

16 The Law Enforcement In Overcoming Underage Prostitution Crime

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THE LAW ENFORCEMENT IN OVERCOMING UNDERAGE PROSTITUTION CRIME

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Abstract

The purpose of this research is to analyzing legal enforcement in calculating the crime of prostitution under age. A child is very vulnerable to influence, various kinds of tricks the perpetrators try to trick their victims, with tantalizing false promises, so that the victim is hypnotized to follow the lust and evil plans of the perpetrators. Victims of child prostitution can be without or with the use of force, violence or deception because children are unable to give consent to exploit themselves. This research uses a normative juridical research approach. There are several important roles in overcodming or tackling child prostitution activities, namely from several government agencies, schools and families. We recommend that law enforcers in Indonesia be more assertive in tackling the occurrence of criminal acts of prostitution in children, the role of society and families is also needed in addressing the existence of prostitution in children by paying attention to their children and providing knowledge or insight into increasing religion in children.

Keywords: Children; Effort; Enforcement; Law; Prostitution.

A. INTRODUCTION

Prostitution which is the exchange of sexual relations for money or gifts as a trade transaction.¹ In public life, prostitution has always been viewed negatively, and those who rent out or sell themselves for money are often viewed as such as a disgraceful and despicable social waste because these actions are not in accordance with norms and ethics. Various factors can cause a crime to occur, these factors are low education, religious morals, and environmental factors, but the factors that greatly influence the occurrence of criminal acts are economic factors.

The economic needs that must be met urgently, while the available jobs cannot meet all Indonesian people to work and earn a steady income, so that in meeting their needs many people do everything they can to meet their needs, this is what makes the crime rate high. such as fraud, extortion, and theft.

The problem of prostitution in the context of normative juridical studies by looking at the problems that exist in the social life of society, especially those concerning issues of ethics, morals, religion and human

1 Henry Saida Flora., Modus Operandi Tindak Pidana Prostitusi Melalui Media Sosial Online, *Journal Justiciabelien*, Vol. 02, No. 02, July 2021, page. 120-138

rights up to state responsibility.² As is the case in Batam City where illegal practices are rampant, such as the prostitution of underage children. In July 2020 there were cases of online prostitution involving minors so that they fell into the world of prostitution priced at Rp. 500,000, - per person once on a date, where the perpetrators are 2 people who become pimps and minors as victims of the prostitution. There was another case of prostitution of minors in November 2022 where 3 women were pimps and minors were victims. Children who should be protected are victims of online prostitution or not. The rampant cases of prostitution crimes against children, so that efforts and the role of law enforcement and society are needed in tackling this crime.

Because children are very susceptible to influence, various kinds of deception the perpetrators try to deceive their victims, with false promises seductive, so that the victim is hypnotized to follow lust and evil plans of the perpetrators.³ Victims of child prostitution can be without or by using coercion, violence or deception because of children children cannot give permission to exploit themselves. children used for sexual exploitation or prostitution, mostly children-the child is under the care of a guardian, and in prostitution these caretakers are called pimps.⁴

Previous research from Erfita Ramadhani in a journal entitled Law Enforcement Against the Crime of Online Prostitution of Minors (Research Study of Nagan Raya Regency), states that legal enforcement against online prostitution using WhatsApp media committed by minors in Nagan Raya Regency has been enforced against the perpetrators themselves as well as pimps. Perpetrators and pimps are charged with Law Number 21 of 2007 concerning Eradication of Human Trafficking, Law Number 19 of 2016 concerning Electronic Information and Transactions and the Criminal Code in general.⁵

Another previous research from Kadek Hary Harmawan with a journal entitled Policies for Overcoming Online Prostitution Crimes Involving Minors (Case Study at Tabanan Regency Police) states that overcoming crimes related to child prostitution or children who are victims of commercial sexual exploitation is carried out through various approaches, including socializing the provisions of laws and regulations aimed at protecting children who are vulnerable to economic and financial exploitation, sexual harassment, monitoring, reporting, and sanctioning. In addition, various government agencies, corporations, labor unions, NGOs, and communities are also

