

Implementation Effectiveness Of Police Role In Eradication Of Online Gaming Crime In Digital Era

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Abstract

This study aims to analyze juridically regarding the effectiveness of eradicating the crime of online gambling in the jurisdiction of the Grobogan police station. The method in this research is sociological juridical. Based on the analysis carried out, law enforcement cannot be carried out because there are no reports from the public accompanied by evidence. This has resulted in an ineffective eradication of online gambling crimes in jurisdictions including the Grobogan Police. Cyber crime is defined as an illegal activity with computer intermediaries carried out through a global electronic network. Online gambling is categorized as a cyber crime because in committing the crime, online gambling uses computers and the internet as a medium to commit the crime of gambling. Gambling is basically against religious norms, decency, and Pancasila morals, and can be dangerous for the survival of the community, nation and state. Gambling is a violation of social culture in Indonesia. Proof of online gambling can be done using proof of transfer and e-mail. Act No. 11 of 2008 Article 5 paragraph (1) which states that Electronic Information and/or Electronic Documents and/or their printouts are legal evidence.

Keywords: Eradication; Crime; Online Gambling; Digital Era.

1. Introduction

The state of Indonesia is a state of law, this is explicitly stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This has implications for the necessity of all actions of all groups of society must be in accordance and regulated by law. This is intended to create order in the life of the nation and state.

The development of society's progress which is quite rapid is accompanied by the influence of globalization, this development is always followed by a process of adjustment which sometimes occurs in an unbalanced process. In other words, violations of these norms are increasingly common and crimes are increasing, both types and patterns are increasingly complex. The development of society is due to science and the mindset of an increasingly advanced society. The community is trying to make reforms in all fields. However, technological advances do not always have a positive impact but also sometimes have a negative impact. The growing influence of technology along with lifestyle is accompanied by rampant layoffs (PHK) where there are more and more crimes with the modus operandi¹sophisticated and modern. The problem is part of the challenge for law enforcement to find ways to overcome it and reduce crime rates.

¹ Modus Operandi is the way individuals or groups of criminals operate in carrying out their criminal plans, see: Andi Hamzah, 2007, *KUHP dan KUHP*, Jakarta: Rineka Cipta, p. 230.

The various explanations above show that advances in information technology in addition to bringing positive impacts also have negative impacts on people's lives, one of which is in terms of providing the development of the modus operandi of crime in the current digital era or it can also be said to provide the basis for the creation of cyber crime. Cyber crime is defined as an illegal activity with computer intermediaries carried out through a global electronic network.² Judhariksawan further argues that "cyber crime is an activity that uses a computer as a medium that is supported by a good telecommunications system, namely a dial-up system, using a telephone line, or a wireless system, which uses a special antenna such as wireless."³

Cybercrime also related to the term cyber space. Cyberspace is seen as a world of computer-based communication. Cyber space is also considered a new reality in everyday life known as the internet. The working system of this cyber space can be said to change a distance and time that used to be limited to now become unlimited.⁴

Online gambling is categorized as a cyber crime because in committing the crime, online gambling uses computers and the internet as a medium to commit the crime of gambling. Gambling is basically against religious norms, decency, and Pancasila morals, and can be dangerous for the survival of the community, nation and state. Gambling is a violation of social culture in Indonesia.⁵

Cyber crime, especially online gambling, requires law enforcement efforts to prevent and eradicate these crimes so that they are not increasingly played. Conceptually, law enforcement is an activity to harmonize the relationship of a value that is exposed in a good and embodied rule and is also an attitude of action as a series of final stage value elaborations, in order to create, maintain and maintain peaceful social life.⁶ Law enforcement is carried out and carried out by law enforcers. The implementation of the law in society, apart from depending on the legal awareness of the community, is also very much determined by law enforcement officials.⁷

Law enforcement efforts against cyber crime in Indonesia,⁸ carried out by the police, because the crime is related to problems of state security and order. The police are the front line in anticipating various security threats and enforcing the law in Indonesia, this is in accordance with Article 13 letter b of Law number 2 of 2002 concerning the Indonesian National Police which reads "The main task of the Indonesian National Police is to enforce the law." Bali as one of the largest tourism

²Siswanto Sunarso 2009, *Hukum Informasi dan Transaksi Elektronik: Studi Kasus Prita Mulyasari, Rineka Cipta*, p. 40.

