

## Prostitution in the Context of Human Trafficking

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### Abstract:

#### Purpose:

The phenomenon of prostitution is currently ubiquitous among young people. Based on this reality, the phenomenon of prostitution needs to be studied theoretically from a sociological and legal perspective, which also affects the emergence of laws and regulations that regulate the issue of human trafficking and prostitution. The purpose of this study is (1) to examine theoretically from sociological and legal perspectives on human trafficking and (2) to determine the influence of laws and regulations on trafficking and prostitution.

#### Methodology:

This study is empirical by using primary data and secondary. Primary data is collected by observation and interviews directly with related sides. Sample specified in purposive sampling. Secondary data was obtained by passing the bibliography study and document with the descriptive analysis.

#### Findings:

This study is empirical by using primary data and secondary. Primary data is collected by observation and interviews directly with related sides. Sample specified in purposive sampling. Secondary data was obtained by passing the bibliography study and document with the descriptive analysis.

#### Implication:

The Law is no longer effective in controlling the social conditions of society. It can be seen from the many laws and regulations that regulate the problem of prostitution and trafficking but are unable to overcome the problems that occur. Economic conditions are the cause of this. Apart from that, something interesting about prostitution is that social control laws are no longer able to regulate it because, from an early age, women have been educated to work in places of prostitution or night entertainment.

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## INTRODUCTION

The phenomenon of prostitution is currently ubiquitous among young people. Based on this reality, the phenomenon of prostitution needs to be studied theoretically from a sociological and legal perspective, which also affects the emergence of laws and regulations that regulate the issue of human trafficking and prostitution. The flickering lights of a dimly lit karaoke night stall spun fast, the thumping music filling the room. A beautiful woman in a skimpy, seductive clothing approaches her guest. It is what is often found in dimly lit karaoke nightclubs that serve as a front for covert prostitution, which eventually turns sensuality into a commodity (Tobing, 2023). One of the locations suspected of being a place of prostitution is a dimly lit shop on Jalan Mahir-Mahar, Kereng Bangkirai Village, Palangka Raya City, Central Kalimantan Province. Not only in Palangka Raya, if we look elsewhere, dozens of dimly lit night stalls are scattered in Cangkingan Village, Karangampel District, Indramayu, West Java. In front of the stalls, with an average size of 3 x 5 meters, there is a small stage where people dance to the music of a tape recorder. The stall also displays beautiful young girls aged 13 to 15. Most of them admitted that they were still in junior high school. Some even said they were still in grade VI. These little virgins accompany the beer-drinking men who visit the stall and dance "goyang dombret" until late at night. Despite their young age, these girls are adept at seducing their guests into drinking until they are high and then disbursing large amounts of tips. However, they refused to be asked to "sleep over."

The night stalls of Cangkingan Village are the so-called apprenticeship centers for Indramayu girls to become professional entertainers in big cities and abroad. It is common knowledge that Indramayu is known as a supplier

of beautiful women to Jakarta. The Coalition Against Trafficking in Women, an anti-trafficking organization, says that over the past three years, more than 1,000 young girls from Indramayu have been sent to Japan as prostitutes. These girls are sent to Japan under the guise of cultural missions using tourist visas.

For them, prostitution is a personal and family choice to improve their poor economic conditions. The education and cultural factors they receive from their families and local communities greatly influence this perception.

Departing from this fact, the phenomenon of prostitution needs to be studied theoretically from the point of view of sociology and Law, which also affects the birth of laws and regulations governing the problem of trafficking in persons and prostitution. The purpose of this study is:

- a. To examine theoretically from sociological and legal perspectives on human trafficking
- b. To determine the influence of laws and regulations on trafficking and prostitution.

**Prostitution.** A prostitute is a woman who whores; a prostitute is an immoral woman. Prostitution is the act of selling oneself as a prostitute, prostitution (Kartono, 1997). According to William Benton in the Encyclopedia Britannica, prostitution is described as the practice of sexual intercourse that is done for a moment. Prostitution, also known as prostitution, comes from the Latin word prostitute, which means to allow oneself to commit adultery, commit acts of harlotry, fornication, or prostitution. In English, prostitution is called prostitution, which means not much different from Latin, namely prostitution, harlotry or immorality.

