

Law Enforcement Against Online Prostitution Providers In Indonesia And Egypt

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ABSTRACT / ABSTRAK

Purpose of the study :

Describe the comparison of Online Prostitution Law in Indonesia and Egypt

Methodology :

Research methodology is qualilative approach with normative legal research. Therefore, in this study, it is preferable to secondary data collected by literature studies. Data that has been processed for further qualitative analysis

Results:

The results of this study found that the comparison of the two countries has similarities, namely the lack of legislation on online prostitution and the existence of a police specialty that investigates cases of prostitution in Egypt namely "Good Moral Police" while in Indonesia there is such police available.

Novelty/ Originality of this study:

The novelty value of this study is the comparison of the law with the specificity of the police who are in the case of prostitution in Egypt.

Keywords: Legal Comparisons, Legal Considerations, Online Prostitution

Introduction

Prostitution is a community disease that must be ceased from spreading, without neglecting prevention and improvement efforts. The practice of prostitution is an important aspect because most of the prostitution cases that are revealed in Indonesia especially in major cities are run by pimps. Following the technology advancement, the development of prostitution is very accessible. The use of internet-based technology facilitates pimps to run their businesses, usually used by obscene content through online media such as (Ayu and Suparwi 2019) *Whatsapp* to attract their customers. Many procurers who utilize online media with obscene content only faced minimal criminality contained in the Criminal Code. The use of online media as a promotional medium for prostitution shall be punished more profoundly with the provisions in Law No. 11 of 2008 on Information and Electronic Technology. Prostitution is the exchange of sexual relations with money or gifts as a prostitution trade transaction. Meanwhile in prostitution, there are several parties involved, including service providers, service users, and Commercial Sex Workers (PSK) (Jago Kata n.d.).

Online prostitution is becoming a growing form of crime due to the advancement of science and technology – technology development leads to the proliferation of prostitution activities as it can utilize internet as a means in the transactions and offers of such pursuits. The advantages of using computer technology and the internet, transactions for prostitution activities no longer need to meet in places where Commercial Sex Workers (PSK) usually peddle themselves such as in localization areas or even on the alleyways. It certainly provides security for both service users and Commercial Sex Workers (PSK), so that the use of the internet as a marketing means for Commercial Sex Workers (PSK) and procurers in order to attract customers is becoming increasingly popular. Using internet media provides flexibility for those to transact without necessarily having to meet in person. In its development, there are various internet facilities used in online prostitution activities, such as social media, websites, blogs, and online forums. The method used is to offer and install photos of Commercial Sex Workers (PSK) completed with personal data and contact info that can be contacted by consumers at any time either via mobile phone or electronic mail (Negoro 2014).

Prostitution is deemed a crime against decency or morals and against the law. Even so, statistics show that this business is significantly flourishing. Havoc scope calculates the world's prostitution revenues, in which there are countries on the highest list in the business. The country that ranks first in the transaction whopping 73 billion U.S. dollars is China.

Meanwhile, Indonesia is at 12th position with a business value of 2.25 billion US dollars. Furthermore, cases that have been convicted of crimes related to online prostitution are as follows (Berty n.d.):

Table 1. Online Prostitution Case Data in Indonesia and Egypt

Indonesian		
Decision Number	Punishment	Regulation
Case Number 800/Pid.Sus/2017/PN.Bpp	Imprisonment for 1 year 3 months and a fine of Rp 100.000.000,-	Fulfilling the elements of Article 27 paragraph (1) of Law No. 19 of 2016 on amendments to Law No. 11 of 2008 on Information and Electronic Transactions, Criminalization of Article 197 Civil Code
Case Number 443/Pid.Sus/2019/PN.Smn	Imprisonment for 5 years and a fine of Rp 200.000.000,-	Article 2 Law No. 21 of 2007 on the Eradication of the Criminal Act of Trafficking jo article 65 paragraph (1) penal code
Case Number 70/Pid.Sus/2019/PN.Bjn	Imprisonment 1 year and 2 months	Article 27 paragraph (1) Jo Article 45 (1) Law No.19 of 2016 on amendments to Law No. 11 of 2008 on ITE, Law No.8 of 1981
Case Number 193/Pid.B/2020/PN.Tjg	Imprisonment for 1 year	Article 296 of the Criminal Code, Law No.8 of 1981 on Civil Code, Article 193 Civil Code
Egypt		
Decision Number	Punishment	Regulation
Case No. 120 in 2016 from the Court of Appeal	Imprisonment for a period of no more than two years and a fine of no less than five thousand pounds	Criminal Article 178 of the Criminal Code governs; Any person who publishes graphic clips on social networking sites if it is harmful to life
Case Number . 535 of 2020 Inventory of Supreme State Security	Imprisonment for a period of no less than two years and not exceed 5 years, and a fine of no less than 100,000 pounds and not exceed 300,000 pounds, or one of two penalties	The Anti-Cyber Crime Act Article 25; Any person who violates any of the principles or values of the family or violates the sanctity of personal life or sends many e-mails to a particular person without his or her consent

