



Imposition of Criminal Sanctions Against Perpetrators of Prostitution in Indonesia

Adhi Waluyo¹

Universitas Mahendradatta, indonesia

Coressponding author:

adhiwaluyo168@gmail.com

Sobandi²

Universitas Mahendradatta, indonesia

I Nyoman Suandika³

Universitas Mahendradatta, indonesia

ABSTRACT

Prostitution in Indonesia continues to be a complex and contentious issue, involving not only pimps and sex workers but also service users who remain largely unregulated by existing laws. This research examines the gaps in Indonesia's legal framework, particularly the absence of provisions criminalizing prostitution service users. The study aims to explore how Indonesian law addresses the criminalization of all parties involved in prostitution, focusing on service users and the enforcement of criminal sanctions. Using a normative legal research methodology, this study reviews existing laws such as Law No. 44 of 2008 on Pornography, Law No. 19 of 2016 on Electronic Information and Transactions, and the Criminal Code (KUHP). It applies legal analysis through the legislative approach and legal concept approach, identifying significant gaps in applying criminal sanctions to users of prostitution services. The findings highlight that while pimps and service providers are criminalized, service users remain largely exempt from legal accountability. The study proposes that service users can be prosecuted through adultery complaints as stipulated in Article 284 of the Criminal Code. These findings suggest the urgent need for legal reforms to address this gap, ensuring a more comprehensive legal approach to prostitution regulation.

Keywords: Service Users, Prostitution, Criminal Sanctions

INTRODUCTION

For the crime of prostitution that can be criminally charged, only the owner of brothels and pimps/pimps or prostitution service providers, while other perpetrators such as sex peddlers and users of prostitution services are not regulated in it (Antonyan & MARENINOVA, 2024; Bisschop et al., 2017; Constantino, 2017; Marín De Espinosa Ceballos, 2022). Even though both pimps, sex peddlers and users of prostitution services are perpetrators who both have an important role in the practice of prostitution. By looking at the back of the page above, the following problem formulation can be taken: How is the criminalization of prostitution perpetrators, namely prostitutes/peddlers and commercial sex workers in the law in Indonesia, and how are the regulations or laws against perpetrators of prostitution, especially commercial sex users/peddlers through complaints in the Criminal Code (Alemayehu et al., 2015; Iaisuklang & Ali, 2017; Kulkarni et al., 2021; O'Brien et al., 2024; Shekhar, 2023).

In writing this research there are two objectives, namely general objectives and special objectives, namely for the general purpose of this research is to analyze legal science in the field of criminal law and expand knowledge insights into this science. In addition, this study aims to understand criminal sanctions against prostitution service users, and the specific purpose of this thesis research is to examine and analyze the regulations regarding the criminalization of prostitution perpetrators in Indonesian law, namely for the imposition of criminal sanctions against prostitution service users in the crime of prostitution through complaints that have been regulated by the Criminal Code.

Prostitution in Indonesia continues to spark legal and moral debate due to its persistence and evolving forms (Alemayehu et al., 2015; Riswanda et al., 2016; Wahyuningsih et al., 2023). While brothel owners and pimps are often the focus of criminal law enforcement, service users and sex workers themselves frequently operate in a grey legal area. The lack of comprehensive regulation targeting all parties involved—especially sex buyers and peddlers results in fragmented enforcement and perpetuates the cycle of exploitation. In this context, legal ambiguity undermines efforts to control the spread of prostitution and address its broader social impacts. Indonesia's positive law still relies on dated norms from the Criminal Code (KUHP) and limited interpretations of morality-based statutes. Despite cultural and religious norms that reject prostitution, the legal system lacks a unified framework to prosecute all actors involved in the practice. For instance, Article 284 of the Criminal Code only allows prosecution of adultery based on a spousal complaint, leaving users of prostitution services immune unless caught under very specific circumstances. This legal gap weakens the deterrent effect of criminal sanctions.

