or loans; Basically, the main cause of prostitution is the deterioration of Indonesia's economic condition. This will have a direct impact on the closure of many factories and a massive rationalization of the workforce. As a result, many people lost their jobs. In addition, due to the unfavorable investment climate, mainly due to security factors, very few jobs are available. The job opportunities are not commensurate with the number of people looking for work. This situation makes people try hard to find work to other countries. On the other hand, seen in the context of the family, women are seen as "alternative workers" who can ensure the survival of a family. The phenomenon of prostitution is a trade sector that is now growing rapidly. Where this is also controlled by a global network that is structured and syndicated, using sophisticated technology, and protected by irresponsible parties. The internet is no longer just a necessity but has also become a way of life for people. However, like other technological products, the internet does not only have a positive side, such as the existence of email, social media, E-Learning, E-Banking and E-Government, cyberspace also has a negative impact with the development of cybercrime, including in the

¹⁶ Budhi Haryanto, et al. "Can Prostitution in Indonesia be Eliminated." *International Conference on Banking, Accounting, Management, and Economics (ICOBAME 2018)*. (Atlantis Press, 2019); Yvonne Corcoran-Nantes, and Janet McIntyre-Mills. "Re-framing prostitution in Indonesia: a critical systemic approach." *Systemic Practice and Action Research* 29, No. 6 (2016): 517-539.

field of decency, such as cyberporn, cyber prostitution, online sex, and cybersex.¹⁷

Third, the desire to get rich quick (materialistic), where the desire to have material and a higher standard of living-trigger prostitution. This illicit activity has touched the educational environment of junior high, high school students, many students are also involved in this world. The motive, apart from poverty, is the desire to be able to immediately fulfill the needs of a luxurious lifestyle.¹⁸

Fourth, cultural factors, where in this case the following cultural factors contribute to the occurrence of female prostitution, such as: cyberporn culture on the internet by posting pornographic photos without any shame from the parties concerned and openly offering themselves at a fee. and prices listed in the account with easy access because many internet users will be able to see the products it offers. Online prostitution sites have become a business culture that provides greater benefits than general prostitution sites such as Gang Dolly in Surabaya, technology is not needed as a promotional medium in terms of prostitution. For example, Gang Dolly. As the largest prostitution place in "Southeast Asia" it should be more profitable than prostitution on the Internet whose network is not large. However, when compared to rates, online prostitution wins. If on the internet the tariff ranges from Rp. 500 thousand to Rp. 50 million, at Gang Dolly the cheapest is only Rp. 100 thousand.¹⁹

¹⁷ Lutfi Irwansyah, "Kemiskinan, Keluarga Dan Prostitusi Pada Remaja." *Psychology and Humanity* 2 (2016): 19-20.

¹⁸ Abdul Malik, "Prostitusi Online dan Komodifikasi Tubuh." *LONTAR: Jurnal Ilmu Komunikasi* 7, No. 1 (2019): 1-8.

¹⁹ Binahayati Rusyidi, and Nunung Nurwati. "Penanganan pekerja seks komersial di Indonesia." *Prosiding Penelitian dan Pengabdian kepada Masyarakat* 5, No. 3 (2019): 303-313; Ulfiah Ulfiah, and Neng Hannah.

Fifth, weak law enforcement, where law enforcement officials monitor the circulation of cyberporn. Even the activities of prostitution and internet pornography online are considered "latent dangers" that are always there and growing even though they are continuously eradicated. In fact, this is the reality in society. However, this goes back to the firmness of law enforcement officers in providing "shock therapy" to porn site loaders.²⁰

The impacts that online prostitution will have on national security are:

1. Damaging the nation's morale, especially the nation's next generation as the nation's successor relay. The presence of prostitution can damage the morals and identity of the nation's successors, so that it can threaten the survival of the nation and state in the future.
2. The fading of the values of Pancasila as the nation's ideology which is used as the basis for the founding of the State of Indonesia. Religious, moral, and social values will be marginalized, and only liberalism will be left behind.

