



Criminalization of Prostitution Clients and Recommendations for Legal Reform in Indonesia

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Abstract. The phenomenon of Prostitution in Indonesia is not merely a moral issue but also a legal problem, as criminal liability disproportionately targets sex workers and pimps while clients largely escape accountability, creating a justice gap and an imbalance within the criminal liability system. This study aims to analyze the necessity of penalizing prostitution clients and to formulate recommendations for criminal law reform that are equitable and grounded in human rights. It employs a normative-juridical research method, utilizing comparative legal analysis and an examination of criminal policy. The findings indicate that penalizing clients can be achieved by expanding the scope of legal subjects under Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons and by applying the principle of criminal participation (complicity) as stipulated in Article 55 of the Criminal Code. The “Nordic Model” which focuses on criminalizing clients while protecting sex workers can serve as a model for reforming national criminal policy. Penalizing prostitution clients functions not only as a punitive measure but also as a means of moral and social reconstruction aimed at upholding substantive justice in alignment with the values of Pancasila.

Keywords: Criminalization, Human Rights Protection, Indonesian Criminal Law, Legal Reform, Prostitution Clients.

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Abstrak. *Fenomena prostitusi di Indonesia bukan sekadar masalah moral melainkan juga persoalan hukum, mengingat pertanggungjawaban pidana secara tidak proporsional menasar pekerja seks dan mucikari sementara pengguna jasa (klien) sebagian besar lolos dari pertanggungjawaban; hal ini menciptakan kesenjangan keadilan dan ketimpangan dalam sistem pertanggungjawaban pidana. Penelitian ini bertujuan untuk menganalisis urgensi pemidanaan terhadap pengguna jasa prostitusi serta merumuskan rekomendasi reformasi hukum pidana yang berkeadilan dan berlandaskan hak asasi manusia. Metode penelitian yang digunakan adalah yuridis-normatif, dengan memanfaatkan analisis perbandingan hukum dan kajian kebijakan pidana. Hasil penelitian menunjukkan bahwa pemidanaan terhadap pengguna jasa dapat dilakukan dengan memperluas cakupan subjek hukum dalam Undang-Undang Nomor 21 Tahun 2007 tentang Pemberantasan Tindak Pidana Perdagangan Orang serta menerapkan prinsip penyertaan tindak pidana (complicity) sebagaimana diatur dalam Pasal 55 Kitab Undang-Undang Hukum Pidana (KUHP). “Model Nordik” yang berfokus pada pemidanaan pengguna jasa sembari melindungi pekerja seks, dapat menjadi acuan bagi reformasi kebijakan pidana nasional. Pemidanaan terhadap pengguna jasa prostitusi tidak hanya berfungsi sebagai tindakan penghukuman, tetapi juga sebagai sarana rekonstruksi moral dan sosial yang bertujuan menegakkan keadilan substantif selaras dengan nilai-nilai Pancasila.*

Kata kunci: *Kriminalisasi, Perlindungan Hak Asasi Manusia, Hukum Pidana Indonesia, Reformasi Hukum, Pengguna Jasa Prostitusi.*

1. Introduction

The phenomenon of prostitution in Indonesia is a social issue that continues to be a subject of complex legal and moral debate.¹ Although from a sociological perspective, prostitution has become a social reality that is difficult to eradicate, Indonesia does not yet possess a legal instrument that explicitly criminalizes the customers or purchasers of prostitution services.² Law enforcement efforts to date have tended to cast sex workers and pimps as the guilty parties, while clients the ones generating the demand remain beyond the reach of criminal law.³ This condition creates a justice gap (legal gap) in the Indonesian criminal law system, because there is no balance of responsibility between those who request and those who offer sexual services.⁴ Prostitution is basically a form of sexual economic transaction between two parties: the seller (sex worker) and the buyer (customer).⁵ Under Indonesian law, prostitution is not explicitly regulated in the Criminal Code; however, activities associated with it such as acting as an intermediary or providing premises (pimping) can be prosecuted under provisions regarding public morality. This creates a normative gap regarding the purchasers of sexual services, who morally and socially also contribute to the occurrence of such immoral acts.⁶

Several modern criminological studies state that prostitution is not merely a matter of individual morality, but rather a structural phenomenon resulting from economic inequality, patriarchy, and globalization.⁷ High demand for paid sexual services has led to the growth of a black market that is difficult to control, thereby

¹ Jason Hung, "Sociological and Policy Examination of Poverty-Led Crime in Indonesia: Case Study of (Child) Prostitution," *Journal of Poverty*, vol. 28, no. 3 (2024): 412. See too, Huasheng Gao, and Vanya Petrova, "Do prostitution laws affect rape rates? Evidence from Europe," *The Journal of Law and Economics* 65, no. 4 (2022): 779.

