

Law Enforcement Against Criminal Acts of Online Gaming In The City of Surabaya

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ABSTRACT

purpose of doing research on law enforcement against online gambling crime is to find out the form of law enforcement, especially in the city of Surabaya. The research method used by the author is a normative research method, the author collects some data to be used to answer the problem formulation, which comes from laws and regulations, books or literature, journals, and official documents. The results of the study can be concluded that in the enforcement of criminal law, there are two ways in carrying out countermeasures. In carrying out the first countermeasures, using penal law enforcement, and the second countermeasures using non-penal law enforcement. Law enforcement against online gambling uses penal countermeasures, where the process is the same as other criminal acts, starting from the investigation, investigation, to the trial process. In the forms of criminal acts of conventional gambling and online gambling, the contents of the article are not much different. In conventional gambling still uses the traditional way. However, online gambling is much more modern because it uses the internet network and information technology media such as cellphones or laptops. Regulations regarding conventional gambling can be seen in Article 303 or 303 bis of the Criminal Code, while regulations regarding online gambling are regulated in Article 45 paragraph (2) of Law Number 19 of 2016 concerning Electronic Information and Transactions.

Keywords : Law Enforcement, Gambling Crime Online, ITE

1. INTRODUCTION

In everyday life, people have lived side by side with technology. With the advancement of technology, it has changed human life to be more effective and efficient. Humans can take advantage of the sophistication of information technology in any case, such as getting information easily, exchanging information, being able to manage various kinds of data, and using existing facilities on the internet. The internet is a source of information for anyone, because by using the internet, people can easily use internet portals to get various information online.

The users who initially used technology were only certain groups of people, because in the 2000s the emergence of the internet in Indonesia could only be accessed through computer devices. At that time, only a few people had a computer but did not have an internet network. In big cities, they provide internet usage services called internet cafes (WARNET). The main target of internet cafe users at that time were teenagers who were still in school. Many come to the internet cafe to play online games, stream movies, open email, etc.

However, this also has a negative impact because it makes teenagers addicted to playing the internet by spending hours at the internet cafe. So that they spend a lot of time studying for things that are not necessary. The lack of basic knowledge also results in misuse of internet usage, for example opening pornographic sites, online gambling sites, and other prohibited sites. Even though internet users should only access the things they need.



On the internet, there are sites that can be easily used to make money instantly by playing online gambling. This is common among the public because it is easily accessible via a smartphone or laptop. Online gambling itself in Indonesia is actually prohibited, the government also takes action by blocking online gambling sites. It still doesn't matter because the users have loopholes to keep playing safely. By using a vpn, internet users can still access blocked sites and their internet IP cannot be traced. This can actually be eradicated by the existence of regulations regarding digital crimes, namely the ITE Law on misuse of internet networks. The ITE Law itself was only formed in 2008. The ITE Law was formed to be used in situations where online crimes occur, which are related to legal problems in conveying information, online transactions, etc.

In Indonesia itself, the ITE Law can be said to be cyber law (cyberlaw), with the hope of eradicating all crimes that occur on the internet, as well as regulating sanctions against internet crimes. Contents of Law 19/2016 about Information Technology and Electronic Transactions not only refers to certain categories of legal subjects, but also refers to "everyone", with the affirmation of the phrase "everyone who intentionally commits a criminal act of humiliation and/or defamation". According to the government, the establishment of Law 19/2016 concerning Information Technology and Electronic Transactions is a form of protection aimed at everyone.

In Law Number 19 of 2016 it is regulated regarding the threat of sanctions against online gambling actors in Article 45 paragraph (2), namely:

"every person who intentionally and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents. who has a gambling content as referred to in Article 27 paragraph (2) shall be sentenced to a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 1 billion".

Online gambling itself is also rife in the city of Surabaya. Players usually play by betting that depends on luck. All types of games are done by betting and if one of them wins because of luck, it can be said to be gambling even though he doesn't follow the game directly. One of the cases that occurred in the city of Surabaya was online gambling poker games. The poker game itself has been widely used by millions of people in all parts of the world, which turns out to contain elements of a crime. The arrest of the perpetrator has a strong basis on suspicion of committing a crime of gambling online poker by using a cellphone as a tool. The perpetrator also creates an account that has been registered in the online poker account to be used when betting.