"Prostitusi Remaja dan Ketahanan Keluarga." *Psikoislamedia: Jurnal Psikologi* 3, No. 2 (2019): 163-187; Muhammad Shofwan Taufiq, and Prima Angkupi. "Prostitusi dan Budaya Hukum: Sebuah Kajian Kriminologi Tentang Ragam Prostitusi di Provinsi Lampung." *Arena Hukum* 12, No. 2 (2019): 388-401; Akmal Saputra, "Potret Lokalisasi Gang Dolly dalam Perspektif Patologi Sosial." *Community: Pengawas Dinamika Sosial* 1, No. 1 (2018); Berkam Triputra Tulus Pangidoan Sihombing, and Pudji Astuti. "Penyelesaian Problematika Muncikari di Kota Surabaya (Studi Kasus Gang Dolly)." *Novum: Jurnal Hukum* 7, No. 2 (2020).

²⁰ Arif Awaludin, "The Uncertainty of Regulating Online Prostitution in Indonesia." *3rd International Conference on Globalization of Law and Local Wisdom (ICGLOW 2019)*. (Atlantis Press, 2019); Muhammad Suud, "Appropriate Policy on Prostitution in Indonesia: A Strategy to Minimize Social Impacts in Society." *Public Policy and Administration Research* 5, No. 10 (2015).

3. Prostitution can be used by outsiders to undermine national security.
4. To destroy the identity of the Indonesian nation, which is famous for its noble character and upholds the values of eastern culture and religion.
5. Causes and spreads venereal and skin diseases.
6. Correlation with crime and addiction to narcotic substances (marijuana, heroin, morphine, etc.).

Furthermore, handling online prostitution is a complicated problem because it is closely related to social, cultural, economic, political, and moral and religious aspects. Efforts to tackle prostitution only with a moral and religious approach in many studies are naive and will not solve the problem. The government and the entire community are advised to use social, cultural, economic, political approaches in addition to morals and religion to seek solutions and comprehensively address the problem of prostitution.²¹

In general, efforts to tackle online prostitution can be done in two ways, as follows:

a. Preventive efforts

Preventive efforts are manifested in activities to prevent the occurrence of prostitution. These efforts include the following:

- 1) Completion of legislation regarding the prohibition or implementation of prostitution, especially online prostitution.
- 2) Intensification of the provision of religious and spiritual education.

²¹ Yoga Nanda Pratama, "Women Exploitation in Prostitution Business." *Lex Scientia Law Review* 3, No. 1 (2019): 103-110; Verania Hedi Permata, "Online Prostitution Amidst the Rapid Technological Advances: Legal and Social Aspects." *Semarang State University Undergraduate Law and Society Review* 1, No. 1 (2021): 19-34.

- 3) Expanding employment opportunities. Because most of the perpetrators of prostitution do prostitution because of economic pressure.
 - 4) Organizing sex education and understanding the value of marriage in family life.
 - 5) Organizing socialization regarding healthy internet.
 - 6) Establishment of a coordinating body or team for all efforts to combat prostitution carried out by several agencies while at the same time involving the potential of local communities.
 - 7) Confiscation of obscene books, magazines, pornographic pictures, blue films, and other means that stimulate sexual desire. As well as blocking internet sites that provide all things pornographic and prostitution business.
 - 8) Improving the welfare of the people in general.
- b. Repressive and curative efforts
- Repressive and curative efforts include:
- 1) Through localization, which is often interpreted as legalization, people carry out strict supervision/control.
 - 2) Rehabilitation and resocialization are sought for perpetrators of prostitution, so that they can be returned as ethical citizens.
 - 3) Provide new job opportunities.
 - 4) Provide appropriate punishment for perpetrators of prostitution, to provide a deterrent effect.
 - 5) Block internet sites that provide all kinds of pornography and prostitution and make internet use more secure in Indonesia.

