

Effectiveness of Law Enforcement in Eradicating Gambling Crimes Committed Online in Indonesia

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Abstrak: *The crime of online gambling is currently very worrying and damaging the joints of the life of the Indonesian people. In the development of science and technology, which is quite rapid, it has a negative impact on the reality of people's lives to be used as a means of playing gambling with the aim of making a profit without having to work hard. The impact of online gambling crimes causes social, economic, legal problems, financial losses, damages physical and mental health, disrupts personal and family relationships, and has the potential to commit new criminal acts. For this reason, law enforcement in combating online gambling is very necessary. Therefore, this research uses normative legal research or library research. While the research approach is statute approach, case approach, and conceptual approach. Then, to analyze the data, qualitative data analysis is used descriptively, logically, systematically to answer existing problems. The results show that law enforcement in the eradication of online gambling in Indonesia requires adequate measures through stricter supervision and enforcement of online gambling players, increased cooperation between law enforcement agencies and online platforms to monitor and identify illegal gambling activities, and massive counseling to the public about the risks and negative impacts of online gambling. In addition, to increase the capacity of investigators in addressing online gambling cases through training and skills development should be considered. And providing easier access for the public to report online gambling cases, and also cooperation with the provision of internet services to block illegal gambling sites to assist and prevent online gambling crimes in Indonesia.*

Keywords : *Effectiveness, Eradication of Crime, Law Enforcement, Online Gambling*

INTRODUCTION

Online gambling is one of the problems faced by the Indonesian people in this era of rapid development of science and technology. In the reality of people's lives, the crime of gambling has grown significantly and developed among the community regardless of social status. The development of technology and the internet has facilitated access to various forms of gambling, ranging from online

gambling, sports betting, to gambling through social media platforms. This has caused various social, economic and legal problems that require very serious attention from the government and law enforcement agencies to eradicate criminal acts of gambling committed online in Indonesia today.¹

Law enforcement of gambling crimes committed online is of particular concern to the government so that the community is protected

¹ Reda Manthovani, *Problematika dan Solusi Penanganan Kejahatan Cyber di Indonesia*, PT Malibu, Jakarta, 2006, Hlm 26.

from the negative impact on the perpetrators, even their families. The negative impact of gambling crimes can drain finances fanatically, psychologically, sociologically, and criminal law.² The main factors for the perpetrators to commit online gambling crimes, namely because of the desire to get money quickly, curiosity, peer or environmental pressure, or even personal problems that trigger behavior to play gambling both online and online.

The crime of online gambling in Indonesia is currently very worrying based on the statistical center data from PPATK of the Republic of Indonesia (Financial Transaction Reporting and Analysis Center) noted that online gambling among the public is increasingly alarming, where the country of Indonesia is the highest country of online gambling users as many as 4,000,000 people in 2023 until now. The perpetrators of online gambling players are on average adults but there are also children. Based on demographic data that online gambling players under 10 years of age account for 2% of players, totaling 80,000 people. The distribution of players between the ages of 10 years and 20 years is 11% or approximately 440,000 people, then ages 21 to 30 years 13% or 520,000 people. Age 30 to 50 years is 40% or 1,640,000 people and age over 50 years is 34% with a total of 1,350,000 people.³

Furthermore, PPATK data noted that there were 168 million online gambling transactions with a total accumulated turnover of funds reaching IDR 327 trillion throughout 2023. In total, the accumulated turnover of online gambling transaction funds reached IDR 517 trillion since 2017. Therefore, children who play online gambling tend to commit criminal acts. This is because the child is still not ready economically, psychosocially and also mentally so that it is easy to commit new crimes.⁴ The

rise of children falling into the act of playing gambling online is not only due to the influence of friends, but also due to unrestricted internet access, being persuaded by advertisements, and also lack of attention from parents. For this reason, the role of parental supervision is needed to prevent and eradicate online gambling crimes among children, and also among adults through law enforcement in Indonesia.

