

The Law Enforcement Efforts by the Police in Eradicating Online Gambling Crime

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Abstract. *The purpose of this research is to examine and substantially analyze the regulation of online gambling crimes in Indonesian laws and regulations, and the police's law enforcement efforts in eradicating online gambling. The approach method used in this paper is normative juridical. The specification of this writing is descriptive analytical new crimes caused by these technological developments, one of which is online gambling. With the development of this information technology, online gambling does not require a place or arena to gamble in contrast to conventional gambling which requires a place to gather and gamble. In this online gambling, players only need to visit gambling places on online gambling sites which can be found easily on the internet and anyone can access them easily. Regarding the eradication of online gambling, the National Police has taken massive legal action against gambling practices. This eradication effort was carried out after the National Police Chief, General Listyo Sigit Prabowo, instructed all police at all levels to take strict action against gambling practices. Since 2011, the Cyber Crime Unit IT Sub-Directorate has handled online gambling crimes in collaboration with Sub-Directorate III Unit I Tipidum which specifically handles online gambling crimes.*

Keywords: Enforcement; Gambling; Police; Online.

1. Introduction

One of the law enforcement instruments to achieve legal objectives of certainty, justice and expediency is a clean and authoritative criminal justice system.¹Indonesia is a state based on law, the statement contained in the

¹Tafta Aji Prihandono and Sri Kusriyah, Awareness on Constitutional Rights of Citizens and Form of Protection of Constitutional Rights of Citizens in Indonesia, Daulat Hukum Journal, Volume 1 Issue 4, (2018), p.1003

Explanation of the 1945 Constitution of the Republic of Indonesia states that "The State of Indonesia is based on law (rechtstaat) not based on mere power (machtstaat)"²As a rule of law country, Indonesia has a series of regulations or laws so that the interests of society can be protected.³

Criminal law enforcement to tackle gambling as a deviant behavior must continue. This is very reasonable because gambling is a real threat to social norms that can cause individual tensions as well as social tensions. Gambling is a real or potential threat to the continuity of social order.⁴

The rapid development of technology and communication has changed the order of society from a local nature towards a global society. This change is due to the presence of technology and information. The development of information technology combines with electronic media to give birth to a new tool called the internet.⁵ New crimes caused by these technological developments, one of which is online gambling. With the development of this information technology, online gambling does not require a place or arena to gamble in contrast to conventional gambling which requires a place to gather and gamble. In this online gambling, players only need to visit gambling places on online gambling sites which can be found easily on the internet and anyone can access them easily.

The Cyber Crime Team at the National Police Headquarters in 2012 succeeded in dismantling an online gambling network originating from abroad which is the largest gambling agent from the United States which provides poker gambling services with site addresses at www.nagaemas.com and www.jakarta.com. The gambling agent is in the Bogor area, West Java. Based on search results, until now the website www.nagaemas.com and the website www.jakarta.com can still be accessed, however the website www.jakarta.com does not contain anything related to gambling. Meanwhile, the www.nagaemas.com website still contains poker gambling. This is a challenge for investigators, because there are still many online gambling agents who have not been caught and bookies in other countries can still freely run their gambling business by affiliating with gambling agents from Indonesia.

²Anton Susanto, Ira Alia Maerani, and Maryanto, Legal Enforcement by the Police against Child of Criminal Doer of a Traffic Accident Who Caused Death (Case Study in Traffic Accident of Police Traffic Unit of Cirebon City Police Jurisdiction), *Journal of Daulat Hukum: Volume 3 Issue 1*, (2020), p.21

³Asep Sunarsa, Attorney Role In Fighting Crimes Of Motorcycle Gang In Cirebon, *Journal of Daulat Hukum Volume 1. No. 2*, (2018), p.453

⁴Muladi and Barda Nawawi Arief, 1998, *Theories and Criminal Policy*, Cet. II, Bandung, Alumni Publisher, p. 25

⁵Abdul Wahid and Mohammad Labib, 2005, *Mayantara Crime (Cyber Crime)*, Refika. Aditama, Bandung, p. 103

The purpose of the author's research is to examine and substantially analyze the regulation of online gambling crimes in Indonesian laws and regulations, and the police's law enforcement efforts in eradicating online gambling.

2. Research Methods

To conduct an assessment in this writing the author uses a normative juridical method, with an emphasis on literature studies. The specifications in this study are descriptive analysis. Secondary research materials originating from laws and regulations relating to the writing carried out. To obtain the data in this writing, secondary data collection methods were used which were obtained from library books, laws and regulations, as well as the opinions of legal experts. The data that has been obtained is then analyzed with qualitative analysis.

3. Results and Discussion

3.1. Substantial Regulation of Online Gambling Crime in Indonesian Legislation

In the Criminal Code there are two articles that describe gambling, namely Article 303 of the Criminal Code and Article 303 Bis of the Criminal Code. Article 303 of the Criminal Code is described as follows:

1. Article 303 of the Criminal Code reads:

(1) "With a maximum imprisonment of ten years or a maximum fine of twenty-five million rupiahs, whoever without obtaining a permit" shall:

1st Deliberately offering or providing opportunities for gambling games and making it a search, or deliberately participating in a company for that.

