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A Legal Review of Online Prostitution Crimes Under Law Number 1 of 2024, the Second Amendment to Law Number 11 of 2008 Concerning Electronic Information and Transactions

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This study aims to analyze the handling of online prostitution cases through Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law). The results of the study indicate that the law does not expressly regulate the crime of online prostitution, but only regulates the dissemination of information containing content that violates morality. The absence of a clear definition of acts that violate morality results in weak legal certainty. In addition, the scope of legal subjects in this article is limited to parties who broadcast, distribute, transmit, or make information accessible, so that the main perpetrators and other parties involved cannot be prosecuted. This condition results in low legal benefits, because the deterrent effect is only felt by the disseminators of information, not the main perpetrators. This study concludes that the implementation of the ITE Law, specifically Article 27 paragraph (1) of the ITE Law, requires synergy with other relevant laws and regulations in order to create legal certainty, justice, and optimal legal benefits.

Keywords: Online Prostitution, Legal Certainty, Legal Justice and Legal Benefit.

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Introduction

Information and communication technology has experienced rapid development, resulting in changes in human activities in various fields, directly influencing the emergence of new lifestyle patterns. The use of information and communication technology has transformed the behavior of society and human civilization globally. Its development has made global connections borderless and caused significant social, economic, and cultural changes to occur at a rapid pace.

This rapid technological development has led experts to call it a phenomenon of a communication revolution. This is due to the capabilities and potential of communication technology, which enable humans to connect with each other and meet their communication needs virtually without limits. This is because the limitations that humans previously experienced in communicating with one another can now be overcome with the development of various advanced communication tools, such as the use of satellites. With satellites, distance and time are virtually eliminated, allowing users to reach their target audiences wherever and whenever needed.(Nasution, 2014).

In line with the increasingly sophisticated development of communication technology, the forms, patterns, and tools of communication have also undergone changes. Communication is no longer confined to personal communication (communication involving only two people), but also through groups and mass communication (mass media). This has led to increasingly complex developments. The media used are also becoming more complex, with examples including radio, television, newspapers, traditional media, and others, all of which have their own advantages and disadvantages.(Nuruddin, 2008).

The emergence of various types of social media, coupled with the increasingly widespread use of the internet, reaching all groups, from children and adolescents to adults, has brought closer relationships and distances. The increase in internet users in Indonesia has undoubtedly had both positive and negative impacts, affecting people's lifestyles and patterns.

Positive influences of the internet include expanding scientific knowledge, providing benefits in the educational process, and developing social networks(Soemarno, 2008). Apart from that, the internet can also be used for business transactions which are certainly more efficient and make human work easier.

The development of modern technology is one of the factors that demands that people lead practical, easy, and effective lives. Modern technology has given rise to various social networks that make it easier for users to interact with the wider global community. Today, numerous social media platforms have emerged as a manifestation of global competition, facilitating access to communication and transactions for various needs.

The emergence of various types of social media, coupled with the increasingly widespread use of the internet, reaching all groups, from children and adolescents to adults, has made relationships and distances increasingly close. The increase in internet users in Indonesia certainly has both positive and negative impacts, affecting people's lifestyles and patterns. In addition to crimes in the real world, crimes also occur in cyberspace, also known as the internet. These crimes are often referred to as cybercrimes. This type of crime is distinct from crimes in the real world, and its methods of execution are also different. These acts constitute cybercrimes. Cybercrimes are activities that utilize computers as a medium supported by telecommunications systems, either through telephone lines or special wireless antennas. (Maskun, 2022). Cybercrime has become

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increasingly prevalent recently, both in the form of fraud and illicit transactions conducted on various social media platforms, one of which is online prostitution.

Online prostitution is a form of prostitution that uses the internet as a means of connecting commercial sex workers (CSWs) with those seeking prostitution (users). The increasing prevalence of online prostitution has certainly drawn government attention, as it is considered detrimental and dangerous for the nation's future. To prevent IT-based crimes, protect the public, and ensure legal certainty in the use of IT, the government deemed it necessary to enact a law regulating public activities in this area. Therefore, on April 26, 2008, the government enacted Law Number 11 of 2008, which was later amended to Law Number 19 of 2016 and the second amendment to Law Number 1 of 2024 concerning Information Technology and Electronic Transactions (ITE).

