JURIDICAL REVIEW OF LAW ENFORCEMENT OF ONLINE GAMBLING CRIMES AS CYBERCRIMES BASED ON LAW NUMBER 1 OF 2024 CONCERNING INFORMATION AND ELECTRONIC TRANSACTIONS

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Abstract

The development of information technology in the digital era has given rise to various new forms of crime known as *cyber crime*, one of which is the practice of online gambling. These crimes not only violate legal and moral norms, but also cause serious social, economic, and psychological repercussions for society. These crimes involve perpetrators and victims from different countries and do not only occur domestically. This phenomenon shows that there is an increase every year in online gambling enthusiasts both among all ages regardless of the limits. For the eradication of online gambling, a strong criminal law policy is needed to handle and prevent cybercrime because the impact is real on losses in terms of finance and time. Based on Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE), this study investigates law enforcement against cyber crime perpetrators. In this study, a normative juridical approach is used, which evaluates the provisions of relevant laws and regulations and legal doctrines. The results of the study show that although the latest ITE Law provides a broader legal basis and adapts to technological developments, there are still several problems in its implementation, such as the inability of law enforcement officials in the field of digital forensics, overlapping regulations, and the lack of digital literacy of the community. Therefore, institutional strengthening, improving the technical capabilities of law enforcement officials, and updating legal policies are needed to respond to the development of cybercrime in the computer and internet era.

Keywords: Law Enforcement, Cyber Crime, ITE

INTRODUCTION

Rapid developments in the field of science and technology (science and technology) have opened up space for the birth of various forms of crime that were previously unknown. Criminal activities are no longer limited to direct actions in the physical world, but also penetrate into the digital space through internet networks, giving rise to various modes of crime known as cybercrime or cybercrime. This technological transformation not only produces innovation, but also affects the mindset, behavior, and way individuals interact. The shift in people's perspective on the use of technology also affects the way they understand and assess an act, whether it is still within the limits of reasonableness or has become a threat that can disrupt public order and security. Thus, technological advances have direct implications for the dynamics of legal awareness and public perception of behavior that has the potential to pose legal risks.[1]

In social life, the existence of humans as creatures that interact with each other and coexist naturally causes various social problems. Constant interaction in society makes the potential for conflict or social deviation inevitable. One form of social problem that is often encountered is the practice of gambling. This activity is not a new phenomenon, as it has been known since ancient times and even in some indigenous communities it is considered part of a hereditary tradition that is still preserved. Despite this, the practice of gambling is essentially contrary to the fundamental values of social life. Gambling is seen as violating religious teachings, moral principles, and moral norms, and is contrary to the provisions of applicable law. In addition, these practices can have serious negative impacts on individuals and the wider community, and have the potential to damage the social order, national stability, and state order.[2]

Online gambling platforms are now increasingly in demand because they offer easy, fast, and practical access for anyone who wants to try their luck for a big profit. This convenience makes many people interested in participating without considering the risks that can arise behind it. Involvement in such gambling activities often occurs unconsciously and carries quite serious social impacts. One of the common impacts is the onset of addictive behavior, where a person becomes addicted so that he ignores various personal obligations and social responsibilities.

For players who have lost, this condition often causes an urge to keep trying again in order to cover their losses. This attitude can drag individuals into severe financial problems, such as getting into debt or losing property. Furthermore, economic pressure and the desire to recoup these losses have the potential to encourage some people to commit unlawful acts. Thus, the presence of online gambling sites not only creates risks to individuals, but also contributes to increasing social problems and criminality in society.[3]

The regulation regarding gambling crimes in positive Indonesian law is contained in Article 303 of the Criminal Code (KUHP). This provision specifically regulates two categories of actors, namely those who provide facilities or venues for gambling activities and those who play the role of players or participants in those activities. Article 303 of the Criminal Code focuses its regulation on the organizer or provider of gambling venues, while Article 303 bis of the Criminal Code provides a legal basis for ensnaring players involved in such betting practices.

