A Legal Analysis of Online Prostitution: Challenges in Law Enforcement in the Digital Era

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Abstract

The advancement of digital technology has transformed prostitution practices into online forms that are difficult to monitor and regulate legally. This article analyzes the existing positive legal framework in Indonesia concerning online prostitution and identifies the challenges in law enforcement in the digital era. The research employs a normative juridical approach with legislative and conceptual analyses. Findings indicate that current regulations such as the Electronic Information and Transactions Law (UU ITE), the Criminal Code (KUHP), the Pornography Law, and the Human Trafficking Law (UU TPPO) are not sufficiently effective in addressing online prostitution due to technical, juridical, institutional, and social obstacles. Law enforcement remains hindered by limited investigative capacity in digital forensics, inconsistent application of laws, and inadequate inter-agency coordination. This article proposes juridical solutions including regulatory reform that criminalizes the use of prostitution services, adoption of the Nordic legal model, enhancement of digital forensic technology, and improvement in law enforcement capacity and coordination. Educational approaches and restorative justice are also recommended to strengthen prevention efforts and protect sex workers. The study concludes that effective law enforcement against online prostitution requires a synergy of legal reform, technological advancement, and comprehensive social strategies.

Keywords: online prostitution, law enforcement, Electronic Information and Transactions Law, criminalization of service users, digital forensic technology, legal reform.

INTRODUCTION

Online prostitution has rapidly escalated with advancements in digital technology and the widespread use of social media as a transactional platform. This phenomenon presents complex challenges for law enforcement, characterized by anonymous perpetrators, cross-border platforms, and interactions detached from the physical location of the prostitution activities [1][2]. Legally, in Indonesia, online prostitution is still classified as a criminal offense under the Criminal Code (KUHP) (Articles 296 and 506), the Electronic Information and Transactions (ITE) Law (Article 27 paragraph 1 jo. Article 45), and the Pornography Law. However, several studies indicate that these norms are insufficiently explicit, and not all perpetrators can be consistently prosecuted [3][4].

Online prostitution, as a digital era phenomenon, has been a focus of many juridical studies over the past decade. Astuti & Febriana (2021) found that law enforcement against online prostitution in Indonesia often exhibits disparities in the application of the KUHP and the ITE Law due to differing understandings of online versus traditional prostitution concepts [2]. Perkasa (2021) highlighted that the existing legal system has been unable to provide a deterrent effect, thus hindering the optimal function of law as a tool for social engineering [5]. Although

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the KUHP and ITE Law can be used to ensnare perpetrators through investigative authority, many cases are not consistently followed up due to technological limitations and the human resource capacity of law enforcement [6]. Conversely, Ma'sumah's (2023) research revealed structural obstacles such as inadequate technological infrastructure and low digital literacy among law enforcement officials, particularly in cases involving women and children [7].

While previous research has illustrated the problems of law enforcement and technical obstacles, several gaps still require further examination. First, there has been no systematic study mapping the inconsistency in the application of legal norms from real cases, such as variations in court decisions in Sulawesi that show light sentences and inconsistencies between charges and verdicts. Second, few studies have explored the urgency of criminalizing online prostitution service users as a preventive legal strategy, despite their crucial role in curbing the demand for digital prostitution. Third, although a new Criminal Code (Law No. 1 Year 2023) has been drafted and will be effective in 2026, there has been no in-depth analysis of how this new regulation accommodates online prostitution and whether it will address current law enforcement loopholes [8].

The urgency of this research is very high. First, the increasing number of online prostitution cases in various regions such as Bandar Lampung, Pontianak, Jambi, and Kendari demands an adaptive and structured legal response. Second, without the criminalization of service users, the practice of online prostitution will continue to flourish and be difficult to eradicate because the primary actors who purchase services are often not legally addressed. Third, the effectiveness of current law enforcement remains low due to a lack of digital tools, inadequate human resources, and court decisions that do not provide a real deterrent effect. Moving forward, the implementation of the new KUHP starting in 2026 presents a strategic momentum to update legal instruments and clarify norms related to online prostitution that have previously been ambiguous or overlapping [9][10][11].

Therefore, this research aims to analyze the legal framework and inconsistencies in the implementation of norms related to online prostitution, evaluate the effectiveness of law enforcement, and formulate recommendations for regulatory reform.

