

Rehabilitation As a Penal Policy for Online Gambling Offenders in Indonesia: A Normative Legal Analysis

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Abstract. *Rapid technological advancement has transformed social and economic life by expanding global connectivity and access to information, yet it has also enabled cyber-enabled offending, including online gambling, which operates with heightened anonymity and scalability. In Indonesia, these characteristics generate persistent enforcement challenges and significant social harms that require responses beyond conventional punitive paradigms. This study aims (i) to examine and analyse the implementation of criminal sanctions for online gambling offenders in Indonesia, and (ii) to assess whether rehabilitation can be applied as a penal measure for such offenders. The research employs a normative juridical method grounded in positive law, using a descriptive–analytical approach to systematise relevant legal instruments and derive policy-oriented implications. The study finds that, although online gambling has been prosecuted through the KUHP and supplemented by sectoral instruments, enforcement has historically been constrained by doctrinal fragmentation and limited deterrent effect, resulting in relatively nominal sanctions and short custodial outcomes in practice. It further concludes that the synchronisation of the New KUHP (Law No. 1 of 2023) and the Second Amendment to the UU ITE (Law No. 1 of 2024) strengthens the sanctioning architecture through technology-specific criminalisation and economically meaningful penalties, while rehabilitation remains a necessary complementary measure to address the underlying psychological and social vulnerabilities that sustain demand and recidivism.*

Keywords: *Cybercrime Enforcement; Cyberlaw; Cybercrime; Online Gambling; Penal Policy; Rehabilitation.*

1. Introduction

Over time, rapid technological advancement has exerted a significant influence on social life (Vika Fransisca. Widia Ningsih, 2023). While technological development offers substantial benefits by facilitating diverse aspects of daily activity, it has also—unfortunately—created new opportunities for cybercrime. Such offending is no longer confined to the physical world; it has

expanded into the digital sphere, particularly the internet. The development of information technology, especially the internet, has generated a profound transformation in human life (Miró-Llinares, F., Aebi, M.F. 2025). Global connectivity and broad access to information have formed a new landscape for social interaction, education, and everyday practices. Inevitably, these dynamics have enriched human life by widening access to knowledge and enabling cross-border networks beyond geographical boundaries.

On the positive side, the internet offers unprecedented access to information, enabling distance learning and the global exchange of knowledge. However, the abundance of information also entails risks, including unverified content that may mislead users. Intensive engagement in online interactions can further contribute to social isolation, alter the dynamics of human relationships, and even unsettle a society's value structure. In the economic sphere, the internet provides fertile ground for business growth and the creation of new employment opportunities. Yet this development simultaneously signals potential threats to job stability, as automation and digitalisation may displace conventional forms of work (Halima Agha. & Kiran Hashmi. 2024). Taken together, these implications capture the complex dynamics of an era in which the internet functions not merely as an information provider, but also as a force that profoundly shapes human thought patterns and lifestyles.

In the domain of mental health, the internet may function as a source of support and information; conversely, it can also generate psychological distress through exposure to harmful content and unrealistic social standards propagated on social media. Health and privacy have likewise become critical concerns, given the escalating risks of cyber insecurity and data-privacy violations. Accordingly, while the internet opens pathways to seemingly limitless possibilities, it also confronts society with the substantial task of managing its diverse impacts. Education, digital awareness, and sustained policy interventions constitute essential foundations for understanding and optimising the internet's role in improving human well-being (Liquan Liu, Lin Liu, Kai Liu, Ana Isabel Jiménez-Zarco. 2024). Nevertheless, behind its positive potential, the internet also carries serious risks associated with misuse. Cybercrime—particularly in the form of online gambling—has emerged as an increasingly troubling threat to society. This criminal conduct is no longer confined to the national scale; it has evolved into a global problem, generating significant challenges for law enforcement authorities and policymakers worldwide.