Source: Self-processed

Criminal law enforcement has been using Article 296 of the Criminal Code, stating:

"Any person who makes an occupation or a habit of intentionally causing or facilitating any obscene act by others with third parties, shall be punished by a maximum imprisonment of one year and four months or a maximum fine of fifteen thousand rupiahs."

This article stipulates that punishment can only be imposed on those who intentionally cause or facilitate obscene acts with others, and make it an occupation or habit (Bunga 2012). Article 297 of the Criminal Code charges anyone who traffics women and underage children. Furthermore, in Article 506, it is announced that:

"Any person who as pimp takes advantage of the prostitution of a ancient, shall be punished by a maximum light imprisonment of one year."

Thus, the enforcement of criminal law against prostitution service providers who advocate prostitution online must be carried out optimally since it is tempered in relation to online marketing.

Based on the previous description of the research problem, the **problem is formulated as:** How is the comparison of the online prostitution law in Indonesia and Egypt? **The purpose** of this study is to describe the comparison of online prostitution law in Indonesia and Egypt.

RESEARCH METHOD

Research methodology is qualilative approach with normative legal research. Therefore, in this study, it is preferable to secondary data collected by literature studies. Data that has been processed for further qualitative analysis (Fajar and Achmad 2015). Based on the approach used in this research, the method of data collection is the study of literature or documents (library research) (Abdurrahman 2009; Amiruddin and Asikin 2012). Qualitative analysis is a method of analysis that basically applies logical thinking, logical analysis with induction, deduction, analogy interpretation, comparison and so forth (Amiruddin and Asikin 2012).

RESULTS &DISCUSSION

A. Legal Comparison on Online Prostitution in Indonesia

Decision No. 800/Pid.Sus/2017/PN.Bpp

The first element based on the norm is "any person". any person as the subject of criminal law, in this case is someone who is brought before the trial as a defendant. The element of "any

person" between Decision No. 800/Pid.Sus/2017/PN.Bpp and Norm, Jurisprudence as well as doctrine is **appropriate**, evidenced in the doctrine by the mentioning "any person" is everyone as the subject of criminal law. In this case, any person is presented before the trial as a defendant, meaning that the defendant, IDA NORHAYATI Alias MBOK IDA Binti NORMANSYAH, was proven legitimate and liable.

The second element, namely "Intentionally and without the right to distribute and / or transmit and / or make accessible electronic information and / or electronic documents that have a charge violating decency". Intentionally, it is purpose to realize an act, intention to violate / neglect a legal obligation, and also want the result of the act.

Element "*Intentionally and without the right to distribute and/or transmit and/or make accessible electronic information and/or electronic documents that have a charge violating decency*" in Decision No. 800/Pid.Sus/2017/PN.Bpp and prevailing Norm, Jurisprudence as well as Doctrines, evidenced in the doctrine by the mentioning intentionality is the purpose to realize an act, intention to violate / neglect a legal obligation, and also want the result of the act consequences. In this case, the accused intentionally committed an act by conducting activities as procures or women trafficker to provide the affair with clients by promoting using the means of media

Decision No. 70/Pid.Sus/2019/PN.Bjn

The first element is "any person". Any person is an individual or corporation, either incorporated or non-incorporated.

