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Criminal Liability of Online Gambling Perpetrators in Indonesia According to the Electronic Information and Transactions Law

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Keywords	**Abstract**
Criminal Liability, Online Gambling, UU ITE	Online gambling has become increasingly prevalent over a long time due to the ease of access and the ability to play from anywhere with an online association. The reason for this consideration is to look at and analyze the legal provisions against online gambling offenders in Indonesia. The research method used in this study can be a normative legal approach supported by experimental law with graphic depiction. In extension, important information is also used as supporting material for additional information. For control checks, legitimate and standardized check strategies are used. From the search results regarding the legal provisions against the perpetrators of online betting violations in Indonesia, it appears that the legal authority against online betting violations is the criminal sanction against online betting based on Article 45 of Law Number 11 of 2008 concerning Electronic Information and Transactions, but the punishment for the perpetrators is lower than the threat of criminal sanctions in Article 303 of the Criminal Code, so it does not have an inhibiting impact on the perpetrators of online betting violations. Criminal liability for online betting offenses in Indonesia is the responsibility of the perpetrators of online betting offenses indicated by the existence of criminal offense components. In addition, the activity component is one of the most important components in criminal liability, because a person cannot be sentenced if he does not commit an act that is classified as an act rejected by the law.

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INTRODUCTION

The nature and attitudes of people in living social life are actually becoming more complex along with the progress of time, culture, science and technology (IPTEK) due to human behavior in social and state life. Legally, human nature and attitudes certainly show behavior that can be classified as conforming to norms, as well as behavior that deviates from the laws and norms that support, expand and develop in society.

In today's digital era, most people cannot be separated from cyberspace, as if cyberspace is their personal space to express emotions, pursue interests, gain knowledge on topics that are beneficial to those who do not need it, or seek sin or reward. Individuals are free to do whatever they like in this virtual environment. This can happen because Indonesia itself gives everyone the right to explore information using technology. They are directly protected by the 1945 Constitution of the Republic of Indonesia. This rule is contained in Article 28C paragraph (1) which reads:

"Everyone has the right to develop themselves through fulfilling their basic needs, has the right to receive education and benefit from science and technology, arts and culture, in order to improve the quality of life and for the welfare of humanity."

Gambling is risking a certain amount of money or property in a game of chance, with the aim of getting a greater amount of money or property than the original amount or property. In this case, gambling is a deliberate gamble, namely maintaining a value or what is considered valuable with certain risks and expectations on game events, matches, competitions, and events whose results are not/uncertain (Sagala, 2019).

The crime of gambling is also regulated in Article 303 bis paragraph (1) of the Criminal Code which is stated as follows: Punishable by a maximum imprisonment of four years or a maximum fine of ten million rupiah."

1. Whoever uses the opportunity to play gambling, which is held in violation of the provisions of Article 303;
2. 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.

According to this law, it has been explained that gambling transactions carried out using electronic media are a criminal offense that carries a prison sentence for the perpetrator. This criminal act is regulated in Article 27 paragraph (2) of Law Number 19 of 2016 concerning amendments to Law Number. 11 of 2008 concerning Electronic Information and Transactions which reads as follows:

"Everyone intentionally and without authorization distributes and/or transmits and/or makes accessible electronic information and/or which has gambling content."

Online gambling is a form of gambling carried out over the internet using a computer or mobile device. These actions can take the form of betting on casino games, sports betting, or other games of luck. Online gambling has become increasingly popular in recent years due to ease of access and the ability to play from anywhere with an internet connection. However, online gambling often violates the law because it is difficult to monitor and regulate gambling activities on the internet.

Many countries around the world have laws that prohibit or restrict online gambling to protect citizens from gambling addiction and counterfeiting (Wahyuni, 2018). Online gambling criminal acts occur when someone carries out online gambling in an area that prohibits or restricts online gambling, or when someone commits fraudulent acts or defrauds others in online gambling. Criminal online gambling can involve fines, prison sentences, or both. Additionally, criminal action may also be taken against persons providing online gambling services, such as website owners or payment service providers, if they violate applicable laws. This is done in an effort to stop illegal gambling and protect the public from the dangers associated with online gambling.

In this study, researchers raised the issue by comparing several cases;

First case decision number: 3287 K/Pid.Sus/2019, that the Defendant FN, has been proven legally and convincingly guilty of committing the crime of “intentionally and without the right to distribute and / or transmit and / or make accessible Electronic Information and / or Electronic Documents that have gambling content”, and sentenced the Defendant FN to imprisonment for 3 (three) years and 6 (six) months minus the time the Defendant is in detention;

Second case decision number: 239/Pid.B/2023/PN Dmk. That the defendant ZI was guilty of committing the crime of “Gambling” which is regulated and punishable in Article 303 paragraph (1) 2 of the Criminal Code as in the Second Indictment of the Public Prosecutor. That the defendant was charged with imprisonment for 1 (one) year and 2 (two) months deducted while the defendant was in temporary detention, with an order that the defendant remain in detention.

