# ONLINE PROSTITUTION AND CRIMINAL LAW AFTER THE COVID-19



Diajukan Kepada Program Studi Magister IImu Hukum Sekolah Pascasarjana Universitas Muhammadiyah Surakarta untuk Memenuhi Salah Satu Syarat guna Memperoleh Gelar Magister dalam Ilmu Hukum

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# ONLINE PROSTITUTION AND CRIMINAL LAW AFTER THE COVID-19

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2021

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## ONLINE PROSTITUTION AND CRIMINAL LAW AFTER THE COVID-19

#### **Abstarct**

With the outbreak of the Corona epidemic and quarantine, the whole world moved to live in the world of the Internet without prior warning, which made us witness the disintegration and lack of morals of society, especially by Tik Tok users. Internet-based activities have become a life necessity, the problem in this journal is how society views that modern phenomenon, how online prostitution can occur and prevent online prostitution, and efforts to prevent and mitigate the crime of prostitution through an online way that can be done through Penal efforts (criminal law) as well as non-criminal efforts (outside the scope of criminal law).

From the discussion above problems there is something interesting to be researched and studied as a way to describe and analyze how the causes of prostitution in the online media and its prevention. this study aims to determine how the setting along with the legal view of the sanctions and the prevention of the crime of prostitution is done with the online media.

This study uses normative research is secondary data, secondary data obtained in the form of legislation in force, can also be Previous studies Cases on apps and social media sites and others.

Effect can be positive and negative. Based on this study it was found that the occurrence of cybercrime in which prostitutions can be run online, is looked one of the negative effects In positive law in force in Indonesia and Egypt, however until now there are very many online prostitution cases that occurred, according to the compilers of the case due to lack of traction on the rule of law and the lack of severity of the sanctions imposed on perpetrators.

In conclusion, there are few ways in which our government need to act in order to maintain and give more legal certainty towards the case of online prostitution, and there is no better way than to revise the Law Number 21year 2007 about the Eradication of Human Trafficking crimes. The revised must be focused upon the articles that have a correlation towards the internet as the new tool that can be used by the pimps.

**Keywords**: social media, Pimping, covid-19, Commercial Sex Works (CSW).

### **Abstrak**

Dengan mewabahnya wabah Corona dan karantina, seluruh dunia tergerak untuk hidup di dunia internet tanpa peringatan terlebih dahulu, yang membuat kita menyaksikan disintegrasi dan rendahnya moral masyarakat, khususnya oleh para pengguna Tik Tok. Kegiatan berbasis internet sudah menjadi kebutuhan hidup, permasalahan dalam jurnal ini adalah bagaimana masyarakat memandang fenomena modern tersebut, bagaimana prostitusi online dapat terjadi dan mencegah prostitusi online, serta upaya pencegahan dan penanggulangan kejahatan prostitusi melalui cara online yang dapat dilakukan. dilakukan melalui upaya Penal (hukum pidana) maupun upaya non-pidana (di luar lingkup hukum pidana).

Dari pembahasan permasalahan di atas ada hal yang menarik untuk diteliti dan dikaji sebagai cara untuk mendeskripsikan dan menganalisis bagaimana penyebab terjadinya prostitusi di media online dan pencegahannya. penelitian ini bertujuan untuk mengetahui bagaimana pengaturan beserta pandangan hukum mengenai sanksi dan pencegahan tindak pidana prostitusi yang dilakukan dengan media online.

Penelitian ini menggunakan penelitian normatif yaitu data sekunder, data sekunder yang diperoleh berupa peraturan perundang-undangan yang berlaku, dapat juga berupa Studi Sebelumnya Kasus pada aplikasi dan situs media sosial dan lain-lain. Efeknya bisa positif dan negatif. Berdasarkan penelitian ini ditemukan bahwa terjadinya kejahatan dunia maya dimana prostitusi dapat dijalankan secara online, dipandang sebagai salah satu dampak negatif dalam hukum positif yang berlaku di Indonesia dan Mesir, namun sampai saat ini masih sangat banyak kasus prostitusi online yang terjadi, menurut penyusun kasus tersebut karena kurangnya daya tarik terhadap supremasi hukum dan kurangnya beratnya sanksi yang dijatuhkan kepada pelaku.

