



PROSTITUTION IN THE STUDY OF PHILOSOPHY, ETHICS, AND LAW IN INDONESIA

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Abstract: Prostitution is a crime that has been known since the beginning of human existence. Many laws have been created in such a way to control, reduce and even abolish this crime. However, because prostitution is a crime related to basic human instincts that come out of the value system, no law has been able to stop it from century to century. This prostitution even is incarnated in various new modes and forms. The problem then is why the law seems powerless in controlling, reducing, and even eliminating this crime. A logical explanation is needed to answer this question than just guessing the correlation between basic human instincts and the decline of moral values. The values that have been built since the law was formed are, in fact, unable to teach humans to live in that order. Studying law in an ontological and epistemological context is expected to find the form of its failure to control this crime. This study also examines and tries to see how values can be applied in human life and improve their quality. This study is expected to find concrete answers on how the law should be able to organize its rules so that it has sufficient coercive power to control any modes and forms that arise in the context of this prostitution. The approach used in reviewing the law is also expected to answer any difficulties that hinder its enforcement. Thus, the law becomes powerless to deal with such complex prostitution problems.

Keywords: Online prostitution, Philosophy, Ethics, Law.

Abstrak: Prostitusi adalah kejahatan yang sudah dikenal sejak awal manusia ada. Banyak hukum telah diciptakan sedemikian untuk mengendalikan, mengurangi bahkan menghapuskan kejahatan ini. Namun karena Prostitusi merupakan kejahatan yang terkait dengan naluri dasar manusia yang keluar dari tata nilai, maka dari abad ke abad tak satupun hukum mampu menghentikannya. Bahkan Prostitusi ini menjelma dalam berbagai modus dan bentuk baru. Permasalahannya kemudian mengapa hukum seperti tidak berdaya dalam mengendalikan, mengurangi bahkan menghilangkan kejahatan ini. Penjelasan yang logis sangat diperlukan untuk menjawab pertanyaan ini dari hanya sekedar menebak korelasi antara naluri dasar manusia dan merosotnya nilai moral. Nilai yang dibangun sejak hukum terbentuk nyatanya tidak mampu membelajarkan manusia untuk hidup dalam tatanan tersebut. Mengkaji hukum dalam konteks ontologis dan epistemologis diharapkan mampu menemukan bentuk kegagalannya mengendalikan kejahatan ini, mencoba menelaah dan mencoba melihat secara mendalam bagaimana nilai dapat diterapkan dalam hidup manusia dan memperbaiki kualitasnya. Kajian ini diharapkan mampu menemukan jawaban konkrit mengenai bagaimana hukum seharusnya mampu menata kaidahnya sehingga memiliki daya paksa yang cukup untuk mengendalikan modus dan bentuk apapun yang muncul dalam konteks prostitusi ini. Pendekatan yang digunakan dalam mengkaji Hukum juga diharapkan mampu menjawab kesulitan-kesulitan apa saja yang menghalangi penegakannya sehingga hukum menjadi tidak berdaya menghadapi persoalan prostitusi yang sedemikian kompleks tersebut.

Kata Kunci: Prostitusi online, Filsafat, Etika, Hukum.

A. Introduction

Prostitution is believed to be an ancient and primitive crime known to humans since humans have known values and morals. This crime is often associated with the basic human instinct to produce offspring (Widi Astuti 2010) only without the correct order. The impression of following low desires, which is equated with animal behavior, is often attached to it. This is often conveyed by Plato and Aristotle when teaching a basic value system called ethics. In his book *Eudemonia*, indulging in bodily desires or bodily pleasures is often referred to by Aristotle as behavior without virtue. (Mahfud and Patsun 2019)

Prostitution at that time could not be separated from the tradition of worshipping Bacchus as the God of wine, which often ended with mass sexual feasts carried out by both the devotees themselves and by sex peddlers who were deliberately paid to enliven the worship. Of course, this then made Greek society fall into low morality and resulted in the decline of the quality of the nation's civilization in the future. The main ideas of Epicurus and his followers, who began to introduce hedonism among the people, also support this fact. The worship of pleasure and the avoidance of pain increasingly led to things that undermined the moral values of the time. The same problem was faced by the Romans, who had almost the same civilization and a similar Hellenistic culture. However, since Constantine the Great began to convert as a Christian, the nation's morality gradually began to receive attention and began to be improved.

