

Legal Regulation Problems for Online Gamblers

Firdha Sifana¹, Beniharmoni Harefa²

Law Faculty, Universitas Pembangunan Nasional “Veteran” Jakarta

Email: 2210611003@mahasiswa.upnvj.ac.id

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Abstract : The rapid development of digital technology has led to a new form of criminal activity online gambling which continues to expand within Indonesian society. However, the existing legal provisions, both in the old Criminal Code (KUHP) and the new National KUHP, do not explicitly regulate criminal sanctions for online gambling players. Meanwhile, the Electronic Information and Transactions Law (UU ITE) only addresses penalties for organizers and service providers. This has resulted in a legal vacuum, leading to uncertainty and weak law enforcement effectiveness. This study aims to examine the legal implications of the absence of specific regulations on criminal sanctions for online gambling players and to analyze the urgency of establishing a special regulation governing such sanctions in Indonesia. The research employs a juridical-normative method using statutory, conceptual, and case approaches to analyze the normative limitations and the need for criminal law reform. The findings indicate that Gustav Radbruch's theory of legal certainty is relevant in explaining the necessity for more adaptive and clear legal provisions. The study recommends the formulation of a specific legal provision that defines online gambling players, outlines the elements of the offense, and differentiates levels of culpability, so that law enforcement and sentencing can be applied proportionally to the degree of involvement and fault of each offender.

Keywords : Online Gambling, Legal Vacuum, Legal Certainty

I. INTRODUCTION

Online gambling is a form of modern crime that originates from gambling activities, which are currently carried out using the internet.¹ Unlike gambling in general or conventional gambling, online gambling does not require a specific place or venue to do it. With only a personal cell phone and an internet connection, anyone can easily gamble online from anywhere. Online gambling can take the form of betting on sports matches, online casinos, and other virtual games that involve betting and the use of digital money balances.²

¹ <https://www.rri.co.id/hukum/923931/judi-online-dalam-sudut-pandang-tindak-pidana-dan-kuhp> diakses pada 17 Mei 2025 pukul 10:32 WIB.

² Rafliyah Ramadhan dan Aji Lukman Ibrahim, 2025, *Optimizing Law Enforcement Against Enforcement Of Online Gambling Promotion Cases By Influencer (Case Study of Gunawan Also Known As Sadbor)*, Jurnal KRTHA BHAYANGKARA, Vol. 19 No. 1. <https://doi.org/10.31599/krtha.v19i1.3653>



In Indonesia, the regulations that attempt to regulate online gambling are stipulated in Article 27 paragraph 2 and Article 45 paragraph 3 of Law Number 1 of 2024, which discusses the second amendment to Law Number 11 of 2008, which discusses information and electronic-based transactions. The articles provide an understanding of criminal sanctions against individuals who carry out gambling or act as bookies or as providers of online gambling services. The sanctions themselves include imprisonment with a maximum scope of 10 years and/or a fine of a maximum of 10 billion rupiah.

However, when looking at the content and elements contained in this article, it does not specifically regulate criminal penalties for users or players of online gambling. Article 27 paragraph (2) of the ITE Law only regulates criminal penalties for anyone who acts as a provider of online gambling services, not as a user or player.

Furthermore, regulations related to other laws, such as Article 33 paragraph 1 of the Criminal Code, state that those involved in gambling can be subject to criminal sanctions of up to four years' imprisonment or a fine of up to 10 million rupiah. However, when examined based on its elements, the article does not differentiate between conventional gambling and online gambling, with the presence of the assumption that gambling is a contemporary criminal act.

Furthermore, the use of Article 303 bis paragraph (1) of the Criminal Code in several decisions regarding online gambling, where the perpetrator acts only as a user or player, can be said to not apply the legal principle of *Lex Specialis derogat Lex Generalis* (a specific regulation or law takes precedence over a general law).³ This is because Article 303 bis paragraph (1) of the Criminal Code does not mention gambling as gambling conducted using electronic media or an internet connection.

This differs from Article 27 paragraph (2) of the ITE Law, which specifically mentions gambling as gambling that uses electronic information or documents. However, to date, the ITE Law does not stipulate specific criminal penalties for online gambling operators, which means that the application of this article is still highly dependent on other regulations related to conventional gambling.⁴ Therefore, Article 27 paragraph (2) of the ITE Law is not the only regulation used in handling gambling cases.

In several court decisions regarding convicts who are online gamblers, law enforcement officials used Article 303 bis paragraph (1) to impose legal sanctions on the convicts.