In Article 303 paragraph (1) bis of the Criminal Code, it is emphasized that everyone who engages in gambling, whether gambling is carried out in violation of the provisions in Article 303 or gambling that takes place in public spaces such as highways, roadsides, or other locations that can be accessed by the public, can be sentenced to criminal sanctions. The provision stipulates that the act can be punished in the form of imprisonment with a maximum limit of four years or a fine of up to ten million rupiah. Thus, this regulation provides a strong legal basis to crack down on gamblers, both as organizers and as players, with the aim of maintaining public order and preventing the negative impact that gambling activities have on society."[4]

Gambling carried out through digital platforms requires its own arrangement because it has different characteristics from conventional forms of gambling. This activity takes place virtually

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[1] Enik Isnaini, 2017, Normative Juridical Review of Online Gambling According to Positive Law in Indonesia, Journal of Independet, Vol. 5 No. 1, Page 23

[2] Bayu Ardi, 2021, Handling Online Gambling Crimes Through Mobile Applications at the Wonogiri Police Station, Thesis, Surakarta, P. 4

[3] Ibid, p. 24

[4] Bayu Ardi, Loc. Cit.

through the internet network, so that the elements contained in Article 303 and Article 303 bis of the Criminal Code are no longer adequate to reach the technology-based gambling behavior. The provisions in the Criminal Code were drafted to regulate traditional gambling that is carried out physically, so that it is not able to accommodate the complexity of criminal acts that occur in cyberspace.

Gambling activities that take place online are basically part of cybercrime because they utilize technological devices and information systems in their implementation. Meanwhile, the concept and formulation of regulations regarding this kind of crime have not been fully covered in national legal instruments, including in the Criminal Code. To fill this legal gap, the state feels the need to establish regulations that are more relevant to the development of digital technology.

As a responsive measure, the government then passed Law Number 1 of 2024 as the second amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE Law). This change is an effort to provide a more complete and specific legal basis regarding various forms of violations in cyberspace, including online gambling activities that are increasingly prevalent. Thus, the ITE Law as a result of the amendment becomes a legal instrument that explicitly includes technological elements in the regulation of criminal acts, including to crack down on internet-based gambling.

The regulation of internet-based gambling has received special attention in the Electronic Information and Transaction Law, especially through Article 45 paragraph (3) which is directly related to the provisions in Article 27 paragraph (2). Because regulations have been provided that specifically target online gambling activities, law enforcement officials who handle this case are obliged to refer to and be guided by these special norms. This means that in the process of investigation, investigation, and prosecution, the apparatus cannot solely rely on the general rules in the Criminal Code, but must prioritize the special provisions contained in the ITE Law.

The application of the rule is also in line with the fundamental principle in criminal law, namely the principle of *lex specialis derogat legi generali*. This principle, which is stated in Article 63 paragraph (2) of the Criminal Code, emphasizes that special provisions must take precedence and have a stronger position than general rules. Thus, when there is an overlap between the Criminal Code as a general rule and the ITE Law as a special rule regarding online gambling, the ITE Law must be used as the main reference in the law enforcement process. This principle ensures that case handling is carried out appropriately, according to the characteristics of cyber crimes that are different from conventional crimes.[5]

In the implementation of the rule of law, the role of law enforcement officials is not only limited to the police, prosecutors, or judges. All government institutions that obtain authority through laws and regulations also function as implementers and guarantors of the continuity of the law. In other words, every agency that is given the authority to enforce legal provisions has a responsibility in ensuring that legal norms do not stop as mere normative concepts.

Law enforcement is an important factor that determines whether a regulation can run effectively in society. Without good implementation, laws will only be written texts that have no real impact. Therefore, the success of a legal product is greatly influenced by the quality of its application. A law that has been substantially well designed will not be able to achieve its purpose of its formation if its application is not supported by concrete action from the

[5] Ernita Kudadiri, Andi Najemi, Erwin, 2023, Criminal Liability for Perpetrators of Online Gambling Crimes, Journal of Crimal Law, Vol. 4, No. 1, p. 2

relevant authorities and institutions. Thus, the effectiveness of the law depends on the ability of the apparatus to translate the rules into practice, so that the legal norms can really be felt by the community.[6]

