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RESEARCH ARTICLE

RECONSTRUCTION OF PENAL SANCTIONS OF ONLINE PROSTITUTION PERPETRATOR BASED ON JUSTICE VALUE

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Abstract

Online prostitution is a phenomenon that is quite alarming in Indonesia. Encouraged by this phenomenon, the author was moved to solve by making a research with the main issue discussed are what are the weaknesses in penal sanctions of online prostitution perpetrators in Indonesia currently and what are the ideal reconstruction of penal sanctions for online prostitution based on the value of justice in Indonesia. The study was done using the constructivism paradigm and the type of research is a qualitative study with a socio-legal approach. Research shows that the weaknesses in law enforcement against penal acts of prostitution online in the Central Java Regional Police Penal Law Reskrimsus are the not yet optimal public's legal awareness caused by the lack of understanding and knowledge of the public regarding types of cyber crime. Until now, Indonesian people's legal awareness in responding to cyber crime activities is still felt to be lacking, there are limitations in facilities and infrastructure, and only a few number of cases reached the trial. With regard to this matter, the Reconstruction offered by the author of the regulation is to amend Article 27 (1) of Law No. 11/2008 to: "Everyone intentionally and without the right to distribute and / or make accessible electronic information and / or electronic documents accessible. violating decency or prostitution online. " And reconstruction of Article 45 (1) of Law no. 11 of 2008 becomes: "Every person who fulfills the elements referred to in article 27 (1), (2), (3), (4) is sentenced to a minimum of 4 years imprisonment and a maximum life imprisonment and or a minimum of Rp. 100,000,000 and a maximum of 100,000,000,000 and provide compensation to victims of a minimum of 100,000,000,000 and a maximum of 100,000,000,000.

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Introduction:-

Viewed from the educational aspect, prostitution is a demoralizing activity. From the aspect of womanhood, prostitution is a degrading activity for women. From an economic aspect, prostitution in practice often results in labor racketeering. From the health aspect, the practice of prostitution is a very effective medium for transmitting venereal and uterine diseases which is very dangerous. From the citizen order and safety aspect, the practice of prostitution can lead to penal activities. From the aspect of urban planning, prostitution can reduce the quality and aesthetics of the urban environment. the same also applies to online prostitution.

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The discussion on online prostitution is about the practice of prostitution or prostitution by using the internet or online media as a means of transaction for Sex Workers and those who want to use their services. Even if we want to deepen its meaning, the notion of online prostitution is a prostitution transaction that uses the internet as a means of connecting sex workers with those who want to use their services. So the internet is only as a means of supporting or connecting.

Unlike in general the transactions of sex workers who wait for their customers on the side of the road. All the definitions mentioned have their own problems because they are defined from different societies which basically have different social and moral standards regarding prostitution or prostitution.

Based on the description above, it can be concluded that there are at least four main characteristics in the definition of prostitution that can be enforced, namely: payment, infidelity, emotional indifference, livelihood. In many of the definitions above and discussions of the literature of money as a source of income are considered the most common factors in the world of prostitution. Adultery is one of the dominant causes that lead to the destruction and destruction of civilization, transmitting very dangerous diseases, encouraging people to continue to live single and to practice living together without marriage. Thus adultery is the main cause of poverty, waste, sexual abuse and prostitution.

In Indonesia, these needs are accommodated by the Law No. 11 of 2008 concerning Information and Electronic Transactions (ITE Law). This ITE Law regulates what is permitted and prohibited in providing electronic information and transactions in online media with the aim of providing legal certainty. In the ITE Law. Before the birth of the ITE Law, the practice of prostitution with internet media had already taken place, even though it was still in secret. People can be said to have a mistake, if at the time of committing a crime, in terms of the community it can be disgraced because of why it is harmful to the community when it is able to know the adverse effects of the act and know that the act violates the peace or values in society, and therefore can even have to avoid such actions.