Third case number 71/Pid.B/2021/PN Gin, that the criminal charge by the Public Prosecutor stated that the defendant IKD was found guilty of committing the crime of “gambling” as regulated in Article 303 paragraph (1) to 2 of the Criminal Code yo Article 2 of Law No. 7 of 1974 concerning the control of gambling in the Second Indictment, with a sentence of imprisonment for 5 (five) months minus the entire period during which the defendant was in detention;

To provide a difference between the research conducted by the researcher and previous studies, a comparison is made with existing theses. Budi Artha in his thesis entitled “Law Enforcement against Online Gambling Offenders Based on the Theory of Dignified Justice” discusses law enforcement against online gambling crimes in the perspective of the theory of dignified justice and the obstacles experienced. Meanwhile, Jhonson Manahara

Sitompul in his thesis entitled "Police Legal Rules in Law Enforcement of Online Gambling Crimes in the North Sumatra Regional Police" examines the role of the Police in handling online gambling as well as handling and investigating online gambling crimes. Julimunto Pical in his thesis entitled "Legal Studies against ITE Criminal Offenders Who Have Gambling Content" discusses the legal rules of gambling crimes against ITE criminal offenders who have gambling content as well as obstacles and law enforcement efforts. Previous studies tend to focus on law enforcement, legal rules, and efforts to overcome online gambling crimes. While the research to be conducted focuses on the criminal liability of online gambling offenders in Indonesia based on the Electronic Information and Transaction Law, so there are significant differences with previous studies.

To provide a difference between research conducted by researchers and previous studies, a comparison with existing research is made. Budi Artha in his thesis entitled "Law Enforcement against Online Gambling Offenders Based on the Theory of Dignified Justice" discusses law enforcement against online gambling crimes in the perspective of the theory of dignified justice and the obstacles experienced. Meanwhile, Jhonson Manahara Sitompul in his thesis entitled "Police Legal Rules in Law Enforcement of Online Gambling Crimes in the North Sumatra Regional Police" examines the role of the Police in handling online gambling as well as handling and investigating online gambling crimes. Julimunto Pical in his thesis entitled "Legal Studies against ITE Criminal Offenders Who Have Gambling Content" discusses the legal rules of gambling crimes against ITE criminal offenders who have gambling content as well as obstacles and law enforcement efforts. Previous studies tend to focus on law enforcement, legal rules, and efforts to overcome online gambling crimes. While the research to be conducted focuses on the criminal liability of online gambling offenders in Indonesia based on the Electronic Information and Transaction Law, so there are significant differences with previous studies.

The purpose of this study is to examine and analyze law enforcement against online gambling offenders in Indonesia, as well as to examine and analyze criminal liability for online gambling offenders in Indonesia. This research aims to gain a deeper understanding of the legal handling of online gambling activities that are increasingly widespread in Indonesia. By examining aspects of law enforcement and criminal liability, it is hoped that an effective solution can be found in overcoming the problem of online gambling in Indonesia.

RESEARCH METHODS

Types of research

This research uses normative juridical research methods (normative *law research)* using normative case studies in the form of legal behavioral products, for example reviewing laws.

Research Approach

Researchers employing normative research can adopt several approaches. First, the Statute Approach is essential, as it focuses on various legal regulations that serve as the central theme of the study. Second, the Conceptual Approach involves examining legal concepts, such as legal sources, functions, and institutions. Lastly, the Case Approach allows researchers to build legal arguments based on concrete cases encountered in the field, which are closely related to relevant legal events.

Types and Sources of Legal Materials

Legal materials are categorized into three priorities. The first is Primary Legal Material, which consists of binding legal texts, including the 1945 Constitution of the Republic of Indonesia, the Criminal Code, and specific laws regarding gambling, criminal procedure, the national police, the Supreme Court, and electronic transactions. The second category, Secondary Legal Materials, includes scholarly writings that discuss and analyze primary legal materials, doctrines, jurisprudence, and related legal principles. Finally, Tertiary Legal Materials offer additional explanations and context, comprising legal and Indonesian dictionaries, as well as encyclopedias.

Legal Material Collection Techniques

Information collection involves examining relevant documents, transcripts, daily newspapers, and significant reference sources, both common (books) and uncommon (reports), tailored to the specific issue under investigation.

Legal Material Analysis Techniques

The analysis method employed is a standardizing juridical approach aimed at providing a prescriptive view through interpretive analysis, particularly regarding criminal liability for online gambling offenders in Indonesia, based on Law Number 19 of 2016. The analysis aligns with the research's type and nature, involving the inventorying, classification, processing, and examination of secondary legal materials to reach conclusive insights. This preparation ensures that the legal materials are directed and purposeful, optimizing the research objectives.

RESULTS AND DISCUSSION

Analysis of Criminal Liability of Online Gamblers in Indonesia According to the Information and Electronic Transactions Law

A. Law Enforcement Against Perpetrators of Online Gambling Crimes in Indonesia

The crime of online gambling is an act that is socially and economically detrimental, and law enforcement against the perpetrators must be carried out by taking into account the perspective of the theory of dignified justice. Online gambling that offers a variety of games with the promise of financial gain is increasing. Many times, this gambling activity is even played by students who use their spending money to gamble online.

Perpetrators use smartphones and small amounts of money to try their luck at gambling. However, in the long term, online gambling games can become addictive and have the potential to cause criminal behavior that is detrimental to the surrounding environment. Therefore, it is important to combat the current rise in online gambling crimes in order to prevent discomfort in society (Pratama, 2023).

Online gambling is one of the cybercrimes that is widespread in Indonesia. Based on information provided by the Financial Transaction Reports and Analysis Center (PPATK), it is reported that the total turnover of money from online gambling throughout 2023 will reach IDR 327 trillion, where the total turnover of money is recorded from 168 million transactions carried out by 3.29 million Indonesians.

This online gambling case not only harms society financially, but also has a negative impact on the social and economic order of a country. Gambling crimes have actually been regulated in law for a long time, namely in Article 1 of Law Number 7 of 1974 concerning the Control of Gambling where states that all forms of gambling are prohibited by law. Currently, gambling has even entered the online realm, forcing updates in legal substance to make it more relevant to current conditions.