2. RESEARCH METHODS

In conducting a legal research, one can use a structured method, which is commonly referred to as a legal research method (Muhammad, 2004). It is very important to be able to understand and determine the type of research that you want to use as a component in doing

writing. Because it affects the technique and the results of the research writing. In legal research, in addition to being based on a structured way, one must also have certain thoughts, by conducting an analysis that aims to study several legal phenomena that are currently happening. This study uses a normative juridical method, which is carried out by examining library materials or secondary data (Soekanto & Mamudji, 2001). In conducting normative legal research, usually researching data indirectly or through intermediary media. The data obtained from several books that have a relationship with the object of research, official documents such as those from government agencies, as well as those originating from the results of final-level research such as; theses, theses, dissertations, or journals, and legislation (Ali, 2021).

1. Data Sources following are examples of general (secondary) additional data that can be studied, which have a relationship with the object of research, including: (Soemitro, 1982)

a. Additional personal archives:

1) Self-kept

archives 2) Personal archives originating from the institution in which the person concerned has worked

b. Additional public:

archives 1) Archive data archives

2) Official originating from government agencies

3) Publicly published archives, such as jurisprudence belonging to the Supreme Court

Additional legal archives, seen from the point of view of their binding power and can be divided into:

1) Principal legal materials (primary) are legal materials that have jurisdiction. This basic legal material consists of legislation, official records or minutes in the making of legislation and judges' decisions. In this case the author uses the main data sources as follows:

a) the Criminal Code

b) Law - Law no. 19 of 2016 concerning Information and Electronic Transactions

c) Law Number 7 of 1974 concerning Gambling Control

d) Government Regulation Number 9 of 1981 concerning the Implementation of Gambling Control.

2) Additional (secondary) legal materials are publications related to law, including textbooks, legal dictionaries, legal journals and opinions or comments on court decisions. In writing this research, the authors use additional data as follows:

a) Books related to ITE

b) Books related to law enforcement

c) Journals or books related to gambling



3) Tertiary legal materials are legal materials that able to provide instructions and descriptions of primary and secondary legal materials and contribute as research support materials (Soekanto & Mamudji, 2001). For example, such as: Encyclopedias and legal dictionaries.

2. Data Analysis Method The

data that has been obtained can then be processed and analyzed by describing the data obtained from the field, then converted into a sentence form in the form of a systematic explanation, so that the results of the data obtained have meaning and reach conclusions. The results of the data analysis can be concluded effectively related to the existing problems, and conclusions can be drawn. Then from these conclusions, the problem is discussed in general, then a basis is made on specific facts.

3. RESULT AND DISCUSSION

Types of Crime Forms of Online

Gambling Gambling is a crime that is often found in our lives, whether done intentionally or unintentionally. Gambling has existed since ancient times and is regulated in the Criminal Code, (Law Number 7, 1974) concerning Gambling Control, and Government Regulation Number 9 Year (1981) concerning the Implementation of Gambling Control. Judging from the number of three laws and regulations governing gambling, it can be concluded that gambling has been carried out for a long time. Gambling in Indonesia has a very long history which has existed since the Dutch era. This can be proven by the provisions in the Criminal Code. Over time, playing gambling is now becoming more modern. This is due to the existence of internet facilities that make it easier for players. In accordance with the development of information and technology that gave birth to the internet, the form of gambling itself has developed. Gambling in the network (internet gambling, online gambling or cyberspace gambling) is the development of conventional gambling, which can be referred to as online gambling.

Gambling is carried out using electronic technology, as well as the internet network. With the internet network and electronic technology such as cellphones and computers, it can make it easier for the players. Players can play gambling without having to meet other players. This is one of the differences with ordinary (conventional) gambling. In addition, another difference between ordinary (conventional) gambling and online gambling is that players are required to open an account to fill in the initial balance and create an ID (digital identity) in order to play. Usually the players are pegged a minimum balance that must be entered into the player's account, then the player can adjust the contents of the balance himself according to the provisions of the game to be played.

From the explanation above, two types of gambling crimes can be obtained, namely ordinary (conventional) gambling crimes and online gambling crimes. The definition of ordinary (conventional) gambling crimes with online gambling crimes is the same, namely playing by betting on each other by relying on luck and usually using money if you want to play. Each player collects the agreed amount of money, the winner of the game is entitled to get all the money from the players. What distinguishes ordinary (conventional) gambling crimes from online gambling crimes is the use of electronic technology and internet media.