Table 1: Table of Court Decisions on Online Gambling Cases

No.	Case Number	Article Used	Description
1.	Decision Number 1188/Crim.B/2021/	Article 303 bis paragraph	At the time of arrest, the perpetrator was proven to have committed or

³ Taryono Raharja, dkk., 2023, *Penegakan Hukum Pidana Terhadap Judi Online Di Polda Sumatera Utara Kaitannya Dengan Keabsahan Pembuktian Bukti Elektronik*, Law Jurnal : Jurnal Ilmiah Penelitian, Vol. 3 No. 2.

⁴ Risma Afrinda Parandita, 2023, *Urgensi Regulasi Khusus Terhadap Perjudian Online Sebagai Penyakit Baru Di Masyarakat*, Jurnal LEX et Ordo, Vol. 1 No. 1. <https://journal.awatarapublisher.com/index.php/leo/article/view/63>

	Pn Jkt.Utr	(1) of the Criminal Code	participated in the crime of online gambling involving Pegasus slot machines through a website called Hokiwin 77 using his personal cell phone.
2.	Decision Number 967/Crim.B/2022/Pn Jkt.Brt	Article 303 bis paragraph (1) of the Criminal Code	At the time of arrest, the perpetrator was proven to have committed or participated in the crime of online slot gambling through an application called Slot 777 using an electronic device, namely his personal OPPO A15 mobile phone.
3.	Decision Number 1265/Crim.B/2023/Pn Mdn	Article 303 bis paragraph (1) Ke-2 of the Criminal Code	At the time of arrest, the perpetrator was proven to have committed or participated in the crime of online gambling in the form of soccer gambling through a website called MULTIBET88 using his personal Vivo cell phone.
4.	Decision Number 1696/Crim.b/2024/Pn Sby	Article 303 bis paragraph (1) of the Criminal Code	At the time of arrest, the perpetrator was proven to have committed or participated in the crime of online gambling in the form of slot bonanza through a website called GLOW4D using his personal Samsung M11 mobile phone.
5.	Decision Number 129/Crim.B/2025/Pn Sby	Article 303 bis paragraph (1) of the Criminal Code	At the time of arrest, the perpetrator was proven to have committed or participated in the crime of online slot gambling through a website called JAYAPOKER using his personal OPPO ASs mobile phone.

Based on the table above, it can be seen that the majority of articles used are Article 303 bis paragraph (1) of the Criminal Code for criminal acts related to online gamblers. This proves that until now, law enforcement officials continue to use this article to arrest online gamblers.

The absence of specific legal regulations regarding criminal penalties for online gambling offenders has led law enforcement officials to tend to use existing articles in the Criminal Code and the Electronic Information and Transactions Law, which do not specifically regulate the handling of online gambling offenders.⁵ This has led to legal loopholes that are exploited by online gambling operators.⁶ Furthermore, this will also

⁵ Firmansyah, 2024, *Kebijakan Hukum Pidana Mengenai Kejahatan Judi Online (Cyber Gambling) di Indonesia*, Jurnal Hukum, Politik, dan Ilmu Sosial, Vol. 3 No. 4. <https://doi.org/10.55606/jhps.v3i4.4473>

⁶ Nofa Hermawan, Yetti, dan Indra Afrita, 2024, *Penegakan Hukum Terhadap Tindak Pidana Perjudian Jenis Permainan Secara Online*, INNOVATIVE : Journal of Social Science Research, Vol. 4 No. 6, <https://doi.org/10.31004/innovative.v4i6.17305>

lead to multiple interpretations, legal uncertainty, and inconsistencies in law enforcement and the punishment of online gambling offenders.

In addition, the absence of specific articles or regulations governing criminal penalties for online gamblers can be an obstacle for law enforcement officials in tracking the identities of players who are anonymous and use foreign servers.⁷ This makes it difficult for law enforcement officials to prove the perpetrators' involvement legally and to gather evidence, which in online gambling cases requires the use of modern tools or technology.⁸

Thus, this issue can become a legal problem related to legal vacuum for criminal threats to online gambling perpetrators. Therefore, the author is interested in conducting a study on the legal implications of the lack of specificity in legal regulations related to criminal threats to online gamblers, and the urgency of establishing specific regulations governing criminal threats to online gamblers.

II. RESEARCH METHODS

Types of Research

This study uses a normative legal research type and methodology. Normative legal research is legal research that uses literature studies or document studies, because this research is only conducted using written regulations or other legal materials.⁹

Issue Approach

This study uses a statute approach to examine the relevant legislation related to the issue under investigation. It also uses a case approach to examine several cases relevant to the study.¹⁰ In addition, this study also uses a conceptual approach by examining the opinions of experts and scholars to provide perspectives on the analysis of related issues.

