

# Protection of Children Involved in Online Prostitution Cases in Terms of Law of Children Protection

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## Abstract

*The purpose of this paper was to analyze the extent to which the law provides for legal protection for children involved in online prostitution by using the media of chat applications. The research method used is a normative legal research method with a statutory approach. The results showed that for child offenders, provisions in Law No. 11/2012 concerning the Juvenile Criminal Justice System apply. Meanwhile, criminal acts that ensnare perpetrators such as pimps and also service users must also be subject to pidana in accordance with Law Number 17 of 2016 which stipulates the threat of punishment more severe than the Criminal Code. The participation of the community, relevant institutions and also the government must be more active in following up on this case of online prostitution, the government must strictly revoke applications circulating in the virtual world and set penalties for perpetrators involved in this criminal act.*

**Keywords:** *online prostitution; child protection; sexual violence.*

## Abstrak

Tujuan dari penulisan ini menganalisis sejauh mana undang-undang mengatur tentang perlindungan hukum bagi anak yang terlibat dalam prostitusi *online* dengan menggunakan media aplikasi *chatting*. Metode penelitian yang digunakan adalah metode penelitian hukum normative dengan pendekatan peraturan perundang-undangan. Hasil penelitian menunjukkan bahwa untuk pelaku anak, berlaku ketentuan di UU No. 11/2012 tentang Sistem Peradilan Pidana Anak. Sedangkan tindak pidana yang menjerat pelaku seperti mucikari dan juga pengguna jasa juga harus dikenakan pidana sesuai dengan Undang-Undang Nomor 17 tahun 2016 yang menetapkan ancaman hukuman lebih berat dibanding Kitab Undang-undang Hukum Pidana. Peran serta masyarakat, lembaga-lembaga terkait dan juga pemerintah haruslah lebih aktif dalam menindaklanjuti kasus ini prostitusi online, pemerintah harus tegas mencabut aplikasi yang beredar didunia maya dan menetapkan hukuman bagi para pelaku yang terlibat dalam tindak pidana ini.

**Kata kunci :** Prostitusi Online; Perlindungan Anak; Kekerasan Seksual.



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## A. INTRODUCTION

The cases of *online* prostitution circulating in the virtual world today are increasingly worrying, because this case of online prostitution can happen to anyone, not even a few artists

who are entangled, what is even more troubling is that this problem has entangled many minors, as happened in Jakarta, Pontianak, Bogor, etc.<sup>1</sup>. The use of technology that is expected to facilitate activities and efficiency in establishing good relationship connections that must be based on ethics and manners is now actually misused, this is characterized by many actions that lead to a hypocrisy that tends to be more dominant than the benefits, such as *hoax* cases, *hate speech*<sup>2</sup> it even became a means of *online* prostitution. The use of *chat* media that is used as a forum for online prostitution perpetrators to make their transactions is now increasing in number starting from Michat, bigolive, line, whatsapp, vimeo, reddit, and so on. However, it is the michat and whatsapp applications that have a great influence in the online prostitution cases that are currently circulating *online*, as informed *online* by the 6-year-old coverage that explains that cases of prostitution caused by the michat application have spread to minors<sup>3</sup>.

As we know that *online* prostitution has involved children, this certainly has a serious impact on both children and Indonesian society. If we look at it from two different perspectives about children, namely children can fall into online prostitution of their own accord due to wrong associations or become victims because of a third party that makes the child want to do or is forced to do these activities. Factors of this problem can occur for several reasons, including that it can be caused by various factors, ranging from economic factors that cause the lack of public welfare which has also plummeted due to the pandemic<sup>4</sup>, the lack of knowledge of religious education is also the main factor in which religion has taught that we must seek fortune in a lawful way, by staying away from acts of adultery or prostitution which fall into the category of great sins as has been said in Sura Al-Isra' verse 32 which in the verse forbids us to approach all acts that contain adultery, for adultery is a heinous act, and adultery is the worst way<sup>5</sup>.

In addition, the lack of understanding and awareness of the health hazards regarding the prohibition of extramarital sex for children is also a factor that must be considered because it has a greater risk, in addition to violating children's human rights, it also has an impact on the risk of infectious diseases or STIs.<sup>6</sup> Easy and open internet access to the public is a loophole for perpetrators to commit crimes that result in a surge in *cyber crimes* on minors, and regulations regarding the crime of prostitution are still unclear in the Law and Criminal Code<sup>7</sup>.

