

# Understanding the Child Sexual Exploitation Cyber Criminology Approach

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Abstract. Crime evolves over time the rapid development of technology is one of the reasons of the shifting of crimes which were previously only committed in the real world with conventional crimes. Sexual prostitution and sexual exploitation of children which has long stories across centuries, can now also be carried out in the virtual world (cyber space) using technological devices such as computers, laptops and sophisticated mobile phones and via internet networks. As with the phenomenon of prostitution, which previously could only be done through face-to-face dating, but now they were online and even the payments can by digital transactions, using financial technology such as digital wallets. Identity flexibility is thought to be one of the factors of the online prostitution increased, anyone can change their original identity in cyberspace, and often the perpetrators and the victims are underage. The normative legal research method with library research were used in this research. This paper aims to conduct a study related to understanding the nature and behaviour of child sexual exploitation in cyberspace through a criminological focus study on space transition theory as an advance development of criminology, so that the results of this study are expected to be positive feedback for criminal law reform as especially in penal reform and for law enforcement stake holders to understanding and seeking answers from the root cause of this phenomenon.

**Keywords:** child sexual exploitation, cyber space transition, criminology, digital transaction.

### 1. INTRODUCTION

Crime is eternal as eternal as society, Frank Tannenbaum's view provides a picture that crime has existed since ancient times and will always exist as long as there is human civilization. The more complex, high and sophisticated the civilization, the more crime follows its changes, so it is inevitable that the law must move to follow the development of civilization, including solving crime problems. A challenge in itself for law enforcement to balance various social phenomena while the statistic form of law is a consequence of its positivistic nature.

Prostitution is one of the very old social phenomena, has a long historical record in human civilization, has been practiced for thousands of centuries ago intertwined in issues of belief, politic power, economic needs, cultural and legal construction. Starting from sexual activities related to rituals towards the gods to the formation of social construction that makes prostitution as form of crime against sexual exploitation of women.

One of the oldest histories records this social phenomenon can be seen in several holy books of certain religions, including in the Books of Moses in the 18th century BC, in this book the practice of prostitution is a common occurrence, this book tells the story of a woman named Tamar who fought against the Jewish social construction which she considered unfair to women with widow status at that time, Tamar was considered to be practicing prostitution by Judah, Tamar's father-in-law, until finally Judah ordered Tamar to be burned as a form of

punishment for her actions. In Chaldæa, religion at first connived at, and then commanded prostitution. Every Babylonian female was obliged by law to prostitute herself once in her life in the temple of the Chaldæan Venus, whose name was Mylitta. Once inside the place, no woman could leave it until she had paid her debt, and had deposited on the altar of the goddess the fee received from her lover. 2

Entering the modern era, the practice of prostitution has developed to adapt to the times, regardless of whether it is a rural or urban area, people with an upper-class economic life who do it in luxury hotels to the lower class who do their activities on the side of the road, slums, and localization areas. Likewise, places such as karaoke, train stations, bus terminals, and other public facilities are also often used for prostitution services, until finally it is done online as a consequence of technological developments, especially computers and mobile phones connected to the internet.

The negative effects of the development of information technology include the shifting of crimes against children in the form of sexual exploitation from the physical world to the more flexible virtual world, illustrates the rampant forms of sexual exploitation of children.<sup>3</sup> The Internet has also facilitated the live streaming of child sexual abuse via the Internet and the grooming of potential child victims from a distance. Child sex offenders no longer need to have direct contact with a child; the Internet has created new opportunities for offenders to view child sexual exploitation from the offender's home or any other location. Furthermore, laptops, tablets and mobile phones are increasingly used to store child.<sup>4</sup>

Pujiyono explained that globalization has given rise to the phenomenon of new crimes, not only transnational border, but also organized crime, even organized transnational crime, both international and regional crime syndicates (global or regional crime).<sup>5</sup>

This research trying to discuss and finding inquiry of understanding Child Sexual Exploitation (CSE) from cybercrime and space transitions as advance of criminology perspectives. To conduct a study related to understanding the nature and behaviour of child sexual exploitation in cyberspace, the authors uses a normative legal research method with a library research of several related literatures as secondary data. This paper aims to understand and responding to the phenomenon of child sexual exploitation through the focus of criminology studies on the theory of cyber space transition as a further development of criminology.

