



THE EFFECTIVENESS OF LAW ENFORCEMENT AGAINST INDONESIAN CITIZENS WHO GAMBLE ONLINE ABROAD

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Abstract

Since online gambling is a cybercrime, those who commit it are not required to be under the jurisdiction of the Republic of Indonesia. Research question: How effective is the criminal penalty for Indonesian nationals who engage in online gambling overseas According to Article 27, paragraph (2) of the Electronic Information and Transactions Law? What elements of the Electronic Information and Transactions Law-based evidence are relevant to online gambling? Research findings: According to Article 27, paragraph (2) of the Republic of Indonesia Law on Electronic Information and Transactions, the efficacy of criminal penalties for Indonesian nationals engaging in online gambling overseas varies based on several factors, including international cooperation, legal regulations, and law enforcement. By applying Article 45, paragraph (1) in conjunction with Article 52, paragraph (4) of the ITE Law, technology, prevention, and education, effective courts, and community support are deemed effective and refer to the Active National Principle in Article 2 of the ITE Law and Article 5 of the Criminal Code. In accordance with the provisions found in Article 184 in conjunction with Article 183 of the Criminal Procedure Code and Article 5, paragraph (2) of the ITE Law, the elements that are fulfilled, the evidence used, and the course of the proof process in court are the basis for proving online gambling under the Republic of Indonesia Law on Information and Electronic Transactions.

Keywords: *Active National Principle, Electronic Information and Transactions Law, Evidence in Cybercrime, Extraterritorial Jurisdiction, Online Gambling*

1. Introduction

Technological advancements have become an integral part of people's lives. Like glue and stamps, technology is constantly present in every aspect of life, from childhood to adulthood. Technology serves as a tool that meets various needs for human survival. Furthermore, technology can be understood as the entire set of ideas, methods, techniques, and material objects used at a specific time and place to meet human needs. The emergence of technology has had positive impacts, such as encouraging new innovations that can make human life easier (Mulyani & Haliza, 2021). However, technology also has negative impacts, such as a significant number of people ignoring norms, etiquette, and manners that apply in everyday life. Even more frightening is the fact that technology can lead individuals to commit crimes that ultimately harm society.

The emergence of increasingly sophisticated technology is driven by scientific development in society. Technology developed gradually until the emergence of a technology called the Internet. The internet is a technology that emerged in the current information age, and its emergence has both positive and negative effects. (Manullan, and Orb (2021) stated that technologically development during the era of globalization is marked by the application of the Internet in every aspect of human life, including economic, social, and cultural activities. Today, the internet is not only used for entertainment; it also serves as a factor driving global economic growth. (Marwan et al., 2022). With the existence of the internet, human interaction is becoming more complex, so that it has become a need that cannot be separated from humans. (Davin Gerald Parsaoran Silalahi et al., 2024)

These economic and technological developments have influenced the emergence of new crimes. Gambling is one of the most common and disturbing crimes in society today. The unstable state of society in terms of religion, economy, morals, and legal awareness has led to this crime. (Raharjo et al., 2022) The development of information technology and the existence of the internet led to the emergence of a new kind of gambling crime: online gambling. Poker is also known as gambling or wagering money or valuables on an event whose conclusion is unclear, with the main goal of obtaining more cash or tangible things.



The Indonesian government does not recognize online gambling as a legitimate business activity. Online gambling is a crime. Online gambling is regulated as a subject of criminal law for several reasons, including the following:

- a. Corporations/management that create businesses where crimes and/or violations occur
- b. The ability to sue the company or its administrators is equally important.
- c. Given that more and more companies appear to be involved in online gambling violations, both in social and economic terms,
- d. Criminal law must have a purpose within society, which is to maintain and enforce the law. This goal will not be achieved if criminal gambling laws only focus on individuals or if punishments for gamblers only apply to individuals. Therefore, corporate criminal law is important.
- e. One strategy to destroy foreign online gambling sites is to punish the business or criminal threat. This will directly reduce the number of online gamblers and impact law enforcement (D.B. Prakoso, 2021).

Online gambling is defined in criminal law as an unlawful act; therefore, any actions related to it must be questioned regarding their legality. Based on the principle of legality, the legality of online gambling must be enshrined in Indonesian positive law.(Beckman, 2023) Based on the Preamble to the 1945 Constitution and the Fifth Principle of Pancasila, positive law is a vital part of Indonesia's value system. Indonesian positive law is a set of principles and rules that govern human behavior as part of the current social life in Indonesia. (Widihastuti et al., n.d.) Several things can cause difficulties in implementing positive law, such as a lack of legal norms, unclear formulation of legal norms, conflicts between legal norms, and incompatibilities between outdated legal norms.(Amarini et al., 2023) Conceptually, each of these problems has a method or approach to solving it. Because the theory is a subjective choice that must be carefully considered by the decision maker, the decision maker must be very careful when choosing the theory.(Suhartono, 2019)