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<sup>1</sup> Faisal Irawan, Ibrahim Gultom, and Hidayat Asmani, "Media Sosial Dalam Jaringan Prostitusi Mahasiswa Di Kota Medan," *Jurnal Antropologi Sumatera* 17, no. 2 (2019): 89–95, <https://doi.org/10.24114/jas.v17i2.22493>.

<sup>2</sup> Anang Dony Irawan and Meiliana Nurcahyani, "Pengembangan Civic Intelligence Sejak Dini Di Sekolah Dasar Melalui Pembelajaran Kewarganegaraan Yang Nyata Pendahuluan," *Seminar Nasional Kewarganegaraan* 3, no. 1 (2021): 52–60, <https://doi.org/10.30997/dt.v7i2.2635>.

<sup>3</sup> Zakaria Efendi, "Analisis Komunikasi Pada Aplikasi MiChat Sebagai Sarana Media Prostitusi Online Di Pontianak," *Panangkaran* 4, no. 2 (2020): 86–107, <https://doi.org/10.14421/panangkaran.2020.0402-06>.

<sup>4</sup> Ahmad Saudi Ahmad, "Kebijakan Sekuritisasi Pemerintah Indonesia Dalam Menanggulangi Kasus Covid-19," *Jurnal Purnama Berazam* 2 3, no. 2 (2022): 159–68.

<sup>5</sup> Ririn Isna Magfiroh, "Eksistensi Fikih Dalam Penerapan Hukum Zina Di Indonesia," *Diktum: Jurnal Syariah Dan Hukum* 18, no. 1 (2020): 102–17, <https://doi.org/10.35905/diktum.v18i1.1314>.

<sup>6</sup> Nurhalisa Hehalatu, Deassy Jacomina Anthoneta Hehanussa, and Reimon Supusepa, "Perlindungan Hukum Terhadap Anak Korban Prostitusi Online Melalui Aplikasi Michat," *Pattimura Legal Journal* 1, no. 1 (2022): 1–14, <https://doi.org/10.47268/pela.v1i1.5897>.

<sup>7</sup> Filbert Maneking, V Veibe Sumilat, and E Ronald Rorie, "Kajian Yuridis Terhadap Pelaku Dan Korban Kejahatan Prostitusi Online Ditinjau Dari Delik Pidana," *Lex Privatum* 9, no. 3 (2021): 206–16, <https://doi.org/10.20961/recidive.v2i3.32720>.

The existence of children should be protected by us, considering that the rights and age limits of children have been stipulated in Law Number 39 of 1999<sup>8</sup>. Therefore, children need to get serious attention, so that children can be protected from various kinds of actions that endanger them and children get the right and accountability for their actions, both children as victims and perpetrators. If the child is known as a victim, the child has the right to witness or victim protection, considering that witnesses and victims become valid evidence in the trial, therefore Law Number 31 of 2014 was made<sup>9</sup> regarding the existence of a guarantee of protection for witnesses and victims. Likewise, if the child is known to be the perpetrator, the child must be held accountable for his actions in accordance with the regulations regarding the Juvenile Justice law. However, the age limit of the child still overlaps, for this reason, it is necessary to review the ideal age limit for children today so that the child can be optimally protected. Until now, cases of online prostitution can only be imposed into public deliberations which in the article can only ensnare liaisons/pimps but cannot ensnare perpetrators even though they clearly violate the norms of decency, norm religion, namely in Article 296 and Pof 506 of the Criminal Code. There is no legal entanglement that can ensnare the user into the weak point of the current regulations<sup>10</sup>.

