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Reformulation of Regulation on Prostitution Crime as Predicate Crime in Money Laundering

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Abstract

Introduction: *A person who carries out a financial transaction or other financial transaction that is suspected of hiding or disguising the origin of wealth from illegal acquisitions as if it were legitimate wealth and not the result of a crime, its truth must first be proven.*

Purposes of the Research: *Research aims to find the urgency of regulating the crime of money laundering originating from prostitution in the National Criminal Code based on the principle of justice and the concept of reformulating the regulation of the crime of money laundering originating from prostitution in the National Criminal Code.*

Methods of the Research: *A study uses normative legal research, namely legal research that focuses on the study, review, and analysis of positive law. This research is a review or analysis that focuses on the rules or provisions stipulated in applicable laws and regulations. A study was conducted on the primary legal materials and secondary legal materials used to answer the legal issues raised, namely related to the regulation of money laundering crimes originating from prostitution crimes.*

Results Main Findings of the Research: *The results of the study show the urgency of reformulating the regulation of prostitution as a predicate crime in money laundering as a crime of follow does not reflect the value of justice for the community involved in both crimes. The concept of reformulating the regulation of prostitution as a predicate crime as a predicate crime in money laundering as a crime of follow must be classified against the perpetrators involved in prostitution activities. as a predicate crime in money laundering as a crime of follow must first be distinguished regarding the parties involved, such as pimps/intermediaries, providers of commercial sexual service facilities, and also sex workers who are distinguished as professions and sex workers as victims of sexual exploitation. The community understands that prostitution is not just a symptom of social pathology but is a criminal act. The community should be involved in social control efforts so that there are no further criminal acts, namely money laundering.*

Keywords: Prostitution; Predicate Crime; Money Laundering.

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INTRODUCTION

The development of science and technology, on the one hand, provides enormous benefits for people's lives, but on the other hand, can have a very detrimental impact on society, namely the development and shifting of the modus operandi of criminal acts.[1] The shift from

[1] Nani Widya Sari et al., "Relationship Between Money Laundering Crime and Corruption Crime as Originate Crime From the Criminal Perspective," *International Journal of Integrative Sciences* 2, no. 12 (2023), https://doi.org/10.55927/ijis.v2i12.6956.

conventional criminal acts to unconventional criminal acts that are national to transnational, thus requiring progressive regulation in line with the development of these types of crimes. One form of unconventional crime, for example, the Bank Century case (2008)[2], which was motivated by the Bank Century policy and the Financial Sector Stability Committee, related to the condition of Bank Century, which experienced liquidity due to *mismanagement* and unhealthy finances. At that time, the government injected 6.7 trillion in funds to prevent significant impacts on national banking. However, there was an irregular flow of funds for the interests of certain individuals and companies, which were later found to have occurred as a money laundering crime. In this case, the former Deputy Governor of Bank Indonesia, Budi Mulya, was sentenced to 10 years in prison because he was responsible for the bailout process, which was detrimental to the state. At that time, KPK and PPATK questioned several other officials, including the Minister of Finance, regarding the flow of funds[3]

The mode of crime is by transferring funds through various banking transactions to disguise their origin *(layering), placing* money in certain company accounts at home and abroad *(placement),* using *bailout funds for personal interests, such as investment and payment of* debts to certain parties *(integration).*[4] This mode is then commonly referred to as money laundering. The arguments used in the crime of money laundering contained in the formulation of Article 607 paragraph (1) of the National Criminal Code still give rise to discourse or debate, especially related to the fulfilment of the elements of the crime of money laundering because the elements contained in the crime of money laundering must be proven first. In the sense that a person who carries out a financial transaction or other financial transaction that is suspected of hiding or disguising the origin of wealth from illegal acquisitions *as* if it were legitimate wealth *and* not the result of a crime, its truth must first be proven.[5] This problem of proof will have legal implications for criminal acts committed as *predicate crime,* because there is a possibility that the

[2] Menik Winiharti, "Analisis Diksi Pada Judul Berita Utama Surat Kabar Yang Memberitakan Rapat Pansus DPR RI Untuk Kasus Bank Century," *Jurnal Penelitian Humaniora* 12, no. 1 (2011).

[3] Sareng Purnomo, Bernat Panjaitan, and Nimrot Siahaan, "Juridical Review of Money Laundering Crimes Committed by the President Director of PT. Asabri," *Journal of Social Research* 1, no. 12 (2022), https://doi.org/10.55324/josr.v1i12.390.

[4] Boy Nurdin and Dwi Asmoro, "Imposition of Criminal Sanctions on Corporations and/or Corporate Control Personnel Who Commit Money Laundering Crimes," *Jurnal Indonesia Sosial Sains* 5, no. 1 (2024), https://doi.org/10.59141/jiss.v5i1.938.

[5] Anastasia Suhartati Lukito, "Financial Intelligent Investigations in Combating Money Laundering Crime: An Indonesian Legal Perspective," *Journal of Money Laundering Control* 19, no. 1 (2016), https://doi.org/10.1108/JMLC-09-2014-0029.

crime of money laundering is a combination of crimes *(samenloop)* which must be proven one by one, or is an accumulation of crimes which are categorized as a crime of money laundering. Another legal problem is related to the provisions in Article 69 of Law Number 8 of 2010 concerning the Eradication of Money Laundering, which stipulates that the predicate crime "does not require" proof. Meanwhile, money laundering is a continuing crime or *crime of follow*. The norm "does not require proof" in Article 69 in its application raises questions regarding whether or not proof of the predicate crime in the crime of money laundering is permissible.[6]

The sociological problem is related to prostitution as a *predicate crime* in money laundering, in this case, related to its criminal responsibility. Given that in prostitution many parties are involved, including people who carry out prostitution as a profession for a livelihood, and sometimes people who carry out prostitution as victims of sexual exploitation by other parties, and so on as mentioned in the previous description. The objectives of this study are: 1). To find the urgency of regulating the crime of money laundering originating from the crime of prostitution in the National Criminal Code based on the principle of justice. 2). To find the concept of reformulating the regulation of the crime of money laundering originating from the crime of prostitution in the National Criminal Code that is just.[7]

Previous research relevant to this topic was first conducted by Islamia Ayu Anindia1, RB Sularto, with the title Criminal Law Policy in Efforts to Combat Prostitution as a Reform of Criminal Law.[8] In this study, 2 problems are raised, namely 1). How is the accountability of the parties involved in prostitution 2). How is the renewal of criminal law policy as an effective effort to combat prostitution in Indonesia. The results of the study as an effort to combat prostitution in Indonesia. The author's idea of renewal is that sex workers are given rehabilitation, job training and work capital as an effort to prevent them from returning to commercial sex workers. Meanwhile, users must also be charged with criminal penalties so that they feel deterred and do not repeat it again.

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[6] Muhtar Hadi Wibowo, "Corporate Responsibility in Money Laundering Crime (Perspective Criminal Law Policy in Crime of Corruption in Indonesia)," *Journal of Indonesian Legal Studies* 3, no. 2 (2018), https://doi.org/10.15294/jils.v3i02.22740.

[7] Meiryani, "Exploration of Potential Money Laundering Crimes with Virtual Currency Facilities in Indonesia," *Journal of Money Laundering Control*, 2023, https://doi.org/10.1108/JMLC-01-2023-0010.

[8] Islamia Ayu Anindia and R B Sularto, "Kebijakan Hukum Pidana Dalam Upaya Penanggulangan Prostitusi Sebagai Pembaharuan Hukum Pidana," *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019), https://doi.org/10.14710/jphi.v1i1.18-30.

The second study, conducted by Lulu Yulianti1, Ivan Zairani Lisi, Rini Apriyani, with the title Criminal Law Enforcement Against Pimps Related to *Online Prostitution* in Indonesia.[9] The results of the study can be stated as follows: Law enforcement against pimps in Indonesia can be seen from several decisions, where in this decision pimps are sentenced to criminal penalties in Law Number 19 of 2016 amending Law of the Republic of Indonesia Number 11 of 2008 concerning Information and Electronic Transactions, Law of the Republic of Indonesia Number 21 of 2007 concerning Criminal Acts of Human Trafficking and the Criminal Code (KUHP). However, the three laws cannot reach pimps who hold *online prostitution* such as conducting transactions via the internet or *online* to attract customers who want to use the services of pimps. This can allow people to engage in prostitution on the internet repeatedly. Determination of criminal liability for pimps in criminal law in Indonesia does not fulfill the criminal acts committed by pimps such as conducting transactions via the internet or *online* in attracting customers who want to use the pimp's services, because Law of the Republic of Indonesia Number 21 of 2007 concerning the Crime of Human Trafficking, Law of the Republic of Indonesia Number 19 of 2016 amending Law of the Republic of Indonesia Number 11 of 2008 concerning Information and Electronic Transactions and the Criminal Code (KUHP) have not regulated *online prostitution activities*. So in this case the imposition of criminal penalties on pimps in Indonesia is not following the actions they have committed.

The third study, conducted by Alfian Aulia Rosyadha, Bagus Wicaksono, Dariyatmi, Ocna Nusrilia, and Sinta Ana Pramita,[10] with the title " Implementation of the Principle of Simultaneous Criminal Acts and Prostitution and Money Laundering in the Aceh High Court". This study raises legal issues regarding money laundering *and* the crime of prostitution. And based on the introductory description above, the problem can be formulated regarding how the crime of money laundering and prostitution coincide and how to apply the principle of concurrent criminal acts in the crime of prostitution and money laundering in Aceh Province. The results of the study are as follows: the relationship between the predicate crime and the

[9] Lulu Yulianti, Ivan Zairani, and Rini Apriyani, "Penegakan Hukum Pidana Terhadap Mucikari Terkait Prostitusi Online Di Indonesia," *Risalah Hukum* 15, no. 1 (2020).

[10] Alfian Aulia Rosyadha et al., "Penerapan Asas Serentak Tindak Pidana Narkotika Dan Pencucian Uang Di Pengadilan Tinggi Aceh," *Jurnal Konstruksi Hukum* 3, no. 3 (2022): 533–38.

crime of money laundering, basically the Crime of Money Laundering is a continuation of the predicate/initial crime (continuing acts as adopted in the Criminal Code) and this can be interpreted from Article 2 paragraph (1) concerning *the predicate crime* or predicate crime. This is one of the deviations that occurs in this Law, which is basically between continuous acts (have such a relationship between one act and the next, and each act is a criminal act) based on the Criminal Code is part of a combination of criminal acts (*concursus*) which in its implementation is carried out simultaneously and the application of the punishment is in accordance with the Criminal Code or in principle is carried out using an absorption system.

