

# ACCOUNTABILITY ANALYSIS OF PERSONS TRADE IN PERSONS THROUGH ONLINE PROSTITUTION

Riko Yulian Prima<sup>1</sup>, Bambang Hartono<sup>2</sup>

## *Abstract*

*Trafficking in persons is an act of recruiting, transporting, harboring, sending, transferring or producing a person by intimidation of violence, use of violence, kidnapping, confinement, plagiarism, deceit, abuse of authority or position of vulnerability, loan entrapment or giving of fees or utilities, as a result of obtaining consent from the person those who have control based on other people, whether carried out domestically or in various countries, to empower or cause people to be exploited similar to Article 1 paragraph (1) of Law Number 21 of 2007 concerning the Eradication of Criminal Trafficking in Persons. In Article 2 paragraph (1) of Law Number 21 of 2007 concerning the Eradication of the crime of Trafficking in Persons, it is explained that every person who recruits, transports, shelters, sends, transfers, or earns a person by means of violence, use of violence, kidnapping, confinement, manipulation, lying, abuse of authority or position of vulnerability, debt bondage or giving wages or utilities despite obtaining the consent of a person who has control over another person, for the purpose of coercing that person within the territory of the Republic of Indonesia. 15 years and criminal compensation of at least Rp. 120,000,000.00 (one hundred twenty million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah).*

**Keywords:** *Criminal Offenders, Human Trafficking, Online Prostitution.*

## I. INTRODUCTION

The growth of science, technology, and communication has brought about the latest transformations in public life, not only having positive factors as a support to make it easier to carry out daily activities, but also negative effects including decency which have recently been rife, such as online prostitution, the use of the internet for intimate purposes or using computers to express forms of sexual expression or satisfaction (Cybersex).<sup>3</sup>

Cybercrime is a social phenomenon that has tended to lead to the realm of criminal law, namely in the form of crime. Cybercrime is not only suspected as a personal, local, national or regional matter, but has become a global matter. each country should be concerned about dealing with these high-tech crimes through

---

<sup>1</sup> Master of Law Student, Universitas Bandar Lampung, [rikoprime259@gmail.com](mailto:rikoprime259@gmail.com)

<sup>2</sup> Lecturer of Faculty of Law, Universitas Bandar Lampung, [bambanghartono@ubl.ac.id](mailto:bambanghartono@ubl.ac.id)

<sup>3</sup> Barda Nawawi Arief. 2011. Pornografi, Pornoaksi dan Cybersex- Cyberporn, Pustaka Magister, Semarang, hlm. 78.

both non-criminal policies and criminal policies. Therefore cybercrime is a global challenge that must be faced together, there is a phenomenon that the internet is not only used as a tool that makes it easier for people to carry out their activities, but there are several parties who use the internet in the opposite way, namely by abusing the technology used to offer prostitution by online way.<sup>4</sup>

Cybercrime can be divided into 2 (two) meanings, namely in the small and large sense. In a small sense, it is an illegal act that makes a computer a means or target of crime, both in terms of system security and data. meanwhile in a big sense is the whole order of crime directed at computers, computer networks and their consumers, and traditional forms of crime that use or are supported by computer equipment.<sup>5</sup>

The impact given by the convenience of this technology is misused by those who provide online prostitution services. Prostitution in Indonesia is considered a crime against decency and morals and against the law. The practice of prostitution is a form of social deviation that has been practiced since the past until now. Prostitution is a case of self-trafficking by trading bodies, dignity and individuality to many people in order to fulfill sexual desires in return for payment.<sup>6</sup>

The case of prostitution is a difficult problem, therefore this problem really requires special attention from the public. Prostitution, a kind of business that is synonymous with the dark world, is a business that generates fast money. It doesn't require a lot of capital, just a few entities that want to do business. Prostitution does not only affect those who carry it out, namely the perpetrators and consumers of its services, but also affects the wider community. Prostitution and night entertainment are actually dangerous for domestic life which is intertwined to the point of being able to result in criminal acts, crimes and other such things. Religion as one of the guidelines in life is completely ignored by those who participate in the implementation of this prostitution and is truly an act that is prohibited by religion. Night entertainment is not only an individual phenomenon but also a social sign of deviation from normal sexuality and religion.<sup>7</sup>