In addition, the existence of *online* media as the main factor in this case must also have stricter and reveal an regulation in dealing with its users, especially minors, so that all forms of content that are less educational, cannot be freely accessed by minors in accordance with Article 67A of Law Number 35 of 2014. If the problem is constantly postponed and not resolved immediately, the impact caused does not rule out the possibility that it will be much greater on children, besides that the morality and ideology of the nation will be eroded and can even disappear, where previously the Indonesian people upheld the dignity and dignity of the nation in accordance with the content of Pancasila in the second precept. Until now, the government has only tried to educate the public through the digital literacy movement, whose main focus is to educate the public to know, operate and be wise in social media, but does not prevent applications that are a means of abuse in social media.<sup>11,12</sup>

## B. METHOD

In this study, the author used normative legal methods, through a *statute approach* or what was commonly referred to as normative legal research or commonly known as doctrinal

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<sup>8</sup> Diana Yusyanti, "Perlindungan Hukum Terhadap Anak Korban Dari Pelaku Tindak Pidana Kekerasan Seksual," *Jurnal Penelitian Hukum De Jure* 20, no. 4 (2020): 619, <https://doi.org/10.30641/dejure.2020.v20.619-636>.

<sup>9</sup> Mamay Komariah, "Perlindungan Hukum Saksi Dan Korban Oleh Lembaga Perlindungan Saksi Dan Korban," *Jurnal Ilmiah Galuh Justisi* 2 3, no. 2 (2015): 22–31.

<sup>10</sup> Arrista Trimaya, "Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak," *Jurnal Legislasi Indonesia* 12, no. 3 (2015): 13–22, <https://doi.org/10.54629/jli.v12i3.407>.

<sup>11</sup> Aris Hardianto, "Authenticity of Pancasila Historical Sources in the First Session of the Agency to Investigate Efforts to Prepare for Independence on May 29-June 1, 1945," *Veritas et Justitia* 3, no. 1 (2017): 1–13, <https://doi.org/10.25123/vej.v3i1.2524>.

<sup>12</sup> Meliana Nurcahyani and Anang Dony Irawan, "Social Media Ethics as a Form of Development of Citizenship Intelligence to Form Public Civility Introduction" 3 (2021): 98–107, <https://doi.org/10.20885/komunikasi.vol16.iss2.art3>.

research methods<sup>13,14</sup> The acquisition of data analysis was carried out using processing techniques from the results of the collection of primary materials and also secondary materials, namely through laws and regulations, data, related literature, and several documents related to this problem, as well as tertiary legal materials to help clarify in analyzing the data mentioned above that have conformity with the theme to be raised<sup>15</sup>.

### C. RESULTS AND DISCUSSION

Prostitution according to the KBBI is a transaction in the form of an exchange as a trade transaction between sexual relations and money or gifts. However, if we look at cases of prostitution in the opinion of experts, as Koentjoro argues, he believes that the act of prostitution is an activity of Commercial Sex Workers or prostitutes whose purpose is to fulfill a sense of satisfaction for the male side, outside of legal marital ties, and as a source of income or income for the female side, thus it can be concluded that both parties aim to fulfill the goals of each party. In contrast to the opinion of Paul Moedikdo Moeliono, according to him, the main purpose of the act of prostitution caused by women by giving up their bodies as a way of satisfying male sexual appetite, while according to Prof. W.A Bonger prostitution is caused by environmental influences<sup>16</sup>.

Online prostitution is the activity of prostitution or commonly known as prostitution where this prostitution is carried out through online or online that is related to sexual acts with other people using electronic media as a medium of transaction, usually carried out by at least two people, namely as users of sexual services and providers of sexual services or commercial sex workers<sup>17</sup>.

A Commercial Sex Worker (PSK) is someone who performs work to serve sexual activities whose purpose is to earn a wage in the form of money from people who have used their services<sup>18</sup>. If it was previously explained that the sex worker is the one who receives the wages, while the service user is the one who gives the wages by calling, renting, using the services or services provided by the sex worker to fulfill his desires. A pimp according to the KBBI is someone who becomes a mastermind or landlady, pimp, needle.

Prostitution is an unfortunate, uncivilized act that has clearly been prohibited both in Islamic law, customary law, and in legislation, because these activities have a very serious impact, both in terms of physical and psychological health such as easy exposure to infectious

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<sup>13</sup> Kornelius Benuf and Muhammad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020): 20–33, <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>.

