

LAW ENFORCEMENT AGAINST ONLINE GAMBLING CRIMINAL OFFICERS BASED ON THE THEORY OF JUSTICE

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Abstract

Online gambling is one of the negative impacts in the form of cybercrimes, which can be considered a cybercrime. Cybercrimes, especially online gambling, must be prevented or eradicated. Law enforcement efforts are needed to prevent and eradicate these crimes so that they are not increasingly rampant. Therefore, further research will be conducted on how online gambling criminal acts are regulated based on Indonesian laws and regulations, and how law enforcement against online gambling criminal actors is based on the theory of justice. The research method used in this research is the normative juridical research method. From the research results, it was found that the regulation of online gambling criminal acts based on Indonesian laws and regulations, conventional gambling in Indonesia has the potential to cause social and financial risks for players and the surrounding community. Basically, online gambling is a prohibited act in Article 27 paragraph (2) of Law 1/2024. referring to gambling provisions in terms of offering or providing opportunities for gambling games, making it a livelihood, offering or providing opportunities to the public to gamble, and participating in companies for that purpose. Then, people who violate the provisions of Article 27 paragraph (2) of Law 1/2024 are potentially sentenced to a maximum of 10 years in prison and/or a maximum fine of Rp10 billion, as regulated in Article 45 paragraph (3) of Law 1/2024. Article on Gambling in the Criminal Code, For information, in addition to being regulated in Law 1/2024, gambling crimes are also regulated in Article 303 and Article 303 bis of the Criminal Code and Article 426 and Article 427 1/2023 concerning the new Criminal Code and law enforcement against online gambling criminal actors based on the theory of justice, law enforcement against online gambling crimes based on the theory of justice will produce effective and fair law enforcement, and pay attention to the balance between strict law enforcement and respect for human dignity. From the research results for improvement, it is hoped that a new law will be made regarding online gambling crimes in the Criminal Code, laws and regulations, government regulations, Minister of Law and Human Rights regulations, and law enforcement against online gambling criminal actors must be firm and fair in the form of criminal sanctions while still paying attention to human rights.

Keywords : Online Gambling, Crime, Perpetrators, Law Enforcement

INTRODUCTION

Gambling is a deliberate wager, risking a value or something considered valuable, with awareness of risks and certain speculative expectations from game events, matches, races, and events with uncertain outcomes. This gambling practice is not only carried out in conventional ways such as card gambling, animal gambling, number guessing, and others (Prodjodikono, 1986). Kartini Kartono defines gambling as a deliberate wager, risking a value or something considered valuable, with awareness of risks and certain expectations from events, games, matches, races, and events with uncertain outcomes (Kartono, 2014). Generally, gambling is an act that contradicts religion, decency, and the Pancasila moral code, and can harm society, the nation, and the nation's survival. Gambling is included in criminal law as a form of crime against morality and causes moral and psychological harm, especially to the younger generation. The development of information technology has not only created a global world but has also developed a new sphere of life for society, namely virtual community life.

Cybercommunity is a life of human society that cannot be directly perceived through human senses, but can be felt and witnessed as a reality (Bungin, 2011). The development of technology and information that is not balanced with a mindset will result in losses for oneself, one of which is gambling. Gambling can shift to a more practical and safe online platform. Online gambling is increasingly prevalent in society.

Online gambling has influenced many people to gamble. Online gambling is carried out by young people, even parents (Darmadi & Purwani, 2019). Gambling has a major impact on people's lives, both in economic and social aspects. The concept of online gambling is a new concept. In criminal law, the concept of online gambling can be categorized as a special crime, in this case, an Information and Electronic Transaction (ITE) crime or cybercrime. Online lottery gambling is a criminal act that involves wagering money. The lottery coupon tool contains numbers that will be wagered with money (Kartono, 2014). Lottery is a form of underground toto game, a form of game by betting money by guessing the numbers that will come out.