Numerous platforms have been made available on the Internet for a range of activities, including illegal activities such as online gambling. The Indonesian government has attempted to address these activities through the Law of the Republic of Indonesia Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (henceforth referred to as the ITE Law) and Articles 303 and 303 bis of the Indonesian Criminal Code due to their possible substantial impact on social and economic stability. Online gambling has grown in popularity and is frequently difficult to monitor. The ITE Law provides a crucial legal basis to end these activities.(Prabu Kemal Manaf, 2024) Online gambling offenses, particularly in Indonesia, are motivated by a number of factors. For instance, social and economic reasons make gambling a simple way for people with low income to raise their standard of living. They want to use a small sum of money to quickly become wealthy or make a significant profit.(Makarini & Astuti, 2023)

Information technology advancements have profoundly affected every facet of people's lives in the current era of digitalization and globalization. Originally utilized for communication and information exchange, the Internet is now employed for a variety of purposes, including illicit ones. One such common illicit behavior is online gambling. This phenomenon not only has negative social consequences, such as increasing public dependence on gambling, but also has economic repercussions, as the money circulating in online gambling transactions is often difficult for the state to control and supervise. Online gambling is a crime committed in cyberspace; therefore, perpetrators can be anywhere, meaning they do not have to be within the jurisdiction of Indonesia. Indonesia adheres to the principles governing the applicability of criminal law according to location, including the territorial, active national, passive national, and universal principles.

Based on the above background, the following research questions were formulated:

- a. According to Article 27, paragraph (2) of Law of the Republic of Indonesia Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic



Information and Transactions, how effective are the criminal penalties for Indonesian nationals who participate in online gambling overseas?

- b. How may the Law of the Republic of Indonesia Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions be used to prove Internet gambling?

2. Literature review and hypothesis/es development

No	Title	References	Main Contents
1	Basic Concepts of Law Enforcement Against Cybercrime	"Law Enforcement Against Online Gambling Practices in the Digital Era" (2025). Law No. 19 of 2016 concerning Amendments to the ITE Law.(Army Handayani et al., 2025)	Law enforcement against Internet-based crimes is highly complex because of their cross-border nature (borderless crime). Indonesian law enforcement officials use digital forensics and collaborate with technology platforms to prosecute perpetrators who remain within Indonesian jurisdiction. Problems arise when the perpetrator or server is located abroad, which limits the national jurisdiction.
2	Online Gambling as a Transnational Crime	"Illegal Online Gambling in Indonesia: Assessing State Securitization and Its Effectiveness" (2025).(Azis & Azhari, 2025) UNODC & IOM Report (2023): Casinos, Cyber Fraud, and Trafficking in Persons for Forced Criminality.	Online gambling is categorized as a transnational organized crime (TOC). Perpetrators and victims are often located in different countries; the modus operandi involves the illegal recruitment of Indonesian migrant workers to operate online gambling systems in Cambodia,

			<p>the Philippines and Myanmar.</p> <p>States struggle to enforce criminal sanctions due to limitations in extradition and mutual legal assistance (MLA) treaties.</p>
3	<p>Jurisdictional Limitations and Challenges of International Law</p>	<p>“Between National Borders and Legal Boundaries: Jurisdictional Limitations in Reaching Online Gambling Providers Abroad” (2025).(Jaya Suastika & Novy Purwanto, 2025)</p> <p>Law No. 1 of 2006 on Mutual Assistance in Criminal Matters (MLA).</p>	<p>Indonesia's criminal jurisdiction only applies territorially and is personally passive, making it difficult to prosecute Indonesian citizens who commit crimes outside Indonesian jurisdiction.</p> <p>The main problem is the proof and enforcement of executory law abroad.</p> <p>A special bilateral agreement is required between Indonesia and the country in which online gambling operates.</p>
4	<p>Legal Protection for Indonesian Citizens in Overseas Online Gambling Operations</p>	<p>Zarbiyani, F. (2023). Case study of Indonesian citizens operating online gambling in Cambodia.(Zarbiyani & Djaja, 2023)</p> <p>BP2MI and the Ministry of Foreign Affairs (2024) release on victim repatriation.</p>	<p>Many Indonesian citizens trapped in overseas online gambling networks are not simply perpetrators but victims of human trafficking.</p> <p>Effective law enforcement must distinguish between perpetrators and victims of criminal exploitation.</p> <p>A humanist (human rights-based) criminal law approach is necessary to ensure</p>

			the protection of Indonesian citizens' rights.
5	Effectiveness of Law Enforcement and Policy Challenges	<p>“Criminal Liability of Online Gambling Perpetrators in Indonesia According to the Electronic Information and Transactions Law” (2024). (Bantu et al., 2024)</p> <p>“Implementation of Criminal Sanctions against Online Gambling Promoters” (2025).</p>	<p>Law enforcement continues to focus on domestic perpetrators (promoters and players).</p> <p>Efforts to freeze accounts and block sites have not been effective because of the adaptive nature of the networks.</p> <p>There is no integrated cross-border enforcement mechanism between Indonesia and the countries in which the sites operate.</p>

Research Gap

Aspects	Finding From Previous Research	Gaps	New Research Directions
Geographic Focus	Research focuses more on domestic online gambling perpetrators	There is limited research on Indonesian citizens who are perpetrators or workers in online gambling networks abroad (Cambodia, Philippines, and Myanmar).	This study focuses on the transnational dimension of Indonesian citizens as perpetrators or victims in foreign jurisdictions.
International Law Aspects	Criminal law studies generally stop at the realm of ITE Law and the Criminal Code.	There is limited research linking extradition treaties and MLAs between Indonesia and other countries.	This study examines the effectiveness of international legal cooperation and the limits of Indonesia's criminal jurisdiction.
Victim/Perpetrator Perspective	Many studies have positioned Indonesian citizens as pure criminals.	The mixed status of perpetrators and victims of exploitation in online gambling syndicates has not been discussed.	This study highlights the ambiguity of the role of Indonesian citizens as either perpetrators or victims of human trafficking.