Kesimpulannya, ada beberapa cara yang perlu dilakukan pemerintah kita untuk menjaga dan memberikan kepastian hukum yang lebih terhadap kasus prostitusi online, dan tidak ada cara yang lebih baik selain merevisi Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Perdagangan Manusia. kejahatan. Revisi harus difokuskan pada artikel-artikel yang memiliki korelasi dengan internet sebagai sarana baru yang dapat digunakan oleh mucikari.

Kata kunci: media sosial, Mucikari, covid-19, Pekerja Seks Komersial (PSK).

### 1. INTRODUCTION

Prostitution is a form of community disease that must be stopped from spreading, without neglecting efforts to prevent and improve it. Pimping in the practice of prostitution is an important aspect because most cases of prostitution that are exposed in Indonesia, especially in big cities, are run by pimps. Today with technology, Pimps used both non-coercive and coercive management styles across and within market segments of the illicit sex trade, Pimps who are activity managing internet-solicited sex workers, the development of prostitution is very easy to obtain.1 The use of internet-based technology makes it easier for pimps to run their business, usually immoral content through online media such as WhatsApp is used to attract customers. Many pimps who use online media with immoral content are only tried with minimal penalties that originate in the Criminal Code only. We know that the use of online media as a medium for promoting prostitution can be

<sup>&</sup>lt;sup>1</sup> Hanuring Ayu dan Suparwi, "Analisis mengenai Prostitusi Cyber Bagi Para Pelaku dan Bagi Para Mucikari di Indonesia", Jurnal Litbang Provinsi Jawa Tengah, Volume 17 Nomor 1- Juni 2019

punished more severely under the provisions contained in Law Number 11 of 2008 concerning Electronic Information and Technology. Prostitution is the exchange of sexual relations for money or gifts as a prostitution trade transaction. Meanwhile, in prostitution there are several people involved, including service providers, service users, and Commercial Sex Workers (CSW).

Online prostitution is a form of crime that has developed due to advances in science and technology. The development of technology has led to the proliferation of the prostitution business because it can take advantage of the internet for transactions and prostitution deals<sup>3</sup> Advantages of 'using computer technology and the Internet, activities that prostitution no longer need to meet in places where the workers are usually sold, such as brothels or on the side of the road. This is definitely safe for both service users and commercial sex workers. The use of the Internet as a marketing tool for commercial sex workers (CSW) and pimps to attract clients is becoming more and more popular. Using internet media gives flexibility for someone to conduct transactions without having to meet in person. This of course provides security for both service users and commercial sex workers (CSW), so that the use of the internet as a marketing tool for commercial sex workers (CSW) and pimps to attract customers is becoming increasingly popular. By using the internet media provides flexibility for someone to transact without the need to meet in person. In its development there are various kinds of internet facilities used in online prostitution activities, such as using social media, websites, blogs, and online forums. The mode used is by offering and posting photos of Commercial Sex Workers (CSWs) complete with personal data and contact info which can be contacted by consumers at any time, either by cellular phone or electronic mail.

Prostitution is considered a crime against morals or morals and against the law. Even so, statistics show that this business is on the rise. Havoc scope calculates world prostitution income. There are total number of countries that are high on the list in this business. Meanwhile, the country that was ranked first made transactions up to US \$ 73 billion. Meanwhile, Indonesia was in the 12th position with a business value of US \$ 2.25 billion. Here is the complete sequence:<sup>4</sup>

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<sup>&</sup>lt;sup>2</sup>"Arti kata prostitusi menurut KBBP", diakses dari <a href="https://jagokata.com/arti-kata/prostitusi.html#:~:text=%5Bprostitusi%5D%20Makna%20prostitusi%20di%20KBBI,banyak%20tempat%20perjudian">https://jagokata.com/arti-kata/prostitusi.html#:~:text=%5Bprostitusi%5D%20Makna%20prostitusi%20di%20KBBI,banyak%20tempat%20perjudian</a> Pada tanggal 12 Februari 2020 pukul 08.59 WIB

<sup>&</sup>lt;sup>3</sup> Prambudi Adi Negoro, "Invantri Graham Oerba Atmadja, *Analisis Terhadap Prostitusi Online Ditinjau Dari Hukum Pidanapositif Di Indonesia*", Recidive Volume 3 No. 1 Januari- April 2014

<sup>&</sup>lt;sup>4</sup> 12 Countries with the Largest Prostitution Business in the World, There Is a Name Indonesia - Global Liputan6.com, on 14 Jun 2021