METHODS OF THE RESEARCH

This research is normative legal research, namely legal research that focuses on the study, review, and analysis of positive law. This research is a review or analysis that focuses on the rules or provisions stipulated in applicable laws and regulations, which relate to the crime of money laundering and the crime of human trafficking. The approaches used in the research consist of a statutory regulatory approach, a conceptual *approach,* and a comparative approach. The statute approach is the approach taken to examine and analyse laws and regulations related to the legal issues formulated in this study. The statute approach is also taken by examining all laws and regulations related to the crime of money laundering and the crime of prostitution. The results of the review of primary legal materials and secondary legal materials used in the research were then collected through literature studies, with several stages through an inventory of available legal materials, categorization of legal materials, and then the legal materials were sorted and selected and then reviewed and analyzed to answer the problems that have been formulated in this research.[11] Analysis of both primary and secondary legal materials is carried out by requiring conceptual and reasoning abilities to understand and examine the legal materials, which are then explained prescriptively and comprehensively on the legal issues raised in this article. In this article, a study was conducted on the primary and secondary legal materials used to answer the legal issues raised, namely related to the regulation of money laundering crimes originating from prostitution crimes. Prescriptive

[11] Christine Sant'Anna de Almeida et al., *Ragam Metode Penelitian Hukum*, *Revista Brasileira de Linguística Aplicada*, vol. 5, 2016.

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analysis is carried out to find research results to obtain conclusions that become recommendations for decision-making related to developing or improving existing legal regulation policies. Thus, the expected results of the analysis of the problems in this article can regulate money laundering crimes, especially related to the proof and concept of regulating proof of money laundering crimes originating from prostitution crimes.[12]

RESULTS AND DISCUSSION

A. Comparison of Prostitution Regulations in Several Countries

Below are the results of the search for legal sources, obtained from various sources of information and presented as a table of the results of the Comparative Study of Prostitution Regulations about the Crime of Money Laundering.

Table 1. Prostitution Regulations in Several Countries

Country	Prostitution Status	Status as *Predicate Crime of* Money Laundering	Related Regulations
Indonesia	Illegal	Yes (prostitution is a criminal act that can generate money from crime)	Law No. 21 of 2007 concerning TPPO, Law No. 8 of 2010 concerning TPPU
United States (depending on state)	Illegal in most states; Legal and regulated in Nevada	Yes, in states where prostitution is illegal	Money Laundering Control Act 1986
Dutch	Legal and regulated (with permission)	No, because legal prostitution is not considered a criminal act.	Dutch Criminal Code, Dutch Money Laundering Act
German	Legal and regulated	No, as long as prostitution activities are carried out according to the law.	Prostitution Act 2002, German Anti-Money Laundering Act
Saudi Arabia	Illegal, with severe penalties	Yes, it falls into the category of the crime of money laundering	Sharia Law, Anti-Money Laundering Law
Thailand	Legally illegal, but prostitution is widespread	Yes, because this practice is still considered a criminal act even though it is often ignored.	Anti-Money Laundering Act 1999

Based on the results of the comparison of prostitution regulations concerning the crime of prostitution as a *predicate crime* in money laundering, in several countries such as Indonesia,

[12] David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 2 (2021).

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Saudi Arabia, Thailand, and several other countries as mentioned above, the following analysis results can be presented. In several countries, prostitution is considered a *predicate crime* in money laundering, because prostitution is an act prohibited by law, so that money or assets resulting from prostitution are considered illegal because they are obtained in a manner that violates the law.[13]

In short, from the results of the analysis in several countries that prohibit prostitution, it can be stated that money or assets generated from prostitution industry activities as a *predicate crime* are considered as proceeds of crime or proceeds of crime and can be a source of funds in the crime of money laundering *(crime of follow)*. While in countries that legalize prostitution, money and/or assets obtained from prostitution are considered legal, so they are not included in the category of not included in the predicate crime, unless it can be proven that the prostitution industry is related to exploitation or human trafficking. So that prostitution becomes a predicate crime, becoming a source of funds for the crime of money laundering *(crime of follow)*.[14]

B. Urgency of Reformulating Prostitution Regulations in Money Laundering Crimes

Philosophically, the regulation of prostitution as a predicate crime does not provide legal certainty for perpetrators involved in the crime of prostitution, for example, regarding the concept of "prostitution" which is used in Article 607 paragraph (1) of the National Criminal Code. As explained in the previous description, prostitution is a field of work related to sexual activity. While in sexual activities that are included in prostitution activities, there are many parties, including commercial sex workers, pimps, intermediaries, commercial sex service providers, users, and maybe others. If the philosophical perspective is seen from the value of justice, then if the commercial sex worker who works sells his body for money, then when the results are saved or used to run another business and are considered money laundering, of course it does not fulfill the sense of justice for commercial sex workers who have sacrificed their souls, self-esteem and honor. Moreover, if the commercial sex worker works as a victim

[13] Anisya Ines Safitri, Aldo Andrieyan Putra Makaminan, and Mujiono Hafidh Prasetyo, "Kebijakan Hukum Pidana Dalam Upaya Penanggulangan Cyber Prostitution," *Jurnal Pembangunan Hukum Indonesia* 3, no. 1 (2021), https://doi.org/10.14710/jphi.v3i1.70-79.

[14] Subaidah Ratna Juita, Ani Triwati, and Agus Saiful Abib, "Reformulasi Pertanggungjawaban Pidana Pada Pelaku Prostitusi Online: Suatu Kajian Normatif," *Jurnal Dinamika Sosial Budaya* 18, no. 1 (2017), https://doi.org/10.26623/jdsb.v18i1.565.

of sexual exploitation, then if the results are categorized as a crime of money laundering, of course it hurts the sense of justice of the community. In this regard, related to the crime of prostitution, for perpetrators or sex workers who work because they are exploited, they should use the theory of restorative justice. According to the theory of restorative *justice,* criminalization or giving sanctions to perpetrators of criminal acts, not only emphasizes the imposition of criminal sanctions on the perpetrator, and also does not only talk about the punishment imposed so that the perpetrator becomes deterred, but the law must also restore the position of the perpetrator as before committing the crime. In the crime of prostitution, criminal law must also pay attention to the position of the victim before committing the crime. In addition, the law must also provide an opportunity for perpetrators of crimes to negotiate with victims to make peace. In this effort to make peace, the contribution or compensation that must be given to the victim must be agreed upon. However, the problem is related to the crime of prostitution, the problem is who the perpetrators of sex workers will make peace with, and what compensation should be received, and who should provide the compensation.[15]

The legal reasons for the urgency of reconstructing the regulation of prostitution as a predicate crime in the crime of money laundering. One of the objectives of the law is to realize legal certainty. Legal certainty can be achieved as a legal objective if the regulations made and enacted have been clearly and firmly. Clear in the sense of not causing doubts that result in interpretation in its application. Meanwhile, logic means that the legal norms are acceptable and conform to other norms. In other words, as a system of norms, these legal norms do not conflict with other legal norms. Legal certainty has two meanings. First, the existence of general rules and what actions may or may not be done; and *second,* in the form of legal security for individuals from government arbitrariness, because with general rules, individuals can clearly know what the state may impose or do to individuals. According to Hans Kelsen "*Law is a coercive order of human behaviour, it is the primary noun which stipulates the sanction*" (law is a coercive order against human behavior, law is also a primary rule that stipulates sanctions).

[15] Widiya Yusmar, Somawijaya Somawijaya, and Nella Sumika Putri, "Urgensi Pengesahan Rancangan Undang-Undang Perampasan Aset Tindak Pidana Sebagai Upaya Pemberantasan Tindak Pidana Pencucian Uang Dengan Predicate Crime Tindak Pidana Narkotika," *Jurnal Ilmiah Galuh Justisi* 9, no. 2 (2021), https://doi.org/10.25157/justisi.v9i2.5581.

According to the theory of the hierarchy of legislation, the order of legislation greatly determines the order of law, from top to bottom.[16] If referring to the understanding of legal reasons as described above, then related to the urgency of reformulating the regulation of prostitution as a predicate crime *in* the crime of money laundering as a crime *of follow-up,* in fact the essence is a criticism of the regulation of prostitution as a *predicate crime* in the crime of money laundering as a crime *of follow-up,* especially as stated in Article 607 of the National Criminal Code because the provisions of this article raise doubts, especially related to perpetrators of crimes or crimes of prostitution where if their money or assets are considered a source of funds for crimes or money laundering. Because in prostitution activities, many are involved in it.[17]

The reason why the regulation of criminal acts of prostitution must be reformulated is that it is related to justice in society. As is known, when an act in society is criminalized, the consequences will cause psychological trauma in society. Before the act was criminalized, society did not have concerns about the assumption that what had been done so far was not contrary to the law, especially criminal law regulations. Sociologically, the act of prostitution, which in the narrow sense is a prostitution activity, is viewed by society as a despicable act, and against despicable acts, and the perpetrators are categorized as the dregs of society, whose dignity and honor as human beings are degraded. Commercial sex workers are considered the dregs of society because they have degraded the dignity and honor of women, who should be protected and honored.[18]

The theoretical reason related to the urgency of reformulating the regulation of criminal acts of prostitution is a criticism of the norm that the norm of Article 607 of the National Criminal Code concerning criminal acts of prostitution is a norm that is formulated vaguely, which in foreign languages is known as *vage normmen/fix norm/grey norm.* vague norms". Vague norms or *vage norms/fixed norms/grey norms in their application can cause their own problems* because

[16] Peter Mahmud Marzuki, "Teori Hukum," 2020.

[17] Andy Putra Rusdianto and Otto Yudianto, "Urgensi Pengaturan Yang Mewajibkan Pembuktian Tindak Pidana Asal Dalam Tindak Pidana Pencucian Uang," *Civilia: Jurnal Kajian Hukum Dan Pendidikan Kewarganegaraan* 1, no. 2 (2022).

[18] Puput Pratiwi Wulandari, "IMPLIKASI PIDANA TAMBAHAN TERHADAP KORPORASI DALAM TINDAK PIDANA PENCUCIAN UANG," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 4, no. 4 (2020), https://doi.org/10.36312/jisip.v4i4.1420.