Enforcement Policy & Effectiveness	Government reports and empirical studies indicate that blocking and repatriation measures have not significantly reduced the number of cases.	There has been no empirical evaluation of the effectiveness of cross-ministerial and law-enforcement policies.	This study assesses the effectiveness of law enforcement policies in an integrated manner (Indonesian National Police, Ministry of Foreign Affairs, BP2MI, and Ministry of Communication and Information).
Theoretical Approach	Modern criminological theory has not been widely applied to transnational online gambling.	The sociology of law and transnational crime theory have been limited in their analysis of this crime.	This study uses a transnational criminological approach to map the relationships between perpetrators, victims, and the state.

3. Methodology

This study employs a normative juridical approach, which focuses on examining laws, court records, and legal theories pertaining to legal matters. This approach is to comprehend and assess relevant legal provisions and offer recommendations or solutions for the legal issues examined. (Saputra et al., 2022)

The conceptual approach used in this study highlights the analytical viewpoint of problem-solving. This method entails comprehending the legal ideas that serve as the problem's foundation or context and taking into account the values connected to the ideas employed in normative regulation. (Jaelani & Luthviati, 2021)

Researchers use secondary data—data collected indirectly by other researchers or collectors; this is called indirect data because the data is obtained through various sources, such as books, journals, theses, articles, and the internet. The researcher's data collection method is a document study, namely the collection and analysis of data from documents.

4. Results and discussion

4.1. The Effectiveness of Criminal Sanctions for Indonesian Citizens Who Perpetrate Online Gambling Abroad Based on Article 27 Paragraph (2) of the Republic of Indonesia Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions

A corporation is an entity created or authorized by the laws of a state or nation and often consists of many associated individuals. A corporation is a legal entity with rights and obligations similar to those of an individual. Its purpose is to generate profit, and it is formed by a group of individuals and is an association of individuals. Corporate crime refers to any criminal act committed by a company through the activities of its officers or employees. Corporate crime results in victims and has broader consequences. (Black, Henry Campbell, 2024).

Sutan Remy Sjahdeini stated that because companies are classified as public or private legal entities according to Black's Law Dictionary, the definition can be interpreted broadly or narrowly based on their legal structure. In legal terms, a corporation is an organization. Companies are generally legal or non-legal entities. The Indonesian government does not recognize online gambling sites as legitimate businesses, and they are an example of unlawful operations.



Criminal liability for individuals conducting online gambling activities can also be based on doctrinal theory, where legal research is based on the study of the internal aspects of positive law. Doctrinal or normative juridical theory focuses on the scope of legal concepts, norms, and principles. Corporate theory clarifies criminal liability in online gambling cases under the Electronic Information and Transactions Law, whose jurisdiction surpasses Indonesian legal acts and/or is committed outside of Indonesian jurisdiction by Indonesian citizens, foreign nationals, Indonesian legal entities, or foreign legal entities that have legal ramifications in Indonesia.

The corporate then referring to legal subjects as criminals, theory refers to three different forms of doctrine: the doctrine of strict liability, the doctrine of vicarious liability, the doctrine of delegation, and the doctrine of identification.

a. Strict Liability

This doctrine states that a person is automatically considered criminally liable without any evidence of wrongdoing, intentional or otherwise, on the part of the perpetrator. Strict or absolute liability is the idea that the perpetrator's responsibility is independent of whether the crime was committed, and that the perpetrator bears specific criminal responsibility in the form of fault. Based on the definition of the strict liability doctrine, in the crime of online gambling, the perpetrator of the crime of online gambling is the gambling platform's founder and developer. This is because the founder and developer of the platform are directly involved in the activity without needing any proof of wrongdoing, whether intentional or unintentional.

b. Vicarious Liability

This doctrine is applied by referring to the theory of liability or criminal responsibility for illegal activities. Based on the theories of respondeat superior and vicarious liability, the mistakes of subordinates in the workplace are the responsibility of the company leaders. This suggests that the owners and developers of online gambling platforms may be held accountable for their actions.

c. Delegation

The doctrine of delegation holds leaders criminally accountable when their corporations abuse their power. Based on the doctrine of delegation in the online gambling case, liability remains with the founders and developers of the online gambling agent platform for the actions of their subordinates to whom authority was delegated.

d. Identification

The doctrine of identification proves a crime and holds the perpetrators criminally responsible. Crimes committed by company employees who hold formal corporate leadership positions are considered the controlling parties of the corporation. In the case of online gambling, the platform's creators and developers are the legal subjects because they can easily access the platform and are aware of their actions.