Before the emergence of digital-based gambling practices which were then specifically regulated through the provisions of the Electronic Information and Transactions Law (ITE Law), the Indonesian government had actually first shown its seriousness in tackling gambling activities. This commitment is reflected in a number of regulations issued long before the digital era developed, including Law Number 7 of 1974 concerning Gambling Regulation, Government Regulation Number 9 of 1981 as the implementing rule of the law, as well as criminal provisions in Article 303 paragraph (3) of the Criminal Code. Through this legal instrument, the state seeks to limit and suppress gambling activities because they are considered unsettling to the community and contrary to moral values and public order.

Law Number 7 of 1974 concerning Gambling Control stipulates that the practice of gambling is not only seen as a form of violation of the law, but also as part of a social disease that is often closely related to various crimes. Gambling has evolved into a persistent social problem and has shown strong resistance to various eradication efforts, even since earlier times. This phenomenon is widespread in the community, as if it resembles an epidemic that is difficult to eradicate because it has taken root in various groups and social environments.

The adverse impact caused by gambling activities is not only felt by the individuals involved, but it can also shake family peace, disrupt community stability, and hinder the achievement of general welfare. Therefore, the measures cannot be taken partially, but must be through a comprehensive approach that involves coaching the smallest social units, such as the family and community, to law enforcement at the national level.[7]

There are differences between this study and previous research as follows:

1. The research conducted by Lalu Muh Amin, Rina Rohayu Harun, and Ufran with the title *Juridical Analysis of Law Enforcement of Online Gambling Crimes* examines internet-based gambling practices using a number of court decisions in Mataram as the main analysis material. In the study, it was found that law enforcement officials still use the provisions of Article 303 paragraph (1) of the Criminal Code and Article 303 of the Criminal Code which are basically aimed at regulating conventional gambling. This happened because at that time there was no normative regulation that specifically regulated gambling crimes committed through digital media. Their findings show that the process of cracking down on online gambling still adheres to general rules, so there is no certainty regarding the proper construction of criminality in the context of cybercrime. Thus, the main difference between the research and your research lies in the scope of the discussion. Their study focuses more on juridical analysis of judges' decisions and the application of general provisions of the Criminal Code to online gambling cases. The research has not conducted a thorough evaluation of the new provisions in Law Number 1 of 2024 concerning Electronic Information and Transactions, which is actually an important foundation for your research in seeing how this law functions as a special regulation for handling online gambling crimes in the cyber realm.

[6] Sodikin, 2018, Environmental Law Enforcement, IN Media, Jakarta, p. 36
[7] Erdianto Effendi. (2018) Enforcement of Criminal Law Against Gambling Practices Under the Guise of Children's Games in Shopping Centers (Malls) in Pekanbaru City by the Riau Police. Straits Journal, Faculty of Law, University of Riau. Vol 6, No. 1, p. 81-82

2. Research compiled by Reni Purba and Maryano entitled *Criminal Offence of Online Gambling: An Indonesian Criminal Law Perspective* revealed that although Indonesia already has legal tools in the form of the Criminal Code and the ITE Law to crack down on online gambling perpetrators, the implementation of these rules still faces various serious obstacles. Some of the obstacles identified include the rapid development of information technology, the ease of people accessing illegal gambling platforms, and the complexity of obtaining and submitting digital evidence before the court. This research emphasizes the need to strengthen technological capacity for law enforcement institutions and the importance of cross-jurisdictional cooperation in order to suppress online gambling activities that are global and difficult to track. The difference between the research and your research is that this study only focuses on mapping the general obstacles to law enforcement based on regulations that have been in force before, namely the Criminal Code and the ITE Law before the change. The study does not specifically highlight legal developments after the passage of Law Number 1 of 2024. Instead, your research focuses on an in-depth analysis of the normative changes in the latest ITE Law, including how the law now explicitly includes online gambling as a form of cybercrime and what its juridical implications are for the law enforcement process in Indonesia.