## 2. Methodology

This research is a normative law research, which examines the law conceptualized as norms or rules that apply in society, and become a reference for each person's behaviour. The nature and purpose are descriptive research, to expose and aim to obtain a complete picture (description) of the legal conditions that apply in a particular place, or regarding existing legal phenomena, or a particular legal event that occurs in society.<sup>6</sup>

Another name for normative legal research is doctrinal legal research, also known as library research or document study. It is called library research or document study because this research is mostly conducted on secondary data in the library, <sup>7</sup> therefore in its study this

<sup>3</sup> Diyah Utami, M. Jacky, & Refti Handini Listyani, "Pencegahan Praktik Prostitusi Online Melalui Lembaga Sekolah dan Keluarga", *The Journal of Society & Media* 2017, Vol. 1 (2) 67-74, p. 67-68

<sup>&</sup>lt;sup>1</sup> William W. Sanger, he History of Prostitution; Its Extent, Causes, and Effects throughout the World, Project Gutenberg's, 2013, p. 36

<sup>&</sup>lt;sup>2</sup> Ibid, p. 42

<sup>&</sup>lt;sup>4</sup> ECPAT International, 2016, Regional Report on Sexual Exploitation of Children in Travel and Tourism, p. 24

<sup>&</sup>lt;sup>5</sup> Pujiyono, Kumpulan Tulisan Hukum Pidana, CV Mandar Maju, Bandung, 2007, p. 153

<sup>&</sup>lt;sup>6</sup> Muhaimin, *Metode Penelitian Hukum*, Mataram University Press, Mataram 2020. p. 29-30

<sup>&</sup>lt;sup>7</sup> Ibid, p. 45

research uses secondary data sourced from related literature, previous research results and the thoughts of experts published in the form of journals, papers, and other forms as long as there is still a correlation with the topic of study in this research. In addition, a legislative approach is also used to conduct a harmonization analysis of regulations in accordance with the problem or the regulations are no longer able to keep up with the times.

## 3. Findings and Discussions

During the Dutch colonial period until the Japanese occupation, it can also be seen that prostitution practices occurred, where there were concubines for male nobles, *Nyai* for officials of the *Vereenigde Oostindische Compagnie* (VOC) owned by the Dutch colonial government, to sexual slavery carried out by the Japanese army against women who were local residents in Japanese colonial countries. History shows that prostitution occurred due to economic, political, and patriarchal mindset problems that made women objects and sexual servants.<sup>8</sup> In this context prostitution in Indonesia is full of contradictions.

Though easily found throughout the land, it is the subject of broad condemnation. Placed in a legal status of great ambiguity, the institutions of prostitution are often owned by governments, managed by former government officials, and subject to both regulation and taxation. Prostitution in Indonesia differs greatly in form, social setting and operation from those commercial sex institutions of Thailand, the Philippines and Malaysia, and also displays many important regional variations. The reasons for these interesting patterns are to be found in Indonesian history, legal development, culture and systems of governance. Terence Hull explained that exploitation and sexual violence against women occurred a lot during the Japanese occupation, during this era it is also suspected that there was a network of women trafficking to be used as prostitutes.

Observing the history of the development of the practice of prostitution above using a criminological perspective, it can be studied that the perception of an act in its development changes, from something related to altruistic spirituality, then gives rise to a clash of social values that continues to develop in certain societies according to the development of the times until finally the reprehensible act emerges. This becomes anti-social or a deviation from social values and norms to the point that it is agreed to be a form of crime.

