

Article

Legal Review Of The Responsibility Of Online Gambling Criminal Acts In Indonesia

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Abstract This study discusses the accountability of perpetrators of online gambling crimes in Indonesia from the perspective of applicable positive law. Online gambling is a form of cybercrime that has developed along with advances in information and communication technology, and has various negative impacts on society, including economic losses, moral damage, and increasing crime rates. The main focus of this study is to examine how legal regulations in Indonesia, especially in the Criminal Code (KUHP), the Electronic Information and Transactions Law (UU ITE), and other related regulations, regulate and ensnare online gambling perpetrators, both as the main perpetrators, platform providers, and service users. This study uses a normative juridical method with a statutory approach and a case approach. Data were obtained through literature studies and analysis of relevant court decisions. The results of the study show that although Indonesian positive law has regulated the prohibition of gambling, there are still gaps in norms and challenges in implementation, especially related to evidence, jurisdiction of cross-border perpetrators, and adaptation of law enforcement officers to digital modus operandi. The conclusion of this study emphasizes the need for synchronization of regulations and increased law enforcement capacity, including the formation of more comprehensive special regulations regarding online gambling crimes. This is important so that the criminal responsibility of the perpetrator can be enforced effectively within the framework of justice and legal certainty.

Keywords: Accountability, Online Gambling, ITE Law.

1. Introduction

The development of technology in the current era of globalization is so rapid, especially in the information technology sector, this has a broad impact on people's behavior that can easily receive and disseminate information to the wider community. The benefits of information technology in addition to providing positive impacts can also have negative impacts, namely providing opportunities to be used as a means of committing cyber crime. Cyber crime is interpreted as an illegal activity with computer regulations that is carried out through a global electronic network. Along with the rapid development of the era, accompanied by advances in information and communication technology, humans have entered an era of globalization that provides freedom for everyone in every part of the world to socialize with anyone and wherever they are. (Manalu, H. S (2019)

Cyber crime is also related to the term cyber space which is seen as a world of computer-based communication. Along with the development of information technology, a new crime has emerged that is currently rampant in society, namely gambling that is carried out online. Online gambling is categorized as a cyber crime because in committing its crimes, online gambling uses computers and the internet as a medium to carry out the crime of gambling. Gambling is basically contrary to religious norms, morality, and Pancasila morals, and is dangerous for the survival of society, nation and state. Gambling is a violation of social culture in Indonesia. Furthermore, with the increasingly online advancement of modern technology,

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gambling has also developed into online-based gambling. Therefore, there is a need for continuous legal education from an early age in society. (Isyatur Rodhiyah, 2022)

With the increasing number of gambling sites on the internet and the ease of access and transactions, namely through electronic banking transactions, law enforcement officers have difficulty in dismantling online gambling practices. The obstacles that are often faced are the difficulty in obtaining evidence that is indeed difficult to find and the bank itself seems to close access for the Police to conduct inspections. Therefore, with the various conveniences offered through gambling sites and the lack of law enforcement in conducting searches for online gambling perpetrators, which ultimately provide leniency and are used by the perpetrators. This is what makes more and more people interested in trying their luck with the intention of getting big profits from online gambling. (Abi Arsyian Makarim Subagyo, 2022)

According to the Criminal Code, gambling is any game that relies on the hope of winning generally depending on luck alone, and also if that hope increases because of intelligence and playing habits. Also included in gambling are regulations regarding the decision of a competition or other game, which are not held by those who participate in the competition or play, as well as all other regulations. Gambling is generally viewed as a crime. The crime of gambling or participating in gambling has been prohibited in the criminal provisions of Article 303 of the Criminal Code. According to the Criminal Code, gambling is any game that relies on the hope of winning generally depending on luck alone, and also if that hope increases because of intelligence and playing habits. Also included in gambling are regulations regarding decisions on competitions or other games, which are not held by those who participate in the competition or play, as well as all other regulations.¹ Meanwhile, online gambling specifically in Article 27 paragraph 2 of Law of the Republic of Indonesia Number 11 of 2008 concerning Electronic Information and Transactions (State Gazette of the Republic of Indonesia Number 58 of 2008, Supplement to the State Gazette of the Republic of Indonesia Number 4843) hereinafter abbreviated as the ITE Law stipulates that "Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain gambling content. According to data from the Financial Transaction Reports and Analysis Center (PPATK), during the 2017-2022 period there were around 157 million online gambling transactions in Indonesia with a total turnover of IDR 190 trillion. PPATK obtained this data from tracing and analyzing 887 parties included in the online gambling dealer network. "The turnover of funds in question is the flow of funds for the benefit of "bets, winning payments, gambling costs, transfers between bookie networks, and transactions with the suspected purpose of money laundering carried out by bookie networks," said Head of the PPATK Public Relations Bureau Natsir Kongah in his statement. (Hiariej, Eddy O.S, 2012)