Moral values experienced their golden peak at the time of church thinkers such as Augustine and Thomas Aquinas. They laid the basis for natural law or natural law in a reasonably harsh context, especially in ethics governing the relationship between men and women. (Ridwan; Dimiyati 2009) The tendency to have wild sex parties began to disappear, the monogamous marriage system began to be implemented quite harshly. Sanctions on moral violations were enforced to educate the public to be subject, especially to church laws that prohibit prostitution, unnatural sexual relations considered a form of adultery and are considered contrary to God's law. (Tolanda and Ronda 2011)

Prostitution finally changed its shape from being legal in Hellenistic cults to being forbidden and only carried out in hidden spaces in society. For centuries, this went on; even someone caught prostitution would face harsh church laws, from expulsion or exile to public arson. Everything is done to uphold the law based on the breath and spirit of the church with the teachings of God. (Pascawati 2019)

Until finally, the Renaissance shattered the concept of church law and criticized it as an illogical form of law because it was not based on rational aspects, bringing the face of prostitution in a different form again. The basis of liberalism brought in the breath of enlightenment finally liberated prostitution as part of the freedom of society. Prostitution is considered a service to fulfill a need. But, of course, this cannot be separated from the economic concept of supply and demand.

The regulation of prostitution has become a little looser. However, it is still not open, but the law has become more permissive and considers it a social reality without strict and clear sanctions. The light sentences caused prostitution to spread again. In European and American countries, prostitution in the context of localization gets permission from the local government. Even nightclubs can openly open their prostitution business without any disturbance at all.

Even so, the law still considers prostitution an immoral crime. Prostitution is vulnerable to exploitation and human trafficking, which of course, violates human rights. Moreover, prostitution is drawn because nations still hold firmly on divine morality as one of their legal foundations, such as Indonesia with Pancasila, upholding religious values. Prostitution clearly has no place in Indonesia's moral order norms at any time, even though the legal sect changes from time to time.

But unfortunately, in Indonesia, no law prohibits the provision of sexual services, etc. On the contrary, the existing law prohibits those who assist and provide sexual services illegally, as stated in Articles 296, 297, and 505 of the Criminal Code. Therefore, the moves of several regional heads to close localization in their regions did not have a significant impact. Thus, the closure of Kalijodo by Ahok, Gang Dolly by Risma, and Sunankuning by the Semarang City Government does not mean anything.

Prostitution appears in new packaging, which is fresher. Prostitution is now disguised through the spa, massage, or salon services. Prostitution follows the development of the industrial revolution 4.0 by utilizing the internet and social media networks to practice. The outdated conventional patterns for selling themselves have begun to be abandoned. The prostitution chain, which previously had to go through pimps first, is now getting narrower. Service providers and service users can communicate directly without the need for pimps as intermediaries. (Fajrin and Triwijaya 2019)

Therefore, it is interesting to study several problems related to prostitution in Indonesia, including; how the development of prostitution from time to time? Furthermore, why does Indonesian law seem powerless in the face of prostitution?

B. Discussion

Prostitution or can also be called prostitution comes from the Latin word *pro-situare* which means allowing oneself to commit adultery, committing acts of prostitution, or sexual immorality. The meaning of prostitution in English is not much different from the Latin language, namely prostitution or immorality. (Rhiza K and Dyah 2013) Meanwhile, prostitution is the provision of sexual services performed by men or women to get money or satisfaction. (Anindia and Sularto 2019) Furthermore, by Kartini Kartono in her book *Social Pathology*, the definition of prostitution is as follows: (Yusuf 2016)

1. Prostitution is an event of self-selling (prostitution) with symptoms of trading the body, honor, and personality of many people to satisfy sexual desires in exchange for payment.
2. Prostitution is a form of sexual deviation, with unnatural and unintegrated patterns of organization of sexual impulses/urges in the form of releasing sexual desires without control with many people or promiscuity, accompanied by impersonal sexual exploitation without affection.
3. Prostitution is the act of a woman or a man who gives up his body to commit sexual immorality in exchange for wages.