### 1.1 The Law Comparison in Indonesia and Egypt

Table 1. The Indonesian regulations

Indonesia			
Regulations	Punishment	Court Verdict Number	
Fulfill the elements of Article 27 paragraph (1) of Law Number 19 of 2016 concerning amendments to Law of the Republic of Indonesia No. 11 of 2008 concerning Information and Electronic Transactions, Criminalization Article 197 of the Criminal Procedure Code	Imprisonment for 1 year 3months and a fine of IDR 100,000,000	800/Pid.Sus/2017/PN.Bpp	
Article 2 UURI Number 21 of 2007 concerning Eradication of the Crime of Trafficking in Persons Jo Article 65 paragraph (1) of the Criminal Code	5 years in prison and a fine of IDR 200,000,000	443/ Pid.Sus/2019/PN.Smn	
Article 27 paragraph (1) in conjunction with Article 45 (1) UURI No.19 of 2016 concerning amendments to Law No.11 of 2008 concerning ITE, Law No.8 of 1981	1 year and 2 month imprisonment	70/ Pid.Sus/2019/PN.Bjn	
Article 296 KUHP, Law No.8 of 1981 on KUHAP, Article193 KUHAP	1 year in prison	193/ Pid.B/2020/PN.Tjg	

Table 2. The Egyptian regulations

Egypt			
Regulations	Punishment	Court Verdict Number	
Article 178 of the Penal Code stipulates, everyone who publishesgraphic clips on social networking sites if they are dangerous for life	Imprisonment for a period not exceeding two years and a fine of not less than five thousand pounds	Case No. 120 of 2016 from the Appellate Misdemeanor Court	
According to Article 1 of the Anti-Prostitution Law No. 10 of 1961, "Whoever incites a person, male or female, to commit debauchery or prostitution, assists him in that, or facilitatesit for him, as well as anyone who uses, lureshim in, or seduces him with the intention of committing debauchery or prostitution.	According to Article 1 of the Anti-Prostitution Law No. 10 of 1961, "Whoever incites a person, male or female, to commit debauchery or prostitution, assists him in that, or facilitatesit for him, as well as anyone who uses, lureshim in, or seduces him with the intention of committing debauchery or prostitution.		
The Anti-Cyber Crime Law Article 25 Whoever violates any ofthe family principles or values or violates the sanctity of private life orsends many e-mails to aspecific person without his consent	Imprisonment for a period of not less than two years and not exceeding 5 years, and a fine of not less than 100,000 pounds and not exceeding 300,000 pounds, or one of the two penalties	Case No. 535 of 2020 Supreme State Security Inventory	

### 1.2 The right to sexual privacy as an independent legal

Regarding the promotion of online prostitution, it is noted that it has similarities with what has been mentioned earlier in terms of nature and characteristics, but is distinguished from its predecessor by using special methods, (represented by the use of network information or any information system).

Enforcement of criminal law so far has used Article 296 of the Criminal Code, namely:

"Whoever intentionally causes or facilitates obscenity by another person with another person and

makes it a livelihood or habit, is threatened with a maximum imprisonment of one year and four months or a maximum fine of fifteen thousand rupiahs".

This article stipulates that punishment can only be imposed on people who intentionally cause or facilitate obscene acts with other people, and make it a livelihood or habit.<sup>5</sup> Article 297 of the Criminal Code threatens anyone who traffics women and trafficking in boys who are not yet mature. And in Article 506, it is stated that:

"Whoever takes advantage of the obscene act of a woman and makes it a livelihood, is threatened with a maximum imprisonment of one year".

Thus, criminal law enforcement against prostitution service providers who market prostitution online is carried out optimally, because these actions should be aggravated related to online marketing.

Based on the description of the research problems above, the problem is formulated: How do the online prostitution laws compare in Indonesia and Egypt? The purpose of this study is to describe the comparison of online prostitution laws in Indonesia and Egypt.

### 2. RESEARCH METHOD

### 2.1 Types of Research

The type of research used in this research is normative legal research. Normative legal research is legal research that puts the law as a building system of norms. The system of norms in question is about principles, norms, rules of statutory regulations, court decisions, agreements and doctrines (teachings).

### 2.2 Research Approach

The research approach used in this research is Analytical approach, which uses the method of analyzing the world It is "the method that aims to describe the reality of the phenomenon to be studied by repetitive monitoring of the appearance of the studied material, whether it is a word, or the subject of "idea", personality, single, unit of measurement, or time".