<sup>14</sup> N.P. Hidayah, F. Wiryani, and H.P. Madyasti, "The Strengthening Legal Protection of Indigenous People in Facing Investment Climate in Era of Asean Economic Community In," in *IOP Conference Series: Earth and Environmental Science*, vol. 175, 2018, 1–5, <https://doi.org/10.1088/1755-1315/175/1/012208>.

<sup>15</sup> M Saldi Dermawan and Aulia Sholichah Iman Nurhotimah, "Penerapan Nilai-Nilai Pancasila Dalam Menanggulangi Covid-19," *Jurnal Kewarganegaraan* 5, no. 2 (2021): 32–45, <https://doi.org/10.31316/jk.v5i2.1741>.

<sup>16</sup> Silvester Hengki Sanan, "Penanganan Masalah Prostitusi Di Kalimantan Timur," *Jurnal Ilmu Hukum* 5, no. 2 (2019): 1–7, <https://doi.org/10.24198/jppm.v5i3.20579>.

<sup>17</sup> Prambudi Adi Negoro and Invantri Graham Oerba Atmadja, "Analisis Terhadap Prostitusi Online Ditinjau Dari Hukum Pidana Positif Di Indonesia," *Recidive* 3, no. 1 (2014): 1–13, <https://doi.org/10.20961/recidive.v3i1.40483>.

<sup>18</sup> Zeti Utami and Hadibah Zachra Wadjo, "Perlindungan Hukum Terhadap Pekerja Seks Komersil Anak Di Kabupaten Kepulauan Aru," *Sanisa: Jurnal Kreativitas Mahasiswa Hukum* 1, no. 1 (2021): 4.

diseases, ranging from infectious infection problems or STIs, hepatitis B, HIV, AIDS, and can affect the development of a person's character, namely easy to feel worried and depressed and even can make it difficult for victims to have a serious relationship, especially the impact of divorce caused by adultery, as well as pregnancy at a young age which leads to abortion in accordance with Law Number 39 of 2009 Article 75 paragraph 1<sup>19</sup>.

With the three opinions of experts above, it can be concluded that in addition to fulfilling the wishes and goals of the perpetrators of the criminal act of prostitution, the influence of environmental factors also has a big role in the case of prostitution. Until now, online prostitution activities that have spread through the media of the chat application *whatsapp* have been found, such as the case that occurred recently in the Bandung region in January, there were two pimps who employed minors. Chat media, which we believe to be a means of information and communication, is now a means to carry out online prostitution transactions that are most in demand, this is because the chat media is considered easier and more *private* in obtaining users of sexual services and sexual service providers or sex workers<sup>20</sup>.

The role of service users or consumers is very large in this prostitution activity. This is because service users are people who use or take advantage of the services of prostitution or prostitution by providing wages in return for the service provider. Until now, users of prostitution services can only be punished if the user has a marriage bond or is married, in accordance with Article 284 of the Criminal Code which states the involvement of both parties, both men and women who have had a marriage bond and are then known to have committed adultery, can be sentenced to a maximum of nine months' imprisonment, the article relates to Article 27 BW which says that a person is only allowed to have one legal partner which has been proved on the basis of the marital bond of both male and female.

Article 287 of the Criminal Code explains that if it is known that a man has had intercourse with a woman and the woman has not reached the age of 15 years, he will be sentenced to a maximum of 9 years in prison. So this act is included in the criminal act of adultery involving minors. Although articles 284 and 287 have been stated that a person who commits adultery can be punished if the perpetrator has a valid marital bond, but the Article is still difficult to ensnare the perpetrator if it is not based on a complaint from one of the aggrieved spouses. If the regulation can only convict perpetrators who have a valid marital bond and will be processed if there is a complaint, then perpetrators who do not have marital ties and perpetrators who are underage cannot be convicted, for this reason, the current rules are still inefficient in ensnaring perpetrators, even to minimize or criminal acts of prostitution will be difficult because the development of prostitution cases spreads faster than the law itself.

In Article 296 and Article 506 of the Criminal Code, which in the article we can conclude that there is the involvement of a person who is the third person by seeking to benefit by involving another person or a woman with an act of obscenity and making the act a source of

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<sup>19</sup> Fajri Kasim, "Dampak Perilaku Seks Berisiko Terhadap Kesehatan Reproduksi Dan Upaya Penanganannya (Studi Tentang Perilaku Seks Berisiko Pada Usia Muda Di Aceh)," *Jurnal Studi Pemuda* 3, no. 1 (2014): 1–14, <https://doi.org/10.22146/studipemudaugm.32037>.