The process of playing online lottery gambling is through registration with a trusted online lottery gambling agent. To carry out the registration process, all requirements must be fulfilled before the account is accepted. Then, funds or capital are entered to carry out online gambling through a bank. Regulations governing conventional gambling are found in Article 303 paragraphs (1) to (3) and Article 303 bis paragraphs (1) and (2) of the Criminal Code. Online gambling is regulated in Article 27 paragraphs (1) and (2) of Law Number 11 of 2008 concerning Electronic Information and Transactions as amended by Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (Chazawi, 2015).

Then, it was partially revoked by Law Number 1 of 2023 concerning the Criminal Code and lastly amended by Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions.

Gambling is generally carried out to gain profit. If the bet is won, the greater the money or goods wagered, the greater the money earned. Online lottery gambling is also played and has a dangerous impact on society. The impact of online gambling on society is detrimental to the moral, material, and mental aspects of society. One of the conveniences found in online lottery gambling is that it can be played anytime and anywhere. There is no need to go to a special place to fulfill their needs. Online lottery gambling bookies are spread across the internet operating 24 hours. In addition, this online lottery gambling game is run in internet cafes, wifi spots using cellphones or computers.

Payment transactions have used online methods by sending through SMS Banking. Online gambling perpetrators utilize information and communication technology as a means

of modern gambling (Ramli, 2004). Information and communication technology has changed people's behavior and human civilization globally. The development of information technology has caused the world to become boundless and caused significant social changes to occur so rapidly. Information technology that uses computers in a wide-scale network will certainly be a great advantage and more in demand than conventional gambling (Waney, 2016).

Information technology contributes to improving human welfare, progress, and civilization (Fahmi et al., 2005). The rapid advancement of telecommunications, media, and informatics technology or various telematics technologies and the widespread development of global information infrastructure have changed the patterns and ways of human activities (Sunarso, 2009). The benefits of information and communication technology, besides having a positive impact, are also realized to provide opportunities to be used as a means of committing new crimes (cybercrime) so that protection efforts are needed. The advancement of information technology and all its benefits bring their own negative consequences. Making it easier for criminals to carry out their actions that are increasingly troubling the community. An example of a negative consequence that occurs in the community environment is online lottery gambling. Online gambling is a cybercrime committed by someone to gain profit or not by harming others (Suhariyanto, 2012). As a cybercrime, online gambling is an attempt to enter or use computer facilities or computer networks without permission and against the law or without causing changes or damage to the computer facilities entered or used. These criminal activities utilize computers as a medium supported by a telecommunications system, whether a dial-up system, using telephone lines, or a wireless system using special wireless antennas (Dikdik, Mansur & Elisatris, 2005).

In principle, cybercrime includes all criminal acts related to information systems, the information systems themselves, and communication systems that are a means for delivering or exchanging information with other parties. Computers are used as a tool for collecting and storing data that can be used to commit conventional crimes. However, in further developments, computer crimes have also been carried out on an internet basis (Amar, 2017). The development and advancement of information technology that is so rapid has caused changes in human life activities in various fields that have directly influenced the birth of new forms of legal acts. The above description shows that the presence of sophisticated technology and the internet network has a major impact on aspects of people's lives, both positive and negative impacts. Online gambling is one of the negative impacts in the form of cybercrime that can be said to be cybercrime (Budhijanto, 2010). Cybercrime, especially online gambling, must be prevented or eradicated. Law enforcement efforts are needed to prevent and eradicate these crimes so that they are not increasingly played.

Conceptually, law enforcement is an activity to harmonize the relationship of values described in rules. Gambling uses transactions through electronic means, so gambling crimes using the internet, which are classified as cybercrimes, require cyber law enforcement (Irfan & Masyrofah, 2013).