Online gambling practices, which are frequently conducted in a clandestine and anonymous manner, render law enforcement efforts increasingly difficult. These features enable offenders to participate in gambling activities without detection, thereby heightening the risks of fraud, money laundering, and involvement in other illicit conduct (Tri Cahyono Anggoro, Bambang Santoso, 2025). Moreover, the internet has become a primary medium for disseminating harmful information, including fraudulent schemes and other forms of abuse. The resulting harms are not confined to the individual level; they may also penetrate and disrupt broader social structures. Addiction to online gambling, for instance, can precipitate financial ruin, family conflict, and, ultimately, the breakdown of personal relationships. In addition, the misuse of the internet through hacking or identity theft may undermine individuals' financial

security and privacy. It is equally important to note that internet misuse is not limited to financial and security dimensions; it also affects mental health. Harmful online behaviours—such as cyberbullying, trolling, and the consumption of damaging content—can produce stress, anxiety, and depression among victimised individuals.

As one of the most prevalent offences in cyberspace, online gambling is regarded—within the legal perspective—as a criminal act that generates serious public concern. The primary difficulty in addressing gambling-related offences lies in their covert nature, which enables offenders to engage in such activities with a reduced likelihood of detection. Gambling is no longer merely a domestic issue; it has also become an international challenge, evidenced by gambling-related cases occurring across jurisdictions (N.A. Dowling, C.O. Hawker, S.S. Merkouris, S.N. Rodda. D.C. Hodgins; 2025). Moreover, gambling crime continues to evolve and to assume new forms on an ongoing basis. In many contexts, gambling practices are prohibited not only by religious norms but also by national legal regimes.

Online gambling, as an increasingly pervasive form of internet misuse, poses a serious threat to the stability of Indonesian society. The adverse consequences of online gambling can erode long-standing social and economic values that underpin community life. First, online gambling has the potential to destabilise household finances. Individuals who engage in gambling activities often incur significant financial losses, which in turn may trigger economic insecurity within the family. The depletion of hard-earned assets and resources can jeopardise a family's subsistence and overall welfare. A second threat concerns family integrity. Online gambling may catalyse domestic conflict, thereby undermining relational stability among family members. In severe cases, these harms can escalate to highly disruptive outcomes, including divorce and broader fragmentation of family structures. Furthermore, at a wider societal level, online gambling can impair social stability. Communities in which gambling practices become normalised may experience rising indebtedness, increased financial crime, and moral degradation in everyday life. Collectively, these dynamics can produce social instability that diminishes the quality of life across society.

Threats to societal stability are further reflected in the potential escalation of criminal activity associated with online gambling. Illicit practices—such as money laundering, fraud, and other forms of organised wrongdoing—may contribute to a deterioration of public security and social order. Recognising the gravity of these risks, the Government, law enforcement institutions, and the wider community must work collaboratively to develop effective policy responses, provide protection for vulnerable individuals and families, and strengthen public awareness of the risks and consequences of online gambling. Only through such a holistic approach can Indonesian society effectively counter the serious threats to stability posed by online gambling.

Between 2022 and 2024, the Indonesian National Police (Polri), through the Cyber Crime Directorate of the Criminal Investigation Agency (Ditipidsiber Bareskrim), significantly expanded and intensified its enforcement strategy against online gambling. National enforcement metrics initially reflected the disclosure of approximately 610 cases in 2022 and a further 75 cases reported as under investigation in 2023, accompanied by internal instructions

to continuously accelerate case detection and disclosure (Norbertus Arya Dwiangga Martiar, 2026). In parallel, Ditipidsiber coordinated with the Ministry of Communication and Information Technology (Kominfo) to block gambling websites identified through investigative findings, submitting 401 blocking requests in 2022 and increasing this figure to 513 in 2023—positioning site-blocking as a preventive mechanism to reduce public access to harmful gambling platforms and reflecting sustained inter-agency coordination in countering an adaptive digital phenomenon.