The element "any person" in Decision No. 70/Pid.Sus/2019/PN.Bjn pronounced that YULIATIN BINTI MASKUN as the defendant. In this case, the defendant can be categorized as a person in the element of "any person" considered by the judge based on the indictment of the Public Prosecutor as well as the facts in the trial. The element of "any person" between Decision No. 70/Pid.Sus/2019/PN.Bjn and Norm, Jurisprudence, as well as doctrine is **appropriate**, evidenced by the norm that any person is a person or corporation, either incorporated or non-incorporated. In other words, the defendant YULIATIN BINTI MASKUN was proven to be a human being as a *persoon natuurlijk* suspected of committing criminal acts.

The second element is "intentionally and without the right". Intentionally is the desire to realize an act, intention to violate / neglect a legal obligation, and also want the result of the act consequences.

The element "intentionally and without the right" between the Decision No. 70 /Pid.Sus/2019/PN.Bjn and the Norm, Jurisprudence as well as prevailing doctrine is **appropriate**. In order to be fulfilled, this element which is inward must fulfil the element of its material deeds initially, therefore the judge can consider the next element.

The third element is "*to distribute and/or transmit and/or make accessible electronic information and/or electronic documents that have a charge violating decency,*" in connection to the previous element of "intentionally and without the right". While the subjective element is intentionally; the purpose to realize an act, intention to violate / neglect a legal obligation, and also want the results of the act consequences.

The element "*to distribute and/or transmit and/or make accessible electronic information and/or electronic documents that have a charge violating decency*" between the judgment of the judge in Decision No. 70/Pid.Sus/2019/PN.Bjn and applicable Norms, Jurisprudence as well as Doctrines is **appropriate**, evidenced that distributing and/or transmitting and/or making accessible is unlawful intention and without the right. In this case, it is included in the element "*to distribute and/or transmit and/or make accessible electronic information and/or electronic documents that have a charge violating decency*" and relates to the element "intentionally and without the right".

Decision No. 443/Pid.Sus/2019/PN Smn

The first element is "any person". Any person is a person or corporation, either incorporated or non-incorporated.

The element "any person" in the Decision No. 443/Pid.Sus/2019/PN Smn pronounces that ANTON YUNianto AL. PANDU BIN SLAMET RIYADI as a defendant. In this case, the defendant can be categorized as a person in the element of "any person" considered by the judge based on the indictment of the Public Prosecutor as well as the facts in the trial. The element of "any person" between the consideration of the judge in the Decision No. 443 / Pid.Sus / 2019 / PN Smn and the prevailing Norm, Jurisprudence, and doctrine is **appropriate**, evidenced in the doctrine stating "any person" is a person, in this case ANTON

YUNianto AL. PANDU BIN SLAMET RIYADI as the legal subject, which can be held accountable for all the deeds he committed.

The second element is *"The element to recruit, transport, shelter, ship, transfer, or receive any person with threats of violence, use of force, kidnapping, captivity, forgery, fraud, abuse of power or vulnerable position, debt bonding or giving payment or benefits despite obtaining consent of the person in control of another person."*

That the element of "recruit, transport, shelter, ship, transfer, or receive any person with threats of violence, use of force, kidnapping, captivity, forgery, fraud, abuse of power or vulnerable position, debt bonding or giving payment or benefits despite obtaining consent of the person in control of another person" is therefore substantiated by trial facts..

The element of "recruit, transport, shelter, ship, transfer, or receive any person with threats of violence, use of force, kidnapping, captivity, forgery, fraud, abuse of power or vulnerable position, debt bonding or giving payment or benefits despite obtaining consent of the person in control of another person" between the judge's considerations in Decision number 443/Pid.Sus/2019/PN Snn and the prevailing Norms, jurisprudence and doctrines is **appropriate**, since they are alternative, therefore proven based on the trial facts.

The third element is *"for the purpose of human exploitation in the territory of the Republic of Indonesia"*. Exploitation is an act with or without the consent of a victim that includes but is not limited to prostitution, forced labor or service, slavery or similar practices of slavery, oppression, extortion, physical use, sexual, reproductive organs, or unlawfully transferring or transplanting organs and/or bodily tissues or utilizing one's energy or ability by others to gain both material and immaterial benefits.

The element of "for the purpose of human exploitation in the territory of the Republic of Indonesia "between the consideration of the judge in the Decision No. 443 / Pid.Sus / 2019 / PN Snn and existing Norm, Jurisprudence and Doctrine is **appropriate**, proven by the trial facts, in which the defendant rightly asked the witness Winda Fatmawati and witness Heni Nawangjati to provide sexual services to male clients and the accused has regulated the payment of every sexual service totaling Rp1,200,000,- (one million two hundred thousand rupiah), with the distribution of Rp.500,000, - (five hundred thousand rupiah) for the defendant from each transaction of sexual services, which in this case is considered by the judge based on the defendant's testimony on the trial facts.

