

**LAW ENFORCEMENT FOR SERVICE PROVIDERS AND ONLINE CHILDREN  
PROSTITUTION VENDORS (A FORM OF LEGAL REFORM  
IN HANDLING CRIMINAL CASES FOR CHILDREN)**

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**ABSTRACT:** This study discusses the enforcement of Law No. 21 of 2007 against perpetrators of child prostitution and also protects children as peddlers. cases of child prostitution in 2018 that have been recorded by the KPAI reached 93 cases spread throughout Indonesia. In 2020 there are also cases of online prostitution that ensnare children, in Kalibata City. As for then the main problem discussed in this scientific paper is how the implementation of Law No. 21 of 2007 takes action against perpetrators of child prostitution and also provides protection for children as peddlers. The research method used in this research is a normative research method with a statutory approach. Based on the results of the research conducted, it can be concluded that the lack of law enforcement in human trafficking cases involving child prostitution where we emphasize that children in prostitution cases must be seen as victims and exploitation behavior must be considered a crime by Law Number 21 of 2007 Regarding the Eradication of the Crime of Trafficking in Persons Article 5 Jo. number 8.

**Keywords:** Child Prostitution; Law No. 21 of 2007; Optimization;

## INTRODUCTION

Prostitution comes from the word "pro-stituere" which means allowing oneself to commit adultery, commit prostitution, sexual abuse, and prostitution where online prostitution against children is a social disease from class society that exploits children to do immoral work and is used as a livelihood and social media. as a tool for trade transactions and determine the place where the prostitution is carried out.<sup>1</sup>

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<sup>1</sup> Indriani Tri, "Prostitusi Daring", Kompasiana, <https://www.kompasiana.com/>, 30 September 2020.

Based on Law Number 21 of 2007 Article 1 Number 1 Regarding the Eradication of the Crime of Trafficking in Persons, including the act of sending, harboring, transporting and transferring or being followed by the receipt of a person with threats of violence, confinement, fraud, kidnapping, forgery, abuse of power or debt bondage, position vulnerable or paying or taking advantage of it to obtain an agreement against a person who has control for that other person, both within and between countries, for the purpose of exploitation or to cause the person to be exploited.<sup>2</sup>

If you look at examples of cases of exploitation of children that lead to online prostitution, where cases of child prostitution in 2018 that have been recorded by KPAI reached 93 cases spread throughout Indonesia with a percentage of 80 percent of them being recruited online, it means that there are 74 cases of prostitution online for children.<sup>3</sup> In early 2020 there were also cases of online prostitution that ensnared children, in Kalibata City in this case, the victims were four minors, each of which was forced to engage in prostitution with four people in one day. Sadly, two of the victims even committed violence against other victims who were also minors. The prostitution activity also turned out to have started 'running' since 2019 and stopped running in January 2020 because the business provider was arrested and charged with multiple articles.<sup>4</sup>

But in reality, *das sollen* is the best compared to *das sein* in our society, both before and until now.<sup>5</sup> This is evidence that in Indonesia the existing regulations are inadequate and/or still have a legal vacuum to protect the community or its citizens. In connection with the practice of online prostitution of children in our country, in the case of prostitution, whether it is done by force or voluntarily, children in prostitution cases must be seen as victims and exploitation behavior must be considered a crime.<sup>6</sup> In accordance with the ideological pillars of the Indonesian state, namely Pancasila in the fifth principle of "Social Justice for All Indonesian People" where the existence of these precepts can be the basis for realizing the goal so that the law can create goals rather than the law itself where there is justice (*gerechtigheit*) with certainty (*rechtessischrheit*) and benefit (*zweeckmassigkeit*).<sup>7</sup>

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<sup>2</sup> Undang-Undang Nomor 27 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Orang

<sup>3</sup> Fadiyah Alaidrus & Nur Hidayah, 2019, KPAI: Terdapat 93 Kasus Prostitusi Anak di 2018, dilihat 1 Oktober 2020, <https://tirto.id/kpai-terdapat-93-kasus-prostitusi-anak-di-2018-dkvv>

<sup>4</sup> Johannes Mangihot, 2020, Korban Prostitusi Anak Online di Kalibata City Dipaksa Layani 4 Pria Sehari, dilihat 1 Oktober 2020, <https://www.kompas.tv/article/64509/korban-prostitusi-anak-online-di-kalibata-city-dipaksa-layani-4-pria-sehari>

<sup>5</sup> Rif'ah, "Penegakan Hukum di Indonesia: Sebuah Harapan dan Kenyataan", Jurnal Justitia Islamica, Vol.12/No.1, (Januari-Juni, 2015), hlm. 40-41, 1 Oktober 2020.