To prevent the behavior of playing online gambling, one of the policies of the government of the Republic of Indonesia in combating criminal acts of gambling conducted online is to form the Online Gambling Task Force on June 14, 2024 based on the Decree of the President of the Republic of Indonesia Number 21 of 2024 concerning the Online Gambling Eradication Task Force, with the expectation that the Task Force is effective in preventing and eradicating criminal acts of online gambling in Indonesia. However, the reality shows that there are 13 employees of the Ministry of Communication and Information Digital Republic of Indonesia, who have been secured by the Criminal Investigation Police for allegedly committing online gambling crimes. This shows that the government is not serious in eradicating gambling in Indonesia.

Fair law enforcement is an obligation that must be upheld for a country, especially Indonesia. In the process of upholding justice, an institution filled with people with integrity, commitment and dedication is needed to produce a truly independent institution. For this reason, in upholding justice, maximum effort and synergy are needed between institutions and actors in it. The problem of law enforcement in Indonesia has never ended, due to the lack of integrity, commitment and dedication of law enforcement actors in Indonesia.⁵

² Barda Nawawi Arief, Masalah Penegakan Hukum Dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan, Penerbit Kencana Prenada Media Group, Jakarta, 2010, Hlm 106.

³ <https://www.ppatk.go.id>, di Akses pada hari Kamis Tanggal 21 November 2024.

⁴ <https://www.ppatk.go.id>, Ibid.

⁵ Arianus Harefa, Problematika Penegakan Hukum Pidana Mati Pada Tindak Pidana Korupsi

Therefore, there are various factors that need to be considered and emphasized so that they become the basis for why Indonesia needs to immediately strive for and implement a just law. Even if it has not been fully achieved, at least there are efforts that lead to the implementation or practice of fair law enforcement specifically in online gambling crimes. Based on this, the author is very interested in conducting research related to “The Effectiveness of Law Enforcement in Eradicating Gambling Crimes Committed Online in Indonesia”.

METODOLOGI

This research is included in the category of normative legal research, which is carried out by deeply analyzing various existing literature on secondary data, including research reports and journals, to provide a comprehensive understanding of the phenomenon of law enforcement of gambling crimes committed online. Where the primary legal material used consists of the Criminal Code, Law Number 11 of 2008 as amended by Law Number 1 of 2024 concerning Electronic Information and Transactions, National Police Chief Regulation Number 6 of 2019 concerning Criminal Investigation Then this research uses a conceptual approach, a case approach,⁶ and also a legislative approach that examines law enforcement in combating online gambling crimes. While the conceptual approach is used to examine doctrines, principles and concepts in legal science which are related to the issue of law enforcement in the eradication of online gambling crimes which are the subject matter of this study.

To answer research problems, researchers then analyze legal materials, by examining the relationship between norms in various laws and regulations that are interrelated. While the data analysis technique uses inductive logic or inductive legal material to explain something specific and then draw a more general conclusion.⁷ One of the doctrines relevant to this research is proportionality,

which emphasizes the need for conformity between the punishment imposed and the offense committed. It is important to ensure that its application remains consistent with broader principles of justice, including the protection of human rights and individual safety.

RESULTS AND DISCUSSION

Based on the results of the author's observations and analysis that to realize effective prevention of law enforcement in the eradication of gambling crimes committed online in Indonesia is inseparable from the advancement of information technology has changed the human view of various activities that have been monopolized by physical activities only. The birth of the internet changed the paradigm of human communication in socializing, doing business and also romance. The internet has drastically changed the concept of distance and time so that it seems as if the world has become small and unlimited. Everyone can connect, talk and do business with other people who are thousands of kilometers from where he is just by pressing the keys of the keyboard and computer mouse in front of him.⁸ The presence of the internet is closely related to computer devices as a tool to access internet networks throughout the world so that telecommunications networks can be reached.⁹ In essence, the internet is a network of computers connected to each other through communication media such as telephone cables, fiber, optics, satellites or frequency waves.¹⁰

A. Law Enforcement of Online Gambling Based on the Criminal Code

Law enforcement is an effort to realize the ideas of justice legal certainty and social benefit into reality. So law enforcement is essentially a process of realizing ideas. Law enforcement is the process of making efforts to uphold or function legal norms in reality as guidelines for

Dalam Perspektif Perlindungan Ham, Jurnal Panah Keadilan Universitas Nias Raya, 2022, <https://www.jurnal.uniraya.ac.id/index.php/PanahKeadilan/article/view/456>

⁶ Armansyah, Penelitian Hukum: Pilihan Metode dan Praktik Penulisan Artikel, Mirra Buana Media, Yogyakarta, 2023, Hlm. 245.