Criminology was used to find out the causes of crime with various approaches in order to study, the relationship between society and its members, between groups either because of the relationship of place or ethnicity with its members, between groups, as long as the relationship can cause crime. In general, every society has a type of crime and criminals according to its culture, morals, beliefs and existing structures. Among them in conventional criminology (the author's term is to distinguish it from cyber criminology) is known as the Cultural Conflict Theory presented by T. Sellin that all cultural conflicts are conflicts in social values, interests and norms. Conflicts of behavioural norms can arise in various ways such as differences in the way of life and social values that apply between existing groups.<sup>10</sup>

However, the development of crime along with the development of human civilization, initially crime occurred in the real world, then the science of criminology which has been known to find answers to the problem of crime in the real world, must also be able to follow the development of science when crime also develops and is rampant in cyberspace.

<sup>&</sup>lt;sup>8</sup> Apriliani Kusumawati dan Nur Rochaeti, Memutus Mata Rantai Praktik Prostitusi Di Indonesia Melalui Kriminalisasi Pengguna Jasa Prostitusi, *Jurnal Pembangunan Hukum Indonesia, Volume 1, Nomor 3*, Program Studi Magister Ilmu Hukum, Fakultas Hukum Universitas Diponegoro: 2019, p. 367

<sup>&</sup>lt;sup>9</sup> Terence H. Hull, From Concubines to Prostitutes. A Partial History of Trade in Sexual Services in Indonesia, Moussons Social Science Research on South Asia, https://journals.openedition.org/moussons/3771

<sup>&</sup>lt;sup>10</sup> Sahat Maruli T. Situmeang, Buku Ajar Kriminologi, Cetakan ke 1, PT Rajawali Buana Pusaka, 2021, p. 73

This is where the need for a cyber criminology approach is to answer the challenges of development in the digital era.

Data on the E-Investigation Management of the National Criminal Information Center of the Republic of Indonesia Police (EMP Pusiknas Polri) shows that 1,491 reports of pornography, prostitution, and sexual exploitation have been processed from 2020 to September 25, 2023. In 2020, the number of reports reached 270 cases. The number decreased in 2021 to 122 cases. However, in 2022, the number increased. In 2023, in less than nine months, the National Police have prosecuted 67.5 percent of pornography, prostitution, and sexual exploitation cases from the number of reports in 2022. Meanwhile, the number of children who become victims of pornography, prostitution, and sexual exploitation also tends to increase. In 2021, the number of children who became victims was 20 people. The number increased to 103 people in 2022. Meanwhile, throughout 2023, 79 children became victims.<sup>11</sup>

The results of the 2020 child protection monitoring regarding child victims of Human Trafficking (TPPO) and exploitation reached 149 cases with details of child victims of trafficking 28 cases, child victims of prostitution 29 cases, child victims of ESKA 23 people, child victims of child labor 54, child victims of illegal adoption 11 cases and children becoming pimps (involved in TPPO network perpetrators) 4 cases. <sup>12</sup> The Indonesian Child Protection Commission (KPAI) noted that 35 cases of sexual exploitation, trafficking, and child labour occurred during January-April 2021. Of that number, 60% of them were carried out through online media. The MiChat application is the online medium most widely used in cases of sexual exploitation, trafficking, and child labor, namely 41%. Its position is followed by WhatsApp and Facebook with percentages of 21% and 17% respectively. Meanwhile, there are 17% of other online media that are not known in these cases. <sup>13</sup>

The data on the trend of prostitution practices that occur using the internet media are facts of the shift in the social phenomenon of prostitution practices, now the transactions have shifted out in cyberspace, carrying out sexual activities in the virtual and real worlds, and payments can also be digitally transferred.