<sup>6</sup> Dahlan, Abdul Aziz, 2006, Ensiklopedia Hukum Islam, Jilid 2, Jakarta PT Ichtiar Baru Van Hoeve Cet. VII, Hal. 1421.

<sup>7</sup> Soetandyo Wignjosoebroto, 2002, Hukum: Paradigma, Metode, dan Dinamika Masalahnya, Jakarta: Lembaga Studi dan Advokasi Masyarakat, hlm. 6

As proof of the originality of the research, the author has conducted a search on several previous studies. From the search results, the authors found, first, Nazarullah Gilang Perdana's thesis entitled Review of Law Enforcement Against Child Prostitution Practices in Medan City.<sup>8</sup> Second, Eddy Rifai's research entitled Criminological Review of Child Prostitution in Bandar Lampung.<sup>9</sup> Fourth, Ristia Ika Asnia's research entitled Optimizing Criminal Liability for Users of Child Prostitution Services.<sup>10</sup>

Based on the description above, this research is different from previous studies with a similar theme. The difference between the first study and the second study is related to the review and the target location. In the previous study, it discussed a review of law enforcement and a criminological review, while in this study it was a review in terms of criminal law. Furthermore, the difference in the third research uses the legal basis of the Criminal Code (KUHP) and DKI Jakarta Regional Regulation No. 8 of 2007 while in this study using the legal basis of Law Number 21 of 2007. This research is urgent to be carried out because to understand law enforcement related to Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons associated with cases of online prostitution against children and implementation.

Based on the description of the background above, the purpose of this research is to contribute ideas to the science of criminal law, especially in child crimes related to online prostitution against children.

## **PROBLEM**

The focus of the problem that will be discussed in this research is how the implementation of Law Number 21 of 2007 takes action against perpetrators of child prostitution and also provides protection for children as peddlers.

## **RESEARCH METHODS**

This research uses normative legal research. Therefore, the nature of this research is library research, which means a study by analyzing books and other reading sources related to this research that come from the library. Sources of data in research come from written (printed) materials related to research problems and other literature (electronic).<sup>11</sup>

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<sup>8</sup> Perdana, Nazarullah Gilang (2019) TINJAUAN PENEGAKAN HUKUM TERHADAP PRAKTEK PROSTITUSIANAK DIKOTAMEDAN. Skripsi Skripsi, UNIVERSITAS DHARMAWANGSA.

<sup>9</sup> Rifai, Eddy (2017) TINJAUAN KRIMINOLOGIS PROSTITUSI ANAK DI BANDAR LAMPUNG. Dalam: Seminar Nasional: Membangun Budaya Adil Gender dan Ramah Anak, 17 Oktober 2017, Bandar Lampung. <http://repository.lppm.unila.ac.id/id/eprint/5494>

<sup>10</sup> Asnia, Ristia Ika. "OPTIMALISASI PERTANGGUNGJAWABAN PIDANA PENGGUNA JASA PROSTITUSIANAK." Konferensi Nasional Studi Hukum (NCOLS) . Jil. 2. Nomor 1. 2020.

<sup>11</sup> Rachman, S. Sutrisno Hadi, Metodologi Research. Andi. Yogyakarta

In this normative juridical method, the legal approach used is the statutory approach or what is commonly known as the statute approach,<sup>12</sup> to find out the suitability between one legislation and another, a case approach to analyze cases of prostitution involving minors, as well as a conceptual approach to formulate ideal concepts in the future.

The data source of this study uses secondary data sources consisting of primary, secondary and tertiary legal materials. The primary legal materials come from Law Number 21 of 2007. Then, secondary legal materials containing explanations of primary materials are obtained from draft laws, textbooks and legal scientific works related to the topic of discussion. Then, tertiary legal materials are obtained from legal dictionaries, encyclopedias, and so on.