Data Source

The data sources in this study used secondary data sources. Secondary data sources are data sources obtained through scientific journals, articles, books, reports, and others.¹¹ Secondary data sources used in this study:

- a. Primary legal materials are legal materials consisting of:
 - 1) Criminal Code;
 - 2) Law No. 7 of 1974 on the Regulation of Gambling;
 - 3) Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions;

⁷ Reza Aditya Kesuma, 2023, *Penegakan Hukum Perjudian Online di Indonesia : Tantangan dan Solusi*, Jurnal Exact : Journal of Excellent Academic Community, Vol. 1 No. 1. <https://ejournal.uin-suka.ac.id/tarbiyah/exact/article/view/8128>

⁸ Akbar Nur Wijaya Asra, dkk., 2024, *Penegakan Hukum Terhadap Tindak Pidana Perjudian Online Dari Perspektif Hukum Informasi dan Transaksi Elektronik (Studi Kasus Kota Kupang)*, Referendum : Jurnal Hukum Perdata dan Pidana, Vol. 1 No. 4. <https://doi.org/10.62383/referendum.v1i4.348>

⁹ Faiz Emery Muhammad dan Beniharmoni Harefa, 2023, *Pengaturan Tindak Pidana Bagi Pelaku Penipuan Phising Berbasis Web*, Jurnal USM Law Review, Vol. 6 No. 1. <https://doi.org/10.26623/julr.v6i1.6649>

¹⁰ Dave David, 2021, *Keberadaan Surat Ijo Dikaji Berdasarkan Pendekatan Kasus dan Teori Tujuan Hukum Gustav Radbruch*, Jurnal Education and Development, Vol. 9 No. 4. <http://journal.ipts.ac.id/index.php/ED/article/view/3210>

¹¹ Undari Sulung dan Mohamad Muspawi, 2024, *Memahami Sumber Data Penelitian : Primer, Sekunder, Tersier*, Jurnal Edu Research, Vol. 5 No. 3. <https://doi.org/10.47827/jer.v5i3.238>

- 4) Law Number 1 of 2023 Concerning the Criminal Code.
- b. Secondary legal materials are legal materials that serve to reinforce and provide explanations of primary legal materials. Secondary legal materials consist of legal documents, law books, scientific journals, and publications related to law.
- c. Tertiary legal materials are legal materials that serve as supplements to primary and secondary legal materials. Tertiary legal materials are obtained from the Big Indonesian Dictionary (KBBI), encyclopedias, and other materials.

Collection Techniques

This study uses a data collection technique in the form of library research, which involves reviewing various literature covering secondary data, namely books, literature, legal journals, and articles related to the issues being studied.

Data Analysis Techniques

This study uses descriptive data analysis techniques in qualitative research, with reference to applicable regulations and legal norms in Indonesia. The data obtained will be analyzed and presented descriptively, namely by explaining and describing the data in the form of explanations. The author aims to provide an overview and explanation of the research object as the results of the research conducted. The author wants to provide an overview of the problems of legal regulations for online gambling offenders.

III. DISCUSSION

Legal implications of the lack of specificity in legal regulations regarding criminal penalties for online gamblers

The Indonesian criminal justice system adheres to the principle that every criminal act is clearly regulated by law, both in terms of the formulation of the offense and the legal subjects who can be held accountable.¹² However, in practice, it is not uncommon for problems to arise when new phenomena such as online gambling, which has experienced rapid growth in recent years, develop even faster than the regulations governing them.

This situation has begun to have legal implications, such as uncertainty regarding the application of sanctions, especially for online gamblers.¹³ The legal implications of this issue are the legal consequences arising from the lack of clarity in criminal regulations or norms, both for law enforcement officials and perpetrators.

Online gamblers are still subject to articles that were originally created to prosecute conventional gamblers, namely Article 303 bis paragraph (1) of the Criminal Code. This article, which was historically created to regulate conventional gambling, continues to be used by law enforcement officials in online gambling cases in Indonesia.