PROBLEM FORMULATION

Based on the description in the background, the formulation of the problem in this study is as follows

1. How is Accountability for Online Gambling Crimes According to Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions?
2. What are the legal consequences for the perpetrators of online gambling crimes in Indonesia?

RESEARCH METHODS

This research uses a normative legal research method (doctrinal research), because the focus of the research is to evaluate the norms, principles, and legal concepts regarding the principle of equality before the law and criminal cover. This research analyzes relevant laws and regulations, doctrines, court decisions, and scientific works. To enrich the perspective, this normative research is supported by a limited non-doctrinal approach, in the form of observations on the practice of the application of cover crimes in court decisions and public discourse. The research uses several approaches, namely the legislative approach, the conceptual approach, the case approach and the historical approach. The researcher uses primary, secondary and tertiary legal materials. After the field data is obtained, conclusions are drawn. The method of drawing deductive conclusions draws conclusions from the general to the specific.

RESULTS OF RESEARCH AND DISCUSSION

1. Accountability for Online Gambling Crimes According to Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions

The idea of accountability for a crime is basically born from the negative consequences that arise after an unlawful act is committed. Therefore, the discussion of the history of the development of the concept of criminal responsibility and the philosophical basis of the existence of the element of error is very important to understand. In the common law tradition, the concept of criminal liability is always associated with mens rea, which is the state of mind or malicious intent of the perpetrator at the time of committing the act, which then becomes the basis for imposing a penalty.

Criminal liability has a close relationship with the interests of the community because its existence aims to ensure social order. The main function of criminal accountability is to give the state the authority to impose punishment on the perpetrators of crimes, so that their presence can act as an effective instrument of social control. Through this mechanism, criminal law seeks to prevent the occurrence of crime, both by suppressing potential violations committed by individuals and reducing threats that can disrupt public security at large.

Thus, prevention efforts in criminal law are carried out through the principle of criminal responsibility itself, which is a means to enforce legal norms and provide a deterrent effect. However, it should be understood that criminal liability is not part of the definition of a criminal act, but rather a consequence that arises after it is proven that a criminal act was committed by a person who meets the elements of wrongdoing according to the law.[8]

Criminal liability can only be imposed if an act has fulfilled all elements that qualify as a criminal act according to the provisions of the applicable criminal law. The determination that an action is classified as a criminal act is objective, meaning that it is determined based on legal norms without being influenced by the identity, personal condition, or background of the perpetrator. After the act is declared a criminal act, attention is directed to the perpetrator to assess whether he meets certain conditions that make him eligible for criminal sanctions. In other words, a person can only be held accountable and sentenced if he or she has fulfilled the elements of criminal responsibility, such as the ability to be responsible, the existence of mistakes (both intentional and negligent), and the relationship between the acts committed and the consequences caused.[9] The main basis for determining the existence of an act as a criminal act lies in the principle of legality, which is the principle that affirms that no act can be punished without the existence of a legal rule that regulates it first. Meanwhile, the basis for imposing a criminal penalty on the perpetrator is based on the principle of error, which requires that there be an element of guilt in the perpetrator before he can be subject to criminal sanctions. Thus, a person can only be sentenced if it is proven that he committed an act that is prohibited by law and that the act was done intentionally or negligently that can be accounted for. When the elements of the act and the element of guilt are met, then the question arises about criminal liability, namely whether the actions committed can be legally blamed on the perpetrator as a basis for imposing punishment.[10]

The provisions regarding the conditions and principles of criminal liability as previously explained are generally accepted concepts in classical criminal law doctrine as well as in the prevailing positive legal system. However, the issue that arises is the extent to which these conventional positive legal doctrines, theories, and rules can be applied effectively to criminal liability in the context of cybercrime. If departing from the traditional objective requirement, namely the principle of legality, then criminal liability for cybercrime must still be based on the provisions of the current written law. In other words, the enforcement of criminal liability in the realm of digital crime can

[8] Dwidja Priyatno. 2017. Corporate Criminal Liability System in Legislation Policy (E-Book), Kencana, Jakarta, p. 29

[9] Lukman Hakim, S.H, M.H. 2011. Principles of Criminal Law, Muhamdiyah University Jakarta, Jakarta p. 35

[10] Mahrus Ali, 2013, Principles of Corporate Criminal Law, Rajawali Press, Jakarta, p. 94

only be carried out if there are explicit rules, both contained in the Criminal Code and in special laws and regulations outside the Criminal Code that specifically regulate the act.[11]

Criminal liability can be clarified as follows:[12]

1. Full accountability

The meaning of full responsibility is every person who causes the event in the crime that is planned with the main crime.