The definitions above are the traditional definition of prostitution which sells itself on the roadside, through intermediaries called pimps, or through brothels in localization. Meanwhile, in online prostitution, there is no standard definition, so it can be interpreted freely, namely prostitution that uses internet-based social media. Prostitution workers usually use the internet to expedite their actions and feel safer from raids by officers because they usually peddle on the sides of the highway; with the

internet, they don't need it anymore. Here there are several kinds of internet media used by prostitution workers to do their job: (Suzanalisa, Darmo, and Alamsyah 2019)

1) Website

The existence of several free or paid website services will make it easier for prostitution workers to promote themselves. Other people usually make websites here. Websites are typically used to display complete data such as photos, age, body posture, prices, etc. In transacting, prostitution on the website has a telephone number that can be contacted, whether it's a direct number to prostitution workers or the pimp's number associated with the websiter, who will then contact the prostitution worker.

2) Forum

The forum is actually in the form of a website, but with its development with website 2.0, where a user outside the website's original owner can contribute to the website either in writing articles or conducting discussions. Unlike the one-way forum-based website, here you can interact with many people. To join this forum, someone must first register. Siapa saja boleh mendaftar oleh karena ini media ini juga digunakan oleh pihak yang ingin mencari keuntungan di bisnis prostisusi. In transacting prostitution, forums are generally safer than standard websites. This is because forums are more exclusive. As with the rules, you must first register to become a member. In addition, members who become pimps do not carelessly provide data on prostitution workers. Usually, they only offer photos. To get the desired prostitution workers, the most stringent requirement is to be active in the forum, so not just anyone or newly registered members can get prostitution workers. One more thing that makes the forum safer is the high level of family and familiarity; therefore, the forum members usually know each other.

3) Social Network

The emergence of social networking sites began with the initiative to connect people from all over the world. The hope is that they can keep in touch with family, friends, find old friends or just talk. A social network is a social structure consisting of individual or organizational elements. This network shows how people can relate to each other because of social similarities, ranging from what is known in everyday life to family. Professor J.A. Barnes introduced this term in 1954.

Indonesia, a developing country rapidly in technology, does not want to be left behind. Social networking is quickly becoming a lifestyle of all circles, and the most famous and widely used is the Facebook social network. Indonesia is the second-ranked country for Facebook users, with more than 27 million registered accounts from Indonesia. That's only from the Facebook social network, not to mention other social networks that all the time appear new ones. This extraordinary number also gives rise to an irresponsible form of business to make profits through online prostitution. This is an undeniable reality, and this phenomenon must be realized by law and must be part of the regulated values. The use of social media should not be done for negative or negative impacts. The law will be useless when it cannot capture social phenomena and changes in the form and mode of crime by using different means. Basically, morally, the value of the crime never changes, nor does the substance of the crime change. The only thing that changes is the medium, the vehicle, or the shape. But substantially, this crime has not changed. However, sometimes the legality aspect of the law is often a barrier to legal flexibility. Like prostitution, which is usually carried out on the roadside, online prostitution also has links or those involved in this prostitution practice, both those who directly participate in it and those who do not. Online prostitution has a slightly

different link from other prostitution activities, and this is because the media they use are various. Here is the link in the practice of prostitution in cyberspace:(Anon 2020)

a. Pimp

Pimp, or in the big Indonesian dictionary, refers to the word pimp as the landlady for female prostitutes. However, the broad understanding of the community is that people act as caregivers, intermediaries, and "owners" of commercial sex workers (PSK). In most sex businesses, especially those of a mass nature, sex workers usually do not directly contact service users. Instead, the pimp acts as a liaison between these two parties and will receive a commission from the PSK's receipts, divided based on the agreement. Pimps are usually very dominant in regulating this relationship, as a pimp in the world of online prostitution. Thus, pimps only act as a liaison between commercial sex workers and customers.(Permatasari and Pinasti 2016)

b. Commercial Sex Worker

A commercial sex worker (PSK) sells his/her services to have sex for money or is called a prostitute. A commercial sex worker is a term that is refined from the term prostitute; besides that, there is also a term for prostitutes, referring to commercial sex services. The practice of prostitution wherever commercial sex workers are the main objects of exploitation of the chain of prostitution practices. There are various types of sex workers in the online world, some are direct without pimps offering themselves, and some are actually using other parties, in this case, are pimps.

c. Other parties

This is where the difference between prostitution, which generally exists with prostitution through online media. Other parties indirectly support this immoral practice. These parties are those who provide the media used by commercial sex workers to promote themselves. Because it uses online media such as websites, forums, applications, and others, the owners of this website or forum are the ones who indirectly support the practice of online prostitution. It does not stop there. The owner of the server places their data so that anyone can access it. So it is comprehensive how the link from this online prostitution practice can happen.

d. The renter of the services of commercial sex worker

Of all the parties that have been mentioned, the renter is the point of how this online prostitution transaction can occur. Although, of course, the other side, it also boosts the practice of prostitution. However, this renter targets website owners or online prostitution forums to rent prostitutes from them.