Regulations regarding the prohibition of granting permits for all forms of organizing and various types of gambling are regulated in Government Regulation Number 9 of 1981 concerning the Implementation of Law Number 7 of 1974 concerning Control of Gambling, the regulation regulates the implementation of which is held in casinos, in crowded places. , as well as other related reasons. The following forms of ordinary (conventional) criminal acts are regulated in Article 1 paragraph (1) of Government Regulation Number 9 Year (1981) concerning the Implementation of Gambling Control, categorized into (3) three types, namely:

a. Gambling at the Casino, among others consists of:

- 1) Roulette;
- 2) Blackjack;
- 3) Baccarat;
- 4) Creps;
- 5) Keno;
- 6) Buttons;
- 7) Super Ping – Pong;
- 8) Lotto Fair;
- 9) Satan;
- 10) Paykyu;
- 11) Slot Machines;
- 12) Ji Si Kie;
- 13) Big Six Wheel;
- 14) Chuca Luck;
- 15) Throw paser/feather at the target or rotating board;
- 16) Pachinko;
- 17) Poker;
- 18) Twenty One;
- 19) Hwa Hwe;
- 20) Kiu – Kiu

b. Gambling in Crowded Places

- 1) Throw Bracelets;
- 2) Throw Money;
- 3) Kim;
- 4) Lure;
- 5) Shoots non-rotating targets;
- 6) Throw the ball;
- 7) Fighting cocks
- 8) Fighting cows;
- 9) Buffalo fight;
- 10) Goat fighting;
- 11) Horse racing;
- 12) Dog racing;
- 13) Mayong;
- 14) Erek – Erek.

c. Gambling associated with other reasons, including gambling associated with habits:

- 1) Cockfighting;
- 2) Cow fighting;
- 3) Buffalo fights;
- 4) Horse racing;
- 5) Karapan beef;
- 6) Fighting sheep/goats.

The third point in gambling that is associated with other reasons, such as relating to religious ceremonies, or regional traditions, does not include gambling. Because it is included in the customs or habits of the area. An example of an area that is still thick with tradition that is included in one of the third points is the City of Madura. The form of ordinary (conventional) gambling crime itself is not regulated in the Criminal Code, but only regulates criminal sanctions. So to find out what are the forms of ordinary (conventional) gambling crimes, you can only refer to Government Regulation No. 9 of 1981 concerning the Implementation of Gambling Control.

The form of online gambling itself is not regulated in Law Number 19 of (2016) concerning Information and Electronic Transactions. The form of online crime itself is actually almost the same as the form of ordinary (conventional) gambling crimes, but if you want to play you have to open an online gambling site via the internet. Sites that are usually used to play online gambling are: www.sbobet.com and www.sangnaga.com.

The most common form of online gambling crime is soccer betting, which is used during football season. The players bet on the score of the football match, if the score or victory of the team selected from the player wins, then the player who chooses that team gets money from the result of the bet.

Law Enforcement Used Against Online Gambling Crimes in the City of Surabaya

Indonesian society has experienced growth and developed into a modern society that is technologically literate, but some people are still left behind. This happens because of the small number of people who follow developments in information and technology, including in dealing with legal problems that arise. There are negative impacts that arise, the occurrence of high levels of crime in various fields and various modes of crime. The development of technology and information has influenced the revolution in the form of crime, which was originally traditional (conventional), to modern. The thing that is done or the type of crime is the same, but what makes it different is the participation of information technology, which is a medium that is used in conjunction with a crime. With the internet, in addition to making everything easily accessible, it also makes it difficult to be tracked, processed in court, and difficult to prosecute. Internet-related crimes discussed in this study are online gambling (gambling). Gambling is currently more often called online gambling than conventional gambling. Gambling crimes Online, can be done by utilizing the internet. And it can also be said as an internet crime, because it misuses internet media.

All crimes that have occurred, of course, must be adjusted to the applicable regulations, such as the Criminal Code or other regulations relevant to crimes, especially in the field of criminal law. Although regulations regarding internet violations are not regulated in the Criminal Code, you can use Law No. 19 of 2016. In practice that occurs in the field, judges are required to carry out their own legal interpretation, as stated in Law no. 4 of 2004 concerning Judicial Power, and also judges can exercise jurisprudence (Smith, 1991). However, what happened was more directed to the formation of a new law due to the assumption that the Criminal Code is not able to regulate the types of crimes above, this makes it difficult for some law enforcement officers to overcome this.

