

IMPROVING INDONESIAN LAW ENFORCEMENT AND POLICY TO COMBAT ONLINE GAMBLING

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ABSTRACT

This scientific article examines the role of law enforcement and policy development in combating online gambling in Indonesia. It analyzes the legal frameworks, enforcement tactics, and policy formulation strategies employed to address the increasing prevalence of online gambling and its societal impact. Legislative drafting, judicial interpretation, executive implementation, and evaluation influence criminal law policies regarding online gambling. Implementation focuses on law enforcement, while application centers on judicial enforcement. Preventive measures include restricting associations, establishing cyberspace security, and increasing patrols. Despite strict penalties, priority is given to prevention strategies such as improving welfare, organizational structures, and legal advice, along with increasing law enforcement personnel. Law No. 19 of 2016 on ITE Article 27 paragraph (2) asserts jurisdiction over both Indonesian and foreign entities involved in legal proceedings outside Indonesia. The study concludes that a coordinated effort among stakeholders, policy makers, and law enforcement agencies is essential to curb the growth of online gambling and safeguard the public from its adverse effects.

KEY WORD: online gambling, law enforcement, policy formulation, Indonesia, legal strategies

INTRODUCTION

Global legal systems, including Indonesia's, have become challenged by growing online gambling. Online gambling activities not only pose a threat to individuals and society. They also raise concerns about revenue leakage, money laundering

and exploitation of vulnerable groups. It is important to explore effective countermeasures for online gambling in Indonesia given the seriousness of the situation. This article aims to highlight the need for better law enforcement and policy development to address the growing popularity of online gambling in Indonesia. The diverse and pervasive nature of gambling in contemporary society, including both overt and covert forms, is explored in this article. In addition to traditional methods, the widespread use of the Internet has opened up new avenues for engaging in gambling activities. What is worrying is that some people have adopted a permissive attitude and consider gambling to be a natural and unquestioned aspect of everyday life ([Bunga, 2019](#)). Furthermore, the advent of the Internet has not only increased gambling accessibility, but also raised concerns about digital freedom of expression. This poses challenges for law enforcement and the legal environment, particularly in the area of computer crime and electronic commerce, including online gambling. There is an urgent need for comprehensive measures to address these issues, as the current state of law enforcement and legal protection in this area remains limited.

[TechAddiction \(n.d\)](#) offers fascinating insights into online casinos and gambling, revealing noteworthy details about this quickly expanding sector. In terms of psychology, "Pathological Gambling" became significant after it was identified as a clinical disorder in 1980. While the majority of people gamble sensibly, about 3% of people battle pathological gambling. Since the launch of the first internet casino, InterCasino, which offered 18 games in August 1996, tens of thousands more have popped up. Initially hesitant to participate in online gambling, traditional casinos are now developing their own platforms. Players take risks when they play at online casinos because they don't have official safety regulations. Young males make up the majority of those who play "free" online gambling, which is popular among teenagers and young adults. In 1998, PlanetPoker, the first website for playing online poker, debuted after Internet Bingo. Due to the televised World Series of Poker, online poker's popularity soared in 2003, which caused a proliferation of online poker websites. Online casino revenues are estimated to have been \$12 billion in 2005, \$15.2 billion in 2006, and a mind-blowing \$29.3 billion in 2010. It is alarming to note that one in five online gamblers may show symptoms of pathological gambling, and that 4% of teenagers struggle with problems related to gambling. These revelations added to the ongoing discussions about this dynamic sector by shedding light on the various facets of online casinos and gambling.

In relation to the proliferation of online gambling, the enlightening facts revealed indicate that the addictive nature of gambling arises from the player's constant anticipation of financial gain. If a player wins, he is encouraged to try his luck again, while if he loses, he is motivated to continue gambling in the hope of future wins. Consequently, online gamblers often resort to desperate measures, using any means necessary to acquire funds for further gambling. These can include criminal activities like theft, fraud and other illegal behavior ([Ramdhani, Fauzi, & Tiga, 2020](#)). Although preferences for certain types of gambling can be influenced by various factors ([Chóliz, 2016](#)), such as different forms of gambling having different addictive potentials ([Abbott & Volberg, 1999](#); [Binde, 2011](#)); situational factors [availability, accessibility, structural characteristics, speed/frequency of gambling] determine the addictive nature of gambling ([Griffiths, 2009](#)); in particular, online gambling has been shown to be addictive

([Griffiths, 2003](#), [LaBrie et al., 2007](#), and [Wood et al., 2012](#)). There is empirical evidence that online gamblers have higher levels of gambling addiction than traditional gamblers ([Williams and Wood, 2007b](#); [Wood and Williams, 2007a](#), [Wood and Williams, 2009](#); [Wood et al., 2012](#)). Internet gambling and mobile phone gambling have significantly increased the accessibility of gambling worldwide ([Abbott et al., 2004](#)).