**Human Trafficking.** Trafficking in persons can victimize anyone, be it children, male or female adults, in general prostitution, and sexual exploitation, including pedophilia, legal and illegal migrant labor, child adoption, mail order brides, beggars, domestic servants, the pornography industry, organ sales, drug trafficking, and other forms of exploitation (Wignyasoebroto, 1997).

**Sociological.** Sociology is the scientific study of society, which studies social relationships between people in group contexts. Sociology is interested in how we interact (the pattern of social interaction) and the laws and principles governing social relationships and interactions (Team of Experts, 2000).

**Legal Perspective.** Soerjono Soekanto has a view of "a tool of social engineering" or "social engineering" where the role of Law in society is as follows: Law as a tool for changing society, in the sense that the Law may be used as an agent of change or a pioneer of change is a person or group of people gets confidence from the community as the leader of one or more social institutions. The pioneer of change leads the community in changing the social system and is directly involved in pressures to make changes, and may even cause changes in other social institutions (Soekanto, 1979).

## METHODS

**Type of Research.** In writing this research, the type of research used is empirical or descriptive juridical research. Descriptive research is to know or describe the reality of the events studied or research conducted (legal identification and legal effectiveness) (Suratman et al., 2012). As for this type of research, the approach method used is the juridical sociological (empirical) approach, namely the approach by looking at something legal reality in a society in connection with the problems encountered in the field (Ali, 2010).

**Data Collection Methods.** The data required in this research include primary and secondary data. Secondary data were obtained by reviewing specific sources associated with the title research. Primary data were obtained by observation (participative observation), surveys, and in-depth interviews (Mikkelsen, 2001). The data obtained in this study are:

- a. Primary data is basic data obtained directly from the first source determined by the author or data obtained directly from the source, observed, and recorded for the first time.
- b. Secondary data is data whose function is to support the strength of primary data sources in the form of data from books, literature, related regulations and others related to this research. This secondary data consists of:

**Primary Legal Materials.** Primary Legal Materials are binding legal materials Sunggono (2012), which are obtained by studying laws and regulations, namely:

- a) Constitution of the Republic of Indonesia Year 1945
- b) Law Number 01 Year 1974 on Marriage;
- c) Law Number 21 of 2007 Concerning the Eradication of the Crime of Trafficking in Persons.
- d) Other laws and regulations are included in this research.

**Secondary legal materials.** Secondary legal materials are research that is obtained based on explanations of primary legal materials, which consist of information about laws and regulations, books written from the thoughts of scholars, related literature, research results published in part, some related legal journals, and others (Sunggono, 2012).

**Data Analysis.** The data will be analyzed either during or after research in the field. The analysis technique is qualitative interpretative and is processed through the review, reduction, categorization, and validity checks to interpret data (Milles & Huberman, 1988). The data collection technique in the research that the author did consisted of:

- Namely, data collection by visiting the field directly, conducting interviews, and observing the object of research based on the legal issues the author found in this thesis. Field studies themselves can be done with interview sessions. Interviews are an orally done data collection technique used to extract information from respondents that the author has determined is closely related to the author's legal issues in the field.
- It is a necessary data collection technique carried out by collecting and studying several related books and necessary documents related to the problems or legal issues to be researched and discussed.

## RESULTS AND DISCUSSION

**Prostitution in the Context of Sociology.** Thanh-Dam Truong, in his book *Sex, Money and Power: Tourism and Prostitution in Southeast Asia*, mentions sexual politics as a significant factor in the occurrence of prostitution in Southeast Asia. As is the case in Indonesia, trafficking is a type of prostitution. Overall, three main elements of prostitution are widely recognized: economic, sexual, and psychological (psycho-individual, emotional structure). Why are these three used as the benchmarks of prostitution? Because these three elements are present in most sexual relationships (Truong, 1992).

Durkheim saw social evolution and the division of labor as having affected male-female relations in the following way. Based initially primarily on sexual function (procreation), the division of labor between the sexes was later extended to other social functions. As a result, two primary functions of psychic life (affective and intellectual) became separated. The first function is attached primarily to women, while the second is to men. Durkheim concluded that women psychically regressed and men progressed as a result of social evolution (Truong, 1992).