Criminal comes from the Dutch word straf, which is sometimes referred to as reward, although the term criminal is more appropriate than the term punishment, because law is commonplace as a translation of recht.<sup>8</sup> Criminal is more precisely defined as a suffering that is intentionally inflicted or given by the state to a person

---

<sup>4</sup> Widodo. 2013. *Aspek Hukum Pidana Kejahatan Mayantara*, Aswaja Presindo, Yogyakarta, hlm. 9-10.

<sup>5</sup> Bambang Hartono. 2013. "Penerapan sanksi pidana terhadap tindak pidana prostitusi online", *jurnal hukum. Pranata Hukum*. Volume 8 No. 2. hlm. 168.

<sup>6</sup> Kartini Kartono. 1981. *Patologi Sosial*, Rajawali Pers, Jakarta, hlm. 200.

<sup>7</sup> Terence H Hull, Endang Sulistianingsih, Gavin W Jones. 1997. *Pelacuran di Indonesia*, Pustaka Sinar Harapan, Jakarta, hlm. 3

<sup>8</sup> Yan Pramadya Puspa. 2008. *Kamus Hukum Belanda-Indonesia-Inggris*, Aneka Ilmu, Semarang, hlm. 470

2.

or several people as a legal consequence (punishment) according to him based on actions that violate criminal law prohibitions. Specifically, this prohibition in criminal law is referred to as a crime (*strafbaar feit*)..<sup>9</sup>

Wirjono Projodikoro explained that a criminal act is an act in which the perpetrator is capable of being subject to criminal penalties. *Strafbaar feit* is an unlawful act that is planned to be carried out by someone who can be held accountable for their actions which are declared as punishable (*wederrechtelijk*) relating to intent or mistakes committed by people who can be accounted for.<sup>10</sup>

Criminal law ensures sanctions for every violation of the law committed. The sanction is in principle the intentional addition of suffering. This planned addition to suffering is also the difference, especially between criminal law and existing law.<sup>11</sup> The designation "criminal" is a more specific designation, which refers to punishment in criminal law. Criminal is a concept in the field of criminal law that still needs further explanation in order to understand its meaning and essence.<sup>12</sup>

For Roeslan Saleh "criminal is a reaction to an offense, and this takes the form of a misery that the state intentionally inflicts on the perpetrator of the offense. Subekti and Tjitrosoedibio argued in their law dictionary, "criminal" is "punishment"..<sup>13</sup>

In the Criminal Code there is no definition of a crime, the term is known in Dutch criminal law as "*strafbaar feit*". One legal expert who describes the meaning of a crime is Teguh Prasetyo. he associates criminal acts namely "Acts which are prohibited by law and punishable by punishment, where the meaning of action here is in addition to active actions (doing something that is actually prohibited by law) as well as passive actions (not doing something that is actually required by law). law).<sup>14</sup> As for Moelajtno, a criminal act is "an act which is prohibited by criminal law and is punishable by crime, whoever violates this prohibition".<sup>15</sup>

If this prostitution is carried out in the online world then it can be subject to Article 45 paragraph (1) of Law Number 19 of 2016 concerning replacement based on Law Number 11 of 2008 concerning Information and Electronic Transactions which explains that every person who intentionally and without rights distribute and/or transmit and/or make Electronic Information and/or Electronic Documents accessible which have content that violates decency as referred to in Article 27

---

<sup>9</sup> Adami Chazawi. 2002. *Pelajaran Hukum Pidana I*, Rajawali Pers, Jakarta, hlm. 23.

<sup>10</sup> Wirdjono Prodjodikoro. 2004. *Asas-Asas Hukum Pidana di Indonesia*, Eresco, Jakarta, hlm. 50.

<sup>11</sup> Van Bemmelen. 1987. *Hukum Pidana 1 Hukum Pidana Material Bagian Umum*. Binacipta, Bandung, hlm. 17.

