

## Online Gambling Practices (Positive Legal, Social, And Religious Review)

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**Abstract:** This study aims to determine (1) the practice of online gambling in Indonesia in terms of positive law; (2) how online gambling practices are viewed from a social perspective; and (3) online gambling practices in terms of religion. This research is normative juridical research. Researchers examine the norms in positive law. The primary data source used in this research is the ITE Law (Act on Information and Electronic Transactions) related to online gambling law enforcement, while the secondary data source used in this research is previous research that is relevant to the discussion of online gambling practices in Indonesia. The results of this study indicate that (1) Article 27 paragraph 2, Article 45 paragraph 1, and Article 52 paragraph 4 of the ITE Law regulate prohibitions and criminal sanctions related to online gambling in Indonesia. The government needs to improve preventive and repressive measures in regulating online gambling crimes to minimize crime in Indonesia; (2) The practice of online gambling brings complex problems, online gambling players will justify any means to get money so that their desire to play gambling can be fulfilled, this is feared to lead to other criminal acts and unsettle the community; (3) the majority of religions in Indonesia prohibit gambling because it can have negative effects that are detrimental to society.

**Abstrak:** Penelitian ini bertujuan untuk mengetahui (1) praktik judi online di Indonesia ditinjau dari segi hukum positif; (2) praktik judi online ditinjau dari segi sosial; dan (3) praktik judi online ditinjau dari segi agama. Penelitian ini merupakan penelitian yuridis normative. Peneliti mengkaji norma-norma dalam hukum positif. Sumber data primer yang digunakan dalam penelitian ini adalah UU ITE (Undang Undang Informasi dan Transaksi Elektronik) terkait penegakan hukum judi online, sementara sumber data sekunder yang digunakan dalam penelitian ini adalah penelitian-penelitian terdahulu yang relevan dengan pembahasan praktik judi online di Indonesia. Hasil penelitian ini menunjukkan bahwa (1) UU ITE pasal 27 ayat 2, pasal 45 ayat 1, dan pasal 52 ayat 4 mengatur larangan dan sanksi pidana terkait judi online di Indonesia. Pemerintah perlu meningkatkan langkah preventif dan represif dalam mengatur tindak pidana judi online untuk meminimalisir kejahatan di Indonesia; (2) Praktik judi online membawa permasalahan yang kompleks, pemain judi online akan menghalalkan segala cara untuk mendapatkan uang agar bisa terpenuhi hasratnya untuk bermain judi, hal ini dikhawatirkan dapat menimbulkan tindak pidana lainnya dan meresahkan masyarakat; (3) mayoritas agama di indonesia melarang perjudian karena dapat menimbulkan efek negative yang banyak merugikan masyarakat.



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## **INTRODUCTION**

Along with the development of information technology, a crime that is currently rife in society these days is online gambling. Online gambling is categorized as cybercrime because in carrying out its crimes, online gambling uses the internet as a medium for committing gambling crimes. Gambling is basically against the norms of religion, decency, and Pancasila morality, and can be dangerous for the survival of society, nation, and state. Gambling is a violation of social culture in Indonesia (Rodhiyah, 2022).

The practice of online gambling does not look at age, from children to adults, and does not look at certain groups, from the lower class to the upper class (Arifin, 2015). Gambling practices are often found in society and are carried out secretly. Considering that Indonesian law prohibits this gambling practice. Efforts to enforce the law and take action against perpetrators of cybercrime, especially online gambling, are very necessary to prevent and eradicate these crimes so that they do not become more widespread and widespread in society.

In essence, in gambling practice, the party that gets the most profit both conventionally and online is the manager. In gambling activities, there is an element of heightened interest and expectation, as well as an element of tension caused by the uncertainty of winning or losing. Furthermore, if we examine the consequences arising from online gambling that occurs in Indonesia, it is detrimental both materially and immaterially, not only for the perpetrators but also for their families (Suharya, 2019).