Kimberly Young conducted research on sexual behaviour carried out on the internet by calling it Virtual Sex Offenders, Kimberly quoted several previous researchers who showed how terrible the sexual behaviour and fantasies of perpetrators in cyberspace are that target children (pedophilia) where previously it was only found in the real world. Given the lack of restrictions in cyberspace and its sexual subculture, predators have a new medium in which to not only pursue potential contacts with children but also unite and unionize with fellow users in a way that allows them to validate and normalize their sexual proclivities (Lanning, 1998).<sup>14</sup>

A challenge for criminology which is well known as the science that studies all about related to crime. As it is known etymologically, the definition of criminology is taken from the Greek, *crimen* (crime) and *logos* (science), so it can be said that criminology is the science that studies crime. E.H. Sutherland formulated criminology as the whole science related to criminal acts as a social phenomenon (the body of knowledge regarding crime as a social phenomenon).<sup>15</sup>

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<sup>&</sup>lt;sup>11</sup>https://pusiknas.polri.go.id/detail\_artikel/kasus\_pornografi,\_prostitusi,\_dan\_eksploitasi\_c enderung\_meningkat

<sup>&</sup>lt;sup>12</sup>https://www.kpai.go.id/publikasi/hasil-pengawasan-kpai-tentang-perlindungan-anak-korban-eksploitasi-seksual-dan-pekerja-anak-bulan-januari-s-d-april-dari-35-kasus-yang-dimonitor-kpai-83-kasus-prostitusi-jumlah-korban-mencapai-234

 <sup>&</sup>lt;sup>13</sup>https://ppid.lampungprov.go.id/detail-post/Waspada-Prostitusi-Anak-Di-Platform-Online
 <sup>14</sup> Jaishankar, Cyber Criminology Exploring Internet Crimes and Criminal Behaviour, Taylor and Francis Group, LLC, Boca Raton, Florida, 2011, p. 54

<sup>&</sup>lt;sup>15</sup> Topo Santoso dan Eva Achjani Zulfa, Kriminologi, Jakarta: Raja Grafindo Persada, 2015, p. 9

This theory was certainly coined by Sutherland at a time when the sophistication of communication technology created crimes was not yet so massive as well as today phenomenon, so that his views on crime were still in the form of conventional crimes that occurred in the real world, but this is where the ability of futuristic views of criminology theories challenged for its scientific contribution in overcoming crime in general, both in the real world and cyberspace, now and in the future.

Rob D' Ovidio et.al, examine the Sutherland's theory of differential association in application to the cyber space, where internet can also be seen as environment for children to learn. This research also looks at adult—child sex advocacy websites as environments in which interested parties can learn criminal behaviour. We were particularly interested in examining these websites for content that exposes users to rationalizations for crimes involving the sexual exploitation of children and content that, would result in the sexual assault of children <sup>16</sup>

Criminology has important roles as part of law enforcement in the modern criminal science, Marc Ancel even stated, as quoted by Barda Nawawi Arief, that modern criminal science consists of 3 (three) components, namely criminology, criminal law, and penal policy.<sup>17</sup> Furthermore, Marc Ancel, in Barda Nawawi Arief, stated that every organized society has a criminal law system consisting of: 1) criminal law regulations and their sanctions, 2) a criminal law procedure, and 3) a mechanism for implementing criminal law.<sup>18</sup>

Barda Nawawi Arief uses the term "tindak pidana mayantara", which is synonymous with criminal acts in cyberspace or what is commonly known as "cybercrime". 19 One of cybercrime that is very disturbing and has received attention from various groups is the issue of cybercrime in the field of morality, namely cyber pornography (especially child pornography) and cybersex. 20 The phenomenon of cybercrime (CC) is a global phenomenon, not only in one or two countries, even the international community has discussed it comprehensively multidimensional. Therefore, CC or "CRC" ("Computer-Related Crime") in the report of the UN Congress X/2000 stated, includes "the entirely new forms of crime that were directed at computers, networks and their users, and the more traditional form of crime that were now being committed with the use or assistance of computer equipment". 21

Since criminology has started viewing the emergence of cyberspace as a new locus of criminal activity, a new theory is needed to explain why cybercrime occurs. The space transition theory presented above provides an explanation for the criminal behaviour in the cyberspace. There is a need to test the Space Transition Theory to see if it explains cybercriminal activity.<sup>22</sup>

