

Prostitution in Sight of Indonesian UU-ITE (Information and Electronic Transactions Law)

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Abstract: Today human rights to have free expression in the internet has affected the world of the internet itself, both the increasing number of the content and the negative influence of the content to the internet users which have been accessed by all people that ultimately resulted in the increasing number of cybercrime in the internet world. Of these problems, Indonesia has set up a law regulating the use of media technologies and information in the Internet world. But it is not enough to inhibit the negative effects arising out of the development of information technology media. Many illegal businesses are transformed as a result of the development for example, prostitution is currently increasing in Indonesia which has undergone a change of targeting customers and now a days, the targets are the users of social media and internet as their customers by utilizing social media as a means of commercial promotion for them. The misuse of social media as prostitution is clearly considered as a crime in the virtual world which is caused by a number of gaps and less regulations that have been set by the ITE law to regulate online transactions in prostitution and there are no clear rules whether online transactions using social media for prostitution may be subject to legal sanctions of ITE'S Law or not. With the background of problem, it is required to analyze and study of the relationship between ITE'S Law Indonesia against online prostitution transactions as well as the solutions, so that, the action of cybercrimes like internet and online prostitution by using the internet media or social media can no longer be done freely by the actor of the cyber crimes such action.

Key words: Internet, cyber law, cyber crime, prostitution, prostitution online, UU-ITE

INTRODUCTION

The development of the internet and computer technology has created new opportunities for the actors of cyber-crimes (Brenner, 2001). The emergence of online communication technologies not only generate dramatically increasing in internet crime (cybercrime) but also resulted in the emergence of new types of crime in the world internet that led to the increasing number of acts of cybercrime in the virtual world (Boateng *et al.*, 2011). It certainly raises a problem for the legal system in a state including Indonesia about the misuse of the internet media (Gencer and Koc, 2012; Lubis and Maulana, 2010). Particularly in Indonesia, the government has realized the importance of regulations that govern the development of technology and then ITE's Law (Sidik, 2013) was created to set the negative impact of technology progress. One of the negative impacts in the development of information technology and internet world is the transformation of prostitution in Indonesia which has now been utilizing technology facilities and infrastructures as commercial media. Transaction of prostitution was once done in person now can be

obtained through the internet media to get more number of customers. This can be seen from short message, bulk e-mail sent to random users to offer services such as phone sex, sex services, sexting. Not only by short message, online prostitution is also utilizing social media such as Facebook, Twitter, Blogger, Blackberry Messenger and other social media that can fairly be authorized for online prostitution business owners to offer their products which can be accessed freely by all people including children. Broadly speaking in the world of internet crime or cybercrime has created ITE as a guide for users of information technology in the use of the internet but the emergence of the internet prostitution causes a confusion in the legal system in Indonesia in which the crime of prostitution in Indonesia has been regulated in the KUHP 296 (Widyanto, 2014).

Objective: Based on the background, the main problem today is the role of information and media technology in internet prostitution activities which generally use social media on the internet which has mainly been used by children up to teenagers where we use the stastical data based on other research. The broad scope of the internet

makes it difficult for Indonesia to overcome ITEs law. Based on these problems, it is necessary to re-analyze ITE Law and internet prostitution in Indonesia and to compare legal systems applied by other countries in response to the same issues about internet prostitution. So, it can produce a recommended method to overcome the problems of prostitution in Indonesia and the internet is expected to be incorporated in the legal system in di Indonesia, so, based on research and analysis made based on elibigle data for the ITE Law in Indonesia.

MAERIALS AND METHODS

The increasingly development of information technology media gives significant impacts (Lee and Whitley, 2010 Lee and Lee, 1997) to the pattern and lifestyle of society including one of them is the use of social media (Tjoab *et al.*, 2003) which has become the primary requirement for any level of society now. Social media has its own characteristics in information technology and it has the following characteristics:

- The message conveyed not only to one person but many people for example can control every aspect of message through SMS or internet
- The message conveyed freely without having to go through a gatekeeper
- The message conveyed tends to be faster than other media
- The message that determines the interaction time

Information technology in social media has become an addiction for the society, we can have more than one personal social media accounts, for example, someone who has a Facebook account may also have other social media accounts such as Twitter, blogs or other (Boyd and Ellison, 2007). There so many various benefits and features offered by social media service providers (Ahn, 2011; Pernisco, 2010). To see detail of media social being used rapidly by people in internet (Fig. 1).