² A. Harits Nu'man et al., "Criminalization of Service Users and Traditional Commercial Sex Workers in Indonesia," *IJOLARES: Indonesian Journal of Law Research* 2, no. 2 (2024): 44. See also, Maryamul Chumairo, Novita Dewi Masyithoh, and Arina Hukmu Adila. "Criminal Policy for Users Ofservices Prostitution to Achieve Substantial Justice," *Walisongo Law Review (Walrev)* 3, no. 1 (2021): 115.

³ Saji Sonjaya, "Mengeksplorasi regulasi industri seksual di Indonesia: Pemidanaan pembeli jasa pekerja seks komersial," *JCIC: Jurnal CIC Lembaga Riset dan Konsultan Sosial* 7, no. 1 (2025): 29.

⁴ Muladi and Barda Nawawi Arief, *Teori dan Kebijakan Pidana* (Jakarta: Prenadamedia, 2023), 77.

⁵ Rani Kusumawardani, "Keadilan Restoratif dalam Pembaharuan Hukum Pidana Nasional," *Jurnal Hukum Ins Quia Iustum*, 31, no. 1 (2025): 324. See also, Yuliandri, *Asas Pembentukan Peraturan*, 102; Hung, "Sociological and Policy Examination," 414.

⁶ Nu'man et al., "Criminalization of Service Users," 45.

⁷ Teela Sanders, *Prostitution and Criminal Justice: Global Contexts* (Routledge: Routledge, 2024), 55. See also, Gao, and Petrova, "Do prostitution laws affect rape rates?" 781.

increasing the potential for exploitation, violence, and human trafficking.⁸ Therefore, the criminalization of clients is viewed as a more effective strategy for curbing demand and narrowing the scope for exploitation, as implemented in Scandinavian countries.⁹

In practice, various prostitution raids conducted by law enforcement agencies often result only in the arrest of sex workers, without any criminal action taken against the clients.¹⁰ This disparity indicates that Indonesian positive law still focuses on the morality of sex workers as individuals rather than on the structural root of the problem: customer demand.¹¹ This differs from the approach taken by a number of countries that have adopted the Nordic Model or Swedish Approach, under which clients or purchasers of sexual services are the primary targets of criminal penalties, while sex workers are decriminalized and granted legal protection.¹²

The model of criminalizing prostitution clients or the Nordic Model was first implemented in Sweden through the Sex Purchase Act (1999:408), which prohibits the purchase of sexual services but does not criminalize sex workers.¹³ The core principle is to shift criminal liability from the exploited party to the party creating the demand.¹⁴ This approach was subsequently adopted by Norway, Iceland, Finland, and Canada, with various contextual adjustments.¹⁵ Based on research by Vuolajärvi¹⁶, the implementation of the model contributed to a significant decrease in street prostitution and raised public awareness regarding the issue of sexual exploitation. However, its effectiveness depends heavily on support through social policies, public education, and access to services for sex workers.¹⁷ In Indonesia, a

⁸ Başak Ekinci, "Criminalisation of Sex Work: A Critical Approach to Criminalisation Theories from a Human Rights Perspective," In *Annales de la Faculté de Droit d'Istanbul*, (Istanbul University, 2024), 122.

⁹ Niina Vuolajärvi, "Criminalising the sex buyer: experiences from the Nordic region," (2022): 23.

¹⁰ Laporan Komnas Perempuan, *Catatan Tahunan Kekerasan Terhadap Perempuan* (Jakarta, 2024).

¹¹ Evi Laila Kholis, "Moralitas dan Hukum: Dilema Penegakan Prostitusi di Indonesia," *Jurnal Legislasi Indonesia* 21, no. 1 (2024): 43.

¹² Vuolajärvi, "Criminalising the sex buyer," 24.

¹³ Swedish Government, *Evaluation of the Sex Purchase Act (1999:408)* (Stockholm: Ministry of Justice, 2024), 23.

¹⁴ Gunilla Ekberg, "The Swedish law that prohibits the purchase of sexual services: Best practices for prevention of prostitution and trafficking in human beings," *Violence against women* 10, no. 10 (2004): 1212.

¹⁵ Norwegian Ministry of Justice, *Evaluation of the Sex Purchase Ban 2024 Report* (Oslo, 2024).

¹⁶ Vuolajärvi, "Criminalising the sex buyer," 26.