¹² Nur Aripkah, dkk., 2025, *Pembaharuan Konsep Hukum Pidana dalam Undang-Undang No. 1 Tahun 2023 Tentang KUHP*, Jurnal Fundamental Justice, Vol. 6 No. 2. <https://doi.org/10.30812/fundamental.v6i2.5268>

¹³ Nisa Amalina Adlina, 2025, *Efektivitas Penegakan Hukum Perjudian Online di Indonesia: Mengatasi Hambatan Regulasi dan Implementasi*, Journal of Contemporary Law Studies, Vol. 2 No. 2. <https://doi.org/10.47134/lawstudies.v2i2.3670>

This can be seen in one of the court decisions that tried an online gambling case, specifically for the players, such as in “Decision Number 1188/Pid.B/2021/Pn Jkt.Utr,” which involved an online gambler. The perpetrator was arrested while playing an online gambling game called SLOT PEGASUS through a website called Hokiwin 77. According to the ruling, the perpetrator used his personal cell phone to access one of these online gambling sites. In the ruling, law enforcement officials used Article 303 bis paragraph (1) of the Criminal Code to punish and prosecute the perpetrator for his actions.

This case demonstrates the application of Article 303 bis paragraph (1) of the Criminal Code to prosecute online gamblers. Although all forms of gambling are prohibited by law in Indonesia,¹⁴ however, to date there are no regulations that specifically and explicitly regulate criminal penalties for online gamblers as separate legal subjects.

This problem has resulted in law enforcement officials continuing to apply articles intended for conventional gamblers to online gamblers. Where law enforcement officials must adapt existing articles to the context of digital/contemporary crimes that are completely different.

This then gives rise to legal implications for the principle of legal certainty and the effectiveness of criminal law enforcement in the context of online gambling crimes, especially for the players.

- a. The implementation of Article 303 bis paragraph (1) of the Criminal Code for online gamblers

Article 303 bis paragraph (1) of the Criminal Code is an article adopted into the Criminal Code based on Article 542 of Law Number 7 of 1974 concerning the Control of Gambling. This article was adopted with several additions and changes from the previous form of the article. Article 303 bis paragraph (1) reads:

“Punishable by imprisonment for a maximum of four years or a fine of up to ten million rupiah:

1. anyone who takes advantage of gambling opportunities that are 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 are accessible to the public, unless there is permission from the competent authority that has granted permission to hold such gambling.”

Tabel 2 : Tabel Daftar Unsur Pasal 303 *bis* ayat (1) KUHP

Elements of the Act (<i>actus reus</i>)	“taking advantage of gambling opportunities“ and ”participating in gambling”
Elements of Intent (<i>mens rea</i>)	“take advantage of” and “participate”

¹⁴ Benjamin L. Luntungan dan Muhammad Sahid, 2024, *Kebijakan Penegakan Hukum Pidana dalam Penanggulangan Perjudian Online Ditinjau dari Undang-Undang Republik Indonesia No.19 Tahun 2016 tentang Informasi dan Transaksi Elektronik*, Advokasi Hukum & Demokrasi (AHD), Vol. 2 No. 1. <https://doi.org/10.61234/ahd.v2i2.63>

Media/Place Element	“on public roads or on the side of public roads or in places that are accessible to the public”
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When examined textually, this article does indeed cover legal subjects who are individuals (anyone) and explicitly prohibits the act of “participating in gambling.” However, the fundamental problem arises not in the elements of the offense, but rather in the basic concept of legal subjects and the scope of acts regulated in the article.

Article 303 bis paragraph (1) of the Criminal Code was created in the context of conventional gambling, where gambling is carried out in a clear physical space and involves direct interaction between the organizer and the players.¹⁵ This means that the formulation of the offense in this article is based on the assumption that the perpetrator gambles by being physically present at a place that can be proven with the naked eye.

However, in the context of online gambling, all processes are operated virtually.¹⁶ Where games are operated by servers whose jurisdiction is located overseas, money as the object of betting is transferred through digital wallets, and there is no physical location that can be used as an object of law enforcement.

Furthermore, Article 303 bis paragraph (1) of the Criminal Code does not use the concept of technological intermediaries, which in online gambling, there are more modern or contemporary things such as platforms, digital payment systems, and algorithms that function to replace the role of humans as gambling organizers.¹⁷ Because this article does not anticipate technological developments by adding the phrase “online gambling,” researchers believe that this article is conceptually outdated and unable to capture the structure of perpetrators in cybercrime.

Therefore, the application of Article 303 bis paragraph (1) of the Criminal Code to online gamblers is more of a temporary adaptation due to the absence of relevant norms or articles that specifically regulate criminal penalties for online gamblers.