Actually there are several parties who are the subjects in this online prostitution crime, namely:

1. Service users, What is meant by service users here are people who open, download, access, or various other pornographic activities carried out using website media from the internet.
2. Service providers, The service providers referred to here are internet cafe owners or individuals who provide a place to access pornographic websites.
3. Online prostitution website owner, The owner of this online prostitution website is a person who provides online prostitution services via his website to users of online prostitution services.
4. Server owner, The server owner here is the person who provides a place for prostitution website owners to store their data so that everyone can access it.

In Article 27 paragraph (1), it states "Every person intentionally and without the right to distribute and / or transmit and / or make access to Electronic Information and / or Electronic Documents ...", so that those who become legal subjects are held liable for penal liability in This law is only the owner of an online prostitution website, that is, as a person who distributes or transmits or makes accessible to pornographic sites or online prostitution that :

1. Does not contain value but only contains elements that arouse lust for those who see, pay attention or even hear it.
2. Contradicting the values or norms prevailing in society.

The provisions of the ITE Law on decency are contained in Article 27 paragraph 1 which reads Prostitution is a form of sexual deviation, which deviates from the social, religious, and moral values of the Indonesian nation. While online prostitution is a form of prostitution activities carried out through social media and the internet. The main factor that causes online prostitution is the development of technology that is not based on good character values. The penal event is a series of human actions that are in conflict with the law or other statutory regulations, for the act in which the act of punishment is held.

Republic of Indonesia's Law No.11 Year 2008 Regarding Information and Electronic Transactions (ITE Law) does not mention the word prostitution in all its articles. Except for article 27 which contains the prohibited acts, mentioning the word morality which relates to things that are pornographic. The contents of article 27 of the ITE Law are as follows: (1) Everyone intentionally and without the right to distribute and / or transmit and / or make access to Electronic Information and / or Electronic Documents that have contents that violate decency. (2) Every

person intentionally and without the right to distribute and / or transmit and / or make access to Electronic Information and / or Electronic Documents that have gambling contents. (3) Every person intentionally and without the right to distribute and / or transmit and / or make accessible Electronic Information and / or Electronic Documents that have content of defamation and / or defamation. (4) Every person intentionally and without the right to distribute and / or transmit and / or make access to Electronic Information and / or Electronic Documents that have extortion and / or threatening contents.

So it is clear that what is meant by online prostitution regulated in the ITE Law are sites that display or provide content that violates decency, whose purpose is nothing but to make money by displaying images of commercial sex work girls, without any other purpose such as to educational needs, treatment therapy, and so forth. Provisions regarding sanctions in the ITE Law are contained in Article 45 paragraph (1) concerning Penal Provisions: Every person who fulfills the elements referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4)) shall be sentenced to a maximum imprisonment of 6 (six) years and / or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah). This article threatens the imprisonment of anyone who commits several crimes, one of which is article 27 paragraph (1) concerning online prostitution with a maximum imprisonment of 6 years and / or a maximum fine of 1 billion rupiah.

The ITE law and pornography law that have been passed in the modern era still have gaps in it. That is because policy makers do not seem to sit with experts who truly understand the discussion of the law. Nevertheless, we are still allowed to put aside the Penal Code in dealing with this problem. The Penal Code can be used as a chaperone in a Prosecutor or judge in considering the sentence that will be given to the perpetrators.

According to Lawrence M. Friedman there are three elements that affect its work, law is, Legal structure, Legal substance (legal culture). Handling online prostitution cannot be done by the government itself, but it requires the cooperation of the government with all the people. And online prostitution prevention efforts can be done with 2 businesses, namely preventive efforts and businesses that are repressive and curative. Encouraged by this phenomenon, then to look for constructions that are in accordance with the principles of justice and legal certainty, **the author was moved to make a research with the main issues as follows:**

1. What are the weaknesses in the penal sanctions of online prostitution perpetrators in Indonesia currently ?
2. What is the ideal reconstruction of penal sanctions for perpetrators of online prostitution based on justice value in Indonesia?

Method of Research:-

The paradigm that is used in the research this is the paradigm of constructivism which is the antithesis of the understanding that lay observation and objectivity in finding a reality or science knowledge. Paradigm also looked at the science of social as an analysis of systematic against Socially Meaningful Action through observation directly and in detail to the problem analyzed.