The momentum escalated markedly in 2024 following the establishment of the National Online Gambling Eradication Task Force (Satgas Judi Online), signalling a transition from largely localised investigations to a more comprehensive “total war” posture. Enforcement actions surged, including the handling of more than 1,988 cases and the arrest of over 3,145 suspects in the first half of 2024 alone; by the end of 2024, Bareskrim reported the disclosure of 1,611 specific online gambling cases within a broader 4,926 gambling-related investigations, resulting in the detention of 1,918 suspects. This period was also characterised by the integration of financial disruption and cross-border operations: PPATK reportedly froze over 5,000 suspicious bank accounts, while enforcement efforts increasingly targeted offshore infrastructure and international syndicates operating within ASEAN—particularly in Cambodia and the Philippines—alongside asset-tracing measures (including reported freezes of more than IDR 861.8 billion) and large-scale digital takedowns (including the blocking of over 2.1 million platforms).

At the regional level, Polda Jawa Tengah contributed to the national enforcement landscape by uncovering 175 gambling cases involving 298 perpetrators in 2023, with higher-intensity operations concentrated in Polresta Pati (23 cases) and Polres Grobogan (11 cases). Taken together, these developments illustrate an accelerated repressive strategy that evolved from addressing conventional lottery variants (e.g., Togel Hong Kong and Cap Ji Kia) to dismantling technologically sophisticated, transnational gambling networks, supported by coordinated regulatory measures, preventive access restrictions, and financial intelligence-driven disruption.

The yearly increase in online gambling offenders may be understood as a consequence of strong psychological drivers, particularly instant gratification, addiction, and escapism. This phenomenon illustrates the complexity of interactions between internal and external factors in shaping individual conduct within the context of online gambling. Psychologically, the presence of stimuli that generate immediate and repetitive satisfaction can trigger neurological responses—especially dopamine release—which in turn reinforces and entrenches gambling behaviour. From a legal perspective, however, the challenge of addressing the growth of online gambling offenders lies in the difficulty of ensuring effective enforcement of existing laws. Enforcement efforts are frequently constrained by technical limitations, not least because online gambling can operate across jurisdictional boundaries and is difficult to trace. Rapid technological development further enables online gambling offenders to conceal their identities and evade law enforcement mechanisms.

To address these challenges, the law must adapt to technological dynamics and strengthen international cooperation to trace and prosecute cross-border offenders. Expanding regulatory and enforcement initiatives through inter-state cooperation is therefore essential to overcome national-level enforcement constraints. At the same time, from a psychological standpoint, legal interventions should be complemented by public education aimed at raising awareness of the risks and consequences of online gambling.

Under the Previous Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana, KUHP), gambling is regulated in Book II on crimes. Gambling is classified as a criminal offence because it is considered to contravene not only positive law but also religious norms. Article 303(1) point 1 KUHP provides a maximum penalty of ten years' imprisonment or a fine of up to twenty-five million rupiah for any person who, without authorisation, intentionally offers or provides opportunities for gambling and makes it a livelihood, or who intentionally participates in a gambling enterprise.

Under the latest regulatory framework, Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008 concerning Electronic Information and Transactions (UU ITE), the criminalization of gambling-related content is further strengthened. Article 27, Paragraph (2) remains the primary legal instrument, prohibiting any person from intentionally and without authority distributing, transmitting, or making accessible electronic information and/or documents containing gambling content. However, the latest amendment, read in conjunction with Article 45, Paragraph (3), has significantly increased the severity of penal sanctions, prescribing a maximum imprisonment of 10 years and/or a maximum fine of IDR 10 billion. This escalation reflects a legislative shift toward deterring high-level digital facilitation, such as social media endorsements and digital platform hosting. Furthermore, the legal landscape is transitioning toward the New Criminal Code (Law No. 1 of 2023), where Articles 426 and 427 categorize gambling as a serious public offense with specific focus on those providing the opportunity for gambling as a profession. Together, the Second Amendment of the UU ITE and the New KUHP constitute a modernized legal basis that addresses both the traditional act of gambling and the digital infrastructure that enables its mass-scale dissemination.