From these four links, ontologically, the law must formulate the essence of prostitution. The legal snares will cover the entire form of this activity called prostitution regardless of its form, mode, or changes.

Next is why the current legal construction in Indonesia has not entirely trapped the perpetrators of prostitution in Indonesia. To answer this statement, several things will be discussed below:

1. Online Prostitution in Ontological Study

Some things must be formulated to define prostitution as a form of crime because this formulation is vital to fulfilling the principle of legality in the law. Unclear formulations can lead to legal ambiguity and encourage multiple interpretations of law enforcement. Therefore, to formulate it, a philosophical theory is needed which questions whether prostitution is a crime; it can be explained as follows: (Laksono and Magfiraini 2018)

Whitehead's view of crime is related to his conception of the "actual entity" in *Process and Reality* (1979). The actual entity is the fundamental reality that forms something that exists. Each actual entity is an experiential event, which is complex and interrelated. Although the actual entity has gradations of function, each has the same basic structure. Thus, the actual entity becomes an ontological principle in the philosophy of process.

The main point that this principle is trying to say is that the actual entity is the only cause; thus, investigating a cause is investigating one or more actual entities. In actual entities, there are various datums. Those datums then create themselves. In the creation process, the actual entity undergoes a 'becoming' process. To become is to 'become' something definite. Entities that have undergone this process of becoming have two aspects. First, the entity is 'objective data that is ready to be determined.' Second, the entity is 'the subjective aim.' This subjective goal can 'decide.' Deciding (decision) is understood as the root of the term "cutting off." It means that subjective goals determine and limit the actualization process, including excluding alternative possibilities. The actual entity in uniting various datums often experiences distortion or separation between "what is given" and what the entity has "not given." This incompatibility or dispute by Whitehead is referred to as "incompatibility." The word incompatibility is often used to describe the sound of suffering (Suffering). So, it can be concluded that the occurrence of crime is caused because the actual entity on the way to unification experiences various distortions that cause an incompatibility or suffering.

In *Adventure of Ideas* (1933), Whitehead proposes three ways to solve Suffering: Anesthesia, aesthetics, and readjustment. The first way, anesthesia is often also called "triviality," means to oppose incompatibility by eliminating suffering without causing a conflict of experience. Every process of 'becoming' for definite (certain) in it is always an elimination aspect. Whitehead wrote: *There is no totality which is the harmony of all perfections. Whatever is realized in any one occasion of experience necessarily excludes the unbounded welter contrary possibilities. There are always 'others' who might have been and are not. This finiteness is not the result of evil or imperfection. It results from the fact that there are possibilities of harmony which either produce evil in joint realization or are incapable of such conjunction.* The second way is called aesthetic destruction (disassembly in an aesthetic way), meaning that in dealing with incompatibility, opposition remains or is maintained but is not contradicted or related unaesthetically. This will indeed lead to a situation of conflict and destruction. About this situation Whitehead said, that crime is destructive. The third path is called "readjustment." This third way arises when the effective clash of intensity and logic is not a quality mismatch. Here the incompatibility is not between feeling this or "that," but between "feeling this as much as that" or "feeling that as much as this."

Evil occurs when the actual entity on the way to unification experiences some suffering. Suffering is caused by: degradation, destruction, distortion, and cross-purpose (towards the goal with a shortcut) that causes disorder (irregularity). In this case, it remains only to determine the nature of prostitution that occurs because of moral degradation, social destruction, distortion of rules, or because of conflicting goals, which will eventually lead to prostitution as a form of crime regardless of the mode and medium. Examining the first essence of prostitution which is almost the same age as human civilization, it can be said that the basic moral that is set together is that prostitution is considered a human crime which in natural law theory is interrelated with "sin" because it commits a behavior that is contrary to God's law. This behavior is

because it contains elements of adultery and fornication, which God prohibits. Social destruction can also be used to examine the nature of prostitution when there is a social inequality that causes a person to be pushed for needs, be it economic or social needs, to carry out sexual transactions using a certain amount of material in return. This, of course, results in conflict and social damage because the human body is exploited and traded.

