

Sanctions Against Criminal Acts of Gambling on Skill Games Shooting Fish in the Legal Area of the Medan District Court

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Abstract One of the gambling cases that was decided through the Medan District Court was the fish shooting gambling case, decision number 2452/Pid.B/2021/PN Mdn. Currently, many fish shooting games are found as gambling games in the community. The consequences of shooting fish gambling bring things that are not good financially and disrupt people's mindsets. The formulation of the problem that is made is How are the Sanctions in the Crime of Gambling Fish Shooting Game in the Medan District Court?, How is the Review of Criminal Law Against the Crime of Gambling Fish Shooting Game? This research uses normative research methods in the form of primary and secondary data sources which are then analyzed using descriptive analysis techniques with a deductive mindset. The results of the research are first, the decision of the District Court number 2452/Pid.B/2021/PN Mdn regarding the crime of gambling fish shooting agility games based on Article 303 Bis paragraph (1) 1 of the Criminal Code, which is to impose a prison sentence of 1 (one) year.) year. Followed by the testimony of witnesses, defendants, evidence and considering things that are aggravating and mitigating for the defendant when determining the sentence of criminal sanctions.

Keywords: Sanctions, Gambling, Criminal Law

INTRODUCTION

With the current development of information and communication technology, various kinds of crimes in the form of misuse of information and communication technology are increasingly occurring, one of which is the criminal act of gambling. The criminal act of gambling itself has experienced development, namely in the form of gambling because in essence gambling is contrary to religious norms, morality and Pancasila norms and is dangerous for the continuity of national and state life. The process of enforcing criminal law in order to achieve legal objectives is interpreted in the judicial system. criminal. The criminal justice system is the driving force. However, looking at the current reality of life, gambling is still widely practiced by society in various forms.

Gambling is a phenomenon that cannot be denied in society. In fact, the gambling phenomenon is not something new in the lives of Indonesian people, since the past until now the practice of gambling has existed. This gambling crime influences many things, such as the economy, relationships, existing opportunities and so on. These factors that occurred in Indonesia have shown negative effects. As time goes by, gambling can be done with various mechanisms and various forms. Gambling is generally seen as a crime.

As a country of law, all aspects of life, including legal events which are legal acts and/or legal events which are not legal acts, must comply with applicable laws and regulations. General crimes are crimes whose legal source comes from the Criminal Code as material law

and the Criminal Code as formal law. The crime of gambling, including gambling in the form of games, in Indonesia is regulated by general criminal law. This criminal offense is regulated in the Criminal Code (KUHP), especially Article 303 of the Criminal Code and Article 303 bis of the Criminal Code. According to the Criminal Code, gambling is any game where the hope of winning generally depends on luck alone, and also if that hope becomes greater due to intelligence and playing habits. What is also included in gambling are the rules regarding the decisions of competitions or other games, which are not held by those who participate in the competition or play, as well as all other regulations. Gambling is an alarming crime and is strictly regulated in Article 1 of Law Number 7 of 1974 concerning the control of gambling which states that all gambling acts are a crime. Gambling has factors of desire, hope and an element of tension caused by the uncertainty of achieving victory or defeat. This uncertain situation, increases the great addiction to keep playing again. This makes a person's gambling appetite uncontrollable and makes them a skilled player who is not deterred. It may be difficult to cover the difference between gambling and other games or activities, because the speculative aspect is the possibility of making profits and losses that function in human activities.

Gambling on the skill game of shooting fish often occurs in the jurisdiction of the Medan District Court from 2020 to 2021 which has been decided by the Medan District Court totaling 183 criminal cases of gambling, here is the table:

Table 1. The following is the Annual Report Book at the Medan District Court

NO	CASE TYPE	YEAR 2020	YEAR 2021	AMOUNT
1.	Gambling Crime	106	65	171 Cases
2.	Fish Shooting Gambling Crime	05	07	12 Cases

Some of the cases that I have taken up in this thesis are the crime of gambling on fish shooting stunt games in 2021 with decision number 2452/Pid.B/2021/PN Mdn.

Formulation of the problem

1. What are the factors causing the crime of gambling on fish shooting games in the Medan District Court area?
2. What are the sanctions for the crime of gambling on fish shooting games in the Medan District Court area?