The ITE Law, specifically Article 27 paragraph (1), regulates immoral acts committed through online media. However, this article still generates pros and cons when applied to cases of online prostitution. This is because the article does not directly mention online prostitution, but only mentions anyone who intentionally and without authority broadcasts, displays, distributes, transmits, and/or makes publicly accessible electronic information or electronic documents containing content that violates morality.

General regulations on prostitution are also regulated in Book II of the Criminal Code, Chapter XIV, concerning crimes against morality, and Book III, Chapter II, concerning violations of public order. The explanation of the crime of prostitution is contained in Book II, Article 296 of the Criminal Code, which states, "Anyone who intentionally causes or facilitates indecent acts by another person with another person and makes it a habit shall be punished by imprisonment for a maximum of one year and four months or a maximum fine of fifteen thousand rupiah."

Article 506 of Book III of the Criminal Code concerning violations of public order states, "Anyone who takes advantage of a woman's indecent acts and makes it their livelihood shall be subject to a maximum imprisonment of one year." However, in several cases, judges consistently use the ITE Law to prosecute online prostitution, which only applies to content or information disseminators but not to users and workers (prostitutes). Sex workers can be charged if they participate in the distribution of pornographic content.

Based on the above background, the author can outline the focus of this research: how is the regulation of online prostitution crimes regulated in Law Number 1 of 2024, the second amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions?

Literature Review

A. Overview of Criminal Acts

1. Definition of Criminal Acts

According to Moeljatno, the term "criminal act" is essentially a translation of the Dutch word "strafbaarfeit." The word "strafbaarfeit" was then translated into Indonesian. Some words used to translate "strafbaarfeit" by Indonesian scholars include "act of crime," "delik," and "criminal act." (Gunadi & Efendi, 2014). Indonesian legislation varies widely in the definition of strafbaarfeit. However, the various terms share the same meaning.

According to Tongat, the use of these terms is not inherently problematic, as long as they are contextually appropriate and have a consistent understanding. Therefore, these terms are used interchangeably, and in other contexts, the term "crime" is also used to convey the same meaning. The definition of a crime can be seen from expert opinions, including Vos, who defines a crime as an act punishable by law. Van Hemel, on the other hand, defines a crime as an attack or threat to the rights of others. Simons, a crime, according to Simons, is an unlawful

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act committed intentionally or unintentionally by a person who is held accountable for their actions and is declared punishable by law. Therefore, a simple definition of a crime is an act prohibited by law, a prohibition accompanied by the threat (sanction) of a specific penalty for anyone who violates the prohibition. (Gunadi & Efendi, 2014).

2. Elements of a crime

The elements of a crime are certain conditions that must be met if someone is to be punished. According to Lumintang, every crime in the Criminal Code can generally be broken down into two types of elements: subjective and objective elements. Subjective elements are those inherent in the perpetrator and include everything contained in their heart. Objective elements, on the other hand, are those elements related to circumstances, namely the circumstances under which the perpetrator's actions must be carried out. (P.A.F. Lamintang & Franciscus Theojunior Lamintang, 2014).

3. Types of crimes

In several literatures, criminal law experts have distinguished various types of criminal acts (delicts), as follows: (Efend, 2014)

a. Crimes and violations

A crime (*rechtdelict*) is an act or behavior that violates the law. Such acts are very detrimental to society, resulting in a loss of balance, peace, and order. Meanwhile, a violation (*wetsdelict*) is deviant behavior involving actions carried out according to one's own will without regard for established regulations. The division between crimes and violations is stipulated by law. Crimes are regulated in Book Two of the Criminal Code, while violations are regulated in Book Three..

b. Formal offenses and material offenses

Formal offenses are actions whose formulation focuses on prohibited actions. This means that the action has been completed if he carries out the action threatened by the law. Meanwhile, material offenses are actions whose formulation focuses on undesirable (prohibited) consequences. This means that the action is considered complete if it results in a prohibited action.

c. Commissioner's offense, commission's offense, and commission's commission's offense

A commission offense is an act that violates a prohibition, namely doing something prohibited, such as theft, embezzlement, and fraud.

An omission offense is an act that violates an order, namely failing to do something ordered/required, such as failing to appear as a witness in court (Article 522 of the Criminal Code) or failing to help someone in need (Article 531 of the Criminal Code).