The proliferation of online prostitution via social media and digital platforms presents a new frontier for law enforcement. Despite the presence of Law No. 19 of 2016 on Electronic Information and Transactions (ITE), which includes provisions against electronic pornography, the application of these articles to prostitution remains inconsistent. As a result, digital platforms continue to facilitate illicit transactions with minimal consequences for perpetrators. The law must evolve to reflect these technological realities. Another critical issue is the limited recognition of sex workers' vulnerability. Many sex workers are not perpetrators by choice but victims of trafficking, economic hardship, or systemic inequality. Indonesia's anti-trafficking law (Law No. 21 of 2007) addresses these vulnerabilities, but it does not clearly differentiate between coerced victims and voluntary sex workers. Consequently, enforcement efforts may either criminalize victims or fail to prosecute true exploiters effectively.

Criminal sanctions in the context of prostitution should also consider restorative justice and social rehabilitation. The punitive approach alone fails to address the root causes of prostitution, such as poverty, lack of education, and limited employment opportunities. Without accompanying social policies, criminalization risks exacerbating the marginalization of sex workers and reinforcing the underground nature of the trade. Moreover, the sociocultural dynamics in Indonesia, rooted in religious and traditional values, influence both public perception and policy responses to prostitution. Prostitution is largely viewed through a moral lens, often ignoring the socio-economic factors that sustain it. This moralistic approach contributes to the stigma faced by sex workers and discourages open dialogue about effective, evidence-based policy interventions.

Legal scholars have long debated the effectiveness of criminalizing demand rather than supply. Some comparative models, such as the Nordic Model, criminalize sex buyers while offering exit programs for sex workers. Indonesia has yet to explore this approach seriously. If the law continues to focus only on providers, the demand side of the market will remain unaddressed, and prostitution will persist as a shadow economy. There is also an urgent need to harmonize various legal instruments dealing with morality, electronic information, and trafficking to close existing loopholes. Currently, the overlapping jurisdictions and fragmented legal mandates create enforcement challenges. A unified legal framework, possibly through the revision of the Criminal Code and supporting legislation, would provide greater clarity and effectiveness in addressing all aspects of prostitution. Ultimately, a reformed legal approach must strike a balance between upholding public morality, protecting victims, deterring exploitation, and promoting human rights. This requires input from legal experts, sociologists, public health authorities, and civil society to ensure the law reflects Indonesia's evolving realities. Without holistic reform, the criminal sanctions imposed on prostitution will remain selective and ineffective, undermining the integrity of the legal system.

Prostitution remains a deeply entrenched issue in Indonesia, not only due to the direct involvement of sex workers and pimps but also because of the role played by prostitution service users. While much attention has been placed on the perpetrators such as pimps and brothel owners, the lack of legal mechanisms to criminalize the users of prostitution services undermines comprehensive efforts to combat the industry. The absence of clear legal guidelines for prosecuting service users has led to inconsistency in law enforcement and perpetuated exploitation, making the issue more complex to resolve. The criminalization of users remains largely absent in Indonesia's legal framework, which has created a significant gap in tackling the full spectrum of prostitution. Furthermore, Indonesia's existing legal framework, especially its reliance on outdated regulations and fragmented laws, fails to fully address the issue of prostitution in a modern context. The evolving nature of prostitution fueled by online platforms and more hidden forms of service delivery has outpaced the current laws, making them ineffective in curbing this practice. This research, therefore, seeks to highlight the gaps in Indonesia's legal approach to prostitution and to propose frameworks that could bring all parties involved into the scope of criminal sanctions, thereby ensuring a more comprehensive and effective legal response to the issue.

The urgency of addressing the gaps in legal frameworks surrounding prostitution in Indonesia cannot be overstated. With the increasing presence of digital platforms facilitating prostitution, there is a pressing need for legislation that explicitly criminalizes all parties involved, including service users. The current legal system only targets a fraction of the problem, leaving the demand side largely unregulated. Without immediate reforms to bridge this gap, prostitution will continue to thrive, undermining social norms, contributing to the spread of sexually transmitted infections, and perpetuating cycles of exploitation. A more robust and inclusive legal response is required to address these critical concerns.