Law enforcement essentially aims to create a concept of justice and legal certainty and make the public feel its benefits. This is a fundamental aspect of the nation's ideals of upholding the law. Enforcing the law in accordance with the nation's ideals requires cooperation from various stakeholders with a strong commitment. (Reandi, Alan Rizki Dui, 2024)

Law enforcement can be implemented through various procedures, including: Successful enforcement of justice requires the influence of several factors, including public awareness and education. This is especially true in law enforcement regarding cybercrime, particularly gambling, as this crime can affect anyone from any background. Therefore, it is crucial for everyone to be aware of enforcing the law, in line with public understanding of the prohibition on gambling. (Oktariani, R, 2023)

The Electronic Information and Transactions Act upholds the principles of fairness and justice. To achieve these objectives, law enforcement officials, particularly the police, use two methods of law enforcement: preventive and repressive, which are explained below.

a. Preventive Methods

Preventive action is a precautionary measure taken to prevent undesirable situations from occurring. Essentially, preventive measures refer to the proactive application of the law by law



enforcement officials to prevent, address, and eradicate violations and other crimes. This encompasses the specific powers and obligations of law enforcement officials and the broader efforts of all entities within the legal system to prevent violations or crimes. (Harahap, 2018)

The actions taken by the Indonesian National Police to eradicate online gambling sites include the following:

- 1) Conducting cyber patrols is another method. Through these cyber patrols, it has been discovered that some sites are difficult to identify and are concealed. The community plays a crucial role in eliminating online gambling sites. (Marlando, 2011) This step involves monitoring and supervising online gambling activities to prevent them from occurring early. By involving specialized technology and expertise, cyber patrols are an effective tool in suppressing illegal gambling practices. (Kesuma, RD, 2023)
- 2) Collaborating with the Ministry of Communication and Information Technology to block online gambling sites and prevent the spread of illegal content. (Sihotang & Wahyudi, 2024)
- 3) Conducting outreach and legal education to the public about the dangers of online gambling and its criminal penalties, including under the Electronic Information and Transactions Law. (Irvandy, Ahmad, 2025)
- 4) Providing warnings to online gamblers conducting activities in public places and collaborating with community leaders to provide guidance is also important.
- 5) Monitoring and supervising online gambling sites and taking action if found to be violating the law. (Wirawan & Wahyudi, 2022)
- 6) Collaborating with community leaders, including religious leaders, to provide advice and education on the dangers of online gambling.
- 7) Leveraging technology to block access to online gambling sites and reduce exposure to online gambling advertising. (Perkasa, Anggada & Kartika Pakpahan, 2023)

b. Repressive Methods

Repressive actions are taken to restore a disturbed balance. Preventive law enforcement refers to the proactive application of the law by law enforcement officials to prevent violations or crimes. This includes specific obligations and authorities to prevent such incidents, as well as broader efforts by all entities within the legal system involved in preventing violations or crimes. (Rahartjo, B, 2003)

The Indonesian police are taking action to eliminate gambling sites through cyber patrols. Communication plays a crucial role in eliminating online gambling sites. Police efforts are not without obstacles in law enforcement against Internet gambling violations, which are assessed based on factual evidence. Several factors impact the law enforcement process (Rian Ardiansyah et al., 2023), including:

- 1) The legal component demonstrates a gap in the limitations of the law, namely Article 27 paragraph (2) of Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE), where the reality and circumstances are aligned with current societal behavior.
 - 2) The effectiveness of the law enforcement system in eradicating online gambling violations will be compromised if the mindset of law enforcement officers is weak, meaning investigators lack expertise in using information technology to identify individuals involved in Internet gambling.
 - 3) Inadequate facilities and complicated evidentiary procedures
 - 4) Community variables (general knowledge, legal compliance, and citizen behavior) can be effectively combined and synchronized, thus enabling law enforcement.
 - 5) Indonesian culture tends to conceal mistakes, which can slow the progress of law enforcement.
- The above elements are closely related to the fundamental components of the criminal law enforcement system, which are closely related to jurisdiction and criminal responsibility.

1) Jurisdiction

Indonesia's sovereignty is reflected in its jurisdiction, namely, the state's ability to exercise jurisdiction over other states based on equality between states (i.e., prohibiting two sovereign and independent states from exercising jurisdiction over each other) and the principle that a state may not interfere in the internal affairs of another state. In the exercise of state jurisdiction, there are three interrelated principles:



- a) Without the consent of another state, a state cannot use its courts to exercise jurisdiction over that state's actions.
- b) International treaties. Courts created based on these international treaties are, of course, not qualified to adjudicate the behavior of a state that has not signed a treaty.
- c) State Legitimacy. Actions committed within the borders of another state cannot be questioned by that state's courts.(Asriadi, 2020)

The fundamental idea of information technology law, or cyberlaw, is jurisdiction. This aligns with the criminalization of online gambling under the ITE Law. This relates to cyber activities that occur across spatial and national boundaries and therefore do not always fall within the scope of territorial jurisdiction. This extraterritorial concept allows for the application of information technology law, or cyber law.(Kusumaningsih & Suhardi, 2023) Based on the territorial principle, Indonesian criminal law applies to every person, both Indonesian citizens and foreign nationals, who commits a crime within the Indonesian territory, whether on land or at sea. This principle is known as the territorial principle. This territorial scope is expanded by equating watercraft and aircraft flying a country's flag to that country's territory.