In response to the above online gambling issue, there needs to be law enforcement to eradicate online gambling. In Indonesia, the spirit of eradicating online gambling crimes has been included and regulated for a long time in Article 303 of the Criminal Code. In addition, gambling is also regulated in Law No. 11 of 2008 as amended by Law of the Republic of Indonesia Number 19 of 2016 concerning Information and Electronic Transactions, and has also been supplemented by the "Joint Decree of the Minister of Communication and Information of the Republic of Indonesia, the Attorney General's Office of the Republic of Indonesia and the Police of the Republic of Indonesia concerning Guidelines for the Implementation of Certain Articles in Law No. 11 of 2008 concerning Information and Electronic Transactions as amended by Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions". This decision regulates the implementation of the ITE Law as a special provision of criminal norms or *lex specialist*. This implementation guideline contains an explanation of the definition, requirements, and relationship with other laws and regulations, regarding articles that are often in the spotlight of the public, especially the online gambling article, namely Article 27 paragraph (2) Jo. Article 45 Paragraph 2. However, with these policies, in reality online gambling is still rampant with the growth of players increasing drastically every year. However, the problem is related to law enforcement against online gambling crimes where the application of the law by law enforcement officers in examining, trying and deciding online gambling crimes still uses Article 303 of the Criminal Code instead of its special regulations, namely Law No. 11 of 2008 concerning Information and Electronic Transactions as

amended by Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions which should be its *lex specialis* regulation. (Irfan dan Masyrofah, 2013).

2. Theoretical Basis

The theoretical basis is described and compiled based on a literature review, and will be a framework that underlies problem solving and to formulate hypotheses. Theory can also be a research model that if prepared carefully will facilitate the research process. Soerjono Soekanto argues that in normative legal research that fully uses secondary data, the preparation of a theoretical framework can be abandoned, but the preparation of a conceptual framework is absolutely necessary. However, in another part, Soejono Soekanto argues that for normative legal research, another theoretical framework is needed that is typical of legal science.

The problem in this study is based on a theoretical framework which is a theoretical basis. The theoretical framework is a description of the theoretical basis used as a reference in the study. The theories used include:

a. Criminal Law Theory

This theory explains the basic principles of criminal law, including the definition of criminal acts, perpetrators, and criminal responsibility. In the context of online gambling, criminal law is used to determine whether an act meets the elements of a criminal act and how responsibility can be imposed on the perpetrator.

Criminal law is a regulation concerning criminal acts. The word "criminal" is the same as suffering or torture, which means something that is "criminalized", namely the authorized agency is delegated to a person as something that is unpleasant for him to feel and as a suffering, but there must be a certain reason to delegate this punishment. For legal activists in Indonesia, searching for the meaning of a term that is only based on KBBI is certainly not good. Law in Indonesia basically has its own variety of language, namely legal language. According to the 1974 National Legal Development Agency Symposium in Medan, the legal language is Indonesian used in the legal field. Not every Indonesian language is a legal language, but only Indonesian with a special context in the legal field is justified as a legal language. The language in statutory regulations is essentially subject to grammatical rules, according to Attachment II of Law Number 12 of 2011 concerning the Formation of Legislation. Good and correct Indonesian, but with a more specific character, clear in meaning, straightforward, standard, harmonious, and compliant based on the principles in a statutory regulation. (Saragih, Yasmirah Mandasari, and Dudung Abdul Azis, 2020)

The term criminal law according to Wirjono Prodjodikoro is used as a translation of the term *strafrecht* in Dutch during the Japanese colonial era. *Strafrecht* in the legal dictionary is defined as provisions in which there are orders and prohibitions, there are sanctions - namely a special suffering - prepared for the offender as a characteristic of criminal law.³ In the two dictionaries mentioned above, the term "criminal" is usually used together with the concept of unlawful acts (as crimes), sanctions or punishments, and how to assess a punishment. This shows that these three aspects are inherent components when the word "criminal" is repeated. Criminal refers to prohibited actions (criminal crimes), sanctions or punishments, such as imprisonment, or even methods of punishing offenders.