Notwithstanding the existence of clear and stringent rules under both the KUHP and the UU ITE, empirical realities indicate that these frameworks have not fully curbed online gambling practices within society. Several factors contribute to the limited effectiveness of these legal norms. First, rapid advances in information technology constitute a primary constraint. Online gambling, in its various forms, is inherently difficult to trace and identify; offenders can readily conceal digital footprints and identities, thereby narrowing the practical reach of enforcement. Second, the transboundary nature of online gambling adds further complexity. Offenders may operate from jurisdictions beyond the effective reach of national law, making meaningful international cooperation a decisive element in addressing the phenomenon. Although inter-state cooperation initiatives exist, logistical challenges and regulatory divergence across jurisdictions frequently impede effective enforcement in practice..

Moreover, the psychological dimensions of online gambling behaviour present challenges that cannot be adequately addressed through legal regulation alone (Michelle L Fisher.Et.Al, 2025). The appeal of instant gratification, addiction, and escapism operates at a deeply personal level. Legal norms may therefore be insufficient to respond to the counselling, education, and psychological support needs of individuals ensnared in online gambling. Preventive measures grounded in psychological approaches should be integrated into policy responses, including counselling services and structured support for individuals who are vulnerable to gambling addiction. Accordingly, this study aims (i) to examine and analyse the implementation of criminal sanctions for online gambling offenders in Indonesia, and (ii) to examine and analyse whether rehabilitation can be applied as a form of penal measure for online gambling offenders.

2. Research Methods

The methodological approach adopted in this study is normative juridical research, which examines the law from the standpoint of positive law. On this basis, the author seeks to develop a comprehensive and clearly articulated account of rehabilitation as a penal policy for online gambling offenders in Indonesia. Employing a descriptive–analytical approach, the study further aims to formulate policy recommendations for future regulation and enforcement, grounded in the analysis and depiction presented (Syafrida Hafni Sahir, 2021).

3. Results and Discussion

3.1. The Implementation of Criminal Sanctions for Online Gambling Offenders in Indonesia.

The imposition of criminal sanctions constitutes an integral component of the legal system, directed toward upholding justice, maintaining social order, and preventing legal violations (Alma Aulia Shafa Purbowo, 2025). Conceptually, the implementation of criminal sanctions encompasses several key dimensions. First, criminal sanctions represent the State’s response to unlawful conduct committed by individuals or groups. Through the enforcement of such sanctions, the State communicates that behaviour contravening legal norms will not be tolerated and will attract appropriate consequences. This function is essential to safeguarding legal certainty and producing a deterrent effect on offenders and potential offenders.

Criminal sanctions further serve both preventive and repressive purposes. The preventive function seeks to avert future violations by generating a deterrent effect; sanctions that are firm and fair are expected to dissuade others from engaging in unlawful conduct (Andris E. Bahutala, Asrul Aswar, 2025). The repressive function, by contrast, is oriented toward imposing punishment proportionate to the offender’s degree of culpability, thereby ensuring that justice is realised through an appropriate response to the wrongdoing committed. In addition, the implementation of criminal sanctions must be aligned with human rights principles. While sanctions operate as a mechanism of law enforcement, it remains essential to ensure that criminal proceedings are conducted fairly and proportionately. Fundamental guarantees—such as the right to defence, the presumption of innocence, and the right to be free from torture or cruel, inhuman, or degrading treatment—must be protected throughout the legal process. The

enforcement of criminal sanctions in a manner that violates human rights principles risks undermining the legitimacy of the legal system and eroding public trust in law enforcement institutions.

Fair law enforcement also encompasses procedural dimensions that ensure equal access to legal processes, including access to legal assistance where necessary. This safeguard is intended to prevent arbitrary or unjust punishment arising from ignorance of legal rights or an inability to mount an effective defence. The principle of proportionality, in turn, requires a proper correspondence between the sanction imposed and the gravity of the offence. In other words, punishment must be commensurate with the seriousness of the conduct. Minor offences should not attract disproportionately severe penalties, whereas serious offences should be met with sanctions that reflect their level of culpability and harm.