Articles 4 and 5 of the Criminal Code enforce the principles of criminal law applicability. Article 4 contains the passive national principle, meaning Indonesian criminal law applies to every person, both Indonesian citizens and foreign nationals, who commits a crime outside Indonesian territory, as long as the act violates Indonesia's interests. Meanwhile, Article 5 of the Criminal Code contains the active national principle, meaning that Indonesian criminal law applies to Indonesian citizens wherever they are.

The use of technology in the ITE Law is universal or cross-territorial. Its jurisdiction extends not only to legal acts committed by Indonesian citizens and/or applicable in Indonesia, but also to legal acts committed by Indonesian citizens and conducted outside Indonesian jurisdiction, whether by Indonesian citizens, foreign nationals, or Indonesian legal entities that have legal consequences in Indonesia. In the development of its application, based on the explanation of Article 2 of the ITE Law, this Law has a jurisdictional scope not only for legal acts that apply in Indonesia and/or are carried out by Indonesian citizens, but also applies to legal acts carried out outside the legal territory (jurisdiction) of Indonesia, both by Indonesian citizens/foreign nationals, Indonesian legal entities/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.(Iskandar, 2021)

The components of the legal subject (person) in the ITE Law are interrelated. International regulations, while not located within Indonesia, are also legal subjects for international online gambling sites in Indonesia, thus hindering their accountability under Article 2 of the ITE Law in enforcing the law.(Manoppo, 2023)

2) Criminal liability

Corporate crime falls into three categories, where the organization's objectives and operational norms fail to achieve those objectives: The categories of corporate crime include:

- a) Administrative: The company is the perpetrator of the crime, and its goal is to maximize corporate profits. Administrative: This means that the corporation's activities are not in accordance with applicable regulations or are illegal. This means that, in addition to criminal acts under statutory law, violations of criminal and administrative laws are also included in the definition of corporate crime.
- b) The company is considered the perpetrator. In the context of perpetrators of a crime, this means that the legal subjects of the corporation, either jointly or individually, can be the perpetrators of the crime. In the criminal procedure system, this depends on several factors, including the nature of the violation, sanctions, evidence quality, and prosecution.
- c) Purpose of the Crime: Corporate crime aims to fulfill the company's objectives by maximizing profits.(Sangadji, Widya Natali,et.al.2021)



Referring to the explanation above, the effectiveness of criminal sanctions for Indonesian citizens who commit online gambling can vary depending on several factors, including:

a. Legal Regulations

Developing legal regulations to enforce online gambling crimes can be more effective and responsive to changes in the digital environment. Good regulations provide a foundation for law enforcement officials to carry out their duties efficiently and effectively. Legal regulations for enforcing online gambling crimes can be effective if the following factors are implemented:

- 1) Clear and comprehensive regulations provide a proper and appropriate legal basis; one of these is the definition of online gambling activities, the types of games permitted and prohibited, and the licensing requirements.
- 2) Legal regulations are adaptable and accommodate the dynamics of technological development.
- 3) Effective legal regulations must establish adequate sanctions as a form of deterrence; the threat of serious penalties can deter online gambling.
- 4) Legal regulations related to operator licensing protect consumers.
- 5) Collaboration between law enforcement agencies and other government agencies, particularly financial institutions, to improve the efficiency of enforcement and control of online gambling activities and consumer protection agencies to increase public trust in the protection of personal data, fairness of games, and complaint handling.
- 6) Regulations related to responses to developments in the online gambling industry, such as regulatory changes and adaptations to new trends, are essential for maintaining regulatory relevance and effectiveness.
- 7) The public needs a transparent regulatory process to understand the law and its objectives.

b. Law Enforcement

Law enforcement is influenced by the availability of human resources and technology. A lack of resources can be a serious obstacle to effective law enforcement. Furthermore, successful law enforcement depends on clear and comprehensive regulations. Law enforcement will be more effective if strengthened by the implementation of laws that serve as a deterrent to perpetrators of crimes, particularly online gambling. The threat of significant penalties can deter people from gambling online. Furthermore, law enforcement can be enhanced by training and building the capacity of law enforcement officers in technological skills, data analysis, and digital investigative expertise. Regulatory flexibility and law enforcement's ability to anticipate and respond to changes will be more effective in the long run.

c. International Cooperation

Online gambling is a transnational crime involving cross-border transactions and operations involving more than one jurisdiction. International cooperation is essential to address this issue. Agreements and information exchange between countries can improve law enforcement effectiveness. International cooperation allows for the exchange of intelligence and information between countries, including data on perpetrators, operational methods, and the latest trends in online gambling. Extradition treaties and joint prosecution agreements can be important instruments for prosecuting online gambling perpetrators outside Indonesian jurisdiction. International cooperation can be a key pillar in online gambling law enforcement strategies, as it enables countries to address transnational crimes more effectively.

d. Technology

Technology can be exploited by online gamblers to hide their tracks; therefore, law enforcement must be tech-savvy, as technological advances can facilitate law enforcement in tracking and apprehending online gamblers. Law enforcement must continually adapt to the use of data analysis and artificial intelligence, improved digital footprints and digital forensics, the use of blockchain, the development of violation identification algorithms, the use of online reporting platforms, and the training of technology specialists.

