

***JURIDICAL ANALYSIS OF ONLINE PROSTITUTION SERVICE USERS IN  
THE INDONESIAN LEGAL FRAMEWORK***

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Citation Structure Recommendation :

Novritsar Hasitongan Pakpahan, Rio Saputra, Didit Darmawan, Bobby Eka Chandra Nugraha dan Yusuf Fahrizal Mujisulistyo. *Juridical Analysis of Online Prostitution Service Users in the Indonesian Legal Framework*. Rewang Rencang : Jurnal Hukum Lex Generalis. Vol.5. No.10 (2024).

***ABSTRACT***

*The phenomenon of online prostitution in Indonesia presents complex legal challenges, triggered by the rapid development of information technology and the shift in prostitution operations from conventional to online. This study examines Indonesia's criminal legal framework in relation to online prostitution, highlighting the absence of specific legal norms to regulate online prostitution service users. This causes service users to often escape the law, even though their activities clearly violate social and moral norms. A normative juridical approach was used in this research, involving the analysis of relevant legislation and legal doctrine. The results show that existing regulations have not effectively addressed online prostitution, often excluding service users as criminal subjects. This study recommends revising and strengthening regulations to close legal loopholes, improve law enforcement, and protect vulnerable groups against sexual exploitation, ultimately ensuring justice and legal certainty for all parties concerned.*

**Keywords:** *Online Prostitution, Legal Framework, Law Enforcement, Regulation, Rehabilitation, Sexual Exploitation, Regulation Revision, Legal Justice*



## **A. INTRODUCTIONS**

The phenomenon of online prostitution in Indonesia has become a legal issue that has sparked widespread debate among the public, academics, and legal practitioners. The rapid development of information technology has enabled a significant transformation in the operational pattern of prostitution, which was previously carried out conventionally but has now moved to the online space. This shift presents new challenges in law enforcement, particularly in determining criminal liability for users of online prostitution services. One of the main problems in regulating online prostitution is the absence of legal norms that specifically regulate such activities in cyberspace. The Criminal Code as the main criminal law instrument in Indonesia does contain articles related to decency, such as Article 296 and Article 506 which do include elements related to prostitution, but their scope often does not cover online prostitution service users directly (Widijowati, 2023). Implementation often faces obstacles due to the limited normative coverage of technology-based forms of prostitution. This lack of clarity often results in users of online prostitution services being unable to be prosecuted, even though their activities clearly violate social and moral norms.

In today's digital era, technological advances have brought many changes in various aspects of life, including in the way people interact and transact (Firmanto, 2024; Susanto, 2024). The emergence of online applications and websites has facilitated communication and access to information, but on the other hand, it has also created new challenges for law enforcement (Rahman, 2024). One of the negative impacts of this technological development is the emergence of prostitution practices that are increasingly difficult to control. By utilizing digital platforms, individuals can easily connect and conduct transactions without having to meet in person (Negara, 2023). Technological advances opened up space for the misuse of online applications and websites to facilitate prostitution. In some cases, instant messaging applications and social media are used as the main means of transaction between users and prostitution service providers. The private nature of these transactions makes it difficult for authorities to conduct early detection and evidence collection. The anonymity of user identities in cyberspace further complicates the process of identification and law enforcement.

Studies show that online prostitution is a modern form of crime that involves both service providers and users, whose roles are equally important in supporting this practice. However, users often escape the law due to the absence of specific regulations, leading to injustice in law enforcement (Sakti & Arjaya, 2022). Users of online prostitution services often utilize legal loopholes to avoid criminal liability. They are considered passive parties who only use services without having a direct role in prostitution operations. However, on the other hand, their activities cannot be separated from the crime chain that supports prostitution practices. The absence of specific regulations governing these service users creates significant legal loopholes so that many cases cannot be followed up with criminal sanctions.