The fourth element is "*collectively commit acts that must be perceived as stand-alone actions so that they are some crimes that are threatened by similar major criminals*". Simultaneously, it is two or more criminal acts by one person, in which the first criminal offense is not necessarily criminal, or the first criminal offense and the next criminal offense have not been limited by a judge's decision.

The element of "collectively commit acts that must be perceived as stand-alone actions so that it is some of the crimes threatened by the same basic criminal" between the judge's verdict in the Decision No. 443 / Pid.Sus / 2019 / PN Smn and norms, jurisprudence as well as doctrine is **appropriate**, shown when the defendant apparently asked the witness Winda Fatmawati and witness Heni Nawangjati to provide sexual services to male client who requested sexual services. Then, the element of collectively commit acts that must be perceived as stand-alone actions as a crime that is threatened similar to other main crimes has been fulfilled and proven, based on the judge's consideration upon the defendant's testimony in trial facts.

Decision No. 193/Pid.B/2020/PN.Smn

The first element is, the element "*any person*". Any person is a person as the subject of criminal law, in this case is a person who is presented before the trial as a defendant.

The element of "any person" in Decision No. 193/Pid.B/2020/PN.Smn pronounces that LUNTANG BIN LANTUNG as a defendant. In this case, the defendant can be categorized as a legal subject in the element of "any person" and is considered by the judge based on the indictment of the Public Prosecutor as well as the trial facts. The element of "any person" between the consideration of the judge in Decision No. 193/ Pid.B/2020 / PN.Smn and the prevailing Norm, Jurisprudence and doctrine is **appropriate**, shown in the doctrine by the mentioning "any person" is a person as the subject of criminal law, in this case is a person who is filed before the trial as a defendant, LUNTANG BIN LANTUNG was proven guilty and liable for his criminal deed.

The second element is "*intentionally*". Intentionally is purpose to realize an act, intention to violate / neglect a legal obligation, and also want the result of the act consequences.

The element "intentionally" between the judge's consideration in Decision No. 193/Pid.B/2020/PN.Smn and the existing norms, jurisprudence and doctrines is **appropriate**. It is shown by the doctrine that intentionality is the purpose to realize an act, intention to

violate / neglect a legal obligation, and also want the result of the act consequences. Meanwhile, according to the judge's consideration, intentionally implies the deeds and consequences desired.

The third element is "*causing or facilitating any obscene act by others*". Abuse is an arbitrary act against another party containing violence and coercion.

The element "*causing or facilitating any obscene act by others*" between the judge's considerations in the Decision No. 193/Pid.B/2020/PN.Smn and the prevailing Norms, Jurisprudence, and doctrine **is appropriate**, shown by the defendant who facilitated obscenity between one person and others whom the defendant promoted through the Mi Chat application in his mobile phone to lure male client who had affair with witnesses Fajriany Mahdjah Als Pia Als Jajung Binti Shahrani and witness Nur Laila Khamisah Als Lala Binti Irman

The fourth element is "*makes an occupation or a habit*". Occupation is a job that becomes the source of livelihood.

The element of "*makes an occupation or a habit*" between the judge's consideration in Decision No. 193/Pid.B/2020/PN.Smn and the existing Norms, Jurisprudence, and doctrine is **appropriate**. It is proven that the defendant initiated to make it as an occupation because from the beginning the defendant reserved a hotel, provided condoms to serve male clients, and the defendant also obtained the up-front payment of Rp 50,000, - (fifty thousand rupiah) for 1 (one) client received by the Defendant after a transaction / payment of Rp 300,000, - (three hundred thousand rupiah).