The case of online gambling is currently very highlighted, especially this is regulated in Article 303 and Article 303 bis in the Criminal Code (KUHP), then online gambling regulations are also regulated in Article 27 Paragraph (2) of Law Number 11 of the Year 2008 concerning Information and Electronic Transactions (ITE) which was amended into Law Number 19 of 2016, where this action is categorized as an unlawful act which can be threatened with imprisonment for 10 (ten) years, as well as a maximum fine Rp. 20,000,000,- (twenty million rupiah).89 Meanwhile in Article 45 Paragraph (2) 89 Article 27 Paragraph (2) of Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE) which was amended into Law -Law Number 19 of 2016 in the latest ITE Law states that those included in the category of online gambling are every individual who intentionally and without permission disseminates, sends or creates electronic information and/or electronic documents containing gambling can be sentenced to a maximum of six years in prison and/ or a fine of up to Rp. 1,000,000,000,- (one billion).

There are two main categories in online gambling based on the transaction process (Pratama, 2022). First, online gambling with a direct transaction system is a gambling activity carried out online using a game application that is similar to conventional gambling in the real world. These applications, even though they are only used for entertainment, cannot be stopped by the authorities because they only function as a means of entertainment with no obvious element of gambling. Games that are supposed to be recreational are often misused for gambling activities, with casino-like applications being one of the most commonly used. This phenomenon began to spread since the beginning of 2008, initially it was only of interest to a handful of people, but as time went by, public interest increased rapidly, even becoming a large industry with the existence of online bookies. This online gambling grew along with the development of the internet.

The second category is an online gambling model with a deposit system that has been developing since 2010, which does not involve real money but virtual money. This online gambling player transfers funds to the admin account, which is then converted into virtual currency in the game. Online gambling is more popular because it is specifically aimed at gambling activities. This systematization of gambling allows players to feel safer, because they use transaction methods that have been developed in such a way that players can use the services of banks that collaborate with online gambling admins.

The current development of online gambling is accompanied by rapid developments in the world of information technology, where forms of gambling crime are then transformed into cybercrime problems in cyberspace. With all its sophistication, various modern crimes have a greater impact than conventional crimes in general. So in dealing with this development it must involve various parties with different territorial jurisdictions, times, countries, governments and legal systems which raises the question of whether cases can be resolved nationally and whether or not efforts to change international conventions are needed in following up on cases of law violations (Sitompul, Ablisar, Hamdan, & Leviza, 2014).

Criminal acts that utilize technological media and penetrate the virtual world include fraud, cheating, theft, gambling, and so on which are carried out directly by utilizing internal energy and thoughts. To overcome this problem, the Indonesian police have made various efforts to take firm action against cases of online gambling that are rampant in people's lives (Budiarta, 2024).

Law enforcement in online gambling cases must still prioritize the principle of proportionality of punishment, which means that the sanctions given to perpetrators must be proportional to the level of the violation. The law applied certainly cannot be too light and not too heavy for the perpetrators of this violation. Data box for the 2023 period revealed that in tracing various cases of online gambling in Indonesia there had been 157,000,000 (One Hundred and Fifty Seven Million) online gambling transactions with a total turnover of Rp. 190,000,000,000,000,- (one hundred and nine trillion recovered). This figure was revealed in an analysis of 887 parties related to online gambling. This shows that cases of online gambling are very difficult to eradicate because of the existence of a network of gambling bookies, in addition to technological developments which are often misused by irresponsible individuals (Safitri, 2020).

In addition, law enforcement should also aim to protect society at large from the negative impacts of online gambling, by implementing strict regulations and providing education to the public about the risks involved. However, law enforcement must also pay attention to the human rights of perpetrators, including the right to fair treatment in the justice system and opportunities for rehabilitation. Thus, the law enforcement approach to online gambling crimes is based on law enforcement theory, where law enforcement is effective and fair, and pays attention to the balance between strict law enforcement and respect for human dignity.

Even though there is an impression that there are scientific aspects in law enforcement theory, in the era of scientific and technological development, tools are often equated with digitalization. The theory of dignified justice, as a tool, is the result of human work created to improve human dignity, which in its application combines aspects of legality and ethics such as values and morality in all legal rules applied in the system.

The problem with decision case number 3287 K/Pid.Sus/2019 is that the defendant FN is regulated and threatened with a crime under Article 27 Paragraph (2) in conjunction with Article 45 Paragraph (2) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 regarding Information and Electronic Transactions;

That the reason for the Public Prosecutor's cassation cannot be justified because of the Judicial Facts decision of the Medan High Court which upheld the Judicial Facts decision of the Medan District Court which stated that the Defendant was proven legally and convincingly guilty of committing the criminal act "Deliberately and without the right to make accessible Electronic Transaction Information which has content gambling" is not wrong and the legal regulations have been implemented properly and the trial process has been carried out according to the provisions of the law;

Whereas the Judicial Facts decision has also considered the relevant legal facts juridical appropriately and correctly in accordance with the legal facts revealed before the court, the material actions of the Defendant have fulfilled the elements of a criminal act in Article 27 Paragraph (2) in conjunction with Article 45 Paragraph (2) of the Law Number 19 of 2016 on a single indictment;

Likewise, the Judicial Facts decision sentenced the Defendant to imprisonment for 1 (one) year and 6 (six) months, not exceeding his authority and having adequately considered all the circumstances surrounding the Defendant's actions, both aggravating and mitigating circumstances and the nature of the act committed by the Defendant;