2. Partial liability

What is meant by *partial liability* is a situation when an individual can still be held criminally liable even though his involvement is not as the main perpetrator, but as a party who provides assistance, attempts to commit a crime, or only reaches the stage of probation. In such a situation, the law stipulates that the criminal threat that can be imposed is not as severe as the punishment for the perpetrator who completes the crime in its entirety, but only two-thirds of the maximum penalty prescribed for the crime that has been committed. Basically, a criminal act is an act that is qualified by law as an act of violating criminal provisions, so anyone who commits the act can be subject to criminal sanctions according to the applicable rules.[13] According to Simons' view, a criminal act can be understood as any human act or behavior that is contrary to the provisions of criminal law. The act is carried out by a person who is legally considered capable of accounting for the actions he has taken, so that the individual can be sanctioned or punished as stipulated in the applicable criminal regulation system. In other words, the elements of violation of criminal rules and the ability of the perpetrator to be held accountable are the main basis for determining that an action is a criminal act.[14] According to Van Hamel, a criminal act can be interpreted as an act or action committed by a person and has been previously stipulated in the legal regulations as a prohibited act. This act deserves to be punished if the perpetrator is proven to have committed a mistake. Thus, the essence of Van Hamel's view lies in the existence of two important elements, namely actions that have been regulated in criminal law norms and the mistakes of the perpetrators that make the act worthy of sanction.[15]

The regulation of gambling crimes carried out through online media has gained a clear legal basis since the enactment of Law Number 1 of 2024 as the second amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions. In the latest regulation, the practice of online gambling is expressly included as a form of prohibited act that is specifically regulated in Article 27 paragraph (2) and strengthened by the provisions of sanctions as stated in Article 45 paragraph (3). Article 27 paragraph (2) contains prohibition norms related to the distribution, dissemination, and access to content containing gambling through electronic systems, so that it becomes the main juridical basis for law enforcement against online gambling perpetrators.

> "Every Person knowingly and without rights distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents that have gambling content."

From the provisions of this paragraph, it can be understood that there are four main terms that are the main indicators in determining the existence of unlawful acts related to online-based gambling practices. The four terms are "distribute", "transmit", "make accessible", and "publicly known". These keywords serve as parameters to assess whether an

[11] Barda Nawawi Arief, 2005, Community Crimes, Raja Grafindo, Semarang, p. 101-102

[12] Mustafa Abdulla and Ruben Achmad, 1983, Intisari Hukum Kriminalana, Ghalia Indonesia, Jakarta, P. 30

[13] Wirjono Prodjodikoro, Principles of Criminal Law in Indonesia, Eresco, Bandung, p. 55

[14] Moeljatno, 2008, Principles of Criminal Law, Rineka Cipta, Jakarta, p. 61

[15] Ibid

action related to online gambling has met the elements prohibited by laws and regulations. Thus, understanding the meaning of each of these terms is crucial in interpreting the scope of the prohibition as stipulated in Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions. Therefore, a description of the purpose and explanation of each keyword is important to be presented in order to provide a comprehensive picture of how the elements of online gambling crimes are constructed in positive legal provisions.

1. Distribute

What is meant by "distributing" is sending and/or disseminating Electronic Information and/or Electronic Documents to many People or various parties through the Electronic System.

2. Transmit

What is meant by "transmitting" is sending Electronic Information and/or Electronic Documents that are sent to other parties through the Electronic System.

3. Make it accessible

What is meant by "making accessible" is all other acts other than distributing and transmitting through the Electronic System that cause Electronic Information and/or Electronic Documents to be known to other parties or the public.