The research in writing this dissertation is a qualitative research . Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach (approach) the research is to use the approach of Socio-Legal , which is based on the norms of law and the theory of the existing legal enforceability of a sociological viewpoint as interpretation or interpretation .

As for the source of research used in this study are :

1. Primary Data, is data obtained from information and information from respondents directly obtained through interviews and literature studies.
2. Secondary Data, is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Primary Legal Material and Secondary Legal Materials and Tertiary Legal Material.

In this study , researchers used data collection techniques, namely literature study, interviews and documentation. In this study, the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data. Qualitative data analysis is the process of searching for, and systematically compiling data obtained from interviews, field notes and documentation by organizing data into categories, describing it into units, synthesizing, compiling into patterns, selecting important names and what will be studied and make conclusions.

Research Result and Discussion:-**Weaknesses In The Penal Sanctions Of Online Prostitution Perpetrators In Indonesia Currently:**

Cyber crime law enforcement especially online prostitution crime still faces obstacles so that it makes very very few crimes that have been investigated by the police make it to the trial. This is as the result of the author's pre-research in Central Java Regional Police due to one of them because not enough evidence was presented in each series of examinations. The police also found it is difficult to carry out an investigation to determine which victims were actually captured by pimps' tricks, and which were willing to join the prostitution network, because not all of the girls were victims of the prostitution business network, sometimes they themselves decides to join the prostitution network, so that if they are caught they appear to be victims.

Obstacles in law enforcement against online prostitution in the Central Java Regional Police Penal Code are as follows:

1. Community legal awareness is not optimal
This is caused partly by the lack of understanding and knowledge of the public regarding the types of cyber crime. Until now, Indonesian people's legal awareness in responding to cyber crime activities is still lacking.
2. There are limitations in facilities and infrastructure
3. Very few cases come to trial

Cyber crime law enforcement, especially online penal acts of prostitution, still faces obstacles so that there are very few crimes that have been investigated by the police that could make it to the trial. This is caused by reason such as not enough evidence is presented in each series of examinations

To optimize law enforcement against online prostitution, it must first be analyzed from expert opinion such as Judge Stenin Schjolberg and Amanda M. Hubbard in which they argued that in this cyber crime issue standardization and harmonization necessity are divided in to three areas, namely legislation, penal enforcement and judicial review. This shows that the problem of harmonization is a problem that does not stop with the enactment of laws governing cyber crime, more than that is cooperation and harmonization in law enforcement and justice.

Focusing on online prostitution as one of the acts of trafficking in persons, then in Law Number 21 of 2007 concerning Eradication of the Penal Act of Trafficking in Persons. Trafficking in person is an act of recruiting, transporting, collecting, sending, transferring, or accepting someone with threats of violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or payment or benefits, so that obtain approval from the person in control of that other person, whether carried out within the state or between countries, for the purpose of exploitation or to cause the person to be exploited.

In this Law it is also stated that any person who recruits, transports, collects, transfers, transfers or accepts someone with the threat of violence, use of force, abduction, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or provide payment or benefits despite obtaining approval from the person in control of another person, for the purpose of exploiting the person in the territory of the Republic of Indonesia, to be imprisoned for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a penal a minimum fine of Rp. 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah). But often when talking about online prostitution is associated with Law Number 11 Year 2008 Regarding Electronic Information Technology. While in the ITE law itself it has not yet clearly regulated the online prostitution. As stated in Article 27 Paragraph 1 of Law Number 11 Year 2008 it is said that "Every person intentionally and without the right to distribute and / or transmit and / or make access to Electronic Information and / or Electronic Documents that have contents that violate decency. " In this Article there is no in-depth explanation of what is meant by content that violates decency.

It is undeniable that currently there is not a single article that can ensnare online prostitution specifically. However, if related to Article 296 of the Penal Code, in Article 296 the Penal Code emphasizes "anyone who intentionally causes or facilitates obscene acts by others with others, and makes it a search or habit, threatened with imprisonment for a maximum of one year and four months or a maximum fine of fifteen thousand rupiah. " And it is strengthened by Article 506 of the Penal Code which confirms that anyone who draws profits from the obscene acts of a woman and makes it a search, is threatened with a maximum imprisonment of one year. But unfortunately the article still does not give a deterrent effect to the perpetrators because the punishment is too light and not too strong.