Crime is basically a relative formulation. Mustafa said that what is called crime as a social symptom is not merely an act prohibited by law, an act that is a biological abnormality or a psychological abnormality, but these acts are detrimental and violate community sentiment (Mustafa, 2007). As a narcotics crime that has long been an enemy of the nation, narcotics are now very worrying for our nation and all nations in the world today. The production and distribution of narcotics are so massive in our society. The role of narcotics mafia seems unstoppable. Several indications show that narcotics crime is an extraordinary crime. Starting from the problems mentioned above, the author is interested in conducting further research in the form of a thesis, with the title "Law Enforcement Against Perpetrators of Online Gambling Crimes Based on the Theory of Justice".

RESEARCH METHODS**1. Type of Research**

In writing this thesis, the research method used by the author is the normative legal research method (normative juridical research). Normative legal research or library legal research is legal research conducted by examining library materials or secondary data only. This normative legal research or library legal research includes research on legal principles and research on the level of vertical and horizontal synchronization (Subagyo, 2004).

2. Research Approach

With a legal research approach, researchers will obtain information from various aspects regarding the issue being tried to find an answer. In relation to normative research, several approaches can be used. In relation to normative research, several approaches can be used in this research, namely the statute approach (legislation approach). The legislation approach (statute approach) is carried out by studying the ontological basis of the birth of legislation, the philosophical foundation of legislation, and the ratio legis of the provisions of legislation relating to law enforcement against perpetrators of online gambling crimes based on the theory of justice.

3. Type of Research Data

The type of data used in this research is secondary data. Secondary data is data obtained from the results of library research or research on various literatures or library materials related to research problems or materials (Fajar & Achmad, 2015).

4. Data Collection Technique

The data collection technique used in this research is Library Research. This research is carried out by collecting library materials, in the form of primary, secondary, and tertiary legal material sources, relating to legislation and Court Decisions relating to the problems to be researched.

5. Source of Legal Materials

The secondary data used in this research is obtained from the source of legal materials. The source of legal materials consists of the following:

1. Primary Legal Materials, namely materials that have binding legal force, in the form of normative data sourced from legislation.
2. Secondary Legal Materials, Materials that provide explanations regarding primary legal materials such as research results, implementing regulations and books, which can be used as guidelines for this research.
3. Tertiary legal materials, namely materials that provide instructions on primary legal materials and secondary legal materials, including dictionaries, journals and internet media.

6. Data Analysis Technique

The data analysis technique used is a qualitative analysis method, namely by deepening and comparing the implementation of legislation in practice. Qualitative research is an investigation process to understand social problems based on creating a complete holistic picture formed by words, reporting informant views in detail, and arranged in a natural setting (Silalahi, 2009).

The qualitative approach used by the author aims to understand or understand the phenomena studied. Analytical descriptive research is a research intended to provide data as accurately as possible (Silalahi, 2009). Furthermore, to draw conclusions, a deductive technique is used where the collected data is processed selectively and systematically, and then a special

final conclusion is drawn which is a crystallization of the results of data analysis from the research, without using statistical formulas (Silalahi, 2009).

RESULT AND DISCUSSION

A. Regulation of Online Gambling Crimes Based on Legislation in Indonesia

Gambling can be done conventionally and also online. Conventional gambling is a form of gambling that is carried out directly in places such as casinos, gambling houses, horse racing arenas, and other places specifically provided for gambling. Players can place bets by directly handing over money or chips to the bookie, and if they win, they will immediately receive payment in the form of cash or cashable chips. In Indonesia, conventional gambling is prohibited by law based on Law Number 7 of 1974 concerning Gambling Control. As a result, there are no official casinos, horse racing arenas, or other gambling places allowed to operate in Indonesia (Hambali, 2019).