Figure in May 2013, 74% of women were users of social networking sites, compared with 62% of men. Between February 2005 and August 2006, the use of social networking sites among young adult internet users ages 18-29 jumped from 9- 49%. Social networking site use by age group, over time. The growing ubiquity of cell phones, especially, the rise of smartphones has made social networking just a finger tap away. Fully 40% of cell phone owners use a social networking site on their phone and 28% do so on a typical day. Young people, blacks, Hispanics, the highly educated and those with a higher annual household income are more likely to use SNS on

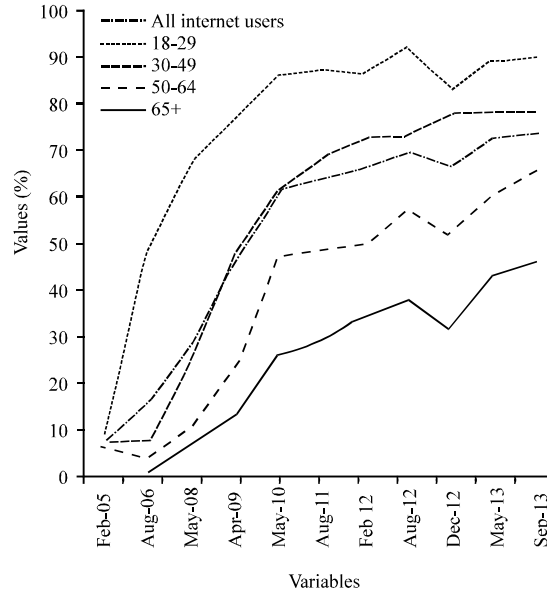


Fig. 1: Statistics of social media user; latest data from Pew Research Centers Internet Project Library Survey, July 18-September 30 2015. N = 5.112 internet users 18+; social networking site use by age group, 200-2013; The 96 internet users in each group who use social network site, over time

their phones than other groups that makes more users interested in using it. However, with the increasing number of benefits and features it is possible to be misused by cyber crime offenders. It can be seen from the number of cases that have occurred (Yadav and Quraishii, 2011) on social media such as Facebook, Twitter, blog or website. Another misuse of social media is online or internet prostitution. We realize that prostitution has already been existing for a long time (Ringdal, 2007), since, ancient times. Throughout the history, ancient society is patriarchal in which the society is dominated by men in the sense that men have economic power and law. In patriarchal society, women are treated as property of men. Thus, people believe that they have a right to have sex from women. That in current time prostitution could transform to something more efficient with use of media social to marketing it services. Figure 2 show us what media social being popular in current time:

- Multi-platform use is on the rise: 52% of online adults now use two or more social media sites, a significant increase from 2013 when it stood at 42% of internet users
- For the first time, more than half of all online adults 65 and older (56%) use Facebook. This represents 31% of all seniors

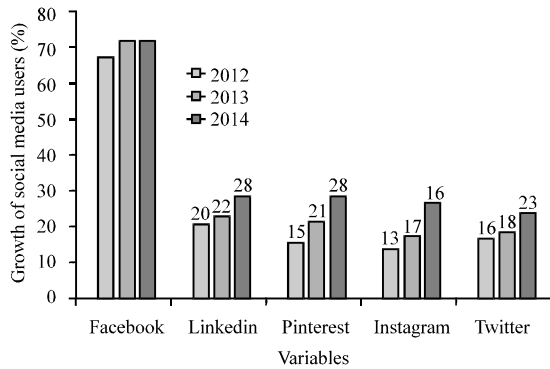


Fig. 2: Statistics of social media rank, pew research centers internet project surveys 2012-2014