Ideal Reconstruction Of Penal Sanctions For Perpetrators Of Online Prostitution Based On Justice Value In Indonesia:

During this time in the Penal Code and the Law outside the Penal Code can only ensnare providers and / or pimps only while for users and for workers can not be ensnared. In addition there are regulations that regulate the prohibition of the practice of prostitution, but not all regions have this regulation. And the effectiveness of this regulation must also be questioned, because so far it has not had any effect on the practice of prostitution.

In online prostitution there are related subjects need to be studied too namely pimps, users and commercial sex workers, but the punishment only limited to the pimps only and it does not necessarily reflect a sense of justice. Prostitution is part of the act of adultery categorized as (crime without victim) so the Prostitutes and users that are included as victims must be categorized as perpetrators in their actions. this current positive Indonesian penal law still does not provide fair legal certainty and equal treatment before the law as mandated in the 1945 Constitution Article 28D. The 1945 Constitution Article 28D which states: "Everyone has the right to recognition, guarantees, protection, and certainty of law that is just and equal treatment before the law".

Article 28D of the 1945 Constitution in paragraph 1 can be carried out by upholding the rule of law for each community. The law plays an important role in the life of the nation and state. The law functions to regulate everything so that it can run orderly and in accordance with the rules. Laws are made to be obeyed and obeyed. Not to be violated.

The base of Indonesian penal law is the Indonesian Penal Code (KUHP) as what is called general penal law. Regarding prostitution, the Penal Code regulates it in two articles, namely Article 296 and Article 506. Article 296 states: "Anyone who intentionally causes or facilitates obscene acts by others, and makes them livelihoods or customs, is punishable by a maximum imprisonment of one year and four months or a maximum fine of fifteen thousand rupiahs".

Whereas Article 506 states: "Anyone who draws profits from the obscene acts of a woman and makes her a prostitute, is threatened with a maximum imprisonment of one year". The provisions in the Penal Code Article 296 and 506 such as not ensnare the actions of prostitutes and users, but only ensnare to brothel owners, pimps and brokers or brokers of prostitution. In this case the police only have space to take legal action against intermediaries, if there is an intermediary (pimp or pimp). Prostitution activities will continue as long as there are still many customers.

In addition to articles 296 and 506 in Article 27 paragraph (1) of the ITE Law as stipulated in Article 45 paragraph (1) of Law 19/2016 online prostitution activities also apply the same sanctions. In this online prostitution sanctions are imposed on pimps / pimps who offer prostitute services to customers through the internet or other informatics media, for prostitutes or service users not to apply. even if it can be snared with article 284 of the Penal Code concerning infidelity. But this article is very limited in scope because it is a complaint offense and can only ensnare married customers. whereas if the user and the prostitute have not been bound by marriage then the article cannot be applied. In Article 27 paragraph (1) of the ITE Law as stipulated in Article 45 paragraph (1) of Law 19/2016 reads: "Everyone intentionally and without the right to distribute and / or transmit and / or make access to Electronic Information and / or Electronic Documents which has a content that violates decency".

Then Article 45 of the ITE Law states that: "Every person who fulfills the elements referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be sentenced to a maximum imprisonment of 6 (six) year and / or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah)". But in the TPPO Law, it can only prosecute someone who benefits from trafficking in persons (pimps). Whereas Law Number 35 Year 2014 concerning Amendments to Law Number 23 Year 2002 concerning Child Protection only penalizes users from sexual exploitation of children. Based on the above matters, it is needed a legal rule that can ensnare all parties involved in prostitution, one of which is CSW. Reform of the penal law system is needed to address the problem of prostitution. The renewal of the penal law system can cover a very broad scope, which includes:

1. Renewal of "substance of penal law", which includes renewal of material penal law (KUHP and Law outside KUHP), formal penal law (KUHP) and penal law implementation;
2. Renewal of the "structure of penal law", which includes, among others, renewal or structuring of institutions / institutions, management / management systems and mechanisms as well as supporting facilities / targets of the penal law enforcement system (penal justice system); and

3. Renewal of "penal law culture", which includes among others issues of legal awareness, legal behavior, legal education and penal law.