The impact of online prostitution goes beyond legal issues, involving social and health dimensions, such as the risk of spreading HIV/AIDS. Research shows that non-comprehensive policies against online prostitution fail to protect victims and neglect necessary rehabilitation and prevention aspects (Dewantary et al., 2023). Socio-cultural aspects also play an important role in hindering law enforcement against online prostitution service users. Society tends to have a more permissive view of service users compared to service providers so that social pressure to hold service users criminally accountable is relatively lower. This creates an asymmetrical social stigma, where service providers are considered the main perpetrators, while service users are often ignored in the legal process.

Privacy issues in prostitution investigations are particularly important when digital apps and platforms are involved. Uncertainty regarding the protection of personal data often hinders cooperation between authorities and app service providers. Many service providers fear legal and reputational consequences if their users' data is misused. The refusal of service providers to disclose user data can result in difficulties in gathering the evidence necessary for legal proceedings. This creates a gap in law enforcement, where criminals can operate without fear of being caught (Lukmantara et al., 2022).

Protection of user privacy is important and must be respected. However, there is a legal obligation to protect society from crime, including online prostitution. The balance between these two interests is a complex challenge for regulators and service providers. Many countries do not have clear regulations on how user data should be managed in relation to investigations. This lack of clarity is often exploited by service providers to refuse cooperation, citing privacy protection. Therefore, stricter and clearer regulations are needed to ensure that data can be accessed when required for legal purposes.

Weaknesses in the system of monitoring and controlling online transactions contribute to the difficulty of combating online prostitution. The use of anonymous electronic payment methods, such as e-wallets, further complicates tracking the flow of funds associated with this activity. The lack of strict regulations regarding online content control allows digital platforms to become a relatively safe space for perpetrators to carry out their activities.

In addition to challenges in law enforcement, there are also criminological aspects to consider. Online prostitution activities often involve the economic exploitation of vulnerable individuals, such as young women and children. In this case, service users become consumers and part of a chain of exploitation that contributes to wider crime.

This complex legal issue requires a comprehensive approach to understand its dynamics and impact on society. This study aims to analyze in depth the criminal liability that can be imposed on users of online prostitution services based on the applicable legal framework in Indonesia. This study also aims to evaluate the weaknesses in the existing regulations and law enforcement mechanisms that have been applied so as to provide more effective legal recommendations to deal with this phenomenon.

## **B. PEMBAHASAN**

In Indonesia's positive criminal law system, criminal charges against users of online prostitution services face significant challenges. The Criminal Code as the main legal foundation does not explicitly regulate the practice of online prostitution or those who consume it. However, there are several articles that are used to address this issue, although their application is often not maximized.

Article 284 of the Criminal Code (KUHP) on adultery provides a legal basis to criminalize online prostitution service users in certain situations, especially when such users engage in sexual relations with married individuals. This reflects legal efforts to protect the institution of marriage and prevent moral decay in society. However, the application of this article is not simple, as the nature of the offense of complaint requires a report from the aggrieved party, namely the legal spouse of the individual involved in the adultery. Without such a report, this article cannot be applied, limiting its effectiveness in tackling online prostitution.

The limited application of Article 284 is also evident in the fact that it does not cover single prostitutes. This creates a significant legal loophole, whereby the vast majority of prostitutes can escape criminal sanctions. Thus, despite efforts to crack down on service users who engage in relationships with married people, many individuals are still able to operate without fear of legal consequences. This loophole points to the need for a more comprehensive revision and strengthening of regulations to more effectively address the issue of online prostitution.

Article 290 Paragraph (2) of the Criminal Code (KUHP) has significant relevance in relation to online prostitution, especially when it involves minors. The article is designed to protect children from sexual exploitation, providing a legal basis to take action against perpetrators involved in the practice. However, the main challenge in applying this article lies in the need to prove that the perpetrator had knowledge of the victim's age. This is crucial because without clear evidence, the legal process cannot proceed and the perpetrator may escape sanction.

The secretive nature of online prostitution adds to the complexity of gathering the necessary evidence. In many cases, transactions are conducted anonymously and without clear documentation, making it difficult to accurately determine the age of the victim. This uncertainty creates a huge obstacle for law enforcement to build a strong case. In the absence of sufficient information, efforts to prosecute perpetrators are hampered, and victimized children remain vulnerable to further exploitation.