To ensure legal certainty, as well as order and legal protection, it is necessary to enforce law in the era of modernization and globalization. The law exists to maintain the harmony and harmony of the morals that exist in society. Law enforcement must be seen as a criminal justice system because it is a process of activities that includes various parties including the community within the framework of achieving goals (Reksodiputro, 1994).

In carrying out law enforcement in Indonesia, it can be done in two (2) policy ways, namely:

1. Non-Penal Efforts in Crime Prevention

Policies prevention policies or commonly known as "criminal politics" can cover a fairly broad scope. According to (Peter Hoefnagels, 1969) crime prevention efforts can be pursued by:

- a. Application of criminal law (criminal law application);
- b. Prevention without punishment (prevention without punishment);
- c. Influencing people's views on crime and punishment through mass media (influencing views of society on crime and punishment / mass media.

Thus, there are two efforts to overcome crime, the first is "penal" (criminal law) and the second is "non-penal". (instead of / outside the criminal law). in the division of GP Hoefnagels above, prevention without crime and efforts to influence society's views about crime and sentencing through mass media included in the "non-penal" (Arief, 2008).

The contrast of the two The effort is, if the "penal" prevention effort is more burdensome on thenature repressive (oppression / eradication / suppression) after the crime has occurred, while the "non penal" prevention effort is more burdensome on thenature preventive (prevention / deterrence / control) before the crime occurs. Why is it said to be a striking difference, because in repressive measures it can also be seen as preventive action with a broad meaning (Arief, 2008).

The form of non-penal countermeasures is the effort to deal with crimes that can occur due to conducive factors. Conducive factors such as, focus on problems or social conditions that directly or indirectly occur and can lead to crime (Arief, 2008). The most strategic non-penal effort is being able to make the community a healthy social and environmental environment from all factors that can cause a crime to occur. It can be said that society can be a deterrent factor for crime that is part of the cause of criminal acts.

Conducive factors that cause crime is the existence of problems and social conditions which clearly cannot only be solved by penal efforts. This is a limitation of penal efforts, and therefore must also be assisted by non-penal efforts. One of the non-penal efforts aims to ward off and solve social problems (Peter Hoefnagels, 1969). Basically, social policy is a rational effort to achieve public welfare (Arif, 2008). In addition to non-penal efforts, it can also be done in other ways, namely making the community healthy through social policies, and also exploring the potentials contained within the community itself, as well as non-penal efforts being explored through various other sources that have potential preventive effects. Examples of other sources include the press/mass media, the use of technological advances and the use of potential preventive effects from law enforcement officers (Arief, 2008).

2. Penal Policy

(Ancel, 1965) once stated that "modern criminal science" has three components, namely "criminology", "criminal law", and "penal policy. Put forward by (Ancel, 1965), the penal effort (penal policy) is a science as well as an art which ultimately has a practical goal to formulate

positive legal regulations better and to not only provide guidance to legislators, but also to those who implement it. law (court) and also to the organizers or implementers of court decisions. Furthermore (Ancel, 1965) states:

"Between the study of criminological factors on the one hand and the study of legislative techniques on the other, there is a place for a science that observes and investigates legislative phenomena and for a rational art, where legal scholars can work together not as opposing parties or in conflict with each other, but as co-workers who are bound in a common task, namely primarily to produce a criminal policy that is realistic, humanist, and forward-thinking (progressive) and healthy."

It was stated by (Ancel, 1965), that the existence of a criminal law system in the 20th century still had to be realized. The criminal law system in that century could only be created and perfected with the efforts of all people who had good intentions and all experts in the social sciences. With the above sentence, in principle, the problem of policy on criminal law is not only a legal technical work that can be done with normative juridical, in carrying out criminal law policies it is also necessary to have a factual juridical approach, which is able to overcome legal problems or fill legal vacancies by the consideration of existing regulations, can also take a sociological, historical, and comparative approach. A comprehensive approach is also needed from various other social science disciplines, as well as an integral approach using social policy and social development (Ancel, 1965).

Policy terminology is taken from the English word, namely policy or politiek which comes from Dutch. The terminology of criminal law policy itself can also be called the political terminology of criminal law. In foreign discourse, the political terminology of criminal law is usually known by various terms, namely penal policy and criminal law policy in English, or strafrechtspolitiek in Dutch. It can be seen the meaning of criminal law policy or politics seen from legal politics or from criminal politics (Ancel, 1965).