RESEARCH METHODS

The research approach used by the author in this research is normative research, normative research in the form of legal behavior. The subject of the study is law which is

conceptualized as norms or rules that apply in society and become a reference for everyone's behavior. So normative legal research focuses on positive law, principles and legal doctrine and legal discoveries in cases in concreto, legal systematics, levels of synchronization, comparative law and legal history.

In this research the author uses a criminological method, namely an approach based on applicable statutory provisions and linked to existing legal theories as well as by exploring the problem of the crime of Fish Shooting gambling that arises and looking at the reality that occurs in society. The primary and secondary data sources were then analyzed using descriptive analysis techniques with a deductive mindset. The main data was obtained based on decision number: 4252/Pid.B/2021/PN Mdn.

DISCUSSION

1) FACTORS CAUSING CRIMINAL OFFENSES OF FISH SHOOTING GAME GAMBLING IN THE STATE COURT AREA

a. Factors that cause gambling crimes

Talking about criminal acts of gambling, there are many factors that cause people to gamble, where the development of digital electronics is developing very quickly, and many applications are developing both in the business and work fields, one of which is that people who gamble want to become a millionaire without having to. working hard and waiting a long time, means wanting to become rich in a short time. Apart from the main factors of wanting to become rich as quickly as possible as stated above, you can also see the following factors around society:

1. Social or economic factors

For people with low economic status, gambling is often seen as a means to improve the economy with winnings. Because they think, with very little capital they will get big profits and will become rich in an instant without much effort.

Economic underdevelopment can be a factor that becomes a problem for everyone who gambles, with a series of phenomena that are integrated in a complex way, giving rise to prominent trends in prosperity and poverty, stagnation and relative backwardness compared to other countries.

2. Situational factors

Situations that can be categorized as triggers for gambling behavior include pressure from friends, groups or the environment to participate in gambling. Where there is pressure from the group, as someone who initially did not commit a criminal act of gambling, if he does

not comply with what his group wants, will feel isolated and therefore will not have widespread social interactions. Meanwhile, the marketing method used by gambling managers always exposes successful gamblers, thus giving potential gamblers the impression that winning in gambling is something normal, easy and can happen to anyone. even though in reality the possibility of winning is very small.

3. Learning factors

It makes sense that learning factors have a big effect on gambling behavior, especially regarding the desire to continue gambling. At first he just wanted to try, but because he was curious and believed that victory could happen to anyone, including himself and believed that one day he would win or be successful, this made him gamble repeatedly. Low levels of education and minimal knowledge can result in a person not thinking long enough about carrying out actions, including gambling.

4. Winning/profit factors

The winning factor is a trigger for people who gamble, where the author's perception here is about evaluating the chances of winning that they will get if they gamble. Players who find it difficult to quit the game generally have a poor perception of the likelihood of winning. In general, they feel very confident that they will win, when the estimate is very small because of the belief that exists in the illusion obtained in the evaluation that they will win, "if they haven't won now, they will definitely win on the next opportunity, and so on."

5. Skill perception factor

Players who feel very skilled in one or more types of gambling will tend to assume that success/winning in gambling is due to the skills they have. Often, they cannot differentiate between those wins obtained thanks to skill and those that were just pure chance. For them, losing while playing is never considered a defeat but is considered "almost a win", so they continue to look for a victory that they think will definitely be achieved.

b. Efforts to overcome gambling crimes

Forms of obstacles from the authorities in tackling gambling in society. In every field that can be thought of, there are always problems, and it is not uncommon that in carrying out work we are faced with various problems that we have never previously imagined. For this reason, efforts to overcome gambling crimes consist of:

a. Penal effort

In cases of criminal acts of gambling, penal measures are carried out in accordance with the application of Article 303 and/or 303 bis of the Criminal Code against the perpetrators and

then examining them according to the Criminal Procedure Code and applicable laws and regulations.

b. Non-penal efforts

Where in the countermeasures/efforts that can be carried out in this Non-Penal effort, namely Preventive Efforts, namely providing motivation, guidance and direction to the community, especially regarding the consequences of gambling as well as regarding the legislation so that the public understands and is aware of it.

c. Prevention of gambling crimes

Many of the seeds of social disease develop in society, so that prevention efforts are discovered and carried out in society, both directly and indirectly. In this case, efforts that can be made by the government to realize this prevention include:

1. Suppressing population growth in urbanization
2. Increasing educational efforts
3. Expanding employment opportunities
4. Increased lighting and surveillance efforts.