B. Legal Comparison of Online Prostitution in Egypt

Case 1 (Case No. 4917 for 2020 Sahel Crimes, restricted to 2016 for the year 2020)

Investigations and follow-up confirmed the creation of the section, which is the subject of investigation, a violent shock to Egyptian society, because it contained a direct invitation from the accused of the girl to commit acts violating morals, values, and principles of Egyptian society. Her attempt to circumvent this was by claiming through the section validating what she was doing, and inciting other girls to do what she called to achieve the highest possible percentages to follow what they offered through the application in pursuit of profit. These follow-ups lead to unusual conversations between woman and man and sexual intercourse between them in a closed room, which was began from dialogue to incitement and

indecenty. The woman was motivated to provoke dishonourable man in an effort to increase the proportion of broadcast followers to a certain amount required by the company to receive the financial return they had promised.

At the trial hearing scheduled for 17 August for appeal in the Hanin Hossam as a case known as "Tik Tok Girls" **case No. 4917 for 2020 Sahel Crimes, restricted to 2016 for the year 2020** in the entire north of Cairo, She was sentenced to two years imprisonment and a fine of 300,000 Egyptian pounds (about \$20,000), for "violating family principles and values upheld by Egyptian society ", by publishing images and videos "disruptive to public modesty", stated as "indecenty" gathering and calling other girls to use this platform, according to the authorities.

Criminal responsibility in Egyptian law is the obligation of the individual to bear the consequences of one's actions unless there is other motive to commit the crime, such as justification and legalization.

From the above definition, we can classify the event as a criminal case because the actions committed by Hanin Hossam have disturbed violated societal and family values of Egyptian society.

Article 2 of the Combating Human Trafficking Act No. 64 of 2010

1. A person who commits the crime of human trafficking shall be considered one who deals in any manner in a natural person, including: the sale, offer for sale, purchase , or promise thereof; or the use
2. Or exploitation of a position of vulnerability or need; or through a promise to give or receive payments or benefits in exchange for obtaining the consent of a person to traffic another having control over him; or if the purpose of the transaction was exploitation in any of its forms, including: exploitation of acts of prostitution and all forms of sexual exploitation
3. Exploitation of children in such acts and in pornography, forced labor or services, slavery or practices similar to slavery or servitude, or begging or removal of human organs, tissues or a part thereof.

As per **article 1 of the Combating of Prostitution Act No. 10 of 1961**, " Whoever incites a person, be they male or female, to engage in debauchery or in prostitution, or assists in this or facilitates it, and similarly whoever employs a person or tempts him or induces him with the intention of engaging in debauchery or prostitution, is to be sentenced to

imprisonment for a period not less than one year and not more than three years and a fine between 100 and 300 LE in the Egyptian administration and between 1000 and 3000 Lira in the Syrian administration."

Article 14 of the same Act notes: "Whoever publicizes by any form of publicity an invitation which includes inducement to debauchery or prostitution, or draws attention to this, is to be punished by imprisonment for a period not exceeding three years and a fine not exceeding 100 LE in the Egyptian administration and 1000 Lira in the Syrian administration, or one of the two punishments".

Case 2 (No. 479 of 202 Cairo Economic Misdemeanour Court)

Investigations confirmed that they were commercially exploited by earning money from them, and the defendants from the third to the fifth participated in the ways of agreement and assistance with the first accused Hanin Hossam in committing the crime upon the agreement to help her to grant her membership in the social media app "Likee". They enabled her to set up her own group to invite girls to participate in the application and the crime was committed.

The Cairo Economic Misdemeanors Court also punished, in Case No. 479 of 2020, two years imprisonment and a fine of 300,000 pounds, on YouTubers Mawaddah Al-Adham, Mohamed Abdel Hamid Zaki, Mohamed Alaa El-Din, and Ahmed Sameh Attia for accusing them of violating family principles and values upheld by Egyptian society and inciting immorality and indecency by creating and managing social media accounts.

The first case was the violation of the curfew. The initial of its issuance was during the onset of the "Corona" pandemic, where she appeared in videos accompanied by a young man while they were on the street in the New Cairo area.

According to the above article, **No. 64 of 2010**, she was sentenced based on combating human trafficking law.

The penalties were expected to be issued against the accused Mawadah al-Adham if the accusations of indecency were proven, as stipulated in **Article 269, duplicates of decree No. 11 of 2011 issued by the Supreme Council of the Armed Forces to amend some provisions of the Penal Code**

It states: "Anyone found in a public road or place of rain inciting passers-by to debauchery with signs or statements shall be sentenced to at least three months' imprisonment.