However, from a legal perspective, researchers find that this approach raises serious issues regarding the principle of legality, namely *Lex Stricta*, because it expands the meaning of criminal norms beyond their original context. Therefore, this issue will lead to differences in interpretation between one case and another, resulting in legal uncertainty.¹⁸

b. The implementation Article 27 paragraph (2) of the ITE Law

In addition to using Article 303 bis paragraph 1 of the Criminal Code, law enforcement officials also refer to Article 27 paragraph (2) of Law Number 1 of 2024

¹⁵ Ary Hendri Saputra, Ernu Widodo, dan Vallengia Nadya Paramita, 2025, *Tinjauan Yuridis Tindak Pidana Muatan Perjudian Terhadap Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik*, Perspektif Administrasi Publik dan hukum, Vol.2 No. 1. <https://doi.org/10.62383/perspektif.v2i1.167>

¹⁶ Jhonathan Tanuwijaya dan Rugun Romaidah Hutabarat, 2025, *Law Enforcement Policy by the Police in Combating Online Gambling in Indonesia*, Indonesian Journal of Law and Economics Review, Vol. 20 No. 4. <https://doi.org/10.21070/ijler.v20i4.1327>

¹⁷ Maryam Kamati, 2024, *Telaah Hukum Atas Fenomena Judi Online: Perspektif Kitab Undang-Undang Hukum Pidana dan Undang-Undang Tentang Informasi dan Transaksi Elektronik*, J-CEKI : Jurnal Cendekia Ilmiah, Vol. 4 No. 1. <https://doi.org/10.56799/jceki.v4i1.6498>

¹⁸ Lilik Mulyadi, 2012, *Bunga rampai hukum pidana umum dan khusus*, PT Alumni : Bandung, hlm. 7.

concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions,¹⁹ which reads:

“Any person who intentionally and without authorization distributes and/or transmits and/or makes accessible electronic information containing gambling content.”

Table 3 : List of Elements of Article 27 paragraph (2) of the ITE Law

Elements of the Act (<i>actus reus</i>)	“distribute and/or transmit and/or make accessible”
Elements of Intent (<i>mens rea</i>)	“intentionally and without authorization”
Media/Place Element	“electronic information containing gambling content”

This article explicitly applies only to content providers or parties that disseminate electronic material or information containing gambling, not to users or players.²⁰ Because the elements mentioned in the article, such as “distributing,” “transmitting,” and “making accessible,” focus more on active actions that create or widely disseminate access to online gambling content. Therefore, based on this article, online gamblers do not fulfill these elements because they only access, rather than distribute, the content.

Thus, if this article is applied to online gambling in the context of players, it will result in an expansion of interpretation (analogy) that contradicts the principle of legality. In criminal law, analogy is prohibited because it creates uncertainty and opens up opportunities for law enforcement officials to enforce the law arbitrarily. Therefore, even though Article 27 paragraph (2) of the ITE Law appears to be relevant to the context of online gambling, conceptually, this article still cannot be used to prosecute online gamblers.

The absence of regulations that specifically and explicitly regulate criminal penalties for online gamblers has a number of legal implications. The legal implications in this context have a negative impact or consequences for the Indonesian criminal justice system.

According to Gustav Radbruch's theory, law should ideally have three main values, namely legal certainty, utility, and justice.²¹ When one of these values is not fulfilled, the law cannot be considered ideal due to the loss of its function or purpose. In the case of online gambling, the absence of legal norms or regulations that specifically and

¹⁹ Okky Ambarita Cahya Utami, Eny Latifah, dan Indri Ati Utami Agustin, 2025, *Pencegahan Judi Online Pada Usia Remaja*, Jurnal Multidisipliner Bharasumba, Vol. 4 No. 1. <https://doi.org/10.62668/bharasumba.v4i1.1349>

²⁰ Novianti, 2022, *Pemberantasan Konten Judi Online Dalam Perspektif Undang-Undang Informasi dan Transaksi Elektronik (UU ITE)*, Info Singkat, Vol.15 No. 18. https://berkas.dpr.go.id/pusaka/files/info_singkat/Info%20Singkat---18-II-P3DI-September-2022-193.pdf

²¹ E. Fernando M. Manullang, 2022, *Misinterpretasi Ide Gustav Radbruch mengenai Doktrin Filosofis tentang Validitas dalam Pembentukan Undang-Undang*, Undang : Jurnal Hukum, Vol. 5 No. 2. <https://doi.org/10.22437/ujh.5.2.453-480>

explicitly regulate criminal penalties for players means that legal certainty has not been achieved.