⁷ *Ibid*, Hlm 246.

⁸ Reda Manthovani, *Problematika dan Solusi Penanganan Kejahatan Cyber di Indonesia*, PT Malibu, Jakarta, 2006, Hlm 47.

⁹ Asri Sitompul, *Hukum Internet Pengenalan Menganai Masalah Hukum di Cyberspace*, Penerbit PT. Citra Aditya Bakti, Bandung, 2001, Hlm 68.

¹⁰ *Ibid*.

actors in traffic or legal relations in the life of society and the state. Law enforcement is an effort to realize the ideas and concepts of law that people expect to be a reality. Law enforcement is a process that involves many things.¹¹ The law that applies in a country that holds elements and rules, namely:¹²

- a) Determine the actions that should not be done with the threat or sanctions in the form of certain punishment for anyone who violates the prohibition;
- b) Determine and in what cases those who violate these prohibitions can be subject to or sentenced to punishment as threatened.
- c) Determine in what manner the imposition of the punishment can be carried out if the person is alleged to have violated the prohibition.

In describing a criminal offense formulation into its elements, a human action will be found, with this action a person has committed an act prohibited by law. Thus, it is known that the elements of a criminal offense above, the determination of an act as a criminal offense or not depends entirely on the formulation in the legislation, as a consequence of the principle of legality adopted by Indonesian criminal law, that no act can be punished unless it is specified in the law.¹³

Gambling is one of the oldest games in the world, and almost every country knows that it is a game of chance. Gambling is also a social problem because it has a very negative impact on national interests, especially for the younger generation, because it makes young people lazy to work, and the money invested in this game is large enough to be used as initial capital. developing instead of flowing into gambling, gambling is also contrary to

religion, morality, and manners. *Online* gambling is a game of chance played using a computer or *smartphone* with an internet network connection by using bets in the game. *Online* gambling is currently very widely played by the community, because people consider *online* gambling to be a profitable game that is so easy, safe and fast, compared to playing gambling as usual.

Internet abuse that harms the interests of others has become a social reality in the life of modern society as a result of scientific and technological advances that are inevitable for nations that have recognized the culture of technology (*the cultura of technology*). Technology has become an integral part of every human activity. All this can be understood, because technology plays a very important role in the progress of a nation and state (Tampubolon, 2010). Nations and countries that master high technology will control the world, both economically, politically, culturally and in military weapons for national security defense.

In the era of technology and information today and even in the future, it can be said that everyone will always be in contact with the *internet*, both for education, health, business, government and household purposes. In some countries, the internet is *booming*. This is inseparable from the convenience and practicality of the internet as a means of information. Judging from the development of the Indonesian nation, the crime of gambling is actually not a new social problem. In the history of the Indonesian nation, forms of gambling have long been recognized even before the era of the kingdoms and continued to develop until the time after independence until this reform era.

¹¹Arianus Harefa, *Dasar-Dasar Hukum Pidana Indonesai: Pasca Berlakunya KUHP Nasional*, CV. Jejak, Sukabumi, 2023, Hlm. 365.

¹²*Ibid*, Hlm. 367.

¹³ Eddy O.S. Hiariej, *Prinsip-Prinsip Hukum Pidana*, Perbit Cahaya Atma Pustaka. Yogyakarta, 2014, Hlm. 284.