¹⁷ Rachel Keighley, and Teela Sanders, "The eyes and ears of sexual exploitation online: Are sex buyers part of the prevention puzzle to reduce harms in the online sex industry?," *The British Journal of Criminology* 64, no. 5 (2024): 1135.

similar concept could serve as inspiration for criminal law reform, adapted to the values of Pancasila and the principle of just and civilized humanity.¹⁸

The concept of penalizing prostitution clients is based on the assumption that demand is the primary driver of prostitution.¹⁹ Therefore, criminal law policy should be directed toward breaking the economic chain that drives sexual exploitation, rather than merely punishing the exploited parties.²⁰ In the context of Indonesian criminal law, this can be viewed as an expansion of the category of legal subjects liable for offenses against public morality, or as an extension of the legal norms within the Law on the Crime of Human Trafficking specifically regarding customers who “know or reasonably ought to suspect” that a sex worker is a victim of exploitation.

Beyond normative aspects, criminal law reform regarding this issue must also take into account the principles of proportionality, non-discrimination, and the protection of human rights.²¹ The penalization of clients should be aimed not merely at deterrence, but also at serving as an instrument of social protection for sex workers, who often find themselves in economically and socially vulnerable positions.²² Therefore, the proposed approach is not total criminalization, but rather selective penalization that targets only those clients involved in contexts of exploitation, coercion, or repeated transactions, accompanied by non-penal measures such as public education and social rehabilitation programs.²³

Previous studies have extensively examined prostitution regulation through criminalization, decriminalization, trafficking prevention, and the Nordic Model. A scoping review by van der Poel and colleagues, for example, found that research on sex-work policy has largely focused on criminalization, trafficking, and street-based sex work, while studies on the lived experiences and consequences of the Swedish Model remain limited.²⁴ Other studies have examined the effects of criminalizing clients, but their findings remain contested. While some research

¹⁸ Yuliandri, *Asas Pembentukan Peraturan Perundang-Undangan yang Baik* (Jakarta: Kencana, 2023), 12.

¹⁹ Keighley, and Sanders, “The eyes and ears of sexual exploitation online,” 1137.

²⁰ Nu'man et al., “Criminalization of Service Users,” 42. See also, Ekinci, “Criminalisation of Sex Work,” 123.

²¹ Lilik Mulyadi, *Hukum Pidana dan Hak Asasi Manusia* (Bandung: Citra Aditya Bakti, 2024), 55.

²² Mariëlle Kloek et al., “High rates of violence and low police reporting amongst sex workers in the Netherlands during the COVID-19 pandemic,” *Crime Science* 13, no. 1 (2024): 38. See also, Sofia Jonsson, “Does criminalizing the purchase of sex reduce sex-buying? Evidence from a European survey on prostitution,” *European journal of law and economics* 56, no. 1 (2023): 95.

²³ Lucy Platt et al., “Associations between sex work laws and sex workers’ health: A systematic review and meta-analysis of quantitative and qualitative studies,” *PLoS medicine* 15, no. 12 (2018): 12680.

²⁴ Lorenzo Escot Mangas et al., “Can the legal framework for prostitution influence the acceptability of buying sex?” *Journal of Experimental Criminology* 18 no.12, (2021): 889.

indicates that criminalizing the purchase of sexual services may reduce the acceptability or demand for prostitution, other studies have identified potential consequences for the safety, health, and vulnerability of sex workers.²⁵ However, these debates have largely developed within jurisdictions that have adopted the Nordic Model and have not sufficiently addressed how client criminalization could be normatively constructed within Indonesia's distinct criminal law framework. In particular, limited attention has been given to the relationship between client liability, the principle of legality, human trafficking regulation, and the protection of vulnerable persons under Indonesian law. This study therefore addresses the gap by examining the normative basis and appropriate scope of criminal liability for prostitution clients and by formulating a legal reform model that is compatible with Indonesia's criminal law principles and human rights framework.

The analysis is informed by criminal policy theory, restorative justice theory, and feminist legal theory to assess the justification, proportionality, and gender implications of criminalizing prostitution clients in Indonesia. This study aims to analyze the necessity of penalizing prostitution clients and to formulate recommendations for criminal law reform that are equitable and grounded in human rights. Accordingly, this study addresses three research questions: (1) What is the normative basis and urgency of criminalizing prostitution clients within the Indonesian criminal justice system? (2) How do countries that have implemented a client-criminalization model formulate and implement policies addressing prostitution clients? (3) What legal reform recommendations can be formulated to establish a proportionate and equitable framework for criminalizing prostitution clients in Indonesia? It is hoped that the findings of this research will contribute to the reform of national criminal law and strengthen a legal paradigm that not only punishes but also protects.