V. CONCLUSION

This study concludes that online prostitution is practically regulated in Indonesian positive law, namely Article 296 and Article 590 of the

Criminal Code, Article 27 paragraph (1) of Law Number 11 of 2008 concerning ITE, and Article 30 jo. Article 4 paragraph (1) of Law Number 44 of 2008 concerning Pornography. However, enforcement in this case is very difficult to do, because in online prostitution transactions that cross borders (borderless). Criminal liability against perpetrators of online prostitution can be imposed either in their capacity as individuals or as corporations with imprisonment and/or fines. In the legal provisions in Indonesia, the regulation regarding crimes against online prostitution is specifically regulated in Article 27 paragraph (1) of Law Number 11 of 2008 concerning Information and Electronic Transactions which states that: every person intentionally and without the right to distribute and or transmit and / or electronic documents that have content that violates decency. With a systematic interpretation of the Criminal Code (as a general provision), it can be seen that the provisions in Article 27 paragraph (1) of Law Number 11 of 2008 concerning information and electronic transactions prohibit prostitution activities carried out by electronic media.

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COMPETING INTERESTS

The Authors declared that they have no competing interests.

REFERENCES

- Abidin, Dodo Zaenal. "Kejahatan dalam Teknologi Informasi dan Komunikasi." *Jurnal Processor* 10, No. 2 (2017): 509-516.
- Adkiras, Fadillah, Fatma Reza Zubarita, and Zihan Tasha Maharani Fauzi. "Konstruksi Pengaturan Kekerasan Berbasis Gender Online di Indonesia." *Lex Renaissance* 6, No. 4 (2021): 781-798.
- Anirut, Chuasanga, and Ong Argo Victoria "Legal Principles Under Criminal Law in Indonesia and Thailand." *Jurnal Daulat Hukum* 2, No. 1 (2019): 131-138.
- Ardiyanti, Handrini. *Prostitusi Online: Cybercrime, Cyberlaw, dan Media Literacy*, (Jakarta: Pusat Pengkajian, Pengolahan Data dan Informasi (P3DI) Sekretariat Jenderal DPR-RI, 2009).
- Awaludin, Arif. "The Uncertainty of Regulating Online Prostitution in Indonesia." *3rd International Conference on Globalization of Law and Local Wisdom (ICGLOW 2019)*. (Atlantis Press, 2019).
- Ayofe, Azeez Nureni, and Barry Irwin. "Cyber security: Challenges and the way forward." *Computer Science & Telecommunications* 29, No. 6 (2010).
- Ayofe, Azeez Nureni, and Osunade Oluwaseyifunmitan. "Approach to solving cybercrime and cybersecurity." *arXiv preprint arXiv:0908.0099* (2009).
- Brey, Philip. "The ethics of representation and action in virtual reality." *Ethics and Information Technology* 1, No. 1 (1999): 5-14.
- Chazawi, Adami. *Tindak Pidana Pornografi*. (Malang: Media Nusa Creative, 2022).
- Clough, Jonathan. "A world of difference: the Budapest convention on cybercrime and the challenges of harmonisation." *Monash University Law Review* 40, No. 3 (2014): 698-736.
- Corcoran-Nantes, Yvonne, and Janet McIntyre-Mills. "Re-framing prostitution in Indonesia: a critical systemic approach." *Systemic Practice and Action Research* 29, No. 6 (2016): 517-539.
- Fadlian, Aryo. "Pertanggungjawaban Pidana dalam Suatu Kerangka Teoritis." *Jurnal Hukum Positum* 5, No. 2 (2020): 10-19.