According to (Sudarto, 1981), "Legal Politics" are:

- a. An attempt to make good rules, also in accordance with the circumstances and situations in the future
- b. The state makes policy through the competent bodies to establish the desired regulations who is able to visualize what is contained in society and to achieve what is aspired (Sudarto, 1983) The

Purpose of crime prevention is to make efforts and policies to make good criminal law regulations. So a policy or policy of criminal law is part of criminal politics. In other words, it can be seen from the point of criminal politics, the politics of criminal law is identical with the notion of "policy of crime prevention with criminal law" (Sudarto, 1983). Crime prevention efforts with

criminal law are essentially part of law enforcement efforts (especially criminal law enforcement). Therefore, it is often said that politics or criminal law policies are also part of law enforcement policies (Sudarto, 1983).

In addition, efforts to prevent crime through the making of criminal law laws In principle, it is also an integral part of efforts social welfare. Therefore, criminal law policies or politics are commonplace if they become an integral part of social policies or policies. In a broad sense, the scope of policies in the field of material criminal law in the field of formal criminal law and in the field of criminal law enforcement can be covered by criminal law policies (Sudarto, 1983).

Based on the description above, two policy methods have been described, namely non-penal and penal methods. However, the legal policy discussed in law enforcement on gambling crimes online uses a penal law policy (through criminal law). Implementing a criminal justice system is the main objective of the judicial process, because the priority is public order and efficiency. In carrying out penal law policies on gambling crimes online, the process is actually the same as other criminal acts. (Mr. Agus Hamzah, 2019) An example of a penal policy in online gambling crimes is to apply formal and material penalties. Namely, the formal punishment starts from the investigation and investigation stage, the judicial stage, and the criminal implementation stage. However, there is one thing that distinguishes one of the criminal justice processes in gambling crimes online, namely in the process of investigation and investigation it is different from conventional criminal acts. In gambling online using information technology, which means modern (not conventional) crime. In carrying out the investigation and investigation process, a special unit / team is needed to handle it. The regional police themselves already have a special agency that handles crimes related to ITE. The agency is called the Cyber Crime Investigation Center of East Java or can be called the "Siber Polda Jatim".

It is the cyber police who handle investigations and investigations of criminal acts related to ITE, because special expertise is needed in carrying out the process. Usually the cyber police (investigators) are assisted by IT / ITE experts because this cannot be done if they only rely on the police, so IT / ITE experts are needed.

In the judicial stage, the process is exactly the same, nothing is different. Before the judge makes a decision on the defendant, the judge carefully looks at the articles charged by the public prosecutor. In gambling crimes online, Article 303 of the Criminal Code is always imposed, not Article 45 paragraph (2) of the ITE Law. This is because before making a decision, the judge uses a systematic interpretation to determine the article to be given. Article 45 paragraph (2) is usually imposed on the bookies, not on the players. Because what is included in the elements in Article 45 paragraph (2) is more appropriate/suitable for the city. Players usually only need to log in because they were previously guided by the dealer. And also the luck obtained by the dealer is very much

compared to the players, so it should be subject to Article ITE which has a very heavy penalty, yes, imprisonment for six (6) years and a fine of one billion rupiah (Rp. 1,000,000,000). (Mr. Agus Hamzah, 2019).

For material criminal law, it is the law that regulates the formulation of crimes and violations as well as the conditions if someone can be punished and given the appropriate sanctions. So in this case it can also be referred to as in terms of imposing sanctions for criminal acts that are violated. Material punishment is a regulation that includes what actions can be punished, who can be punished and what punishment is appropriate to punish someone.

4. CONCLUSION

From the results of the overall discussion above, there is a conclusion that the forms of conventional gambling crimes with online gambling are basically not much different. Conventional gambling still uses the traditional way, namely by means of players meeting each other or gathering with other players. However, online gambling uses information technology, which makes it easier for players to play gambling, and is also more practical because they do not need to meet each other. In the form of conventional gambling, it is regulated in Government Regulation 9 of 1981 concerning the Implementation of Gambling, but online gambling itself is not regulated in any Act, especially the ITE Law. Criminal law policies by using penal facilities in law enforcement on online gambling crimes, the process is the same as law enforcement against other criminal acts. However, there is something different about this process, namely when conducting investigations and investigations. In carrying out the investigation and investigation stage on online gambling crimes, those who handle are special investigators, who usually handle ITE cases. In the police, there is a special cyber agency to deal with ITE (online gambling) crimes.

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