

THE LEGAL REVIEW OF PROSTITUTION CASES BY UNDERAGES

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Abstract

Prostitution is a social disease currently rife in our environment, especially among teenagers. Prostitution that often occurs is motivated by various factors. The development of increasingly advanced technology has caused the practice of prostitution to also develop, from what was originally on the side of the road to now through various media on the internet, especially social media. There is a lot of misuse of social media, which is used as a means to sell oneself or practice prostitution because it is felt to be safer, and user privacy can also be maintained. This research aims to find out what factors can cause a child to engage in prostitution and how the local police will handle it if a child engages in prostitution. Through these objectives, the researcher hopes to be able to anticipate these things, which, in the end, can harm themselves and others. Researchers also hope that children will better understand the dangers of free sex for life and long-term health. The results of his research in Tulungagung Regency occurred 1 case of prostitution, which eventually ensnared several people. The victims of prostitution are minors who are 16 years old and are still in junior high school. Based on the marriage law in Indonesia, the legal age for marriage is 19 years old, so if an adult has sexual relations with a child, he is considered to have committed rape even though he has obtained the child's consent. The handling of child cases is, of course, different from handling adult cases. In this case, three people were entangled, namely the pimp, the service user and the boarding house provider. The article that applies to the owner of the boarding house is Article 296 of the Criminal Code because he can be said to be a person who facilitates obscenity. Then pimps and service users involved in the case are subject to Law No. 35 of 2014 concerning changes to Law No. 23 of 2002 concerning child protection because they are considered to place, allow, do, order to do, or participate in economic or sexual exploitation of children. 35 of 2014 concerning changes to Law no. 23 of 2002 concerning child protection because they are considered to place, allow, do, order to do, or participate in economic or sexual exploitation of children. 35 of 2014 concerning changes to Law no. 23 of 2002 concerning child protection because they are considered to place, allow, do, order to do, or participate in economic or sexual exploitation of children.

Keywords: prostitution, minors, regulation

I. INTRODUCTION

Prostitution can be understood as a social disease now rife in society. In this case, women who commit acts of selling themselves or prostitution are commonly called commercial sex workers (PSK). What prostitutes do is provide services to other people who need their services (sex services) within a certain time that has been determined/agreed on by both parties with prearranged rewards, namely in the form of money with a certain nominal value. (Yuliar, 2007)

At first, the author saw that many cases were circulating that were currently viral on social media, namely the number of young men and women raided by certain security forces. The raids carried out by certain officers, especially the Satpol PP in the Tulungagung area, found many teenagers who were not husband and wife caught in boarding and hotel raids. Most are still in high school, and some are even junior high school.

The author takes this theme to reveal more deeply how many cases of prostitution have ensnared teenagers, especially children. Researchers also saw a lot of news circulating on one of the Tulungagung Instagram sites, which uploaded related teenagers or even students raided in boarding rooms and hotels in the Tulungagung area. Not only that but similar cases were also found in posts on the Tulungagung Satpol PP Instagram account, which carried out raids at several boarding houses and hotels in the Tulungagung area. From some of these posts, the author finally intends to explore how big the cases of teenage promiscuity have led to prostitution, especially in the Tulungagung area. (VARBarao et al., 2022)

The reason for the rise of prostitution in Tulungagung Regency is the misuse of several social media applications, which are also used as a means of selling themselves or prostitution. Why via social media? Because through social media, we can reach more people to interact with us. Through social media, we can make friends and even get to know anyone from all corners of the world without restrictions. As a result, the practice of prostitution has developed through social media. Do they benefit from social media abuse? Of course, yes, why? Because through social media, our security can be guaranteed. We can hide our identities, can fake photos and can even easily fake the location where we are. (Efendi & Apriliani, n.d.)

II. METHOD

This type of research uses descriptive qualitative research, where the subjects in this study are children in Tulungagung Regency. The research was conducted at the Tulungagung Police, East Java Province. Data collection techniques were conducted using interview surveys with officials about the discussed case.