Distortion of the rules often makes it difficult for someone to decide about what is good and right. Laws that are not clear, loose, multiple interpretations, or ambiguous can impact deviant behavior. Prostitution is the impact of a biased understanding of the meaning of "enjoyment" in the context of philosophy and nature. That pleasure is not always in a physical sense but can also be in an inner sense. The erroneous understanding of the epicureans about hedonism finally lays a distorted basis on sexual relations that should be regulated and used wisely. This is also what makes prostitution a crime because of misinterpreting the meaning of pleasure, which ultimately leads to more suffering such as disease, human exploitation, injustice, disharmony in human relations, etc.

Thus, it can be drawn a general fact regarding prostitution as a crime when it fulfills the elements of: Illegal sexual relations based on material transactions to get rewards or other purposes to cause harm to other people or the wider community. Either done individually or in groups. Either with or without a mediator. This can be a determination of prostitution as a crime, whether it is done traditionally, online, or in any way, but if it fulfills one or all of the elements of its essence, it can be said that prostitution is a crime that must be avoided or eradicated. Then anyone involved in this crime. From this determination, it can be seen that the elements are contained in the essence of prostitution itself, namely anyone who supports the sexual transaction. Therefore, if the law makes this essence in defining the crime of prostitution, then whatever the form of the transaction, the mode, and the vehicle, there will be no problem with not fulfilling the legal element.

2. Online prostitution in the Electronic Information and Transaction (ITE) law

Law of the Republic of Indonesia No. 11 of 2008 concerning Information and Electronic Transactions (ITE Law) does not mention prostitution in all its articles, even though matters relating to electronic or internet transactions are regulated in this law. However, article 27, which contains prohibited acts, mentions the word decency related to pornographic matters. The contents of article 27 of the ITE Law are as follows::

- 1) Any person who knowingly and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates decency.
- (2) Everyone intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing gambling content.
- (3) Every person intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain insults and/or defamation.
- (4) Any person who intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing extortion and/or threats.

Article 27 paragraph (1) states, "Every person intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents ...". So those who are legal subjects who are prosecuted for criminal liability in this law is only the owner of the online prostitution website, namely as the person who distributes or transmits or makes accessible pornographic sites or online prostitution. So then, what is meant by "having a charge of violating decency" in the article is if it meets the following elements: a. It does not contain value but only includes elements that arouse lust for those who see, pay attention or hear it. b. Contrary to the values or norms prevailing in society. So it is clear that what is meant by online prostitution is regulated in the ITE Law. Online prostitution is sites that display or provide content that violates decency whose purpose is nothing but to make money by showing pictures of commercial sex workers, with no other purpose such as educational needs, medical therapy, etc.

No determination shows the act of adultery, fornication, and so on, therefore the perpetrators who carry out their prostitution activities directly can escape the snares of the law. However, it is different if the definition used uses the essence of prostitution, which contains elements of the perpetrators of its activities directly and their supporters. Thus, this ontological study of philosophy helps formulate the crime of prostitution so that the form, mode, and vehicle can change once again. Still, if the elements of this essence are fulfilled, then enforcement can be carried out.

c. Online Prostitution Law in Epistemological Studies

Because the word prostitution is not found in any legal provisions in Indonesia, it is better to refer to the elements of prostitution that involve adultery as regulated in the Criminal Code. The provisions for adultery in the current Criminal Code (KUHP) cannot answer the legal objectives of security and public order. The offense of adultery has been regulated and is included in the formulation of the crime. Meanwhile, the provisions regarding adultery are regulated in Article 284 of the Criminal Code as follows: (1) Threatened with a maximum imprisonment of nine months; a. a man who participates in the act, even though he knows that the guilty party is married; b. a married woman who participates in the act, even though it is known to her that the guilty party has married and Article 27 of the Civil Code applies to her. (2) There is no prosecution except on the complaint of a tainted husband/wife if Article 27 of the Civil Code applies, within 3 (three) months, followed by a request for divorce or a separate table and bed for that reason as well. (3) Article 72, 73, and 75 of the Criminal Code do not apply to this complaint. (4) Complaints can be withdrawn as long as the examination in court has not started. (5) If the husband/wife applies Article 27 of the Civil Code, the complaint is not heeded as long as the marriage has not been decided due to divorce or before the decision stating that the table and bed separation becomes permanent. In this case, epistemologically, this article cannot trap perpetrators of online prostitution because the elements are not coherent with the nature of online prostitution. Therefore we need a unique formula that can be used to show actions or actions following the elements of the offense in the law. Likewise, the ITE Law that has been discussed does not meet the elements that can trap perpetrators of online prostitution as a whole.