4. Known to the public

What is meant by "public knowledge" is to be able or so accessible to a large group of people who mostly do not know each other.

The meaning contained in Article 27 paragraph (2) in principle emphasizes that acts that are included in the category of gambling through electronic media include the act of offering or providing opportunities for others to carry out gambling activities, making it a source of income, providing means for the public to participate in gambling games, or participating in the implementation of these activities. By paying attention to the normative formulation in the article, it can be identified that the provisions contain two groups of elements, namely subjective elements and objective elements.

The subjective element is an element related to the mental state or mental attitude of the perpetrator of a criminal act. In this context, the subjective element is reflected through the phrase "everyone on purpose", which contains two important meanings. First, there is a conscious will of the perpetrator to distribute, transmit, or disseminate information and electronic documents that contain elements of gambling. Second, the perpetrator also has knowledge that his act can open access for other parties to obtain or view electronic content that contains gambling, so that the action is carried out not due to negligence, but with full awareness.

On the other hand, the objective element is part of a criminal act that is outside the perpetrator and is related to the actual action committed. The objective element in this article appears first through the phrase "without the right to distribute or transmit", which means that a person is deemed to meet this element if it is proven to have disseminated or transmitted gambling information without having permission or authorization from the competent authorities to carry out such acts. Furthermore, the second objective element is reflected in the provision "making accessible information and/or electronic documents that have gambling content", which indicates that the perpetrator must be proven to have committed an act that directly or indirectly causes another person to gain access to digital information containing gambling activities.

Thus, both subjective and objective elements work simultaneously to determine the fulfillment of criminal acts as referred to in Article 27 paragraph (2) of the ITE Law as amended in 2024.

The reading of Article 45 paragraph (3) of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions reads, namely:

"Any person who deliberately and without rights distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents that have gambling content as referred to in Article 27 paragraph (2) shall be sentenced to imprisonment for a maximum of 10 (ten) years and/or a maximum fine of Rp 10,000,000,000.00 (ten billion rupiah)."

Based on the provisions of the article that regulates the prohibition of gambling, it can be understood that an action can only be subject to criminal liability if there is a legal rule that expressly regulates it. In other words, if someone commits an act that is classified as a gambling crime, then the law enforcement process can only be carried out based on the provisions of the applicable criminal laws and regulations at the time the act is committed. This is in line with the principle of legality which emphasizes that no act can be punished without a legal basis that precedes it.

From the perspective of the application of criminal sanctions, there are a number of crucial aspects that must be considered so that law enforcement can run effectively. One of the most important aspects is the existence of institutions that have clear authority and adequate competence to enforce the sanctions. In addition, the attitude of law enforcement officials must also be consistent, act firmly, uphold the principles of justice, and not discriminate against anyone. This consistency and firmness are the main foundations in ensuring that the application of criminal sanctions for gambling acts can take place objectively, transparently, and in accordance with the principles of the state of law.

Every crime basically always starts from the will or intention of the perpetrator, which then encourages a person to commit actions that violate the provisions of the law. In the context of law enforcement in Indonesia, various social problems inherent in society encourage the need for a more transformative approach, so the idea of using progressive law as a new paradigm to improve the way the legal system works to be more responsive to evolving realities emerges.

Online gambling acts carried out by individuals are a form of unlawful acts that are expressly prohibited in the Indonesian legal system. To regulate these acts, Indonesia applies the principle of lex specialis derogat legi generali, which is a special provision that overrides general rules. Therefore, the enforcement of online gambling crimes does not only refer to the general criminal provisions contained in the Criminal Code, but more specifically refers to Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions, which specifically regulates digital activities including online gambling.