On the internet itself, many sites provide gambling facilities that can be easily played, starting from the classic model which is done by playing the function of the number buttons on the keyboard to complex models and very thorough calculations to calculations regarding luck contests. This mode of online gambling offers many advantages for owners and managers because in practice online gambling business schemes do not require special permits to run a gambling business via the internet. All you need is a website or an interesting gambling application such as soccer betting. So that everyone has the

freedom to have a gambling house on the internet (Nono, 2021).

Criminal law policies in each country are carried out by the legal culture of the community in the place where the law is made. Regarding online gambling, some countries have legalized it, some countries prohibit gambling (Chóliz, 2016). Indonesia is a country that strictly prohibits gambling in any form. Enforcement of criminal law to tackle gambling as 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 maintenance of social order. If there are perpetrators of gambling crimes, that person will be punished according to the criminal justice system in Indonesia (Lakoro, 2020).

From an Islamic Law perspective, online gambling is haram because gambling has no benefit at all and there are many harms or dangers for people who gamble. Meanwhile, from a Positive Law perspective, online gambling is prohibited, because the impact of gambling can be resulting in other criminal acts such as theft, murder, and others (Karli, 2023).

In essence, gambling is contrary to religion, decency, and Pancasila morals and endangers society, the nation, and the state. Meanwhile, viewed from the national interest, gambling hurts the moral and mental health of society, especially the younger generation. On the one hand, gambling is a social problem that is difficult to eradicate. And the emergence of gambling has existed since the existence of human civilization (Ritonga, 2021).

Based on the explanation above, this research is based on the following problem formulation; (1) how online gambling practices in Indonesia are viewed from a positive legal perspective; (2) online gambling practices are viewed from a social perspective; and (3) online gambling practices in terms of religion.

## **METHODS**

This research is normative juridical research. Researchers examine the norms in positive law (Efendi, 2018). Using a descriptive-analytical approach, researchers

use primary and secondary data sources as legal materials. The primary data source used in this research is the ITE Law (Electronic Information and Transactions Law) regarding online gambling law enforcement, while the secondary data source used in this research is previous research that is relevant to discussing online gambling practices in Indonesia.

The data collection technique used in this research is library research, the researcher examines the data based on related library data sources. The data analysis techniques in this study are data presentation, data reduction, and concluding the perspective of Miles and Huberman (Huberman & Miles, 2002).

## RESULTS AND DISCUSSION

### Online Gambling In Indonesia Seen From Positive Legal Perspective

Table 1. Laws Applicable to Online Gamblers in Indonesia

Legal Aspects	Pasal (UU ITE)
Online Gambling Terms	27 ayat (2)
Sanctions for Online Gamblers	45 ayat (1) 52 ayat (4)

Specifically regarding online gambling, it is regulated in Law no. 11 of 2008 concerning Electronic Information and Transactions (UU ITE) CHAPTER VII Article 27 paragraph (2) as a prohibited act. The reading of Article 27 paragraph (2) of the ITE Law "*Setiap orang dengan sengaja dan tanpa hak mendistribusikan dan atau mentransmisikan dan atau membuat dapat diaksesnya informasi elektronik dan atau dokumen elektronik yang memiliki muatan perjudian*".

Referring to Article 27 paragraph (2) of the ITE Law, the perpetrators who can be charged under this article are people who distribute, transmit, and people who make electronic information or documents that have gambling content accessible. Distributing is distributing (sharing or sending) to several people or several places. Transmitting is sending a message from one person to another. Making accessible is an

activity to make electronic information and or documents accessible to others (UU ITE).

The ITE Law separates the formulation of articles regarding criminal acts and sanctions. As in CHAPTER VII Article 27 paragraph (2) of the ITE Law, online gambling is prohibited. Meanwhile, sanctions for criminal acts of online gambling are regulated in Article 45 paragraph (1) and Article 52 paragraph (4) of the ITE Law. Article 45 paragraph (1) of the ITE Law reads "*Setiap orang yang memenuhi unsur sebagaimana dimaksud dalam Pasal 28 ayat (1), ayat (2), ayat (3), atau ayat (4) dipidana dengan pidana penjara paling lama 6 (enam) tahun dan atau denda paling banyak Rp. 1000.000.000, 00 (satu miliar rupiah)*".