2. Yolanda Islamy and Herman Katimin., Upaya Kriminalisasi Terhadap Pengguna Jasa Prostitusi Dalam Perspektif Hukum Positif di Indonesia, *Jurnal Ilmiah Galuh Justisi*, Vol. 9, No. 1, 2021, page. 76-91
3. Twenty Purandari., Pertanggungjawaban Hukum Pelaku Eksploitasi Seksual Pada Anak Melalui Internet, *Media Juris*, Vol. 2, No. 2, 2019, page. 233-258
4. Zulkifli Ismail (et. al)., Pertanggungjawaban Pidana Pelaku Tindak Pidana Eksploitasi Seksual Anak: Tinjauan Terhadap Peraturan Perundangan, *Krtha Bhayangkara*, Vol. 15, No. 2, 2021, page 241-270
5. Erfita Ramadhani., Penegakan Hukum Terhadap Tindak Pidana Prostitusi Online Anak Dibawah Umur (Studi Penelitian Kabupaten Nagan Raya), *Jurnal Ius Civile (Refleksi Penegakan Hukum dan Keadilan)*, Vol. 6, No. 1, 2022, page. 1-10

involved in efforts to eliminate financial and/or sexual violence against children.⁶

In real life prostitution or prostitution is closer women than men because in various cases and the news is that there are more and more women found as commercial sex workers compared to men. So do not be surprised if the word "slut" is often addressed to women who sells himself for wages, even women who considered naughty, not infrequently called a "slut", indeed people who make money as commercial sex workers (PSK) are considered contemptible in the eyes of society because of these actions the act of selling oneself for the sexual needs of another get wages. The purpose of this research is to analyzing legal enforcement in calculating the crime of prostitution under age.

B. RESEARCH METHODS

This research uses a normative juridical research approach. To solve a problem so that conclusions can be drawn by utilizing the data that has been collected and then analyzed using qualitative analysis which discusses the results of the research described thoroughly, by trying to see the factors behind certain programs, cultures and policies, for example the recovery of legal principles of relevant laws and regulations, theories and norms, doctrines, and articles contained in relevant laws and regulations such as the Criminal Code (KUHP), Law Number 35 of 2014 concerning Child Protection, Law Number 21 of 2014. 2007 on the Crime of Trafficking in Persons and Law No. 11/2012 on the Juvenile Justice System.

In this study the authors used research specifications, namely analytical descriptions that describe or describe events and events stated by respondents in writing or verbally, as well as real behavior, which was researched or studied as a whole. The research method is a scientific way of obtaining data with the aim of being able to describe, prove, develop, and discover knowledge, theory, understand, solve, and anticipate problems in human life. Based on the opinion of Soerjono Soekanto who stated that "In research it is generally known that there are 3 types of data collection tools, namely in the form of document studies or library materials, observation or observations, and interviews or interviews, so that the three evidences are used together."

C. RESULTS AND DISCUSSION

The rise of child prostitution can indicate a lot of demand in society which in the end makes certain parties try to answer the needs that exist in society and turn them into business opportunities to seek personal gain. Thus, law enforcement has a very large and important role.⁷

6 Kadek Hary Harmawan (*et. al.*), Kebijakan Penanggulangan Tindak Pidana Prostitusi Online yang Melibatkan Anak di Bawah Umur (Studi Kasus Di Polres Kabupaten Tabaran), *Jurnal Konstruksi Hukum*, Vol. 4, No. 3, 2023

7 Ariska Dwi Astuti., Legal Protection for Minors as Perpetrators of Sexual Violence, *Journal of Creativity Student*, Vol. 6, No. 1, 2021, page. 87-110

Indonesia has indeed ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, through Law Number 10 of 2012 concerning Ratification of the Optional Protocol to the Convention on the Rights of the Child regarding the Sale of Children, Child Prostitution and Child Pornography. This protocol calls for legal reforms to prohibit and criminalize child trafficking, child prostitution and child pornography.⁸