METHODS

This study employs a normative legal approach, focusing on the analysis of positive legal norms applicable within the Indonesian legal system. Normative legal research is conducted by examining legislation governing prostitution and its digital activities, such as the Criminal Code (KUHP), the Electronic Information and Transactions (ITE) Law, the Pornography Law, and the Law on the Eradication of Criminal Acts of Human Trafficking (TPPO). This approach also includes an analysis of court decisions, legal doctrines, and expert opinions to illustrate the application and legal obstacles faced by law enforcement officials in handling online prostitution cases [12].

This research utilizes two approaches: first, a statute approach to examine Law No. 1 of 2023 concerning the KUHP, Law No. 1 of 2024 concerning the second amendment to Law No. 11 of 2008 concerning ITE, Law No. 21 of 2007 concerning the criminal act of human trafficking, and other relevant regulations governing online prostitution. Second, a conceptual approach is used to examine juridical concepts regarding morality offenses, cybercrime, and criminal liability in non-physical contact crimes [13].

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Data collection was carried out through library research, using primary legal sources such as legislation and court decisions, and secondary legal sources in the form of scientific journals, legal books, and academic articles. The analysis process employed a descriptive-analytical method, describing and interpreting applicable legal rules, then analyzing their conformity with practices in the field, particularly in the context of digitalization and the use of social media as a means of prostitution [12][13].

RESULTS AND DISCUSSION

1) Indonesian Positive Legal Regulations on Online Prostitution

Positive legal regulations in Indonesia concerning online prostitution are dispersed across several main legal umbrellas but contain ambiguities and do not comprehensively cover all involved parties. The new KUHP (Law No. 1 of 2023), effective January 2, 2026, does not specifically regulate online prostitution, although the draft KUHP already includes efforts to criminalize service users in Article 483 paragraph (1) letter e, intended to replace the old KUHP's Article 296. Under the old KUHP, Articles 296 and 506 target pimps or facilitators of prostitution but do not directly target sex workers or service users, especially in a digital context [4].

Law No. 1 of 2024 concerning the second amendment to Law No. 11 of 2008 concerning ITE explicitly prohibits the dissemination of electronic content violating morality in Article 27 paragraph (1) jo. Article 45 paragraph (1), which is used to ensnare disseminators of pornographic material, such as sex workers or pimps who promote services on digital platforms. However, service users are rarely prosecuted because this norm requires the electronic transmission of explicit content, not merely the transaction or use of services [10]. This implies that the ITE Law tends to be discriminatory against pimps and content creators while neglecting service users.

The Pornography Law No. 44 of 2008 is also often used as a basis for prosecuting actors in online prostitution, particularly concerning obscene content. However, its role is more normative complement than a primary umbrella, as it still focuses on the dissemination of pornographic material and does not ensnare transactions or exploitation without explicit content. Meanwhile, the TPPO Law (No. 21 of 2007) allows for the prosecution of online prostitution cases involving elements of sexual exploitation or human trafficking. Articles 2, 3, and 4 can be used to ensnare pimps or parties benefiting from the practice of human trafficking for sexual purposes [14]. It can be concluded that TPPO imposes heavier penalties but is only relevant if the case involves human trafficking.

Empirical case studies highlight the weaknesses in the implementation of these positive laws. In Bandar Lampung, Iskandar et al. (2024) found challenges such as perpetrator anonymity, jurisdictional boundaries, and ambiguous norms that complicate the selection of the most appropriate article for prosecution [1]. In Sulawesi, criminal court decisions (2023) show the use of the ITE Law as the legal basis for prosecuting perpetrators, but the sentences imposed are light and do not provide a deterrent effect. Furthermore, prosecutors and judges use different norms, leading to inconsistent legal certainty [8]. In Pontianak, Purba (2024) indicated that investigators face difficulties in applying the law due to the absence of specific regulations for online prostitution, compounded by limited technological facilities, unprepared human resources, and an individualistic societal culture indifferent to law enforcement in prostitution

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cases [10]. In a normative study by Hasibuan & Yeltriana (2022), it was found that while the KUHP, ITE Law, and Pornography Law indeed regulate online prostitution, they cannot ensnare all perpetrators, especially service users, because the norms do not explicitly target them. This study emphasizes the need for specific regulations or a revision of the RKUHP to clearly penalize all actors, such as sex workers, pimps, and clients [17].