Online gambling involves betting, playing and winning money online. Gamblers fund the website with their own money, are issued with tokens and have their winnings transferred to their bank accounts. Large transactions and international networks have been uncovered in investigations of online gambling cases, which has concerned law enforcement. Players sign up, are given an IP address, make a deposit and are paid out by an instructor. It has the potential to make millions every day and billions every month. In order to control the proliferation of digital technology, including illegal media expressions or websites, it is essential to address the issue of responsible legal entities in the global online gambling sector. The complexity of corporate or legal entities involved in international online gambling means that it is currently difficult to attribute liability. Consequently, no international gambling site has been held accountable as a responsible entity. Online gambling cases illustrate the negative effects of internet use, especially in Asia, where internet use is most prevalent. Under [Law No. 11 of 2008 on Electronic Information and Transactions](#), Article 27(2), online gambling is illegal in Indonesia. This clause specifically prohibits the unlawful deliberate distribution, transfer or access of electronic information or documents which include gaming content. Because it operates in the digital space, online gambling gives rise to jurisdictional complexities involving several countries. This problem is compounded by multiple IP addresses and by victims and offenders being located in different countries. There is therefore an urgent need for an in-depth study of the use of jurisdiction in the enforcement of laws against illegal online gambling. The criminal laws applicable to online gambling will also be examined in this study.

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METHODOLOGY

The research approach used in this study combines doctrinal and normative approaches. It involves an in-depth study of legislation, legal theories and basic principles relevant to law enforcement and justice ([Efendi & Ibrahim, 2018](#)). Through this strategy, the author seeks to develop practical legal theories and principles that address the pressing issues, particularly with regard to the prohibition of online gambling. These issues include law enforcement initiatives, the implementation of regulatory frameworks and the establishment of criminal sanctions in order to effectively prevent gambling activities on the Indonesian Internet network. Through this strategy, the study aims to increase knowledge of legal issues in combating online gambling in Indonesia.

RESULTS

In order to uphold the principles of fairness and justice outlined in [Law No. 19 of 2016 on Information and Electronic Transactions \(ITE\)](#), law enforcement agencies use a two-pronged strategy. First, preventive efforts, both broadly involving all agencies within the legal system and narrowly focused on preventive

duties and powers, aim to proactively stop potential violations and crimes through a variety of measures. For example, Indonesian police use cyber patrols to combat online gambling sites, but some sites remain elusive and difficult to find. Neighbourhood is crucial in the fight against online gambling.

Second, after an offence or crime has been committed, repressive measures are taken, often through the use of law enforcement agencies, to force non-compliant individuals or parties into compliance through actions such as investigation, prosecution and the imposition of sanctions. In terms of repressive measures, the police have a key role to play in the arrest of offenders, the conduct of investigations and the prosecution of those who engage in online gambling. It is still difficult for the police to locate online gambling networks because these activities take place across national borders and involve actors from different legal systems. Thus, government's role in disrupting online gambling networks or servers located in Indonesia is critical. A number of factors hinder effective law enforcement, including.

The legal aspects: Discrepancies between the realities of society and article 27, paragraph (2) of [Law No. 19 of 2016 on ITE](#).

Enforcement aspects: The limited ability of investigators to make use of information technology in order to track down offenders who engage in online gambling.

Supporting aspects: Inadequate infrastructure, facilities and verification procedures hamper law enforcement efforts, reducing the effectiveness of Article 27(2) of [Law No. 19 of 2016 on ITE](#).

Community aspects: Integration and harmonisation of legal awareness, compliance and citizens' behaviour are necessary for effective enforcement of online gambling laws.

Cultural aspects: Cultural norms, such as the tendency to hide mistakes for family reasons, complicate law enforcement efforts.