2) SANCTIONS IN THE CRIME OF GAMBLING IN FISH SHOOTING GAMES IN THE MEDAN STATE COURT AREA

a. Legal sanctions for perpetrators of gambling crimes

The application of sanctions and how courts can consider factors such as the harm suffered by the victim and the rehabilitation potential of the perpetrator in imposing sanctions. The criminal act of gambling or participating in gambling was initially prohibited in the criminal provisions regulated in Article 542 of the Criminal Code, which was then based on the provisions regulated in Article 2 paragraph (4) of Law no. 7 of 1974, the term has been changed to criminal provisions regulated in Article 303 bis of the Criminal Code, and based on the provisions regulated in Article 1 of the same Law it has been deemed a crime, Article 303 bis of the Criminal Code reads:

1. Threatened with a maximum imprisonment of four years or a maximum fine of ten million rupiah:
 - a) Anyone who uses the opportunity to play gambling, which is held in violation of the provisions of Article 303.
 - b) Anyone who participates in gambling on a public road or on the side of a public road or in a place that can be visited by the public, unless there is permission from the competent authority who has given permission to carry out such gambling.

2. If the violation has not passed two years since the transfer became permanent due to one of these violations, a maximum prison sentence of six years or a maximum fine of fifteen million rupiah can be imposed.

Gambling is a form of crime that meets the formulation of the Criminal Code, namely, which is regulated through Articles 303 and 303 bis, this after being issued by Law no. 7 of 1974, the criminal threat for gambling was increased, details of the changes are as follows:

1. The criminal threat in Article 303 (1) of the Criminal Code is increased to imprisonment for a maximum of ten years or a fine of up to twenty-five million rupiah.
2. Article 542 of the Criminal Code was elevated to a crime and replaced with the designation Article 303 bis of the Criminal Code, while the criminal threat was made more serious, namely: Paragraph (1) means imprisonment for a maximum of four years or a fine of up to ten million rupiah. Paragraph (2) provides a maximum prison sentence of six years or a fine of up to fifteen million rupiah.

UU no. 7 of 1974 concerning Controlling Gambling will include regulating the types of sanctions and regulating the severity of criminal penalties.

1. Setting the types of sanctions

Specifically, the criminal sanctions system regarding gambling crimes still refers to the general rules contained in Article 10 of the Criminal Code which regulates types of crimes, including basic crimes and additional crimes. The main punishment consists of:

- a. Death penalty
- b. Prison sentence
- c. Confinement
- d. Fine
- e. Additional penalties

Meanwhile, additional penalties consist of:

- a. Revocation of certain rights

The law gives power to the State through its instruments or institutions to revoke certain rights only, which according to article 35 paragraph 1 of the Criminal Code, the rights that can be revoked are the rights to hold office, enter the armed forces, vote and be elected, and become legal advisors. or administrator, exercising the powers of a father or representative and the right to carry out a livelihood. These particular rights must not concern religious rights or creative rights.

- b. Confiscation of certain items

Confiscation of certain items is confiscation of items that are the proceeds of crime or used to commit a crime. Confiscated items can be confiscated by the state or destroyed.

c. Announcement of the judge's decision

Every judge's decision must be pronounced in a trial that is open to the public (article 195 of the Criminal Code), otherwise the judge's decision is null and void.

In Article 2 of Law no. 7 of 1974 concerning Controlling Gambling, regulates criminal sanctions for gambling which reads:

- a. Changing the threat of punishment in Article 303 paragraph (1) of the Criminal Code, from a maximum prison sentence of two years and eight months or a maximum fine of ninety thousand rupiah to a maximum prison sentence of ten years or a maximum fine of two twenty five million rupiah.
- b. Changing the designation of Article 542 to Article 303 bis. Article 303 bis was originally Article 542 which had a lower criminal threat, namely a maximum imprisonment of one month or a maximum fine of three hundred thousand rupiah and with the promulgation of Law no. 7 of 1974 Article 542 was replaced with Article 303 bis with the threat of imprisonment for a maximum of four years or a fine of a maximum of ten million rupiah. This means that gambling in the form of violations in Article 542 is declared a criminal offense.