The application of the more specific legal rule reflects the development of legal theories and principles that demand flexibility and adaptability to technological advances and societal changes. By using more specific provisions, law enforcement is expected to be more effective, on target, and able to accommodate the dynamics of modern civilization that continues to develop

The existence of elements in a criminal act serves to determine whether or not a person can be held accountable for their actions, including in online gambling cases. These elements are the basis for the imposition of sanctions because criminal law can only be applied if it is proven that there are real actions taken by the perpetrator. This is in line with the principle of legality which states that an individual cannot be punished if he does not commit an act that has been clearly determined as an unlawful act by laws and regulations. Regulations regarding criminal liability for perpetrators of online gambling crimes in Indonesia are specifically outlined in Law Number 1 of 2024 concerning the Second

Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions. The provision is designed as a legal instrument that provides certainty and the basis for enforcement of all forms of gambling activities carried out through electronic media.

Furthermore, the enactment of the law has preventive and repressive purposes. In terms of prevention, this regulation is expected to be able to reduce the number of public involvement in online gambling practices by providing strict legal limits. Meanwhile, from the aspect of enforcement, this law provides a basis for law enforcement officials to impose criminal sanctions not only on perpetrators who directly engage in gambling, but also on those who facilitate, disseminate, or distribute content containing gambling. Thus, the overall arrangement is expected to be able to create a safer digital environment and in line with the legal values that apply in Indonesia.

2. Legal Consequences for Perpetrators of Online Gambling Crimes in Indonesia

The law that is the first legal basis for regulating activities in cyberspace in Indonesia is Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE Law). This regulation is seen as a legal tool that has a very wide range of regulation because it covers various aspects of the use of information technology, digital communication, and interaction in cyberspace. However, in its implementation, there are still a number of provisions, especially those related to the formulation of cybercrimes, which are not fully clear, and there are even certain parts that are considered to have not provided adequate regulation. This condition shows that although the ITE Law functions as the main legal umbrella in the digital world, improvements are still needed so that all aspects of crime in cyberspace can be dealt with comprehensively and do not create a gap in norms.

The content of the first cyber law in Indonesia, known as Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions, adheres to 2 (two) regulatory models, namely:

1. Regulations that favor the strict separation of legal materials so that the regulations made are narrow and specific to certain sectors only.
2. Arrangements that are comprehensive in the sense that the regulated content includes a wider range of things adapted to the needs that currently occur.

Broadly speaking, the main materials are summarized as follows:

1. Principles and Objectives.
2. Information, documents and electronic signatures; In this case, electronic signatures are recognized to have the same legal force as conventional signatures (wet ink and stamped).
3. Electronic Certification and Electronic Systems Operator.
4. Recognized electronic evidence has the same legal force as other evidence recognized in the Criminal Code.
5. Electronic Transactions (e-commerce).
6. Domain name arrangement, Intellectual Property Rights and protection of personal rights.
7. The prohibited acts, described in Chapter VII (articles 27 to 37) include: (a) Article 27 (immorality, gambling, insult, extortion). (b) Article 28 (False and Misleading News, Hate and Hostility News) (c) Article 29 (Threats of Violence and Intimidation) (d) Article 30 (Access to Computers of Others Without Permission, Cracking) (e) Article 31 (Wiretapping, Alteration, Removal of Information) (f) Article 32 (Transfer, Destruction and Disclosure of Confidential Information) (g) Article 33 (Viruses, Making Systems Not Work)

(h) Article 35 (Making as if it were an Authentic Document).
8. Dispute resolution.
9. The role of the government and the role of the community.
10. Investigation.
11. Criminal provisions.

The enactment of Law Number 1 of 2024 as the second amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions, one of which aims to provide a firm legal basis for the practice of Online gambling. The use of the law is a form of juridical consequences that arise when a legal action or event occurs in society. What is meant by legal consequences is all the consequences determined by the legal system for an act, circumstance, or deed carried out by the subject of the law. Thus, when a person is involved in online gambling activities, this law serves to create an appropriate legal response, both in the form of determining criminal liability and imposing sanctions in reaction to the unlawful act.[16]

According to Jazim Hamidi. The word legal impact / legal effect contains the meaning of a direct legal impact or consequence directly, strongly, or explicitly. In the literature of law, three types of legal consequences are known, which are as follows:[17]

1. Legal consequences in the form of the birth, change, or disappearance of a certain legal state;
2. Legal consequences in the form of the birth, change, or disappearance of a certain legal relationship;
3. Legal consequences in the form of sanctions, which are not desired by the subject of the law (unlawful acts)

Based on the juridical consequences arising from the enactment of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions, a pattern of handling and countermeasures for online gambling crimes has been formed. This pattern emerged as a form of direct implementation of the legal framework and normative standards that have been set by the law. With this legal umbrella, every action related to Online gambling gains certainty regarding how the perpetrator will be criminally accountable.