The five factors listed above, which are interrelated, form the basis of the enforcement system. Looking at this in more detail, the laws governing the legal liability of foreign online bookmakers were crucial in establishing this system in Indonesia. Detailed guidelines for online gambling policy are provided by Indonesian laws and regulations. According to Article 27(2) of [Law No. 19 of 2016 on Information and Electronic Transactions](#), anyone who intentionally distributes, transmits or makes available electronic information or documents containing gambling content does so without proper authorisation. A systematic interpretation of the [Criminal Code](#), and in particular of Article 303, which sets out the following provisions, may further clarify the concept of gambling as a whole.

Any person who engages in gambling activities without having obtained the necessary permits shall be punishable with a maximum term of imprisonment of ten years or a maximum fine of Rp 25 million. This includes the intentional offering or provision of opportunities for gambling activities and making them available to the public, as well as the intentional participation in such activities. In addition, intentionally offering or facilitating public access to gambling activities, or participation in organisations for this purpose, regardless of whether certain requirements or procedures are met, is also considered an offence. Active participation in gambling activities shall also be an offence.

The right to continue a search may be withdrawn from a person who commits the aforementioned offence while on a search.

The term "gambling" refers to any game in which the possibility of winning depends solely on luck, even though some players may be more skilled or experienced. This includes betting on the outcome of races or other non-competitive games. It also includes other forms of betting.

In addition to the enforcement of laws against online gambling sites within Indonesia, the criminalisation of foreign online gambling sites is based on the Indonesian criminal law system.

Jurisdiction:

Jurisdiction is crucial to state sovereignty, as countries cannot exercise authority over each other without consent. The principle of "*par in parem non habet imperium*" emphasises that courts cannot have jurisdiction over the actions of other countries without agreement. The Information Technology Law (Cyberlaw) incorporates the principle of jurisdiction, allowing the law to be applied to activities in cyberspace that take place in several countries. Article 2 of the [ITE Law](#) extends its jurisdiction to individuals and entities involved in legal acts, whether within or outside Indonesia's jurisdiction, as long as these acts have legal consequences in Indonesia or harm its interests. This broad jurisdiction takes into account the trans-territorial nature of electronic information and transactions. The accountability of foreign legal entities in online gambling cases faces challenges due to unclear procedures within the prosecution process.

Corporate entities in international online gambling crimes:

A corporation is a legal entity separate from its shareholders, having the power to issue shares and existing for an indefinite period, according to Black's Law Dictionary. Corporations may be public or private. Online bookmakers are operating as illegal companies and do not have the status of a legal entity that is recognised by the Indonesian government. The reasons for treating online bookmakers as legal persons for criminal law purposes are as follows:

In order to combat offences committed by or involving corporate entities, it is not sufficient to punish individual administrators (gambling agents).

In the social and economic context, corporations play an increasingly important role in online gambling crimes.

The objectives of criminal law are to protect society, uphold moral standards and ensure effective deterrence. In order to achieve these objectives, it is not sufficient to focus on individual elements or to punish individual players, but it is necessary to recognise corporate crime.

Criminal sanctions against corporations are an essential step in shutting down international online gambling sites, reducing the number of online gamblers and strengthening law enforcement efforts.

Corporate Crime and Accountability:

Corporate crime, as defined by [Black's Law Dictionary](#), is any illegal activity carried out on behalf of a corporation by its agents, such as price-fixing and consumer fraud. A corporation can be named as a defendant in a criminal case even though it cannot commit a crime on its own without the help of its agents. According to [Sally S. Simpson](#), corporate crime is a type of white-collar crime. Violations of criminal and administrative law, crimes committed by corporations and their agents, and crimes motivated by organisational goals rather than

personal gain are the three categories of corporate crime identified by [Simpson](#). According to [Marshall B. Clinard and Yeager](#), a corporate crime is any act committed by a corporation that is sanctioned by the government, whether it is a violation of administrative, civil or criminal law. [Steven Box](#) proposes three criteria for defining online gambling crime:

Corporate crime: Crime committed by companies to advance their own agendas and organisations, primarily by generating profits.

Employee crime: An employee crime is a crime committed against the company, such as embezzlement by a treasurer. This means that the Company is victimised.

Corporate crime: Situations in which companies are used as a means for the commission of crime.