Article 296 of the Criminal Code (KUHP) is specifically aimed at individuals or groups who act as facilitators in the practice of prostitution, such as pimps. By emphasizing those who organize and profit from prostitution, this article reflects legal efforts to crack down on those who exploit the situation (Vidiawati & Fathurrohman, 2025). However, it does not cover consumers of prostitution services, meaning that service users remain beyond the reach of legal sanctions. This approach suggests that the law focuses more attention on perpetrators who play an active role in prostitution networks than on those who simply use the services. Similarly, Article 506 targets intermediaries, such as obscene brokers, who are engaged to facilitate transactions between service providers and consumers. By targeting individuals who act as intermediaries, this article seeks to break the chains that support the practice of prostitution. However, just like Article 296, service users are not penalized, which creates an imbalance in law enforcement. This may raise questions regarding the fairness and effectiveness of the legal system to address the issue of prostitution as a whole.

Law Number 21 of 2007 on the Eradication of the Crime of Trafficking in Persons has provisions that can be used to prosecute the practice of prostitution, specifically in Article 2 paragraph (1). This article states that any person who recruits, transports, harbors, sends, transfers, or receives a person by various threats and means, such as violence, abduction, or fraud, for the purpose of exploitation, can be subject to imprisonment of between 3 to 15 years as well as a significant fine. However, if we look deeper, the substance of this provision does not directly regulate prostitution. Article 2 paragraph (1) focuses more on the act of recruitment and transportation of individuals for the purpose of exploitation, without mentioning prostitution as one of the forms of exploitation in question. Thus, it can be concluded that while this law has the potential to ensnare perpetrators of prostitution, the existing provisions do not explicitly regulate the practice. While the law has provisions that can be used to ensnare those involved in sexual exploitation, users of online prostitution services do not fall under the direct scope of the law, unless it can be proven that they were involved in the exploitation or coercion of the victim. The difficulty of proving these elements is a major challenge in the implementation of this law in online prostitution cases.

Law Number 44 of 2008 on Pornography also does not directly regulate users of online prostitution services. The main focus of this law is on the production, distribution and consumption of pornographic material. While there is a connection between pornography and online prostitution, service users are often not involved in the aspects regulated by this law. Law Number 44 of 2008 on Pornography has provisions that are often assumed to be used to ensnare prostitution practices. The provision most often associated with prostitution is Article 30 which relates to Article 4 paragraph (2). Article 30 states that any person who provides pornographic services can be subject to imprisonment of between 6 months to 6 years, as well as fines varying between IDR 250,000,000 to IDR 3,000,000,000. Meanwhile, Article 4 paragraph (2) expressly prohibits the provision of pornographic services that include nudity, genitals, exploitation of sexual activity, as well as the offer or advertisement of sexual services. While the provisions in Article 30 and Article 4 paragraph (2) may trigger prostitution, it is important to note that these laws do not explicitly regulate the practice of prostitution itself. Thus, while there is potential to ensnare prostitution offenders, the existing provisions are more preventative in nature and do not provide a clear regulation of prostitution.

Law Number 11 of 2008 on Electronic Information and Transactions is often associated with the issue of prostitution, although the existing provisions do not directly regulate the practice. The provision often referred to in this context is Article 45 paragraph (1) which relates to Article 27 paragraph (1). Article 45 paragraph (1) states that any person who fulfills the elements set out in Article 27 paragraph (1), (2), (3), or (4) may be subject to imprisonment of up to 6 years and/or a maximum fine of IDR 1,000,000,000. Meanwhile, Article 27 paragraph (1) prohibits everyone from intentionally and without the right to distribute, transmit, or create electronic information and electronic documents that violate decency.