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vague norms can give rise to discretionary authority or free authority to interpret the law or interpret the law.[19] Interpretation can give rise to freedom or flexibility for the authority holder in assessing the articulation of the meaning of norms formulated vaguely. The freedom to interpret such vague norms can give rise to beneficial actions that can also be detrimental to society.[20] The concept of prostitution in Article 607 paragraph (2) letter u of the National Criminal Code, as a predicate crime *in* the crime of money laundering as a crime *of follow-up,* is theoretically an unclear norm, and to interpret the articulation of the meaning of the concept of prostitution, interpretation is used theoretically, so that it is feared that it can harm the accused who is suspected of committing the crime of prostitution. Based on these reasons, it is deemed necessary to reformulate the concept of prostitution as a predicate crime *in* the crime of money laundering as *a crime of follow-up,* in order to guarantee legal certainty in the imposition of criminal sanctions.[21] People involved in the crime of prostitution who have different roles are then subject to criminal sanctions in accordance with the provisions of Article 607 paragraph (2) of the National Criminal Code, with a criminal penalty of imprisonment. maximum of 15 (fifteen) years and a maximum fine of category VI. The fine of category VI is set at Rp 6,000,000,000,- (Six Billion Rupiah), which is certainly unfair, so that for the sake of justice, the provisions of Article 607 of the National Criminal Code must be reformulated or reformulated.

C. Sanctions in the Crime of Prostitution

1. Sanctions as Secondary Rules

Legal science has two categories of primary and secondary rules, especially in the theoretical understanding of law. Primary legal rules are rules or norms that contain rules of behavior for society, both individually and in groups. Secondary rules are rules or norms that enforce primary legal rules if the primary rules are violated. In the crime of prostitution as a predicate crime *in* the crime of money laundering in Article 607 paragraph (2) letter (u) of the National Criminal Code, but the norm does not clarify what prostitution means in its position as a

[19] Yovita Arie Mangesti and Slamet Suhartono, "Ilmu Hukum Kontemporer, Menembus Batas Kekakuan Hukum Normatif" (Malang: Setara Press, 2020).

[20] Slamet Suhartono, "Vage Normen Sebagai Dasar Tindakan Hukum Tata Usaha Negara," *Disertasi Program Doktor Ilmu Hukum Fakultas Hukum Universitas Brawijaya, Malang*, 2009.

[21] Ida Rahma, "Urgensi Peran Pusat Pelaporan Dan Analisis Transaksi Keuangan Dalam Penegakkan Hukum Tindak Pidana Pencucian Uang," *MAQASIDI: Jurnal Syariah Dan Hukum*, 2022, https://doi.org/10.47498/maqasidi.vi.1311.

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primary rule. The category determines the sanctions in the provisions of the article as a secondary rule with a maximum criminal threat of 5 years and a category VI fine. According to Article 79 of the National Criminal Code, category VI is determined at IDR 2,000,000,000 (Two Billion Rupiah). (Full details for the categories of fines regulated in Article 79 of the National Criminal Code consist of: 1) The maximum criminal fine is determined based on: a) Category I IDR. 1,000,000.00 (one million rupiah); b) Category II IDR. 10,000,000.00 (ten million rupiah); c) Category III IDR. 50,000,000.00 (fifty million rupiah); d) Category IV IDR. 200,000,000.00 (two hundred million rupiah); e) Category V IDR. 500,000,000.00 (five hundred million rupiah); f) Category VI IDR. 2,000,000,000.00 (two billion rupiah); g) Category VII IDR. 5,000,000,000.00 (five billion rupiah); and h) Category VIII IDR. 50,000,000,000.00 (fifty billion rupiah). 1) In the event of a change in the value of money, the provisions regarding the amount of the fine shall be determined by Government Regulation. Sanctions as secondary rules are consequences that must be accepted by perpetrators who violate primary legal rules. In addition, primary rules regulate how primary rules are implemented and secondary rules are enforced in this case. Thus, secondary rules simultaneously place and ensure the responsibility of violators of primary legal rules. Thus, the function of sanctions as secondary legal rules ensures how primary rules are enforced. If then the sanction listed in Article 607 of the National Criminal Code in category VI is IDR 2,000,000,000,- (two billion rupiah), applied to commercial sexual workers, it is certainly unfair. This can happen, when a commercial sexual worker saves the results of his work amounting to IDR 5,000,000,- (Five Million Rupiah), then it is considered unfair.[22] In this regard, for the sake of justice for a prostitute or sex worker, no matter how much rupiah is transferred or invested in a particular business, for the sake of justice it should not include perpetrators of criminal acts, because until now there is no legal provision that prohibits people who practice the profession of commercial sex workers. So far, what is prohibited is the act of indecency, or perpetrators who are involved in prostitution activities.[23]

[22] Novicca Dewi Kusumastuti and Heri Qomarudin, "SANKSI PIDANA PROSTITUSI SIBER BAGI PELAKU DAN MUCIKARI DI INDONESIA," *Jurnal Ilmiah Publika* 11, no. 1 (2023), https://doi.org/10.33603/publika.v11i1.8201.

[23] Adna Safira Amalya and Rehnalemken Ginting, "Tinjauan Kritis Terhadap Tindak Pidana Perdagangan Orang Yang Dilakukan Pengelola Jasa Prostitusi," *Recidive : Jurnal Hukum Pidana Dan Penanggulangan Kejahatan* 9, no. 1 (2020), https://doi.org/10.20961/recidive.v9i1.47385.

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2. Increasing Sanctions Against Certain Offenders

Sanctions are rewards or consequences that a person or group must accept for violating legal rules or norms as primary legal rules. Because the function of sanctions is to enforce primary legal rules. As an instrument or means to enforce legal rules, the severity of sanctions depends on the level of error or violation based on applicable laws and regulations. Sanctions are actions or punishments given for violating rules, norms, or laws. Sanctions aim to change behavior so that it does not happen again. Utrecht, what is meant by sanctions is the result of an act or a reaction from another party, be it a human or a social institution, to a human act.

The type of sanction depends on the type of legal norm violated; for example, if the violation committed is an administrative legal norm or rule, then the sanction imposed is an administrative sanction. If what is violated is a civil legal regulation or norm, then the sanction imposed is a civil sanction. Likewise, if what is violated is a criminal law regulation, then what is imposed on the violator is a criminal sanction, and its severity depends on the severity of the legal norm violated. Based on the understanding of sanctions above, that the severity of sanctions is very dependent on the type of act committed, then the regulation of sanctions as stated in Article 607 of the National Criminal Code, namely the maximum imprisonment and fines in category VI, if the sanctions are imposed on all perpetrators of prostitution crimes, of course, it will hurt the sense of justice. This means that if the sanctions between sex workers, sexual service providers, pimps, and others are the same from the perspective of the theory of justice, it is certainly unfair.

Referring to Aristotle's theory of distributive justice, the imposition of sanctions without considering the role and position of the parties involved in prostitution activities is unfair because they are not proportional. For pimps and also for prostitution service providers, sanctions should be given heavier sanctions or threatened with heavier sanctions than for commercial sex workers. Moreover, if there is sexual exploitation of sex workers, commercial sex workers should not be subject to sanctions and should instead be given protection by the government.

Heavy sanctions in the form of criminal penalties or fines need to be imposed on people who take advantage of commercial sex workers as a result of commercial sex exploitation by

irresponsible people, who should not take advantage of other people's suffering. For example, pimps, providers of commercial sex service facilities, managers of *online sex sites,* are smart people. Therefore, they should be subject to heavier sanctions according to certain categories.

D. Legal Responsibility in Prostitution Crimes

1. Users of Commercial Sex Services

Sexual relations between commercial sex workers and users of commercial sex services are basically agreements or transactions, mutually agreed upon without coercion or persuasion. In the transaction, a price or goods are agreed upon as compensation for sexual services from the sex worker. Therefore, because of its transactional nature, sexual relations between the two are based on the awareness of the parties making the agreement.[24] Furthermore, Article 290 of the Criminal Code states: The following shall be punished by a maximum imprisonment of seven years: 1) Anyone who commits an obscene act with someone, knowing that the person is unconscious or helpless; 2) Whoever commits an obscene act with a person who he knows or should suspect is under fifteen years of age or, if it is not clear that the age of the person concerned is not yet marriageable: 3) Whoever induces a person whom he knows or should suspect to be under fifteen years of age or if the age of the person concerned is not clear or is not yet marriageable, to commit or allow an obscene act to be committed, or to have sexual intercourse outside of marriage with another person.

Article 290 of the Criminal Code contains criminal provisions for perpetrators of criminal acts who commit indecent acts in unlawful ways, such as indecent acts with someone, even though they know that the person is unconscious or helpless, indecent acts with a child who is not yet old enough, and also someone who marries a child who is not old enough or allows someone to commit indecent acts or have sex outside of marriage with another person. The provisions of the articles described above are provisions that regulate indecency, and which must be distinguished from prostitution. The definition of indecency according to law can vary depending on the jurisdiction and applicable law. However, in general, indecency can be defined as a sexual act that does not follow social norms, such as extramarital sex, sexual

[24] Ida Bagus Gede Subawa and Made Krisna Dwipaya, "Pertanggungjawaban Pidana Pekerja Seks Komersial Secara Online," *Jurnal Hukum Saraswati (JHS)* 3, no. 1 (2021), https://doi.org/10.36733/jhshs.v3i1.1838.

intercourse with a minor, or sexual intercourse with someone who cannot give consent. Prostitution is the activity of selling or offering sexual services for money or other compensation. Prostitution can involve sexual activities that do not follow social norms, and can be carried out by individuals or groups, or carried out professionally organized.[25]

If in prostitution activities, the sexual relationship is based on mutual agreement or is transactional, both agree to have sexual relations with the motive of obtaining money or other forms as agreed, while indecent acts are not transactional, and are not based on the motive of money or other forms. Furthermore, regarding the characteristics of indecent acts, there is sexual relations, which are not following social norms, legal norms, and also religious norms, in sexual relations carried out without the consent of the parties involved in the molestation, because it is more caused by coercion, and persuasion, and so on. While in prostitution, these characters are almost not fulfilled, unless the sexual activity violates social norms, moral norms, and religious norms.[26] Considering the description above, it is clear that the Criminal Code does not accommodate prostitution activities as a form of crime or criminal act for which the perpetrators, in this case users of commercial sex services, cannot be punished. Thus, until now, users of commercial sex services cannot be punished, because there are no criminal provisions for users of commercial sex services, except for acts of indecency.

Criminal sanctions can only be imposed on men who commit spousal, namely men who engage in sexual relations as regulated in Article 284 of the Criminal Code, which is formulated as follows: 1) Threatened with a maximum prison sentence of nine months: a) a married man who commits gendak (overspel), even though it is known that Article 27 of the Civil Code applies to him; b) a married woman who commits fornication, even though it is known that Article 27 of the Civil Code applies to her; c) a man who participates in the act, even though he knows that the other party is married; d) a married woman who participates in committing the act, even though she knows that the person who is also guilty is married, and Article 27 BW applies to her. 2) No prosecution is carried out except upon a complaint from the husband/wife

[25] Muhammad Arif Eka Putera, "Analisis Yuridis Tentang Sanksi Pidana Terhadap Pelaku Tindak Pidana Prostitusi Online," *Jurnal Hukum*, no. 44 (2022).