However, in some big cities, such as Jakarta, there are several places known as gambling venues, known as "gambling houses." Gambling houses often provide games such as dice, cards, and slot machines. Usually, gambling houses operate in poorly maintained environments, or in old buildings and hidden from public view. Some gambling houses may even operate under the umbrella of protection from members of the police or local government officials. Gamblers in gambling houses usually bet using cash, and if they win, they will receive payment in cash as well. Many gamblers in Indonesia believe in certain rituals or amulets that are believed to bring luck in gambling (Nugroho, 2018). Although conventional gambling is prohibited, gambling still often occurs in Indonesia and becomes a serious social problem. The police and other authorities regularly conduct raids and enforcement operations against gambling houses, but because they sometimes involve strong networks, conventional gambling continues to operate in some areas of Indonesia. In conclusion, although conventional gambling is prohibited by law in Indonesia, there are still a number of gambling houses operating in several areas of Indonesia. Conventional gambling in Indonesia has the potential to cause social and financial risks for players and the surrounding community. Basically, online gambling is an act prohibited in Article 27 paragraph (2) of Law 1/2024, which reads as follows:

"Every Person who intentionally and without rights distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents that contain gambling content." From the wording of Article 27 paragraph (2) of Law 1/2024, there are several explanations of the elements, as follows:

1. Distributing is sending and/or disseminating electronic information and/or documents to many people or various parties through electronic systems.
2. Transmitting is sending electronic information and/or documents intended for other parties through electronic systems.
3. Making accessible is all other actions besides distributing and transmitting through electronic systems that cause electronic information and/or documents to be known to other parties or the public.

Then, what is meant in Article 27 paragraph (2) of Law 1/2024 above refers to the provisions of gambling in terms of offering or providing opportunities for gambling games, making it a livelihood, offering or providing opportunities to the public to gamble, and participating in the company for that purpose. Then, people who violate the provisions of Article 27 paragraph (2) of Law 1/2024 are potentially sentenced to a maximum of 10 years in prison and/or a maximum fine of Rp10 billion, as regulated in Article 45 paragraph (3) of Law 1/2024. Gambling Article in the Criminal Code, For information, besides being regulated in Law 1/2024, gambling crimes are also regulated in Article 303 and Article 303 bis of the Criminal Code and Article 426 and Article 427 1/2023 concerning the new Criminal

Code which is valid 3 years from the date of enactment, 159 namely 2026. The following is the wording of Article 303 and Article 303 bis of the Criminal Code:

Article 303

- (1) Threatened with a maximum imprisonment of 10 years or a maximum fine of Rp25 million, anyone who without permission: intentionally offers or provides opportunities for gambling games and makes it a livelihood, or intentionally participates in a company for that purpose:
 1. intentionally offers or provides opportunities for gambling games and makes it a livelihood, or intentionally participates in a company for that purpose;
 2. intentionally offers or provides opportunities to the general public to gamble or intentionally participates in a company for that purpose regardless of whether to use the opportunity of a condition or fulfillment of a procedure;
 3. making participation in gambling games a livelihood.
- (2) If the guilty person commits the crime in carrying out his livelihood, then his right to carry out that livelihood can be revoked.
- (3) What is called a gambling game is every game, where in general the possibility of getting profit depends on mere luck, also because the players are more trained or more skilled. This includes all bets on the decisions of competitions or other games that are not held between those who participate in the competition or play, as well as all other bets.

Article 303 bis

- (1) Threatened with a maximum imprisonment of 4 years or a maximum fine of Rp10 million:
 1. anyone who uses the opportunity to gamble, which is held in violation of the provisions of Article 303;
 2. anyone who participates in gambling on public roads or on the side of public roads or in places that can be visited by the public, unless there is permission from the competent authority that has given permission to hold the gambling.
- (2) If when committing the violation it has not been 2 years since a fixed conviction for one of these violations, a maximum imprisonment of 6 years or a maximum fine of Rp15 million can be imposed.

Furthermore, gambling crimes in Law 1/2023 read as follows:

Article 426

- (1) Punished with a maximum imprisonment of 9 years or a maximum fine of category VI, namely Rp2 billion; Anyone who without permission:
 - a. offering or providing an opportunity to gamble and making it a livelihood or participating in a gambling company;
 - b. offering or providing an opportunity to the public to gamble or participating in a gambling company, regardless of whether there is a condition or procedure that must be fulfilled to use the opportunity; or
 - c. making participation in gambling games a livelihood.
- (2) If the crime as referred to in paragraph (1) is committed in carrying out a profession, additional punishment can be imposed in the form of revocation of rights as referred to in Article 86 letter f.