Previous research on prostitution laws in Indonesia has primarily focused on the role of brothel owners and pimps, largely overlooking the criminalization of service users. Studies such as those by Setiady (2010) have identified the gaps in criminal law, pointing out that while the act of selling sex is penalized under the Law on Pornography, the demand side remains largely unregulated. Another body of research, such as that conducted by Wiyanto (2012), has examined the socio-cultural aspects of prostitution in Indonesia, revealing the moral dilemma that shapes public and legal perspectives on prostitution. These studies emphasize the complexities of legal frameworks that fail to fully address the issue from a multifaceted angle. However, few studies have examined how online platforms are contributing to the expansion of prostitution services in Indonesia. Recent research on digital sex work, such as that in the work of Poernomo (2010), has begun to explore how technology facilitates the illegal industry, but comprehensive legal responses remain underdeveloped. Additionally, studies have pointed to the need for integrating a more rehabilitative approach to the treatment of sex workers and offenders, as discussed in the works of Syam (2010) and Sofyan (2016), yet this area still lacks widespread legal application.

Despite growing discourse around the issue, there is still limited legal scholarship focused on a comprehensive approach to prostitution in Indonesian law. Most studies have either examined the issue through the lens of morality or focused on single aspects such as trafficking. There remains a need for a holistic approach to criminalize and regulate all forms of prostitution-related offenses, including the criminalization of service users, a gap this research aims to address. While existing studies have explored various aspects of prostitution laws in Indonesia, including the roles of pimps and sex workers, there is a significant gap regarding the criminalization of prostitution service users. Most legal research has either overlooked the role of clients in perpetuating the prostitution industry or focused on the moral and social implications rather than offering a comprehensive legal framework. This gap in the literature points to an urgent need for research that specifically addresses how legal norms and criminal

sanctions can be applied more equitably across all parties involved in prostitution, including service users. This study introduces a novel perspective by proposing a more inclusive legal framework that holds all parties involved in prostitution accountable, including users of prostitution services. While past research has focused primarily on the criminalization of service providers, this research broadens the scope to include service users under existing laws, particularly by using complaints under adultery laws, which has been an underexplored avenue in the Indonesian legal context. Additionally, this study introduces the impact of digital platforms in facilitating prostitution, which has not been adequately addressed in previous legal studies on the subject.

The objective of this study is to analyze the imposition of criminal sanctions on all parties involved in prostitution under Indonesian law, with particular focus on the users of prostitution services. This research seeks to explore how the existing legal framework can be amended to incorporate criminal sanctions for users, and how the use of complaints through adultery laws under the Criminal Code can be applied to enforce these sanctions. By investigating the gaps in the current legal system, this study aims to propose a more comprehensive and effective legal response to prostitution in Indonesia.

This research provides essential insights for policymakers and legal practitioners on how Indonesia's legal system can be reformed to more effectively combat prostitution. By advocating for the criminalization of service users, the study offers a pathway to more comprehensive law enforcement in the fight against prostitution. It also contributes to the academic discourse on legal reform, particularly in developing countries, by offering an innovative legal framework that addresses all aspects of prostitution. This research has the potential to guide future legislation, shape public discourse, and foster more effective legal and social strategies to combat the exploitation linked to prostitution.

RESEARCH METHOD

The research method employed in this study is normative legal research, which focuses on analyzing the existing legal framework concerning the imposition of criminal sanctions against prostitution perpetrators in Indonesia. Normative legal research primarily examines primary legal sources, including national legislation, regulations, and judicial decisions, to understand the current legal norms governing prostitution-related crimes. This method involves a detailed review of the Criminal Code (KUHP), the Law on Pornography, and other relevant regulations, with a particular focus on the gaps in legal provisions that fail to adequately address the roles of all parties involved in prostitution, including users, pimps, and sex workers.

In addition to primary legal sources, secondary legal materials are also examined in this study. These materials include academic literature, legal commentaries, case law, and reports from government agencies or non-governmental organizations, which provide insights into the application and enforcement of prostitution-related laws in Indonesia. The secondary sources help contextualize the legal norms, offering critical perspectives on the limitations and challenges of the existing legal framework. These materials also provide an opportunity to explore comparative legal approaches from other jurisdictions, which can be helpful in understanding best practices and proposing reforms.