The provisions in Article 45 paragraph (1) and Article 27 paragraph (1) do not contain substance that explicitly regulates prostitution. While it is possible that these provisions could be used to ensnare the practice of prostitution, for example through the dissemination of prostitution offers that violate decency, substantially,

they are not aimed specifically at tackling prostitution. Thus, while Law Number 11 of 2008 may serve as a legal tool in certain contexts, it does not directly regulate or prosecute the practice of prostitution itself. In some cases, Article 27 Paragraph (1) of Law Number 11 of 2008 can be used if there is distribution of electronic content involving obscene elements or sexual intercourse. However, if the communication between service users and online prostitution service providers is done privately without being disseminated to the public, then the act does not fulfill the criminal elements in the ITE Law.

Law Number 12 of 2022 on the Crime of Sexual Violence focuses on acts of sexual exploitation involving violence, deception, or abuse of position. Consumers of online prostitution who engage voluntarily generally do not fall under the scope of this law and therefore cannot be charged unless violence or exploitation of the victim is involved. Law Number 23 of 2002 on Child Protection, along with its amendments, provides a strong legal basis to take action against online prostitution service users involving minors. Article 76I and Article 88 expressly prohibit all forms of sexual exploitation of children, including solicitation of sexual services. With these provisions in place, the law seeks to protect children from harmful acts and ensure that perpetrators involved in such practices are subject to appropriate sanctions. The application of this law to service users who deal with children provides the potential for significant criminal penalties. This reflects the government's commitment to protecting children from exploitation and ensuring that they are not victimized by harmful acts. However, while the law provides a strong foundation, a key challenge lies in gathering the evidence required to prove service users' involvement in child sexual exploitation. Strong and clear evidence is essential to ensure that perpetrators can be prosecuted and punished in accordance with the applicable provisions (Lubis et al., 2024).

In order to hold someone criminally accountable, including prostitutes, the first step is to criminalize prostitution. This process involves constructing prostitution as a prohibited act or criminal offense. In the absence of a clear legal arrangement stating that prostitution is an unlawful act, it is impossible to hold individuals involved in the practice criminally liable. It is important that criminalization is a crucial first step in law enforcement related to prostitution.

This conception of criminalization implies that criminal liability cannot be separated from the objective reproach attached to the criminal act. This objective reproach refers to legal norms that regulate the behavior of society and provide limits to actions that are considered unacceptable. In the case of prostitution, this reproach provides a basis for society and the legal system to judge that the act is detrimental to the individuals involved, and has a negative impact on society as a whole. As such, the existence of this objective censure is important in building arguments for criminal liability.

Through this conceptual building, it can be asserted that although a criminal offense is not always the basis for the imposition of a crime, the certainty of the occurrence of a criminal offense is the entry point for criminal liability. This means that while not all prohibited acts will immediately lead to punishment, the recognition that the act is a criminal offense provides the basis for law enforcement. In this case, it is important for the legal system to ensure that there is clarity and consistency in law enforcement against prostitution, so that individuals involved can be held accountable fairly and in accordance with applicable legal provisions.

An analysis of criminal liability for users of online prostitution services in Indonesia reveals glaring gaps in the legal framework. While there are several articles that regulate certain aspects of prostitution, many provisions do not directly target service users. This creates a situation where individuals involved in the practice can escape legal sanctions, reducing the effectiveness of law enforcement to tackle this social problem.

This suggests that existing regulations need to be improved to create a legal system that is more comprehensive and responsive to the dynamics of online prostitution. By clarifying the provisions governing service users, criminal law can more effectively respond to the challenges posed by technological developments and social change. The addition of articles or revisions to existing ones can help close legal loopholes so that all parties involved in online prostitution, both providers and users, can be sanctioned accordingly.

The phenomenon of online prostitution in Indonesia has shown significant changes in terms of the motivation of the perpetrators and the legal challenges faced. Initially, the main motive for prostitution was economic. However, with the increasing influence of consumerism and luxury lifestyles, non-economic reasons such as freedom and pleasure have also become key drivers (Awaludin, 2019). This transformation goes hand in hand with the development of information technology that opens up opportunities for prostitution activities to move into the digital space, which includes the use of instant messaging applications and social media as the main means of transaction (Novianti & Waliadin, 2023).

