

RESEARCH ARTICLE

Prostitution and the Victims Protection: The Discourse of Law Enforcement and Legal Protection (Case of Cianjur, Indonesia)

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Citation:

Amalia, M., & Pratiwi, D. A. (2022). Prostitution and the Victims Protection: The Discourse of Law Enforcement and Legal Protection (Case of Cianjur, Indonesia). *Law Research Review Quarterly*, 8(2), 203-216. <https://doi.org/10.15294/lrrq.v8i2.53722>

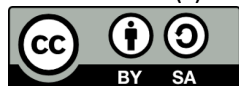
Submitted : January 20, 2022

Revised : March 11, 2022

Accepted : April 8, 2022

Online since: May 31, 2022

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ISSN 2716-3415

Law Research Review Quarterly published by Faculty of Law, Universitas Negeri Semarang, Indonesia. Published quarterly on February, May, August, and November.

Abstract

This study aims to analyze how the law is enforced for victims of trafficking in persons used as perpetrators of prostitution in the Cianjur Regency. The method used in this research is using a qualitative method with a descriptive-analytic approach. The source of data in this study is using the interview instrument. The research object is focused on Cianjur Regency, which is divided into Sukanagara District, Cianjur District, Cipanas District, and several commercial places such as tourist attractions, entertainment venues, universities, and high schools in the Cianjur Regency area. This article concludes that various reasons and social conditions encourage the increasing number of prostitutions in the Cianjur Regency area. Different unique findings were found in the research process. First, a high-paying job offer mode is quite successful in attracting certain regions. Second, sexual harassment issues made some teenagers decide to go deeper into the prostitution circle. Third, the number of foreign tourists from certain countries is the main attraction in the increasing cases of prostitution in one of the research object areas. The increase in cases of prostitution that continues to grow requires special attention from various parties, especially in the eyes of the law for the perpetrators. As time goes by, prostitution cases that continue to be left unchecked will become a significant factor in the deteriorating morals and social values that exist

in society. The absence of a clear legal status for prostitution will increasingly make the perpetrators freely carry out their crimes.

Keywords: *Human Trafficking, Prostitution, Law Enforcement, and Human Rights*

1. INTRODUCTION

Human rights are fundamental rights that are owned by all human beings. John Locke stated that human rights are rights given directly by God the Creator as natural rights. Therefore, no power in the world can uproot it. This right is very basic (fundamental) for human life and life and is a natural right that cannot be separated from and in human life (Effendi, 1994).

According to Poerwadarminta (1976) in the General Indonesian Dictionary, human rights mean something fundamental, which is the basis. While rights are genuine, really exists, authority, property or possession, power/power to demand the right thing or do something because the rule of law has determined it. This fundamental right must be protected by the government, the environment, and even oneself.

The existence of human trafficking is not in line with the concept of Human Rights. Arbitrary actions against humans are carried out for mere material pursuits. Human trafficking has been carried out since ancient times by selling humans as slaves. Even in Indonesia, human trafficking has been carried out since the days of the kingdom. This activity is shrouded in the term loyalty to the king by giving women to him as concubines (Riwanda et al., 2017).

In Indonesia, the problem of human trafficking is increasing day by day. This action is a form of non-traditional threat, namely a threat that concerns state security and emphasizes the safety and welfare of individuals as part of the state (Vermonte, 2002).

The government, which is aware of the negative impact on the state and society, which is a component of state protection, has made a regulation with a particular offense, namely Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons. This law is an effort to provide legal protection, either directly or indirectly, to victims or potential victims not to become victims in the future (Nuraeny, 2016). Even though there are regulations regarding trafficking in persons, it does not reduce this action, especially in prostitution, a form of human trafficking. Prostitution is the exchange of sexual relations for money or gifts as a trade transaction.

Of course, this activity should not be carried out, either for whatever reason. Therefore, in addition to violating Law Number 21 of 2007, Article 296 of the Criminal Code, which reads: "Anyone who intentionally causes or facilitates obscene acts by others, and makes it a livelihood or habit, is threatened with imprisonment for a maximum of one year and four months or a maximum fine of fifteen thousand rupiahs. With the existence of these two legal foundations, it has become an indispensable guide for the government, law enforcement agencies, and the community to help eradicate prostitution. Still, the lack of legal clarity for victims of prostitution, which is a prostitute itself, is a dilemma in itself to completely eradicate human trafficking in the community. legal form of prostitution (Permatasari, et al., 2017).