K Jaishankar further explained that after scientific recognition, this new scientific discipline was called cyber criminology as a multidisciplinary scientific field. Cyber criminology is a multidisciplinary field that encompasses researchers from various fields such as criminology, victimology, sociology, Internet science, and computer science. I define cyber criminology as "the study of causation of crimes that occur in the cyberspace and its impact in the physical space" (Jaishankar, 2007, para 1). I academically coined the term cyber criminology for two reasons. First, the body of knowledge that deals with cybercrimes should

<sup>16</sup> Jaishankar, Op.Cit. p. 104

<sup>&</sup>lt;sup>17</sup> Barda Nawawi Arief, *Bunga Rampai Kebijakan Hukum Pidana (Perkembangan Penyusunan Konsep KUHP Baru)*, cet. 1, Bandung: Citra Aditya Bakti, 2014, p. 23

<sup>&</sup>lt;sup>18</sup> *Ibid.*, p. 27

<sup>&</sup>lt;sup>19</sup> Barda Nawawi Arief, *Tindak Pidana Mayantara "Perkembangan Kajian Cyber crime Di Indonesia"*, Jakarta, RajaGrafindo Persada, 2006, p. 1-2

<sup>&</sup>lt;sup>20</sup> Ibid, p. 173

<sup>&</sup>lt;sup>21</sup> Barda Nawawi Arief, Kapita Selekta Hukum Pidana, Edisi, Cet. 3; Penerbitan, Bandung: Citra Aditya Bakti, 2013, p. 51

<sup>&</sup>lt;sup>22</sup> K. Jaishankar, Establishing a Theory of Cyber Crimes, International Journal of Cyber Criminology, Vol 1 Issue 2 July 2007

not be confused with investigation and be merged with cyber forensics; second, there should be an independent discipline to study and explore cybercrimes from a social science perspective.<sup>23</sup>

Early studies of Internet sexuality, or cybersex, emphasized the fantasy nature of online sexuality and focused on use of the Internet for criminal and deviant behaviour. They distinguished various motivations for erotic computer communication.<sup>24</sup>

The Internet has grown faster than the laws governing it. Döring (2000) pointed out that the biggest danger of Internet socializing lies in cyber sex, which leaves a deep, neverending traumatic effect on women users. The word cyber sex is used by Doring (2000) as a compact term to cover online sexual harassment, cyber prostitution, or virtual rape and emphasizes that liberalization of women further encourages them to become victims of cyber sex. Hence, women users must learn from other victims' past experiences to protect themselves from online sexual abuse.<sup>25</sup>

As the main function of criminology is to study the causes of crime, Jaishankar developed a new theory in the discipline of cyber criminology which he called space transition theory. The theory is called space transition theory, and it explains the causation of crimes in cyberspace.<sup>26</sup>

This theory is to explain the nature of a person's behaviour that involves the transfer of actions from the real world/space to the cyber world/space or vice versa. Space transition theory is an explanation about the nature of the behaviour of the persons who bring out their conforming and nonconforming behaviour in physical space and cyberspace (Jaishankar, 2008). "Space transition involves the movement of persons from one space to another (e.g., from physical space to cyberspace and vice versa).<sup>27</sup>

This theory can be in accordance with the phenomenon of prostitution which then the modus operandi moves from the real world to the virtual world or vice versa. The previous phenomenon of prostitution could only be committed in the real world. It is different when there is a development in information technology with electronic devices connected to the internet. For example, in the case of meetings between pimps, sex workers and customers, payment transactions and even sexual services can be carried out in the virtual world, although these sexual services can also be carried out in the real world (vice versa).