CONCLUSION

1. So there are many factors that cause people to gamble where the development of digital electronics is growing very quickly. This means wanting to become rich in a short time. The learning factor is a trigger for people who gamble here, which is felt by the author regarding evaluating the chances of winning. Low level of education and minimal knowledge can result in someone not thinking long.
2. Legal sanctions for perpetrators of criminal acts of gambling are then based on the provisions regulated in Article 2 paragraph (4) of Law no. 7 of 1974, the same has been seen as a crime, Article 303 bis of the Criminal Code. UU no. 7 of 1974 concerning Controlling Gambling will include regulating the types of sanctions contained in Article 10 of the Criminal Code, including imprisonment for a maximum of six years or a fine of fifteen million rupiah.

BIBLIOGRAPHY

Abdul Kadir. (2004). Law and Legal Research. Bandung: PT Citra Aditya Bakti.

- Abdul Qadir Audah. (2007). Encyclopedia of Islamic Criminal Law (At-Tasyri' Al-Jina'i Al-Islamy Muqaranan bil Qonunil Wad'iy) (Translated by Tim Tsalisah-Bogor). Jakarta: PT Karisma Ilmu.
- Adami Chazawi. (2002). Criminal Law 1. Jakarta: Raja Grafindo Persada.
- Ahmad Hanafi. (2005). Fundamentals of Islamic Criminal Law (6th ed.). Jakarta: Bulan Bintang.
- Ahmad Wardi Muslich. Islamic Criminal Law (2nd ed.). Jakarta: Sinar Graphics.
- Budi Sudariyanto. (2014). Information Technology Criminal Offenses (Cybercrime). Jakarta: Rajawali Press.
- Dr. Alwan H. & Dr. Yasmirah Mandasari Saragih. (2021). Introduction to Criminology Theory and Theories in Criminal Law. Medan: CV. Cattleya Darmaya Fortuna.
- Dr. Yasmirah Mandasari Saragih, Dr. Alwan H., & Dr. Mas Subagyo. (2023). Introduction to Transitional Criminal Law in Indonesia. Medan: CV. Tungga Esti.
- Dr. Yasmirah Mandasari Saragih. (2023). Development of Restorative Justice Concepts in Criminal Law in Indonesia. Medan: CV. Tungga Esti.
- Dr. Yasmirah Mandasari Saragih. (2023). Offenses in the Indonesian Penal Code. Medan: CV. Haritsa.
- Erdianto Effendi. (2011). Indonesian Criminal Law: An Introduction. Bandung: Refika Aditama.
- HE Hassan Saleh (Ed.). (2008). Study of Prophetic Jurisprudence & Contemporary Jurisprudence. Jakarta: Rajawali Press.
- Implementation of Article 303 of the Indonesian Criminal Code regarding gambling.
- Implementation of Article 303 paragraph (1) of the Indonesian Criminal Code regarding gambling.
- Lamintang. (2010). Indonesian Penitentiary Law (2nd ed.). Jakarta: Sinar Graphics.
- Law No. 7 of 1974 concerning the Regulation of Gambling*. Official Gazette of the Republic of Indonesia Year 1974 No. 54, Article 2.
- Leden Marpaung. (1996). Crimes against Morality and Prevention Issues. Jakarta: Sinar Graphics.
- M. Nurul Irfan & Masyrofah. (2013). Jinayah Fiqh. Jakarta: Amzah.
- Muladi & Barda Nawawi Arief. (1998). Criminal Policy. Bandung: Alumni Publishers.
- R. Soesilo. (1986). Criminal Code [KUHP]. Bandung: Karya Nusantara.
- Sutan Remy Syahdeni. (2009). Crimes and Computer Offenses. Jakarta: Graffiti Main Library.

Sutrisno Hadi. (1997). *Research Methodology*. Yogyakarta: Andi Offset.

Yasmirah Mandasari Saragih, Dahris Siregar, Arianus Halawa, et al. (2022). Legal Protection for Consumers in the Implementation of Electronic Trading Contracts. *IJCS*, 1(2), 214-223.

Yasmirah Mandasari Saragih. (2021). Concept of Restorative Justice in Criminal Law: Settlement Through the Approach of Local Wisdom Value. *IJIRMF*, 7(7), 31-37.