<sup>12</sup> Romli Atmasasmita. 1982. *Strategi Pembinaan Pelanggar Hukum Dalam Konteks Penegakan Hukum Di Indonesia*, Alumni, Bandung, hlm. 23.

<sup>13</sup> Subekti dan Tjitrosoedibio. 1980. *Kamus Hukum*, Pradnya Paramita, Jakarta, hlm. 83.

<sup>14</sup> Teguh prasetyo. 2014. *Hukum Pidana*, Raja Grafindo Persada, Jakarta, hlm. 50.

<sup>15</sup> Moeljatno. 1980. *Azas-azas Hukum Pidana*, Bina Aksara, Jakarta, hlm. 1.

paragraph (1) shall be punished with imprisonment for at least 6 (six) years and/or compensation for at least a lot of IDR 1,000,000,000.00 (one billion rupiah).

So far, crimes of human trafficking have been neatly organized and have even been included in international trade networks, supported by modern facilities and infrastructure and relatively unlimited sources of funds. In this case, the Government of Indonesia has ratified regulations on trafficking in persons on April 19, 2007, namely State Gazette Number 58, Law Number 21 of 2007 concerning the Eradication of Trafficking in Persons. This Law on the Eradication of the Crime of Trafficking in Persons is a fairly comprehensive legal product, because it not only criminalizes trafficking in persons as a form of violation of human rights, but also regulates the provision of assistance to victims as a whole, and the participation of the community in prevention efforts. as well as prosecution of cases, this law is also a reflection of international standards.

Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons also provides for quite severe criminal sanctions against perpetrators of the crime of trafficking in persons as a form of protection for victims of human trafficking. These articles include Article 2 which regulates that the actions of a trafficker in human beings can be punished either unlawfully or by obtaining the consent of a person who has control over another person with the aim of exploiting them. Based on the description of the background above, the author is interested in conducting research which is outlined in the form of an article with the title: Analysis of the Accountability of Criminal Trafficking in Persons Through Online Prostitution (Decision Study No: 1205/Pid.Sus/2020/PN Tjk).

## **II. DISCUSSION**

### **Factors Causing the Crime of Trafficking in Persons Through Online Prostitution (Study of Decision No: 1205/Pid.Sus/2020/PN Tjk)**

Trafficking in Persons Through Online Prostitution is common in various places. In addition, Supriyanti said that human trafficking through online prostitution is "a problem that is difficult to eradicate until now because there are many users who are still interested in using online prostitution services".

Investigators from the Bandar Lampung Police, Iptu Sunarto, consider that online prostitution is difficult to eradicate. Online prostitution becomes a threat and danger in society if you are not careful. As a comparison, we can see that there are so many cases of online prostitution in Indonesia. Even online prostitution itself can be easily searched just by using social media. Iptu Sunarto also explained that Trafficking in Persons has been happening frequently for some time now, some of the Trafficking in Persons even involves national celebrity figures as victims and perpetrators of Trafficking in Persons or can also be referred to as pimps.

Iptu Sunarto divides prostitution into two categories. First, prostitution where the prostitute is a victim of social conditions. This prostitution is generally located

in brothels. The second is prostitution where the prostitute knowingly does this as a profitable profession. This second type of prostitution spreads and never wants to be localized. They work professionally and have a neat network and there are pimps who will trade them for prostitution.

Mr. Surono as the Chief Judge of the Tanjung Karang District Court explained that the thing that makes Trafficking in Persons Through Online Prostitution difficult to eradicate is that law enforcement is still focused on prostitutes and their pimps. Police should also legally ensnare its customers. Moreover, there is a tendency for high-end online prostitution customers to be businessmen or officials.

Mr Surono added that if these customers were exposed he believed that the demand for high-end prostitution would decrease. Based on the law of the market, if demand decreases, supply will also decrease. This means that the top-class Trafficking in Persons Through Online Prostitution business network will decline by itself.

Based on research findings and analysis of research data, several factors were found to cause Trafficking in Persons Through Online Prostitution, namely problems within the family, low understanding of religion, environmental factors and educational factors.