According to the law: "If the offender returns to commit this crime within one year of his final sentence for the first offence, the penalty shall be imprisonment for at least one year and a fine of at least 500 pounds and not more than 3,000 pounds, and the conviction entails placing the convicted person under police surveillance for a period equal to the length of the sentence".

Article 306 of the article "A" stipulates: "A penalty shall be punishable by imprisonment of at least six months or more than two years and a fine of not less than 500 pounds and not more than 2,000 pounds or one of these penalties. Anyone who has been exposed to a person by word, deed or pointing at a face that is ashamed of himself in a public road or place is subject to the provision of the previous paragraph if the scratching of modesty occurred by telephone or any means of wired or wireless communication.

Case 3 (No. 26812 of 2020 Petitions of the Attorney General Lawsuit No. 579 of 2021)

Investigations indicated in **case No. 26812 of 2020**, the Attorney General's petitions that the videos the girl posted are obscene and the incitement for debauchery which violates family principles and societal values in exchange for financial benefit determined by the viewer increase in those videos, which were posted to all without discrimination.

The Economic Court, in her presence, punished the accused, Renad Emad, a "Tik Tok" girl, with 3 years imprisonment and a fine of 100,000 pounds, for her conviction of assaulting values, by creating and broadcasting content violating morals, and advocating for herself in an indecent manner, in the lawsuit filed against her by Lawyer Ashraf Farhat, founder of the campaign to cleanse the community, which bears No. 579 of 2021.

Criminal law is a law that regulates violations and crimes against the public interest. From the above definition, we can classify the event as a criminal case because the actions committed by "Reynad Emad" have disturbed the public interest.

Law No. 175 of 2018 on combating IT crimes Article (25) states "punishable by imprisonment by no less than six months, and/or a fine of no less than 50 thousand pounds or more than 100 thousand pounds, anyone who violates the family principles and values upheld by Egyptian society, violates the sanctity of private life or sent extensively many e-mails to a particular person without his consent, or grants data to an electronic system or website to promote goods or services without his consent or publishes through the information network or by one means of information Information technology, information, news, images and its

judgment violates the privacy of any person without their consent, whether information is correct or incorrect.

Legal opinion in the text of the punishable article:

By reviewing the first paragraph of the article above the statement, we find "anyone who violates family principles and values upheld by Egyptian society" and despite the provision of the state's right to establish family values under Article 10 of the Constitution, we are facing a punitive text, and given the sanctions imposed by the penal code From serious restrictions on personal freedom, the text appears to be vague, inaccurate and broad in meaning and can be interpreted from several points of view, especially in the obscurity of the executive regulations of the law, which might have been explained to us what family values mean.

Case 4 (In Case No. 20 of 2020, the misdemeanour of Kufr Shukr)

Manar Sami used to broadcast videos on the tik Tok app, which was daring and incited immodesty like dancing to folk songs in her home or on the street, besides taking photograph in situations that contrast the morals and values of Egyptian society.

Manar had nearly 300,000 followers on the photo and video sharing site, Instagram. Investigations revealed that the accused indecently portrayed herself and broadcasted it on social media in order to attract young people to follow in exchange for money.

The same article mentioned in the top 25 of Law No. 157 of 2018 on combating information technology

CONCLUSION

Prostitution is an occupation that commercializes sex as a form of service to others. While online prostitution is the act done online using technology media. The regulation of criminal acts in positive law in Indonesia against online prostitution sanctions can be seized using the Criminal Code contained in Article 296 and Article 506 for procurers. Sex workers in Criminal Code states it as a religious on the basis of likes, which is done by any married woman or man as contained in Article 284 of the Criminal Code. Law No. 11 of 2008 on Information and Electronic Transactions which has been stipulated in article 27 paragraph (1) only limits the prohibition of commercial sex service providers and website owners only. According to the authors, the punishment is not seriously addressed because the maximum

fine of Rp. 1 billion is still relatively small compared to the profit earned from the online prostitution network.

Online prostitution according to Egypt is the act of renting out, facilitating, or engaging in sexual services for a fee stipulated in Combating of Prostitution Act No. 10 of 1961. Therefore, the legal comparison between Indonesia and Egypt has similarities, such as it does not have its own laws on online prostitution, especially to perpetrators and to commercial sex workers without complaint. While the difference lies in law enforcement, Egypt has a special police called "morality police" who are specifically tasked to deal with online prostitution.

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