A commission offense is an act that violates a prohibition (*dus delik commissionis*), but can be committed by failing to act, such as a mother killing her child by failing to breastfeed (Articles 338 and 340 of the Criminal Code), or a train station attendant causing a train accident by intentionally failing to move the station (Article 194 of the Criminal Code).

d. *Delict dolus and delict culpa*

A *dolus* crime is an act that contains an element of intent, such as Articles 187, 197, 245, 263, 310, and 338 of the Criminal Code. A *culpa* crime, on the other hand, contains negligence as an element, such as Articles 195, 197, 201, 203, and 231 paragraph 4, and Articles 359 and 360 of the Criminal Code.

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e. Single offense and series of offenses

A single offense is an act that is committed only once. A serial offense is an act committed repeatedly to the point that it becomes a habit, as in Article 481 (receiving as a habit) of the Indonesian Criminal Code.

f. Ongoing offenses and completed offenses

A continuing offense is an act characterized by the continued existence of the prohibited condition, such as depriving a person of liberty (Article 333 of the Criminal Code).

A completed offense is an act that fulfills all the elements of a crime, including committing, neglecting, or causing a specific consequence, such as incitement, murder, and arson.

g. Complaint offenses and report offenses

A complaint offense is an act that is only prosecuted if there is a complaint from the injured party (*gelaedeerde partij*), such as insult (Article 310 etc. jo. Article 319 of the Criminal Code), adultery (Article 284 of the Criminal Code), extortion (blackmail with the threat of defamation, Article 335 paragraph 1 sub 2 jo. Paragraph 2 of the Criminal Code). Complaint offenses are distinguished according to their nature, as:

- 1) An absolute complaint offense is an act which in all circumstances constitutes a complaint offense, for example Articles 284, 310, 332 of the Criminal Code.
- 2) A relative complaint offense is an act which in certain circumstances constitutes a complaint offense, it is called relative because in this offense there is a special relationship between the perpetrator and the person affected, for example Article 367 of the Criminal Code.

h. Simple crimes and crimes with aggravating/mitigating factors

A simple crime is an act in the basic form as formulated by the law maker, for example assault (Article 351 of the Criminal Code), theft (Article 362 of the Criminal Code), aggravated crimes, for example assault causing serious injury or death (Article 351 paragraph 2, 3 of the Criminal Code), theft at night and so on (Article 363 of the Criminal Code). Meanwhile, crimes whose criminal threat is reduced because it is carried out under certain circumstances, for example, murder of children (Article 341 of the Criminal Code). This crime is called *geprivelegeerd delict*. *Delik ekonomi*

Delik ekonomi adalah perbuatan yang melanggar undang-undang dalam bidang ekonomi dan bidang keuangan serta mempunyai sanksi pidana. Tindak pidana ekonomi terdapat dalam pasal 1 Undang-undang Darurat Nomor 7 Tahun 1955, Undang-Undang darurat tentang Tindak Pidana Ekonomi.

4. Inclusion of Criminal Acts

The inclusion of a criminal act is an extension of a punishable act. It's not uncommon to read an article's formulation and assume that a crime only applies to one perpetrator, while in reality, in addition to the perpetrator, one or more people may have participated in the act. This is regulated in detail in Articles 55 through 62 of the Criminal Code.

There are two views regarding the inclusion of a criminal act. First, that inclusion is not a crime itself because its form is imperfect, but rather merely a matter of criminal responsibility. Second, that inclusion is an extension of a punishable act, meaning that inclusion is a specific form of crime. Moeljatno agrees with the second view, stating that inclusion is a stand-alone and specific act, or *delicta sui generis* (Hiariej, 2024).

In line with the statement above, Eddy O.S. Hiariej argues that inclusion is an extension of the perpetrator who can be held criminally responsible and not a stand-alone act. Using the

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basic argument, namely, the chapter on inclusion located in Book One of the Criminal Code regarding general provisions, the chapter on inclusion concerns who can be held criminally responsible, meaning, inclusion focuses on the perpetrator rather than on the actions and charges of the public prosecutor. Articles regarding the inclusion of criminal acts must be juxtaposed with other articles related to crimes or violations.(Hiariej, 2024). If more than one person commits a crime, whether as an accomplice or co-conspirator, they can be punished by applying the relevant articles. The theory of criminal accomplice (deelneming) occurs when a crime involves more than one person, so each person must be held accountable.

B. Overview of Online Prostitution**1. Understanding Online Prostitution**

According to the general public, prostitution is sexual intercourse between a man and a woman without the bonds of a legal marriage. This act is viewed as low morally and ethically, a sin according to religion, and reprehensible and disgusting according to society. However, prostitution is a profession and a business venture for economic purposes.