There is involvement of minors in the commercial sex industry, even though they comply with the provisions of the law are violated and threatened with severe sanctions for those who do use it, but in reality the presence of minors who are victims of new victims, the modus operandi of pimps and pimps or brokers is still unavoidable, there are even indications that from year to year it continues to grow. Even though looking for girls directly under the age at the brothel complex may not be as easy as five to ten years ago, male suspects or customers who already have a network and know the ins and outs of the world of prostitution can still easily get the girls they order, as long as they provide them enough money.⁹

The state's efforts to deal with the condition of child prostitution¹⁰ by one of them arresting syndicates really need to be considered and further enhanced. "If there is no effort from the state to overcome this, syndicates can move and operate more freely, and the level of child prostitution will increase.

Underage children are described as a vulnerable group experiencing exploitation,¹¹ especially in the practice of human trafficking for the purpose of prostitution based on Burke's opinion in his book. Where in the prostitution industry, the younger the victims are, they will be considered as superior products capable of producing higher economic value. The longevity and also the myths of female sexuality are built in communities that are enlarged by how they perceive female sexuality, making women more likely to be targeted by prostitutioners.

The absence of regulations governing child prostitution has allowed buyers of child sex to roam freely in Indonesia. Child sex buyers seem to take advantage of their weaknesses in Indonesian law to sexually exploit Indonesian children, including buying sex services for children. With the financial capabilities of these child sex predators, they can easily get children to satisfy them without having to worry about being entangled in the rule of law, because in Indonesia there is not a single article that regulates the

8. Ristia Ika Asnia., Optimalisasi Pertanggungjawaban Pidana Pengguna Jasa Prostitusi Anak, *National Conference for Law Studies: Pembangunan Hukum Menuju Era Digital Society*, 2020, page. 897-912

9. Santy Yanuar Pranawati (et. al), *The Vulnerability of Female Adolescents as Victims of Commercial Sexual Exploitation in Bandung*, *Sosio Konsepsia*, Vol. 9, No. 02, 2020, page. 198-212

10. Kadek Hary Hamawan (et. al), Kebijakan Penanggulangan Tindak Pidana Prostitusi Online yang Melibatkan Anak di Bawah Umur (Studi Kasus di Polres Kabupaten Tabanan), *Jurnal Konstruksi Hukum*, Vol. 4, No. 3, 2023, page. 275-281

11. Riky Novarizal., *Tinjauan Viktimologi Pada Anak Korban Prostitusi (Studi Kasus "X" Di Pekanbaru)*, *Sisi Lain Realita*, Vol. 4, No. 2, 2019, page. 76-90

criminalization of people who buy sex services for children. In fact, not a few people who come from abroad come to Indonesia just to buy sex with children, either directly or by utilizing networks of fellow child sex predators looking for children who can fulfill their sexual desires.¹²

Regarding child prostitution, law enforcers often experience problems in processing child prostitution crimes.¹³ This is because the definition of child prostitution has not been clearly stated adequately in the law. Currently, these laws are often used by law enforcers. These laws are Law Number 23 of 2002 concerning Child Protection and Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection.

Based on the positive law that regulates prostitution with legal facts and social facts, there is a disparity in the application of the law to cases of prostitution as a criminal act of trafficking in persons. Prevention and handling of the crime of trafficking in persons is the responsibility of the Government,¹⁴ Regional Governments, communities and families. In order to realize comprehensive and integrated steps in the implementation of prevention and handling, it is necessary to be regulated in detail in laws and regulations that can ensnare all parties involved in prostitution services, both in the RKUHP and in related laws.

In general, it examines the factors of children involved in prostitution because 2 (two) factors, according to the author's observation, are the internal and external factors of the child. Internal factors, among others, depend on the psychological condition of the child itself, while external factors depend on the situation and environmental conditions where the child lives, for example the home (family), the surrounding community, school, environment, groups or gangs and many more. Factors that cause children to commit criminal acts of prostitution or human trafficking are due to several triggers that encourage these children, including:

1. The factor is because the child is deficient in the economy/poor in his family

The backgrounds of the victims are generally children who come from poor families in rural or urban slum areas, children who have dropped out of school, victims of domestic violence both physical, psychological and sexual including rape, job seekers, street girls, victims of kidnapping, divorce widows due to early marriage, and strong encouragement to work from parents or the environment. In addition, the children who were recruited were generally of low education, inexperienced, naive, but beautiful, at least- not clean skinned.