Data Collection Techniques are legal sources obtained in research literature studies, laws, government regulations, and statutory regulations, legal journals, opinions of scholars, and legal cases used. Data analysis in this research is descriptive-analytical-prescriptive, that is, it describes the facts found during the study then analyzes it with positive law and then looks for future solutions regarding the shortcomings contained in the positive law.

## **DISCUSSION**

### **A. Law Enforcement of Law Number 21 of 2007 in Taking Actions on Child Prostitution Actors and Also Providing Protection for Children as Peddlers**

#### **1. Children's Online Prostitution**

Online prostitution of children is currently an immoral crime that is rife and growing in Indonesia. Children who should focus on receiving education, in fact, must be inversely proportional to the existing reality. Children are instead used as objects of trade, mere lust satisfaction carried out by certain groups to reap profits.<sup>13</sup> This is not in accordance with the 2012 Law No. 10 Concerning the Ratification of the Optional Protocol to the Convention on the Rights of the Child Related to the Sale of Children, Child Prostitution, and Child Pornography.<sup>14</sup> that children have the right to be protected from exploitation activities or work that can harm them, activities in the form of child pornography, child prostitution, and the sale of children constitute crimes against humanity that legally deserve to be eradicated. As for Indonesia, which is part of the international community, it is obliged to actively participate in the prevention, eradication and punishment of perpetrators of criminal acts of selling children,

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<sup>12</sup> Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum* (Bandung: Mandar Maju, 2008).

<sup>13</sup> Abdul Wahid dan Muhammad Irfan. *Perlindungan Terhadap Korban Kekerasan Seksual*. Refika Adhitama. Bandung, 200, 1 Oktober 2020.

<sup>14</sup> Undang-Undang Nomor 10 Tahun 2012 Tentang Pengesahan Optional Protocol To The Convention On The Right Of The Child On The Sale Of Children, Child Prostitution And Child Pornography (Protokol Opsional Konvensi Hak-Hak Anak Mengenai Penjualan Anak, Prostitusi Anak, Dan Pornografi Anak).

pornography of children, and prostitution of children. Therefore, it is necessary to ratify the Optional Protocol To The Convention On The Rights Of The Child On The Sale Of Children, Child Prostitution And Child Pornography by law.

Coercion, economic conditions, poverty, or voluntarily are the causes of children entering the world of prostitution. This can be seen from the widespread use of online child prostitution in Indonesia, which is indicated by the 2002-2006 data from the International Labor Organization that as many as 165 thousand prostitutes and around 49 thousand (30%) were children under 18 years of age. This proves that it is true that there are minors who enter the world of prostitution.<sup>15</sup> According to child psychology, Ghianina Yasira Armand, Bsc Psychology, MSc Child development, stated that there are as many as 150,000 children in Indonesia who are forced to prostitute themselves and are also trafficked for sexual purposes because of the many requests that make certain parties make it a business opportunity for personal profit.<sup>16</sup>

In the face of rampant online child prostitution, the government and other institutions have made various regulations to impose sanctions on perpetrators or people involved in prostitution activities. However, the reality is that until now there is still no specific regulation in the Indonesian Criminal Code in criminalizing users of prostitution services, where prostitution is a criminal act which until now is very difficult to handle because it is related to the factors of people's economic life.<sup>17</sup>

## **2. There is a need for optimization of Law Number 21 of 2007**

a. Examine thoroughly the 2007 Law on the Eradication of Trafficking in Persons No. 21 and other laws and regulations that follow:

Based on the Law on the Eradication of the Crime of Trafficking in Persons Article 1 paragraph (5), and (8), Article 12, and Article 22 clearly confirms the certainty that trafficking in persons and sexual exploitation are crimes that deserve to be punished, and clearly explained about children in the provisions of the two laws, not only that, the state also has international cooperation to support the procurement, prevention, and eradication of criminal acts of trafficking in persons which are mandatory in nature.<sup>18</sup>

1. Article 1 paragraph (5): It is stated that a girl who has not yet reached 18 years, including the age in the womb. (Jo. Article 1 paragraph (1) of the 2014 Law No. 35. This was previously also regulated in the United Nations Convention on the Rights of the Child

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<sup>15</sup> Rini Fathonah, "Analisis Terhadap Faktor Penyebab Prostitusi Pada Anak", hlm.2, 1 Oktober 2020.