Second, deliberately offering or giving the general public the opportunity to play gambling or deliberately participating in companies for that purpose, regardless of whether to use the opportunity there is a condition or the fulfillment of a procedure.

3rd Make participating in gambling games as a livelihood.

(2) If the person guilty of committing the said crime is carrying out his search, then his right to carry out that search may be revoked.

The next article that regulates gambling is Article 303 bis of the Criminal

Code. Article 303 bis KUHP paragraph:

(1) Shall be punished by a maximum imprisonment of four years or a maximum fine of ten million rupiahs:

1. Whoever uses the opportunity to play gambling, which is held in violation of the provisions of Article 303.
2. Whoever participates in gambling on a public road or on the side of a public road or in a place that can be visited by the public, unless there is permission from the competent authority who has given permission to hold said gambling.

(2) If at the time of committing the offense two years have passed since the conviction has become fixed for one of these violations, a maximum imprisonment of six years or a maximum fine of fifteen million rupiahs may be imposed.

Various kinds and forms of gambling have spread in people's daily lives, both openly and surreptitiously. Both still traditionally and those who have used internet media. In fact, some people tend to be permissive and seem to see gambling as something natural, so there is no need to worry about it anymore. This is compounded by the development of the internet which has consequences for the opening of freedom of expression in cyberspace. And in terms of gambling transactions, it seems as if they are not limited along with the development of sophisticated digital technology. There are still few legal umbrellas for crimes in cyberspace, especially regarding electronic transactions.⁶

The Information and Electronic Transaction Law has determined which actions are included as criminal offenses in the field of ITE (cybercrime) and has determined the nature of evil and attacks on various legal interests in the form of certain criminal offense formulas. ITE crimes are regulated in 9 articles, from Article 27 to Article 35. In these 9 articles, 20 forms/types of ITE crimes are formulated. While the criminal threat is determined in Article 45 to

⁶Hernanda Ramdhani, Muhammad Fauzi, Alexandro Martin Three. Law Enforcement in Eradicating Online Gambling Sites in Indonesia. *Lex Suprema Journal*, Volume II Number 2 (2020), p.67

Article 52.⁷

The scope of perpetrators distributing, transmitting, or making gambling content accessible in Article 27 paragraph (2) of the ITE Law is in the context of Article 303 of the Criminal Code and Article 303 bis of the Criminal Code. The ITE Law separates the formulation of articles regarding criminal acts and criminal sanctions.⁸As in CHAPTER VII Article 27 paragraph (2) of the ITE Law it contains prohibited acts of online gambling while threats to this violation are regulated in Article 45 paragraph (2) of Law 19/2016, namely "Any person who intentionally and without rights distributes and / or transmitting and / or making accessible Electronic Information and / or Electronic Documents that have gambling content as referred to in Article 27 paragraph (2) shall be punished with imprisonment for a maximum of 6 (six) years and / or a fine of up to IDR 1 billion. .

3.2. Police Law Enforcement Efforts in Eradicating Online Gambling

Regarding the eradication of online gambling, the National Police has taken massive legal action against gambling practices. This eradication effort was carried out after the National Police Chief, General Listyo Sigit Prabowo, instructed all police at all levels to take strict action against gambling practices. In recent days, the eradication of gambling has been intensively carried out by the regional police (Polda). In Central Java, for example, specifically, there were 18 cases of online gambling practices and two cases of which were international online gambling practice networks, which were uncovered in Purbalingga and Pemalang Regencies. The two gambling practices are operated through servers in Thailand and Cambodia. The online gambling case uncovered in Pemalang even used the endorsement of a celebrity as a means of promotion. The alleged perpetrators of gambling are threatened with Article 303 of the Criminal Code concerning gambling, which carries a maximum penalty of 10 years in prison or a maximum fine of IDR 25 million. Meanwhile, online bookies will be subject to additional provisions in the form of Article 27 paragraph (2) jo. Article 45 paragraph (2) of the Law on Electronic Information and Transactions (ITE) carries a maximum imprisonment of 6 (six) years in prison and/or a maximum fine of IDR

⁷Adami Chazawi and Ardi Ferdinand. 2015, *Electronic Information and Transaction Crimes*. Nusa Creative Media, Malang. p.3

⁸Maria Margareta Sitompul Madiasa Ablisar, M. Hamdan, Jelly Leviza. *Criminal Policy in Overcoming Online Gambling Crimes Committed by the Indonesian National Police Headquarters (Mabes POLRI)*, *USU Law Journal*, Vol.2.No.2, (2014), p.188

1,000,000,000.00 (one billion rupiah).⁹

In carrying out investigations the police have the authority to make arrests, detentions, confiscations and searches. Prior to 2011, the unit handling online gambling crimes was Sub Directorate III Unit I Tipidum Bareskrim Polri Headquarters. Since 2011, the Cyber Crime Unit IT Sub-Directorate has handled online gambling crimes in collaboration with Sub-Directorate III Unit I Tipidum which specifically handles online gambling crimes. For online gambling investigators and investigators at the National Police Headquarters, from the rank of Non-commissioned Officer to Colonel. So investigators and investigators hold dual positions dealing with online gambling crimes at the National Police. There are various types of online gambling that are marketed by online gambling website owners, namely online lottery gambling, online poker gambling, and online football betting, black jack, video poker, sports betting, horse racing, football, slots and others.