To date, law enforcement officials do not have a clear legal basis regarding criminal penalties for online gamblers, so they must interpret the relevant articles themselves, such as Article 303 bis paragraph (1) of the Criminal Code and Article 27 paragraph (2) of the ITE Law, even though neither article explicitly mentions criminal penalties for online gamblers.

This has legal implications for law enforcement, which seems to depend on the subjective interpretation of law enforcement officials rather than on the clarity of the law. Therefore, the researcher found that this contradicts Gustav Radbruch's theory, which states that the law must be predictable so that the public knows exactly what actions are prohibited and what penalties are imposed.

Furthermore, another legal implication that arises is the risk of neglecting or violating the principle of legality, especially the principles of *lex certa* and *lex stricta*. The principle of *lex certa* requires that criminal offenses be formulated clearly and explicitly, and not be open to multiple interpretations,²² whereas *lex stricta* prohibits interpretations that exceed the wording of the article.²³ Such actions are, in principle, contrary to the principle of legality that forms the basis of criminal law in Indonesia.

In addition, the absence of specific regulations or articles governing criminal penalties for online gamblers also has an impact on law enforcement. Because the legal basis is unclear, law enforcement officials find it difficult to consistently impose sanctions on perpetrators. Thus, according to Radbruch, laws that are unable to provide certainty in the imposition of sanctions not only lose their effectiveness, but also lose their moral authority as guidelines for justice.²⁴

Furthermore, the legal implications in this context also create a normative gap, where the substance of the applicable law and the ever-evolving social reality are no longer in sync. Based on the articles that are still used today in the context of online gambling, the focus is still on conventional criminal acts, while the forms of violations and crimes today have evolved into the digital realm and are contemporary in nature.

Thus, in Radbruch's view, laws that have lagged behind developments in social reality no longer provide legal certainty, because society cannot adjust its behavior to norms that are no longer relevant to life today. Therefore, laws that are not adaptive will provide uncertainty because they are considered to have failed to provide clear guidelines for the changing times.

²² Asti Dwiyanti et al., 2024, *Pengantar Hukum Pidana : Teori, Prinsip, dan Implementasi*, PT Green Pustaka Indonesia : Yogyakarta, hlm. 9.

²³ Loso Judijanto et al., 2025, *Pengantar Hukum Pidana Indonesia*, PT Green Pustaka Indonesia : Yogyakarta, hlm. 20.

²⁴ Dino Rizka Afdhali dan Taufiqurrohman Syahuri, 2023, *Idealitas Penegakkan Hukum Ditinjau Dari Perspektif Teori Tujuan Hukum*, Collegium Studiosum Journal, Vol. 6 No. 2. <https://doi.org/10.56301/cs.v6i2.1078>

The urgency of establishing specific regulations governing criminal penalties for online gamblers in Indonesia

Gambling is now growing, especially in the digital world, namely online gambling, which is currently very popular among Indonesians.²⁵ However, given the prevalence of online gambling cases, Indonesia currently has no regulations governing criminal penalties for online gamblers.

The old Criminal Code and the National Criminal Code that will be implemented in the future, particularly Article 427, do not cover or regulate criminal penalties for online gamblers, but only provide penalties for conventional gamblers. Meanwhile, the Electronic Information and Transactions Law, particularly Article 27 paragraph (2), only regulates criminal penalties for online gambling service providers and distributors.

The absence of specific regulations or articles governing criminal penalties for online gamblers means that those who play a role in maintaining the sustainability of the online gambling market do not have a clear legal status. This has led to a number of problems, such as legal uncertainty, ineffective law enforcement, and the obstruction of government programs to minimize the prevalence of online gambling cases.

In addition, online gambling has a huge negative impact on Indonesian society, such as addiction, economic loss, psychological stress, and damaged family relationships.²⁶ In fact, there are many cases showing that online gamblers become trapped in debt, lose their jobs, or in the worst cases, become involved in further criminal acts in order to obtain money for gambling capital.²⁷

However, the problem returns to the fact that, to date, existing regulations do not include criminal penalties for online gamblers. This is a serious problem because there is a legal vacuum regarding criminal penalties for online gamblers. The application of Article 303 bis paragraph (1) of the Criminal Code to online gamblers does not reflect the spirit of good law enforcement, as there is no legal certainty.²⁸

Based on several legal implications, researchers see an urgency to establish specific regulations or articles governing criminal penalties for online gamblers. Additional articles or phrases can also be added to existing regulations to eliminate legal loopholes or gaps.