Overall, Indonesia's positive legal system has fragmented and partial instruments: the KUHP ensnares facilitators; the ITE Law ensnares content disseminators; the TPPO Law is only suitable for exploitation-scale trafficking cases. However, service users often evade legal repercussions because no norm directly targets them. The new KUHP is expected to close this gap by criminalizing service users and consolidating juridical norms regarding online prostitution.

2) Challenges of Law Enforcement against Online Prostitution in the Digital Era

Law enforcement against online prostitution faces various complex challenges that extend beyond the mere application of legal norms. From a technical perspective, the main challenges are anonymity and encryption used by perpetrators. Perpetrators often disguise their identities through anonymous or cloned accounts, making it difficult for authorities to effectively identify and track digital evidence. There are also issues of jurisdictional boundaries, limited technological facilities, and unprepared cyber human resources in handling cross-platform digital crimes [16][18].

From a juridical standpoint, the existence of normative gaps leads to inconsistent law enforcement processes. The KUHP, ITE Law, and Pornography Law are often used interchangeably, while service users frequently escape legal entanglement because there is no explicit article targeting them. Furthermore, the ITE Law often only targets content owners or pimps, not customers, resulting in incomplete law enforcement [4][19].

From an institutional perspective, the role of law enforcement officials is also limited by suboptimal inter-agency coordination and low digital literacy. Guntar et al. (2021), in a study in Yogyakarta, found internal limitations such as a lack of cybercrime personnel, digital forensic equipment, and legal socialization to the public, while external limitations included a permissive societal culture and minimal support from other stakeholders like business operators or accommodation providers where online prostitution operates. Consequently, the law has not created a deterrent effect because court decisions are too light and not followed by systematic preventive measures [5][21].

Socially, stigma and low public awareness of the dangers of online prostitution worsen the situation. Different understandings of online versus traditional prostitution lead to inconsistent legal application and weaken the law's dissuasive effect. Public education is needed because the dominance of permissive attitudes and low public awareness hinder the acceptance and effectiveness of the law [16][20].

In a global context, juridical-technical challenges are also exacerbated by the evolution of international cybercrime. An international study by Nouh et al. (2019) showed that cybercrime investigation workflows and methodologies are often unsuitable for online prostitution cases because perpetrators adapt faster and possess higher technical skills than legal investigators. Furthermore, cross-border data access is often hampered by privacy and data protection laws, adding complexity to the collection of digital evidence from global platforms [20].

Overall, the challenges include anonymity and encryption techniques (technical), normative ambiguity and legal implementation (juridical), weak coordination and limited resources (institutional), and low public awareness and social practices (social). Without comprehensive handling of these four aspects, law enforcement against online prostitution will continue to face stagnation.

3) Juridical Analysis of the Effectiveness of Legal Instruments

A juridical analysis indicates that the effectiveness of Indonesian legal instruments such as the ITE Law, KUHP, Pornography Law, and TPPO Law remains limited in comprehensively addressing online prostitution. Research by Sugara, Hasmiati, and Pratama (2024) on court decisions in Sulawesi found that most cases were prosecuted based on the ITE Law (Article 27 paragraph (1) jo. Article 45 paragraph (1)), but the sentences imposed tended to be light and inconsistent with prosecutor's demands, thus not providing a strong deterrent effect. This reflects the low effectiveness of law enforcement through existing norms [8].

A study by Ma'sumah (2023) in Malang also found that the effectiveness of law enforcement against online prostitution involving women and children is very low. The main obstacles include limited technological facilities, insufficient competency of law enforcement human resources in digital forensics, weak digital content filtering systems, and high law enforcement costs. All of these make detection, investigation, and prosecution suboptimal [7]. Similarly, research in Bali by Hutagaol & Hariyanto (2021) confirmed that the legal instruments used are the KUHP (Articles 296 and 506), ITE Law, and Pornography Law. However, investigation practices are still very limited by traditional investigative methods, including manual surveillance and inadequate undercover operations in digital cases. Preventive and educational efforts are also very minimal [22]. A study in Yogyakarta by Guntar et al. (2021) supports similar findings. They state that internal weaknesses (lack of cybercrime personnel, digital forensic equipment, and legal socialization) and external weaknesses (permissive society and minimal inter-agency cooperation) significantly reduce the effectiveness of available legal instruments [21].