2. Research Methods

This study employs a normative-juridical research method to examine the legal basis, scope, and policy implications of criminalizing prostitution clients in Indonesia. The research adopts a statutory approach, a conceptual approach, and a comparative legal approach. The statutory approach is used to examine the relevant provisions governing prostitution, criminal liability, human trafficking, and criminal policy. The principal legal framework includes Criminal Code, as well as Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking

²⁵ Henrik Karlsson, "Sex Work Policy Worldwide: A Scoping Review: H. Karlsson," *Sexuality & Culture* 26, no. 6 (2022): 2289. See also, Andreas Kotsadam, and Niklas Jakobsson, "Shame on you, John! Laws, stigmatization, and the demand for sex," *European Journal of Law and Economics* 37, no. 3 (2014): 396.

in Persons. Relevant provisions of the 1945 Constitution and other applicable regulations are also examined where they relate to equality before the law, human rights, and criminal justice policy.

The conceptual approach is employed to analyze the principles and doctrines underlying criminalization, including criminal policy, proportionality, ultimum remedium, restorative justice, and feminist legal theory. The comparative approach examines the formulation and implementation of client-criminalization policies in selected jurisdictions adopting the Nordic Model, particularly Sweden, Norway, and Iceland. This comparison is intended to identify relevant legal principles, regulatory mechanisms, and implementation practices that may inform the development of an Indonesian model without mechanically transplanting foreign legal provisions.

The legal materials consist of primary, secondary, and tertiary sources. Primary legal materials comprise legislation, judicial decisions where relevant, and official legal and policy documents concerning prostitution, criminal liability, human trafficking, and client criminalization. Secondary legal materials include scholarly books, peer-reviewed journal articles, policy reports, and previous legal studies addressing prostitution, criminal policy, the Nordic Model, restorative justice, and gender-based legal analysis. Tertiary materials include legal dictionaries, legal encyclopedias, and other authoritative reference materials used to clarify relevant legal concepts. The materials are collected through systematic library research and document analysis.

3. Results and Discussion

3.1. Normative Basis and Urgency of Criminalizing Prostitution Clients in Indonesia

The criminalization of prostitution clients in Indonesia requires examination not only from the perspective of existing criminal provisions but also from the principles underlying criminal policy and the allocation of criminal responsibility. The normative analysis is important because prostitution involves multiple actors whose respective roles may generate different forms of legal responsibility. Accordingly, determining whether and under what circumstances clients may be subject to criminal liability requires an assessment of the existing legal framework, the principles of criminal law, and the potential legal gaps that may undermine equitable and effective law enforcement.

Until now, Indonesia's positive criminal law has not yet explicitly regulated the punishment of prostitution clients. The Criminal Code only regulates acts related to the provision of premises, intermediation, or exploitation through articles concerning public morality (Articles 296 and 506 of the Criminal Code), without

addressing the purchasers of sexual services. As a result, a legal asymmetry arises: sex workers and pimps are subject to criminal law, whereas clients remain free from legal repercussions.²⁶

Yet, from the perspective of criminal policy, the client is one of the key actors in the chain of causes behind prostitution.²⁷ High demand creates a black market that opens the door to other crimes, such as sexual exploitation, gender-based violence, and human trafficking.²⁸ Consequently, the absence of criminal penalties for customers actually undermines the deterrent effect and substantive justice within the national legal system.²⁹

This situation indicates the existence of a *lacuna legis* (legal gap) that needs to be filled through criminal law reform to align with the values of justice and public morality.³⁰ This reform can be achieved by adding a specific article to the Draft Criminal Code (*Rancangan Kitab Undang-Undang Hukum Pidana/RKUHP*) or by revising the Law on the Eradication of the Crime of Trafficking in Persons (*Undang-Undang Tindak Pidana Perdagangan Orang/UU TPPO*) to expand the scope of legal subjects to include customers particularly those who knowingly exploit victims of sexual exploitation.³¹

From the perspective of criminal policy theory, criminalization constitutes a rational effort by society to address crime through both penal and non-penal measures. Marc Ancel's approach provides a relevant framework for assessing whether the criminalization of prostitution clients is justified as a penal strategy aimed at reducing demand while remaining balanced with preventive and social measures.³² In this context, criminalizing clients should not be understood solely as an expansion of criminal liability, but as part of a broader criminal policy directed toward preventing exploitation and protecting vulnerable persons.

In the Indonesian criminal justice system, the imposition of punishment serves as an *ultimum remedium*, a measure of last resort that must be employed with caution.³³ According to Muladi and Barda Nawawi Arief, criminal policy must take into account the balance between the protection of society and the protection of the individual.³⁴ The imposition of criminal sanctions on prostitution clients must

²⁶ Nu'man et al., "Criminalization of Service Users," 46.

²⁷ Muladi and Arief, *Teori dan Kebijakan Pidana*, 78.

²⁸ Sanders, *Prostitution and Criminal Justice*, 58.

²⁹ Kholis, "Moralitas dan Hukum," 43. See also, Kotsadam, and Jakobsson, "Shame on you, John!," 397.

³⁰ Yuliandri, *Asas Pembentukan Peraturan*, 107.

³¹ Sonjaya, "Meneksplosasi regulasi industri," 31.