<sup>16</sup> <https://sains.kompas.com/read/2020/02/06/123400423/marak-prostitusi-anak-ahli-sebut-3-faktor-pemicu-tak-terelakkan?page=all> di akses pada tanggal 2 Oktober 2020 Pukul 09.30

<sup>17</sup> Simangunsong, et.all. "Analisis Yuridis Mengenai Pertanggungjawaban Pidana Pengguna Jasa Prostitusi Dalam Perspektif KUHP", T.p., t.t., hlm.39, 1 Oktober 2020.

<sup>18</sup> Undang-Undang Nomor 21 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Orang.

which was finally adopted by countries around the world with the contents of Article 1 of the Convention which states that "The categorization of children in this convention which less than 18 by following the policies of their respective countries.

2. Article 1 paragraph (8): Orientation on sexual exploitation towards the form of secondary organs or other organs seen from the victim's side for the sake of obtaining profits including prostitution and/or obscenity. 15 of the Child Protection Law which states implicitly that sexual exploitation is an act in which there is sexual activity carried out by a person and is intended for pornographic products and/or businesses.
3. Article 12 : According to the Global Alliance Against Trafficking in Women, activities that are directly related to the withdrawal, sale, transfer or receipt of a person using deception or pressure against that person with the aim of using that person to work without his/her own consent. (domestic sexual or reproductive) is the definition of TIP.<sup>19</sup> Article 12 explicitly stipulates that the use of the victim as well as the use of sexual or obscene acts, employing for the purpose of exploitation, to obtaining profit from the proceeds of the crime against the victim, shall be punished with the same punishment as referred to in Article 12:

Article 2 is used in the event that if a person does the above in the territory of Indonesia, even though he has obtained approval from the person in control of the victim, he is subject to "in this case the minimum imprisonment of 3 years and a maximum of 15 years, a minimum fine of Rp. 120,000,000.00 and a maximum of Rp. 600,000,000.00", Article 3 is used in the event that if someone does the above by bringing someone into the territory of Indonesia whose exploitation is carried out in the territory of Indonesia itself or in another country, he is subject to "in this case the minimum imprisonment of 3 years and a maximum of 15 years, the minimum fine is Rp. 120,000,000.00 and a lot of Rp. 600,000,000.00.",

Article 4 is used in the event that if someone does the above by bringing Indonesian citizens outside the territory of Indonesia with the aim of exploiting them outside the territory of Indonesia, they are subject to imprisonment for a minimum of 3 years and a maximum of 15 years, a minimum fine of Rp. 120,000,000.00 and a maximum of Rp. Rp.600,000,000.00.", Article 5 is used in the event that if someone does the above by adopting a child with the aim of being exploited, he or she is subject to "imprisonment for a minimum of 3 years and a maximum of 15 years and a minimum fine of Rp. 120,000,000.00 and a maximum of Rp. IDR 600,000,000.00.",

and Article 6 is used in the event that if someone does the above by sending a child both to Indonesia and abroad and placing the child into exploitation, he is subject to "...a criminal with a minimum imprisonment of 3 years and a maximum of 15 years and a minimum fine of Rp. 120.00,000,000.00 and a maximum of Rp. 600,000,000.00."

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<sup>19</sup> Izzati, I. N. (2016). Peran dan Fungsi Lembaga Kejaksaan dalam Menyelesaikan Perkara Tindak Pidana Trafficking (Doctoral dissertation, Fakultas Hukum (UNISBA)), 23.