From other cases, children around exlocalization almost matured faster than children living outside of prostitution. Living in a prostitution environment impacts children, including children being lazy, less attentive, less social, and lack of supervision. Even more concerning is that children do or imitate scenes they have seen with their boyfriends, so the child has to drop out of school and get married earlier than children his age (Khumaarah, 2017). This clearly shows that human trafficking for commercial sex, such as prostitution, impacts the perpetrators and the

surrounding environment, both in social and educational aspects.

The many harmful effects caused by prostitution cases are no longer something that can be taken lightly. The moral and mental damage caused by the existence of this crime is very detrimental to the community and the State with mental and moral damage to the successors of the nation (Riwanda et al., 2016). The destructive consequences of prostitution are also felt by the perpetrators and the general public consisting of adults and children who deserve protection from things that threaten their welfare.

The absence of apparent legal certainty for prostitution only makes the destroyers of the nation's morale in commercial sex-oriented crimes of trafficking in persons more free to commit their crimes. Therefore, law enforcement against victims of trafficking in persons who cause prostitution must be strictly dealt with.

2. METHOD

This study uses a qualitative method. Analysis and interpretation of data in this study used a descriptive-analytic approach. The data collection technique used in this research is structured interviews using a list of questions and observations. The population in this study is the community aged from junior high school to the elderly in the research object area. The samples of structured interviews and questionnaires were taken as many as 60 (sixty) people and several additional randomly interviewed sources. The selection of research locations was carried out in a purposive manner with considerations; in one of the research areas, there is a relatively high rate of prostitution, and in one other area, it is an area where the development of the site is still relatively low, making it easier for people to get trapped in prostitution. This field research takes 3 (three) months. Starting from planning to finalizing research results.

3. RESULTS AND DISCUSSION

Human trafficking is a crime that is experiencing the fastest growth globally and is the most significant in the world because it impacts the economic aspect and the political-cultural and humanitarian aspects (Novita, 2014). It can also be concluded that trafficking or human trafficking is a crime by exploiting humans for a commercial advantage that robs them of human rights. This human trafficking often occurs, and one of them is employed as a retail sex worker who is then referred to as a crime of prostitution.

Human trafficking that leads to prostitution does have an impact on social aspects and health for himself, his family, or the surrounding community. Intense sex with different people increases the potential for HIV/AIDS, which can be dangerous for prostitutes or their families and close people.

The death rate due to this disease increased every year until June 2017; the P2PL of the Indonesian Ministry of Health noted that many people living with HIV gathered in large provinces of Indonesia. The highest number was DKI Jakarta province with 48,502 people, followed by East Java 35,168 people, Papua 27,052 people, West Java 26,066 people, Central Java 19,272 people, and Bali 15,873 people (Kompas, 2018).

Factors from the environment also impact children who live and grow in an environment where prostitution occurs, which causes the child to learn or recognize sex too early, which leads to the moral destruction of the nation's generation. Penalties for perpetrators of PSK (Commercial Sex Workers) and even pimps are already regulated in the applicable regulations. It's just that the law is not a rule that comes from the Criminal Code but a regional regulation. For example, a prison sentence of 20 days and a maximum of 90 days with a fine of 500,000 to 30,000,000 (Perda No. 8 of 2007, namely PerGub of DKI Jakarta Province No. 221 of 2009) is nothing. Likewise, pimps do not feel deterred by the punishment they receive. According to Article 296 of the

Criminal Code, the penalty for those who hold a place for implementing prostitution is punished with imprisonment for a maximum of 1 year four months or a maximum fine of 15,000,000 (Munawaroh, 2010).

Another example of regulations governing sex workers is the Tangerang city regulation no. 8 of 2005 concerning the prohibition of prostitution. At the same time, Cianjur has a regional regulation no. 21 of 2000 concerning the prohibition of prostitution. The rise and the increasing number of prostitutes prove how weak the laws governing sex workers in Indonesia are; this certainly proves that there must be a change in the rules that apply to these sex workers.

It is indeed challenging to eliminate the practice of trafficking and prostitution, the root of the problem lies in structural poverty; the reduction in agricultural land is also one of the reasons for the narrowing of job opportunities, this condition is exacerbated by the low level of education of women in rural areas which increasingly fosters cultural factors such as contract marriages and young divorce (Huraerah, 2012).