The absence of specific regulations on online prostitution forces authorities to rely on general laws. Its enforcement is hampered by a lack of digital facilities and human resources, as well as an individualistic culture that disregards legal norms. Furthermore, the criminal sanctions applied are deemed incapable of creating a deterrent effect [10]. In general, there are three indicators of legal effectiveness weakness:

1. Normatively strict but practically weak: The ITE Law is often the main umbrella but is weak in ensnaring customers and non-content-creating parties.
2. Disparity in charges and verdicts: Differences between prosecutor's demands and judge's verdicts create legal inconsistency.
3. Limited technical capabilities of institutions: Digital investigation and forensic systems are still limited, making it difficult to optimize them for online prostitution cases.

The implementation of the TPPO Law is also still limited to exploitative or human trafficking cases, not for ordinary online prostitution practices without elements of human trafficking. The reformulation of criminal liability, particularly for service users, remains an urgent need [23].

Overall, although a formal legal framework is available, its enforcement effectiveness remains low due to institutional, technical, juridical, and social obstacles. Without regulatory updates and increased institutional capabilities, the partial nature of the law will not be able to completely stop online prostitution practices.

4) Juridical Solutions to Overcome Law Enforcement Barriers to Online Prostitution in the Digital Era

Various studies indicate the need for profound juridical interventions to improve the effectiveness of online prostitution law enforcement. Juita et al. (2022) affirm that the reformulation of criminal policy, especially through the criminalization of service users, is a normative imperative. Without explicit articles targeting consumers of online prostitution, the practice will continue to grow without adequate legal pressure. This recommendation aligns with the Nordic model, where customers are penalized while sex workers are not; this approach has proven to significantly reduce demand and trafficking. Additionally, Safitri et al. (2021) suggest expanding structured legal instruments by considering legal comparisons with other countries, including the ongoing RKUHP discussions. In this concept, it is suggested that the new RKUHP include sanctions for all actors involved in online prostitution sex workers, pimps, and service users with clear and unambiguous normative provisions, unlike the current ITE Law or Pornography Law [24].

The importance of more specific law enforcement policies compared to general policies related to prostitution is emphasized. They recommend policies that differentiate between hidden prostitution or online prostitution (without a fixed physical location) and traditional prostitution. Specific regulations could also strengthen investigators' position in gaining digital access, formulating cyber prostitution *modus operandi*, and providing juridical guidance for law enforcement officials to avoid overlapping use of articles. From the technical investigational side, technologies such as NLP-based detection systems for online ads could be used as tools to identify the risk of trafficking and online prostitution. This approach is proposed by international studies like Rodriguez et al. (2023), who use machine learning methods to predict risks from online advertisements, thereby paving the way for more responsive and preventive digital investigative strategies for law enforcement officials [25].

Institutionally, increasing the internal capacity of the police, including cybercrime units, digital forensic training, and public awareness campaigns, can make detection, tracing, and investigation more effective. They also highlight the importance of inter-agency coordination, such as among Bareskrim (National Police Criminal Investigation Agency), Kominfo (Ministry of Communication and Informatics), and child protection agencies in handling online prostitution cases [21]. As a complement, preventive strategies include public education and restorative justice, as alternatives to reduce stigma against sex workers and focus on upstream demand. Future amendments to the ITE Law should incorporate mechanisms for protecting false reporters and preventing the misuse of morality articles to strengthen justice in the digital space [1].

CONCLUSION

Law enforcement against online prostitution in Indonesia faces various complex challenges, ranging from limited and non-specific regulations, technical weaknesses in digital

investigation, to institutional and social constraints. Existing legal instruments, such as the ITE Law, KUHP, Pornography Law, and TPPO Law, although regulating some aspects, have not been fully effective in comprehensively addressing online prostitution practices. Obstacles such as inconsistent court decisions, limited capabilities of law enforcement officials in using digital forensic technology, and weak inter-agency coordination are major hindering factors.

Proposed juridical solutions include regulatory reformulation by incorporating the criminalization of service users as a form of more comprehensive law enforcement, implementing legal models like the Nordic model that emphasize sanctions on consumers without penalizing sex workers, and developing specific regulations for online prostitution that differentiate it from traditional prostitution. Furthermore, integrating advanced technologies such as machine learning-based detection systems and enhancing the capacity of law enforcement officials and cross-agency coordination are crucial. Educational approaches and restorative justice are also necessary to encourage changes in public attitudes and provide better protection for sex workers.

Overall, the success of law enforcement against online prostitution in the digital era requires a combination of legal reform, technological and human resource improvements, and a comprehensive social approach so that legal instruments are not only normative but also effective in practice.

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