4. Article 22: Any person with the aim of thwarting or obstructing either intentionally or indirectly or directly or indirectly in this case includes the process of investigation, and prosecution and examination in court of witnesses, suspects or defendants in cases of trafficking in persons, the minimum imprisonment of 1 year and a maximum of 5 years, a minimum fine of Rp. 40,000,000.00 and a maximum of Rp. 200,000,000.00. The provisions of this article appear to be in line with the provisions for obstruction of justice as contained in Book two, Chapter VIII of the Criminal Code on Crimes Against Public Power which states that if there is an action that hinders the course of a legal process, the person who commits the action can be subject to a crime because the act reflects an act. who do not obey and do not respect the law.<sup>20</sup>
5. Article 59 paragraph (1): It is stated that the Government of the Republic of Indonesia is required to have regional, bilateral and multilateral cooperation in order to make the prevention and eradication of TIP effective. In terms of international cooperation, the Government of Indonesia has collaborated with UNICEF (2009-2014) on cases of child trafficking and finally made Indonesia use the paradigm of Liberal Institutionalism. Liberal Institutionalism according to John Kenneth Galbraith is a view held by a country by opening up the intervention of international institutions to achieve the country's goals.<sup>21</sup>
6. Article 59 paragraph (2): It is stated that the purpose of cooperation in paragraph (1) is in the form of a reciprocal agreement in the form of assistance oriented to criminal matters and/or other cooperation of a technical nature in accordance with statutory regulations. In terms of implementing this cooperation, it has been proven by the cooperation between the Government of Indonesia and UNICEF with the emergence of Law no. 21 of 2007 which contains general provisions, criminal acts and sanctions to efforts to protect victims and witnesses from the crime of trafficking in persons.<sup>22</sup>

Other laws and regulations are contained in Law Number 35 of 2014 concerning Child Protection Article 1 paragraph (2), (12), and (15), Article 59 paragraph (1), Article 59A letters A and D, Article 69A, Article 76E and Article 76I also states that:<sup>23</sup>

1. Article 1 paragraph (2): It is stated that child protection includes guaranteeing the rights to live, develop, and participate in community life from threats of discrimination or violence. This provision is also supported by the opinion of Barda Nawawi Arief in his book entitled

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<sup>20</sup> Loi, S. A. S., & Tawang, D. A. D. (2020). Tinjauan Yuridis Mengenai Hak Imunitas Seorang Advokat Yang Melakukan Tindakan Obstruction Of Justice Dalam Perkara Korupsi (Contoh Putusan Nomor 90/Pid. Sus-TPK/2018/PN. Jkt. Pst). *Jurnal Hukum Adigama*, 3(1), 711.

<sup>21</sup> Alfatih, M. H. (2017). Kerjasama Indonesia dan UNICEF dalam Menangani Kasus Child Trafficking di Indonesia. *Jurnal UNDIP*, 3(3), 39.

<sup>22</sup> Ibid, 43.

<sup>23</sup> Undang-Undang Nomor 35 Tahun 2014 Tentang Perlindungan Anak

Aspects of Policy on Enforcement and Development of Criminal Law" which states that child protection is an effort to protect children in law aimed at the freedom and human rights of children and various other interests directly related to child welfare.

2. Article 1 paragraph (12): It is stated that children's rights are protected by parents, relatives, society, as well as the government, and the state is obliged to be protected and guaranteed and fulfilled. This is done by parents, family, community, government, to the state. According to Waluyadi, children's rights also include the right to identity, the right to welfare in access to health and access to education, and the right to survival and the right to freedom from discrimination.
3. Article 1 paragraph (15): a form of special protection received by children in certain circumstances aims to guarantee a sense of security against all threats that endanger children. The issuance of Government Regulation of 2021 No.78 Concerning Special Protection for Children currently strengthens the steps of the Indonesian government in providing a sense of security for children who really need special protection.
4. Article 59 paragraph 1: It is stated that both regional governments and other state institutions are obliged and responsible to provide special protection for children. (Jo Article 59 paragraph 2 letter D "Children who are exploited economically and/or sexually). The Deputy for KPPPA stated that the government has so far made special protection efforts for children which can be proven by the fast and responsive handling, psychosocial assistance from the treatment stage to the recovery stage, to providing protection during the juvenile justice process.
5. Article 76E: It is stated that everyone is prohibited from committing violence, giving threats, or lying, allowing and persuading to commit or allow obscene acts to be carried out (Jo. Article 82 paragraph 1 "Anyone who violates the provisions in Article 76E shall be punished with imprisonment for a minimum of 5 years and a maximum of 15 (years and a maximum fine of Rp. 5,000,000,000.00." and paragraph 2 "In the event that the criminal act as referred to in paragraph (1) is committed by a parent, guardian, child caretaker, educators, or education personnel, then the penalty is added 1/3 of the criminal threat as referred to in paragraph (1)").
6. Article 76I: It is stated that everyone is prohibited from placing, neglecting, ordering, or participating in sexual exploitation or to obtain economic benefits (Jo Article 88 "... shall be punished with imprisonment for a maximum of 10 years and/or a fine at most IDR 200,000,000.00."