[26] Deni Yuherawan and Subaidah Ratna Juita, "Aktualisasi Nilai-Nilai Pancasila Melalui Reformulasi Pertanggungjawaban Pidana Pada Kasus Prostitusi Online," *Rechtidee* 15, no. 2 (2020), https://doi.org/10.21107/ri.v15i2.9141.

who is being sued. If Article 27 of the Civil Code applies to them, within three months, this is followed by a request for divorce or separation from bed and board for that reason as well; 3) Articles 72, 73 and 75 do not apply to this complaint; 4) A complaint may be withdrawn as long as the court hearing has not yet begun; 5) If Article 27 of the Civil Code applies to a husband and wife, complaints will not be considered as long as the marriage has not been terminated due to divorce or before the decision stating that the separation of bed and board becomes permanent.

In Article 2, paragraph (1) of Law Number 21 of 2007 concerning the Prevention and Eradication of Money Laundering Crimes, it also does not seem to indicate the possibility of commercial sex users being held legally responsible for their actions. Furthermore, Article 2 paragraph (1) is formulated in full as follows: "Any person who recruits, transports, shelters, sends, transfers, or receives a person with the threat of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt trapping or giving payment or benefits even though obtaining the consent of a person who holds control over another person, to exploit the person in the territory of the Republic of Indonesia, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR. 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR. 600,000,000.00 (six hundred million rupiah)".

Based on the explanation above, it can be said that no provision in the article can be used to ensnare users of sexual services with criminal sanctions, unless the act of sexual intercourse is carried out in the context of indecency, but not in the context of prostitution activities. The possible sanctions that can be imposed are acts that fulfill the provisions of Article 2 paragraph (1) number 2 letter a, which are formulated as follows: "a married man who commits gendak (overspel), even though it is known that Article 27 BW applies to him", and the provisions of paragraph (1) number 2 letter a, which are formulated as follows: "a man who participates in committing the act, even though it is known that the person who is also guilty is married".

2. Commercial Sex Workers

The status of commercial sex workers in the context of prostitution activities is not much different from the status of users of commercial sexual services. If the user of commercial sex

services is a man's status as a party that benefits from sexual services, while sex workers are parties who sell their bodies or offer their bodies, honor and self-esteem to users of commercial sex services, in exchange for a sum of money or other goods as mutually agreed upon.[27] Possible sanctions that can be imposed on commercial sex workers, if the woman meets the provisions of Article 284 paragraph (1) of the Criminal Code, which is formulated as follows: "a married woman who commits fornication, even though it is known that Article 27 BW applies to her". In addition, women who meet the provisions of Article 284 of the Criminal Code paragraph (1) point 2 letter b, which is formulated as follows: "a married woman who participates in the act, even though it is known to her that the co-culprit is married and Article 27 BW applies to her" and also those who meet Article 384 paragraph (1) number 2 point b, which is formulated as follows: "a married woman who participates in the act, even though it is known to her that the co-culprit is married and Article 27 BW applies to her".

As a note related to the status of users of commercial sex services and commercial sex workers in legal responsibility related to Article 27 BW is related to marital status, which in full the article is formulated: "At the same time, a man may only be bound by marriage to one woman; and a woman to only one man". However, if the provisions of this article in its implementation cause multiple interpretations depending on the interpreter, of course differences of opinion are reasonable. Another note related to the two provisions of the article above, that the crime is a crime of adian so that it can be prosecuted and processed and whether or not a criminal sentence is imposed depends on the presence or absence of a victim, in this case the wife or husband of the commercial sex worker or the user of the commercial sex worker. So as long as there is no complaint from the interested party, there will never be a prosecution, which ends with criminal responsibility.[28]

3. Commercial Sex Service Facility Providers

In prostitution activities, one of those involved and that plays an important role is the provision of commercial sex service facilities. As is known, commercial sex service facilities can

[27] Ida Bagus Gede Subawa and Made Krisna Dwipaya, "Pertanggungjawaban Pidana Pekerja Seks Komersial Secara Online."

[28] Putu Eva Ditayani Antari, "Pemidanaan Terhadap Pekerja Seks Komersial Melalui Aplikasi Michat The Liability of Prostitute On Michat," *Jurnal Selat* 9, no. 2 (2022), https://doi.org/10.31629/selat.v9i2.4386.

be found in various facilities, such as brothels, massage parlours, salons, and so on. In Indonesia, providers of sex worker service facilities can be punished based on several laws and regulations. For example, in the Criminal Code, Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking, and even for certain regions it is regulated in the respective Regional Regulations following the principle of regional autonomy.[29]

In positive law, there are no criminal provisions for commercial sex service providers. Still, interpretatively, the legal responsibility of commercial sex service providers can be understood through Law Number 11 of 2008 concerning Electronic Information and Transactions. Article 27 (1) is formulated: "Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates morality."

The provisions of Article 27 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions above do not formulate what is meant by the sentence "containing content that violates morality". However, what is certain is that anyone who meets this article's provisions according to Article 45 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions can be subject to criminal sanctions. In full, Article 45 (1) is formulated as follows: "Any person who meets the elements as referred to in Article 27 paragraph (1), paragraph (2), paragraph (3), or paragraph (4) shall be punished with imprisonment for a maximum of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).

The problem related to the application of sanctions against perpetrators of violations of Article 27 paragraph (1) is hampered by the proof that the violation is related to violations of moral values. In the sense of what content contains violations of moral values, because moral values include vague norms or norms that do not have standard parameters, so that in their application, they can give rise to differences of opinion.

Vague norms are one form of weakness of positive law. However, norms on the other hand are still needed to provide flexibility for law enforcement officers when faced with difficult

[29] Abd Hamid, "Penegakan Hukum Pada Tingkat Penyidikan Dalam Tindak Pidana Penyedia Sarana Prostitusi Di Kepolisian Resor Pasaman Barat," *UNES Journal of Swara Justisia* 6, no. 1 (2022), https://doi.org/10.31933/ujsj.v6i1.242.

problems and must choose. The existence of vague norms in positive law can be used as a basis for decision-makers' policy-making. Because if positive legal norms are formulated firmly and definitely, it will cause law enforcers to be unable to do much when faced with different situations and conditions. For example, related to the sentence violating moral values, this sentence does not have a clear formulation, and it is even suspected that the formulation of the article was deliberately made vague. The factor can be caused by lawmakers' limitations in using the right sentence, or it is indeed deliberate so that decision makers interpret the meaning of moral values according to the context, especially in Indonesia, which has different parameters of moral values between one community group and another.[30]

Regardless of the reasons for vague legal norms in positive law, its use must be done by interpreting the norm to find the articulation of its meaning. As stated by Sudikno Mertokusumo, " in the case of unclear legislation, there is an interpretation method or legal interpretation method, this method is commonly called *legal hermeneutics*.[31] In line with Sudikno Mertokusumo, Emilio Betti also stated that interpreting is an effort to clarify the problem by investigating the interpretation process in detail to find the meaning of a rule or legal norm. Von Savigny later emphasized this opinion by stating that legal interpretation is a reconstruction of thoughts summarised in the law.[32] According to HLA Hart, if there is ambiguity in legal norms, then the law enforcer can directly use the method of legal discovery without going through the method of legal interpretation; the law enforcer uses strong discretion/broad discretion to create law or directly find law *(rechtsvinsing/law finding).* Meanwhile, according to Dworkin, interpretation must first be used by referring to the principles or principles of related law, then formulate the legal norms. Dworkin's thinking on norms always comes from morality,[33] Dworkin believes that law is rooted in the principles of morality, therefore in the case of judges trying cases that do not yet have rules, judges must use

[30] Regina Kanya Zulkafia and Dian Andriasari, "Penegakan Hukum Terhadap Praktik Prostitusi Di Kota Bandung Sebagai Penyakit Masyarakat Ditinjau Dari Aspek Hukum Pidana Dan Aspek Kriminologi," *Bandung Conference Series: Law Studies* 3, no. 1 (2023), https://doi.org/10.29313/bcsls.v3i1.4991.

[31] Sudikno Mertokusumo, "Legal Theory," *Yogyakarta: Cahaya Atma Pustaka*, 2012.

[32] M. Zulfa Aulia, "Friedrich Carl von Savigny Tentang Hukum: Hukum Sebagai Manifestasi Jiwa Bangsa," *Undang: Jurnal Hukum* 3, no. 1 (2020), https://doi.org/10.22437/ujh.3.1.201-236.

[33] Suhartono, "Vage Normen Sebagai Dasar Tindakan Hukum Tata Usaha Negara."

interpretation *(hermeneutics)*, to assess the unclear law, then judges must understand the moral values and ideals of justice hidden behind the norms.[34]

Related to the use of interpretation of vague norms in their application, Lie Oen Hock stated: "A judge in any case, namely if for the case submitted to him there is no statutory provision or the statutory provisions are unclear, is obliged to provide justice. The question is: "How should the judge act in such circumstances? If a statutory provision is unclear, the judge must determine the meaning of the provision or the meaning of an unclear word in a statutory provision, namely he must interpret the provision or word."

Based on the description of several opinions related to the existence of vague norms in Article 27 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions, then related to content that violates moral values, of course in its application it must be interpreted wisely by freeing the subjective element, so that in its application it can realize justice. However, it should be noted that vaguely formulated norms usually become elastic norms, the application of which is very elastic and in interpreting which is influenced by various factors, including the interpreter's subjectivity. Thus, people who utilize electronic information and transactions that are accused of violating moral values can depend on their fate on the interpretation of the norm.