DISCUSSION

Legislative drafting, judicial interpretation, executive implementation and evaluation are some of the factors that influence criminal law policy in relation to online gambling. The drafting of laws, which includes the definition of criminal acts, criminal liability and sanctions, is part of the formulation stage. While the implementation stage involves the actions of the law enforcement agencies, the application stage focuses on the enforcement of the law by the judicial authorities. The implementation and enforcement of the policy is assessed in the evaluation stage. Each nation's criminal justice practices are a reflection of its legal system, with some legalising online gambling and others prohibiting it. Within the European Union, Member States are free to regulate gambling services as they see fit, as long as they respect the fundamental freedoms protected by [EU law](#). While some jurisdictions maintain monopolistic regimes, others have introduced licensing systems to allow multiple operators in the market. [European Union law](#) does not favour one system over another.

If the authorities give their permission, gambling can stop being seen as an illegal act. It can become legal. Consequently, those who have permission cannot be punished. Law enforcement uses the criminal justice system to prosecute online gambling criminals, with evidence being crucial. Evidence is a criminal law term that directs legal proceedings to seek and defend the truth and is legally required of judges, prosecutors, defendants and lawyers at all levels. The two systems of evidence described by Alfitra are the positive and negative systems. According to the positive system, which only accepts evidence that has been authorised by the law, an accused can be found guilty based on reliable evidence. In this system, the judge's verdict has no weight. In contrast, the negative proof approach requires judges to rely on both legal evidence and their conscience. Therefore, in the negative system, there are two conditions that need to be met to find the accused guilty: legally admissible evidence and the judge's conviction that the accused has erred.

Article 45(2) of [Law No. 19 of 2016](#) establishes the penalties for online gambling operators. A maximum sentence of six years imprisonment and/or a maximum fine of one billion rupiah is possible for persons who knowingly distribute, transmit or make available electronic information or documents with gambling content, as mentioned in Article 27 (2). Preventive measures remain a priority in modern criminal justice approaches, even though online gambling is strictly punishable. [Baharuddin Lopa](#) suggests several preventive measures, including

improving people's welfare to reduce unemployment and crime, improving administrative and control systems to prevent irregularities, increasing legal advice to raise legal awareness, and increasing the number of law enforcement personnel for repression and prevention.

Preventive measures against online gambling include restricting associations that promote gambling, establishing a cyberspace security system and increasing patrols. Providing services for online gambling sites in Indonesia may comply with Article 27(2) of [Law No. 19 of 2016](#), but many gambling websites remain accessible on Indonesia's government server, which is inconsistent. The legal process is affected by both internal and external obstacles. Law enforcement must take direct responsibility because online gambling violates moral standards and Pancasila values and harms future generations.

In terms of jurisdiction, [Law No. 19 of 2016 on ITE](#) Article 27 paragraph (2) applies to legal actions taken outside Indonesia by Indonesian or foreign citizens, as well as legal actions taken outside Indonesia by Indonesian or foreign legal entities that have legal repercussions in Indonesia. At present, there are no international online bookmakers that can be subject to prosecution.

CONCLUSION

In summary, legislative drafting, judicial interpretation, executive implementation and evaluation all influence criminal law policy as it applies to online gambling. While implementation focuses on law enforcement and application on judicial enforcement, the formulation stage involves drafting laws and defining criminal acts, liability and sanctions. Evaluation is essential to assess the application and enforcement of policies. Each countries treat online gambling differently; some have legalised it, others have banned it. As long as they comply with EU law, European Union Member States are free to regulate gambling services. In the criminal justice system, there are two systems of evidence: positive and negative. The penalties for online gambling operators are outlined in Article 45(2) of Law No. 19 of 2016. Despite the harsh penalties, prevention strategies such as improving welfare, organisational structures, legal advice and law enforcement personnel remain a top priority. Preventive measures against online gambling include restricting associations, establishing cyberspace security and increasing patrols. Law enforcement efforts are hampered by both internal and external factors due to the inconsistent accessibility of gambling websites on Indonesian government servers. According to Law No. 19 of 2016 on ITE Article 27 paragraph (2), both Indonesian and foreign parties involved in legal proceedings outside Indonesia are subject to its jurisdiction. However, there are currently no foreign online bookmakers that are under investigation by the law. Thus, the importance of a co-ordinated effort by stakeholders, policy makers and law enforcement agencies to stop the growth of online gambling and to protect the public from its negative effects.

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