Criminal law is often interpreted subjectively. In this case, what we mean is *jus piniendi*. This is related to the power of the state and state institutions to link punishment to the behavior of citizens or certain actions. In a subjective sense, criminal law also refers to the use of government power to decide guilt or punish them according to established standards (*Strafgewalt*). The power of the state to realize this, which is limited to the right to file charges/prosecution, impose criminal sanctions, and implement them, seems to be more limited than its power to enforce criminal laws. According to Gross, the law imposed is a regrettable, necessity (a regrettable necessity). Because the imposition of criminal sanctions causes suffering, it needs a justification and the basis must be sought. This shows that the issue of

criminal law is not just a matter of policy, but also enters the realm of theoretical and philosophical debate about the reasons for the use of criminal sanctions. In connection with this, in the theoretical development of punishment, several theories of punishment have been born, such as the theory of retribution, the theory of purpose and the combined theory.

b. Criminal Responsibility Theory

This theory is directly related to the core problem of the thesis, namely how a person can be held accountable for his actions. In order to be subject to criminal responsibility, the perpetrator must meet the following elements: an unlawful act, a mistake, and the ability to be responsible.

The criminal responsibility system in positive criminal law currently adopts the principle of mistake as one of the principles in addition to the principle of legality. Criminal responsibility is a form of action by the perpetrator of a criminal act against the mistake he has made. Thus, criminal responsibility occurs because there is a mistake which is a criminal act committed by a person, and there are already rules governing the crime. (Ramadani, S., Danil, E., Sabri, F., & Zurnetti, A. (2021)

The definition of Criminal Responsibility in foreign language criminal responsibility is called as "toerekenbaarheid", "criminal responsibility", "criminal liability". That criminal responsibility is intended to determine whether a suspect/defendant is held responsible for a crime that occurs or not. In other words whether the defendant will be punished or acquitted. If he is punished, it must be proven that the action taken was unlawful and the defendant is able to be responsible. This ability shows the fault of the perpetrator in the form of intent or negligence. This means that the action is reprehensible the accused is aware of the action taken.

c. Cybercrime Theory

Online gambling is included in the form of cybercrime. This theory discusses the development of crime through electronic media and information technology, as well as the need for an adaptive legal approach to the characteristics of cyberspace.

Cybercrime can be interpreted as a new mode of crime that utilizes electronic media as a place to commit crimes, so that cyber crime is a criminal activity that utilizes electronic media or computer networks as tools, targets or places where crimes occur. Nazaru Abdul Manap argues that computer crime is a crime with various violations, criminal activities carried out with computers as tools and involve a direct relationship between criminals and computers, while cyber is a crime carried out virtually (virtually) via the internet.

Cyber crime is a type of crime that has different characteristics from other crimes, the characteristics of cyber crime include:

- a. Acts that are carried out illegally.
- b. Acts that are carried out using electronic media related to the internet.
- c. Acts that are carried out cause losses.
- d. The perpetrator is a person who masters the use of the internet and its applications.
- e. The act is often carried out transnationally/across national borders
- f. Cybercrime as a pure crime, meaning that someone commits a crime that is done intentionally.
- g. Cybercrime as a gray crime. This means that someone who commits a crime is not clear whether it is a criminal crime or not because he/she breaks in but does not damage, steal or commit anarchic acts against the information system or computer system.

- h. Cybercrime that attacks individuals. This means someone who commits a crime against another person with the aim of damaging their good name,
- i. Cybercrime that attacks copyright. This means someone who commits a crime against someone's work with the motive of duplicating, marketing, changing it for personal/public interests or for material/non-material purposes.
- j. Cybercrime that attacks the government. Someone who commits a crime that is directed at the government.