4. Pimp

Pimps or pimping in positive law in Indonesia are regulated in Article 296 of the Criminal Code and Article 506 of the Criminal Code, which are grouped as criminal acts or crimes against morality. As a crime, of course the existence of pimps or pimping is prohibited in criminal law regulations, in this case the Criminal Code. Article 296 of the Criminal Code is formulated: "Anyone who intentionally causes or facilitates indecent acts by another person with another person, and makes it a livelihood or habit, shall be subject to a maximum imprisonment of one year and four months or a maximum fine of fifteen thousand rupiah". While in Article 506 of the Criminal Code, it is formulated: "Anyone who takes advantage of a woman's indecent acts and makes it a livelihood, shall be subject to a maximum imprisonment

[34] Smiriti Srivastava et al., "Analysis of Technology, Economic, and Legislation Readiness Levels of Asteroid Mining Industry: A Base for the Future Space Resource Utilization Missions," *New Space* 11, no. 1 (2023), https://doi.org/10.1089/space.2021.0025.

of one year.[35] Based on the two formulations of the article, it clearly shows the status of pimps or pimps concerning prostitution or prostitution. The definition of a pimp or pimp in positive law does not have a clear conceptual definition, but can be searched through other sources. In the search for legal materials, a pimp or pimp is defined as a person who works as a caregiver, intermediary, or owner of commercial sex workers (CSW).[36] A pimp or pimp is a person who works as a caregiver, intermediary, and/or owner of commercial sex workers (CSW). Pimps can be male or female.[37]

Referring to the definition above, a pimp is a person of male or female gender who works as a caregiver, intermediary, or owner of commercial sex workers, from which work the pimp earns money as a source of livelihood. This work is done continuously, so that pimps are also often called "mami" or "papi" by commercial sex workers who are their foster children. Judging from how it works, the position of a pimp or a pimp is actually not a profession that is formed, but rather a profession that is formed.[38] This means that the profession of a pimp or a pimp is formed because there are commercial sex workers who need users of their services, in this case as consumers, while there are also commercial sex users who need commercial sex workers. These needs can be met through a liaison or intermediary, and if there is still demand and supply, the liaison status becomes a permanent media or intermediary. In such cases, the intermediary or liaison is then given the nickname pimp or pimp.[39]

The profession of pimp or pimping according to Indonesian law is a profession that is prohibited by law. This means that the profession of pimp or pimping in positive law in Indonesia is a profession as a criminal act, which is threatened with criminal sanctions for the perpetrators. Therefore, if it is proven that there are people who are engaged in this profession, they must be prosecuted by law. To take action or eradicate the crime of pimp or pimping, in Indonesia it has been done through Article 296 of the Colonial Criminal Code and Article 506

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[35] I Komang Wijaya Mahardika and I Gede Yusa, "Kriminalisasi Terhadap Perbuatan Penggunaan Jasa Prostitusi Di Indonesia," *Kertha Wicara : Journal Ilmu Hukum* 9, no. 1 (2019).

[36] Beulah Shekhar, "The Debt Trap, a Shadow Pandemic for Commercial Sex Workers: Vulnerability, Impact, and Action," *International Review of Victimology* 29, no. 1 (2023), https://doi.org/10.1177/02697580211035585.

[37] Shekhar.

[38] Fany Annisa Putri, "Penjatuhan Sanksi Pidana Oleh Hakim Terhadap Pelaku Tindak Pidana Praktik Mucikari," *Indonesian Journal of Criminal Law and Criminology (IJCLC)* 3, no. 2 (2022), https://doi.org/10.18196/ijclc.v3i2.15528.

[39] Laila Nur Fafirani and Diana Lukitasari, "Pertanggungjawaban Pidana Mucikari Dan Pengguna Jasa Dalam Prostitusi Online Anak," *Recidive : Jurnal Hukum Pidana Dan Penanggulangan Kejahatan* 11, no. 2 (2022), https://doi.org/10.20961/recidive.v11i2.67450.

of the National Criminal Code, which regulates criminal sanctions for pimps who commit the crime of prostitution.[40]

As a note, the threat of a criminal sentence of one year and four months or a fine is felt unfair. Because it is not uncommon for pimps or procurers to exploit commercial sex workers who are their foster children. The phrase "or" in the sentence of a criminal sentence of one year and four months or a fine of fifteen thousand rupiah is an optional sanction. For pimps or prostitution on a large scale, of course, it is easy to choose sanctions by any means will be carried out, including doing to be able to choose a fine. As another note that both articles are articles on indecency, then of course we must consider the possibility of applying both articles to pimps. Because conceptually there is a difference between prostitution and indecency, or the possibility of the concept of indecency being equated with the concept of prostitution, so that Article 296 of the Criminal Code and Article 506 of the Criminal Code can be applied to pimps in the illicit business of prostitution.

According to Kadek Martahadi Prananta, people who facilitate others to commit indecency and make it a livelihood or habit in society are called pimps [41]. Regardless of the meaning of the term used, what is clear is that pimps provide space for the growth of prostitution in Indonesia, especially after the advancement of information technology that makes it easier for humans to communicate in any form and purpose including for the interests of prostitution. Based on the discussion of the problems in this sub-chapter, it can be stated that the results of the analysis show that pimps or pimps normatively must be legally responsible. This means that the actions of pimps or pimps are actions that violate criminal law. The provisions used to ensnare pimps or pimps are the provisions of Article 285 of the Criminal Code - Article 289 of the Criminal Code which regulate criminal acts against morality, including pimps or pimps. Furthermore, it is also contained in Article 2 paragraph (1) letter b of Law Number 21 of 2007 concerning the Eradication of Criminal Acts of Human Trafficking, which regulates human trafficking for the purpose of sexual exploitation, which can be imposed on pimps/pimps.

[40] Wijaya Mahardika and Yusa, "Kriminalisasi Terhadap Perbuatan Penggunaan Jasa Prostitusi Di Indonesia."

[41]Kadek Martha Hadi Parwanta, Made Sugi Hartono, and Ni Ketut Sari Adnyani, Legal Analysis of Article 506 of the Criminal Code as the Main Regulation in Combating Criminal Acts of Prostitution, *Jurnal Komunitas Yustisia,* 4.2 (2021), 531–41.

Regarding the sanctions that can be imposed on pimps or procurers, they vary greatly depending on the actions they have committed, including criminal sanctions in the form of imprisonment if proven to have carried out activities that are considered illegal. In addition, fines can also be imposed if proven to have carried out illegal activities. As a note, criminal sanctions in the form of imprisonment and fines are alternative and not cumulative, so it is necessary to consider the possibility of increasing the severity of the criminal sanctions in the form of imprisonment and/or fines.

E. Reformulation of Evidence Regulations in Money Laundering Crimes

1. The Nature of Proof

Evidence is an effort to prove the truth of something that is argued or has been said. The phrase or term evidence comes from the Dutch term *bewijs used in two meanings, sometimes interpreted as an act by which certainty is given, sometimes as a result of the act, namely the existence of certainty.*[42] Eddy OS Hiariej2 in giving an understanding of evidence, emphasizes more on the terms used. By quoting the opinion of Ian Denis, Eddy OS Hiarej starts from the word or phrase *evidence,* which, according to him, is closer to the understanding of evidence according to positive law. In contrast, the word *proof* is given the meaning as evidence that leads to a process. *Evidence* or proof provides information in a legitimate investigation regarding facts that are more or less as they are.[43]

Considering the opinions above, it can be said that proof is important in proving what is argued and related to legal cases. Thus, in simple terms, proof is a matter of proving a truth. Regarding the understanding of the matter of proving, according to Subekti, it is an effort to convince the judge of the truth of the argument or arguments in a dispute.[44] In the context of criminal law, evidence is the core of a criminal trial, because what is sought is the material truth. Evidence is the core of a criminal trial because material truth is sought.[45] Therefore, in

[42] Muslim Mamulai, "Hakikat Pembuktian Melalui Media Elektronik Dalam Prespektif Sistem Peradilan Pidana Indonesia," *Al-Ishlah : Jurnal Ilmiah Hukum* 20, no. 1 (2017), https://doi.org/10.33096/aijih.v19i1.2.

[43] Muslim Mamulai, "Hakikat Pembuktian Melalui Media Elektronik Dalam Prespektif Sistem Peradilan Pidana Indonesia," *Al-Ishlah : Jurnal Ilmiah Hukum* 20, no. 1 (2017), https://doi.org/10.33096/aijih.v20i1.2.

[44] Defid Tri Rizky and Mochamad Kevin Romadhona, "Prinsip Pembuktian Perkara Tindak Pidana Pencucian Yang Berdiri Sendiri (Stand Alone Money Laundering)," *Media Iuris* 5, no. 3 (2022), https://doi.org/10.20473/mi.v5i3.36098.

[45] Arif Hidayat, "Pandecta Penemuan Hukum Melalui Penafsiran Hakim Dalam Putusan Pengadilan," *Pandecta: Research Law Journal* 8 (2013).

the context of criminal law, evidence is an effort that the prosecutor must make to provide evidence so that the judge believes what is argued in the prosecutor's demands. In criminal law, the truth to be achieved is material truth, so that evidence in criminal trials requires the seriousness and activeness of the judge who is examining, trying, and deciding the case. While in civil cases, the truth to be achieved is formal truth. In an effort to find material truth, the judge in court is passive, in the sense that the passive role in finding the truth related to what is argued depends on the parties in the case.[46] In civil cases, the parties are required to actively seek evidence and prove the arguments put forward in their lawsuit. The efforts made by the parties in finding evidence and using it in the trial in civil cases are the most important part in the meaning of the nature of proof, which in essence, is related to the matter of proving based on the available evidence.[47]

2. The Concept of Reformulation of Evidence in Money Laundering Crimes

The reformulation of evidence in this sub-chapter is intended to formulate or rearrange the system of evidence in the crime of money laundering. It has been explained above that the crime of money laundering is a double criminality, consisting of a predicate crime, one of which is the crime of prostitution, as the predicate crime *and* the other is the crime of money laundering as a crime *of follow-up.* In criminal law, every crime or criminal act is always proven by the existence or absence of a criminal act, and the existence or absence of evidence used to support the truth of the existence of the criminal act. In relation to proving the crime of money laundering, both crimes should be proven that there is a predicate crime, in this case the crime of prostitution as *a predicate crime* and then proof is made that the predicate crime as *a predicate crime* has a causal relationship to the occurrence of money laundering as a continuing crime *(crime of follow).*

Suppose we pay attention to and examine the provisions of proof of money laundering, as mentioned in the discussion of Chapter II. In that case, it shows that the proof used adheres to the principle of single proof, meaning that in proving money laundering, the truth and falsity

[46] Rizky and Mochamad Kevin Romadhona, "Prinsip Pembuktian Perkara Tindak Pidana Pencucian Yang Berdiri Sendiri (Stand Alone Money Laundering)."

[47] Hanna Rosyidah, Bayu Satya Ndharma, and Naya Aulia Zulfa, "Inkonsistensi Aturan Pertanggungjawaban Pidana Pencucian Uang Oleh Korporasi: Perlukah Reformulasi?," *Jurnal Hukum Lex Generalis* 2, no. 12 (2021), https://doi.org/10.56370/jhlg.v2i12.147.

of the said money laundering crime is proven. Thus, it is not necessary to prove the existence of a predicate crime, such as prostitution, corruption, fraud, and so on.