- For the first time, roughly half of internet-using young adults ages 18-29 (53%) use Instagram and half of all Instagram users (49%) use the site daily
- For the first time, the share of internet users with college educations using Linked. In reached 50%
- Women dominate pinterest: 42% of online women now use the platform, compared with 13% of online men

Since, ancient times to the present, there have been many changes in the system of prostitution. In Indonesia, the movement of prostitution has reached the stage that is very difficult to eradicate, extremely difficult to prevent and prohibit the business due to the benefits achieved. Benefits are not only for the owner of the illegal business but also for the commercial sex workers. The prostitution girls are broadly classified into three factors: economic factors, biological factors and psychological factors. The main factor causing the prostitution business that has been still existing for now is economic factors and those needs are already existed, since, humans are to socialize in this world, therefore the age of adultery or prostitution has existed, since, human civilization. However, the higher the development in this modern age, the more negative impact the community will get, one of the negative impact is the change of a technical point of prostitution that has penetrated into the world of the internet, known as an online prostitution using social media as a commercial media. The features and facilities offered by the social media lead it a primary communication tool for them, moreover, the number of communication devices equipped with various features that are connected to the internet making the illegal business owners are increasingly spoiled by profession that it is so easy to attract prospective customers in a simple way such as short message and blackberry messenger, video chat, web cam, social networks such as Facebook, Google+,

YouTube, Twitter or through a portal sex which is rampant in the internet world of which targets are the all internet users. The acts of cybercrime such as online prostitution make anti-pornography officers who are on duty difficult to overcome it due to the illegal use of foreign site or domain. Another difficulty faced by Indonesian cybercrime division is that the cyber criminals can easily create a portal domain or sex that is not comparable to the human resources division of cybercrime in Indonesia, moreover, the use of social media providing comfort for the PSK in carrying out their profession provides typical difficulties for the lawyer in tracking the prostitution girl. The impact of the online prostitution business in the viewpoint of cybercrime is not much different from the usual prostitution business that we have long known which each of them is going to affect the morale of the children who frequently access the social media, children who are still under age will be affected by the content of the online prostitution ads and it is possible that they will be the subjects to potential customers of the online prostitution business. Not only adults but also teenagers that have high curiosity could participate plunged into it. They will also suffer from pre maturity that is they already understand the meaning of sexual intercourse. Another impact is that the increasing of several diseases related to sex such as gonorrhoea, syphilis, HIV and AIDS. There are a lot of cyber cases-online prostitution have occurred in Indonesia such as exploiting children via. the internet, the mode of massage services that offer prostitution services on the internet and through online prostitution which can provide artists as their workers.

The method used in this study using comparative which compares the law concerning the internet prostitution in other country in this case is Canada with those in Indonesia and the results of the research will produce a recommendation legislation to be added at the ITE Law in order to overcome internet problems prostitution in Indonesia.

Comparison of law prostitution in Indonesia and other countries: In Indonesia, prostitution has been banned by the government. Referring to the preamble of Law 10/2012, the ratification of the child protocol optional is a manifestation of government protection against Indonesian children from economic and work exploitation that endanger or interfere the childs education, health damaging the physical, mental, spiritual, moral and social development. In criminal law has been set the rules on prostitution on Article 296 of KUHP about ethics or morale. In the regulation it is clear that prostitution is prohibited by the state. Other laws regulating these

Table 1: Comparison table

Regulation	I	C
Pornography/porno action regulation	Available	Available
Use of mobile to pornography/porno action	Not available	Available
Regulation sexual services for children under 18 years is not allowed	Not available	Available
Communication of sex service, consequently can be restricted with new language that prohibits communication restricted to violate the law	Not available	Available
Punishment of internet and media social abuse	Not available (or low response)	Available
Child sex tourism in which the laws governing children to avoid the activities associated with prostitution, either online or not	Not available	Available
Special regulation about internet prostitution or prostitution and internet prostitution were regulated in difference regulation	Not available	Available

activities in Indonesia are local regulations that can sentence the criminals of prostitution that is the girl and the user such as (Malamuth and Check, 1985):