Whereas apart from that, the reason for the Public Prosecutor's cassation cannot be justified because it concerns the severity of the sentence imposed, this matter is not subject to cassation, Judicial Facts in its decision has considered aggravating and mitigating circumstances in accordance with Article 197 Paragraph (1) of the Criminal Procedure Code;

That although the severity of the sentence imposed is in principle the authority of the Judicial Facts, if there are relevant facts which aggravate or mitigate the Defendant, the Judicial Facts has not considered it or the Judicial Facts has not sufficiently considered this matter, the Supreme Court can correct the sentence imposed on the Defendant, however in this case Judicial Facts has sufficiently considered the aggravating and mitigating factors and the sentence imposed is also appropriate;

In this case the judge sentenced Defendant FN to prison for 1 (one) year and 6 (six) months;

In the author's opinion, this is in accordance with the Law Enforcement Theory according to Soerjono Soekanto**,** who says that law enforcement is an activity to harmonize the relationship between values described in stable rules and attitudes of action as a series of value translations at the final stage. To create, maintain and maintain peaceful social life.

Law enforcement itself is directed at achieving justice, benefit and legal certainty (everyone is equal before the law). This is directed in accordance with legal principles. In law enforcement there must be a compromise between these three elements. These three elements must receive attention in a proportionally balanced manner, but in practice it is not always easy to achieve a proportionally balanced compromise between these three elements.

In the form of law enforcement for online gambling perpetrators, when viewed from the perspective of dignified legal theory, the prosecution of these criminal cases must pay attention to the interests of the perpetrators as human beings who have human rights. If there is sufficient evidence, individuals who commit criminal acts of online gambling can be faced with relevant articles, such as Article 27 paragraph (1) and Article 45 paragraph (1) of the Information and Electronic Transactions Law (UU ITE) which regulates the distribution of online gambling electronic information that violates the law or harms other parties. Apart from that, the perpetrator can also be prosecuted under Article 303 of the Criminal Code (KUHP) which regulates gambling. The police can collaborate with other agencies, such as the Ministry of Communication and Information, to increase supervision and enforcement of online gambling.

This law enforcement effort is carried out by the police because it is related to aspects of state order and security. This online gambling action is usually carried out by accessing certain websites. The type of gambling also depends on the offers from the website accessed by the perpetrator. Then a website display will appear where gamblers will be asked to enter the numbers to be drawn by entering the nominal amount of money used in online gambling. Each number entered will be charged a fee, whereas if the perpetrator does, he will receive a certain amount of money which will be sent to the perpetrator's bank account (Purnawinata, 2021).

In this game, the perpetrator does not need any skills and does not need to access permission from the authorities so that this act of online gambling can be subject to criminal sanctions in Article 303 bis Paragraph (1) in the applicable Criminal Code.

In determining punishment for online gambling perpetrators, law enforcement officials must collect evidence in the form of gambling accounts and all the equipment used. Judging from the elements of conventional gambling crimes in Article 303 of the Criminal Code, it is certainly different from online gambling, where conventional gambling focuses more on the player's habits and abilities, not just luck. However, both conventional and online gambling both have an element of betting in them which makes the game have objects that benefit and objects that are harmed. Elements of online gambling can be seen in Article 27 Paragraph (2) of Law Number 19 of 2016 which includes:

1) Each person
2) Intentionally & without right
3) Distributing/transmitting/making accessible electronic information related to gambling.

Meanwhile, in Article 303 Paragraph (1) number 3, the Criminal Code (KUHP) which regulates gambling is as follows:

1) Each person.
2) No rights.
3) Taking part in gambling as a business.

From the two articles above, it is clear that gambling as a form of crime, especially in cyberspace, can now be charged with a criminal offense in accordance with applicable statutory provisions. First, intentionality based on goals (*opzet als oogmerk*) occurs when the perpetrator has the intention to produce a certain result from his actions.

The perpetrator will not carry out this action if he realizes that the desired result will not be achieved. Second, intentionality based on awareness of certainty (*opzet bij zekerheidsbewustzijn*) refers to a situation in which the perpetrator definitely knows or is absolutely sure that his actions will produce consequences other than those desired. In this case, the perpetrator understands that his actions will definitely lead to additional consequences. Third, intentionality based on awareness of possibility (*opzet bijmogelijkheidsbewustzijn*) is a condition where the perpetrator carries out an action with the intention of creating a certain consequence, but he is also aware of the possibility of other consequences that are undesirable and prohibited by law.

Online gambling is not only detrimental but also a social disease that will be difficult to eradicate without support in society by institutions providing security and public order. In online gambling, the devices used can be computers, laptops, cellphones, whereas to prove the truth of what is happening in cyber space, that is by proving that there is access to the site used by the gambler, namely by entering the Username and Password, and the proof is done by tracking the cash flow from perpetrator's bank account.