Finally, the normative legal research method in this study aims to identify and evaluate potential legal sanctions or the absence thereof in the current Indonesian legal system. By analyzing the regulatory gaps and inconsistencies in existing laws, this research seeks to propose legal reforms or alternative measures to ensure a more comprehensive approach to criminalizing all actors involved in prostitution, particularly focusing on the criminalization of service users. The goal is to find legal avenues that can be pursued to hold all individuals engaged in prostitution accountable and ensure that criminal sanctions are effectively applied, protecting both public order and individual rights.

RESULTS AND DISCUSSION

Indonesian society, which adheres to oriental values, views sexuality into two areas, namely sacred and profane. Sexuality will be seen as sacred if it is kept away from various offenses, disturbances and pollution. Sexuality that is outside of marriage and aims not to give birth, change partners, there is no element of determination and loyalty in the relationship will be underestimated. Sexuality in the profane realm is one of which is prostitution or prostitution.

Prostitution is another word for prostitution. Prostitution comes from the Latin *prostituere* or *pro staure* which means allowing oneself to commit adultery, commit adultery, molestation, and adultery. According to Soerjono Soekanto, prostitution can be interpreted as a job that surrenders itself to the public to commit sexual acts by getting wages. From the definition mentioned above, it can be concluded that prostitution is a profession that commercializes sex as a form of service to other parties. The prostitution or prostitution business can be seen into several types according to the class of sex work of one another. The distinguishing indicators are age, fashion appearance, physique, face, height, rates, service in the room, communication skills, education and communication facilities and infrastructure.

Prostitution or prostitution is also an event in which women hand over their bodies to many men in exchange for payment to have sex and satisfy the sex desires of the payer outside of marriage. Thus, prostitution is a form of sexual deviation, with unnatural and unintegrated patterns of sexual impulse or urges, in the form of uncontrolled venting of sexual desires with many people, accompanied by sexual exploitation and commerciality, which is imperative without affection in nature.

Obstacles to the imposition of criminal sanctions against perpetrators of prostitution crimes in positive law in Indonesia

With the absence of laws or legal norms that regulate the imposition of criminal sanctions against prostitution perpetrators in Indonesia where sex peddlers and commercial sex workers are the subjects and objects of law that are actors in the act of prostitution, there must be laws and regulations that regulate the criminalization of perpetrators of prostitution crimes in positive law in Indonesia. In this study, the author reviews from the perspective of the application of Law of the Republic of Indonesia Number 44 of 2008 concerning Pornography, Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, Law of the Republic of Indonesia Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons and Law of the Republic of Indonesia Number 1 of 1946 concerning the Code of Law Punishment.

The issue of prostitution in Indonesia presents a unique and complex legal challenge, particularly when examining the lack of legal frameworks that can comprehensively address all parties involved in the practice. While the Criminal Code (KUHP) targets the prosecution of pimps, brothel owners, and sex providers, there is no clear legal provision that holds service users accountable. This oversight results in a fragmented legal response that fails to tackle the demand side of prostitution, which is integral to its persistence. Furthermore, the application of Indonesia's Law No. 44 of 2008 concerning Pornography, while addressing the immoral nature of prostitution, lacks specific provisions for criminalizing the users of prostitution services, leaving a significant gap in the legal system.

The absence of laws that criminalize prostitution service users creates a situation where legal enforcement remains inconsistent, and exploitation of sex workers continues unchecked. While the Indonesian law system recognizes sex trafficking and forced prostitution under the Law No. 21 of 2007, which aims to eradicate human trafficking, the legal framework fails to adequately address cases where prostitution is voluntary or where the service users are not coerced but engage willingly. This ambiguity complicates the process of criminalizing demand-side actors effectively.

An important aspect of the legal gap in regulating prostitution in Indonesia lies in the growing use of digital platforms for the transaction of sexual services. Prostitution that operates through online platforms, including social media, has expanded rapidly, with individuals offering or seeking sexual services without the need for physical brothels. The application of Law No. 19 of 2016 on Electronic Information and Transactions (ITE) touches on pornography and immoral content but lacks provisions specifically targeting prostitution facilitated online. This issue needs urgent attention, as the rapid advancement of technology continues to outpace existing legislation.