The legal theory, according to Moeljatno, says: "An offense is an act that is prohibited by the rule of law, a prohibition, which is accompanied by threats (sanctions) in the form of certain crimes for anyone who violates the prohibition." This premise states that new behavior can become an offense when the law already exists and the

sanctions are regulated as well. However, there is no single definition that clearly and firmly regulates online prostitution. Then, Sudarto mentions the scope of general offenses of criminal acts, as follows:

- a. Crimes and offenses. This division of offenses is adopted in the Criminal Code system
- b. Formal offense and material offense
 - 1). Formal offenses are offenses whose formulation is focused on prohibited acts. The offense has been completed by carrying out the act as stated in the formulation of the offense. In a formal offense, a particular result can only aggravate or lighten the sentence without the consequences of the act itself being prohibited and can be punished.
 - 2). Material offenses are offenses whose formulation is focused on undesirable (prohibited) consequences. This offense is only completed when unwanted consequences have occurred. If not, then at most, there are only experiments. In material offenses, we talk about "constitutive" consequences.
- c. Commissionis offense, omissionis offense, and commissionis offense per omissionem commissioner.
 - 1). Commissionist offense: offense in the form of a violation of the prohibition, namely doing something that is prohibited, theft, embezzlement, fraud.
 - 2). Omissionis offense: an offense in the form of a violation of an order, is not doing something that is ordered or required, for example: not appearing as a witness before a court (Article 522 of the Criminal Code), not helping people who need help (Article 532 of the Criminal Code).
 - 3). Commissionis offense per omissionem commissis: an offense in the form of a violation of the prohibition (dus commissionis offense), but can be carried out by not taking action. For example, a mother who kills her child by not giving milk (Article 338, 340 of the Criminal Code); a wissel guard who causes a train accident by deliberately not moving wissel (Article 194 of the Criminal Code).
 - 4). Dolus offense and culpa offense (doleuse en culpose delicten)
 - (a). Dolus offense: an offense contains an element of intent, for example, Articles 187, 197, 245, 263, 310, 338 of the Criminal Code.
 - (b). Culpa offenses: offenses contain negligence as one of the elements, for example, Articles 195, 197, 201, 203, 231 paragraph 4, 359, and 360 of the Criminal Code.
- d. Single offense and multiple offense (enkelvoudige en samengestelde delicten).
 - 1). Single offense: an offense that is enough to be done with a one-time deed.
 - 2). Multiple offenses: a new offense is an offense if carried out several times, for example, Article 481 of the Criminal Code (withholding as a habit).

From the theories, it can be seen how an act of online prostitution can be an offense in criminal law. The first is a crime and a violation. This is fulfilled because, in

an ontological study, online prostitution can be included in crime because of its essence. Prostitution can also be an offense because, in theory, natural law adopted by Indonesia does not magically state that the act of online prostitution is against the provisions of God's law and violates religious morality, which is highly respected in Indonesian legal rules. In addition, because online prostitution contains prohibited elements both morally and religiously, the element of a formal offense is fulfilled. Likewise, the material offense where online prostitution has negative consequences in the form of social disease, human exploitation, and destroying other people's household harmony. Thus, epistemologically if it is formulated correctly, online prostitution can be considered a form of crime that can be punished. Thus, the element of coherence between theory and empirical reality is fulfilled. Likewise, the correlation between the elements of the offense and its consequences can be proven empirically.

C. Closing

The failure of online prostitution law in ensnaring criminals is more due to formulations and formulations that are not firm and clear. There is no legal formulation that clearly states that prostitution is indeed a crime. This can be overcome by formulating questions about the nature of online prostitution crime, formulating its elements, and studying it rationally. This study will determine the coherence and correlation between online prostitution law and existing legal theory so that the obtained formulation can solve prostitution problems regardless of its form, mode, or vehicle.

Law enforcement cannot be carried out if the initial formulation is not precise and inaccurate. Meanwhile, if using a law that does not regulate the determination of the legal provisions, justice will be tough to achieve. Thus, rationally, it can be concluded that there is sufficient legal reason to make online prostitution a crime that can be punished.