<sup>20</sup> Negoro and Invantri Graham Oerba Atmadja, "Analisis Terhadap Prostitusi Online Ditinjau Dari Hukum Pidana Positif Di Indonesia."



his livelihood hence the threat of a sentence he received for approximately one year in prison<sup>21</sup>. If we look at article 55 paragraph 1 of the Criminal Code which has said that a person who has involvement in committing criminal acts can be convicted in accordance with applicable rules. From the existence of these rules, we can mean that both producers and consumers, and if it is known that there is involvement of third parties or pimps, the parties can be punished in accordance with these rules. But in reality, the perpetrator of a criminal act that can be sentenced only applies to pimps if it is known that there is involvement in the transaction. The activities carried out by pimps to obtain their personal Gan guidance include trafficking crimes that have clearly violated human rights, this is also contrary to the honor and dignity of the humans, these activities are carried out by utilizing the victim to perform copulation or obscene acts and make it an exploitation practice will be sentenced to a maximum of 15 years in prison as contained in Article 12 of Law Number 21 of 2007.

Prostitution activities arising from trafficking transactions can always occur anywhere both within and between countries. It can be said to be a trafficking crime if it is characterized by the way in which it is exploited or results in others being exploited, which can cause suffering to the victim physically, psychologically, sexually, economically, and even the social life of a person as a result of the crime, therefore both the crime and the ascertain must be acted upon immediately. In the Declaration of Human Rights Article 1 which states that human beings who have been born have the same dignity, freedom and also the same rights, article 1 (one) is also supported by article 2 (two) where the paragraph states that rights and also freedoms are owned by all people without distinction and discrimination. Thus, the child also has the same rights as the rights that adults have<sup>22</sup>.

In the Child Protection Law, namely Law No. 35 of 2014, which is considered a child to be a child who has not reached the age of 18 (eighteen) years. Meanwhile, in Law Number 4 of 1979 concerning Child Welfare, it is explained that what can be said to be a child is when the child has not reached the age of 21 (twenty-one) years and has no previous marriage ties. Unlike other countries, such as the United Kingdom which determines the age limit of children between 12–16 years, the United States has three differences in categorizing the age of children but not more than 18 years, Australia and Sri Lanka determine the age limit for children between 8–16 years, in the Netherlands the determination of the age limit for children is between the ages of 12–18 years, while in ASEAN countries namely (Philippines, Malaysia, and Singapore) categorize children's ages when children are 7 to 18 years old. The reason for the differences in the age limit of children in Indonesia, which is considered to be still overlapping, makes it difficult for the apparatus to work efficiently in providing legal remedies for children in accordance with their legal interests<sup>23</sup>. Therefore, it is necessary to have regulations that explicitly explain the age limit of children so that their legal protection can be applied optimally. In addition, with the existence of clear age restrictions, it is this that can determine whether the

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<sup>21</sup> Lulu Yulianti, Ivan Zairani Lisi, and Rini Apriyani, "Aturan Mucikari Dalam KUHP Dibawa Ke MK," *Risalah Hukum* 15, no. 1 (2022): 41–50, <https://doi.org/10.30872/risalah.v15i1.332>.

<sup>22</sup> Laurensius Arliman S, "Peran Komisi Pelindungan Anak Indonesia Untuk Mewujudkan Perlindungan Anak Di Indonesia," *Jurnal Hukum Respublica* 17, no. 2 (2018): 193–214, <https://doi.org/10.31849/respublica.v17i2.1932>.

<sup>23</sup> Yusyanti, "Perlindungan Hukum Terhadap Anak Korban Dari Pelaku Tindak Pidana Kekerasan Seksual."

child is considered worthy of protection by law or must be held accountable for the actions he has committed.