- Gillespie, Alisdair A. *Cybercrime: Key issues and debates*. (London: Routledge, 2015).
- Gregory, Mark A., and David Glance. "Cyber crime, cyber security and cyber warfare." in *Security and the Networked Society*. (Cham: Springer, 2013), pp. 51-95.
- Gregory, Mark A., and David Glance. "Predictions." in *Security and the Networked Society*. (Cham: Springer, 2013), pp. 289-297.
- Hadiyat, Yayat. "Pola komunikasi prostitusi daring di Twitter." *Jurnal PIKOM (Penelitian Komunikasi dan Pembangunan)* 18, No. 2 (2017): 125-136.
- Haryanto, Budhi et al. "Can Prostitution in Indonesia be Eliminated." *International Conference on Banking, Accounting, Management, and Economics (ICOBAME 2018)*. (Atlantis Press, 2019).
- Hatta, Muhammad, et al. "Efforts to Overcome Cyber Crime Actions in Indonesia." *Journal of Physics: Conference Series* 1114, No. 1 (IOP Publishing, 2018).
- Irwansyah, Lutfi. "Kemiskinan, Keluarga Dan Prostitusi Pada Remaja." *Psychology and Humanity* 2 (2016): 19-20.
- Koloay, Renny NS. "Perkembangan Hukum Indonesia Berkenaan dengan Teknologi Informasi dan Komunikasi." *Jurnal Hukum Unsrat* 22, No. 5 (2016).
- Kristiyanto, Eko Noer. "Jangkauan Hukum Nasional terhadap Prostitusi Daring." *Jurnal Penelitian Hukum De Jure* 19, No. 1 (2019): 1-10.
- Landau, Sidney I. "Encarta World English Dictionary, and: Microsoft Encarta World English Dictionary." *Dictionaries: Journal of the Dictionary Society of North America* 21, No. 1 (2000): 112-124.
- Maghu, Sunakshi, Siddharth Sehra, and Avdesh Bhardawaj. "Inside of Cyber Crimes and Information Security: Threats and Solutions." *International Journal of Information and Computation Technology* 4, No. 8 (2014): 835-840.
- Mahdi, Imam, and Juhriyansyah Dalle. "Examining the Adequacy of Constitutional Laws Related to Cybercrimes in

- Indonesia." *International Journal of Cyber Criminology* 15, No. 1 (2021): 122-132.
- Mahendra, Y. C., and N. K. D. S. A. Pinatih. "Mapping on Cyber Threats in Indonesia Related to Indonesia's Cyber Security Agenda." *B-SPACE 2019: Proceedings of the First Brawijaya International Conference on Social and Political Sciences, BSPACE, 26-28 November 2019, Malang, East Java, Indonesia*. (European Alliance for Innovation, 2020).
- Malik, Abdul. "Prostitusi Online dan Komodifikasi Tubuh." *LONTAR: Jurnal Ilmu Komunikasi* 7, No. 1 (2019): 1-8.
- Maneking, Filbert. "Kajian Yuridis Terhadap Pelaku dan Korban Kejahatan Prostitusi Online Ditinjau dari Delik Pidana." *Lex Privatum* 9, No. 3 (2021).
- Marufah, Nurbaiti. Hayatul Khairul Rahmat, and I. Dewa Ketut Kerta Widana. "Degradasi Moral sebagai Dampak Kejahatan Siber pada Generasi Millenial di Indonesia." *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 7, No. 1 (2020): 191-201.
- Moeljatno, Moeljatno. *Asas-asas Hukum Pidana*. (Jakarta: Rineka Cipta, 2002).
- Muhammad, Hatta. "Efforts to overcome cyber crime actions in Indonesia." *International Journal of Psychosocial Rehabilitation* 24, No. 03 (2020): 1761-1768.
- Neyret, Solène, et al. "An embodied perspective as a victim of sexual harassment in virtual reality reduces action conformity in a later milgram obedience scenario." *Scientific Reports* 10, No. 1 (2020): 1-18.
- Permata, Verania Hedi. "Online Prostitution Amidst the Rapid Technological Advances: Legal and Social Aspects." *Semarang State University Undergraduate Law and Society Review* 1, No. 1 (2021): 19-34.
- Picotti, Lorenzo, and Ivan Salvadori, *National Legislation Implementing the Convention on Cybercrime—Comparative analysis and good practices*. (Directorate General of Human Rights and Legal Affairs Council of Europe, 2008).