³Judhariksawan, 2005, *Pengantar Hukum Telekomunikasi*, Rajawali Press, Jakarta, p. 12-13.

⁴Maskun, 2013, *Kejahatan Siber (CYBER CRIME): Suatu Pengantar*, Kencana, Jakarta p. 46.

⁵Lanka Amar, 2017, *Peranan Orang Tua Dalam Proses Persidangan Tindak Pidana Perjudian Yang Dilakukan Oleh Anak*, CV. Mandar Maju, Bandung, p. 1.

⁶Soerjono Soekanto, 2014, *Faktor-Faktor yang mempengaruhi Penegakan Hukum*, PT.Raja Grafindo Persada, Jakarta, p. 5.

⁷Santoyo, "Penegakan Hukum di Indonesia", *Jurnal Hukum*, Program Studi Ilmu Hukum Fakultas Hukum Universitas Jenderal Soedirman Purwokerto, Volume 8, Nomor 3, 2008.

⁸Ragil Tri Wibowo dan Akhmad Khisni, "Restorative Justice in Application for Crime Investigation on Property", *Jurnal Daulat Hukum* Volume 1 No. 2 June 2018, p. 555-556.

destinations in Indonesia is certainly inseparable from various kinds of cyber crimes, especially online gambling. The Bali area itself is rife with cases related to online gambling, this is evidenced by the example of online gambling cases in Bali which were successfully arrested by the Counter Transnational Organized Crime (CTOC) Task Force team in 2017 namely raiding the online gambling headquarters located at Dedy Net Sasetan, Denpasar, Bali. . The raid resulted in the arrest of two people with the initials DW (38) and MH (26). There were several pieces of evidence found and confiscated by the Cyber Crime Unit in the form of cash amounting to Rp 160 million and electronic equipment, computers and the internet. This case was revealed thanks to the performance of the Cyber Crime Unit team together with the CTOC task force who carried out an investigation related to indications of rampant online gambling in Bali.⁹Online gambling is also rife in the Grobogan Police area, this can be seen in one case that occurred on July 11, 2020. Because at that time the Grobogan Police arrested gamblers in two sub-districts, from which five suspects were arrested along with the evidence. The suspects are two suspected lottery gambling sellers and three dice gamblers. On the same occasion, three dice gamblers were also presented in different cases, namely in Tunggak Village, Toroh District. They are Sismiyanto, 48, Sidomulyo, 42, and Slamet, 65, they are residents of Toroh District. The police also confiscated dice gambling equipment, in the form of four pairs of dice, with the numbers one to six, a mat, and Rp2.075 million in cash.¹⁰

Based on various explanations, it is clear that online gambling, which is a crime that has developed its modus operandi, is increasingly mushrooming in people's social life. However, law enforcement by the authorities is still experiencing problems, this is due to the lack of existing facilities and infrastructure. Then the high unemployment rate in an area, population density, social pressure, and many needs. This encourages people to take various ways to meet all needs, including in ways that are contrary to legal provisions), learned behavioral factors or differential association (in doing online gambling, interaction and communication are needed so that it is easier to learn),¹¹Sutherland and Cressey state firmly that crime or deviant behavior occurs because of learning factors through interactions with other people in intimate personal groups. Everyone who is interested will learn how to play online gambling so that they become addicted. This illustrates that online gambling in committing crimes requires interaction and communication, making it easier for perpetrators to commit crimes. Technological developments are a very influential factor in the level of crime that occurs,¹² including gambling. In this modern, all-digital era,

⁹ Kerta Negara, *Bandar Judi Online Diburu Ke Jakarta*, <http://www.balipost.com>, accessed on 12 March 2021.