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<sup>24</sup> Kementerian Koordinator Bidang Pembangunan Manusia dan Kebudayaan. (2021). Pemerintah Jamin Perlindungan Khusus Bagi Anak. Diakses dari <https://www.kemendikbud.go.id/pemerintah-jamin-perlindungan-khusus-bagi-anak>



Apart from the two laws and regulations above, there is also a convention protocol on the rights of children, especially victims of prostitution itself in the Law on Ratification of the Optional Protocol To The Convention On The Rights Of The Child On The Sale Of Children, Child Prostitution And Child Pornography ( Optional Protocol to the Convention on the Rights of the Child concerning the Sale of Children, Child Prostitution and Child Pornography) 2012 No. 10 Article 1 and Article 3 paragraphs 1, 2, and 3,<sup>25</sup> it is stated that:

1. Article 1: The state is obliged to prohibit the sale, prostitution, and pornography of children.
2. Article 3 paragraph 1: Every State is obliged to ensure that actions and activities carried out at home and abroad, whether individual or organized, are fully regulated by criminal law:
  - a. In the context of selling children as referred to in Article 2:
    - i. The offer, delivery or acceptance of a child in any way for the purpose of:
      - a) Sexual exploitation;
      - b) Transfer of organs for profit;
      - c) Participation in forced labor;
    - ii. Obtaining consent for adoption in an inappropriate manner so that there is a violation of international law on child adoption;
  - b. offer, obtain, purchase, or provide a child for prostitution, as referred to in Article 2;
  - c. produce, distribute, disseminate, import, export, offer, sell, or possess items for the purpose of child pornography as referred to in Article 2.
3. Article 3, paragraph 2: By complying with the provisions of the national law of the State, related matters are obliged to apply an attempt at trial, involvement or participation in the violation.
4. subject to the provisions of the domestic law of States Parties, the same shall apply to attempts at attempts of such offences and to complicity or participation in such offences.
5. Article 3, paragraph 3: Each State is obliged to make this offense punishable according to the seriousness of the offence.

2. Case study :

**Table of Case Analysis Matrix: Case Number 997/Pid.Sus/2018/PNJKT.SEL**

<b>IDENTITAS :</b>	
<b>Nomor Pe rkara</b>	997/Pid.Sus/2018/PN JKT.SEL
<b>Tanggal Putusan</b>	29 Oktober 2018
<b>Klasifikasi</b>	Perdagangan Orang
<b>Majelis</b>	1. Haruno Patriadi,S.H.Mh, 2. Akhmad Rosidin, S.H., M.H., 3. Toto Ridarto, S.H., M.H.,
<b>Terdakwa</b>	Muhammad Nico Richardo
<b>Kaidah Hukum</b>	UU Tentang Tindak Pidana Perdagangan Orang Tahun 2007 Nom 21 Pasal 2 Jo. Pasal 55 ayat (1) Ke -1 KUHP

<b>Duduk Perkara</b>	Terdakwa dengan ini sah terbukti turut serta melancarkan tindak pidana perdagangan orang dalam pembuktiannya ter dakwa memakai anak sebagai korban untuk prostitusi
<b>Nomor Putusan</b>	997/Pid.Sus/2018/PN JKT.SEL
<b>Putusan:</b>	
<ol style="list-style-type: none"> <li>1. Dengan ini terdakwa Muhammad Nico Richardo secara sah serta diyakini bersalah melancarkan tindak pidana;</li> <li>2. Dengan ini menjatuhkan pidana penjara terhadap terdakwa selama: 6 tahun serta pidana denda sebanyak k Rp. 120.000.000, - yang apabila pidana denda tidak d ibayar oleh Terdakwa, akan diganti dengan pidana kurungan selama : 2 bulan ;</li> <li>3. Dengan ini menetapkan dari masa penangkapan oleh Terdakwa hingga penahanan yang telah dilaksanakan dikurangkan untuk seluruhnya a daripada lamanya pidana yang dijatuhkan;</li> <li>4. Dengan ini menetapkan untuk Terdakwa tetap ditahan ;</li> <li>5. Dengan ini menetapkan barang bukti diantaranya: 1 buah handphone Oppo warna putih, 2 buah kunci Apartemen, 4 buah Kondom sutra warna hitam, uang tunai sebanyak Rp. 700.000, - seluruhnya dipergunakan dalam perkara lain atas nama saksi Muhammad Saifuloh alias Iping ;</li> <li>6. Dengan ini membebaskan Terdakwa membayar biaya perkara senilai Rp 2.000, -.</li> </ol>	