The type of data used is primary and secondary data and tertiary data. Primary data was obtained from Articles 296 and 297 of the Criminal Code, Juvenile Justice Law No. 35 of 2014, concerning changes to Law No. 23 of 2002 concerning child protection. Secondary data used in this study explains the laws and regulations used as the main material and research results related to the writing topic. Tertiary data is obtained from books, legal journals, dictionaries, the internet, and other supporting documents that can strengthen primary data regarding prostitution involving children.

III. FINDINGS AND DISCUSSION

The factors behind a child committing a criminal act of prostitution

This research aims to find out what factors can cause a child to engage in prostitution and how the local police will handle it if a child engages in prostitution. Through these objectives, the researcher hopes to anticipate these things, which, in the end, can harm themselves and others. From this study, the researchers found several factors that became the reason for a child to engage in prostitution, including:

1. family factor

Families that experience broken homes have several impacts, especially for children. Based on the investigation, the victim's family was devastated because his father and mother had separated and were no longer with their parents. This kind of thing causes children to be neglected and tend to do things or actions that are deviant and without limits because of a lack of education from parents. (Suryandari, 2020)

2. social factors

Based on the victim's statement, one of the factors that caused him to fall into deviant acts or prostitution was his friend. It started when the newspaper was curious about the side jobs done by his friends, who paid quite a lot. Finally, his friend introduced him to one of the pimps, and in the end, the victim took part in the work his friend was doing.

3. Prestige factor or lifestyle

The prestige factor is often triggered by things such as prostitution. As a result of wanting to get income quickly, prostitution is often used as a shortcut to make money. Even a luxurious lifestyle often makes someone do anything to fulfill their lifestyle. (Mukarramah, 2016)

4. Factors want to try - try.

The internet does not always have a positive impact on someone who uses it; there are also negative impacts that users may feel. The things presented on the internet are not always positive; there are also many negative ones. This is because, on the internet, a person can access anything without limits. Even someone can easily access negative things like pornography. There is no age limit for access, so children can also access porn sites. Children who access pornographic sites tend to make children interested in trying it. This is the beginning of child prostitution because they want to try what is presented on the internet.

In this case, a child can be interpreted as someone who is not yet 18 (eighteen) years old and includes a child still in the womb or under guardianship (article 1 of Law Number 23 of 2022 concerning Child Protection). The Criminal Code defines a child as someone who is not yet an adult before 16 (sixteen) years old. According to civil law, a child is defined as someone who is not yet an adult and has not reached the age of 21 (twenty-one) years or is married. Children in Law no. 1 of 1974 still need to be mature, namely 16 (sixteen) years for girls and 19 (nineteen) years for boys. (Justika, n.d.)

In this case, three people were entangled, namely the pimp, the service user and the boarding house provider. The article that applies to the owner of the boarding house is Article 296 of the Criminal Code because he can be said to be a person who facilitates obscenity. Then pimps and service users involved in the case are subject to Law No. 35 of 2014 concerning changes to Law No. 23 of 2002 concerning child protection because they are considered to place, allow, do, order to do, or participate in economic or sexual exploitation of children. Why are pimps and users of prostitution services not subject to Article 296 of the Criminal Code but are subject to the Child Protection Act? This is because, in the science of law, there is an important principle of legislation known as "lex

specialis derogat lex generalis". This means that special rules (specialists) override general rules (generalists). If related to Dworkin's view, with this principle, general rules are no longer laws when there are special rules. (Inside & Online, 2016)

In other words, the special rule is the applicable law and has binding power to apply to concrete events. The principle also applies to tax regulations if "something" is also regulated by regulations other than regulations or provisions in the tax law, and if that happens, then the provisions in the tax law apply.