Article 427

Anyone who uses the opportunity to gamble held without permission is punished with a maximum imprisonment of 3 years or a maximum fine of category III, namely Rp50 million. There are two main categories in online gambling based on the transaction process (Mulyadi, 2014). First, online gambling with a direct transaction system is a gambling activity that is carried out online using game applications that are similar to conventional gambling in the real world.

This application, although only used for entertainment, cannot be stopped by the authorities because they only function as a means of entertainment without clear gambling

elements. Games that should be recreational are often misused for gambling activities, with applications such as casinos being one of the most commonly used. This phenomenon began to spread since the beginning of 2008, initially only favored by a handful of people, but as time went on, public interest increased rapidly, even becoming a large industry with the existence of online gambling bookies.

This online gambling grows along with the development of the internet. The second category is the online gambling model with a deposit system that has developed since 2010, which does not involve real money but virtual money. These online gamblers transfer funds to the admin's account, which are then converted into virtual currency in the game. This online gambling is more in demand because it is specifically aimed at gambling activities. The systematization of this gambling allows players to feel safer, because they use transaction methods that have been developed in such a way that players can use services at banks that cooperate with online gambling admins.

The online gambling that is currently developing is accompanied by rapid developments in the world of information technology where gambling crimes then become cybercrime problems in cyberspace. With all its sophistication, various modern crimes have a greater impact than conventional crimes in general. So in facing this development it must involve various parties with different territorial jurisdictions, times, countries, governments, and legal systems which raises a question whether cases can still be resolved nationally and whether there is a need for efforts to change international conventions in following up on these legal violations (Maria, 2014).

B. Law Enforcement Against Perpetrators of Online Gambling Crimes Based on the Theory of Justice

Online gambling crimes are socially and economically detrimental acts, and law enforcement against perpetrators must be carried out by considering the perspective of the theory of justice. Online gambling, which offers various games with promises of financial gain, is increasing. Repeatedly, these gambling activities are even played by school children or students who use their pocket money to gamble online. Perpetrators use smartphones and small amounts of money to try their luck in gambling. However, in the long term, online gambling games can become addictive and potentially cause criminal behavior that harms the surrounding environment. Therefore, it is important to combat the rampant online gambling crimes today to prevent the emergence of inconvenience in society (Fortuna, 2023). Online gambling is one of the cybercrimes that are rampant in Indonesia. Based on information provided by the Financial Transaction Reports and Analysis Center (PPATK), around 157 million online gambling transactions were conducted in Indonesia in the 2017-2022 period. The total value of money circulating in these transactions reached Rp190 trillion. These online gambling cases not only harm the community financially but also have a negative impact on the social and economic order of a country. The goal of law enforcement is to create a fair concept, legal certainty, and benefits felt by the community.

The implementation of this ideal is a fundamental aspect of upholding the law. Because, to achieve fairness, certainty, and obtain benefits, cooperation is needed. Effective management of cybercrime requires a collective commitment from all stakeholders, given that information technology, especially the internet, has played an important role in fostering an information-based society. If the basic principles of law enforcement include the ideals of justice and truth, then law enforcement is not merely the responsibility of traditionally recognized law enforcement officers, but a task that is the responsibility of every individual.

Law enforcement is a multifaceted procedure. Because, to succeed in upholding justice, several factors need to be influenced. The impact on law enforcement does not come from within law enforcement itself, but from the collective awareness of society. It is important for everyone to be aware and informed for progress to enforce the law in line with the understanding of the community regarding the prohibition of gambling (Oktariani, 2023).