e. Prevention and Education on the Dangers of Online Gambling

Preventive and public education efforts through information campaigns can help identify and report illegal activities and encourage active participation in maintaining political stability. The



more people are aware of the consequences of online gambling and its legal risks, the more difficult it will be for criminals to exploit them.

f. Efficient judicial system

An efficient and transparent justice system is crucial to ensure that perpetrators of online gambling crimes are punished fairly and in accordance with the law. By optimizing the justice system in handling online gambling cases, the state can ensure efficient, fair, and effective law enforcement in response to the complex challenges emerging in the digital age.

g. Community Support

Communities can provide support through empowerment programs that equip individuals and community groups with the knowledge and skills to recognize and report online gambling activities. Mobilizing community support for the prevention and enforcement of online gambling crimes can be more effective and sustainable. Public awareness and active participation can help create a safer environment and support successful law enforcement. (Rizki Nurdiansyah et al., 2024)

Online gambling is a type of betting conducted through digital platforms, such as apps or websites, with the goal of gaining profit in the form of money or other valuables. Unlike conventional gambling, online gambling can be accessed using various digital devices, such as computers and smartphones. Because it is conducted using Internet technology and often involves complex international networks, this crime falls under the category of cybercrime.

Online gambling games can be accessed anytime and anywhere with an internet signal, such as Wi-Fi or mobile data. Games can be accessed using smartphones, computers, and other devices such as tablets. Therefore, online transactions can be conducted using SMS or mobile banking. In this case, people use information and communication technology to enable online gambling.

Online gambling encompasses a wide variety of games, such as poker, sports betting, casinos, and lotteries. All of these are played virtually on platforms that operate anonymously or use servers located overseas to prevent tracking the players. Gambling is considered a criminal offense under Indonesian law. Although online gambling is not specifically regulated as a cybercrime in statutory regulations, the Electronic Information and Transactions (ITE) Law prohibits the dissemination of information and access to websites that contain gambling content.

Article 27, paragraph (2) of the ITE Law states that any person who knowingly and without authority distributes, transmits, or makes accessible Electronic Information and/or Electronic Documents containing gambling content is guilty of a crime. Article 27 (2) of the ITE Law regulates legal provisions containing subjective and objective elements. The subjective element includes intentionality, which arises from the perpetrator's intention and deliberate intent (*opzettelijke*) to commit a crime, such as online gambling. The second subjective element is without right, which means that the perpetrator committed an act prohibited by law. The objective element is to distribute, transmit, and/or make accessible electronic information and/or electronic documents containing gambling content.

Gambling is an act based on chance using an electronic system. Accessing refers to interacting with a stand-alone or networked electronic system, as stipulated in Article 1, number 15 of the ITE Law, which reinforces the prohibition of online gambling. The criminal provisions related to online gambling in the ITE Law are set out in Article 45, paragraph (1), which states that anyone who meets the elements referred to in Article 27, paragraphs (1), (2), (3), or (4), shall be punished with a maximum imprisonment of six (6) years and/or a maximum fine of one billion rupiah. According to this article, "any person" is defined as an individual, private person, corporation, or legal entity. However, this article does not clearly regulate the criminal liability of corporations regarding the provisions on when a corporation commits a crime and who can be held accountable for its actions. The purpose of this provision is to sanction criminals operating in cyberspace. The explanation of Article 52 paragraph (4) of the ITE Law stipulates the requirements for legal entities capable of being held accountable for their criminal acts. Legal entities subject to corporate liability for criminal sanctions are those committed by corporations (corporate crime) and/or corporate administrators and/or staff. The criminal sanctions



imposed on corporate administrators under the ITE Law refer to the Convention on Cybercrime. Title 5, Ancillary Liability and Sanctions, Article 12, Corporate Liability, states:

- 1) European Treaty Series No. Article 185 affirms that actions against company administrators, either as individuals or as the company itself, are involved in cybercrime (that legal persons can be held liable for a criminal offense established in accordance with this convention, committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person).
- 2) The capacity of administrators who can be subject to criminal sanctions under the Convention on Cybercrime is based on the power of representation of the legal person (representing the corporation), the authority to make decisions on behalf of the legal person (making decisions within the corporation), and the authority to exercise control within the legal person (conducting supervision and control within the corporation).

Referring to the provisions above, corporate criminal sanctions under the ITE Law are principal penalties in the form of cumulative imprisonment and fines, and there is an increased criminal threat in accordance with Article 54 paragraph (4) of the ITE Law. In cases where crimes under Articles 27 to 37 are committed by a corporation, the principal penalty shall be increased by 2/3. The increased penalties for corporations under the ITE Law, which imposes a fine plus two-thirds of the fine, lack specific provisions, particularly regarding substitute penalties for unpaid fines. This provision implies that the substitute penalty provision is based on the general provisions of Article 30 of the Criminal Code, which stipulates a maximum of six months' imprisonment in lieu of a fine, with a maximum sentence of eight months if the sentence is increased. This provision presents a new problem, as it precludes the imposition of alternative prison/imprisonment sanctions on corporations. Therefore, specific regulations are needed in the ITE Law to govern corporate accountability, particularly regarding corporations that fail to pay fines. The application of primary criminal sanctions of imprisonment and fines to corporations under the ITE Law should include additional penalties specifically for corporations, such as revocation of business licenses and closure/dissolution of corporations. The Convention on Cybercrime also does not clearly and specifically regulate threats or types of penalties. The types of penalties related to cybercrime are regulated according to the jurisdiction or national laws of each ratifying country.