While the recruitment *modus operandi* used by agents or brokers usually uses various forms of persuasion, making promises of various

12 Supriyadi Widodo (et. al.), *Melawan Praktik Prostitusi Anak di Indonesia Dan Tantangannya*, Jakarta, Institute for Criminal Justice Reform, 2017, page. 25

13 Diana Yusyanti., Legal Protection of Children Victims from Criminal Actors of Sexual Violence, *Jurnal Penelitian Hukum De Jure*, Vol. 20, No. 4, 2020, page. 619-636

14 Nelsa Fadilla, Upaya Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Perdagangan Orang, *Jurnal Hukum dan Peradilan*, Vol. 5, No. 2, 2016, page. 181-194

pleasures and luxuries, deceit, traps, threats, abuse of authority, debt bondage, marrying or seducing, kidnapping or raping, offering jobs and taking. These agents or brokers generally work in groups of 3 to 4 people and mingle as teenagers having fun.

Poverty that has forced many families to plan a life support strategy for a person to enter into a moral sales deed to work to meet the urgent needs of many. In general, one of the causes of a person and even a child entering the world of prostitution is due to Indonesia's slumping economic condition, this has a direct impact on the closure of many factories and the rationalization of the workforce on a large scale.

The impact is that many people will lose their jobs, regardless of the consequences of an unfavorable investment climate, mainly due to security factors, and too few available jobs. Job opportunities are not evenly distributed with the number of people looking for work.

2. Environmental factors Make friends

Bad association of friends and support each other to get involved in online prostitution when they are underage, this happens because a friend of the child says and asks to go to a prostitution shop, and if they don't want to follow in their footsteps then the child is not accepted into the group friendship. By making money instantly, children get used to doing it and get a lot of money and can fulfill their lives. Therefore, never let the wrong choice of friends.

Nowadays, the average person already has an uncertain girlfriend the boy has a good girlfriend. And some even crash with a girlfriend's invitation to have sex with reasons of love. But after they had sex, the man left her just like that so that with this situation the daughter felt herself not valuable again.¹⁵ And feelings of revenge arise for men in a certain way selling her body by engaging in prostitution.

3. The Low Level of Religion of the Child and His Family.

Religion is a form of foundation for a person to live life, every religion has its own rules and orders of the prohibition of God Almighty. And no single religion allows prostitution or prostitution. In every religion a person must always be on the right track, namely the path that has been determined by the holy book of the religion he believes in.

Which is where the lack of understanding of religion in themselves and the low level of religion against those who are not afraid of sin in themselves. So that they enter the world of prostitution because they have despicable morals and do not respect their parents so that they commit acts of prostitution outside the knowledge of their parents because of a lack of gratitude for the blessings that God has given them and feel unable to have what they have.

Overcoming/handling prostitution cannot be done haphazardly and not only based on moral aspects. Prostitution is a complex problem and is related to social, cultural, economic, political, as well as moral and

15 Ratna Diyah Ayu Permatasari dan Nurchayati Nurchayati, Penerimaan Diri Pada Perempuan Dewasa Awal Yang Pernah Berhubungan Seks Pranikah, *Character: Jurnal Penelitian Psikologi*, Vol. 8, No. 4, 2021, page. 1-16

religious aspects. In this case, the government along with the whole community is advised to use social, cultural, economic, political approaches besides morals and religion to find a solution.

Policies that can be implemented in Indonesia to prevent and eradicate prostitution are to apply laws and regulations consistently.¹⁶ This effort is carried out comprehensively by law enforcement. Handlers related to the problem of prostitution committed by children, law enforcers should have handled this, so that cases like this do not escalate again.

Appropriate steps are needed, fast in dealing with criminal acts of prostitution in children. As with rehabilitating child prostitutes, rehabilitation is carried out as an effort to return child perpetrators to society after being educated and trained with various skills and counseling for a period of six months or one year, with the aim of giving them awareness on a good path in accordance with established norms.