Discussions regarding online prostitution, the unclear definition of which requires a word mapping. Online prostitution is divided into two terms: "prostitution," which refers to the exchange of sexual relations for money or gifts as part of a prostitution trade, and "online," which implies "connected." In reality, these two terms are difficult to define. Online prostitution is defined as prostitution transactions that use the internet as a means of connecting commercial sex workers with those seeking their services. (Imam et al., 2018).

Commercial sex workers typically wait for customers on the roadside or in brothels. However, with the advent of supporting facilities or connections (the internet), sex workers no longer have to laboriously wait for customers on the roadside, but instead simply wait for orders via social media. Each of these definitions presents its own challenges, as society has varying social and moral standards when defining online prostitution. Based on the above description, it can be concluded that there are at least four main characteristics of prostitution: payment, infidelity, emotional indifference, and livelihood.

2. Used in Online Prostitution

The development of information technology has transformed human civilization, both economically, socially, and culturally. This poses a major challenge for the Indonesian nation, as it can be beneficial if used for positive purposes, but conversely, it can be detrimental if used for negative purposes.

The development of information technology has also influenced changes in prostitution transaction patterns. Prostitution transactions can now be conducted via the internet, a process often known as online prostitution.

In this increasingly advanced technological era, prostitution practices have also become increasingly sophisticated and modern. Prostitutes are keen to utilize technology, hoping that it will simplify their work. One such technology is the internet. With the internet, prostitutes can use social media to facilitate their work.

There are several media that can be used by online prostitution workers, including:

a. Website

A website is a collection of interconnected pages on a specific internet domain created for a specific purpose and accessible to the public. Creating a website is very

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easy and requires minimal requirements, requiring only a few personal details. This platform can be used by anyone, whether an individual, a group, or an organization. There are many types of websites available through Google, ranging from free to paid, depending on the quality of the website. Websites, both free and paid, facilitate the promotion of prostitution by displaying complete information about sex workers, such as photos, age, body type, price, and more.

b. Forum

A forum is a meeting place for a community of people with similar interests and goals to exchange ideas on a topic or issue related to the forum. Traditionally, forums were held face-to-face, but with the advancement of technology, forums can be held using social media accounts, eliminating the need for face-to-face discussions.

Forum membership can be open or closed, depending on the forum's purpose. Members can contribute by writing articles or participating in discussions with other members, allowing for interaction with a wider audience.

c. Social Network

A network is a communication system that uses one or more systems to connect transmission lines of communication devices to form a unified system. With a network, one computer can share data from another computer.

The emergence of social networking sites (networks) began with an initiative to connect people from all over the world. The hope was for them to stay in touch with family and friends, reconnect with old acquaintances, or simply chat. A social network is a social structure consisting of individual or organizational elements. This network shows the way people connect through shared social relationships, from those they know daily to those they share family.

d. Application

Rapid technological advancements have made people increasingly creative in utilizing it. This is evident in the many new applications created by humans that facilitate the fulfillment of various needs. Today, prostitution crimes often utilize applications as a medium for their activities. Commonly used applications include Facebook, WhatsApp, Instagram, Line, Twitter, Me-Chat, and others.

3. Parties Involved in Online Prostitution

Some parties involved in online prostitution practices include:

a. Pimp

A pimp is a person who acts as a caregiver, intermediary, or owner of commercial sex workers (CSWs). A pimp is responsible for distributing or offering prostitution services to clients, who then profit from their activities.

In general, prostitution businesses, especially mass prostitution, do not involve direct contact between sex workers and clients. Sex workers prefer to use pimps, who act as intermediaries between clients and sex workers.

b. Prostitute

A commercial sex worker (CSW) is a person who engages in sexual activities for payment or compensation.

Many terms are used to describe prostitutes, such as commercial sex worker (CSW), prostitute, and prostitute. Sex workers are the primary victims of exploitation in the prostitution industry.

DOI:c. *PSK service users (users)*

A user is a person who uses prostitution services. The user's role is crucial in this context, as they are the point of contact for online prostitution transactions. However, other parties also contribute to the crime of online prostitution.

d. *Other parties*

Online prostitution crimes involve not only sex workers, users, and pimps; sometimes other parties are also involved, such as those who facilitate or fund the crime. These parties play a significant role in facilitating online prostitution.