4.2. Aspects of Proving Online Gambling Based on Law of the Republic of Indonesia Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions

Each criminal case differs in the evidentiary process, which can serve as a benchmark and consideration for judges when deciding a case. Proof also encompasses evidence and instruments deemed valid under Indonesian criminal procedure law, specifically the Criminal Procedure Code (KUHAP). Legally, proving means providing a judge with sufficient grounds to examine a case to establish the truth of the events. Proof is only required during trials. In court, the primary focus of a case is the evidence presented. The principles of proof outline and guide how the law allows judges to use permissible evidence to prove the defendant's guilt. Therefore, judges must not use evidence that contradicts the law when making decisions.

The evidentiary aspects of online gambling can be assessed based on the elements met, the evidence used, and the evidentiary process during the trial, which are discussed below.

a. Elements of Proof of Online Gambling

Evidence in criminal cases is essentially an effort to establish the material truth about the occurrence of a crime and the suspect or defendant as the perpetrator. Both matters must be proven by evidence and strengthened by a judge's conviction through the judicial process. To determine the occurrence of a crime, law enforcement officials must prove that the suspect or defendant meets the elements of the crime alleged or charged. Proof that the elements of the crime have been met must also be based on evidence stipulated in the law and the judge's conviction.

Online gambling is gambling conducted via the Internet; therefore, the evidence presented must be based on evidence authorized by law. Online gambling is a special crime under the Electronic



Information and Transactions (ITE) Law, meaning that the evidence used must comply with the provisions regarding evidence stipulated in the ITE Law.

Online gambling in the regulation of cyber crime is regulated in Article 27 paragraph (2) of the ITE Law, which regulates subjective and objective elements as explained in the previous discussion, namely that every person intentionally and without the right to distribute, transmit, or make accessible Electronic Information and/or Electronic Documents containing gambling content. If a person is suspected and/or accused of having gambled online, law enforcement officers must prove that the person fulfills the elements in Article 27 paragraph (2) of the ITE Law. These elements include:

1) The legal subject is every person

The element of every person, based on Article 27 paragraph (2) of the ITE Law, refers to every individual, entity, and/or legal entity that commits an act that violates the article. Every person referred to here applies to every person who commits an unlawful act, whether within the jurisdiction of Indonesia or outside the jurisdiction of Indonesia, which has legal consequences in the jurisdiction of Indonesia and/or outside the jurisdiction of Indonesia, and is detrimental to the interests of Indonesia.

2) There is intent

The act was committed intentionally. This means that the perpetrator knew and was aware of their actions and did not have permission or the right to do so.

3) Without Rights

An act is carried out without permission, authority, or rights, based on applicable laws or regulations. The element of being without rights has an objective aspect, namely that the act is prohibited, and a subjective element, namely the perpetrator's awareness that the act is prohibited.

4) Prohibited acts

Article 27 paragraph (2) of the ITE Law regulates prohibited acts, namely distributing, transmitting, and making accessible. Distributing is sending and/or disseminating electronic information and/or documents to many people or various parties through an electronic system. Transmitting refers to sending electronic information and/or documents addressed to other parties through an electronic system. Meanwhile, making information accessible is all other acts besides distributing and transmitting through an electronic system that cause electronic information and/or documents to be known by other parties or the public.

5) Prohibited cargo

Prohibited content in the context of criminal law is content or information that is illegal or violates criminal law provisions, in this case, information and/or electronic documents that contain gambling content.

Article 27, paragraph (2) of Law Number 1 of 2024, concerning the Second Amendment to Law Number 11 of 2008, concerning Electronic Information and Transactions, refers to the provisions of gambling in terms of offering or providing opportunities for gambling games, making it a livelihood, offering or providing opportunities to the public to play gambling, and participating in the Company or corporation. If the elements in Article 27 paragraph (2) of the ITE Law are all fulfilled, then the potential for imprisonment of up to 10 years and/or a maximum fine of IDR 10 billion, as regulated in Article 45 paragraph (3) of Law Number 1 of 2024, is applicable.

b. Evidence used

Article 183 of the Criminal Procedure Code stipulates that a judge may not sentence a person unless there are at least two valid pieces of evidence that convince the judge that the crime actually occurred and that the defendant is guilty of committing it. Article 183 of the Criminal Procedure Code outlines the basic principles of criminal evidence. This principle emphasizes that to sentence a person, the judge must be convinced that the crime actually occurred and that the defendant is the perpetrator.

Article 183 of the Criminal Procedure Code (KUHAP) describes a negative, non-judgmental evidentiary system in which judges are not solely bound by evidence stipulated in law but must also have personal convictions based on valid evidence. The purpose of Article 183 of the KUHAP



is to guarantee justice in criminal trials, prevent errors in sentencing, provide legal certainty, and ensure that no defendant is convicted without sufficient evidence to that effect.