The current legal failure to ensnare this crime is more because the formulations formulated both in the ITE Law and the Criminal Code are not precise and biased. Therefore, the real perpetrators of transactions can escape the snares of the law. Suppose a philosophical theory is used in formulating it. In that case, the correct definition and determination of the formulation can be used to trap the perpetrators without exception without changing other existing provisions.

REFERENCES

- Anindia, Islamia Ayu, And R. B. Sularto. 2019. "Kebijakan Hukum Pidana Dalam Upaya Penanggulangan Prostitusi Sebagai Pembaharuan Hukum Pidana." *Jurnal Pembangunan Hukum Indonesia*. Doi: 10.14710/Jphi.V1i1.18-30.
- Anon. 2020. "Tinjauan Yuridis Terhadap Pelaku Dan Korban Prostitusi Online Berdasarkan KuHPidana Dan Undang-Undang Nomor 19 Tahun 2016 Tentang Ite." *Lex Crimen*.
- Fajrin, Yaris Adhial, And Ach Faisol Triwijaya. 2019. "Perempuan Dalam Prostitusi: Konstruksi Pelindungan Hukum Terhadap Perempuan Indonesia Dari Perspektif Yuridis Dan Viktimologi (Women In Prostitution: Construction Of Legal Protection Towards Indonesian Women From A Juridical And Victimitarian Perspective)." *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan*. Doi: 10.22212/Jnh.V10i1.1203.

- Laksono, Puji, And Riska Magfiraini. 2018. "Cyber Prostitution: Bergesernya Masalah Sosial Ke Dalam Ruang Virtual." *Jurnal Analisa Sosiologi*. Doi: 10.20961/Jas.V3i1.17448.
- Mahfud, Mahfud, And Patsun Patsun. 2019. "Mengenal Filsafat Antara Metode Praktik Dan Pemikiran Socrates, Plato Dan Aristoteles." *Cendekia : Jurnal Studi Keislaman*. Doi: 10.37348/Cendekia.V5i1.76.
- Pascawati, Nadia Putri. 2019. "Perspektif Perempuan Terhadap Prostitusi." *Sapientia Et Virtus*. Doi: 10.37477/Sev.V4i1.82.
- Permatasari, Santika, And V. Indah Sri Pinasti. 2016. "Fenomena Pekerja Seks Komersial (Psk) Di Kawasan Stasiun Kereta Api Kutoarjo, Kabupaten Purworejo, Provinsi Jawa Tengah." *Jurnal Pendidikan Sosiologi*.
- Rhiza K, Alvionita, And Pramesthi Dyah. 2013. "Kajian Yuridis Terhadap Prostitusi Online (Cyber Prostitution) Di Indonesia." *Recidive*.
- Ridwan; Dimiyati, Khudzaifah; Absori. 2009. "Relasi Hukum Dan Moral Sebuah Potret Antar Mazhab Dan Konteks Ke-Indonesiaan." *Prosiding Konferensi Nasional Ke-3 Asosiasi Program Pascasarjana Perguruan Tinggi Muhammadiyah Yogyakarta (Appptm)*.
- Suzanalisa, Suzanalisa, Abadi B. Darmo, And Bunyamin Alamsyah. 2019. "Kajian Yuridis Terhadap Penetapan Pelaku Pekerja Seks Komersil Prostitusi Online Sebagai Korban Tindak Pidana Perdagangan Orang Menurut Hukum Pidana Indonesia (Studi Kasus Di Wilayah Hukum Kepolisian Daerah Jambi)." *Legalitas: Jurnal Hukum*. Doi: 10.33087/Legalitas.V11i2.180.
- Tolanda, Yofsan, And Daniel Ronda. 2011. "Tinjauan Etika Kristen Terhadap Homoseksualitas." *Jurnal Jaffray*. Doi: 10.25278/Jj71.V9i1.88.
- Widi Astuti. 2010. "Teologi Tubuh: Kajian Terhadap Pandangan Para Pelacur Tentang Tubuhnya Di Pasar Kembang Yogyakarta." Universitas Sanata Dharma Yogyakarta.
- Yusuf. 2016. "Gangguan Psikoseksual." *Seminar Keperawatan Jiwa:Dpd Ppni Kabupaten Lamongan Dan Stikes Muhammadiyah Lamongan, Tanggal 2 Oktober 2016 0*.