This aims to establish the legal status of online gamblers, such as the definition and elements of their actions. Until now, the unclear legal status of online gamblers has raised legal issues, as law enforcement officials do not have a clear legal basis for prosecuting gamblers. This is because the article used, Article 303 bis paragraph (1) of the Criminal Code, only mentions “participating in gambling that is not licensed,” but does not mention the digital context, application-based betting systems, or electronic transactions.

²⁵ Muhammad Fatkhurudin, Abdul Rozaq, Muhamat Rifai, dan Miftachul Huda, 2025, *Pengaruh Judi Online Bagi Siswa SMA*, Jurnal Studi Islam Indonesia, Vol. 3 No. 1. <https://doi.org/10.61930/jsii.v3i1.1068>

²⁶ Asman, 2024, *Dampak Negatif Judi Online Terhadap Keharmonisan Rumah Tangga Perspektif Hukum Keluarga Islam*, Ahlika: Jurnal Hukum Keluarga dan Hukum Islam, Vol. 1 No.1. <https://doi.org/10.70742/ahlika.v1i1.13>

²⁷ Apolos Igomu, Andi Mulyono, dan Alice Ance Bonggoibo, 2024, *Judi Online: Permainan Menggiurkan dengan Risiko yang Menguras Harta dan Masa Depan*, Al-Mahkamah: Jurnal Hukum, Politik dan Pemerintahan, Vol. 1 No. 2. <https://journal.syamilahpublishing.com/index.php/mahkamah/article/view/221>

²⁸ Dian Aji Setiawan dan Elfrida Ratnawati Gultom, 2023, *Kebijakan Penegakan Hukum Tindak Pidana Penempatan Tenaga Kerja Indonesia (TKI) Di Luar Negeri*, UNES LAW REVIEW, Vol. 5 No. 3. <https://doi.org/10.31933/unesrev.v5i3>

Therefore, researchers believe that new regulations or articles must formulate more modern and adaptive elements, for example:

Table 4 : Table Listing Proposed Article Elements

Elements of the Act (<i>actus reus</i>)	“placing bets, wagering money, or economic value in an electronic system”
Elements of Intent (<i>mens rea</i>)	“knowingly and intentionally using the system for gambling”
Media Element	“carried out through or using electronic systems, applications, websites, or other digital media”
Elements of purpose	“to obtain economic benefits or advantages”

With this definition, the law can clearly distinguish between ordinary users (passive players) who only gamble without promoting or distributing online gambling sites, and active players. This definition also fulfills the principle of *lex certa*.

The distinction between categories of perpetrators is also very important, because not all online gambling perpetrators have the same level of guilt. For example, online gambling perpetrators who act as active players play an active role in facilitating transactions, helping to create accounts, or channeling funds to online gambling sites. This group plays a vital role, so criminal sanctions can be in the moderate category and involve firm action.

Additionally, there are online gambling perpetrators who act as promoters/recruiters, actively promoting, recruiting, or creating community networks to expand the gambling network.²⁹ This category is similar to the role of an organizer, so it is appropriate to impose heavier criminal sanctions. With this categorization, the law will be more proportional and fair.

Furthermore, the urgency of establishing or revising regulations or articles governing criminal penalties for online gamblers is that, when linked to the approach to cases and the evidence used, such as online gambling site accounts, activity logs, and transaction evidence, the approach or application of Article 303 bis paragraph (1) of the Criminal Code cannot yet reflect online gambling as a contemporary criminal offense.³⁰

²⁹ Sarah Adinda Putri Maroni, dan Ahmad Irzal Fardiansyah, 2025, *Pertanggungjawaban Pidana terhadap Affiliator Judi Online (Studi Putusan Nomor: 871/Pid.Sus/2022/PN.Tjk)*, Indonesian Journal of Law and Justice, Vol. 2 No. 4. <https://doi.org/10.47134/ijlj.v2i4.4390>

³⁰ Muhammad Akbar Nasyir dan Anang Sophan Tornado, 2025, *Kepastian Hukum Pada Kasus Perjudian Online Dalam Penggunaan Pasal 303 KUHP Dengan 27 Ayat 2 UU ITE*, Jurnal Kolaboratif Sains, Vol. 8 No. 7. <https://doi.org/10.56338/jks.v8i7.7972>

Table 5: Comparison Table of Evidence

Types of Gambling	Evidence
Regular/conventional gambling	<ol style="list-style-type: none"> 1. Tools or items used as gambling media, such as playing cards, dice, domino boards, betting slips, or other lottery tools. 2. Betting money or gambling proceeds found at the scene of the crime. 3. Gambling venues, such as gambling tables, rooms, or locations where such activities are conducted.
Online Gambling	<ol style="list-style-type: none"> 1. Digital activity logs, such as login records, access times, and account usage data on gambling sites. 2. Electronic transaction evidence, such as fund transfers, balance top-ups, or payments using e-wallets and bank accounts. 3. Screenshots of conversations, websites, or betting displays that show gambling activity. 4. Domain addresses and servers of online gambling sites, including evidence of overseas hosting. 5. Electronic messages or chats between players and organizers, indicating the existence of a betting agreement. 6. Digital recordings or forensic data, such as cache, cookies, or metadata from the perpetrator's device.