The social reaction to gambling was quite strong, not only from religious circles but also from community organizations and other groups because the victims of gambling at that time were very widespread across the boundaries of socio-economic status and were felt by the majority of ordinary people. However, the urge to abolish gambling was faced with the strength of the argument to maintain it for the demands of urban development which required large funds that could not be obtained solely from unconventional sources.¹⁴

Even so, the government showed responsiveness to the various reactions that arose. In 1973, through the Instruction of the Minister of Home Affairs Number 7 of 1973, a ban on *jackpot* gambling, *casinos* and so on was issued. In 1974, Law No. 7 of 1974 on the Control of Gambling was enacted. The provisions governing gambling have actually been included in Article 303 of the Criminal Code which determines:¹⁵

- (a) Shall be punished by a maximum imprisonment of ten years or a maximum fine of twenty five million rupiahs, any person who without being licensed.
- 1) with deliberate intent offers or provides an opportunity for a game of chance by taking part in a gambling enterprise;
 - 2) intentionally offers or gives the public an opportunity to play gambling or intentionally participates in a gambling enterprise, on condition or in compliance with a procedure. 3 rd-ly, to

participate in gambling games as a means of livelihood.

- (b) If the offender commits the crime in the exercise of his profession, he may be deprived of the exercise of his profession.
- (c) By gambling game is meant any matter in which the possibility of winning generally depends on sheer luck, as well as on the fact that the player is better trained or more skillful. In the definition of gambling game is included any bet on the decision of a race or other game which is not made between those participating in the race or game, as well as all other bets.

Article 303 Bis of the Criminal Code states that:¹⁶

- (a) Shall be punished by a maximum imprisonment of four years or a maximum fine of ten million rupiahs;
- 1) Any person who uses an opportunity to play gambling, which is organized in violation of the provisions of Article 303;
 - 2) Any person who participates in gambling on a public road or on the side of a public road or in a place where the public can visit, unless a license has been obtained from the authority which has granted the license for the gambling.

¹⁴ Yahya M. Harahap, *Pembahasan Permasalahan Dan Penerapan KUHAP Penyidikan dan Penuntutan*, Penerbit Sinar Grafika, Jakarta, 2009, Hlm, 285.

¹⁵R. Soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP); Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal*, Politeia-Bogor, 1995, Hlm, 221-222.

¹⁶ *Ibid*, Hlm, 222-223.

- (b) If during the commission of the misdemeanor two years have not yet elapsed since an earlier conviction of the offender on account of one of these misdemeanors has become final, a maximum imprisonment of six years or a maximum fine of fifteen million rupiahs may be imposed.

committed in the exercise of profession, an additional punishment may be imposed in the form of deprivation of rights as referred to in Article 86 letter

Meanwhile, the law enforcement of online gambling crimes is also regulated in the Law of the Republic of Indonesia Number 1 of 2023 concerning the National Criminal Code. Article 426 of the National Criminal Code stipulates that;¹⁷

- (a) Shall be punished with a maximum imprisonment of 9 years or a maximum fine of category VI, namely IDR 2,000,000,000.00- (two billion rupiah) every person who without authorization:
- 1) Offers or provides an opportunity to play gambling and makes a living or participates in a gambling enterprise;
 - 2) Offers or provides an opportunity to the public to play gambling or to participate in a gambling enterprise, regardless of whether or not there is a condition or procedure that must be fulfilled in order to use the opportunity; or
 - 3) Making participation in gambling games a means of livelihood.
- (b) If the criminal offense as referred to in paragraph (1) is

The provision referred to in Article 86 of the National Criminal Code, is an additional punishment in the form of revocation of certain rights as referred to in Article 66 paragraph (1) letter a may be in the form of: (a) the right to hold public office in general or a certain office; (b) the right to become a member of the Indonesian National Army and the Indonesian National Police; (c) the right to vote and to be elected in elections held in accordance with the provisions of laws and regulations; (d) the right to become a guardian, supervisory guardian, guardian, or supervisory guardian of a person who is not his/her own child; (e) the right to exercise Paternal Authority, exercise guardianship, or guardianship over his/her own child; (f) the right to practice a certain profession; and/or (g) the right to obtain parole. Furthermore, Article 427 of the National Criminal Code stipulates that any person who uses the opportunity to play gambling held without a license shall be punished with a maximum imprisonment of 3 years or a maximum fine of category III, namely IDR 50,000,000.00 (fifty million rupiah).¹⁸