More than that, this problem is closely related to the weak capacity of the apparatus and law enforcement. The global campaign against trafficking children into prostitution has been initiated since the World Congress in Stockholm, Sweden (1996) and the Yakohama Declaration (2001). In line with the campaign, Indonesia also ratified the ILO conventions No. 138 9 limitations on the working-age and number 182 (eliminating the worst forms of child labor). The two conventions expressly "forbid" the practice of trafficking and child prostitution and include it as the worst form of human rights violation (Jones, 2010).

The Government of Indonesia has established laws and regulations, namely Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons. This law provides multiple layers of criminal punishment, imprisonment for the perpetrator of a crime, and a fine. Regarding protecting victims of human trafficking, Law

Number 13 of 2006 concerning Protection of Witnesses and Victims is also applicable in addition to protection (Novita, 2014).

The criminal sanctions for perpetrators of trafficking in persons are regulated in the Criminal Code (KUHP). Article 297 states that "trafficking in underage women and boys is threatened with a maximum sentence of 6 (six) years".

Human trafficking has also received attention from the point of view of Human Rights. Similar purposes are prohibited. However, simply ratifying the convention into law is not enough, for that, follow-up steps must be taken to eradicate the root of the problem, namely poverty, besides trying to change the perception of "permissiveness" of rural communities about child trafficking and prostitution, the government is obliged to increase the level of education. Society, especially women, so that women enter a decent job market, then in the effort to overcome HIV/AIDS, the problem of trafficking and child prostitution must be part of the national strategy for dealing with AIDS (Huraerah, 2012).

The issue of prostitution has become a very complicated and dangerous scourge considering how quickly the spread of this crime has increased, and there is no definite legal clarity regarding the perpetrators of this crime. The Criminal Code only regulates punishments for pimps. Still, no article clarifies commercial sex workers and connoisseurs of prostitution services which is the root cause of this prostitution case (Putri, 2016).

From some of the things above, it is considered that there is a need for clarity about the punishment for commercial sex workers and connoisseurs of prostitution services who in law are also called victims. The existence of punishment for victims of prostitution is considered very necessary to reduce the rate of increase in prostitution in society. The presence of clear penalties for perpetrators and victims will make it easier for law enforcement officers to take action against crimes of prostitution and reduce the

number of prostitutions with the fear of each party to commit prostitution because of the binding and definite punishment.

From the research conducted, as many as 80% of them agreed with the existence of law enforcement for victims of prostitution, and the research subjects considered that victims of prostitution both had a share in the presence of the crime of prostitution so that law enforcement against victims of prostitution should be carried out and given the severest punishment.

In the jurisdiction of the Sukaresmi District, commercial sex workers can freely peddle their wares. Even indigenous retail sex workers and foreign nationals are available to its audience. The jurisdiction of the Cianjur sub-district shows another concern that not a few commercial sex workers are in high school and university. This is known through an interview with one of the pimps who offer prostitution services. This gives another fact that school does not guarantee the release of someone from the snares of prostitution.

Various reasons vary from the occurrence of cases of prostitution. They are starting from economic factors that require a person to sell themselves to meet the needs of life to social, environmental factors that make someone willing to sell themselves to fulfill a lifestyle. Psychological reasons such as strong sexual desire and traumatic factors are also not uncommon reasons for someone to enter the circle of prostitution. As happened in the jurisdiction of Sukanagara District, some girls there were forced to become commercial sex offenders in other cities because they were framed by someone who lures their victims with bait to work in big cities with high wages. From the sources obtained, there are girls from the area who were promised to work outside the city with big wages as factory workers, but in reality, the victim was taken off the island and hired as a commercial sex worker.

Prostitution is a complicated issue related to social, cultural, economic, political and moral, and religious aspects. In this case, the Government and the entire community are advised to use social, cultural, economic, political approaches other than morals and religion to find a solution. The policy that can be applied in Indonesia to prevent and combat prostitution is the abolition policy. Abolition is a policy of eliminating prostitution on earth by consistently using laws and regulations. This effort is carried out with comprehensive steps with law enforcement and reporting in the mass media or online for prostitutes. With this news, the perpetrators of prostitution will inevitably be deterred. This policy was carried out in Sweden by enacting a law (sex purchase law) on January 1, 1999 (Amalia, 2016).