1. Family factor

The family is the foundation stone of a person's character. The family plays a role in forming the personality and actions of a child because the family is the first environment a child encounters to grow and develop. Through interviews, observations and documentation it was found that one of the factors in the occurrence of online prostitution was caused by a relationship that did not get along well in the family. Lack of love and care from parents really triggers a child in online prostitution. Based on the interview results it was found that the perpetrator did not get attention from his parents. Lack of concern from parents that makes perpetrators do online prostitution to seek satisfaction and earn income.

2. Low Understanding of Religion Factors

Factors for Low Understanding of Religion Religion is the origin of values for life. values in religion are seen as good by people who believe in and believe in religion. Consequences of faith give birth to a horny attitude and obedience to religious orders and restrictions. Obedience and obedience is the influence of understanding based on religion if everything that is ordered by religion is good and everything that is prohibited by religion is disgrace. However, it is different from individuals who have low understanding and little belief in religion. The low human understanding of religion gives rise to human attitudes that tend to go against religious orders and prohibitions. One thing that has happened is that there are still many religious individuals who are deceived in online prostitution. meanwhile religion really prevents adultery

behavior. but in interviews and observations it was found that they very rarely pray, dhikr, and listen to religious lectures.

3. Environmental Factors

Environmental factors also greatly influence the formation of online prostitution crimes. The need for association with the environment and a bad environment has an impact on them being seen as online prostitution. According to an elaboration from the Police, the crime of online prostitution is caused by environmental factors, namely the perpetrator at first due to the effect of friends in the environment. Starting from getting together and talking about the economic situation, after that there were some of his friends who were running online prostitution in order to make money in a practical way, after that his friends also joined in with friends who were already running prostitution online. Due to these environmental factors, an online prostitution activity occurs. Furthermore, some people who end up becoming pimps in order to seek profit, as a result, Human Trafficking Through Online Prostitution takes place.

4. Educational Factors

The factor of low education also greatly influences the formation of online prostitution. Through interviews, observation and documentation it was found that usually perpetrators of online prostitution have low education. The low level of education is not due to the low economy, which requires them to work and cannot continue their education. This then encourages them to work as online prostitution prostitutes.

**Accountability of the perpetrators of the crime of trafficking in persons through online prostitution (Study of Decision No: 1205/Pid.Sus/2020/PN Tjk)**

Based on the results of an interview with Mr. Surono as the Chief Judge of the Tanjung Karang District Court, he said that the criminal conviction of the perpetrators of the Crime of Trafficking in Persons Through Online Prostitution was the basis for the criminal imposition based on the main criminal threat for the crime committed. The criminal threat against the perpetrators of the Crime of Trafficking in Persons Through Online Prostitution has been included in the judge's considerations, as a matter of aggravating legal consequences for criminal acts, especially convicts of the Crime of Trafficking in Persons Through Online Prostitution.

Provisions for the Crime of Trafficking in Persons are not regulated in general in the Criminal Code but are regulated specifically in RI Law No. 21 of 2007 concerning the Eradication of the crime of Trafficking in Persons for certain categories of criminal acts in the form of crimes. Meanwhile, if the act of the Crime of Trafficking in Persons is committed by several people or groups which in the



sense is participating, then it can also be linked to the existing rules in the Criminal Code.

Mr. Ahmad Handoko as Legal Counsel from Maila Kaesa Binti Ramlan Binti Ramlan and Meilianita Nur Azis Binti Tjhin Djiet Pin at the Ahmad Handono Law Office explained that the definition of trafficking in persons is the recruitment, transportation, shelter, delivery, transfer or receipt of a person with threats of violence, the use of force, kidnapping, confinement, manipulation, fraud, abuse of power or a position of vulnerability, debt bondage or giving wages or benefits, so as to obtain the consent of the person who has control over the other person, whether done within the country or between countries, to the purpose of exploitation or causing people to be exploited. And online prostitution itself is a behavior of having sexual relations with other people using "transactions" in which the transaction process can be carried out using electronic media. So the crime of trafficking in persons through online prostitution is an act carried out by recruiting or transporting someone with threats of violence or deceiving someone with the aim of exploiting that person for profit and resulting in people being exploited.