3. Weaknesses of Formal Law Enforcement Against Criminal Acts of 2007 Number 2007  
 Seeing from the existence of several legal efforts regarding prosecution of perpetrators of online prostitution as well as protection for victims that are devoted to children, it is necessary to emphasize the optimization of law enforcement itself. It is common knowledge that the majority of victims are women and children against other forms of violence for bad treatment, which is actually an insult to human dignity and to the nation. Therefore, it is an urgency for the government to eradicate and prevent this one crime. In addition, concrete steps are needed from all elements ranging from society, government, both legislative to executive and even judicial.<sup>26</sup>

According to Satjipto Rahardjo's point of view, law enforcement is a process of making the wishes of the law (the thoughts of the regulatory body formulated into a legal regulation) become real.<sup>27</sup> In this case, certain community law enforcement officers. However, in reality sometimes it is inversely proportional to the favor of a legal apparatus to a certain community or acts arbitrarily without regard to the existing legal basis, by giving freedom to traffickers and even the absence of justice in the form of legal equality without regard to the existing reality.

<sup>26</sup> Alfitra, S.H., M.H., "Tindak Pidana Perdagangan Orang: Analisis Undang-Undang Nomor 21 Tahun 2007", hlm.4.

<sup>27</sup> Satjipto Rahardjo, "Masalah Penegakan Hukum", Bandung: Sinar Baru, 1983, hlm.24

As was the case in Wamena, namely the arrest of 11 female sex workers and pimps by the Wamena Police. However, there were acts of human rights violations by the police in which the 11 female sex workers were put and ordered to soak in a large pool on the left side of the Jayawijaya Regent's Office. The inhumane acts are used as an excuse as a social sanction that must be accepted by these female sex workers. And what makes it another vile thing is that at the time of the incident the public was allowed to see the immersion experienced by the 11 female sex workers. Unfortunately, the Police Chief and the Regent consider this an attempt to provide a deterrent effect to the sex peddlers. With this, is the officer's action a truth? and how long will this mistake of thinking continue to occur in a state of law on the basis of upholding norms for a deterrent effect for perpetrators?

However, this incident was very unfortunate and even criticized by ICJR because it was considered an act that abused authority without any legal basis, as well as a violation of human rights, and the principle of equality before the law where every citizen has equality before the law, which means treatment by law enforcement officials and the government.<sup>28</sup>

Based on this case, in which the Wamena City Police only imposed immersion in mud pools on sex workers and pimps and returned them afterward without any ongoing legal process and did not pay attention to the principle of equality before the law, which basically has not been properly enforced. and true in Indonesia. Things like that make the perpetrators not have a deterrent effect and are actually increasing in number, especially online prostitution actors who do not have strong laws because there are no special provisions of the Indonesian Criminal Code in criminalizing users of prostitution services.

Weak law enforcement for the criminal act of trafficking in persons is due to disharmony between law enforcers in terms of the meaning of a crime that makes it 'fuzzy' in this case due to the assumption that the occurrence of the crime is with the consent of the victim.<sup>29</sup> Reflecting on this, it is clear that Indonesia is experiencing a law enforcement crisis in which the crisis is followed by neglect, distrust, disrespect by the public towards existing laws.<sup>30</sup>

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<sup>28</sup> <https://icjr.or.id/tindakan-sewenang-wenang-polisi-terhadap-pekerja-seks-di-wamena-melanggar-hukum/>, diakses pada 4 Oktober 2020

<sup>29</sup> Fakta lain yang menjadi perhatian adalah tidak disinggungnya dalam putusan mengenai restitusi, yang notabene merupakan hak korban tindak pidana perdagangan orang, oleh Hakim di setiap pengadilan di seluruh Indonesia padahal hal tersebut sudah sangat jelas diatur dalam Pasal 48 UU TPPO. Hanya satu putusan di Indonesia yang mencantumkan tentang restitusi yaitu oleh Majelis Hakim Pengadilan Tanjung Karang pada tahun 2009.