Davis states, "Sex, like other elements of human life, is drawn toward integration, and therefore toward control. Sexual appetites, like all others, are tied to socially necessary functions. The function most logically and naturally associated with it is procreation. The nature of procreation and socialization is such that their exercise requires institutionalized primary group life. As such, the family receives the highest honor among all sexual institutions in society, while the others receive a lower valuation due to their more distant position from the character of the *Gemeinschaft* and the purpose of reproduction. Commercial prostitution occupies the lowest class; it shares fundamental features with the other sexual institutions, namely the utilization of Sex for a hidden purpose in a system of different opportunities, but it differs from the others in its demand for wages, promiscuity and emotional detachment (Truong, 1992).

**Prostitution Seen in the Context of Human Trafficking.** By their very nature, women and children are the most likely to experience the criminal offense of trafficking in persons. Victims are trafficked not only for "conventional" purposes of prostitution or other forms of sexual exploitation but also for other forms of exploitation such as forced labor or service, slavery, slavery-like practices, or baby trafficking. The crime of trafficking in persons, particularly Indonesian women and children, has become widespread in the form of both organized and unorganized crime networks. Trafficking crimes involve individuals, corporations, and state officials who abuse their authority and power. Trafficking gangs operate not only within the country but also across borders.

In everyday life, men and women have acquired different roles, duties, values and rules. Women, because of their reproductive function, are placed in the domestic sphere, while men are placed in the public sphere. The division of roles, duties, values, and rules is given through social rules of society, customs, laws, and erroneous religious interpretations. The simplest example is the enactment of roles in Law Number 1 Year 1974 on Marriage. In addition to discrimination against girls, such as young Marriage, the value of virginity and the view that girls do not need higher education are key driving factors. Child victims of trafficking work relatively long hours and are prone to physical, mental and sexual abuse. They have no external support or protection. Sexual infections, alcohol and drug trafficking often threaten their health. In Law No. 21/2007 on the Eradication of the Crime of Human

Trafficking, the issue of prostitution is referred to as sexual exploitation. It can be seen in 2 articles, such as Article 1 paragraph (7) and Article 1 paragraph (8). In addition to the articles contained in Law No. 21 of 2007, there is also the practice of prostitution known as mail-order brides. This practice occurs across state lines, or what is known as transnational crime. The various causes of trafficking in persons through the mail-order bride model are:

**a. Poverty.** The most common reason for transnational marriages is to improve the economic standard of oneself and one's family. Poverty has also encouraged parents to let their children become wives to foreigners. In very depressed living conditions, when approached by brokers who persuade to match their daughters with foreign men. The parents will persuade their daughters, even if there seems to be an element of coercion, so their daughters want to marry foreign men known through the photos shown by the brokers. Parents become very instrumental in a marriage when the Marriage that a person carries out is based on parental coercion. The reasons why parents force their children to marry strangers also vary. For example, some parents think that marrying a foreigner will improve the dignity of their family life because they are forced to pay their debts. The coercion of parents is based on economic pressure in the family, so marrying off their children is one solution to the welfare of the family. Economic factors that become essential reasons are also often used by a woman to marry a man. These three backgrounds are common reasons, but there are many other reasons behind a marriage, primarily transnational marriages. On the other hand, the condition of parents who have a hard life due to poverty is increasingly burdensome, so the parents of this girl will let their daughter marry a foreign man with the hope that the departure of her daughter will be able to support the economy of the entire family she leaves behind, not only from the dowry received but also from the delivery of her daughter who can work and send her income to her parents.

**b. Gender Inequality and Injustice.** Forced marriages usually come from parents who accept the persuasion of brokers looking for the necessary women to target for arranged marriages, such as mi. On the other hand, girls occupy a subordinate position as a result of their patriarchal culture. As a result of this division of roles, men have become the dominant party, superior in almost all fields, while women's access to development is partially hampered. It is at this point that injustice occurs because women and girls get gender discrimination such as the occurrence of stereotypes (harmful role standardization), overburdening for working wives, subordination, and marginalization, which results in violence (acts of violence) against women in the domestic and public sectors. The view that education for boys is more important than for girls has caused girls, especially from low-income families, to have less access to higher education, making it difficult to gain access to economic resources because they have less access to employment opportunities. As a result, girls are considered to be a burden on low-income families, while on the other hand, the girls also want to get out of poverty and live a better life. Marriage brokers utilize this condition as a target for bride-hunting brokers to attract their victims easily.