Online prostitutes are professions that sell services to satisfy customers' sexual needs. Usually this service is in the form of renting her body. Sanctions that can be used to ensnare prostitutes in online prostitution if the perpetrators or prostitutes are found to be dramatizing or displaying the body through photos, pictures or videos that intend to show the body to attract prostitution users or find customers to interact and be interested, by applying the Act No. 11/2008 concerning Information and Electronic Transactions and Law No. 44/2008 concerning Pornography can ensnare the problem of prostitution in Indonesia.

Theoretically-normatively, photographs or video recordings of sexual relations are called pornography if they violate the norms of decency in society.

Article 4 paragraph (1) of the Pornography Law regulates the prohibition of acts of producing, making, multiplying, duplicating, distributing, broadcasting, importing, exporting, offering, trading, renting, or providing pornography that explicitly contains:

1. sexual act, including deviant sexual acts;
2. sexual assault;
3. masturbation;
4. nudity or a suggestive display of nudity;
5. genitals; or
6. child pornography

As explained above, in Article 4 paragraph (1) of the Pornography Law the act of making or disseminating Pornography is prohibited. Threats to this article are regulated in Article 29 of the Pornography Law, namely: "Everyone who produces, makes, reproduces, copies, distributes, broadcasts, imports, exports, offers, sells, rents out, or makes available pornography as referred to in Article 4 paragraph (1) be sentenced to imprisonment for a minimum of 6 (six) months and a maximum of 12 (twelve) years and / or a fine of at least Rp. 250 million and a maximum of Rp. 6 billion. "Assumptions that economic factors are the main factors that drive a person into the world of prostitution, Prostitution is a form of crime that is very difficult to deal with and this type of crime is supported by many economic factors in people's lives, where in the community itself gets the fulfillment of human needs.

Regarding online prostitution, the punishment provided by the Penal Code is only directed at the pimps. There are no penal penalties and penal fines for service users in the world of prostitution. This results in a legal vacuum in regulating prostitution service users, so law enforcement against prostitution cannot be done comprehensively. The experience of other countries that already have Anti-Prostitution Laws, such as in Sweden, Canada, Iran, Russia, Norway, has proven to have decreased significantly since the existence of the Act.

The public prosecutor in making indictments in online prostitution is always addressed to the pimps, and the indictment is always made in the form of the first indictment over subsidiary namely article 45 paragraph 1 UURI No.19 of 2016 concerning changes to Law No.19 of 2016 concerning changes to Law No . 11 of 2008 concerning information and electronic transactions Jo article 27 paragraph 1 of Law No.11 of 2008 concerning information and electronic transactions after that the panel of judges considered the elements of the public prosecutor's indictment.

This practice clearly raises the injustice that was submitted before the court trial because the defendant was subjected to article 45 paragraph 1 UURI No.19 of 2016 concerning amendments to Law No.19 of 2016 concerning amendments to Law No.11 of 2008 concerning information and electronic transactions Jo article 27 paragraph 1 of Law No.11 Year 2008 concerning information and electronic transactions in which legal sanctions are imposed for pimps while other prostitution actors (Prostitutes and Service Users) are free from legal witnesses in this case clearly seen where there is no equal justice.

The penal act of prostitution in KUHP article 296 and article 506 also explained that the defendant in question was pimping so that the other perpetrators were free from legal sanctions so that it could be said that these articles were articles used to protect commercial sex workers and service users regardless of penal sanctions. Online prostitution crime is only intended for pimps. This situation clearly contradicts Pancasila, the 1945 Constitution, Laws and

Islamic teachings based on the Qur'an and Sunnah which ordered the judge to be fair to anyone who violated the law (Jarimah) as described above. Article 28D of the 1945 Constitution of the Republic of Indonesia NRI (1) "every person has the right to recognition of guarantees of protection and fair legal certainty and equal treatment before the law", actually refers to the ideals of the law, values, and worldview adopted by Pancasila which is reflected on the 5 precepts which in context emphasizes the balance of rights and obligations. The policy in this case the penal policy against perpetrators of online prostitution continues to be guided by Pancasila, which is the second principle of "Humanity which is just and conflicting" which is inspired by the first principle of "The Almighty Godhead" and the fifth principle "Social Justice for All Indonesian People.