To uphold the principles of fairness and justice as stated in Law 1/2024, these actions are carried out by law enforcement officials, namely the Indonesian National Police, which are divided into two ways, namely preventive and repressive.

1. Preventive Measures

Enforcement by preventive means refers to the proactive application of the law by law enforcement officials to eliminate acts of violation and/or other crimes. This includes special obligations and authorities to prevent these incidents, as well as broader efforts from all entities in the legal system involved in preventing violations or crimes (Harapan, 2018). The police in Indonesia are taking action to eliminate internet gambling sites, including conducting cyber patrols. Twenty-three Even so, it is true that there are some sites that are difficult to identify and hide. The community plays an important role in eliminating online gambling sites in this scenario (Marlando, 2014).

2. Repressive Measures

Preventive law enforcement refers to the proactive application of the law by law enforcement officials to prevent violations or crimes. This includes special obligations and authorities to prevent these incidents, as well as broader efforts from all entities in the legal system involved in preventing violations or crimes (Rahardjo, 2003). The police in Indonesia are taking action to eliminate internet gambling sites, including conducting cyber patrols. However, it is true that there are some sites that are difficult to identify and hide. The community plays an important role in eliminating online gambling sites in this scenario. Police efforts cannot be separated from obstacles to law enforcement against internet gambling violations that are assessed based on factual evidence.

Criminal acts that utilize technological media and penetrate cyberspace, including fraud, embezzlement, theft, gambling, and so on, are carried out directly by utilizing their energy and thoughts. To overcome this problem, the police of the Republic of Indonesia are making various efforts to take firm action against online gambling cases that are rampant in people's lives (Hernanda, 2020). In the theory of justice is a science, in this case, legal science. As a legal science, the scope of the theory of justice can be seen from the structure or layers in legal science which include philosophy of law in the first place, the second layer contains legal theory, the third layer contains jurisprudence, while the fourth structure or layer contains law and legal practice (Prasetyo & Barakatullah, 2015).

The goal of law in the theory of justice emphasizes justice, which is interpreted as the achievement of law that humanizes humans. Justice in the sense of building awareness that humans are noble creations of God Almighty, is not the same as Western views, for example, developed by Thomas Hobbes, that humans are animals, political animals, wolves, who are ready to prey on fellow wolves in life, including political, economic, social, cultural life and so on (Prasetyo, 2015). Law enforcement in online gambling cases must prioritize the principle of proportionality of punishment, which means that the sanctions given to perpetrators must be proportional to the level of their violation. The law applied certainly should not be too light and not too heavy for the perpetrators of this violation.

In tracing various online gambling cases in Indonesia, there have been 157,000,000 (one hundred and fifty-seven million) online gambling transactions with a total money turnover of Rp. 190,000,000,000,000,- (one hundred and ninety trillion rupiah). This figure was revealed in an analysis of 887 parties related to online gambling. This shows that

online gambling cases are very difficult to eradicate due to the network of gambling bookies, in addition to the development of technology that is often misused by irresponsible individuals (Eka, 2020). In addition, law enforcement must also aim to protect the wider community 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, a law enforcement approach to online gambling crimes based on the theory of justice will result in effective and fair law enforcement, and pay attention to the balance between strict law enforcement and respect for human dignity.

Although there is an impression that the scientific aspects of the dignified theory of justice are clearly separated from each other, basically the layers of legal science form a unified systemic whole, interact, and live in the same system. This entire system is then interconnected, works together, and contributes significantly to a system. In this context, the dignified theory of justice is considered a tool used to uphold human dignity before the law.

In the era of the development of science and technology, tools are often equated with digitization. The theory of justice, as a tool, is the result of human work created to enhance human dignity which in its application by uniting aspects of legality and ethics such as values and morality in all legal rules that are applied in the system. The use of the theory of justice is seen in the formation of laws and regulations, judge's decisions, and legal doctrines developed in the Indonesian legal system because this theory seeks to understand legal justice as the right of freedom for everyone to determine what they want to do as long as it does not violate the rights of others.