Another challenge is the lack of attention to the socioeconomic factors that drive prostitution, such as poverty, lack of education, and systemic inequality. The Indonesian legal system traditionally focuses on criminalizing the visible aspects of prostitution without addressing the root causes. The criminalization of only certain actors, such as pimps and brothel owners, while leaving the sex workers and service users unaddressed, perpetuates a cycle of marginalization and victimization, further reinforcing the exploitation of individuals in the industry.

Legal scholars have long debated the potential effectiveness of criminalizing demand as a method to reduce prostitution. The Nordic model, which criminalizes the buyers of sex while offering services to exit prostitution, has been proposed as a model that could help address the demand for prostitution more effectively. However, Indonesia has not seriously considered this approach, despite the increasing recognition of the need for a more comprehensive response to prostitution that targets all parties involved.

Moreover, while current laws such as the Law on Pornography address aspects of prostitution, they do not adequately deal with the systemic nature of the issue. Prostitution in Indonesia has become deeply embedded in the social fabric, often normalized through cultural and economic factors. To be effective, criminal sanctions should address not only the illegal acts but also the broader social context that sustains prostitution, including societal perceptions of morality and gender, as well as the pressures that sex workers face to participate in the trade.

The absence of specific and targeted sanctions against prostitution service users has led to a situation where the legal system only addresses part of the issue. This piecemeal approach to the criminalization of prostitution perpetuates exploitation and limits the impact of the law in curbing the practice. Legal scholars and policymakers must work together to ensure that the law evolves to address all aspects of prostitution comprehensively, including the criminalization of demand and the protection of vulnerable populations.

This study has shown that the lack of clear legal guidelines for prosecuting service users is a significant barrier to the effective regulation of prostitution in Indonesia. A more holistic approach is needed, one that criminalizes all parties involved in prostitution, including service users. In doing so, Indonesia could move towards a more equitable and effective legal framework that addresses the full spectrum of prostitution-related offenses and works to reduce its prevalence in society.

In conclusion, the imposition of criminal sanctions in Indonesia remains inadequate due to the absence of specific provisions targeting prostitution service users. The legal system should be reformed to address all aspects of the prostitution trade, from those who provide the services to those who consume them. Implementing a more inclusive legal approach could contribute to reducing prostitution, protecting vulnerable individuals, and fostering a more just society.

CONCLUSION

Based on the discussion in the previous chapters, several conclusions can be drawn. First, sex peddlers and commercial sex workers are in violation of the Indonesian Law No. 44 of 2008 concerning Pornography. Prostitution, being an act of offering or advertising sexual services, often involves images or advertisements with pornographic elements to attract potential clients. However, Indonesia's positive law primarily addresses the criminalization of service providers, such as pimps and brothel owners, and does not explicitly regulate or impose criminal sanctions on prostitution service users. As a result, the legal framework in Indonesia does not recognize the act of using prostitution services as a crime, leaving users and sex peddlers unaccountable under the current law. Moreover, the rise of online prostitution, facilitated through social media and electronic platforms, presents a growing challenge. Despite the existence of Law No. 19 of 2016 on Electronic Information and Transactions, which covers immoral content, its application to online prostitution practices remains weak, leaving a gap in effectively addressing digital prostitution.

Furthermore, Indonesian law lacks specific provisions for self-commercial sex workers, despite them being independent and voluntary participants in sexual labor. While the law offers protections for trafficked individuals under Law No. 21 of 2007 concerning the Eradication of Trafficking in Persons, self-commercial sex workers are not subject to adequate regulation, despite potentially harmful effects on public health and morality. In this regard, there is a need for more specific legal frameworks that address all parties involved in prostitution, including service users, pimps, and self-commercial sex workers. For future research, it is recommended to explore the introduction of a comprehensive legal framework that considers both the legal, moral, and public health implications of prostitution in Indonesia. This should include the criminalization of users and the development of rehabilitation programs for sex workers, along with strategies to tackle online prostitution. The study could also explore international comparative models to enhance Indonesia's legal approach to prostitution.

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