The facts found show that the defendant's actions in participating in online lottery gambling were carried out deliberately, starting with access to the internet via a computer, and then using Google to visit the twine site. On the site, the defendant registered and entered bank account information to participate in the game. In the hope of making a profit, the defendant placed a bet on a certain number, the payment of which was deducted directly from the registered account. This entire process shows that the defendant's actions were carried out with full awareness and the desire to gain profit from the bets placed, not because of coercion or requests from other parties. The defendant had clear motivation and intent, which in legal terminology is referred to as "Will en Wetten," to engage in online gambling, which is an activity that is explicitly prohibited by law. Therefore, in handling online gambling criminal cases, if seen from law enforcement theory, the panel of judges can state that the element of intent in this case has been fulfilled so that the defendant can be sentenced according to the type of violation he committed. Especially when gambling parties have the ability to take responsibility for their actions, both psychologically and physically, then legal provisions can apply. Both parties, whether participating in online gambling or the dealer, can be subject to criminal sanctions in accordance with Article 27 Paragraph (2) in conjunction with Article 45 Paragraph (2) of the Information and Electronic Transactions Law. 108 namely with a maximum imprisonment of 6 (six) years and a fine Maximum Rp. 1,000,000,000. - (one billion). This punishment is of course different from conventional gambling, which is easier to prove and eradicate, therefore, gambling regulations are much more based on the regulations in the applicable Information and Electronic Transactions Law (UU ITE).

In terms of regulating criminal acts of online gambling, it cannot be separated from the regulation of criminal acts of gambling (conventional) which are already known to the public, for this reason the role of previously existing regulations is very much needed, such as regulating criminal acts in Articles 303 and 303 bis of the Criminal Code, to overcome the criminal act of gambling carried out via electronic systems or the internet which is currently occurring, the Indonesian government has created Law Number 19 of 2016 concerning Information and Electronic Transactions (ITE Law) which is in It regulates various activities carried out in cyber space, including several acts that are prohibited because they violate the law and contain criminal elements.

Although criminal acts in cyberspace (Cybercrime) have not been specifically regulated in certain statutory regulations, they have been regulated in Law Number 19 of 2016 Article 27 Paragraph (2) which states:
"Every person intentionally and without authorization distributes and/or transmits and/or makes accessible electronic information and/or electronic documents that contain gambling content." The criminal threat of Article 27 Paragraph (2) in conjunction with Article 45 Paragraph (1), states: "Every person who meets the elements as intended in Article 27 Paragraph (1), Paragraph (2), Paragraph (3), or Paragraph (4) shall be punished with imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of IDR 1,000,000,000.00 (one billion rupiah)."

Meanwhile, in the provisions of the Criminal Code, Article 303 paragraph (1) states; Threatened with a maximum imprisonment of ten years or a maximum fine of Rp. 25,000,000.00 (Twenty-five million rupiah).

The sentences for gambling perpetrators are still considered low so that the perpetrators do not get a deterrent effect from their actions, so it is necessary to revise the Information and Electronic Transactions Law Number 19 of 2016 concerning the imposition of penalties and fines for online gambling perpetrators.

1. Preventive Efforts

This preventive exertion is carried out with the point of avoiding the event of wrongdoings and making a conducive air in society to play down the improvement of wrongdoings and decrease the number of wrongdoings that happen within the middle of Law Number 11 of 2008 concerning Data, Exchanges and Electronic Society. The Delegate Head of Criminal Examination Unit for the Bandar Lampung Police has a few avoidance and supervision endeavors in carrying out preventive law authorization. To begin with, by carrying out Cyber Watch.

Cyber watch in carrying out its obligations employments web media as a supporting facility in carrying out watches in the internet, this is often to screen the exercises of somebody who is shown to be carrying out online betting exercises or diversions as well as following websites that have betting substance.

Cyber watch in carrying out its duties employments web media as a supporting office in carrying out watches in the internet, this is often to screen the exercises of somebody who is shown to be carrying out online betting exercises or recreations as well as following websites that have betting substance.

2. Repressive Efforts

   Repressive efforts are a form of action and effort carried out by directly seeking the root of the problem in society in order to eradicate a crime by taking firm action so that the perpetrators of the crime have a deterrent effect. The repressive efforts carried out by the Cyber Crime Unit in handling this online gambling case are by taking firm action in the form of arresting and imposing criminal sanctions on online gambling perpetrators, whether online gambling bookies or online gambling players, if in the investigation and investigation process it is proven that someone has If it is legally against the law to carry out online gambling activities, the Cyber Crime Unit will immediately take firm action by arresting someone who is proven to be carrying out online gambling activities.

B. Criminal Responsibility for Online Gambling Crimes in Indonesia

According to the Criminal Code, gambling is any game where the hope of winning generally depends on luck alone. It is said that a gambling game is a game that is related to the rules regarding the decisions of competitions or other games, which are not held by the parties directly involved in a competition or playing in a competition, as well as all other rules that are used with the aim of gaining profit by profit (Astini & Lubis, 2019).

Gambling is a game where someone who is usually called a "gambler" bets to choose one option among several available options where only one option is correct and determines who will be the winner. The gambler who loses the bet is obliged to give or pay the bet to the winner. Gambling that develops in society can be differentiated based on the tools and facilities (Nasution, 2017). In gambling activities, the rules and betting amounts are determined before the game starts by the parties playing the gambling game.

The principles in a gambling game generally have the same thing, namely the aim is to make a profit if you win a bet. The greater the value of the money or goods at stake, the greater the money you can get as a winning prize. Therefore, by playing gambling, people think they can fulfill their daily needs. There are even people who make gambling their livelihood, with the aim of meeting the economic needs of society, and there are also those who open various gambling games for other people to play. Online gambling itself is a gambling game via electronic media with internet access as an intermediary.

In fact, the law was created to provide justice, goodness and alignment with the interests of the wider community (Arliman, 2019). Indonesia has legally regulated gambling in several laws and regulations, including those regulated in Article 303 and Article 303 bis of the Criminal Code. Then, with regard to online gambling law, it is specifically regulated in Article 27 paragraph (2) of the Electronic Transaction Information Law or better known as the ITE Law and its amendments.