- Pratama, Yoga Nanda. "Women Exploitation in Prostitution Business." *Lex Scientia Law Review* 3, No. 1 (2019): 103-110.
- Puspitosari, Hervina. "Upaya Penanggulangan Prostitusi Online Internet Berdasarkan Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (ITE)." *Surakarta: Jurnal Komunikasi Massa* 3, No. 1 (2010).
- Putra, Eka Nugraha. "Kejahatan Tanpa Korban dalam Kejahatan Cyberporn." *Jurnal Cakrawala Hukum* 6, No. 1 (2015): 1-12.
- Raodia, Raodia. "Pengaruh Perkembangan Teknologi Terhadap Terjadinya Kejahatan Mayantara (Cybercrime)." *Jurisprudentie: Jurusan Ilmu Hukum Fakultas Syariah dan Hukum* 6, No. 2 (2019): 230-239.
- Richiyanti, Shilvi. "Pengaruh dan Penanganan Cybercrime dalam Perkembangan Teknologi Informasi." *Kodifikasi* 2, No. 2 (2020): 46-56.
- Rines, George Edwin, and Frederick Converse Beach. *The Encyclopedia Americana*. (New York: Americana Company, 1904).
- Rusianto, Agus. *Tindak Pidana dan Pertanggungjawaban Pidana: Tinjauan Kritis Melalui Konsistensi Antara Asas, Teori, dan Penerapannya*. (Jakarta: Prenada Media, 2016).
- Rusyidi, Binahayati, and Nunung Nurwati. "Penanganan pekerja seks komersial di Indonesia." *Prosiding Penelitian dan Pengabdian kepada Masyarakat* 5, No. 3 (2019): 303-313.
- Safitri, Anisya Ines, Aldo Andrieyan Putra Makaminan, and Mujiono Hafidh Prasetyo. "Kebijakan Hukum Pidana dalam Upaya Penanggulangan Cyber Prostitution." *Jurnal Pembangunan Hukum Indonesia* 3, No. 1 (2021): 70-79.
- Santoso, Topo. "Pornografi Dan Hukum Pidana." *Jurnal Hukum & Pembangunan* 26, No. 6 (2017): 513-522.
- Saputra, Akmal. "Potret Lokalisasi Gang Dolly dalam Perspektif Patologi Sosial." *Community: Pengawas Dinamika Sosial* 1, No. 1 (2018).

- Saputra, Rizqiya Windy. "A survey of cyber crime in Indonesia." *2016 International Conference on ICT For Smart Society (ICISS)*. (IEEE, 2016).
- Sevrina, Gea Illa. "Kebijakan Kriminalisasi Terhadap Praktik Prostitusi di Indonesia." *Law and Justice* 5, No. 1 (2020): 17-29.
- Sihombing, Berkam Triputra Tulus Pangidoan, and Pudji Astuti. "Penyelesaian Problematika Muncikari di Kota Surabaya (Studi Kasus Gang Dolly)." *Novum: Jurnal Hukum* 7, No. 2 (2020).
- Sriyanto, Ignatius. "Asas Tiada Kesalahan dalam Pertanggungjawaban Pidana dengan Penyimpangannya." *Jurnal Hukum & Pembangunan* 23, No. 2 (1993): 158-172.
- Suud, Muhammad. "Appropriate Policy on Prostitution in Indonesia: A Strategy to Minimize Social Impacts in Society." *Public Policy and Administration Research* 5, No. 10 (2015).
- Taufiq, Muhammad Shofwan, and Prima Angkupi. "Prostitusi dan Budaya Hukum: Sebuah Kajian Kriminologi Tentang Ragam Prostitusi di Provinsi Lampung." *Arena Hukum* 12, No. 2 (2019): 388-401.
- Ulfiah, Ulfiah, and Neng Hannah. "Prostitusi Remaja dan Ketahanan Keluarga." *Psikoislamedia: Jurnal Psikologi* 3, No. 2 (2019): 163-187.
- Weber, Amalie M. "The Council of Europe's Convention on Cybercrime." *Berkeley Technology Law Journal* 18, No. 1 (2003): 425-446.
- Wolff, Heinrich A. "Der Grundsatz „nulla poena sine culpa “als Verfassungsrechtssatz." *Archiv des öffentlichen Rechts* (1999): 55-86.

*We say that slavery has
vanished from European
civilization, but this is not true.
Slavery still exists, but now it
applies only to women and its
name is prostitution.*

Victor Hugo