The adoption of a system of proof of money laundering crimes can be seen in the provisions of Article 69 of Law Number 8 of 2010 concerning the Eradication of Money Laundering Crimes, which is formulated in full as follows: "To conduct an investigation, prosecution and examination in court against money laundering crimes, it is not mandatory to first prove the original crime." The proof in Article 69 is not only limited to the time of investigation, prosecution, but also includes all stages of law enforcement. In the integrated criminal justice system theory, all levels are an inseparable whole. However, let's look at other provisions in Law Number 8 of 2010 concerning the Eradication of Money Laundering, related to the proof. There seems to be disharmony or conflict with each other, which in legal theory is known as a conflict of norms. In Part Four on Examination in Court, the provisions of Article 77 are formulated as follows: "For the purposes of examination in court, the defendant is required to prove that his assets are not the result of a crime." Furthermore, Article 78 is formulated as follows: 1) In the examination at the court hearing as referred to in Article 77, the judge orders the defendant to prove that the assets related to the case do not originate from or are related to the criminal act as referred to in Article 2 paragraph (1); 2) By submitting sufficient evidence, the defendant proves that the assets related to the case do not originate from or are related to the criminal act as referred to in Article 2 paragraph (1).

Considering the provisions of Article 77 with the phrase "... the defendant is obliged to prove that his assets are not the result of a crime", the phrase Article 77 paragraph (1), and in paragraph (2) the Defendant "proves that the assets related to the case do not originate from or are related to a crime...". The provisions of Article 69 with the provisions of Article 77 paragraphs (1) and (2) seem to contradict each other, or there is a conflict of norms, because Article 69 does not require proof, while Article 77 interpretatively requires proof of the original crime in the crime of money laundering. Because Article 2 paragraph (1) of Law Number 8 of 2010 concerning the Eradication of Money Laundering, are types of money laundering crimes. Argumentatively, the phrase not mandatory in Article 69 of Law Number 8 of 2010 concerning

the Eradication of Money Laundering Crimes can be interpreted as not requiring proof of the existence of a predicate crime, while Article 77 of Law Number 8 of 2010 concerning the Eradication of Money Laundering Crimes requires proof to be carried out using a reverse burden of proof system related to the predicate crime in this case prostitution as *a predicate crime* that precedes the crime of money laundering as *a crime of follow*.

The phrase not mandatory in Article 69 is argumentatively optional. This means that it is not mandatory to prove it does not mean that it is prohibited to prove the original crime. Thus, if the norm of Article 77 is mandatory, then it can be asked whether the two provisions do not contradict each other. Reformulation of the norms of proof of money laundering crimes in Article 69 of Law Number 8 of 2010 concerning the Eradication of Money Laundering Crimes, fulfils the sense of justice for people suspected of committing money laundering crimes. The reformulation was then rearranged with a new formulation by eliminating the word "not mandatory", becoming mandatory, so that the norm of Article 69 of Law Number 8 of 2010 concerning the Eradication of Money Laundering Crimes, was changed to: "To be able to conduct investigations, prosecutions, and examinations in court against money laundering crimes, the original crime must first be proven."

The second possible reformulation model is to remove the sentence "during examination in court" in Article 69, so that the formulation of the article becomes "To conduct an investigation or prosecution of the crime of money laundering, it is not mandatory first to prove the original crime". The new formulation eliminates the sentence "during examination in court", to be adjusted to the formulation of Article 77, so that it does not give the impression of a conflict of norms between Article 69 and Article 77 of Law Number 8 of 2010 concerning the Eradication of Money Laundering, in the sense that in cases of money laundering, proof of the predicate crime, in this case prostitution, is a must to be proven first.

Regardless of the evidentiary system used in the predicate crime that precedes the crime of money laundering as a subsequent crime, whether the prosecutor provides the evidence or the defendant must provide evidence using the reverse evidentiary system, so that whatever system is used, evidence should be provided for the predicate crime. The reason that can be

used to reformulate the evidentiary norms is to provide justice to the defendant charged with committing money laundering. Because argumentatively between the *predicate crime* in this case the crime of prostitution, and the crime of money laundering as a follow-up crime *(crime of follow)* has a very close relationship. Based on the principle of presumption *of innocence,* it is not permissible to assume that people who invest or save their money in a bank are always said to be the result of a crime or the proceeds of a crime. Therefore, the presumption that people who move or transfer money or assets are always the result of a crime must be proven first.

3. Proof of Criminal Acts of Prostitution

Normatively, there are indeed no laws and regulations, especially laws that regulate the crime of prostitution, but what exists are only the provisions of the law that regulate indecency. Indecency regulation is regulated in the articles of the Criminal Code as discussed in the previous sub-chapter. Meanwhile, the crime of money laundering does not have the same meaning as the crime of prostitution, as discussed in the previous discussion.

The fact that the crime of prostitution has not been regulated in a law certainly has logical consequences given that the proof of the crime of prostitution has not been regulated. However, this does not mean that the crime cannot be proven, because the crime of prostitution is detected by its character, which is essentially a sexual relationship, which has similarities with the crime of molestation. The difference lies in the motive between the two types of crimes.[48] Proof in criminal acts of prostitution in Indonesia can be done by using several evidence and methods of proof. The evidence that can be used in criminal acts of prostitution can be stated as follows: The first is a witness, in this case, a person who can provide information about the alleged prostitution activities carried out by the defendant, related to the time, place, and other evidence known and seen by the witness. A witness in a criminal case is a person who provides information about a crime that he/she heard, saw, or experienced themselves[49]. Witness information can be provided in investigations, prosecutions, and trials. According to KBBI, a

[48] Ayu Dian Ningtias and Suisno Suisno, "KONSEP HUKUM PEMBUKTIAN PROSTITUSI MELALUI MEDIA SOSIAL DALAM ASPEK HUKUM PIDANA," *Ius Civile: Refleksi Penegakan Hukum Dan Keadilan* 5, no. 1 (2021), https://doi.org/10.35308/jic.v5i1.2613.

[49] Muhamad Iqbal, Susanto, and Bhanu Prakash Nunna, "Sexual Gratification As A Serious Threat In Modern Criminal Reasoning On Aspects Of Judges' Considerations In Court Judgment," *Jurnal Jurisprudence* 13, no. 2 (2023), https://doi.org/10.23917/jurisprudence.v13i2.1819.

witness is a person who sees, hears, or experiences an event themselves. A witness can also be interpreted as information or evidence provided by someone who sees or knows about an event. According to *Black's Law Dictionary,* [50] *Witness is 1) Person who sees a document signed. 2. Person called to court to testify and give evidence*. (1). The person who signed the document signed. 2). The person who is called to court to testify and give evidence. So a witness directly sees the event or occurrence of a legal event, and provides evidence in court.

Furthermore, according to Article 1, number 26 of the Criminal Procedure Code (KUHAP), a witness is "a person who can provide information for investigation, prosecution and trial of a criminal case that he/she heard, saw and experienced himself/herself". Being a witness in a criminal act of prostitution is not difficult, because advances in information technology make it easy for people to track communications in criminal acts of prostitution, places or facilities for conducting prostitution, and so on. In addition to witnesses who directly witnessed the crime of prostitution, evidence of the crime of prostitution can also be used, including documents related to prostitution activities, such as photos, videos, or financial records, or proof of transfer, and so on. In addition, in proving the crime of prostitution, evidence can also be used. Evidence is goods used in the crime of prostitution or goods related to prostitution activities, such as clothing, cosmetics, or contraceptives. If the crime is indeed related to a serious crime, then the evidence used is also from the results of laboratory tests. In this case, for example, the results of laboratory tests that can prove sexual relations between the defendant and the victim, for example the hair of the defendant and the victim, semen from the defendant and so on as long as it can be used as evidence that supports the resolution of the trial of the crime of prostitution.

4. Methods of Evidence in Prostitution Crimes

The method of proof in legal cases in Indonesia is regulated differently or adopts different regimes, and is regulated in each procedural law. Proof of criminal law in Indonesia is based on the Criminal Procedure Code. This method includes valid evidence and a reverse proof system. While the method of proving the crime of prostitution uses the following proof

[50] Henry Campbell Black, "Black's Law Dictionary Eighth Edition," *Nuevos Sistemas de Comunicación e Información*, 2021.

methods: The first is direct proof, namely a method of proof using evidence that can prove the existence of prostitution activities. The second is indirect proof, namely proof using evidence that can prove the existence of activities related to prostitution, such as activities carried out by pimps or by managers of prostitution places or providers of prostitution service facilities.

Furthermore, regarding the burden of proof in the crime of prostitution as explained above, considering the evidence used, it is appropriate if the burden of proof is placed on the public prosecutor. In this case, the public prosecutor must prove that the defendant has committed the crime of prostitution, because the prosecutor is the one who is prosecuting, so the prosecutor must prove it. The burden of proof can also be placed on the defendant if the law considers the need for reverse proof. Because so far, there have been no definite provisions regarding the regulation of proof of the crime of prostitution. In this case, the defendant must prove that he feels he is not guilty of committing the crime of prostitution as charged. Regarding the process of proof in the crime of prostitution, it can be done by investigators during the investigation. The purpose of the investigation is to collect evidence and obtain the necessary witness statements. However, the possibility of proof can also be done by the judge who examines, tries, and who will decide the case and determine the sentence for the defendant. Proof is done through the trial process that has been regulated in the Criminal Procedure Code.

5. Methods of Proving Money Laundering

The method of proof adopted in the crime of money laundering in Indonesia is different from the method of proof in the crime of prostitution, namely by using a method of proof based on Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. The method of proof used in the crime of money laundering is in principle almost the same as the proof in the crime of prostitution, namely proof based on: *first*, is proof using valid evidence, such as documents, witnesses, and other evidence deemed necessary; *second*, proof can also be done with financial analysis conducted by financial experts to determine the origin and circulation of money.[51] In addition, proof in money laundering crimes can be done

[51] Rosyidah, Satya Ndharma, and Aulia Zulfa, "Inkonsistensi Aturan Pertanggungjawaban Pidana Pencucian Uang Oleh Korporasi: Perlukah Reformulasi?"