As a result of the act that is classified as an electronic-based gambling crime, the perpetrator is then sanctioned through the provisions as stated in Article 27 paragraph (2) of Law Number 1 of 2024 which is read together (jo.) with Article 45 paragraph (3) of the same law. This provision is the main legal basis in determining the form of criminal liability and the type of punishment that can be imposed on online gambling perpetrators.

1. Prison Sentence Online gambling activities are prohibited activities, the punishment for those who violate is punishable by a maximum prison sentence of 10 years. The provision of punishment aims to provide a deterrent effect to the perpetrators and prevent others from being involved in online gambling.
2. Fines In addition to provisions in the form of punishments, online gambling perpetrators are subject to fines worth a maximum of Rp. 10,000,000,000 (ten billion rupiah).[18]

[16] A. Ridwan Halim, (1985), Introduction to Law in Q&A, Jakarta: Ghalia Indonesia, p. 30

[17] Jazim Hamidi, 2006, Indonesian Legal Revolution: The Meaning, Position, and Legal Implications of the Proclamation of August 17, 1945 in the Indonesian Constitutional System, Constitution Press & Citra Media, Yogyakarta, p. 200.

[18] Why Online Gambling Is Still Rampant Even though There Are Criminal Rules, https://theconversation.com/mengapa-judi-Online-masih-marak-meskipun-sudah-ada-aturanpidananya-213736, Accessed December 2, 2025, at 23:00 WIB.

Efforts to tackle online gambling practices must be carried out through a comprehensive approach, namely by combining penal (through criminal law mechanisms) and non-penal (through preventive measures outside the criminal realm). Basically, the law must not only exist, but must also be applied and enforced effectively. Therefore, the application of the law must be able to bring real benefits and provide useful value for the wider community.

In the context of protecting human interests, the law enforcement process should ideally be carried out in an orderly, reasonable, and non-noisy condition, so that the legal goals in the form of order and certainty can be achieved. Thus, the countermeasures of online gambling crimes through penal channels can be realized through the application of criminal sanctions as stipulated in Article 303 and Article 303bis of the Criminal Code (KUHP), as well as more specific provisions regarding electronic-based gambling activities as stated in Article 27 paragraph (2) of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Transactions Electronic.

Tackling the crime of online gambling in the community, it needs to be done through the following three components:

1. Legal Structure

The function of the legal structure in handling criminal legal acts can be applied to Online gambling offenses to prevent offenders and stop others from committing the same crime. Additionally, public outreach programs and media coverage regarding the features and risks of Online gambling can help raise awareness of the activity, which often deceives people by promising quick and easy money.

2. Legal Substance

Legal substance is the legal norms or legal material outlined in the relevant laws and regulations. The regulation of the crime of online gambling in Indonesia has been formulated in Article 303 and Article 303 bis of the Criminal Code, and Article 27 Paragraph (2) and Article 45 paragraph (3) of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions. But unfortunately, the legal instrument in the Criminal Code to tackle the crime of online gambling is no longer in accordance with the legal conditions that take place in today's society.

3. Legal Culture

The way society views the applicable law is known as its legal culture. Legal culture refers to how society behaves and values the legal system, which can influence how the law is applied, ignored, or abused. There needs to be a change in the culture of Indonesian society which often encourages the accumulation of wealth quickly and easily. The public should not fall victim to Online gambling scams. Therefore, legal education is needed that aims to foster public knowledge of the law so that individuals are aware of the legal prohibitions related to Online gambling and what penalties they may face if they violate the prohibition.[19]

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