In general, there are several forms of crime that are closely related to the use of information technology that is primarily based on computers and telecommunications networks, including:

- a. Unauthorized access to computer systems and services. Crimes committed by entering/infiltrating a computer network system illegally, without permission or without the knowledge of the owner of the computer network system that is entered.
- b. Illegal contents. This is a crime by entering data or information into the internet about something that is not true, unethical, and can be considered unlawful or disturbing public order.
- c. Data forgery. This is a crime by falsifying data on important documents stored as scriptless documents via the internet.
- d. Cyber espionage. This is a crime that utilizes the internet network to carry out spying activities against other parties, by entering the target party's computer network system.
- e. Offense against intellectual property. This crime is directed against the intellectual property rights owned by other parties on the internet. Such as illegally imitating the appearance of a web page on a site belonging to someone else, broadcasting information on the internet that turns out to be someone else's trade secret and so on.
- f. Infringements of privacy. This crime is directed against a person's information which is very personal and confidential. This crime is usually aimed at a person's information on a personal data form that is stored on a computer, which if known by another person could harm the victim materially or immaterially, such as credit card numbers, ATM PIN numbers, hidden disabilities or illnesses and so on.

The principles of information and electronic transactions as formulated in Article 3 of Law Number 19 of 2016, namely the Utilization of information technology and electronic transactions is carried out based on the principles of legal certainty, utilization, caution, good faith, and freedom to choose technology or neutral technology. Basically, technology must be utilized for the welfare of society and humanity according to its capabilities and functions. However, its utilization must be in such a way that it is in accordance with the law, so that it can continue sustainably for the present and the future. The purpose of utilizing information technology and electronic transactions in Article 4 of Law Number 19 of 2016 concerning electronic transactions is carried out with the aim of improving the life of the nation as part of a society. Developing and disseminating national trade and economy in order to improve people's welfare, increasing the effectiveness and efficiency of public services, then opening up opportunities as widely as possible for everyone to advance thinking and also abilities in the field of using and utilizing technology and information as much as possible and responsibly, to provide a sense of security, fairness, and also legal certainty for users or organizers of information technology.

3. Research Methods

Research method is a way or steps taken to gain knowledge that aims to answer a problem. Legal research is an activity based on methods, systematics and concepts to analyze a legal problem.

1. Type and Nature of Research

The research used in compiling this thesis is normative legal research. Peter Mahmud Marzuki said that normative legal research is a process to find a legal rule, legal principles, or legal doctrines that aim to answer the legal issues faced. The researcher uses library materials as the main data to analyze the case. The nature of the research used by the author in this thesis research is prescriptive, namely to analyze, review, and assess this research which will be described is about defamation through mass media reviewed from a legal perspective.

2. Research Approach

There are several approaches in conducting research whose purpose is as a way to solve legal problems. In this thesis research, the author uses a normative legal approach. The normative legal approach is an approach used by analyzing, reviewing legal problems with the statute approach method, doctrines and legal principles related to the legal problems being handled.

3. Data Sources

Data Sources In this study, the data sources used are secondary data, namely data obtained by the author indirectly consisting of:

a. Primary legal materials:

1. The 1945 Constitution of the Republic of Indonesia
2. Criminal Code;
3. Law Number 11 of 2008 concerning Information and Electronic Transactions

b. Secondary Legal Materials:

These legal materials come from books, articles, previous research results, which provide explanations related to primary law related to this thesis research obtained from print media and electronic media.

c. Tertiary legal materials

Tertiary legal materials are legal materials that provide instructions and explanations for primary legal materials and secondary legal materials, for example scientific journals, legal dictionaries, encyclopedias, and the internet.

4. Data Collection Techniques and Tools

The data collection technique used by the author in compiling this thesis research is by using the literature study technique. In this case, the author also uses electronic media (internet) with this research. These sources will then be focused by the author in analyzing the problems so that the information collected is more concrete.

5. Data Analysis

Data analysis is the most important stage. In this study, the author uses normative qualitative analysis techniques, which emphasize the quality and quality of data, the analysis process by examining the substance of the Criminal Code which regulates the crime of defamation, then the analysis process continues by synchronizing horizontally with the Laws that regulate the

problem of defamation, in addition to sharpening the analysis, the interpretation of criminal provisions is strengthened by legal doctrines related to the problem of defamation.

4. Discussion

A. Positive Legal Regulations in Indonesia regarding online gambling crimes.

Online gambling is a modern crime phenomenon that is growing rapidly along with advances in information and communication technology. In Indonesia, gambling in general has long been prohibited because it is considered to damage public morals and is contrary to social and religious values. However, conventional forms of gambling that have been regulated in positive law must adapt to new forms, namely internet-based gambling (online gambling). To overcome this crime, Indonesia relies on several complementary legal instruments. These regulations have not been regulated in one special law, but are spread across several laws and regulations, including: The Criminal Code (KUHP) as a general criminal law regulates the prohibition of all forms of gambling in several articles, especially:

- a. Article 303 of the Criminal Code: Prohibits all forms of gambling, including providing a place, providing an opportunity, or participating in gambling.
- b. Article 303 bis of the Criminal Code: Regulates the punishment for those who participate in gambling.