¹⁰<https://www.solopos.com/polisi-grobogan-tangkap-2-penjual-togel-online-dan-3-judi-dadu-1070234>, accessed on 13 May 2021.

¹¹Ibnu Suka, Gunarto, and Umar Ma'ruf, "Peran Dan Tanggung Jawab Polri Sebagai Penegak Hukum Dalam Melaksanakan Restorative Justice Untuk Keadilan Dan Kemanfaatan Masyarakat", *Jurnal Hukum Khaira Ummah* Vol. 13. No. 1 March 1 2018, p. 115-116.

¹²Oscar Stefanus Setjo and Umar Ma'ruf, "Investigation of Children Which Conflicting With Law in Narcotics Criminal Acts In Law Area of the Semarang City Police Jurisdiction", *Jurnal Daulat Hukum* Volume 3 Issue 2, June 2020, p. 287-288.

gambling crimes can be committed using the Internet. This is what encourages people to commit online gambling crimes, because online gambling can be done anywhere using only a mobile phone or laptop. This factor is a distinct advantage for the perpetrators of online gambling crimes to deceive the police, so that more and more people are interested in taking these actions.¹³ Based on the various views that exist, it is necessary to study more deeply. The purpose of this paper is to identify and analyze the issue of the effectiveness of law enforcement in online gambling criminal cases.

2. Research Methods

The type of research used in this study is a type of legal research juridical sociological. The approach uses sociological juridical, the specification in this writing is analytical descriptive. Methods of collecting data by means of field studies and literature studies. Methods of data analysis using qualitative methods.

3. Results and Discussion

3.1. Factors Rising Online Gambling Crimes in the Grobogan Police Legal Territory Currently

Based on the Differential Association theory proposed by Sutherland that the causes of online gambling are:¹⁴

- Custom or culture. Gambling behavior is a social disease that has existed for a long time and cannot be eliminated but is growing so that it requires a learning process to play online gambling.
- There are facilities that support the occurrence of online gambling such as internet networks, smartphones and online gambling sites.
- There is a law that regulates the use of the internet.

The factors that cause rampant online gambling crimes are currently influenced by social aspects of society. Social aspects that can influence online gambling behavior include:¹⁵ external Factors and internal factor.

External Factors

- Family economy

Gambling behavior carried out by gamblers is triggered by economic factors as the main trigger, especially the lower middle economy. Someone with a lower-middle economy is easier to fall into gambling behavior because they cannot meet the needs of daily life so they look for solutions to be able to meet their needs instantly. However, not all online gambling behavior is carried out because of economic demands. Online gambling behavior can also be

¹³Maskun, 2013, *Kejahatan Siber (CYBER CRIME): Suatu Pengantar*, Kencana, Jakarta, p. 46.

¹⁴ Rosihan, 2011, *Kebijakan Penegakan Hukum Terhadap Pelaku Tindak Pidana Perjudian On Line (Studi Kasus Di Polsek Semarang Barat)*, Skripsi, Fakultas Hukum Universitas Stikubank (Unisbank) Semarang

¹⁵Eddy Santoso, Sri Endah Wahyuningsih, and Umar Ma'ruf, "Peran Kepolisian Dalam Sistem Peradilan Pidana Terpadu Terhadap Penanggulangan Tindak Pidana Perjudian", *Jurnal Daulat Hukum*, Vol. 1. No. 1 March 2018, p. 183-185.

caused by money or capital that is not used, giving rise to the desire to gamble online.