Required stages and rehabilitation processes for child prostitution perpetrators must be carried out consistently and not just as a formality from the government. There must be an effective way to carry out coaching efforts from various aspects including physical health, mental, spiritual, moral, and social development as well as behavior towards child prostitutes. In addition, the role and concern of the community is also very important to actively participate in and support the government's efforts to provide guidance and supervision so that the practice of prostitution by minors does not occur again.

Has an impact on victims of child prostitution, including vulnerability to violence, both physical and psychological. As for being physically vulnerable, for example being vulnerable to violence (for example being beaten) and susceptible to sexually transmitted diseases (STI) due to sexual intercourse with multiple partners without protection (contraception), or even HIV/AIDS. Children are also psychologically vulnerable because prostituted children are in a state of humiliation and abuse.¹⁷

They lack the ability to make career choices and take circumstances for granted; second, the social impact, rejection of the environment where children live, generally people see the results of their work as moral damage, so they are discriminated against and get a negative stigma in the public. In the long run, this will also result in a loss of quality human resources (HR).

The problem in concretely resolving the crime of child prostitution is protecting the rights of the child,¹⁸ the best interests of the child as

16 Putri Salsabila Sutardja (et. al.), Efektivitas Perlindungan Anak Terhadap Anak Sebagai Korban Prostitusi Online Dalam Kasus Di Madiun, *Dih: Jurnal Ilmu Hukum*, Vol. 17, No. 2, 2021, page. 254-265

17 Muhammad Aswin Akbar., Eksploitasi Seksual Anak Yang Dijadikan Pelacur Oleh Orangtua, *Journal of Law*, Vol. 7, No. 1, 2020, page. 1-18

18 Kristiawan Putra Nugraha., Perlindungan Hukum dan Hak Asasi Pekerja Anak: Kajian Implementasi dan Tantangan dalam Konteks Undang-Undang Perlindungan Anak, *IN RIGHT Jurnal Agama dan Hak Azazi Manusia*, Vol. 12, No. 2, Desember 2023, page. 191-218

the perpetrator of the crime of prostitution and fulfilling his special needs and taking steps that have guaranteed the provision of assistance to the child actor in a proper manner which is included in reintegration, social as well as physical and psychological recovery in children as perpetrators of prostitution.

Differences in the terminology of child prostitution in the protocol of choice, with "sexual exploitation" and/or economics in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection often become a deep problem in law enforcement.¹⁹ In several cases law enforcement officials experienced difficulties in carrying out the criminal element when someone who bought child sex services was caught. Absence of elements It is clear that in criminalizing perpetrators who buy child sex, law enforcement officials must try to understand all the elements in the law governing the exploitation of sex with children.

Weaknesses of law enforcement officials in supervising the circulation of *cyber porn* can trigger and give rise to prostitution/prostitution, where law enforcement officials assume that prostitution and online and offline pornography are "latent dangers" that are always there and growing even though they have been eradicated. Actually the reality in society is also like that. However, this goes back to the firmness of law enforcement officials in providing "shock therapy" to porn site makers and others.²⁰

There are several important roles in overcoming or overcoming child prostitution activities, namely from several government agencies, schools and families. So far, the family and school are known as institutions that have the function of socializing and controlling the behavior of adolescents so that they do not do things that deviate, such as prostitution, for the role of family and school.

The problem of prostitution is a structural problem where this problem is formed because of an organized structure and is a fundamental problem that occurs in society,²¹ prostitution is a form of crime that is very difficult to deal with because it is supported by economic factors. Among them are:

a. Family Role

Most of the roles of the family, most people think that the family has many positive functions such as setting offspring, socialization and education, economy, care or protection, determining

19 Andi Nurhana (et. al)., Perlindungan Anak Sebagai Korban Perdagangan Orang: Studi Pada Polrestabes Makassar, *Journal of Lex Generalis*, Vol. 3, No. 5, 2022, page. 1020-1035