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<sup>&</sup>lt;sup>5</sup> Dewi Bunga. (2012). Prostitusi Cyber: Diskursus Penegakan Hukum Dalam Anatomi Kejahatan Transnasional. Udayana University Press. Hal 11.

<sup>&</sup>lt;sup>6</sup> Assaf, 2003, p. 184

#### 3. RESULTS & DISCUSSION

### 3.1 Comparison of Laws on Online Prostitution in Egypt

# 3.1.1 Case 1: (case No. 4917 for 2020 Sahel Crimes, restricted to 2016 for the year 2020)

Hanin Hossam Known as the "Tik Tok Girl", Whose Account on "Tik Tok" is being monitored by about a million users, The Supreme State Security Prosecutor charged her with "committing the crime of human trafficking by dealing with normal persons who are girls who she used in acts contrary to the principles and values of Egyptian society, For money.

The Monitoring Unit of the Attorney-General's Office monitored a wide range of social media participants, and several requests were received to its official Facebook account to investigate the accused for publishing a video posted through her social media account; During which she invited the girls to participate in an electronic group called "Agency" founded through the said app and the owner of the Chinese company; For girls to broadcast live, available to all, watch it, get to know and talk to their followers; In exchange for receiving wages in US dollars, the number of followers and participants in this broadcast increases, The Attorney-General ordered an investigation into the incident and the arrest and interrogation of the accused.

Investigations and follow-up confirmed the creation of the section, which is the subject of investigation, a violent shock to Egyptian society, because it contained a direct invitation from the accused of the girls to commit acts contrary to public morals and the values and principles of Egyptian society, And her attempt to circumvent this by claiming through the section the legitimacy of what she is doing, and inciting the girls to what she called for to achieve the highest possible percentages to follow what they offer through the said application in pursuit of profit, And that these follow-ups lead to abnormal conversations between girls and men and the holding and arranging of sinful sexual encounters between them in closed rooms for dialogue that end in incitement to debauchery, Girls were motivated to provoke men with immoral acts in an effort to increase the proportion of broadcast followers to a certain extent required by the owner's company to receive the financial return they had promised.

Using an online social media app "likee app" It carries with it in a hidden way calls for

incitement to debauchery and the temptation to prostitution. By calling them on a group called "Likee Pyramid" she created on her phone to meet young people through video live and make friends during the quarantine., which has spread to the world because of the Corona epidemic with the intention of getting money,

At the trial hearing scheduled for 17 August for appeal in the Hanin Hossam case known as the "Tik Tok Girls" case No. 4917 for 2020 Sahel Crimes, restricted to 2016 for the year 2020 whole north of Cairo, She was sentenced to two years in prison and a fine of 300,000 Egyptian pounds (about \$20,000), for "violating the principles of Egyptian society and family", by publishing images and videos "disruptive to public modesty", The announcement of "immoral" meetings and the call for females to use these platforms, according to the authorities.

### 3.1.1.1 Discussion:

Criminal responsibility in Egyptian law is the obligation of the individual to bear the consequences of his own actions unless there is any reason to commit the crime such as justification and legalization.

From the above definition we can classify the case as a criminal case because the actions committed by Hanin Hossam has disturbed the public interest and the family values of Egyptian society.

### 3.1.1.2 Article 2 of the Anti-Human Trafficking Act No. 64 of 2010

- The perpetrator of the crime of human trafficking is anyone who deals in any way in a natural person, including sale, offer for sale, purchase or use.
- ii. Or exploit the state of vulnerability or need or promise to give, or receive money or benefits in exchange for the consent of a person to trade another person with control over him and all of that if it is for the purpose of exploitation whatever his form, including exploitation in prostitution and other forms of sexual exploitation.
- iii. Child exploitation in this and in pornography, forced labour, forced service, slavery, slavery-like and enslavement, begging or removal of organs or human tissues or part of them.

In accordance with **article 1 of the Anti-Prostitution Act No. 10 of 1961**, "Anyone who incites, assists or facilitates the commission of debauchery or prostitution by a male or female person, anyone who uses, lured or seduced him with the intention of committing debauchery or prostitution is punishable by a minimum of one year's imprisonment and no more than 3 years' imprisonment and a fine of 100 to 300 pounds".

Article 14 of the same Act noted: "Anyone who has declared in any way an invitation that includes the temptation to debauchery or prostitution or to draw attention to this, he shall be sentenced to a maximum of 3 years' imprisonment and a fine of not more than 100 pounds".