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by investigation methods. Investigators carry out this method of proof to find out about activities suspected of being money laundering crimes. Investigation is a systematic and comprehensive investigation or search for facts, especially hidden or complicated ones. The goal is to discover or prove a fact's truth or falsity.[52] Investigation, inquiry, investigation, research express the idea of an active effort to find out something. An investigation is a systematic, detailed, and thorough effort to learn the facts about something complicated or hidden; often formal and official in nature: an investigation into a bank failure. An examination is an orderly effort to obtain information about or test something, often something that is presented for observation: a physical examination. An inquiry is an investigation conducted by asking questions rather than by inspection or studying and examining the evidence available at the time of an inquiry into a proposed bond issue. Research is a careful and sustained investigation.[53]

Furthermore, regarding the evidence that can be used in proving the crime of money laundering, it can include: *first,* documents, namely documents related to the financial activities of the perpetrator of the crime, such as checking bank statements, checking invoices, and also if the contract between the defendant and the sex worker who works for the defendant; *third,* witnesses in this case witnesses who can provide information about financial activities suspected of being a crime of money laundering, and can also provide information related to the prostitution activities carried out by the defendant. In addition to evidence, other evidence can also be used to prove the crime of money laundering. Evidence is all types of goods used in connection with financial activities, such as money, bank accounts, bank statements, stocks, and bonds, or may also be in the form of property, gold, and other goods obtained from the proceeds of crime as a predicate crime.

The burden of proof is also not much different from the burden of proof in a prostitution crime case. In this case, the burden of proof is imposed on the public prosecutor, who

[52] Mulia Agung Pradipta and Pujiyono Pujiyono, "Reformulasi Pidana Pengganti Denda Undang-Undang Nomor 8 Tahun 2010 Tentang Tindak Pidana Pencucian Uang," *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019), https://doi.org/10.14710/jphi.v1i1.1-17.

[53] Vicko Taniady and Novi Wahyu Riwayanti, "Reformulasi Beban Pembuktian Terbalik Berlandaskan Asas Presumption of Guilt Terhadap Kasus TPPU Di Indonesia," *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 1, no. 2 (2021), https://doi.org/10.15294/ipmhi.v1i2.53702.

prosecutes and charges of money laundering against the defendant following what is provided in the Prosecutor's Law. In addition, the burden of proof can also be carried by the defendant who is accused of having committed the crime of money laundering. The burden of proof by the defendant adopts a reversed proof system, meaning that the defendant must prove that he did not commit the crime of money laundering. The reversed burden of proof that places a burden on the defendant is based on the provisions of Article 77 of Law Number 8 of 2010 concerning the Crime of Money Laundering.

F. Reformulation of Sanctions Regulations in Prostitution Crimes in Money Laundering Crimes

Every discussion about law, can never be separated from the discussion about sanctions always. According to the positivistic legal school of thought, law and sanctions have a very close relationship; even law without sanctions will lose its essence as law. Sanctions are an important element in law, besides commands and prohibitions. Although the followers of the sociology of law school of thought view that law is not always attached to sanctions, and legal sanctions do not always manifest in the form of legal norms of laws, or in the form of texts of articles and verses in laws. Sometimes sanctions in law can manifest in the form of social sanctions, moral sanctions and so on.[54]

Punishment is an action or consequence given to someone who violates the law, rules, or orders, and can be categorized into criminal, civil, and administrative sanctions.[55] In criminal law, sanctions are imposed by the state on someone who commits a crime, which can be principal punishment (death, imprisonment, confinement, fines, closure) or additional punishment (revocation of rights, confiscation of goods).[56] In the crime of money laundering regulated in Law Number 8 of 2010 concerning the Crime of Money Laundering, it cannot be separated from the provisions of the Colonial Criminal Code and the National Criminal Code, which will later replace it. In the provisions of Article 506 of the KIHP, it is determined that:

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[54] Yuherawan and Juita, "Aktualisasi Nilai-Nilai Pancasila Melalui Reformulasi Pertanggungjawaban Pidana Pada Kasus Prostitusi Online."

[55] Mulia Agung Pradipta, "Reformulasi Pidana Pengganti Denda Dalam Tindak Pidana Pencucian Uang Di Indonesia," *Pandecta: Research Law Journal* 13, no. 2 (2018), https://doi.org/10.15294/pandecta.v13i2.16623.

[56] Dauglas Fernandho, "Reformulasi Pembuktian Terbalik Dalam Memaksimalkan Pemeriksaan Perkara Money Laundering Dengan Predicate Crime Tindak Pidana Korupsi," *LITIGASI* 19, no. 2 (2020), https://doi.org/10.23969/litigasi.v19i2.922.

"Anyone who benefits from the indecent acts of a woman and makes her a prostitute, is threatened with imprisonment for a maximum of one year."

Based on the formulation of the provisions of Article 506 of the Colonial Criminal Code, it can be said that the perpetrators involved in the crime of prostitution who can be subject to criminal sanctions are only the intermediaries for the crime of prostitution. Thus, law enforcement officers only have the authority, in this case the pimp or intermediary. In addition to being regulated in Article 506 of the Colonial Criminal Code, prostitution activities are also regulated in Article 296 of the Colonial Criminal Code, which stipulates the following: "Anyone who intentionally causes or facilitates indecent acts by another person, and makes it a job or habit, shall be subject to a maximum prison sentence of one year and four months or a maximum fine of fifteen thousand rupiah."

The provisions of Article 296 of the Colonial Criminal Code imply that criminal sanctions can only be imposed on people who facilitate the organization of prostitution. In this case, interpretatively, it is only applied to brothel owners, or providers of commercial sexual services, pimps, and brokers of prostitution. Argumentatively, the provisions of Article 506 of the Colonial Criminal Code and Article 296 of the Colonial Criminal Code cannot be used to ensnare female commercial sex workers or prostitutes and users of sex services who utilize the services of commercial sex workers. The regulation of prostitution in the Colonial Criminal Code and the National Criminal Code has not been able to meet the legal needs of society, for example, regarding the gigolo phenomenon, because so far the stigma of prostitutes has only been directed at women. In addition, there is also the phenomenon of transvestite services which also contain sexual and commercial elements, as well as sexual services that use information technology. Law Number 35 of 2014 concerning Child Protection.[57]

Law Number 21 of 2007 concerning the Crime of Human Trafficking can only impose criminal penalties on someone who benefits from human trafficking. In addition, the enactment of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning

[57] Liza Novianti* and Waliadin Waliadin, "Online Prostitution in the Perspective of Law of the Republic of Indonesia Number 44 Of 2008 On Pornography," *Riwayat: Educational Journal of History and Humanities* 6, no. 1 (2023), https://doi.org/10.24815/jr.v6i1.31457.

Child Protection, which also only imposes criminal sanctions on people who sexually exploit children, seems to have not been fully accommodated by the Criminal Code.

The replacement of the Colonial Criminal Code *(Wet van Strafrecht)* which will come into effect on 2 February 2006 concerning the Criminal Code, also does not seem to provide a guarantee for the imposition of criminal penalties on perpetrators of prostitution activities, considering that the norm in Article 607 paragraph (2) letter (u) of the National Criminal Code, still requires review using interpretation in its application. This is because Article 607 paragraph (2) letter (u) only mentions "prostitution", whereas prostitution activities involve many parties. The enactment of Law Number 11 of 2008 concerning Electronic Information and Transactions and Law of the Republic of Indonesia Number 44 of 2008 concerning Pornography, provides more certainty to accommodate the problem of criminal acts of prostitution in Indonesia. Because the law has categorized the parties in the criminal act of prostitution as those who both enjoy the results of the sale of sexual services as compensation or wages.

Based on the research of prostitution regulation in the applicable positive law, it was obtained information that no article is specifically used to impose criminal penalties on Commercial Sex Workers (CSWs), or users of Commercial Sex Workers (CSWs), except in Law Number 11 of 2008 concerning Information and Electronic Transactions (UU-ITE). In addition, several provisions can be used to ensnare providers of Commercial Sex Workers (CSWs), in this case pimps, and also Commercial Sex Workers (CSWs) themselves.

After the enactment of Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code), 2 provisions of articles relating to the crime of prostitution were found, namely Article 420 and Article 421 of the National Criminal Code, each of which is formulated as follows: Article 420 of the National Criminal Code is formulated as follows: "Any person who connects or facilitates another person to commit an indecent act shall be punished with a maximum imprisonment of 2 (two) years". The provisions of this article use the phrase obscene, which if it has to be juxtaposed with the term prostitution and the crime of money laundering, it may be necessary to conduct a study as to whether the definition of obscene in Article 420 of

the National Criminal Code has the same meaning as the term prostitution in Article 67 paragraph (2) letter u of the National Criminal Code. The provisions of this article relate to pimps/middlemen/liaisons who facilitate the commission of criminal acts of indecency. Furthermore, Article 421 of the National Criminal Code is formulated as follows: "If the Criminal Act as referred to in Article 419 or Article 420 is carried out as a habit or to gain profit as a livelihood, the penalty can be increased by 1/3 (one third).

To clarify the understanding of obscene phrases in Article 419 of the National Criminal Code, you can see the following excerpts from the articles below: Article 4 19: 1) Any person who connects or facilitates another person to commit indecent acts or have sexual intercourse with a person who is known or suspected to be a child, shall be punished with a maximum prison sentence of 7 (seven) years; 2) If the crime as referred to in paragraph (1) is committed against a biological child, stepchild, adopted child, or child under his/her supervision who has been entrusted to his/her care, the perpetrator shall be punished by imprisonment for a maximum of 9 (nine) years. Article 420: Any person who connects or facilitates another person to commit an indecent act shall be punished with a maximum imprisonment of 2 (two) years. Article 421: If the Criminal Act as referred to in Article 419 or Article 420 is committed as a habit or to gain profit as a livelihood, the penalty may be increased by 1/3 (one third). Article 422: (1) Any person who moves, carries, places or hands over a child to another person to commit indecency, prostitution or other acts that violate morality shall be punished with a maximum prison sentence of 9 (nine) years. (2) If the crime as referred to in paragraph (1) is committed by promising the child a job or other promise, the punishment shall be a maximum of 10 (ten) years imprisonment. If we pay attention to the formulation of the provisions of Article 419, Article 429, Article 421, and Article 422 of the National Criminal Code, there is not a single phrase or word about prostitution, so if it is said that the phrase prostitution as a predicate crime in the crime of money laundering as a crime of follow, is perceived as an act carried out by commercial sex workers with the stigma of female sex workers, it seems inappropriate.

Regulation of sanctions related to criminal acts of prostitution in Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and

Transactions. In Article 45 paragraph (1), it is stated as follows: "Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates morality as referred to in Article 27 paragraph (1) shall be punished with imprisonment of a maximum of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah)".