The goal of using this theory is that not only the inventor can use it, but also others. As a concrete system, the theory of justice functions as a harmonizer of legal principles with human rights that are connected with universally applicable values both nationally and internationally.

The Indonesian legal system is seen as a unity consisting of various elements that interact and work together to achieve overall goals so that the principles of this legal system make the legal system dignified. Although basically the answer to every problem that arises in the legal system is in the system itself, the legal system is considered an open and tolerant system.

The theory of justice is seen as dignified because it considers the Indonesian positive legal system as a system that is tolerant of the five major legal systems and traditions that have been developed by humans. Given its tolerant nature of these various major legal traditions, the Indonesian legal system is considered a complex and broad system of rules (Margono, 2019).

In the form of law enforcement for online gambling perpetrators, when viewed from the perspective of a dignified legal theory, the prosecution of this crime case must pay attention to the interests of the perpetrators as humans who have human rights. If there is sufficient evidence, individuals who commit online gambling crimes can be faced with relevant articles, such as Article 27 paragraph (1) and Article 45 paragraph (1) of Law 1/2024 which regulate the dissemination of electronic information that violates the law or harms others.

In addition, perpetrators can also be prosecuted under Article 303 of the Criminal Code which regulates gambling. The police can cooperate with other agencies, such as the Ministry of Communication and Informatics, to improve supervision and prosecution of online gambling. This law enforcement effort is carried out by the police because it relates to aspects of state order and security (Manulu, 2019).

Online gambling actions are usually carried out by accessing certain websites. The type of gambling also depends on the offers from the website accessed by the perpetrator. Then there will be a website display where the gambling perpetrator will be asked to enter the number to be drawn by entering a certain amount of money used in online gambling. Each number entered will be charged a fee, while if the perpetrator wins, they will get a sum of money that will be sent through the perpetrator's bank account (Tri, 2021).

In this game, the perpetrator does not require any expertise and does not need to access permission from the authorities so that this online gambling act can be subject to criminal sanctions under Article 303 bis Paragraph (1) of the applicable Criminal Code. In determining the punishment for online gambling perpetrators, law enforcement officials must collect evidence in the form of gambling accounts and all equipment used.

Seen from the elements of conventional gambling crimes in Article 303 of the Criminal Code, it is certainly different from online gambling, where conventional gambling emphasizes more on the elements of player habits and abilities, not based on luck alone. However, both conventional and online gambling have the element of betting in them, which makes the game have an object that is benefited and an object that is harmed. The elements in online gambling can be seen in Article 27 Paragraph (2) of Law 1/2024 which includes: 1. Every person 2. Intentionally and without rights Distributing/transmitting/making accessible electronic information containing gambling content. While in Article 303 Paragraph (1) number 3, the Criminal Code which regulates gambling is as follows: 1. Every person. 2. Without rights. 3. Participating in gambling as a business.

From the two articles above, it is clear that gambling as a form of crime, especially in cyberspace today, can be subject to criminal charges in accordance with the applicable laws and regulations. First, intentionality based on purpose (*opzet als oogmerk*) occurs when the perpetrator intends to produce a certain consequence from his actions. The action will not be carried out by the perpetrator if he realizes that the desired consequence will not be achieved. Second, intentionality based on awareness of certainty (*opzet bij zekerheidsbewustzijn*) refers to a situation where the perpetrator certainly 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 certainly cause additional consequences. Third, intentionality based on awareness of possibility (*opzet bij mogelijkheidsbewustzijn*) is a condition where the perpetrator takes action with the intention of creating a certain consequence, but he also realizes the possibility of the emergence of other undesired consequences that are prohibited by law (Andrisman, 2009).