Furthermore, According to Article 184 of the KUHAP, witness testimony, expert testimony, correspondence, hints, and the defendant's testimony are admissible as criminal evidence in Indonesian criminal prosecutions. As a result, the two pieces of evidence mentioned in KUHAP Article 183 must match the evidence listed in KUHAP Article 184. According to Article 5 of the Electronic Information and Transactions (ITE) Law, the evidence in online gambling proceedings pertains to both KUHAP and ITE Law.

According to Article 5, paragraph (1) of the ITE Law, printouts of electronic documents and/or electronic information are admissible as legal evidence. Article 1 number 1 of the ITE Law defines electronic information as "one or a collection of electronic data, including but not limited to writing, sound, images, maps, designs, photographs, electronic data interchange (EDI), electronic mail, telegrams, telex, telecopy, or the like, letters, signs, numbers, access codes, symbols, or perforations that have been processed and have meaning or can be understood by people who are able to understand them. Meanwhile, electronic documents Any electronic information created, forwarded, sent, received, or stored in analog, digital, electromagnetic, optical, or similar forms that can be seen, displayed, or heard through a computer or electronic system is covered by Article 1 number 4 of the ITE Law.

This includes, but is not limited to, writing, sound, images, maps, designs, photographs, letters, signs, numbers, access codes, symbols, or perforations that have meaning or significance or that people who are able to understand them. According to Article 5, paragraph (2), of the ITE legislation, the evidence mentioned in Article 5, paragraph (1), above, is an extension of admissible evidence under Indonesia's applicable criminal procedural legislation. Furthermore, it can be seen that online gambling platforms, emails, and messages via instant messaging applications or regular messages are part of the electronic information that can be considered legally valid evidence and are an integral part of the provisions regarding evidence and verification as stipulated in the Criminal Procedure Code.

To determine how many times an online gambler accesses a gambling website, investigators can perform digital forensic imaging/data cloning procedures on the perpetrator's electronic system, for example, on the laptop or computer in question, to search for information regarding the perpetrator's activity records (i.e., logs). This imaging can be used as evidence under Article 5, in conjunction with Article 44 of the ITE Law. The results of imaging the perpetrator's electronic system, for example, show that the perpetrator accessed the gambling website more than 50 times in a single day. Furthermore, gambling servers can also be confiscated by investigators seeking information through digital forensics to prove the perpetrator's frequent access to the online gambling server. The results of the second imaging of the electronic systems belonging to the perpetrator and the gambling operator revealed similarities. This similarity is used as an indication that one of the elements of the crime has been satisfied.

The element of intent found on the gambling platform requires the gambler to download and install a gambling app. If investigators find someone downloading a gambling application, the element of intent can be concluded to have been met in the case. Furthermore, if online gambling requires the gambler to transfer a certain amount of money to be converted into coins, and the gambler is proven to have transferred the money, investigators can prove that there is proof of the transfer from the perpetrator and that there is evidence of the conversion of money into gambling coins belonging to the perpetrator. This can be used as evidence, and another form of evidence is witnesses. If investigators find the location where the online gambler committed the crime and witnesses who saw the perpetrator access and gamble, the witness's testimony can be used as valid evidence.



c. **Proof Process in Trial**

Online gambling crimes must be proven in the criminal justice system using technical methods and electronic proof, which is currently unrecognized by formal criminal legislation (KUHAP). Expert testimony is crucial to justify the admissibility of electronic evidence in offenses involving online gambling. According to the law, the KUHAP's evidentiary system is a negative method of proof that blends conviction-in-time theory with the positive legal system.

In accordance with the provisions of Article 183 of the KUHAP discussed above, the purpose of proving evidence in online gambling trials for the public prosecutor is to convince the judge, using existing and valid evidence, that the defendant is guilty according to the prosecutor's charges. Meanwhile, the evidence presented in online gambling trials for the judge serves as the basis for providing legal considerations in deciding criminal cases. For the defendant, the evidence is used to convince the judge to acquit or release them from all charges or, if found guilty, to receive a lighter criminal sanction. Based on the explanation above, the process of proving evidence in online gambling crimes is crucial in determining the judge's verdict.

5. Conclusion

The conclusion should consist of the conclusion, limitations, and suggestions.

5.1. Conclusion

- a. According to Article 27, paragraph (2) of the Republic of Indonesia Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions, the effectiveness of criminal sanctions for Indonesian citizens who engage in online gambling abroad can vary depending on several factors, including legal regulations, law enforcement, international cooperation, technology, prevention and education, efficient courts, and community support. This was done by applying Article 45 paragraph (1) of the ITE Law and Article 5 of the Criminal Code.
- b. Elements of Online Gambling Proof According to Article 184 of the Criminal Procedure Code, Article 5, paragraph (2) of the ITE Law, and Republic of Indonesia Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions are based on the elements that are fulfilled, the evidence used, and the course of the proof process in court.

5.2. Limitation

No study has addressed every facet of this research issue. The limitations or shortcomings of this work should be discussed by the author (s).

5.3. Suggestion

The suggestions of this study are as follows:

- a. Strengthening International Legal Cooperation
- b. A Just and Human Rights-Based Legal Approach
- c. Institutional Synergy and the Formation of a Special Task Force
- d. Reformulation of Domestic Policies and Regulations
- e. Academic and Criminological Approaches

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