B. Law Enforcement of *Online* Gambling Crime Based on the ITE Law

Law enforcement of gambling offenses committed *online* in Law Number 11 of 2008 as amended by Law Number 1 of 2004 concerning Electronic Information and Transactions, Article 27 paragraph (1) explains that every person intentionally and without the right to distribute and/or

¹⁷Pasal 425, Undang-Undang Republik Indonesia Nomor 1 Tahun 2023 Tentang *Kitab Undang-Undang Hukum Pidana Nasoinal*

¹⁸ *Ibid*, Pasal 427.

transmit and/or make accessible electronic information or documents that have gambling content is included as a prohibited act. The prohibited act refers to the provisions of gambling in terms of offering or providing opportunities to play gambling, making it a livelihood, offering or providing opportunities to the public to play gambling, and participating in the company for that.¹⁹

It should be understood that the criminal act of gambling carried out online is also regulated in Article 45 paragraph (3) of the ITE Law, which explains the provisions that every person who intentionally and without the right to distribute, transmit and / or make accessible electronic information and / or electronic documents that have gambling content shall be sentenced to imprisonment for a maximum of 10 years and / or a maximum fine of Rp 10,000,000,000.00- (ten billion rupiah).²⁰ Therefore, even though Indonesia has strictly prohibited online gambling crimes, in reality, gambling crimes committed *offline* and *online* still occur a lot, both among minors, teenagers, and among adults, even among parents aged 60 years and over, who still commit criminal acts of gambling games.

Law enforcement in online gambling crimes that are still found in society, so when viewed from the point of view of the sociology of law, the series of criminal law rules that ensnare online gambling offenders, the reality is still not effective as a means of social control over society in eradicating gambling crimes

committed online. The effectiveness of the law to eradicate online gambling crimes in Indonesia as a form of measurement of the value of the ability of a legal rule to achieve its objectives as determined by the purpose of the formation of the law. The success of a legal rule in achieving its objectives can be measured by looking at how the law has succeeded in regulating people's behavior not to play gambling.

Based on the legislative approach and the sociological approach, the factors that influence legal effectiveness are adequate legal rules, supporting facilities for law enforcement, community factors and cultural factors.²¹ The four factors that influence the effectiveness of the law in eradicating gambling crimes committed *online*, will be described one by one to answer the problems faced by the Indonesian people today.²²

1) Rule of law factors

In the rule of law, the laws governing gambling and *online* gambling have not been fully effective. In terms of legal certainty, the criminal act of gambling is considered to be less firm because there is uncertainty about the applicable law as regulated in the old Criminal Code and the National Criminal Code as well as the ITE Law and its amendments. In terms of the qualification of legal sanctions, the sanctions that can be imposed on violators in these provisions are different. The sanctions stipulated in the old Criminal Code and the National Criminal Code are alternative, which

¹⁹ Budiarta, (2024), *Penegakan Hukum Terhadap Pelaku Tindak Pidana Judi Online Berdasarkan Teori Keadilan Bermartabat*, <http://repository.undaris.ac.id/id/eprint/1577/1/12.%20> di Akses pada Hari Kamis 28 November 2024.

²⁰ Pasal 45 Ayat (3) Undang-Undang Republik Indonesia Nomor 11 Tahun 2008 Sebagaimana Telah Diubah dengan Undang-Undang Nomor 19

Tahun 2016 Tentang *Informasi dan Transaksi Elektronik*.

²¹ Rizki Nurdiansyah, dkk, (2024), *Efektivitas Penegakan Hukum Terhadap Tindak Pidana Judi Online*, Jurnal Kajian Hukum dan Ilmu Komunikasi Volume. 1 No. 3 Agustus 2024, <https://ejournal.appihi.or.id/index.php/> Federalisme.