Actions taken by the police if a child is involved in a prostitution case

To reduce the number of promiscuity, which is increasingly prevalent among young people, the police also do not remain silent about this. Various things are done so that promiscuity that leads to free sex can be minimized. The steps taken include the following:

1. Conducting joint operations with various parties, such as the Tulungagung Satpol PP

Carrying out raids with the Tulungagung Satpol PP can at least help suppress the rampant free struggles and prostitution among adolescents, especially children. In this case, children who are caught raiding boarding houses and hotels will be taken to the Satpol PP office and then summoned by their parents/guardians together with the village head to give a deterrent effect to the perpetrators and not do it again. None of the many children caught in the raids said the perpetrators were practicing prostitution. Most of the perpetrators claimed to be with their girlfriends. This makes prostitution difficult to uncover because the authorities must also be involved.

2. Outreach to various schools

By conducting outreach to various schools ranging from junior high schools to tertiary institutions, the police hope that the number of prostitution practices can be minimized. Not only that, but they also explained the impact and dangers of free sex, which can affect long-term health, such as the emergence of several serious diseases such as AIDS, HIV, syphilis and many more. This disease is classified as a contagious disease and difficult to cure. So the hope of the police apparatus by carrying out this socialization is to increase children's awareness of the dangers that may occur and be able to anticipate themselves so they don't fall into negative things that can harm them.

IV. CONCLUSIONS AND RECOMMENDATIONS

Conclusion

Based on the author's description above, from all the discussions that have been analyzed in issues related to online prostitution crimes committed by minors, it can be concluded that;

1. Children cannot be punished because they are underage. A child is considered unable to make his own decisions. So even though prostitution is carried out with the child's consent, the agreement is considered invalid because the child is considered a child who is under guardianship/not legally competent.
2. Perpetrators who become perpetrators in the criminal act of prostitution of minors can be charged with articles related to child protection. This is because, in the science of law, there is an important principle of legislation known as "lex specialis derogat lex generalis". In simple terms, this means special rules (specialists) overrule general rules (generalists). If related to Dworkin's view, with this principle, general rules are no longer laws when there are special rules. In other words, the special rule is the applicable law and has binding power to apply to concrete events.

Suggestion

1. The government must be more active in stopping the rampant cases of prostitution by making regulations that are more dominant in trapping prostitutes or prostitutes so that prostitution in Indonesia can decrease and decrease.
2. Police officers must be even more active in socializing or guiding today's youth by informing them of how devastating the impact they will feel when they enter the world of prostitution, which will cause the spread of HIV disease to become more contagious.

V. REFERENCE

- Dalam, T., & Online, P. (2016). *Pertanggungjawaban pidana para pihak yang terkait dalam prostitusi online* *. 1–17.
- Efendi, Z., & Apriliani, D. E. (n.d.). *Sebagai Sarana Media Prostitusi Online Di*. 4, 86–107.
- Justika, R. (n.d.). *Undang Undang Prostitusi di Indonesia*. <https://blog.justika.com/pidana-dan-laporan-polisi/undang-undang-prostitusi-di-indonesia/>

- Mukarramah, A. P. AL. (2016). Transaksi Prostitusi Online Dalam Tinjauan Undang-Undang No. 11 Tahun 2008 Dan Hukum Islam. *Skripsi. Fakultas Syariah Dan Hukum Uin Alauddin Makassar*, 11.
- Suryandari, S. (2020). Pengaruh Pola Asuh Orang Tua Terhadap Kenakalan Remaja. *JIPD (Jurnal Inovasi Pendidikan Dasar)*, 4(1), 23–29. <https://doi.org/10.36928/jipd.v4i1.313>
- V.A.R.Barao, R.C.Coata, J.A.Shibli, M.Bertolini, & J.G.S.Souza. (2022). ASPEK HUKUM PENGGUNAAN APLIKASI MICHAT SEBAGAI SARANA TINDAK PIDANA PROSTITUSI ONLINE Studi Putusan Pengadilan Nomor 393/Pid.Sus/2021/PN.Bjm. In *Braz Dent J.* (Vol. 33, Issue 1).
- Yuliar, V. (2007). Prostitusi atau Pelacuran. *Universitas Muhammadiyah Malang*, 67(6), 14–31.