Information from online gambling players, namely "H" and "B" stated that H and B gambled online because they felt they had unused money so they didn't know where to put the money. The rest of the money sent from the family in one month is used to play online gambling, in the hope of increasing the existing money. In addition to utilizing the remaining money, it is also to increase income. If you win, the money will increase, if you lose, money is indeed to be spent.¹⁶

- People's disobedience to the law

There are people who adhere to certain types of policies, but also do not comply with other types of policies. There are people who strongly support policies (regulations) in the field of crime. Society has become addicted to gambling so that its activities take place so freely. While gambling machines are nothing but money machines for the managers, not for those who play them. Selective non-compliance with the law is due to the weak enforcement of gambling laws in the community and the lack of socialization of gambling regulations in the community. The urge to prevent and eliminate gambling behavior is hindered by the many ethnic and religious differences that have different understandings of gambling problems.

Information from online gambling players, namely "H" and "B", obtained information that H and B continued to play online gambling because there was no serious supervision from the police so they were never exposed to racism. During the course of online gambling, the authorities have never even caught sight of it, although in fact the behavior of online gambling has been known by many student friends.¹⁷

Internal factors

- Low Human Resources (HR)

Gambling behavior can affect a person's mental state. Someone who likes to gamble will have a low mentality such as lazy, careless, easy to speculate and quick to take risks without thinking further. This condition makes it more difficult for the authorities to eliminate or eliminate gambling from the community, because the problem of gambling is a very complex problem and is related to various individual and community problems. Poverty and economic pressure, easy money making attitude and lack of concern for the environment are some of the problems that make gambling behavior difficult to eradicate.

Information from "H" and "B" stated that apart from studying they had no other activities so that they used their spare time to play online gambling. Besides having more money, they also have internet access (WIFI) which is easy and good (fast for internet).¹⁸

- Customs

¹⁶ Interview with "H" and "B", online gambling players on Sunday

¹⁷ Ibid.

¹⁸ Ibid.

Gambling games have existed for a long time so that they are ingrained and become a custom that is difficult to eradicate. Sometimes gambling behavior is considered something that is usually done so that it is not prevented, on the contrary, it is even supported because it is considered a habit that has been in effect for a long time. For example, when there is a patrol or a celebration event, gambling activities can be an alternative to fill spare time. This condition causes gambling behavior to be difficult to eradicate, so it requires the cooperation of many parties to raise public awareness that gambling behavior is a deviant behavior and is a criminal act.

3.2. The Effectiveness of Implementing the Role of the Police in the Eradication of Online Gambling Crimes in the Digital Era

The police as law enforcers have the authority to enforce the law as regulated in Act No. 2 of 2002 concerning the Indonesian National Police. Article 13 of Act No. 2 of 2002 states that the Police have the main task of maintaining public order and security, providing services, nurturing and protecting the community and enforcing the law.¹⁹In addition, the police also have the authority to become investigators as stipulated in Article 15 and Article 16 of Act No. 2 of 2002 and in the Criminal Procedure Code regulated in Article 5 to Article 7 of the Criminal Procedure Code.²⁰

The role of the police in tackling the crime of gambling explains that criminal law enforcement is actually not only about how to make the law itself, but also about what to do. The role of the police in anticipating and overcoming problems in tackling criminal acts that occur in society can be done penal (criminal law) and non-penal (without using criminal law).²¹

According to First Brigadier Rama Wijaya Bakti, law enforcement on the crime of gambling through the internet is carried out preventive measures such as blocking sites that are considered to be spreading online gambling sites, socializing the prohibition of gambling and its dangers, appeals to the public not to gamble online are also carried out to prevent gambling, preventing the proliferation of online gambling and controlling internet cafes and internet service providers.²²

The method used in dealing with cyber crime, especially online gambling, is to use the statutory method, which is a method that is carried out by reviewing all laws and regulations related to the legal issues being handled.

- Preventive

Many factors contribute to the conduciveness of online gambling. The main factor is the social conditions that support the occurrence of online gambling either directly or indirectly. For this reason, prevention efforts need

¹⁹Act No. 2 of 2002 concerning the National Police of the Republic of Indonesia

²⁰Timbul Mangaratua Simbolon, Gunarto, and Umar Ma'ruf, "Kebijakan Hukum Pidana Terhadap Tindak Pidana Penghinaan Atau Pencemaran Nama Baik Melalui Internet Di Indonesia Sebagai Cybercrime", *Jurnal Daulat Hukum* Vol. 1. No. 1 March 2018, p. 15-16.