Important note:

The Criminal Code regulates gambling in general (conventional), so in the context of online gambling, interpretation and expansion of the meaning of "place" or "equipment" as a form of involvement in the digital system is required. Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE) as amended by Law No. 19 of 2016. The ITE Law is the main legal basis for handling criminal acts committed through electronic media, including online gambling. Several relevant articles include: Article 27 paragraph (2) of the ITE Law: "Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain gambling content."

Perpetrators can be subject to criminal sanctions in accordance with Article 45 paragraph (2): Imprisonment for a maximum of 6 years and/or a maximum fine of IDR 1 billion. This article is the main entry point for prosecuting distributors, site managers, and promoters of online gambling. Law Number 8 of 1981 concerning Criminal Procedure Law (KUHP), provides guidelines on the mechanism for enforcing criminal law, including investigation, detention, and the trial process for online gambling perpetrators. In the context of digital crime, the KUHP needs to be interpreted dynamically, especially in the collection of electronic evidence.

Law Number 18 of 2008 concerning Pornography and the Site Blocking Law Although it does not directly regulate gambling, this law is relevant because in practice many online gambling sites also display indecent content. In addition, the blocking of sites by the Ministry of Communication and Information refers to administrative authority based on derivative regulations of the ITE Law and regulations of the Ministry of Communication and Information.

Related Legislation (Technical Instruments and Additional Policies)

- a. Government Regulation No. 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (PSTE): Used as a basis for closing access to illegal sites.
- b. Decree of the Minister of Communication and Information: The Ministry of Communication and Information actively blocks thousands of online gambling sites based on public reports and internal monitoring results.

The RKUHP that will be in effect replacing the old KUHP also still regulates the prohibition of gambling, including in digital forms. In Article 424 of the RKUHP, gambling regulations are expanded to accommodate technological developments and digital forms (online gambling).

Challenges in Law Enforcement Although regulations are available, there are several obstacles:

- a. **Jurisdiction:** Many online gambling servers are located abroad, making it difficult to take action.
- b. **Digital Identity:** Perpetrators often use anonymous identities or disguise transactions with digital wallets.
- c. **Lack of Special Laws:** There is no *lex specialis* that regulates online gambling comprehensively and modernly.
- d. **Selective Action:** Only a small number of perpetrators can be prosecuted due to limited evidence and digital capabilities of the authorities.

Positive law in Indonesia already regulates the prohibition and criminal liability for online gambling through the Criminal Code and the ITE Law. However, the existing legal approach is still reactive and fragmentary. Therefore, it is needed:

- a. Strengthening special regulations on online gambling,
- b. Harmonization between law enforcement agencies (National Police, Prosecutor's Office, Ministry of Communication and Information),
- c. Increasing the digital capacity of investigators and law enforcement officers,
- d. International cooperation in prosecuting cross-country servers and perpetrators.

B. Forms of Criminal Liability for Perpetrators of Online Gambling Crimes based on the provisions of applicable law in Indonesia.

Criminal liability is the legal consequences that must be borne by a person for a criminal act that has been committed, if the elements required by criminal law are met. In the context of online gambling, the perpetrator can be held accountable if he: (Gunawan, Budi, 2021)

1. Commits a prohibited act (for example, organizing or participating in online gambling),
2. Has an error (intentionally or due to negligence),
3. Does not have a justification or excuse,
4. Has the ability to be responsible (capable of criminal law),
5. Enters the scope of the subject of criminal law.

Legal Subjects That Can Be Punished in Online Gambling according to positive law in Indonesia, perpetrators of online gambling crimes can consist of:

1. **Main perpetrator (material perpetrator):** Person who organizes, operates, or creates an online gambling system.
2. **Participants:** Persons who participate in playing or betting in online gambling games.

3. Providers of facilities or facilitators: Persons or parties who provide a place, tool, network, or electronic system.
4. Accessor or supporter (accessoir): A person who helps the smooth running of gambling operations, for example a promoter or deposit agent.
5. Corporation: A legal entity that organizes online gambling.