C. Review of Law Number 1 of 2024 concerning Electronic Information and Transactions on online prostitution

The highly dynamic development of human life, coupled with the rapid development of technology, has changed people's lifestyles. This certainly presents a challenge for lawmakers to ensure that their legal products can adapt to these developments.

The regulation of online prostitution in Law Number 1 of 2024, the second amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions, Article 27 paragraph (1), reads, "Anyone who intentionally and without authority broadcasts, displays, distributes, transmits, and/or makes accessible electronic information or electronic documents containing content that violates morality for public knowledge."

The elements of Article 27 paragraph (1) above are :(Sunarso, 2009).

1. Any person
2. Intentionally and without authority
3. Distributing, and/or transmitting, and/or making accessible electronic information and transactions, and/or electronic documents;
4. Possessing content that violates morality, or gambling content, or content that insults, and/or defames, or content that extorts, and/or threatens

Judging from the elements above, there are no provisions regarding online prostitution, but only limited criminal threats for anyone who distributes or transmits content that violates morality via the internet. The act of violating morality as regulated in Article 27 paragraph (1) is the reason for the article being used in the crime of online prostitution.

Then, the sanctions for Article 27 paragraph (1) are emphasized in Article 45 paragraph (10) which reads, "Any person who fulfills the elements as referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah)."

Research Methods

In order to be more focused and scientifically accountable, this thesis writing research uses writing methods including:

1. Research Approach

In conducting this research, the author took several approaches. First, the normative juridical approach is an approach carried out based on the main legal material by examining theories, legal principles, and laws and regulations related to the research.

2. Types of research

The type of research used is qualitative research, namely data that is not in the form of numbers but rather by conducting observations or field studies to obtain valid data obtained through recordings, observations, interviews, or written materials such as documents, laws, books and so on in the form of variable expressions.

3. Research Object

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The object of this research is Law Number 1 of 2024 concerning the second amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions.

4. Data source

According to Lofland in the book written by Basrowi and Suwandi, the main data sources in qualitative research are words and actions, the rest are additional data such as documents and so on.(Efend, 2014) The data sources in this study are as follows:

a. Primary Data

Primary data is data obtained by researchers directly from the object being studied. In this study, the primary data sources were obtained from:

- 1) Law Number 1 of 2024 concerning the second amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions
- 2) The Criminal Code
- 3) Law Number 21 of 2007 concerning the Eradication of the Crime of Human Trafficking
- 4) Law Number 44 of 2008 concerning Pornography.

b. Secondary Data

Secondary data is data obtained from documents and publications in finished form, obtained through library materials. The secondary data in this study are reference data in the form of books, journals, library data, internet sites, interview results, and other sources related to the research focus.

c. Tertiary Data

This is legal material that provides explanations and guidance on primary and secondary legal materials. This tertiary material is obtained from legal dictionaries, the Great Indonesian Dictionary, English dictionaries, and so on..

Results And Discussion

The provisions regarding online prostitution in Law Number 1 of 2024, the second amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions, are contained in Article 27 paragraph (1). However, this law does not specifically regulate online prostitution, but only regulates the prohibition of unauthorized broadcasting, displaying, distributing, or transmitting electronic information or electronic documents that violate morality for public access. This means that the ITE Law itself does not provide legal certainty, so if it is used in the crime of online prostitution, other regulations that explain what constitutes a violation of morality are required. Nevertheless, Article 27 paragraph (1) of the ITE Law is often used to prosecute online prostitution.

The Criminal Code does not specifically discuss provisions regarding violations of morality, unlike the pornography law, which details acts that violate morality. This indicates that Article 27 paragraph (1) of the ITE Law is still open to multiple interpretations, leading to differences in law enforcement in cases of online prostitution.

The lack of clarity regarding the provisions for violating morality in the ITE Law makes it difficult for law enforcement to determine the applicable articles in online prostitution cases, especially since this issue remains a matter of debate among criminal law experts. In fact, in some online prostitution cases, law enforcement does not use the ITE Law, but instead uses the Law on the Eradication of Criminal Acts of Human Trafficking, the Pornography Law, and the Criminal Code.

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One reason for not enforcing Article 27 paragraph (1) of the ITE Law in online prostitution cases is because it is considered too lenient and does not complicate the resolution process. The aforementioned article only regulates the parties who distribute or transmit content but does not address the crime of online prostitution, so it cannot be applied to workers (sex workers), users, or other parties who carry out the crime. Sex workers can be prosecuted if they participate in distributing content that violates morality. This is feared to lead to negligence on the part of other parties involved due to the lack of sanctions for their actions.