Based on the comparison table of the types of evidence used in conventional gambling and online gambling, researchers can conclude that conventional gambling still uses evidence that is tangible or physical in nature. Researchers observed that the use of evidence in conventional gambling is still based on the evidence mentioned in Article 184 of the Criminal Procedure Code, where evidence has a physical form and can be directly confiscated by the authorities.

Meanwhile, online gambling uses digital evidence in the form of electronic data. This type of evidence includes electronic information and/or electronic documents as legally recognized in Article 5 paragraphs (1) and (2) of the Electronic Information and Transactions Law, which confirms that electronic information can be used as legal evidence as long as its authenticity can be verified.

Therefore, evidence in online gambling cases must use more modern methods. Thus, researchers can conclude that in this case, the support of digital forensic experts and the legal basis for electronic evidence is needed, because the legal system, which is

still physically oriented, is no longer able to respond to the challenges of technology-based crime.

Currently, the criminal sanctions imposed on online gamblers are imprisonment and fines, as stated in the articles used to prosecute the players.

Table 5: Table of Criminal Sanctions Comparison List

Article	Criminal Sanctions Imprisonment	Penalty
Article 303 bis paragraph (1) of the Criminal Code	Maximum 4 years	Maximum 10 million Rupiah
Article 27 paragraph (2) of the ITE Law in conjunction with Article 45 paragraph (2)	Maximum 10 years	Maximum 10 billion Rupiah
Article 427 of the National Criminal Code (amendment to Article 303 bis paragraph (1))	Maximum 3 years	Maximum Category III (50 million rupiah)

Thus, researchers can conclude that online gambling is a legal phenomenon that falls under contemporary criminal acts that require serious and adaptive handling in response to the rapid development of information technology. Currently, the provisions applied in online gambling cases are not yet fully relevant and cover the elements of such criminal acts. As a result, there is a legal vacuum and legal uncertainty.

Therefore, updating the old regulations or creating specific articles that regulate criminal penalties for online gamblers has become urgent. New regulations need to be designed and formulated using a more modern approach, which not only adapts to the characteristics of the digital world but also adheres to the principles of legality and proportionality in criminal law.

Thus, updating the old regulations or creating a special article that regulates criminal penalties for online gamblers is not only intended to fill the legal vacuum, but also as an effort to build a more responsive, proportional, and fair legal system in the digital era. The law must be present not only to punish, but also to protect, regulate, and restore the social life of the community from the growing impact of online gambling.

IV. CONCLUSION

1. This study found that there is a gap in norms/laws in the Indonesian legal system regarding criminal penalties for online gamblers. Although Article 303 bis paragraph (1) of the Criminal Code and Article 27 paragraph (2) of the ITE Law currently exist, these two articles do not explicitly regulate legal subjects in the form of players (users), and only mention service providers or online gambling operators. Furthermore, this study also confirms that the application of old articles to digital-based cases results in violations of the principles of legality (*lex certa* and *lex stricta*) and creates legal uncertainty. This finding is important because it shows that without specific regulations, the legal system has not been able to adapt to the characteristics of contemporary technology-based crimes. Therefore, the revision or creation of new articles related to criminal penalties for online gamblers is urgent.
2. This study uses Gustav Radbruch's theory of legal purpose, which states that law must have three values: legal certainty, justice, and utility. This theory is relevant in describing how the absence of strict regulations causes the legal system to lose its values of certainty, justice, and utility.
3. However, the study still has limitations, in that it is more legal-normative in nature and does not cover the empirical aspects of how online gambling laws are enforced in the field. There is a lack of primary data, such as interviews with law enforcement officials or online gamblers, which could enrich the information regarding the effectiveness of the applicable laws. Therefore, for future research, it is recommended to conduct research using an empirical approach or a comparative law approach with other countries that already have specific regulations on online gambling. This approach can facilitate the formulation of more realistic and comprehensive legal regulations.

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