- Act of 1945
- The draft Kriminal code (Webbook Van Strafrecht) Gazette No. 732 of 1915
- Law No. 23 of 2002 on protection of children
- Law No. 21 of 2007 on the eradication crime of trafficking in persons
- Law No. 10 Year 2012 on the ratification of the optional protocol to the convention on the rights of the child on the sale of children, child prostitution and child pornography
- Perda DKI Jakarta No. 8 of 2007 on public order

Getting the rapid development of information technology, it will demand the necessary rules as a guideline, so that, the development and utilization of information and communication technology remains in its corridors. As a solution to the matter, an ITE Law is designed. As ITEs Law is inaugurated, the impacts of the crimes that occur in the world ITE will be reduced as anybody's acts will be supervised directly by the ITEs Law. The ITE Law doesn't allow everybody to be merely free in writing, uploading, etc. Because if a person does not accept our writing or anything we may be subject to the act of bad name and we may be penalized in accordance to the ITES Law both criminal and civil penalties. In ITES Law regulates various legal protections of activities that use the internet as a medium, both the transaction and the use of information as well as the various threats of punishment for crime over the internet and society in general.

One of the contents of ITES Law is "those who deliberately and without the right to conduct wiretaps on information and/or electronic documents or devices belonging to another person will be subject to penalties such as imprisonment and/or fines" (PKP2A II LAN, 2014). In ITEs Law regulates about the prohibition of the use of pornographic content in social media. But in fact

of, all the rules about the context of pornography cause the absence of those on the abuse of social media and the internet as a means and infrastructure of online prostitution. Lack of study on the ITE Law resulted in the misuse of information technology media. The other countries, exactly Canada also tend to experience difficulty in responding to the activities of online prostitution. In law sex workers in the Federal government, Bill C-36 previously there are gaps that make the online business free by law. They make the legislation to be amended so it cannot be used by the new criminal for doing so. In the seven amendments that have been made in parliament, there are a few paragraphs to be repaired in Bill C-36 that allow discrimination in public communication for those who want to buy sexual services for children under 18 years. Communication of sex service, consequently can be restricted with new language that prohibits communication restricted to violate the law. The Canadian government seems to have appropriate attention to the problems prevailing legislation with the number of the amendment was done to follow up the issue of online prostitution business. In addition to the changes in Bill C-36, there are also amendments and other changes that is the addition of child sex tourism in which the laws governing children to avoid the activities associated with prostitution, either online or not.

Table 1 shows clearly the difference between us and other countries in response to the problems of prostitution and internet prostitution in the country compared to Indonesia we should pay more attention to aspects such as the aspect that has been done by Canada.

Proposed Law at ITE: Based on the table comparison of internet law prostitutes are displayed in Table 2 have Menuunjukkan Banyaknya shortcomings in the legal ITE Indonesia against a variety of variables that have been provided, thus, causing the rampant acts of prostitution internet in Indonesia, other factors are lack of information about the law abuse internet in the public at large, so as to be able to overcome the problems of prostitution

Table 2: Proposed regulations at ITE

Regulation	I
Pornography/porno action regulation	Available
Use of mobile to pornography/porno action	Available
Regulation sexual services for children under 18 years are not allowed	Available
Communication of sex service, consequently can be restricted with new language that prohibits communication restricted to violate the law	Available
Punishment of internet and media social abuse	Available
Child sex tourism in which the laws governing children to avoid the activities associated with prostitution, either online or not	Available
Special regulation about internet prostitution or prostitution and internet prostitution were regulated in difference regulation	Available

internet is expected to UU ITE can add points of law that does not exist in Canada and the country should be adjusted to the law in Indonesia but with the same concept. We hope by adding a few points from a comparison with other countries the level of internet prostitution activity may decrease the level of legal force ITE in Indonesia become stronger.