**c. Consumerism.** In addition to poverty, consumerism is a factor that encourages girls to seek a better life quickly.

**The Relationship between Law and Social Change in the Practice of Prostitution.** Law results from society's culture, namely its members together. As an individual and a person, man does not stand alone but as a social being. As a social being, he behaves while evaluating his behavior, which is good and evil, which is beneficial and which is harmful, which may and may not be done, which are rights and obligations. In this case, it is often said that "man is behaving and evaluating individually" (Sanusi, 1984). Humans in social life need social control in carrying out all their activities. The community often gives this social control the meaning of supervision against the course of government. This social control is carried out by individuals against others, which aims to balance societal stability and change (Soekanto, 1986). Every group in society always has problems due to the difference between the ideal and the actual, between the standard and the practical, between what should or is expected to be done and what is in reality. Group standards and values in society vary as factors that determine individual behavior (Ali, 2007). There are several opinions on where ethical rules come from. Some suggest that the rules of ethics come from God and that God taught them to the first human beings, who then passed them down to the next generation. Others suggest that wise ancestors created the ethical rules of life and continue to maintain them as habits and customs for all its members. Another approach suggests that clever religious scholars studied the rules of life, then further compiled by social and State experts to ratify them as generally binding rules. However, there is also an opinion that states that the rules of Law are essentially sourced in the awareness and conscience of each community member, which is displayed as their respective values and attitudes in every socio-cultural relationship in society (Sanusi, 1984). Prostitution was brought up by social movements, like the women's and worker's movements, which emerged to support the underprivileged classes as a means of both sexual and social oppression.



However, this opposition to the established order lost momentum when the interests of prostitutes became apparent. Within the labor movement, the issue of prostitution has been raised about the rise of capitalism, wage labor, and exploitation but then set aside as a symptom of the decadence of the bourgeoisie. Empirically, however, the phenomenon has been closely linked to the renewal of the labor capacity of the workers themselves (Sanusi, 1984).

The Law does not stand alone, cannot live and grow alone without the support of the philosophical values of the nation, without the support of its religious beliefs and values, without economic and political support, without the support of the intelligence, skills, technology, and morality of a strong nation. Therefore, the Law urgently needs socio-cultural services from the community (Sanusi, 1984). Where there is a society, conflicts have the potential to arise, and where conflicts occur, the Law will also appear to offer solutions. For a long time, the law has positioned itself as a forum or prominent instrument in settling conflicts of interest in human civilization (Bakir, 2007). Without Law, there would be no such thing as society. Man, society, conflict and Law are inseparable entities. In this most original sphere of civilization, the Law shows its figure as a means of restricting individual wills that damage the public atmosphere, such as the tendency to behave immorally (out of habit) or instinctive impulses; protector (protector) of individual rights from all kinds of deceit, ignorance, or feelings of envy, spite and so on from specific individuals; coordinator of individual relations in the process of organizing sexual life; a guarantor of control over ownership; and stabilizer and dynamist of feelings of security and tranquillity (Bakir, 2007). From here, how instrumental is the Law in bringing society in a better direction? Because the Law covers all aspects of life and protects every individual in society. Law is one of the tools of social control, and its use is commonly known as law enforcement. Therefore, to determine how effective the Law is in its function as a means of control, Every society will use tools according to its needs, which are constantly evolving (Soekanto, 1986). E. Adamson Hoebel said, "Law as a process is an aspect of a society's total system of social control. "From there, it is stated that Law is a process of one aspect of the entire system of social control that exists in society (Soekanto, 1986).