Basically, prostitution is divided into 2 categories, namely:

- a. Prostitution where prostitutes are victims of social conditions; If a person engages in prostitution due to unfulfilled economic needs, then the prostitute is a victim of the social conditions of poverty which are characterized by a lack of resources.
- b. b. Prostitution as a profitable profession If a person commits prostitution where a prostitute knowingly does so, in this case the prostitute is doing it as a profitable profession. This is because prostitutes deliberately practice prostitution to seek pleasure and profit quickly and instantly. Then this can be used as an excuse to increase punishment.

From the point of view of criminal law science, prostitution is divided into 2 types, namely:

- a. Prostitution whose perpetrators are supervised by the Vice Control section of the Police, who is assisted and cooperates with the Social and Health functions. In general, they are localized in one particular area.
- b. Prostitutes who are not included in this group are those who carry out prostitution in a dark and illegal way, either individually or in groups. His actions are not organized, his place is also not certain. They do not register themselves with the authorities.

Mr. Suroso as the Chief Judge of the Tanjung Karang District Court said that criminal sanctions against perpetrators of acts of trafficking in persons have been regulated in Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Trafficking in Persons. The maximum and minimum limits allow judges the flexibility to impose penalties on perpetrators of trafficking in persons. The disparity in sentencing basically starts with the sanctions contained in Law Number

21 of 2007 concerning the Eradication of the Criminal Act of Trafficking in Persons which opens up opportunities because there are minimum and maximum limits for sentencing, so that judges are free to move to get the punishment he thinks is appropriate.

Furthermore, the Criminal Code regulates criminal sanctions for Trafficking in Persons, the application of criminal sanctions in Indonesia is implemented into the Criminal Code (KUHP), the imposition of criminal sanctions against the crime of trafficking in persons (human trafficking) in the Criminal Code is regulated in book II Article 295 paragraph (1) numbers 1 and 2, Article 295 paragraph (2), Article 296, Article 297, Article 298 paragraph (1), (2) and Article 506. The meaning contained in the Criminal Code can be described as follows:

1. Deliberately causing or facilitating obscene behavior where the victim is a child (biological, stepson, adoptive) as well as children under his/her supervision; the perpetrator's actions as a source of livelihood.
2. a similar action, but for adults.
3. Trade girls as well as boys.
4. 4. Has an additional penalty of (1) removal of rights (addressing for behavior where the victim is a child), (2) dismissal from work if the crime is committed in the profession.

The imposition of sanctions for the perpetrators of the crime of trafficking in persons (human trafficking) is basically not solely based on the Criminal Code which has been regulated in Article 295 paragraph (1) and paragraph (2), Article 296, Article 297, Article 298 paragraph (1) and paragraph (2) and Article 506 however, it must also refer to the law on specific criminal acts other than general criminal acts. The special criminal law regulates the provisions of formal criminal law and material criminal law simultaneously. Law Number 26 of 2000 in Article 9 states that one of the crimes against humanity was committed as part of a widespread or systematic attack targeting the civilian population and as a continuation of the policies of the authorities related to power organizations.

If the behavior does not have the elements as stated in the article, it can be said that it is a general criminal act regulated in the Criminal Code. Law Number 26 of 2000 regulates several specificities that are different from the regulation of criminal procedural law. From the description above, it can be emphasized that the crime of trafficking in persons through online prostitution has been regulated by Law Number 21 of 2007 concerning the Eradication of the crime of trafficking in persons, which is included in the law on special crimes other than general crimes. Meanwhile, if the act of the crime of trafficking in persons is carried out by several people or groups, which means participating in the act, it can also be linked to the rules contained in the Criminal Code (KUHP). So punishment has several objectives and functions to protect the whole community, so that there is no crime of



Trafficking in Persons Through Online Prostitution in society and preventing violations in society, so as to create a peaceful, safe and orderly social structure.