Regarding criminal sanctions for online gambling in Article 45 paragraph (1) of the ITE Law, they are alternative and cumulative in the form of imprisonment and/or fines. Based on Article 45 paragraph (1) of the ITE Law, if anyone commits a criminal act as intended in Article 27 paragraph (2) ITE, then the criminal sanction is in the form of imprisonment for a maximum of 6 (six) years and/or a fine of a maximum of Rp.1,000,000,000.00 (one billion rupiah).

Corporations that commit online gambling crimes are regulated in Article 52 paragraph (4) of the ITE Law which reads "*Dalam hal tindak pidana sebagaimana dimaksud dalam Pasal 27 sampai dengan Pasal 37 dilakukan oleh korporasi dipidana dengan pidana pokok ditambah sepertiga*". Based on the formulation of Article 52 paragraph (4) of the ITE Law, if the crime of gambling is committed by a corporation as referred to in Article 27 paragraph (2) of the ITE Law, then the corporation is punished with the principal sentence plus two-thirds. A breakthrough is that there are two legal subjects for perpetrators of online gambling in the ITE Law, namely people and corporations.

Criminal sanctions for online gambling crimes for dealers, people who participate, and people who use the opportunity to play gambling (players) in Article 27 paragraph (2) of the ITE Law are not separated. The criminal sanction is regulated in Article 45 paragraph (1) of the ITE Law in the form of a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp.1000,000,000.00 (one billion rupiah).

Even so, the elements of the crime of online gambling are not listed in the ITE Law and follow the rules in Article 303 of the Criminal Code. This makes the content of online gambling crimes in the ITE Law very dependent on other laws that have regulated conventional gambling crimes. In other words, the ITE Law cannot yet become an independent regulation in enforcing online gambling crimes.

Policy formulation against online gambling has strictly punished the perpetrators, but in the modern criminal law approach, prevention policies remain the priority. Several preventive steps in crime prevention include; (1) increasing people's welfare to reduce unemployment, which in itself will reduce crime; (2) improving the administration and control system to prevent irregularities. (3) Increasing legal education to spread legal awareness among the people; (4) adding police personnel and other law enforcement personnel to further enhance repressive and preventive measures (Bunga, 2019).

Preventive steps to prevent online gambling are taken by limiting oneself to interactions that lead to gambling, building a security system in cyberspace, and increasing patrols in cyberspace. The method used in dealing with cybercrimes, especially online gambling, is to use the statutory method, namely a method carried out by examining all laws and regulations related to the legal issue being handled. Preventive efforts do not use criminal means to prevent online gambling, but maximize the potential that exists in society to be invited to work together to prevent and eradicate online gambling.

The following diagram shows the government's steps in minimizing online gambling in Indonesia.

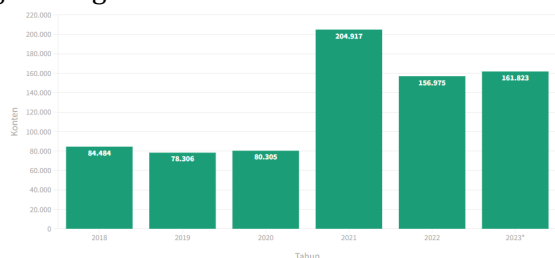


Diagram 1. Number of Online Gambling Content Blocked by KOMINFO (2018-2023) (Source: Ministry Of Communications And Information)

Various obstacles and obstacles faced by the government in eradicating online gambling in Indonesia. The blocking of online gambling websites is not proportional to the growth of online gambling which has increased drastically. Most gambling websites use foreign country domains and their servers are in other countries. This resulted in Kominfo being able to only block the gambling website in Indonesia. So it can't be blocked on its central server location which is in a country where gambling is legal. Website names that do not contain gambling or are related to gambling but create gambling links in Blogspot, making it difficult for online gambling investigators to conduct investigations of agents and bookies in particular.