In the 1945 Constitution of the Republic of Indonesia 28D paragraph (1) regulates justice that all people are equal before the law, the problem is what is the essence of the article in question? The law does not distinguish between citizens in Indonesia because all citizens have the same right to obtain justice the right to seek to accept using social media facilities. This freedom is a right that has many facets and shows the breadth and scope of human rights law to use social media access in various global internet accesses. There must be steps that need to be taken to ensure that the freedom to use internet access on social media is not misused to carry out unlawful acts.

This means that although the freedom to use internet access on social media every citizen has constitutional rights that are explicitly guaranteed by the Pancasila and the 1945 Constitution of the Republic of Indonesia, but the meaning of such freedom must not be interpreted as freely as possible without regard to legal norms and other norms because the meaning of human rights includes the right to freedom of freedom to reflect in cyberspace with internet access so broad must remain put in the context of the legal system by making Pancasila as its basic guideline by not violating the rule of law and norms that exist in our country namely Pancasila and applicable laws.

The Law on Prostitution in force in Indonesia is contained in the Penal Code article 296 which reads "Whosoever is his livelihood and habit, namely deliberately making or facilitating obscene acts with others, is threatened with a maximum of one year and four months imprisonment or a maximum fine of five twelve thousand rupiah ".

In addition, the work of pimps is also discussed in article 506 of the Penal Code which reads "Whoever as a pimp (souteneur) takes advantage of prostitution of women, threatened with imprisonment for a maximum of one year". The two articles above only regulate penal sanctions given to pimps, whereas until now there has been no article that can ensnare perpetrators of prostitution. Users of prostitution services may be given penal legal action through article 284 of the Penal Code that regulates Adultery. However, this article will not apply if adultery is carried out on the basis of like and like without coercion.

While in the ITE law itself has not clearly stipulated the online prostitution. As stated in Article 27 Paragraph 1 of Law Number 11 Year 2008 it is said that "Every person intentionally and without the right to distribute and / or transmit and / or make access to Electronic Information and / or Electronic Documents that have contents that violate decency. " In this Article there is no in-depth explanation of what is meant by content that violates decency. It is undeniable that currently there is not a single article that can ensnare online prostitution specifically.

Prostitution in handling penal sanctions is almost the same as drug cases where both cases provide legal action for drug dealers and pimps. The difference, in the case of drugs, the user can be free from penal legal action on the condition that he is required to carry out the rehabilitation process until recovering from drug addiction.

Efforts are being made to overcome obstacles in law enforcement against online prostitution penal partnerships in the wider community to help hack the victims associated with the sale of women through online media. Then improve facilities and facilities.

Based on legal comparisons from several countries as I have described above, the authors examine the national penal law arrangements in handling to reduce online prostitution cases in Indonesia. According to the authors the addition of items in article 27 paragraph (1) of the ITE Law to be emphasized by including elements of those who are sanctioned. Because the elements of online prostitution can occur three things that become a supporting factor for the passage of the crime, including:

1. The Pimp
2. Prostitutes
3. Service User

From the explanation above it can be understood that online prostitution will not work if one of the aforementioned set of subjects does not exist as long as all three of them will always work. When all receive strict sanctions with applicable law it will deter service users and the prostitutes.

Law enforcement against online prostitution through social media requires synergy between participative society and law enforcement officials who are democratic, transparent, responsible and oriented towards human rights, which are expected to truly realize Indonesian society with social justice.

It must be admitted that Indonesia has not taken sufficiently significant steps in the field of law enforcement in an effort to anticipate cyber crime as practiced by other countries including Sweden, Iran, Russia, Canada, and Norway.