Gambling According to Article 303 paragraph (1) of the Criminal Code, it is explained that the act of gambling committed in Indonesia is a criminal offense that carries a maximum penalty of imprisonment of ten years in prison or a fine of a maximum of twenty-five million rupiah. Furthermore, Article 303 paragraph (1) of the Criminal Code explains the forms of activity that can be categorized as gambling, namely if someone deliberately offers, provides the opportunity to play gambling games, even makes it a source of income, and is also actively involved in a management of gambling companies. Furthermore, based on the provisions of Article 303 bis paragraph (1) of the Criminal Code, which reads:

"Threatened with a maximum prison sentence of 4 years or a maximum fine of ten million rupiah: 1. anyone who uses the opportunity to gamble, which is held in violation of the regulations in article 303; 2. Anyone who takes part in gambling games that are held on a public road or on its side or in a place that can be entered by the general public, unless there is permission from the competent authority to hold it."

Based on Article 303 paragraph (3) of the Criminal Code, it is explained that the act of gambling is any gaming activity that facilitates the possibility of taking advantage of profits in an easy way because of luck or because the player is skilled and used to it. Also included in the category of gambling games are bets on the outcome of competitions or other games, which are not held by those participating in the competition or playing, more broadly also on all other bets.

Explanation of Article 303 paragraph (3) of the Criminal Code which states that, "what is called a gambling game is any game, where generally the possibility of making a profit depends on sheer luck, also because the players are more trained or more skilled.

This includes all the rules regarding decisions on competitions or other games which are not held between those competing or playing, as well as all other regulations." Emphasizes that in principle Indonesia prohibits all forms of gambling activities because they contain elements that are detrimental to society, conflict with social values and violate religious norms. The law contains teachings, rules regarding orders and prohibitions that must be immediately obeyed and implemented.

In relation to acts of gambling carried out online, Indonesian law has also regulated as contained in the Information and Electronic Transactions (ITE) Law which is used as an effort to reduce acts of gambling that occur in society by ensnaring the perpetrators and people who distribute the content gambling with threats/criminal penalties.

Article 27 paragraph (2) ITE Law Number 19 of 2016 states;

"Every person intentionally and without authorization distributes, transmits, and/or makes accessible Information or Electronic Documents that contain gambling content"

Then in Article 45 paragraph (2) of Law Number 19 of 2016 concerning Amendments to Electronic Transactions it is said that;

"Any person who intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing gambling content as intended in article 27 paragraph (2) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 1 billion"

Based on the information from the statutory regulations above, it can be understood that the meaning of online gambling is betting game activities carried out using money as a betting tool with the provisions of the game procedures and the amount of the bet value determined by the online gambling player by using electronic media with internet access as intermediary media. Online gambling activities are the same as conventional gambling in that it can be said to be a kind of addiction, which starts from just trying and winning which then naturally stimulates the desire or desire to repeat it with bigger and bigger bets with more and more thoughts. If you bet a lot of money, you will win more results. Online gambling itself can be done anywhere and at any time as long as the online gambler has a lot of free time, a certain amount of money used as a bet in the player's savings account, and a computer or smartphone and an internet connection that is used as a tool to carry out online gambling.

In this case, carrying out betting or gambling in any form is something that is prohibited, whether done in person or online, for the perpetrators. Perpetrators of cybercrime, especially online gambling, require enforcement efforts to prevent and eradicate these crimes so that they do not become more widespread. Conceptually, cybercrime is also defined as computer crime, but the term criminal act is used for computer crimes. Organizing gambling promises many benefits for the owner, there is no need for complicated administrative licensing to create a gambling business via the internet. If someone carries out or is involved in online gambling then the article imposed no longer refers to the Criminal Code but uses Article 27 of Law no. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions or called the ITE Law as a manifestation of the principle of lax specialist derogate legit lax generalist.

The concept of responsibility for a crime is based on the aspect of the negative impact that arises as a result of the occurrence of a form of crime. Therefore, it is important to discuss the origins or background of the current concept of criminal responsibility. In English, criminal responsibility is referred to as the concept of criminal responsibility, which actually does not only involve legal matters, but also concerns moral values or general decency adhered to by a society or groups in society, this is done so that criminal liability can be achieved by fulfilling justice (Senjaya, 2022). Criminal responsibility is a form used to determine whether a person is suspected of committing a criminal act or a person who has been charged with committing a criminal act to be responsible for the occurrence of a criminal act.

In terms of criminal liability, it can be interpreted as continuing the objective blame that exists in a criminal act and subjectively fulfilling the requirements to be punished for that act. What is meant by objective censure is that an action carried out by someone or anyone is a prohibited action, namely an action that is contrary to or prohibited by law, both formal law and material law. Meanwhile, what is meant by subjective censure refers to someone who commits a prohibited act, or in other words, subjective censure is a person or perpetrator who commits an act that is contrary to the law or prohibited. If the act carried out is a disgraceful act or an act that is prohibited, but if the person has conditions that cause him or her not to be responsible, then there is no possibility of criminal liability for the occurrence of the incident.