### III. CONCLUSION

Based on the results of the research on the problems above, it can be concluded as follows, Factors Causing the Crime of Trafficking in Persons Through Online Prostitution Based on Decision Number: 1205/Pid.Sus/2020/PN Tjk Based on the results and discussion above, it can be concluded that the factors that cause drug crime are low understanding of religion. Low human understanding of religion creates human attitudes that tend to go against religious orders and prohibitions. One thing that has happened is that there are still many religious people trapped in the crime of Trafficking in Persons Through Online Prostitution. The factor of low education, the low education of most perpetrators of online prostitution, is inseparable from the low economy, which requires them to work and cannot continue their education. This further encouraged them to work as online prostitution prostitutes. According to the explanation from research informants, the crime of trafficking in persons through online prostitution is caused by environmental factors, namely the perpetrators were initially influenced by friends in their environment. It started with gatherings and talking about economic conditions, then there were some friends who did online prostitution to make money instantly, then their friends joined in with their friends who were already doing online prostitution. And this was exploited by several people who eventually became pimps to seek profit so that Human Trafficking Through Online Prostitution occurred. The last causal factor is the family factor, how the family is the foundation stone of one's personality. Disharmonious relationships in the family. Lack of love and attention from parents really triggers a child to fall into online prostitution. Accountability of the perpetrators of the crime of trafficking in persons through online prostitution based on decision number:1205/Pid.Sus/2020/PN Tjk. As already explained, the crime of trafficking in persons through online prostitution has been regulated in Law Number 21 of 2007 concerning the Eradication of the crime of trafficking in persons. Meanwhile, if the act of the crime of trafficking in persons is carried out by several people or groups which in the sense is participating, it can also be linked to the rules contained in the Criminal Code (KUHP). With the existence of rules in Law Number 21 of 2007 concerning Eradication of Criminal Acts of Trafficking in Persons and the Indonesian Criminal Code (KUHP) regarding the maximum and minimum limits for the Crime of Trafficking in Persons Through Online Prostitution, giving judges the flexibility to sentence criminals to perpetrators of acts of trafficking in persons so that the judge is free to move to get a sentence that according to him is appropriate.

## REFERENCES

- Adami Chazawi. 2002. Pelajaran Hukum Pidana I, Rajawali Pers, Jakarta.
- Barda Nawawi Arief. 2011. Pornografi, Pornoaksi dan Cybersex- Cyberporn, Pustaka Magister, Semarang.
- Kartini Kartono. 1981. Patologi Sosial, Rajawali Pers, Jakarta.
- Moeljatno. 1980. Azas-azas Hukum Pidana, Bina Aksara, Jakarta.
- Roeslan Saleh. 1983. Stelsel Pidana Indonesia, Aksara Baru, Jakarta Subekti dan Tjitrosoedibio. 1980. Kamus Hukum, Pradnya Paramita, Jakarta.
- Romli Atmasasmita. 1982. Strategi Pembinaan Pelanggar Hukum Dalam Konteks Penegakan Hukum Di Indonesia, Alumni, Bandung.
- Teguh prasetyo. 2014. Hukum Pidana, Raja Grafindo Persada, Jakarta Moeljatno. 1980. Azas-azas Hukum Pidana, Bina Aksara, Jakarta.
- Terence H Hull, Endang Sulistianingsih, Gavin W Jones. 1997. Pelacuran di Indonesia, Pustaka Sinar Harapan, Jakarta.
- Van Bemmelen. 1987. Hukum Pidana 1 Hukum Pidana Material Bagian Umum, Binacipta, Bandung.
- Widodo. 2013. Aspek Hukum Pidana Kejahatan Mayantara, Aswaja Presindo, Yogyakarta.
- Wirdjono Prodjodikoro. 2004. AsasAsas Hukum Pidana di Indonesia, Eresco, Jakarta.
- Yan Pramadya Puspa. 2008. Kamus Hukum Belanda-Indonesia-Inggris, Aneka Ilmu, Semarang.
- Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi dan Transaksi Elektronik (ITE) sebagaimana yang telah diubah dengan UndangUndang Nomor 19 Tahun 2016 tentang Perubahan Atas UndangUndang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (ITE).
- Bambang Hartono. Juli 2013. "Penerapan sanksi pidana terhadap tindak pidana prostitusi online" *jurnal hukum. Pranata Hukum*. Volume 8 No 2.