The arrest was carried out in accordance with Article 18 paragraph (1) and Article 19 paragraph (1) of the Criminal Procedure Code. In carrying out the arrest of online gambling agents, it is carried out by showing a letter of assignment and giving the suspect a letterarrest order. A copy of the arrest warrant was given to the suspect's family after the arrest was made. The longest arrest was made one day.

Investigators conducted digital forensics on digital evidence at the National Police Laboratory, to examine evidence that had been confiscated by investigators. Forensics is an activity to investigate and establish facts related to a crime and other legal issues. Meanwhile, digital forensics is part of forensic science which covers the discovery and investigation of material (data) found on digital devices such as; computers, mobile phones, tablets, PDAs, networking devices and the like.¹⁰

Seeing Article 43 paragraph 3 Act No. 19 of 2016 amendment to Act No. 11 of 2008 concerning electronic information and transactions (ITE), a search or fact must be carried out with the permission of the chairman of the local district court within 1 x 24, in this case very difficult to realize because it is not possible to get the permit in such a short time. Evidence for online gambling is evidence through information media and electronic transactions that can easily be lost or changed by the owner of an online gambling website, so you need to be careful and fast in securing

⁹Novianti, 2022. Eradication of Online Gambling in Indonesia. Research Center for the Expertise Agency of the Secretariat General of the DPR RI, Weekly Issue: Field of Political, Legal and Security Commission III

¹⁰Enik Isnaini. Normative Juridical Review of Online Gambling according to Positive Law in Indonesia. Independent Journal Vol 5 No. 1, (2017), p.189

evidence.

In line with the criminalization of online gambling which uses the ITE Law as its legal basis, the main principle in the Information Technology Law (*cyberlaw*) is the principle of jurisdiction, this is meant because it does not necessarily apply territorial jurisdiction in activities in cyberspace which often occur in the territories of several countries at once. The approach to the principle of ExtraTerritorial jurisdiction is an attempt to make it possible to apply Information Technology Law (*cyberlaw*). Concerning Jurisdiction is contained in Article 2 of Act No. 19 of 2016 concerning ITE as follows:

"This law applies to "everyone" who carries out legal actions as stipulated in this law, both within the jurisdiction of Indonesia and outside the territory of Indonesia, which has legal consequences in the jurisdiction of Indonesia and/or outside the jurisdiction of Indonesia and detrimental to the interests of Indonesia".

The ITE Law has jurisdiction not only for legal actions that apply in Indonesia and/or are carried out by Indonesian citizens, but also applies to legal actions carried out by Indonesian citizens, but also applies to legal actions carried out outside Indonesia. jurisdiction (jurisdiction) of Indonesia both by Indonesian citizens and foreign nationals or Indonesian Legal Entities and Foreign Legal Entities that have legal consequences in Indonesia, considering that the use of Information Technology for Electronic Information and Electronic Transactions can be cross-territorial or universal. The element of "everyone" regarding international online gambling sites atIndonesia is a legal subject whose form is in the form of a foreign legal entity and an individual, in article 2 of Act No. 19 of 2016 concerning ITE Legal Entities can be held accountable.¹¹

Based on the regulation of the Chief of Police number 14 of 2018 regarding the organizational structure and work procedures at the regional police level, the unit that handles cases *cyberis* one part of the duties of the Ditreskrimsus, the Ditreskrimsus itself is only at the Polda level and one of the elements of its main tasks is under the Kapolda. In the future the unit that handles cyber problems will be further developed up to the police station depending on the ability of state finances.

4. Conclusion

To regulate the development of digital technology, whether expressing opinions

¹¹Muhammad Yulianto, Titiek Guntari. Law Enforcement Against Online Gambling Crimes in terms of Law Number 11 of 2008 concerning Information and Electronic Transactions. Citizenship Journal, SINTA S5, Vol. 6 No. 2 (2022), p.377

through the media or sites that violate the law. So Indonesia itself already has a legal basis related to online gambling, which is contained in Article 27 paragraph (2) of the ITE Act No. 19 of 2016 which reads: "Every person intentionally and without rights distributes and/or transmits and/or makes information accessible Electronic and/or Electronic Documents that contain Gambling content. Since 2011, the Cyber Crime Unit IT Sub-Directorate has handled online gambling crimes in collaboration with Sub-Directorate III Unit I Tipidum which specifically handles online gambling crimes.

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