³² Marc Ancel, *Social defence: A modern approach to criminal problems*, (Hove: Psychology Press, 1998), 12.

³³ Mulyadi, *Hukum Pidana dan Hak Asasi*, 56.

³⁴ Muladi and Arief, *Teori dan Kebijakan Pidana*, 79.

observe the principles of proportionality and subsidiarity to avoid excessive criminalization.³⁵

The national legal framework actually provides avenues to prosecute prostitution clients, particularly where elements of exploitation are present, as stipulated in Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons. Article 12, paragraph (2) states that any person who utilizes the services of a victim of human trafficking may be subject to criminal penalties if they know or have reasonable grounds to suspect that the victim is a product of exploitation. Thus, there is a potential legal basis for expanding the scope of criminal liability for customers in the context of sexual exploitation.³⁶ The criminalization of prostitution clients is based on the principle of equality before the law namely, that everyone involved in a criminal act must be treated equally under the law. If sex workers and pimps can be subject to sanctions, then clients as parties participating in illicit sexual transactions should also be held criminally liable.³⁷

From a normative perspective, the extension of legal subject status to prostitution clients can be constructed through the principle of participation (*deelneming*) as stipulated in Article 55 of the Criminal Code specifically, regarding those who participate in committing, order the commission of, or incite the criminal act. Based on systematic and teleological interpretation, customers can be categorized as parties who participate in the commission of a morality-related criminal offense, given that their involvement in the prohibited act is direct.³⁸

Furthermore, Article 12 paragraph (2) of Law Number 21 of 2007 concerning the Crime of Trafficking in Persons opens the possibility of criminal prosecution for parties who “use the services of a trafficking victim” if they know or reasonably suspect that the victim is a product of exploitation. This norm can serve as a legal basis for extending the application of the law to prostitution clients within the context of sexual exploitation.³⁹

However, to prevent such provisions from leading to indiscriminate criminalization, law enforcement must be guided by careful limits and considerations. The approach to penalizing prostitution clients must also take into account the principles of human rights and restorative justice.⁴⁰ Excessive penalization without contextual differentiation can lead to the criminalization of

³⁵ Barda Nawawi Arief, *Masalah Penegakan Hukum dan Kebijakan Kriminal* (Jakarta: Kencana, 2024), 21.

³⁶ Sonjaya, “Mengeksplorasi regulasi industri,” 33.

³⁷ Mulyadi, *Hukum Pidana dan Hak Asasi*, 59.

³⁸ Andi Hamzah, *Asas-Asas Hukum Pidana* (Jakarta: Kencana, 2024), 113.

³⁹ Komnas Perempuan, *Catatan Tahunan Kekerasan terhadap Perempuan 2024* (Jakarta, 2024).

⁴⁰ Kusumawardani, “Keadilan Restoratif dalam Pembaharuan Hukum,” 325.

vulnerable groups.⁴¹ Therefore, a customer is liable to criminal prosecution only if proven to have played an active role in exploitation or in repeated transactions that violate norms of decency and the law.⁴²

3.2. Comparative Implementation of Client-Criminalization Models in Selected Jurisdictions

The client-criminalization model (Nordic Model) implemented in Sweden, Norway, and Iceland offers relevant policy inspiration for Indonesia.⁴³ The approach focuses on criminalizing the customers of sexual services, while sex workers are not subject to criminal sanctions but are instead provided with social and legal support.⁴⁴ A 2024 evaluation by the Swedish government shows that this policy successfully reduced the level of street prostitution by 40% and raised public awareness regarding sexual exploitation.⁴⁵ However, the implementation of the policy relies not only on criminal sanctions but also on support for social rehabilitation programs, reproductive health services, and economic empowerment for former sex workers.⁴⁶

The Nordic Model is significant not merely because it criminalizes the purchase of sexual services, but because it represents a deliberate redistribution of legal responsibility within the prostitution market. The Swedish approach places the purchaser at the center of criminal regulation while distinguishing the legal position of sex workers from that of persons who create or facilitate demand. This formulation reflects a policy choice to address prostitution through the demand side rather than treating the supply side as the primary object of punishment.¹ Such an approach demonstrates that client criminalization can be constructed as a specific criminal policy rather than as a general prohibition of prostitution. For Indonesia, this distinction is important because any reform should clearly determine the circumstances in which purchasing sexual services constitutes a criminal offense and the conditions under which criminal liability may arise.

The implementation of client-criminalization policies also demonstrates that the Nordic experience indicates that enforcement is accompanied by measures directed toward reducing the vulnerability of sex workers and addressing the social conditions associated with prostitution. These measures include access to social services, health support, rehabilitation, and opportunities for alternative livelihoods. Consequently, the effectiveness of client criminalization should not be

⁴¹ Catharine MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Harvard: Harvard University Press, 2024), 32.