Legal Basis for Criminal Liability in Online Gambling

- a. Criminal Code (KUHP) Article 303 of the Criminal Code:
 - b. Prohibits providing opportunities for gambling, including providing permits or facilities. Perpetrators can be sentenced to a maximum of 10 years in prison and/or a fine. Article 303 bis of the Criminal Code:
 - c. Targets regular gamblers (players), with a penalty of up to 4 years in prison or a fine. The Criminal Code does not explicitly mention "online" gambling, but these articles apply with the expanded interpretation that the internet is a new medium for carrying out such acts.
 - d. Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE) in conjunction with Law No. 19 of 2016. Article 27 paragraph (2) of the ITE Law:
 - e. Prohibits "distributing, transmitting, and/or making accessible electronic information containing gambling". Sanctions in Article 45 paragraph (2):
 - f. A maximum of 6 years' imprisonment and/or a maximum fine of IDR 1,000,000,000 (one billion rupiah). This article applies to site managers, admins, link distributors, and promoters who make online gambling available or accessible to the public.
- 1) Money Laundering Law (TPPU) The proceeds from online gambling activities are often obscured by disguising the origin of the money (for example through e-wallet transactions or anonymous accounts). Therefore, the perpetrators can also be charged with:
 - 2) Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering, especially if online gambling is used as a source of illegal funds that are laundered into the legal financial system.

Applicable Forms of Criminal Liability

- a. Individual liability

Anyone who commits an act that falls within the formulation of a crime can be subject to criminal sanctions if they are at fault, either intentionally or negligently.

- b. Corporate criminal liability

According to modern doctrine and has been accommodated in various laws (including the ITE Law and the TPPU Law), corporations that organize online gambling can also be held criminally liable. In this case, those who can be punished are the Corporation itself (subject to fines, freezing of business, revocation of permits), corporate administrators (directors, managers) personally, if proven to have known or ordered.

- c. Layered liability

One perpetrator can be charged with several provisions at once, for example: Article 303 of the Criminal Code (gambling), Article 27 paragraph (2) of the ITE Law (electronic content), Article 3 or 5 of the TPPU Law (money laundering). The forms of criminal penalties that can be imposed on perpetrators of online gambling crimes include imprisonment (ranging from

4 years to 10 years), criminal fines (up to IDR 1 billion), revocation of certain rights (such as business licenses), blocking of sites and confiscation of assets (in the process of investigation and execution), corporate criminalization, such as dissolution of legal entities and confiscation of profits. Factors Affecting Accountability, The perpetrator's intention in organizing or participating in gambling, the level of the perpetrator's role (manager vs. participant), the profits obtained from online gambling, digital reconstruction as evidence: transaction history, digital footprint, screenshot evidence, e-wallet accounts, participation in organized networks (if connected to an international syndicate).

Challenges in Implementing Digital anonymity makes it difficult to track perpetrators, servers are located abroad, difficult to reach by national law, lack of digital skills of law enforcement officers, there is no specific law on online gambling, so officers must interpret general articles with a progressive approach. Criminal liability for online gambling perpetrators in Indonesia is regulated through a combination of the Criminal Code and the ITE Law, and is expanded by the TPPU Law and the doctrine of corporate liability. Although legal provisions are available, their enforcement still faces technical and legal challenges. Therefore, it is necessary to establish a special law on online gambling, increase the digital capacity of law enforcement officers, cross-agency coordination and international cooperation in eradicating cross-country online gambling. (Suhariyanto, Budi, 2013)

C. Obstacles and Efforts to Enforce Law Against Perpetrators of Online Gambling Crimes in Indonesia

Law enforcement against perpetrators of online gambling crimes in Indonesia faces various structural, substantial, and technical challenges. The following are the main obstacles faced by law enforcement officers: Absence of a Special Law on Online Gambling Until now, Indonesia has not had a special regulation that comprehensively regulates online gambling as a form of cybercrime in its own right. Enforcement still relies on general articles in the Criminal Code and the ITE Law, which basically have not been designed to regulate specific forms of digital crime. As a result, there are legal loopholes that are often exploited by perpetrators to avoid legal entanglement. Difficulty in Tracking Identity and Address Online gamblers often use fake or anonymous identities, both in account registration, e-wallet use, and IP Address disguise. Technologies such as VPN (Virtual Private Network), proxy servers, and encryption obscure the perpetrators' digital footprints, making it difficult for investigators to trace them. Server Locations Are Abroad Many online gambling sites operate from abroad, including countries that legalize gambling, such as the Philippines, Cambodia, or European countries. This causes Indonesia's legal jurisdiction to be limited in prosecuting perpetrators and blocking servers abroad. The mutual legal assistance (MLA) process or international cooperation is also not always fast and effective. Low Capacity and Digital Competence of Law Enforcement Officers Most police officers, prosecutors, and judges do not yet have adequate digital forensic expertise to handle online gambling cases. The process of proving electronic-based crimes requires sophisticated digital evidence and cyber investigation tools. High Demand and Low Public Awareness Online gambling is often considered a form of entertainment by some people, especially because of the ease of access and the lure of financial gain. High demand causes new sites to continue to emerge, even after being blocked by the government. Limited Financial Technology (Fintech) Regulations Perpetrators often use digital wallets, online loan accounts, or fake bank accounts for online gambling transactions. Payment system regulations are not yet fully capable of monitoring or breaking the chain of illegal transactions in real time. (Mansur, Arief Muhammad, 2010)