Barda Nawawi Arief stated that efforts to increase the effectiveness and renewal of orientation (reform / reconstruction) of law enforcement in dealing with cybercrime must take several steps (efforts) including the following:

1. Increase commitment to national strategies / priorities in overcoming crime in the field of decency, which should be aligned with efforts to deal with penal acts of corruption, drugs, terrorism and so on.
2. Reformation of juridical construction, which includes:
 - a. a.Reconstruction of law enforcement (legal thinking) in the context of policies for reforming the legal system and national development;
 - b. b. Carry out conceptual / substantial legal construction (substantial legal construction) in dealing with juridical constraints;
 - c. c. Improve scientific culture / orientation (scientific culture / scientific approach) in the process of making and enforcing penal law.
3. Efforts to reform / reconstruct juridical thought should be carried out on all fields of penal law enforcement. However, it is especially needed in dealing with the problem of cybercrime (CC) because CC cannot be equated with conventional penal acts, so it cannot be faced with conventional law enforcement and legal thinking / construction.

In addition to 3 (three) steps above , as an effort in order to counter the acts of penal technology information in the future will come there are some things that performed by the apparatus enforcement of law, namely as follows :

Educating the apparatus of law enforcer:

In terms of dealing with cases of crime through social media is required specialization to apparatus investigator nor the prosecutor general can be considered as one of the ways to carry out the enforcement of the law against cybercrime. In this case , especially the penal act of prostitution online or addressed to the general public through social media as a means of electronic information . Specialties of the beginning of their education that is geared to mastering the technical as well as the basics of knowledge in the field of computer and profile hacker .

When Indonesia is highly in need of " Enforcement of Law Cyber ", such as : Cyber Police, Cyber Attourney, Cyber Judge and Cyber Advocate, within the framework of the rule of law cybercrime in Indonesia. Without the enforcement of law that forgives in the field of technology information , it will be difficult to enforce the " Cyber Law " in Indonesia are equitable .

Things more important in rule of law is the existence of socialization in the form of upgrading, courses or vocational shared between authorities enforcement law in order equation perception in the procedure of proof to the case of acts of penal technology information .

Building forensic computing facilities:

The forensic computing facility that will be established by the Police is expected to be able to serve 3 (three) important things , namely :

1. Evidence collection
2. Forensic analysis
3. Expert witness

Improved facilities or facilities in tackling acts of penal technology information is not only limited to the brush aha as closely as possible toupdate and upgraded facilities and infrastructure that is already owned by the forces

enforcement of law but also to equip the means or facilities are in accordance with the development of technology. By thus required skilled labour and funding, especially to support the capabilities and skills of officers enforcement of law in the field of computers .

Amenities are also should not only involve the national police alone but the government through the ministry of communication and information to build the facility itself which serves as a central information or laboratory as appropriate laboratory forensic as a place of research for the benefit of the investigation and development of technology information .

Increasing investigation efforts:

Because the acts of a penal who arranged UU ITE is the offense of penal particular , it is necessary investigator who specialized in anyway. Article 43 of Law ITE states , in addition to the police , the authority of the investigation is on the shoulders of officials Employees of State Civil (investigators). Although not overtly refer to the Ministry of Communications, the Law states that investigators were derived from environmental government that served in the field of IT and Electronic Transaction.

As a means to confront cyberterrorism apparatus enforcement of law should form a unit task together such as that carried out by the State of Japan to establish the Cyber Task Force in the month of April 2001. The role of the Cyber Task Force that is to prevent and respond to a state of emergency so that the loss / risk due to attacks on System information on the infra- structure of the critical minimum possible.

Establishment of Cyber Task Force that not only involve the Police but also investigators, prosecutors and judges that space scope ranging from the level of the center up to the provinces and districts efforts of cooperation is not only done by fellow officers enforcement of law cyber but also ask for the help of experts are required under investigation . "Experts" are meant here of course only is someone that have expertise specifically in the field of IT and must also have credibility in academic as well as practical.

The formulation of acts of technology information crime must pay attention to the harmonization of the internal to the system of law of a penal or rule of penal general who apply when this . It can not be said of harmonization / synchronization if the formulation policy is outside the system. By because the policy formulation of the law of penal acts of penal technology information in the future will come must be in the system of law of penal that applied to this.