⁴² Ekinci, "Criminalisation of Sex Work," 125.

⁴³ Vuolajärvi, "Criminalising the sex buyer," 27.

⁴⁴ Ekberg, "The Swedish law that prohibits," 1213.

⁴⁵ Government, *Evaluation of the Sex Purchase*, 25.

⁴⁶ Keighley, and Sanders, "The eyes and ears of sexual exploitation online," 1138.

assessed solely through the number of prosecutions or convictions. It should also be evaluated according to whether the policy reduces exploitation, protects vulnerable persons, and contributes to a sustainable reduction in demand. This broader implementation framework provides an important comparative lesson for Indonesia in designing a policy that combines criminal enforcement with preventive and protective measures.

Nevertheless, the Nordic Model should not be adopted by Indonesia through direct transplantation. Differences in legal systems, social structures, cultural values, patterns of prostitution, and institutional capacity require the model to be assessed critically before being adapted to the Indonesian context. Existing research also indicates that criminalizing sex buyers may produce unintended consequences if enforcement is not accompanied by adequate protection and social support for sex workers. Therefore, the comparative value of the Nordic Model lies not in reproducing its provisions identically, but in identifying the principles that may inform Indonesian legal reform. These include demand-oriented criminal policy, differentiated legal treatment of vulnerable persons, proportionality in punishment, and integration between penal and non-penal measures. Such principles can provide a normative foundation for developing a context-sensitive model of client criminalization in Indonesia. From the perspective of Indonesian criminal law, this model can be adapted through a combination of penal and non-penal approaches. Penal sanctions are applied selectively to clients to curb demand, while sex workers are treated as individuals in need of protection and social rehabilitation.⁴⁷

A further lesson from the Nordic experience concerns the importance of institutional coordination in implementing client criminalization. Criminalization requires cooperation among police, prosecutors, social agencies, health institutions, and organizations providing assistance to vulnerable groups. Without such coordination, enforcement may become fragmented and focus excessively on prosecution rather than prevention and protection. The Swedish experience demonstrates that prostitution policy operates through collaborative governance involving multiple institutional and non-governmental actors rather than through criminal law alone.⁴⁸ For Indonesia, this indicates that any client-criminalization framework should establish clear institutional responsibilities, referral mechanisms, and coordination procedures to ensure that criminal enforcement is accompanied by appropriate social interventions.

Another important consideration is the potential behavioral consequences of enforcement for sex workers and clients. Criminalization may alter the conditions

⁴⁷ Platt et al., “Associations between sex work,” 12687.

⁴⁸ Josefina Erikson, and Oscar L. Larsson, “Beyond client criminalization: Analyzing collaborative governance arrangements for combatting prostitution and trafficking in Sweden,” *Regulation & Governance* 16, no. 3 (2022): 819.

under which transactions occur, potentially encouraging faster negotiations or less visible forms of interaction when individuals seek to avoid detection. Research in Canada, for example, indicates that criminalizing clients can affect negotiation practices and may increase vulnerability among sex workers who already experience social and economic disadvantages.⁴⁹ Similarly, research on the Swedish model indicates that client criminalization does not operate uniformly across all contexts and should therefore be evaluated according to its practical effects rather than its formal legal objectives alone.⁵⁰ These considerations reinforce the need for evidence-based evaluation in Indonesia.

From the perspective of Indonesian criminal law reform, the adoption of client criminalization should therefore be preceded by a careful assessment of legislative design, institutional readiness, and potential social consequences. Indonesian scholarship emphasizes the need to reconstruct the criminal liability framework surrounding prostitution and to distinguish appropriately between service users, commercial sex workers, and other actors who facilitate or exploit prostitution.⁵¹ Such differentiation is important to prevent overcriminalization while ensuring accountability for conduct that generates exploitation or sustains commercial demand. Regulatory reform should consequently be supported by preventive and evaluative mechanisms capable of measuring whether the new framework achieves substantial justice and produces the intended social outcomes.⁵²

3.3. Proportionate Legal Reform for Criminalizing Prostitution Clients in Indonesia

Based on the normative and comparative analysis, legal reform concerning prostitution clients should establish a proportionate framework that clearly defines the circumstances giving rise to criminal liability while preventing excessive criminalization. The proposed framework should distinguish between clients

⁴⁹ Adina Landsberg et al., “Criminalizing sex work clients and rushed negotiations among sex workers who use drugs in a Canadian setting,” *Journal of Urban Health* 94, no. 4 (2017): 569.

⁵⁰ Daniela Danna, “Client-only criminalization in the city of Stockholm: Local research on the application of the “Swedish model” of prostitution policy,” *Sexuality Research and Social Policy* 9, no. 1 (2012): 88.