Soerjono Soekanto said that Law as a method is a benchmark for proper behavior or attitude. The benchmark guides how humans should behave or act (Ishaq, 2008). The Law has a goal to be achieved. The primary purpose of the Law is to create an orderly society, creating order and balance. In achieving this goal, the Law has the task of dividing rights and obligations between individuals in society, dividing authority and regulating how to solve legal problems and maintain legal certainty (Mertokusumo, 1986). Soerjono said that the Law that is held or formed carries a specific mission, namely public awareness, outlined in the Law as a means of control and change to create peace and tranquillity in society. Meanwhile, Purnadi Purbacaraka and Soerjono Soekanto explained that the purpose of the law is to ensure peace of life between individuals, which includes external order between individuals and internal peace of mind (Ishaq, 2008). An inevitable legal clash is a recurring battle between justice demands and legal certainty. The more the Law fulfills the requirement of "fixed rules," which, as much as possible, eliminate uncertainty, the more precise and sharp the legal rules are, and the more justice is pushed aside. That is *summum ius, summa iniura* (Apeldorn, 1982). The Law is forced to sacrifice justice in favor of expediency. However, there are a large number of legal rules that do not realize justice at all but are based solely on the interests of utility, for example, regarding evidence and expiry, and rules that protect the "better" to a certain extent against the "eigenaar" in the interests of peace in society (Apeldorn, 1982). We can see that the rampant practice of prostitution has provoked law enforcement officials, both at the central and regional levels, to make various draft laws and regulations to prevent rampant prostitution. Even prostitution today is carried out through electronic media platforms such as Facebook, Michat, and other social media platforms, which are the norms of human trafficking crimes that occur in the Central Kalimantan region. However, law enforcement officials have difficulty using the proper legislation, considering that the Law of the Republic of Indonesia Number 21 of 2007 concerning Eradication of the Crime of Trafficking in Persons and Law of the Republic of Indonesia Number 11 of 2008 concerning Electronic Information and Transactions and its amendments, namely Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law of the Republic of Indonesia Number 11 of 2008 concerning Electronic Information and Transactions are not implied regarding acts or criminal offenses of trafficking in persons using cyber facilities. As contained in the Directory of Decisions of the Supreme Court of the Republic of Indonesia, cases of trafficking in persons in Indonesia since the enactment of Law of the Republic of Indonesia Number 21 of 2007 on the Eradication of Trafficking in Persons are 1116 (one thousand one hundred

and sixteen) cases of trafficking in persons that have permanent legal force and 14 (fourteen) cases of trafficking in persons.

However, if we look at the various regulations made to overcome the practice of prostitution, they are not very effective in enforcing the Law. Social forces can function in every society as tools to achieve a goal. The goal in question can be good or bad for society. The Law's most important thing is using social forces that harm the State and society (Ali, 2007). However, what happened in Palangka Raya and Indramayu is not a social force but a phenomenon that occurs in the families of victims and traffickers who trap them in prostitution. What the author can reveal is that debt bondage is the dominant factor driving this trafficking practice. In addition, the perpetrators also take advantage of the moment to trap the victim with the pretext of big money if the victim wants to be invited to work in big cities or abroad. In Indonesia, as stated by Donald Black, when social control by the government, often called Law, does not work, other forms of social control will automatically emerge. Whether we like it or not, actions taken by individuals and groups, which from a juridical optic can be classified as vigilantism (*eigenrichting*), are essentially a form of social control carried out by the people (Ali, 1976). In addition, a group of people in a particular place is destroyed, divorced, or extinct not because the Law fails to carry out its duties but because the duty of the Law must be applied to serve as social control and social engineering in the community's life. This is because the duties and functions of the Law are not the purpose of the Law itself but an instrument that cannot be replaced to achieve balance in the activities carried out by humans (Ali, 2007). The existing laws to deter all forms of human trafficking are no longer so compelling. It is because of a social factor that has developed in the community, namely the financial problems that ensnare almost all Indramayu people in rural areas. Debt bondage is always used as an excuse. So, the Law on human trafficking is not so effective in enforcing the Law because other factors that encourage the perpetrators and victims to carry out the practice of human trafficking can be justified. Because what happens can already be said to be a habit for girls to become prostitutes or become prostitutes.

## CONCLUSION

From the various discourses stated by the author, it can be concluded that the Law is no longer so effective in controlling the conditions of society. It can be seen from the many laws and regulations that regulate the problem of prostitution and trafficking but are unable to overcome the problems that occur. Economic conditions are to blame for this. In addition, there is an exciting thing about prostitution that causes the Law in social control to no longer be able to regulate it because, from an early age, women have been educated to work in prostitution or night entertainment places.

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