The pornography law and the Criminal Code serve as guidelines for defining acts that violate morality. There are differences regarding the regulation of immorality in the two laws. In the Criminal Code, the crime of prostitution is a crime of adultery, which only applies to service providers or those who distribute the content (which can be workers or pimps). Whereas workers (CSWs) and users can be prosecuted if one of them is already in a relationship, either husband or wife. This can also be prosecuted if there is a report from the injured party, as this is a complaint offense. Meanwhile, the pornography law is broader and more stringent, so that those prosecuted are not only service providers (pimps) but also workers or users, and even parties who assist in carrying out the crime.

The legal uncertainty in the application of Article 27 paragraph (1) in conjunction with Article 45 paragraph (1) concerning ITE, this is still a dilemma because the law does not provide an explanation regarding acts that violate morality. In addition, the injustice contained in this article is that it only ensnares people who distribute content, whereas in cases of online prostitution many parties are involved so that these acts can occur. The parties involved in this case are users and providers of facilities (hotels) and even service providers, either directly or through pimps, who should also be held accountable. According to Simons, criminal acts do not only occur in intentional acts, but also unintentional acts if they are regulated in a law and the person is able to take responsibility.(Gunadi & Efendi, 2014).

In line with Moeljatno's statement, the elements of a criminal act are: (human) actions that meet the requirements of the law (formal requirements), and are unlawful (material requirements) (Gunadi & Efendi, 2014). Although the ITE Law does not regulate parties who facilitate online prostitution, such acts are regulated in Article 7 of Law Number 44 of 2008 concerning Pornography. Therefore, with this regulation, parties who provide facilities have violated positive law or committed a crime and must be held accountable.

The above problem also results in legal inefficiencies, because online prostitution is a crime that involves many parties. Therefore, it is not sufficient to impose sanctions only on those who distribute content, but also on all parties involved in the crime. The occurrence of online prostitution crimes begins with those willing to provide services (prostitutes), then those who will use the services (users), which then leads to the emergence of parties who distribute the services (pimps). Therefore, all parties involved in online prostitution cases must be held accountable for their actions, to provide a deterrent effect so that this crime does not happen again.

The pornography law is more appropriate for prosecuting online prostitution cases because its provisions are more stringent and detailed. Although the law does not explicitly mention online prostitution, Article 1 paragraph (2) does mention pornography services provided through media, including television, radio, telephone, or even the internet. This means that this law applies to pornography crimes committed through the internet. The same applies to those involved in online prostitution, including sex workers, users, and even those who facilitate and fund them, all of

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which are subject to criminal sanctions. Therefore, the pornography law is more appropriate for online prostitution cases than the Electronic Information and Transactions (ITE) Law. If Article 27 paragraph (1) of the ITE Law is used for online prostitution crimes, then this article must be juxtaposed with the pornography law because it is more stringent and detailed than the Criminal Code and the Anti-Violence Law, even though it also regulates violations of morality.

According to Eddy O.S. Hiariej, that inclusion is an extension of the perpetrator who can be held criminally responsible and is not a stand-alone crime.(Hiariej, 2024). This means that the involvement of the perpetrator in a crime is an inseparable part of the crime. Eradicating online prostitution cases must involve all parties involved to provide a deterrent effect that extends beyond the content distributor. Law enforcement officials should be resolute in their response to online prostitution cases..

Conclusions and Practical Implication

Based on research findings, the handling of online prostitution cases through Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) does not explicitly regulate the crime of online prostitution. The article only regulates the dissemination of information containing immoral content without providing a clear definition of the act. This creates weaknesses in legal certainty and has the potential to give rise to different interpretations in its application. Furthermore, this provision can only ensnare parties who broadcast, display, distribute, transmit, or make accessible information as stipulated in Article 27 paragraph (1) of the ITE Law, while the main perpetrators or other parties involved in online prostitution cannot be prosecuted

This situation also creates legal injustice in its enforcement, where the legal subjects who are ensnared do not reflect the entire perpetrators of the crime. This limitation has an impact on the low efficacy of the law because the deterrent effect is felt only by those who disseminate information, not the main perpetrators or those who directly benefit from online prostitution. Therefore, the use of Article 27 paragraph (1) of the ITE Law needs to be supplemented and supported by other laws and regulations that specifically regulate online prostitution, so that it can create legal certainty, legal justice and legal benefits.

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