### Online Gambling In Indonesia Seen From Social Perspective

The factors causing the rise of the online gambling phenomenon are motivated by several reasons. Teenagers who are the majority of online gambling users can certainly harm the morals of today's young people and harm the nation's future. Many causes affect a person's participation in online gambling games, including accepting invitations from fellow players or simply imitating what is trending in the social environment. Easy internet access also supports gambling in society.

Players see this gambling as a way to make money quickly without looking at the values and standards that apply in society. Then online gamblers also find it difficult to leave this activity because they think there is always a chance to win. Players are usually very confident of winning, even though the chances are very slim, because the belief they have is just an illusion that comes from their own minds.

Gambling causes an addictive effect because players always hope to make a profit. If you win, the player will try their luck again, but if they lose, the player will return to gambling in the hope that in the next game he will win. As a result, online gambling players try to find money in any way to use it as gambling capital, including by committing crimes, such as theft, fraud, and so on. Because basically the act of gambling can damage common sense which results in people who

play gambling as if they have run out of ways to get money instantly and as a result they will justify any means to get money so that their desire to play gambling can be fulfilled, this is what is feared can cause other criminal acts and disturbing others.

The practice of online gambling is an integral part of a transnational crime that uses the internet as a medium for criminal practice. The borderless, anonymous, non-confrontational, impersonal and easy-to-use character of the internet makes online gambling a crime that is difficult to eradicate. For almost 20 years since its initial popularity, online gambling has actually become a global problem, not just in Indonesia. The ease of access 24 hours a day from anywhere has made online gambling increasingly popular among various groups, even the younger generation.

The practice of online gambling brings more complex problems than conventional gambling. Online gambling also brings new issues such as the addictive nature of players and the security of users' personal data, and can even give rise to a new mode of crime, namely buying and selling personal bank accounts, which is illegal in Indonesia. The practice of online gambling is a new societal disease in the current digital era that is very urgent to eradicate. As one of the cyber crimes, the eradication of online gambling can no longer use the conventional legal system. Addressing the problem of online gambling as a form of cyber crime requires more comprehensive efforts to overcome it. Prevention and control of cyber crime must be carried out with a more integrated approach in current penal and non-penal policies.

### **Online Gambling In Indonesia Seen From Religious Perspective**

From an Islamic perspective, all forms of games that have *qimar* (bet) are included in the category of gambling, which can be in the form of money or otherwise. According to scholars, gambling games are haram games, including online gambling which also contains *qimar* in every game because it is detrimental to the players. Islam prohibits all crimes, namely all activities that harm oneself, others and the environment, the perpetrators must be punished in accordance with established principles of justice. In Islam, the purpose of

punishment is to create peace for individuals and society, and to prevent actions that harm the lives, property or honor of members of society, as well as improve individual, society and community relations.

Thus gambling has been forbidden as contained in the verses of the Qur'an (Q.S. Al-Ma'idah / 5: 90-91) and also (Q.S. Al-Baqarah / 2: 219). The attitude of a Muslim towards the problem of gambling, in this case in the form of online gambling, is to accept God's provisions by relying on the harm caused by online gambling. Although the arguments and scientific studies put forward by various parties justify or legalize gambling for economic, social and political purposes. Gambling cannot be legalized, even if experts can prove the benefits of gambling. Muslims and the government are obliged to reject and eradicate gambling even if there are no visible or negative signs of gambling. Faith in Allah and the truth of the Qur'an and As-Sunnah is enough to refuse gambling for both personal and socio-economic interests.

Islam makes human property a protected value. Therefore it cannot be considered except through a specified exchange or grant. Gambling is all about consuming other people's property the wrong way. This gambling is a danger that threatens both society and individuals. This gambling destroys time and life and also makes gamblers greedy. They want to take away people's rights but don't want to give anything away. They consume things but can't produce anything.