20 Putri Nilam Sari Cayo and Ennimerita., Sanksi Pidana Terhadap Pidana Cyberporn Berdasarkan Undang-Undang Nomor 16 Tahun 2016 Tentang Perubahan Atas Undang – Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik (UU ITE), *Justici*, Vol. 12, No. 2, 2020, page. 1-18

21 Anggreany Haryani Putri and Melanie Pita Lestari., *Perempuan dalam Lingkaran Prostitusi Ujaya Pencegahan dan Penanganan*, Malang, Madza Media, 2023, page. 2

status, nurturing and affection.²² The family is the closest person to the child where the family plays a very important role in the growth and behavior of the child, before entering society for the first time, namely "ordered" in the family.

But the failure of the family to carry out its functions can lead to the term broken home child or youth. In the family the effort that can be made is to provide the best atmosphere, love, peace to the child, parents must be critical in educating their children so that parents have responsibility, as well as providing knowledge and learning to the child.

b. School Institution

Not only does the role of the family remain on the part of the school institution, it also participates in incidents of prostitution committed by children. School is a means of socializing children about the norms and values that apply in the public. In addition, knowledge that is not taught in the family can be found in schools, including those related to the internet. Related to the internet, this case was revealed by several high school (SMA) students who were involved in online prostitution, it seems that education in Indonesia is quite global, which provides learning and education for children.

c. Role for Government

The practice of prostitution of underage children is very concerning, especially with the many cases of exploitation of children, both of their own volition and coercion by elements.²³ The handling of prostitution cannot be carried out haphazardly and not only based on the moral aspect alone, prostitution is a complex issue and is related to cultural, social, economic, political, moral and religious aspects.

Regardless of whether the prostitution committed by a child is forced or voluntary, the child in prostitution cases must be seen as a victim of exploitation and this exploitative behavior must be considered a crime.

In this case the government and society need to take an approach in terms of social, political, economic as well as morals and religion in children to find a solution. Policies that can be implemented in Indonesia for the prevention and control of prostitution are to apply laws and regulations consistently. This effort is carried out with comprehensive steps with law enforcement.

The findings of this study are that the law enforcement of child prostitution cases is still considered not effective and optimal, both in terms of legal substance that is still inadequate to criminalize prostitutes and service users, law enforcement officials who are less competent in applying the law in prostitution cases, and the lack of public awareness in

22 Vemmi Kusuma (et. al)., *Pendidikan Ramah Anak*, Surabaya, Cipta Media Nusantara, 2021, page. 2

23 Dewi Ervina Suryani (et. al)., *Analisis Putusan Hakim No: 1321/PID.SUS/2021/PN.Medan dalam Tindak Pidana Eksploitasi Seksual Terhadap Anak*, *Jurnal Interpretasi Hukum*, Vol. 4, No. 2, 2023, page. 183-190

participating to eradicate prostitution practices in Indonesia including prostitution involving children.

D. CONCLUSION

In general, it examines the factors of children involved in prostitution because 2 (two) factors, according to the author's observation, are the internal and external factors of the child. Internal factors, among others, depend on the psychological condition of the child itself, while external factors depend on the situation and environmental conditions where the child lives, for example the home (family), the surrounding community, school, environment, groups or gangs and many more. Weaknesses of law enforcement officials in overseeing the circulation of cyberporn can trigger and give rise to prostitution/prostitution, where law enforcement officials assume that prostitution and online and offline pornography are "latent dangers" that are always there and growing even though they have been eradicated. There are several important roles in overcoming or overcoming child prostitution activities, namely from several government agencies, schools and families. It is better for law enforcement in Indonesia to be more assertive in tackling the occurrence of criminal acts of prostitution in children, the role of the community and family is also needed in responding to the existence of prostitution in children by paying attention to their children and providing knowledge or insight into increasing religion in children. The government and law enforcers must be more active in eradicating this act of prostitution. Because such work can damage the morale and damage the image of our nation. The existence of covert prostitution should be part of PR for all those who take part in tackling the criminal act of child prostitution at issue, whose work is clearly damaging to the morale of minors.

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