### 3.1.2 Case 2: (No. 26812 of 2020 Petitions of the Attorney General Lawsuit No. 579 of 2021)

Reynad Emad is one of the heroines of the dance videos on Instagram and Tik Tok app, accused of creating a page on the Tik Tok app with the intention of declaring herself to engage in prostitution and inciting others to commit such facts, in violation of principles and values, The charges included human trafficking by exploiting her 8-year-old sister to gain followers. And create a page with the intention of committing a punishable crime.

It was the General Administration for the Protection of Morals, she has monitored the circulation of videos of a girl named Mona Allah A H, known as Reynad Emad, appearing with indecent content, Reynad also posts videos on Musically and Tik Tok, and the photos caused a stir on Facebook.

Investigations indicated in case No. 26812 of 2020, the Attorney General's petitions That the videos that the girl posted are Immoral and a call for debauchery Contrary to family and social values and principles in exchange for financial benefit that are determined by how much viewers increase those videos which are posted to all without discrimination.

And the shocking thing that the girl revealed in the investigations before the prosecution is that she left her father's house because of his anger at her for appearing on social media, she had relationships with young people and explained that she had sex with three young people in one night.

The Economic Court, in his presence, punished the accused, Renad Emad, a "Tik Tok" girl, with 3 years in prison and a fine of 100,000 pounds, for her conviction of assaulting values, by creating and broadcasting content outside of morals, and advocating for herself

in an indecent manner, in the lawsuit filed against her by Lawyer Ashraf Farhat, founder of the campaign to cleanse the community, which bears No. 579 of 2021.

### 3.1.2.1 Discussion:

Criminal law is a law that regulates violations and crimes against the public interest and for violators are threatened with a law that is an affliction or torment.

From the above definition we can classify the case as a criminal case because the actions committed by "Mena Allah" aka "Reynad Emad" has disturbed the public interest.

Law No. 175 of 2018 to combat IT crimes states Article (25) Punishable by imprisonment for at least six months, and a fine of not less than 50 thousand pounds or more than 100 thousand pounds, or in one of these penalties, anyone who assaulted any of the principles or family values in Egyptian society, violated the sanctity of private life or sent extensively many e-mails to a particular person without his consent, or granted data to an electronic system or website to promote goods or services without his consent or to publish through the information network or by one means of information Information technology, information, news, images and its judgment violates the privacy of any person without their consent, whether olished informmation is correct or incorrect.

### 3.1.2.2 Legal opinion in the text of the punishable article:

By reviewing the first paragraph of the article above the statement, we find it punishing "anyone who has attacked any of the principles or family values in Egyptian society" and Despite the provision of the state's right to establish family values under Article 10 of the Constitution, we are facing a punitive text and given the penal sanctions imposed by the penal code From serious restrictions on personal freedom, the text in this way is vague, inaccurate and broad in meaning and can be interpreted from several points of view, Especially in the absence of the executive regulations of the law, which might have explained to us what family values meant to us.

### 4. CONCLUSION

Based on the results of research and discussion conducted, it is concluded that:

Prostitution or prostitution is a profession that commercializes sex as a form of service to other parties. Meanwhile, online prostitution is an act that is carried out online using technology media. The regulation of criminal acts in positive law in Indonesia against online prostitution sanctions

can be ensnared by using the Criminal Code contained in articles 296 and 506 for a pimp, then regarding a prostitute, the Criminal Law Code mentions it as consensual sexual intercourse., which is carried out by a person with a married person or wife (surface) as contained in Article 284 of the Criminal Code. Law Number 11 of 2008 concerning Information and Electronic Transactions which has been regulated in article 27 paragraph (1) only limits the prohibition on commercial sex service providers and website owners only. And according to the author, the sanctions are still less severe, because the maximum fine is Rp. 1 billion which is still relatively small when compared to the benefits that can be obtained in managing the online prostitution network.

Online prostitution according to Egypt is the act of renting, providing, or engaging in sexual services for a certain fee which is regulated in the Anti-Prostitution Law Number 10 of 1961. Therefore, the legal comparison between Indonesia and Egypt has something in common, namely that they do not have laws and regulations. -Invitation regarding online prostitution separately, especially to perpetrators and to Commercial Sex Workers without complaint offenses. While the difference lies in law enforcement, that in Egypt there is special police called "good moral police" which has a special duty to deal with online prostitution.

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