From the point of view of Christianity, gambling is an immoral attitude because it goes against the core of the Christian faith. Gambling offers a greedy mentality for its players. Hinduism also has a similar perspective regarding gambling (Budiman, 2012). In the Hindu view, the consequences of gambling are prohibited, because gambling sometimes results in greed and anger. This anger creates disharmony in the family and society (Aditi, 2020). Thus the majority of religions do not approve of gambling because it can have negative effects that harm society a lot.

## CONCLUSION

The ITE Law article 27 paragraph (2), article 45 paragraph (1), and article 52 paragraph (4) regulate prohibitions and criminal sanctions related to online gambling in Indonesia. The ITE Law cannot independently regulate the enforcement of online gambling crimes. The government also needs to improve preventive and repressive measures in regulating online gambling crimes to minimize crime in Indonesia. Preventive efforts by maximizing the potentials that exist in the community to be invited together to prevent and eradicate online gambling.

The practice of online gambling brings complex problems, online gambling players will use any means to get money so that they can fulfill their desire to gamble. It is feared that this could lead to other criminal acts including committing crimes, such as theft, fraud, and so on which can disturb the public. The majority of religions in Indonesia prohibit gambling because it can cause negative effects that are detrimental to society.

## REFERENCES

- Aditi, I. G. A., & Widana, I. N. M. (2020). Akibat Hukum Judi Online Ditinjau Dari Perspektif Hukum Positif Dan Hukum Hindu (Studi Pengadilan Negeri Kelas 1a Mataram). *Jurnal Hukum Agama Hindu Widya Kerta*, 3(2), 76-90.
- Arifin, Z. (2015). Perilaku remaja pengguna gadget; Analisis teori sosiologi pendidikan. *Tribakti: Jurnal Pemikiran Keislaman*, 26(2), 287-316.
- Budiman, K. S. (2012). Filsafat Judi, Etika Sekuler, dan Erosi Iman.
- Bunga, D. (2019). Kebijakan Formulasi Judi Online dalam Hukum Indonesia. *Vyavahara Duta*, 14(1), 21-34.
- Chóliz, M. (2016). The challenge of online gambling: the effect of legalization on the increase in online gambling addiction. *Journal of gambling studies*, 32, 749-756.
- Efendi, Jonaedi. (2018). *Metode Penelitian Hukum: Normatif dan Empiris*. Prenada Media.
- Karli, K., Harvelian, A., Safitri, A. M., Wahyudi, A., & Pranacitra, R. (2023). Penyuluhan Pengabdian Hukum dalam Mengatasi Dampak Negatif Judi Online terhadap Kesejahteraan Buruh. *PUNDIMAS: Publikasi Kegiatan Abdimas*, 2(2), 86-92.
- Lakoro, A., Badu, L., & Achir, N. (2020). Lemahnya Kepolisian Dalam Penanganan Tindak Pidana Perjudian Togel Online. *Jurnal Legalitas*, 13(01), 31-52.
- Nono, I. Y., Dewi, A. A. S. L., & Seputra, I. P. G. (2021). Penegakan Hukum Terhadap Selebgram yang Mempromosikan Situs Judi Online. *Jurnal Analogi Hukum*, 3(2), 235-239.
- Ritonga, D. A. (2021). Sanksi Bagi Hukum Fasilitator Judi Dadu di Kecamatan Dolok Dalam Analisis Hukum Pidana Islam Dan Hukum Positif. *Al-Qanun: Jurnal Kajian Sosial dan Hukum Islam*, 2(1), 63-79.
- Rodhiyah, I., Hapsari, I. P., & Iskandar, H. I. (2022). Pertanggung Jawaban Pelaku Tindak Pidana Perjudian Online di Indonesia. *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam*, 4(2), 591-600.
- Suharya, R. (2019). Fenomena Perjudian Dikalangan Remaja Kecamatan Samarinda seberang. *Sosiatri-Sosiologi*, 7(3), 326-340.