Of all the negative impacts of prostitution, the existence of legal clarity on this crime is eagerly awaited by people who are very restless about this circle. So far, the local Government of Cianjur Regency itself has issued Cianjur Regency Regional Regulation No. 21 of 2000 concerning the Prohibition of Prostitution in which criminal penalties apply not only to pimps but to anyone involved in prostitution, which is more clearly written: Article 2, Whoever commits prostitution threatened with a criminal sentence. Article 3 Whoever provides himself, both men and women, individually or together, either as a livelihood or pleasure, to commit prostitution is threatened with a criminal sentence. Article 4 Whoever individually or jointly makes a living or habitually provides a place and or other means to facilitate the occurrence of prostitution is threatened with a criminal sentence. Article 5 Whoever, individually or jointly, makes a living or habitually offers, connects, and provides people or facilitates prostitution is threatened with criminal punishment. Article 6 In the case of being caught red-handed, the provisions of criminal sanctions also apply to men and their female partners who provide themselves. Women from the male partners who provide themselves are threatened with criminal penalties. Article 7 Whoever

individually or collectively makes as a livelihood or habitually roams in public places and or crowds, on the edge of public roads and other places that are often passed by the public, in buildings used for the public. , in places of entertainment, on a vehicle, has shown tempting behavior, offered or gave signs, either by word or by direct or indirect signal to commit prostitution, is punishable by criminal penalties. Article 10 (1) Anyone who violates the provisions referred to in Article 2, Article 3, Article 4, Article 5, and Article 6 of this Regional Regulation is threatened with a maximum imprisonment of 3 (three) months and or a maximum fine of Rp. 5,000,000.00, - (five million rupiah). (2) Whoever violates the provisions referred to in Article 7 of Regional Regulation ii is threatened with a fine of not more than Rp. 3,000,000.00 (three million rupiahs) or maximum imprisonment of 2 (two) months instead of a fine. (3) The provisions as referred to in Article 2, Article 3, Article 4, Article 5, Article 6, and Article 7, this Regional Regulation is a criminal offense.

The existence of these regional regulations at least guarantees legal remedies for this crime of prostitution. However, local laws alone are considered insufficient to eradicate this commercially oriented crime of trafficking in persons. Moreover, the existing regional regulations in Cianjur only assume that the crime of prostitution is a criminal offense. The existence of clear legal rules in the law with higher status is considered necessary to strengthen further legal firmness regarding prostitution in every jurisdiction of the State of Indonesia.

Several regions in Indonesia have issued Regional Regulations regarding trafficking in commercially oriented people referred to as prostitution or prostitution. However, some areas are still considered ineffective enough to eradicate this crime. Cianjur Regency, as a legal area in this study, also already has a Regional Regulation on Prostitution. However, the status of a criminal offense is considered insufficient to represent the consequences

arising from the existence of the crime. The crime of prostitution must be a crime that is classified in the severe crime class seeing how bad the impact of the crime of prostitution itself is.

4. CONCLUSION

From an educational perspective, prostitution is a demoralizing activity. From femininity, prostitution is an activity that demeans women's dignity. From the economic aspect, prostitution often results in extortion of work in practice. From the health aspect, prostitution is a very effective medium for transmitting sexually transmitted diseases and hazardous contents. From the public order and safety, prostitution can lead to criminal activities. From the aspect of urban planning, prostitution can reduce the quality and aesthetics of the urban environment. From the above, it can be concluded that the commercial sex-oriented crime of trafficking in persons is a crime that harms not only the victim but also the surrounding community. The absence of legal firmness against the corruption of prostitution allows the perpetrators of this crime to carry out commercial sex-oriented trafficking in persons freely without any binding legal rules for retail sex workers and connoisseurs of commercial sex services in the eyes of criminal law. Apart from losing one's human rights, prostitution also causes many other losses. In the health aspect, the existence of a prostitution ring causes a higher rate of transmission and death due to HIV/AIDS or other diseases caused by nasty sex. In terms of education, the number of underage children who are infected has increased the number of early marriages due to pregnancy outside of marriage, making the victims have to stop going to school. From the psychological aspect, it can also be seen that the existence of a circle of prostitution reduces positive mentality both within the perpetrator and the people around the area where prostitution occurs.

5. DECLARATION OF CONFLICTING INTERESTS

The Authors declare that there is no potential conflict of interest in the research, authorship, and/or publication of this article

6. FUNDING

None

7. ACKNOWLEDGEMENT

None

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