²² *Ibid*.

provides space for the perpetrator to choose between imprisonment or fines, although in its application the principle of imposing criminal sanctions by judges in the Criminal Code applies, namely the principle of *premium remedium*. While the sanctions in the ITE Law are alternative cumulative, i.e. the perpetrators can be subject to imprisonment only, fines only, or imprisonment and fines simultaneously.

The difference in sanction arrangements in the old Criminal Code, the National Criminal Code and the ITE Law, raises various interpretations. Where the sanctions in the Criminal Code appear lighter when compared to the criminal sanctions in the ITE Law, although in essence, the deviant acts are both criminal acts of gambling. Legal uncertainty in the substance of gambling regulation in the Criminal Code, namely the phrase “without a license” (Article 303 paragraph (1)) causes an interpretation as if the criminal act of gambling that has obtained a license is permitted in law, and this is contrary to the provisions in Law Number 7 of 1974 concerning Gambling Control which determines that all forms of gambling are crimes.

2) Factors supporting law enforcement facilities

In good and effective law enforcement must be supported by adequate facilities to achieve maximum legal objectives. However, it is difficult for law enforcement actions to run smoothly without adequate means or facilities in the field of preventing and eradicating crime. The supporting facilities in question include educated and expert human resources, adequate tools, and sufficient funds. In the criminal act of online gambling, the necessary facilities include digital forensic experts to find evidence of

online gambling and sophisticated technological tools. The existence of these tools greatly assists the government in carrying out its duties in reducing online gambling cases in Indonesia.

3) Community factor

Society is one of the factors that refer to community participation in good law enforcement actions in Indonesia. Where in terms of community participation, the level of legal awareness and community compliance with applicable laws is highly expected. Law enforcement alone is not enough to eradicate deviant phenomena in society. Legal awareness of the community towards a deviant act and not doing so will facilitate the achievement of the desired legal objectives. Sanctions against online gambling actions so far appear to only be able to influence public compliance. Without awareness, the public will find it difficult to comply with the prohibition of gambling. Therefore, to increase public legal awareness, law enforcement can provide counseling or socialization to the public regarding certain deviant phenomena, both *online* and conventional.

4) Cultural factors

Culture is a reflection of the social values prevailing in a society. This value can show which actions are good and which are not good. This cultural factor will always be related to community factors. Because, culture arises from and is also implemented by society. In order for the law to be effective, and these values need to be in harmony with the applicable law. Therefore, the act of online gambling is an act that is not justified according to society. The legal uncertainty described earlier also shows that the social values of society have not been fully reflected in Indonesian legislation. Thus, even

though there are regulations regarding the criminal act of online gambling, the attitude of the community to comply with these regulations is not entirely in line with the social values adopted by the community.

Therefore, the eradication of *online* gambling crimes in Indonesia must be carried out by stricter law enforcement against *online* gambling offenders , increased cooperation between law enforcement agencies and online platforms to monitor and identify legal gambling activities, massive counseling to the public about the risks and negative impacts of *online* gambling. Efforts to increase the capacity of investigators and law enforcers in overcoming *online* gambling cases can be done through training and skill development and providing easier access for the public to report *online* gambling cases by providing protection for whistleblowers, and also cooperation with internet service providers to block illegal gambling sites to help prevent *online* gambling crimes in Indonesia.

CONCLUSIONS

Based on the results of research and discussion, the effectiveness of law enforcement in combating online gambling crimes in Indonesia must involve a series of strategies that include aspects of legal regulation, law enforcement, international cooperation, use of technology, prevention and education, efficient courts, and support from the community. Successful law enforcement efforts urgently require a holistic approach that integrates these various elements to overcome the complex challenges that arise in the digital environment specific to the eradication of online gambling crimes in Indonesia today. Based on the aforementioned conclusions, the recommendations in this study are for the government as a policy controller to encourage the urgency of a firmer and clearer legal product to regulate and prevent the rise of online gambling crimes, as well as community participation in supporting law enforcement in

order to prevent online gambling cases from continuing to increase and assist law enforcers in eradicating online gambling crimes in Indonesia.

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