When viewed from psychology, children develop have their own stages, including according to Sigmund Freud who is known as the concept of *Psychosexual*, Sigmund Freud believes that child development has 5 stages, and a great curiosity about their sexual interests when the child is 12 years old. While the stage of child development in sexual interest according to Erik Erikson, is when the child is 13-21 years old or when the child is still a teenager, then the role of the family in this matter is very necessary<sup>24</sup>. From psychology, it can be concluded that the child's interest in the opposite sex that begins to grow is when the child is 12 years old, so it needs greater attention and protection for the child at this age. The attention needed starts from parents, the family environment, society to the educational environment, can be in the form of an introduction to the importance of keeping themselves from free sex or health checks both physical and psychological in the educational environment, especially in their *psychosexual*, so that children do not find out about these information secretly that can cause children to get misinformation.

### **1. Legal protection for children from a legal perspective in Indonesia**

Legal protection for children according to existing regulations in Indonesia which are considered to already have the elements needed in child protection, but in fact these regulations are no longer in line with current developments, especially those that happen to children, the fact is that today's society begins to be open and has no restrictions on dressing in the sense of wearing minimal clothing such as a crop top in public, this is certainly not prohibited considering that in Article 3 of Law Number 39 of 1999 concerning Human Rights which says that everyone has the right to freedom of their personal life, then from the existence of this article can be interpreted as freedom of property of everyone, this paragraph makes it difficult for the state to restrict every citizen from wearing clothes that prioritize the element of solitude, especially the influence of outside cultures that have entered Indonesia openly, making it difficult to prevent or abolish the culture that has already entered and spread in the community. Social livelihoods that occur in society have two forms of change, namely changes that occur slowly and changes that occur quickly<sup>25</sup>. The slow change in question is a change where the process is slower, this is because the community needs to adjust to its needs, while the rapid change is caused by the encouragement of community institutions through planning, with this change, it is hoped that the encouragement of related community institutions can pay more attention and pay more attention to strict measures to prevent children from modeling things that are not good and this is also a form of effort in providing protection for children.

Various kinds of violence against children have become increasingly worrying, especially now that these criminal acts are carried out in relatively diverse ways, ranging from physical violence, to sexual violence that children should be protected from these crimes in accordance

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<sup>24</sup> Scania Riendravi, "8 Tahap Perkembangan Psikososial Menurut Erik Erikson," *Medika Udayana* 2, no. 11 (2013): 1870–84.

<sup>25</sup> Anang Dony Irawan and Al Qodar Purwo Sulisty, "Pengaruh Pandemi Dalam Menciptakan Ketimpangan Sosial Ekonomi Antara Pejabat Negara Dan Masyarakat," *STKIP KUSUMA NEGARA* 2, no. 1 (2022): 254, <https://doi.org/10.37640/jcv.v2i1.1184>.

with Article 6 of Law Number 31 of 2014<sup>26</sup> and Law Number 35 of 2014 which protects children from economic and sexual exploitation, so that minors are avoided from *online* prostitution activities. Children are grace yang should be protected, again this has been stated in the Law on Human Rights contained in Article 64 and Article 65 which says that children have the right to be protected from various kinds of exploitation actions committed against children.

Meanwhile, in Law Number 35 of 2014 contained in Article 76D which explains that everyone is prohibited from committing violence or threats that contain elements of violence to force children to have intercourse with that person or others, they will be sentenced to a maximum of 15 years in prison and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah) as contained in Article 81 of the Child Protection Law.

According to Law Number 17 of 2016 concerning the Establishment of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law in Article 81 paragraph 1 which explains for everyone who is known to violate Article 76D where the article states that a person who commits an act of violence or provides threats containing elements of violence and forcing children to having intercourse with him or with other people will be sentenced to a minimum of 5 (five) years in prison and a maximum of 15 (fifteen) years and a maximum fine of Rp.5,000,000,000.00 (five billion rupiah), the regulation also applies to everyone who has a close relationship with the victim or the act is carried out jointly by several people, the crime will be increased by 1/3 (one-third) of the criminal threats that have been mentioned in article 1 (one) as stated in Article 81 Paragraph 3, if the act results in the emergence of more than 1 (one) victim and causes serious injuries, ranging from psychiatric disorders, infectious diseases, causing a person to lose his reproductive function, to cause the victim to die, then the perpetrator will be subject to the death penalty, imprisonment for life, or imprisonment for the least for 10 (ten) years and a maximum of 10 (ten) years and a maximum of 10 (ten) years. for 20 (twenty) years in accordance with Article 81 Paragraph 5, and in addition to these crimes the perpetrator will also be sentenced to additional criminal penalties in the form of self-identification announcement, chemical castration and installation of electronic detection devices in Article 81 Paragraph 7.