On regulatory availability, Indonesian criminal law still faces weaknesses to regulate online prostitution activities. Although Article 27 paragraph (1) of Law Number 11 of 2008 and Articles 296 and 506 of the Criminal Code regulate crimes of decency, these provisions are directed more at service providers or pimps than online prostitution service users (Timur et al., 2020). This creates legal loopholes that make it difficult to effectively prosecute consumers of online prostitution. For example, Article 411 of Law Number 1 of 2023 on the new Criminal Code only contains provisions on adultery, which requires a complaint from a legal spouse to initiate legal proceedings, while explicit aspects governing online prostitution consumers remain absent (Sonbai, 2019).

The shift to digital platforms also poses technical challenges for law enforcement. The anonymity of users and the use of electronic payment methods such as digital wallets make it difficult to trace the flow of funds related to online prostitution (Pardede, 2020). The reluctance of digital platforms to share data on the grounds of user privacy exacerbates the difficulty of the investigation process (Yustikarini, 2021).

The need to reform Indonesia's criminal law is increasingly urgent. This reform should include criminalizing consumers of online prostitution by considering the principle of justice proposed by Wahyuningsih. A criminalization approach to online prostitution can reduce demand by sanctioning prostitution service users and the perpetrators involved. Strict law enforcement is expected to reduce the prevalence of prostitution that exploits vulnerable groups, such as young women and children, and improve their protection (Harits et al., 2024).

Efforts to harmonize positive law with the changing social and technological dynamics are crucial in light of the development of modern society. In the digital era, phenomena such as online prostitution are increasingly prevalent and complex, requiring adaptive and responsive legal responses. Rigid laws that are irrelevant to current conditions can exacerbate the problem, making it important to revise the existing legal framework to reflect dynamic social realities.

The study by Samusamu et al. (2023) suggests that integrative policies, which incorporate feminist approaches and local cultural values, can be an effective strategy to address these challenges. Feminist approaches provide an important perspective for understanding issues of gender and exploitation, while local cultural values can help create solutions that are more relevant and accepted by the community. By integrating these two approaches, legal policies can be more sensitive to social and cultural contexts and thus more effective in addressing the issue of online prostitution.

The revision of Indonesia's existing legal framework aims to reduce the negative impact of online prostitution, and to strengthen legal protection for victims. With better regulations in place, it is hoped that victims of prostitution can gain access to justice and proper protection. This measure can also help create public awareness about the importance of protecting vulnerable groups, as well as encourage active participation in efforts to prevent and overcome social problems related to online prostitution.

The phenomenon of online prostitution in Indonesia requires a more comprehensive approach, including the revision of more comprehensive criminal law regulations, improving the technical capabilities of law enforcement officers, and cross-sector coordination to ensure the sustainability and effectiveness of law enforcement efforts.

### **C. CONCLUSION**

Online prostitution in Indonesia has raised significant legal challenges, driven by social change and rapid technological advances. The current legal framework, including the Criminal Code (KUHP) and other relevant laws, has not been effective enough to address this phenomenon, especially to deal with online prostitution users. This results in legal loopholes that allow users to escape criminal sanctions, and brings serious social and health impacts, including the risk of spreading HIV/AIDS and sexual exploitation of vulnerable groups such as young women and children.

Technical challenges such as user anonymity and the use of electronic payments also complicate law enforcement, while the reticence of digital platforms towards cooperation with law enforcement adds to the complexity of the problem. The study shows that a comprehensive approach is needed to understand the dynamics of online prostitution and to evaluate and correct weaknesses in existing regulations and enforcement mechanisms. Therefore, revision of legal regulations is crucial to create a system that is more comprehensive and responsive to dynamic social realities. This approach will help reduce the prevalence of online prostitution and improve the protection of victims and vulnerable groups, ensuring justice and legal certainty for all parties concerned.

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