Online gambling is not only detrimental but also a social disease that will be difficult to eradicate without community support with public security and order organizing institutions. In online gambling, the devices used can be computers, laptops, cellphones, while to prove the truth that occurs in cyberspace is to prove access to the site used by gambling perpetrators by entering a Username and Password, and proof is done by tracking cash flow from the perpetrator's bank account.¹⁷⁸ The facts found show that the defendant's actions in participating in online lottery gambling were carried out intentionally, starting with access to the internet via a computer, then using Google to visit the *ttwiner* site. On that site, the defendant registered and entered bank account information to participate in the game.

Hoping to get profit, the defendant placed bets on certain numbers, the payment of which was deducted directly from the registered account. This whole process shows that the defendant's actions were carried out with full awareness and desire to get profit from the bets placed, not because of coercion or requests from other parties.

CONCLUSIONS

Regulation of Online Gambling Crimes Based on Legislation in Indonesia, Conventional gambling in Indonesia has the potential to cause social and financial risks for players and the surrounding community. Basically, online gambling is an act prohibited in Article 27 paragraph (2) of Law 1/2024. From the wording of Article 27 paragraph (2) of Law 1/2024, there are several explanations of the elements, as follows:

- a. Distributing is sending and/or disseminating electronic information and/or documents to many people or various parties through electronic systems.
- b. Transmitting is sending electronic information and/or documents intended for other parties through electronic systems.
- c. Making accessible is all other actions besides distributing and transmitting through electronic systems that cause electronic information and/or documents to be known¹ to other parties or the public.

Then, what is meant in Article 27 paragraph (2) of Law 1/2024 above refers to the provisions of gambling in terms of offering or providing opportunities for gambling games, making it a livelihood, offering or providing opportunities to the public to gamble, and participating in the company for that purpose. Then, people who violate the provisions of Article 27 paragraph (2) of Law 1/2024 are potentially sentenced to a maximum of 10 years in prison and/or a maximum fine of Rp10 billion, as regulated in Article 45 paragraph (3) of Law 1/2024. Gambling Article in the Criminal Code, For information, besides being regulated in Law 1/2024, gambling crimes are also regulated in Article 303 and Article 303 bis of the Criminal Code and Article 426 and Article 427 1/2023 concerning the new Criminal Code which is valid 3 years from the date of enactment, 179 namely 2026.

Law Enforcement Against Perpetrators of Online Gambling Crimes Based on the Theory of Justice, The goal of law enforcement is to create a fair concept, legal certainty, and benefits felt by the community. The implementation of this ideal is a fundamental aspect of upholding the law. Because, to achieve fairness, certainty, and obtain benefits, cooperation is needed. Effective management of cybercrime requires a collective commitment from all stakeholders, given that information technology, especially the internet, has played an important role in fostering an information-based society. If the basic principles of law enforcement include the ideals of justice and truth, then law enforcement is not merely the responsibility of traditionally recognized law enforcement officers, but a task that is the responsibility of every individual. Law enforcement is a multifaceted procedure. Because, to succeed in upholding justice, several factors need to be influenced. The impact on law enforcement does not come from within law enforcement itself, but from the collective awareness of society. It is important for everyone to be aware and informed for progress to enforce the law in line with the understanding of the community regarding the prohibition of gambling. Law enforcement in online gambling cases must prioritize the principle of proportionality of punishment, which means that the sanctions given to perpetrators must be proportional to the level of their violation. The law applied certainly should not be too light and not too heavy for the perpetrators of this violation. Law enforcement must also aim to protect the wider community 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, a law enforcement approach to online gambling crimes based on the theory of justice will result in effective and fair law enforcement, and pay attention to the balance between strict law enforcement and respect for human dignity. Although there is an impression that the scientific aspects of the theory of justice are clearly separated from each other, basically the layers of legal science form a unified systemic

whole, interact, and live in the same system. This entire system is then interconnected, works together, and contributes significantly to a system.

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Create a new law related to online gambling crimes in the Criminal Code, Legislation, Government Regulations, Permenkumham. Law enforcement against perpetrators of online gambling crimes must be firm and fair in the form of criminal sanctions while still paying attention to human rights.

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