The crime of *online* prostitution that involves children can be seen from three sides, including the first child who has a conflict or has problems with the rules or law, the second child as a victim of a criminal act and the third child who can be a witness to a criminal act. This is a problem that arises as a result of criminal acts, especially those involving minors, who prefer children as victims and perpetrators than children as sanctions. If it is known that the child is a victim of *online* prostitution carried out by trading, disseminating or distributing documents or information containing elements of decency through electronic media, it can be punished according to the applicable legal rules, which is approximately 6 years in prison and a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah). In other words, all forms of dissemination of images, videos, sketches, photos, circulating on social media michat are included in the category of pornographic elements. Then if the child is forced to do something

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<sup>26</sup> Komariah, "Perlindungan Hukum Saksi Dan Korban Oleh Lembaga Perlindungan Saksi Dan Korban."



beyond his will or will, the perpetrator can be punished in accordance with Law Number 21 of 2007 concerning the Crime of Trafficking in Persons committed in the virtual world or *cybercrime* has been regulated in Article 12. Then children are entitled to protection and rights in accordance with Article 15 of Law Number 35 of 2014.

However, if it is known to the child as the perpetrator in which he commits a criminal act himself in the absence of a third person or coercion from another person, then he must go through a legal process, in accordance with the juvenile criminal justice system. So far, the community still does not know more about legal remedies against children if children are involved in the law. The problem of prostitution crimes involving adults is still difficult to follow up, this is because the regulations on this problem still cannot ensnare the perpetrators, so what if minors are involved in the crime, the solution to this problem is that children must follow the legal process through a child trial. This is done so that children get justice according to the principles contained in Article 2 of Law No. 11 of 2012.

## **2. The role of the state in handling cases of child prostitution that are rife in the media chat**

The problem of *online* prostitution day by day is growing rapidly, especially involving children, the assumption that this problem is a small problem and does not interfere with political problems in Indonesia is the cause of low awareness of the impact of this problem. The government does not seem to be serious in dealing with this problem, besides that the low response and also the lack of cooperation that should be carried out and carried out jointly by the community and the government have been neglected because the government prioritizes other problems that arise such as political cases.<sup>27</sup>

Online prostitution circulating in chat media, namely *michat* made by the Singapore state since 2018 and has existed in all eight countries, it is known that there are no special rules in making it, only need to fill in data and understand how the application works and manages, meaning that to publish this application there is no rule of law and there is no agreement between the country that makes it and the country that uses the application, so that under these circumstances, both the manager and the country of origin of the origin of this application cannot be entangled by law, even the government does not revoke the application in Indonesia, so that the perpetrators of the online prostitution case can continue to surf to carry out their actions.

Not infrequently, children fall into *online* prostitution which starts with *online* applications or incorrectly accesses social media that are not good so that children end up becoming victims of trafficking crimes. Protection of the use of social media against children, which is otherwise in the public interest, is also the responsibility of the government in accordance with Article 40 of Law Number 19 of 2016 concerning ITE which says that the government must try to inhibit disturbances in order to protect the public interest from the consequences of misuse of media providers as a means of electronic information and the government is obliged to prevent the spread of prohibited or unlawful content to be

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<sup>27</sup> David Nugraha Saputra, "Juridical Review of The Prostitution of Minors," *UIN Sultan Maulana Hasanuddin Banten* 11, no. 2 (2020): 101–13, <https://doi.org/10.37035/alqisthas.v11i2.4208>.

disseminated in Electronic Information media, so that if it is known that there is a violation in the use of electronic media, the government has the authority to cut off access and/or give orders to electronic system operators to delete or cut off the unlawful charge.

In this case, the government is obliged to protect the public from the interference of the misuse of the electronic transaction media. One of them is by *taking down* the michat application to prevent the spread of prostitution cases that can ensnare minors in accordance with Article 40 paragraph (2) of the ITE Law.