The problem with decision case number 3287 K/Pid.Sus/2019, is that the defendant FN is regulated and threatened with a crime under Article 27 Paragraph (2) in conjunction with Article 45 Paragraph (2) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 regarding Information and Electronic Transactions;

That the reason for the Public Prosecutor's cassation cannot be justified because of the Judicial Facts decision of the Medan High Court which upheld the Judicial Facts decision of the Medan District Court which stated that the Defendant was legally and convincingly proven guilty of committing the criminal act "Deliberately and without the right to make accessible Electronic Transaction Information which has content gambling" is not wrong and the legal regulations have been implemented properly and the trial process has been carried out according to the provisions of the law;

Whereas the Judicial Facts decision has also considered the relevant legal facts juridical appropriately and correctly in accordance with the legal facts revealed before the court, the material actions of the Defendant have fulfilled the elements of a criminal act in Article 27 Paragraph (2) in conjunction with Article 45 Paragraph (2) of the Law Number 19 of 2016 on a single indictment;

Likewise, the Judicial Facts decision sentenced the Defendant to imprisonment for 1 (one) year and 6 (six) months, did not exceed his authority and had adequately considered all the circumstances surrounding the Defendant's actions, both aggravating and mitigating circumstances and the nature of the act committed by the Defendant;

Whereas apart from that the reason for the Public Prosecutor's cassation cannot be justified because it concerns the severity of the sentence imposed, this matter is not subject to cassation, Judicial Facts in its decision has considered aggravating and mitigating circumstances in accordance with Article 197 Paragraph (1) of the Criminal Procedure Code;

Whereas, although the severity of the sentence imposed is in principle the authority of the Judicial Facts, if there are relevant facts which aggravate or mitigate the Defendant, the Judicial Facts has not considered it or the Judicial Facts has not sufficiently considered this matter, the Supreme Court can correct the sentence imposed on the Defendant, however in this case Judicial Facts has sufficiently considered the aggravating and mitigating factors and the sentence imposed is also appropriate;

In this case the judge sentenced Defendant FN to prison for 1 (one) year and 6 (six) months;

In the author's opinion, in accordance with the Theory of Criminal Responsibility according to Roeslan Saleh, it states that (Giddens, 2015):

"In discussing criminal responsibility, one or two aspects cannot be separated from it which must be viewed with philosophical views. One of them is justice, so discussions about criminal responsibility will provide clearer contours. Criminal responsibility as a matter of criminal law is intertwined with justice as a matter of philosophy."

The criminal responsibility system in positive criminal law adheres to the principle of error because criminal acts only refer to prohibited acts. Whether the person who has committed the act is then also punished depends on the question, whether the person who committed the act was guilty or not. If the person who committed the criminal act was indeed guilty, then of course he will be punished. However, if there is no fault, even if the person has committed a prohibited and disgraceful act, the person is not punished. This principle is an unwritten principle: "No punishment if there is no mistake", is the basis for the perpetrator being punished.

That criminal responsibility is a form of view in criminal law theory that is used to determine whether a person is acquitted or convicted. The concept of criminal responsibility, the burden of responsibility is borne by the perpetrator of a criminal offense, this is related to the basis for imposing criminal sanctions. It is said to have the nature of criminal liability, that is, if an act carried out by someone is unlawful. However, there is a special condition, namely the loss of the character of responsibility for a crime if there is an element within the person that causes the loss of the person's ability to be responsible which we can identify with justificatory and forgiving reasons.

The basis for a criminal act is the principle of legality, while the perpetrator of the act can be punished based on error. This explains that a person can be said to be criminally responsible if he has committed an act that is wrong and contrary to the law. In essence, criminal liability is a form of mechanism created to respond to violations of certain agreed acts (Harahap, Gajah, & Harahap, 2019).

The element of fault in a criminal act is the main element in criminal liability. Furthermore, in its development, the definition of a criminal act explains that it does not include criminal responsibility if the criminal act only refers to whether the act is against the law or prohibited by law, so that whether someone who commits a criminal act can then be punished, it depends on whether the person who committed it whether the criminal act contains an element of guilt or not.

In relation to errors, whether intentional or negligent, many are mentioned in the articles and provisions of the Criminal Code, but unfortunately the meaning of intentional or negligent errors is not clearly explained in terms of their meaning by law. The absence of further explanation regarding the meaning of intentional or negligent errors means that the interpretation relies on the doctrine and opinions of legal experts regarding the articles in the Criminal Code. So that the conclusion regarding an act in these articles relating to the elements of intentional or negligent error must be proven by the court, so that in order to criminalize the perpetrator who commits a criminal act, there must also be an element of intentional error or negligence which must also be proven if the opposite is desired. . This means that in criminal liability, the judge's role is very large in proving the existence of elements of criminal liability in an act, because if these elements cannot be proven to be true then a person cannot be held accountable.

According to Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. This law, which is referred to by the abbreviation the ITE Law, basically emerged as a response to the development and progress of electronic communications technology in the form of the internet. The various interpretations and very broad scope of the ITE Law are the reasons for the many negative responses to this Law, this is generally due to the use of language in drafting the Law. Another reason for the criticism that has emerged is that this Law is seen as mixing up various subjects which tend to be forced in its interpretation. As in article 27 there are many topics of discussion, including the distribution and access of electronic information which has moral content, gambling content, defamation content, and extortion and threat content.

Furthermore, with regard to online gambling, it is regulated in Article 27 paragraph (2) of Law Number 19 of 2006 concerning Transaction and Electronic Information which reads:

"Every person intentionally and without right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain gambling content."