⁵¹ Rianda Dirkareshza, E. N. Sihombing, and Rosalia Dika Agustanti, “The Problem of Criminalization of Commercial Sexual Workers and Users of Prostitution Services,” *Jurnal Penelitian Hukum De Jure* 22, no. 4 (2022): 526. See also, Ahmad Jamaludin, “Reinventing the Criminalization of Commercial Sex Workers and Prostitution Service Users in Indonesia in the Perspective of Indonesian Criminal Law Reform,” *UNES Law Review* 6, no. 4 (2024): 10079; Itok Dwi Kurniawan, “The Importance of Reconstructing Criminal Liability for Prostitution in the Reform of Criminal Law,” *Recht Studiosum Law Review* 3, no. 2 (2024): 179.

⁵² Ni Luh Gede Astariyani et al., “Preventive and evaluative mechanism analysis on regulatory and legislation reform in Indonesia,” *Law Reform* 19, no. 2 (2023): 249. See also, Ibnu Sina Chandranegara, and Muhammad Ali, “Policies on Regulatory Reform in Indonesia: Some Proposals,” *Jurnal Media Hukum* (2020): 59.

involved in exploitation, coercion, violence, or transactions involving minors and situations that do not involve such circumstances. Accordingly, reform should combine selective criminal sanctions with preventive and protective measures to ensure that criminal law addresses demand without disproportionately burdening vulnerable persons.

A restorative justice perspective further requires the proposed reform to extend beyond the imposition of criminal sanctions. Restorative justice emphasizes the restoration of social relationships and the recovery of persons affected by criminal conduct rather than relying solely on punitive measures. In the context of prostitution, sex workers should be viewed as persons who may experience structural vulnerability arising from social and economic inequality.⁵³ Accordingly, restorative justice supports measures such as rehabilitation, vocational training, social reintegration, and legal protection against violence or extortion.⁵⁴ Criminal law should therefore function not only as a repressive instrument but also as a corrective and transformative mechanism that addresses vulnerability while preventing further exploitation.

Feminist legal theory provides an additional basis for reconsidering the distribution of responsibility within prostitution-related criminal law. By challenging gender-biased legal structures, this perspective emphasizes the need to recognize unequal power relations and the vulnerability of women within systems of sexual exploitation.³ Applied to prostitution policy, it supports greater accountability for clients as demand-side actors while preventing the criminal justice system from disproportionately targeting sex workers. This approach promotes a more equitable allocation of legal responsibility and strengthens the protection of persons who experience structural and gender-based vulnerability.

Accordingly, reform should be directed toward revising the Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP) and, where appropriate, the Law on the Eradication of the Crime of Trafficking in Persons (*Undang-Undang Pemberantasan Tindak Pidana Perdagangan Orang* or UU TPPO) to establish clearer provisions concerning client liability. Such provisions should incorporate explicit limitations based on exploitation, coercion, violence, or the involvement of minors, thereby ensuring that criminalization remains consistent with legality and proportionality. At the same time, sex workers should be protected through decriminalization, rehabilitation, and social empowerment rather than being treated as the primary targets of criminal sanctions.

The proposed reform should also integrate non-penal measures, including public education, legal literacy, gender-equality programs, and women's economic

⁵³ Harkristuti Harkrisnowo, "Rekonstruksi Kebijakan Kriminal dalam Perspektif Pancasila." *Jurnal RechtsVinding*, vol. 13, no. 2 (2025): 245.

⁵⁴ Muladi, *Restorative Justice dalam Pembaharuan Hukum Pidana Nasional* (Jakarta: Kemenkumham, 2025), 322.

empowerment, alongside stronger coordination among law enforcement agencies, social protection institutions, and human rights institutions. Through the integration of selective criminalization, restorative justice, social protection, and gender-sensitive policies, Indonesia can develop a criminal law framework that is more proportionate, humane, and equitable while remaining consistent with human rights, Pancasila values, and the objectives of national criminal law reform. Through these measures, Indonesia can establish a criminal law paradigm that is fairer, more balanced, and more humane, without disregarding moral values, human rights, and deeply rooted national legal principles in Pancasila.⁵⁵

The proposed reform should also address the problem of regulatory fragmentation in Indonesia. Existing regulation concerning prostitution has developed through different legal instruments and local policies, resulting in variations in the treatment of prostitution-related conduct and uncertainty regarding the legal position of service users. This condition may undermine the consistency of criminal policy because similar conduct can receive different legal responses depending on the applicable jurisdiction. A national framework should therefore establish uniform substantive standards while allowing limited contextual implementation through appropriate secondary regulations. Such harmonization would strengthen legal certainty and prevent criminalization from being applied inconsistently across regions. Previous research has identified the absence of uniform regulation concerning prostitution users as an important weakness in Indonesia's existing criminal law framework.⁵⁶