In contrast to Article 71 of Law Number 19 of 1999 which explains that the government has an obligation and a responsibility in protecting and striving to advance the human rights of every human being, both in other regulations to international regulations regarding the rights of everyone recognized by the Republic of Indonesia. Meanwhile, legal efforts to protect children according to the UUPA focus more on changes to more severe penalties to be sentenced to perpetrators of sexual violence crimes involving children, and do not cause a deterrent effect for perpetrators, the imposition of criminal sanctions is given against perpetrators including imprisonment, fines, chemical castration with additional rehabilitation and also efforts to install electronic detection devices. But in fact, these crimes have not yet had a more significant decrease.

In addition, economic problems are also the main reason in this case. The very high needs of life, the lack of jobs, the lack of education, and the welfare that are not owned by the lower middle class are the biggest triggers for a person to do this and it should be the government's obligation to make efforts to protect, prosper the community and make stricter legal efforts in eradicating these crimes to protect the younger generation as a candidate for the bright generation, as contained in the 1945 Constitution Article 28C and Article 28D on Human Rights.

In minimizing the spread of *online* prostitution cases, the government cannot make its own legal remedies if it is not assisted by legal institutions and also the community, for this reason, it is necessary to have awareness of more support and concern from the community and also related institutions to be able to eradicate or minimize the spread of online prostitution, especially those that can ensnare minors. The first step that can be taken by educational institutions when a child's interest and curiosity begins to grow towards something, including attraction to the opposite sex, the effort that can be made is to educate children about the dangers of promiscuity, as expressed by Erik Erikson and Sigmund Freud, that children begin to be interested at the age of 12.

In addition, it needs support from the community by providing moral support by providing rehabilitation services by related institutions such as LPSK or witness and victim protection institutions to be able to be independent of these actions in accordance with Article 6 paragraph 1b of Law Number 31 of 2014<sup>28</sup>. This is related to Article 21 paragraph 1 of Law Number 11 of 2012 concerning Juvenile Justice if the child is the perpetrator and is not yet 12 years old, the investigator and related institutions have the right to make a decision to hand over the child to his family or include the child to LPKS for guidance and fostering for a maximum of 6 months. Meanwhile, the role of the government in following up on criminal acts of

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<sup>28</sup> Komariah, "Legal Protection of Witnesses And Victims By Witness And Victim Protection Agencies."

prostitution cases is to remove the means used as a forum in prostitution cases, both prostitution carried out *online* and *offline*. Cases of prostitution carried out offline can be bars, karaoke places, hotels, massage places, and so on. Meanwhile, prostitution activities carried out *online* are applications that are used as prostitution transactions, such as *whatsapp*, *twitter*, *facebook*, and so on. Therefore, it is hoped that the government can make strict efforts, and provide rules for its issuance. It is expected that the government can provide penalties in accordance with existing regulations, such as Article 55 of the Criminal Code, other than those listed in Article 296 and Article 506 of the Criminal Code.

#### D. CONCLUSION

The criminal act of prostitution which currently continues to develop in the community through chat-based *online* applications is due to the lack of prosperous Indonesian society, especially in the fields of economy, environment and education. Regulations related to criminal cases of prostitution are currently unable to ensnare perpetrators, both adults and those involving children, this is due to regulations that are still unclear in regulating legal entrapment for users and commercial sex workers because prostitution is considered a victimless crime or a crime without a victim so that it is difficult to minimize its spread, the boundary category after children who are still overlapping is also a serious problem that it is difficult to categorize children who have involvement in criminal acts that must be punished in accordance with the rules contained in juvenile justice crimes, so that children change for the better and can also have a deterrent effect on children. In addition, criminal acts that ensnare perpetrators such as pimps and also service users must also be subject to crime in accordance with Law Number 17 of 2016 because the Law stipulates a more severe punishment in order to cause a deterrent effect for the perpetrators. This law provides for more severe criminal sanctions than in the Criminal Code, given that in the criminal law there is a principle of "Lex Specialis De Rogat Lex Generalis" which means a special regulation overrides a general regulation. The participation of the community, relevant institutions and also the government must be more active in following up on this case, the government must firmly revoke applications circulating in the virtual world and set penalties for perpetrators involved in this crime.

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