Despite facing many obstacles, the government and law enforcement in Indonesia have made various preventive and repressive efforts to combat online gambling, including law enforcement. Based on Article 303 of the Criminal Code and the ITE Law, action against online gambling perpetrators is carried out using Article 303 of the Criminal Code and Article 27 paragraph (2) of the ITE Law, which prohibits gambling content in electronic systems. Criminal sanctions in the form of imprisonment and fines are applied based on Article 45 paragraph (2) of the ITE Law. Blocking of Sites by the Ministry of Communication and Information (Kominfo) Kominfo actively takes down access and blocks thousands of online gambling sites every year. Blocking is carried out based on public reports, internal supervision, and cooperation with internet service providers (ISPs). Formation of an Online Gambling

Task Force (Satgas) The government plans to form a National Online Gambling Task Force, consisting of elements of the Police, Kominfo, OJK, Bank Indonesia, and other related agencies. The main objectives: cross-sector coordination, early detection, and joint action against online gambling networks. International Cooperation Indonesia carries out bilateral and multilateral cooperation to handle transnational crimes, including cybercrime and online gambling. Efforts to extradite perpetrators, requests for cross-border data, and submission of mutual legal assistance (MLA) are part of this strategy. Increasing the Capacity of Law Enforcement The National Police have established a Cyber Crime Directorate under the Criminal Investigation Unit, and provided investigators with digital forensics training. The Supreme Court has also developed guidelines for handling digital evidence in the criminal justice system. Education and Digital Literacy for the Community The government is conducting a digital literacy campaign to strengthen public understanding of the dangers of online gambling. The public is also invited to report sites or social media accounts that promote online gambling. Tightening the Digital Financial System Bank Indonesia and OJK are tightening supervision of suspicious transactions in the financial system. Efforts are being made to limit the use of fake accounts, anonymous e-wallets, and suspicious transactions related to online gambling activities. (Bahri, Saeful, Idik, 2020)

5. Conclusion

Legal provisions for online gambling crimes in Indonesia have been indirectly regulated in several laws and regulations, including the Criminal Code (KUHP), especially Articles 303 and 303 bis, and Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE) as amended by Law Number 19 of 2016, especially Article 27 paragraph (2) and Article 45 paragraph (2). However, until now there has been no specific law that comprehensively regulates and combats digital-based (online) gambling, so that law enforcement still faces challenges in both substantive and technical aspects. Criminal liability for perpetrators of online gambling crimes can be imposed on both individual and corporate perpetrators, as long as it is proven to fulfill the elements of a crime, has made a mistake, and there is no justification or excuse.

Perpetrators who can be held accountable include site organizers, gambling participants, facility providers, and parties who promote or distribute gambling content electronically. Criminal liability can be imposed in the form of imprisonment, fines, and additional sanctions such as blocking of sites or confiscation of assets resulting from criminal acts. Law enforcement against online gambling crimes in Indonesia still faces various obstacles, including limited regulations, weak capacity of officers in digital forensics, server locations abroad, and low public legal awareness.

Nevertheless, various efforts have been made by the government, such as blocking of sites by the Ministry of Communication and Information, the formation of task forces, increasing the capacity of officers, and international cooperation. However, these efforts still need to be improved systematically and sustainably. Therefore, it is necessary to immediately formulate special regulations that strictly and specifically regulate online gambling, accompanied by strengthening the digital law enforcement system, public education, and collaboration between institutions both at the national and international levels to deal with the development of increasingly complex forms of cybercrime.

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