<sup>30</sup> Sultan HamengkuBuwono ke X 2007, *Merajut Kembali Kita*, Jakarta, PT. Gramedia Pustaka Umum, hlm.275

With the weakness of law enforcement in Indonesia, the synergy between the central government and local governments as well as communities in areas prone to trafficking in persons is the main key in suppressing the crime of trafficking in persons. One thing that became the initial foundation was holding hands for all policy stakeholders, even the private sector in it for prevention efforts in order to obtain significant results.<sup>31</sup> Optimization of the Law on the Eradication of the Criminal Act of Trafficking in Persons Year 2007 Number 2, can be done using various methods, First, mapping the problem of trafficking in persons in Indonesia itself. Second, improve the quality of education in the community, especially alternative education for women and children, including attention to infrastructure. Third, to increase knowledge in the community by providing broad information related to trafficking in persons and all perspectives related to it. Fourth, make efforts in the form of guarantees for accessibility for every family, especially women and children in terms of obtaining training, education, social services and increasing income.

## CONCLUSION

Based on the writing above, the conclusion obtained is the lack of law enforcement in cases of trafficking in persons involving child prostitution where we emphasize that children in the case of prostitution cases must still be seen as victims and for perpetrators of such exploitation they must still be considered as perpetrators of crimes in accordance with the Law on Eradication. Trafficking in Persons 2007 Number 21 Article 5 Jo. number 8. We hope that the Law - the Act on Child Protection in 2014 Number 35 Article 88 Jo. Article 76I can be implemented properly and appropriately in the future in order to guarantee the three main objectives of the law itself, namely, justice (*gerechtigheit*) with certainty (*rechtssicherheit*) and benefit (*zweckmassigkeit*).

## REFERENCES

- Alfitra, S.H., M.H.. "Tindang Pidana Perdagangan Orang: Analisis Undang- Undang Nomor 21 Tahun 2007".
- Dahlan, Abdul Aziz. 2006. "Ensiklopedia Hukum Islam". Jilid 2. Cet. VII. hlm. 1421. Diakses 3 Oktober 2020.
- Fathonah, Rini. "Analisis Terhadap Faktor Penyebab Prostitusi Pada Anak".
- HamengkuBuwono, Sultan. 2007. "Merajut Kembali Kita".  
icjr.or.id. Diakses 4 Oktober 2020. <https://icjr.or.id/tindakan-sewenang-wenang-polisi-terhadap-pekerja-seks-di-wamena-melanggar-hukum/>

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<sup>31</sup> Perempuan dan Anak: Perlu Sinergi Atasi Perdagangan Orang", dalam Kompas tanggal 10 Juli 2017, 3 Oktober 2020

- Kompas.com, “Marak Prostitusi Anak, Ahli Sebut 3 Faktor Pemicu Tak Terelakan”. Diakses 2 Oktober 2020. <https://sains.kompas.com/read/2020/02/06/123400423/marak-prostitusi-anak-ahli-sebut-3-faktor-pemicu-tak-terelakkan?page=all>.
- Kompas.com. “Perempuan dan Anak: Perlu Sinergi Atasi Perdagangan Orang”.
- Mangihot, Johan. “Korban Prostitusi Anak Online di Kalibata City Dipaksa Layani 4 Pria Sehari”. Diakses 2 Oktober 2020. <https://www.kompas.tv/article/64509/korban-prostitusi-anak-online-di-kalibata-city-dipaksa-layani-4-pria-sehari>.
- Rahardjo, Satjipto. “Masalah Penegakan Hukum”.
- Rifah. 2015. “Penegakan Hukum di Indonesia: Sebuah Harapan dan Kenyataan”. Jurnal *Justitia Islamica*, Vol.12/No.1.
- Santoso, Heri. “Penegakan Hukum”.
- Simangunsong. “Analisis Yuridis Mengenai Pertanggungjawaban Pidana Pengguna Jasa Prostitusi Dalam Perspektif KUHP”.
- Wahid, Abdul & Irfan, Muhammad. 'Perlindungan Terhadap Korban Kekerasan Seksual'. hlm. 200.
- Wignjosoebroto, Soetandyo. 2002. “Hukum: Paradigma, Metode, dan Dinamika Masalahnya”. Jakarta:Lembaga Studi dan Advokasi Masyarakat.