To answer the phenomenon of crimes that can occur in the virtual world in more detail, Jaishankar explains 7 prepositions/postulates in the space transition theory. It can be concluded and analysed the suitability of the cyber space transition theory with the phenomenon of Children Sexual Exploitations, as follows;

- 1. The perpetrators involved in online prostitution practices are likely unable to carry out this behavior because of their social status, such as in the case of child prostitution, underage sex workers certainly have the status of school children who have various social construction restrictions. Including among the customers and pimps, they feel free to commit this crime without worrying about their social status and position in society;
- 2. Cyberspace allows for identity flexibility, dissociative anonymity. A person can be anyone in cyberspace, this is possible when on a social media platform or dating application, the perpetrator can be anyone by using a fake identity such as; name, age, photo, address. An identity that is still a minor can then be manipulated to appear as if it is an adult. Or children unknowingly become victims of sexual exploitation who may initially assume they have a normal friendship or lover relationship but then get trapped to be prostituted by someone they don't know well from social media. In addition, in cyberspace there is still a lack of prevention factors and mechanisms in cyberspace, these

<sup>&</sup>lt;sup>23</sup> Jaishankar, Op.Cit, p. Xxvii

<sup>&</sup>lt;sup>24</sup> Ibid, p. 54

<sup>&</sup>lt;sup>25</sup> Ibid, p. 308

<sup>&</sup>lt;sup>26</sup> Ibid, p. Xxvii

<sup>&</sup>lt;sup>27</sup> Ibid

weaknesses become loopholes and means for perpetrators to carry out child prostitution in cyberspace;

- 3. The criminal behavior of perpetrators in cyberspace tends to be imported into physical space, and criminal behavior in physical space can also be exported to cyberspace. The effects of freedom of movement in cyberspace include perpetrators who originally carried out prostitution transactions conventionally, can do so in cyberspace, such as sexual services in the form of showing certain body parts that have sensual and sexual elements can be done using a mobile phone or laptop connected to the internet;
- 4. The flexible nature of cyberspace allows for the perpetrators' efforts to be discontinuous from cyberspace and the dynamic nature of cyberspace gives the perpetrators a way out. If in the real world, the absence of sexual transactions from prostitution still requires effort and vulnerability. The perpetrators in the cyberspace, anyone and at any time can be disappear from the internet connection, without the vulnerability that can occur as in real-world prostitution practices, they can't be trackable;
- 5. (a) in cyberspace, even if they don't know each other, anyone can conspire to plan a crime together and commit it in the real world; in cyberspace, even if they don't know each other, anyone can conspire to plan a crime together and commit it in the real world. Sexual transactions can be carried out online, either by the customer, the sex worker or even involving pimps who do not know each other, when there is an agreement they will carry out their sexual activities in the real world;
  - (b) perpetrators who know each other in the real world can commit their crimes in cyberspace, for example pimps who have children who are sexually exploited will offer them online to sex users; The study found that "Nineteen percent of youth who used the Internet regularly were the targets of unwanted sexual solicitation in the last year. Girls, older teens, troubled youth, frequent Internet users, chat room participants, and those who communicated online with strangers were at greater risk.<sup>28</sup>
- 6. Persons from closed societies are more likely to commit crimes in cyberspace than persons from open societies, perpetrators who come from closed environments have a higher tendency compared to people who come from open environments. The conditions of someone who has introvert behavior will feel free to commit transactions online; likewise, victims have a high tendency;
- 7. The gap between the regulation of norms and values in physical space and the norms and values of cyberspace can create cybercrime. This is where the importance of establishing ethics in using the internet (netiquette), strict legal regulations so that there is a common nature of condemnation and punishment for criminal acts of child exploitation both in the real world and in cyberspace.

### 4. Conclusions

Using the theory of space transition we can learn how the shifting of prostitution or Child Sex Exploitations that early could only committed in the real world, now and in the future can be done in the virtual world using internet connection. Children have a high tendency to experience victimization when they interact more frequently using social media. Children have higher tendency to be victim of the child predator or trapped in to the prostitutions since the perpetrators could be perform as anybody with the anonymity and flexibility identity.

<sup>&</sup>lt;sup>28</sup> Roderic Broadhurst, Kasun Jayawardena, Online Social Networking and Pedophilia An Experimental Research "Sting" in Jaishankar, Cyber Criminology Exploring Internet Crimes and Criminal Behaviour, Taylor and Francis Group, LLC, Boca Raton, Florida, 2011, hlm.
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