²¹ Priasmoro, 2016, "Peran Kepolisian Dalam Penanggulangan Tindak Pidana Perjudian Koprok (Studi Kasus Di Wilayah Hukum Polres Metro)", *Jurnal Poenale*, Vol 4, No 1 (2016)

²² Interview with Brigadier Rama Wijaya Bakti, Grobogan Police Investigator on Sunday

to be made by eliminating the causes and conditions that can lead to criminal acts, especially online gambling.

- Repressive (Curative Action)

Repressive action is essentially a part of criminal politics which is essentially an integral part of social policy, then this policy is implemented into the criminal justice system. According to Muladi, the criminal justice system has a dual functional dimension.

On the one hand, it functions as a means of society to detain and control crime at a certain level (crime containment system), on the other hand, the criminal justice system also functions for secondary prevention (secondary prevention), namely trying to reduce crime among those who have committed a crime and those who intend to commit a crime. Commit a crime through the process of detection, punishment and criminal execution.

Regarding online gambling, law enforcement is carried out based on the applicable laws, namely Article 303 of the Criminal Code, Article 303 of the BIS of the Criminal Code and Act No. 11 of 2008. To be able to enforce the law against online gamblers, the criminal elements must be fulfilled as stipulated in the Act. According to First Brigadier Rama Wijaya Bakti, law enforcement against online gambling actors must meet criminal elements, in this case gambling, then it is returned to Article 303 of the Criminal Code. Article 303 of the Criminal Code contains two main elements, namely subjective elements and objective elements. The subjective element is intentional. The objective element is whoever, without having the right to do so, acts as a business, offers or gives an opportunity and to play gambling.

Taking into account the elements in Article 303 of the Criminal Code, it is necessary to pay attention to whether online gambling has fulfilled these elements. Online gambling games are intentional, because they exist and can be accessed by anyone anywhere. The object elements, it is clear that all have been fulfilled, so in conclusion, online gambling has fulfilled the criminal elements as referred to in Article 303 of the KHUP.

Proof of online gambling can be done using proof of transfer and e-mail. Act No. 11 of 2008 Article 5 paragraph (1) which states that Electronic Information and/or Electronic Documents and/or their printouts are valid legal evidence, including proof of transfer and e-mail because both are electronic documents. Referring to Act No. 11 of 2008 Article 5 paragraph (1), it can be concluded that transfer evidence and e-mail can be used as evidence to ensnare online gamblers into the realm of criminal law.²³

In reality, law enforcement cannot be carried out because there are no reports from the public accompanied by evidence. Public reports without evidence are only used as information, online gambling has been carried out to be followed up with an investigation. If evidence of online gambling is found in the form of email and proof of transfer, it will be escalated to the investigation stage for further legal processing.

In fact, according to information from the Grobogan Police cyber team, it was stated that online gambling was not reported to the police even though online

²³ Interview with Brigadier Rama Wijaya Bakti, Grobogan Police Investigator on Sunday

gambling had actually occurred. The case that has been reported electronically through question and answer is that there was someone who won online gambling but did not get the payment, where the online gambler was afraid to report directly to the police because he would definitely be caught by the law, in the end only told his friends. His friend asked the police about the case and asked for a solution. The case shows that without a report from the community accompanied by it, it is difficult to enforce the law because it is difficult to find evidence of online gambling. Djanggih mentioned the public's response to law enforcement from the legal aspect,

4. Closing

Law enforcement cannot be carried out because there are no reports from the public accompanied by evidence. This has resulted in a less effective eradication of online gambling crimes, including in the Grobogan area. So it is necessary to improve facilities and infrastructure in digital-based law enforcement at various levels of police institutions to prevent and eradicate online gambling.

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