CONCLUSION

From these statements above we can conclude that the increasing development of social media in technology and information in Indonesia can give negative effects on the growth of public morals. The growing number of prostitution businesses uses social media. Lack of control makes it more developed. As if the existence of ITEs Law 2008 could not regulate the online activities. Supposedly ITES Law whose purpose is to regulate the rules in information technology can prevent the misuse of the information media. To overcome this problem, amendments and changes to the law on ITE are required. There must be more detailed regulation of using social media and internet to run a business to prevent and limit it so that it cannot operate freely.

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REFERENCES

Ahn, J., 2011. The effect of social network sites on adolescents social and academic development: Current theories and controversies. *J. Am. Soc. Inf. Sci. Technol.*, 62: 1435-1445.

Boateng, R., L. Olumide, R.S. Isabaliya and J. Budu, 2011. Sakawa-cybercrime and criminality in Ghana. *J. Inf. Technol. Impact*, 11: 85-100.

Boyd, D.M. and N.B. Ellison, 2007. Social network sites: Definition, history and scholarship. *J. Comput. Mediated Commun.*, 13: 210-230.

Brenner, S.W., 2001. Cybercrime investigation and prosecution: The role of penal and procedural law. *Murdoch Univ. Electron. J. Law*, Vol. 8,

Gencer, S.L. and M. Koc, 2012. Internet abuse among teenagers and its relations to internet usage patterns and demographics. *Educ. Technol. Soc.*, 15: 25-36.

Lee, H. and E.A. Whitley, 2002. Time and information technology: Temporal impacts on individuals, organizations and society. *Inf. Soc.*, 18: 235-240.

Lee, J.K. and W. Lee, 1997. Intelligent agent based contract process in electronic commerce: UNIK-AGENT approach. Proceedings of the 30th Hawaii International Conference on System Sciences 1997, Vol. 4, January 7-10, 1997, IEEE, South Korea, ISBN:0-8186-7743-0, pp: 230-241.

Lubis, M. and F.A. Maulana, 2010. Information and electronic transaction law effectiveness (UU-ITE) in Indonesia. Proceedings of the 2010 International Conference on Information and Communication Technology for the Muslim World (ICT4M), December 13-14, 2010, IEEE, Malaysia, Asia, ISBN:978-1-4244-7920-7, pp: C-13-C-19.

Malamuth, N.M. and J.V. Check, 1985. The effects of aggressive pornography on beliefs in rape myths: Individual differences. *J. Res. Personality*, 19: 299-320.

PKP2A II LAN, 2014. [Raising the curtain mushrooming online prostitution]. PKP2A II LAN, Makassar, Indonesia. (In Indonesian) <http://makassar.lan.go.id/index.php/survei/refleksi/%20485-menguak-tabir-menjamurnya-prostitusi-online>

Pernisco, N., 2010. Social media impact and implications on society. *Stud. J. Media Literacy Educ.*, 1: 1-17.

Ringdal, N.J., 2007. Love for Sale: A World History of Prostitution. Atlantic, Ormond Beach, Florida, ISBN:9781843543145, Pages: 435.

- Sidik, S., 2013. [The impact of legislation information and electronic transactions (UU ITE) on the legal and social changes in society (In Indonesian)]. *Widya Sci. J.*, 1: 1-7.
- Tjoa, A.M., P. Brezany and I. Janciak, 2003. Towards grid based intelligent information systems. Proceedings of the 2003 International Conference on Parallel Processing, October 6-9, 2003, IEEE, Vienna, Austria, ISBN:0-7695-2017-0, pp: 503-505.
- Widyanto, M.T., 2014. [Protection of rights of women victims of sexual misconduct viewed from the perspective of criminal law (In Indonesian)]. *Sci. J. Legal Stud.*, 1: 1-18.
- Yadav, I. and F. Quraishi, 2011. Emerging platform for E-crime: Issues of social networking websites in India. *Intl. J. Criminal Justice Sci.*, 6: 372-385.