Furthermore, Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions, which in Article 45 paragraph (1) is formulated as follows: "Any person who intentionally and without the right broadcasts, displays, distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents that have content that violates morality for public knowledge as referred to in Article 27 paragraph (1) shall be punished with imprisonment for a maximum of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah).

Furthermore, in Article 432 paragraph (1) of Law Number 17 of 2023 concerning Health, it is formulated: "Any person who commercializes the implementation of organ or body tissue transplantation as referred to in Article 124 paragraph (3) shall be punished with a maximum imprisonment of 5 (five) years or a maximum fine of IDR 500,000,000.00 (five hundred million rupiah). Furthermore, in paragraph (2) it is formulated: "Any person who trades in organs or body tissue for any reason as referred to in Article 124 paragraph (3) shall be punished with a maximum imprisonment of 7 (seven) years or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah)". Law Number 1 of 2023 concerning the Criminal Code, regarding the crime of prostitution, in Article 407 paragraph (1) it is formulated: "Any person who produces, makes, reproduces, duplicates, distributes, broadcasts, imports, exports, offers, sells, rents, or provides pornography, shall be punished with imprisonment of at least 6 (six) months and imprisonment of at most 10 (ten) years or a fine of at least category IV and a fine of at most category VI. Furthermore, regarding indecency, it is regulated in Article 414, formulated as follows: (1) Any person who commits an indecent act against another person of the same or different sex: (a) in public, shall be punished with a maximum imprisonment of 1 (one) year and 6 (six) months or a maximum fine of category III; (b) by force with violence or the threat of

violence, shall be punished with a maximum imprisonment of 9 (nine) years; or; (c) which is published as pornographic content, shall be punished with a maximum prison sentence of 9 (nine) years. (2) Any person who uses violence or the threat of violence to force another person to commit an indecent act against him/her shall be punished with a maximum prison sentence of 9 (nine) years.

In Law Number 21 of 2007 concerning the Crime of Human Trafficking, Article 2 stipulates: (1) Any person who recruits, transports, shelters, sends, transfers or receives a person by means of threats of violence, use of violence, kidnapping, confinement, forgery, fraud, abuse of power or vulnerable position, debt bondage or giving payment or benefits even with the consent of a person who has control over another person, for the purpose of exploiting the person in the territory of the Republic of Indonesia, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR. 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR. 600,000,000.00 (six hundred million rupiah); (2) If the act referred to in paragraph (1) results in a person being exploited, the perpetrator shall be punished with the same penalty as in paragraph (1).

Furthermore, Article 3 of Law Number 21 of 2007 concerning the Crime of Human Trafficking stipulates the following: "Any person who brings people into the territory of the Republic of Indonesia intending to exploit them in the territory of the Republic of Indonesia or exploit them in another country shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah)." In Article 4 of Law Number 21 of 2007 concerning the Crime of Human Trafficking, it is stipulated as follows: "Any person who takes an Indonesian citizen outside the territory of the Republic of Indonesia intending to exploit him/her outside the territory of the Unitary State of the Republic of Indonesia, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah). Article 5 of Law Number 21 of 2007 concerning the Crime of

Human Trafficking, stipulates: "Any person who adopts a child by promising something or giving something to exploit it shall be punished with imprisonment of at least 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah).

Article 6 of Law Number 21 of 2007 concerning the Crime of Human Trafficking, stipulates as follows: "Any person who sends a child into or out of the country in any way that results in the child being exploited shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least IDR 120,000,000.00 (one hundred and twenty million rupiah) and a maximum of IDR 600,000,000.00 (six hundred million rupiah). Article 13 of Law Number 21 of 2007 concerning the Crime of Human Trafficking, stipulates the following: (1) The crime of human trafficking is deemed to have been committed by a corporation if the crime is committed by people acting for and/or on behalf of the corporation or in the interests of the corporation, whether based on an employment relationship or other relationship, acting within the corporate environment either alone or together; (2) If the crime of human trafficking is committed by a corporation as referred to in paragraph (1), investigation, prosecution and criminal prosecution shall be carried out against the corporation and/or its management. Article 7 of Law Number 21 of 2007 concerning the Crime of Human Trafficking, stipulates the following: (1) If the criminal act as referred to in Article 2 paragraph (2), Article 3, Article 4, Article 5, and Article 6 results in the victim suffering serious injury, serious mental disorders, other life-threatening infectious diseases, pregnancy, or disruption or loss of reproductive function, then the criminal threat is increased by 1/3 (one third) of the criminal threat in Article 2 paragraph (2), Article 3, Article 4, Article 5, and Article 6; (2) If the criminal act as referred to in Article 2 paragraph (2), Article 3, Article 4, Article 5, and Article 6 results in the death of the victim, the perpetrator shall be punished with a minimum prison sentence of 5 (five) years and a maximum of life imprisonment and a fine of at least IDR 200,000,000.00 (two hundred million rupiah) and a maximum of IDR 5,000,000,000.00 (five billion rupiah). Based on the results of research on the regulation of sanctions in the crime of money laundering as a predicate crime, it can be presented in the form of a table as follows:

Regarding the sanctions above, the concept of sanctions in prostitution cases as a predicate crime *in* this case, the crime of money laundering (TPPU) as a subsequent crime (crime of follow) can be presented as stated in the following table.

Table 2. The Concept of Sanctions in Cases of Prostitution As A Predicate Crime, Accompanied By Money Laundering As A Subsequent Crime

1. Independent sex workers (vendors)	Imprisonment for a maximum of 7 (seven) years or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah).
2. Sex workers who are tied to pimps (in this case as victims of exploitation)	Because he is a victim, he was not punished and was only given social rehabilitation measures.
3. Facility providers - equated with the crime of human trafficking (TPPO)	minimum 3 (three) years and maximum 15 (fifteen) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and at most IDR 3,000,000,000.00 (three billion rupiah). Suppose the victim suffers from serious injuries, serious mental disorders, other life-threatening infectious diseases, pregnancy, or impaired or lost reproductive function. In that case, the criminal threat is increased by 1/3 (one third).
4. pimps - intermediaries - are equated with the crime of human trafficking (TPPO)	minimum 3 (three) years and maximum 15 (fifteen) years and a fine of at least IDR 2,500,000,000.00 (two billion five hundred million rupiah) and at most IDR 2,000,000,000.00 (two billion rupiah). Suppose the victim suffers from serious injuries, serious mental disorders, other life-threatening infectious diseases, pregnancy, or impaired or lost reproductive function. In that case, the criminal threat is increased by 1/3 (one third).
5. service users should also be sanctioned)	imprisonment for a maximum of 3 (seven) years or a maximum fine of IDR 500,000,000.00 (five hundred million rupiah).

The formulation of the reformulation of the regulation of sanctions in the crime of prostitution with the predicate crime in the crime of money laundering, by considering the parties involved with their respective roles, and considering the comparison with other countries, the formulation of the concept of sanctions is considered quite fair and proportional. At least there is a classification of the severity of the sanctions imposed on the perpetrator according to the position of his role in the crime of prostitution.[58] The concept of reformulating the regulation of prostitution as a predicate crime *in* money laundering as a crime *of follow-up* and the formulation of its sanctions is carried out by referring to the theory of Aristotles, who

[58] I Gede Yoga Pratama, Anak Agung Sagung Laksmi Dewi, and I Made Minggu Widyantara, "Kriminalisasi Terhadap Pekerja Seks Komersial Melalui Online Dalam Pembaharuan Hukum Pidana," *Jurnal Preferensi Hukum* 2, no. 3 (2021), https://doi.org/10.22225/jph.2.3.4022.594-598.

divides justice into two types, namely *distributive justice,* which gives rights and/or obligations to each person according to their services or achievements.[59] In contrast, *commutative justice* is justice that gives rights or obligations in the same proportion to each person without distinguishing their achievements in this case related to the role of exchanging goods and services.[60] *Distributive* justice is justice that gives to everyone according to their services or achievements. At the same time, *commutative justice* is justice that gives the same opportunity to everyone without distinguishing their achievements in this case related to the role of exchanging goods and services. This means that justice for the parties involved in the crime of prostitution must be given according to their respective roles, such as pimps, intermediaries, providers of commercial sexual service facilities, users, and other parties involved, with different portions of criminal sanctions.

CONCLUSION

The urgency of reformulating the regulation of the crime of prostitution as a *predicate crime* in the crime of money laundering as *a crime of follow,* philosophically does not reflect the value of justice for the community involved in both crimes. Because in the crime of prostitution involves many parties, but the sanctions do not differentiate between the parties involved. In addition, the concept of prostitution regulated in Article 607 paragraph (2) of the National Criminal Code is a vague norm that does not provide legal certainty. So that it is very detrimental to sex workers, especially as victims of sexual exploitation through the crime of human trafficking, and also to users. However, if commercial sex workers make it a profession and livelihood, then it is only natural that sanctions are imposed as referred to in Article 607 of the National Criminal Code. The concept of reformulating the regulation of prostitution as *a predicate crime* in the crime of money laundering as *a crime of follow* must be classified against the perpetrators involved in prostitution activities. as *a predicate crime* in the crime of money laundering as *a crime of follow* must first be distinguished regarding the parties involved, such as pimps. Intermediaries, providers of commercial sexual service facilities, and also sex

[59] Riky Sembiring, "Keadilan Pancasila Dalam Persepektif Teori Keadilan Aristoteles," *Jurnal Aktual Justice* 3, no. 2 (2018), https://doi.org/10.47329/aktualjustice.v3i2.539.

[60] Fernandho, "Reformulasi Pembuktian Terbalik Dalam Memaksimalkan Pemeriksaan Perkara Money Laundering Dengan Predicate Crime Tindak Pidana Korupsi."

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workers who are distinguished as professionals and sex workers as victims of sexual exploitation. In this regard, the accountability of the parties involved in prostitution activities must also be based on the criteria of sex workers, pimps, providers of facilities, and users of prostitution services. Based on the principle of justice, the regulation of criminal sanctions for parties involved in prostitution should also be distinguished, even for victims of sexual exploitation, rehabilitation must be carried out by a special institution under the Ministry of Social Affairs, which provides medical and social rehabilitation. To the President and the House of Representatives, by understanding the urgency of reformulating prostitution as a predicate crime, which is outlined in philosophical, legal and sociological reasons, they should immediately stipulate a reformulation of the regulations on prostitution with the principle that the regulations are based on justice that protects human dignity and honor so that sanctions are imposed proportionally. To the public, considering that prostitution is not merely a symptom of social pathology but is a criminal act, the public should be involved in social control efforts so that further criminal acts, such as money laundering, do not occur.

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