The formulation of criminal provisions should further be supported by clearly defined parameters for determining which prostitution-related conduct warrants criminal intervention. Criminalization should not merely respond to moral disapproval but should identify concrete forms of conduct that produce legally relevant harm or contribute to exploitation. This requires legislators to distinguish between the existence of prostitution as a social phenomenon and particular acts that justify the use of criminal sanctions. Such an approach would reduce the possibility of vague provisions and arbitrary enforcement, particularly where online platforms create new forms of interaction between clients, intermediaries, and service providers. Indonesian legal scholarship has emphasized the need for clearer reformulation of prostitution-related offenses because existing criminal law does

⁵⁵ Harkrisnowo, "Rekonstruksi Kebijakan Kriminal," 248.

⁵⁶ Andrew Ramadhani, and Hervina Puspitosari, "Urgensi kriminalisasi pengguna jasa prostitusi di Indonesia," *Yustisia Tirtayasa: Jurnal Tugas Akhir* 3, no. 2 (2023): 209. See also, Gea Illa Sevrina, "Kebijakan kriminalisasi terhadap praktik prostitusi di Indonesia," *Law and justice* 5, no. 1 (2020): 19.

not comprehensively regulate the various forms of conduct involved in prostitution.⁵⁷

Finally, the effectiveness of the proposed criminalization should be assessed through a continuous legislative evaluation mechanism rather than being considered complete once the new provision is enacted. Evaluation should examine whether criminalization produces the intended preventive effects, whether enforcement remains consistent with proportionality, and whether unintended consequences emerge during implementation. Indicators may include patterns of prosecution, changes in prostitution-related practices, institutional capacity, and the protection of affected persons. Such evaluation is particularly important because criminal policy operates within changing social and technological conditions, including the increasing use of digital platforms for prostitution-related transactions. Regulatory reform should therefore incorporate mechanisms for periodic review, evidence-based adjustment, and institutional feedback to ensure that criminalization remains responsive and effective.⁵⁸

4. Conclusion

Criminalizing prostitution clients represents a strategic step in the reform of Indonesia's criminal law, aiming to uphold substantive justice and rectify normative imbalances in the enforcement of laws regarding public morality. Historically, Indonesian criminal law has tended to target sex workers and pimps for prosecution, while leaving clients the very parties generating demand untouched by criminal mechanisms. This situation has created a legal and moral disparity within the national legal system. From a normative standpoint, prostitution clients can be designated as subjects of criminal liability through the application of the principle of complicity (Article 55 of the Criminal Code) and the expansion of legal norms under Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons. By adopting principles from the “Nordic Model,” the criminalization of clients is intended not merely to punish, but to reduce demand and protect victims of sexual exploitation.

⁵⁷ Andika Dwi Amrianto et al., “Kriminalisasi dan reformulasi perbuatan prostitusi dalam hukum pidana: Catatan kritis atas minimnya pengaturan perbuatan prostitusi di Indonesia,” *Jurnal Penegakan Hukum Dan Keadilan* 4, no. 2 (2023): 129. See also, Adam Ilyas, and Maria Novita Apriyani, “Urgensi kriminalisasi pengguna jasa prostitusi online sebagai upaya penanggulangan permasalahan sosial di Indonesia,” *Mulawarman Law Review* 6, no. 2 (2021): 79.

⁵⁸ I. Gede Yoga Pratama, “Kriminalisasi Terhadap Pekerja Seks Komersial Melalui Online Dalam Pembaharuan Hukum Pidana,” *Jurnal Preferensi Hukum* 2, no. 3 (2021): 599. See also, Astariyani et al., “Preventive and evaluative mechanism analysis,” 251; Chandranegara, and Ali, “Policies on Regulatory Reform,” 61.

In practice, the criminalization of prostitution clients can be implemented by taking action against those who knowingly utilize services involving victims of exploitation or human trafficking, provided there are clear mechanisms for gathering evidence and identifying victims. Such implementation also requires coordination among the police, the public prosecutor's office, the courts, and victim protection agencies to ensure effective law enforcement without criminalizing sex workers who are in vulnerable positions. This punitive approach must be implemented selectively, proportionately, and with due regard for human rights. Sex workers should be viewed as vulnerable individuals requiring social protection, whereas clients who knowingly engage in exploitation must be held criminally accountable. The proposed legal reform also necessitates an integration of penal and non-penal strategies, encompassing public education, economic empowerment, and the strengthening of social institutions involved in rehabilitation. Thus, the policy of criminalizing prostitution clients serves not only as a repressive instrument but also as a means of moral and social reconstruction, fostering a form of justice that is humane, civilized, and aligned with the values of Pancasila.

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