In this case, the provisions of the article above can be identified as subjective and objective elements in the article. Subjective elements are elements that exist within the perpetrator of a criminal act. The subjective element in this article is contained in the words "any person intentionally" which contains the first meaning, the desire or intention of the perpetrator to intentionally distribute or transmit and/or electronic documents containing gambling content. Second, the perpetrator's knowledge that what he is doing can enable other people to access information that has gambling content. Furthermore, objective elements are elements that exist outside the perpetrator of a criminal act. The first objective element in the article is contained in the words "without the right to distribute or transmit" which means that the perpetrator must be proven to have committed an act of distributing and/or transmitting gambling without having permission from the authorized party to carry out the act of distributing and/or transmitting gambling. Second, "Making information and/or electronic documents that have gambling content accessible" that the perpetrator must be proven to have committed an act that can enable other people to access information and/or electronic documents that have gambling content.

Then it is explained in Article 45 of the ITE Law that, if every person has committed an act of gambling and fulfills the elements as regulated in Article 27 paragraph (2) of the ITE Law, then that person is threatened with a fairly severe prison sentence, namely a maximum of 6 (six) years and /or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah).

From the explanation of the explanation of the articles above which regulate gambling, it can be concluded that an act can be punished by the existence of regulations that regulate, if someone has committed a criminal act of gambling, then he can only be tried based on the applicable criminal laws and regulations at the time the action is carried out. From the aspect of sanctions, what is very important to do is ensure that the institution is competent to implement sanctions, has a consistent attitude, is firm, fair and does not discriminate (Romdoni, WN, & Nurdiansyah, 2022).

The existence of these laws and regulations can also scare everyone so that they do not commit bad acts, such as many people in the local community who gamble, and to educate people who have committed bad acts so that they become good and can be accepted back into society and the environment. The aim is also to create a society that is peaceful and safe from criminal acts of gambling with the laws and regulations that have been regulated above.

Every form of legal crime always begins with the intention of the perpetrators who move to commit legal crimes. law enforcement in Indonesia through social analysis and offering the use of progressive law as a new paradigm in law enforcement (Halim & Setyawan, 2024).

Gambling is a crime that is widespread in society if we look at it in terms of intention and motive, mostly because it is driven by the idea of wanting to live richly in an instant way. Legal accountability for online gambling perpetrators is regulated within the criminal law regulatory space. In Indonesia, the regulation of online gambling applies the principle of lex specialist derogate legi lex generalist by using the ITE Law instead of the general law in the criminal space as is usually regulated in the Criminal Code. The application of more specific regulatory principles in gambling crimes is the actualization of legal theories and principles that are able to dynamically follow the development and progress of technology and civilization.

Online gambling games carried out by someone are actually a form of criminal act that is prohibited in the Unitary State of the Republic of Indonesia. In terms of legal responsibility for online gambling, the crime is classified as a moderate criminal offense with the threat of a fine and/or imprisonment. For perpetrators of online gambling, criminal liability has been regulated in the form of retaliation for this behavior with the threat of quite severe imprisonment, namely 6 years in prison or also by paying a fine with a maximum nominal value of one billion rupiah.

Criminal liability for online gambling perpetrators is not only imposed on players but also includes perpetrators who provide opportunities for someone to gamble, such as service providers and managers of gambling platforms that are held online. Therefore, determining which actors fall into the category of online gambling service providers is by consolidating and qualifying their actions (Aziza, 2023).

Online gambling is a development of gambling behavior which has changed in form due to the impact of technological developments and advances. In principle, this change in form does not significantly affect the intention of the perpetrators to carry out the gambling act, whether online or traditionally. Therefore, the aim and motivation of the perpetrators for committing gambling acts is because they want to live a rich life in an instant way. For this reason, it is not uncommon for people to consider gambling as their livelihood activity, whether as gamblers or gambling game managers. Based on the description as previously explained regarding online gambling, which if studied in depth can have a huge negative impact. Not only does it deal with legal crimes, but it also has a big impact on people's behavior both economically, socially and in matters of religious belief. So there must be at least several policies implemented to improve criminal acts of online gambling, including the following:

a. The crime of gambling as a form of crime in the field of morality should not only be punishable by criminal acts based on categories 6 of the Criminal Procedure Code and 5 of the Criminal Code, imprisonment and fines, but additional penalties must be determined, such as the revocation of the right to carry out a profession for makers and managers who commit criminal acts of gambling in carrying out their profession.
b. Every form of criminal act of gambling, whether committed in person or online, cannot only be held responsible by private individuals, but legal entities must and can also be held criminally responsible. In terms of punishment, a balance must be considered between individual interests and the interests of society. This means that the punishment imposed must be adjusted to the interests of the individual. Apart from that, a sense of justice and protection of society needs to be taken into consideration when carrying out a sentence.

CONCLUSION

Law enforcement against perpetrators of criminal acts of online gambling in Indonesia is that law enforcement for criminal acts of online gambling is a criminal sanction against online gambling based on Article 45 of Law Number 11 of 2008 concerning Information and Electronic Transactions, however the punishment for perpetrators is lower than the threat of criminal sanctions in Article 303 of the Criminal Code, so that it does not have a deterrent effect on perpetrators of online gambling crimes. Criminal liability for criminal acts of online gambling in Indonesia means that the responsibility of online gambling perpetrators is proven by containing elements of a criminal act. Furthermore, the act element is one of the main elements in criminal liability, because a person cannot be punished if he does not commit an act that is classified as an act prohibited by law, this is in accordance with the principle of legality. Criminal liability for gambling acts carried out online in Indonesia is regulated in the Information and Electronic Transactions (ITE) Law with the aim of being an effort to reduce gambling acts that occur in society by ensnaring perpetrators and people who distribute gambling content with criminal penalties. Online gambling is a development of gambling behavior that has changed in form due to the impact of technological developments and advances.

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