Based on the study of comparative law (juridical comparative) the setting of cybercrime from several countries in the world are needed evaluation policy of penalization in the form of changes and preparation of the offenses new to the policy of penal acts of penal technology information in the future will come , in particular , namely : sanction law offenders prostitution online -based value justice in the form of additional verses in the ITE Law, namely Article 27 paragraph (1) jo Article 45 paragraph (1). Law No. 19 Year 2016 About the Amendment Act No. 11 Year 2008 on Information and transactions electronically then of the Re construction Value Sanctions Penal Perpetrators of Prostitution Online Based Value Fairness for Delivering Certainty of Law , Order and Justice while reconstruction is as follows :

Before Reconstruction Article 27 of Law No. 11 in 2008 reads : " any person to intentionally and without right to distribute and / or made to the inaccessibility of information electronically and / or documents electronically which violate decency . " this Article 's weakness that is yet able to provide certainty of law against prostitution online so that after the reconstruction it should be, Article 27 (1) of Law No. 11 of 2008 be : " any person to intentionally and without right to distribute and / or made to the inaccessibility of information electronically and / or documents electronically which violate decency or prostitution are online. "

Before Reconstruction, the Article 45 (1) of Law No. 11 of 2008 reads : " Every person who meets the elements as that referred to in Article 27 (1), (2), (3), (4) shall be punished by acts of penal imprisonment longer than 6 years and or a fine of the many Rp.1.000.000.000, - " . This article has the disadvantage that is, the prison sentence is too weak, in contrast to its massive impact to the moral of the children of the Indonesia, There is no minimum penal sanction, no penal compensation for victims and does not categorized in to a serious crime so it needs to be done in reconstruction of Article 45 (1) of Law no. 11 years old in 2008 to: " Every person who meets the elements as that referred to in Article 27 (1), (2), (3), (4) shall be punished by acts of penal imprisonment of minimum 4 years and

the penal sanction of prison up to the rest of life and or at least Rp.100.000.000, - and a maximum of Rp.1.000.000.000, - and provide compensation damages to the victims of at least Rp 100,000,000, - and a maximum of Rp.1.000.000.000, - "

Conclusion:-

Weaknesses in law enforcement against online prostitution in the Central Java Regional Police reskrimsus are not optimal public legal awareness caused by a lack of understanding and knowledge of the public regarding types of cyber crime. Until now, Indonesian people's legal awareness in responding to cyber crime activities is still felt to be lacking, there are limitations in facilities and infrastructure, and the number of cases that only a few reached the trial.

Reconstruction offered by the author of these regulations is as follows:

Before Reconstruction, Article 27 of Law No. 11 of 2008 reads: "Everyone deliberately and without the right to distribute and / or make accessible electronic information and / or electronic documents in violation of decency. "This article has a weakness that is not yet able to provide legal certainty to online prostitution so that after reconstruction, Article 27 (1) of Law No. 11 of 2008 becomes:" Everyone intentionally and without the right to distribute and / or make electronic information accessible and / or electronic documents that violate decency or prostitution online."

Before Reconstruction, Article 45 (1) of Law No. 11 of 2008 reads: "Everyone who fulfills the elements referred to in article 27 (1), (2), (3), (4) is convicted with a maximum jail sentence. 6 years and / or a maximum fine of Rp. 1,000,000,000. This article has the disadvantage that the prison sentence is too weak, in contrast to its massive impact to the moral of the children of the Indonesia, There is no minimum penal sanction, no penal compensation for victims and does not categorized in to a serious crime so it needs to be done in reconstruction of Article 45 (1) of Law no. 11 of 2008 to: "Every person who fulfills the elements referred to in article 27 (1), (2), (3), (4) is sentenced to a minimum of 4 years imprisonment and a maximum life imprisonment and or a minimum of Rp. 100,000,000 and a maximum of 100,000,000,000 and provide compensation to victims of a minimum of 100,000,000,000 and a maximum of 100,000,000,000.

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