Proportionality in law enforcement further requires consideration of multiple factors, including motive, intent, psychological condition, and the harm caused by the offender. Accordingly, proportionate enforcement does not merely assess the technical elements of illegality; it also evaluates the contextual circumstances and contributing factors underlying the conduct. By maintaining fair and proportionate enforcement, the justice system can ensure that adjudication proceeds impartially and that sanctions correspond to the seriousness of the offence. This approach also strengthens public confidence in the justice system and promotes broader respect for law and justice.

Gambling offences have undergone significant evolution alongside advances in information technology, a development most clearly reflected in the emergence of online gambling. The growth of information technology—particularly the internet—has facilitated faster and easier access for individuals to engage in gambling activities without geographical constraints. Online gambling enables individuals to place bets and participate in gambling games through digital platforms such as websites, mobile applications, and social media platforms. This allows gambling to occur at any time and in any place, without the need to visit physical casinos or other gambling venues. In addition, online gambling provides a wide range of game options—including casino games, sports betting, poker, and lottery-style games—which can be accessed with relative ease by users.

Online gambling has also generated new business models, including dedicated gambling websites, game-platform providers, and digital payment services that facilitate gambling transactions. However, alongside its expansion, online gambling presents emerging risks, such as data security vulnerabilities, fraud, gambling addiction, and complex legal issues arising from divergent regulatory approaches across jurisdictions. Despite these challenges, online gambling continues to grow into a highly profitable industry, with millions of individuals worldwide engaging in online gambling activities on a daily basis. This development illustrates how information technology has shaped the evolution of gambling-related criminality and transformed the broader gambling landscape—both in terms of how gambling is conducted and in terms of the enforcement and regulatory responses it demands.

Online gambling therefore constitutes a phenomenon that poses serious challenges for law enforcement and regulatory governance. Although legislative efforts have been undertaken to regulate online gambling practices, a range of constraints continues to hinder effective suppression of these activities. First, online gambling has become increasingly accessible due to advances in information technology and the internet. This ease of access enables individuals to engage in gambling without being constrained by geographical or temporal limitations. Moreover, the anonymity afforded by online platforms complicates efforts to identify offenders and to enforce the law against gambling-related conduct. Second, the complexity of the digital environment poses a distinct challenge for monitoring and enforcement. The daily emergence of new platforms and websites—combined with concealment practices employed by online gambling operators—makes it difficult for law enforcement authorities to intervene effectively. Online gambling activities may also be embedded within seemingly legitimate business operations or other lawful activities, further obscuring detection and disclosure of the underlying illegality.

A further challenge concerns the transboundary nature of online gambling. Gambling sites frequently operate across jurisdictions with significantly divergent legal and regulatory regimes. Limited international cooperation in law enforcement therefore creates substantial obstacles to pursuing perpetrators who operate outside the territorial reach of the relevant state jurisdiction.

In addition, online gambling generates serious social and economic harms. It may precipitate addiction, financial loss, interpersonal conflict, and mental health problems. These effects underscore that efforts to suppress online gambling cannot be framed solely as a legal issue; rather, they require a holistic approach capable of addressing its broader negative externalities. In responding to these challenges, collaborative action is necessary among government, law enforcement agencies, the private sector, and civil society. Enhanced international cooperation—particularly in information exchange and coordinated enforcement—is critical. Investment in technology and human capital is likewise needed to strengthen investigative capacity and enforcement effectiveness in relation to online gambling.

Public awareness must also be increased through education and outreach campaigns concerning the risks and harms of online gambling. With a clearer understanding of its adverse consequences, communities are more likely to remain vigilant and to participate actively in countering illegal gambling practices. Although the challenges of eradicating online gambling are substantial, they do not justify abandoning regulatory and enforcement efforts. Through a coordinated, comprehensive, and sustained strategy—supported by cross-sectoral and cross-border cooperation—there remains a credible prospect of reducing the negative impacts of online gambling and safeguarding society from the risks associated with these practices.

In this study, the author refers to a District Court decision—Decision No. 155/Pid.B/2021/PN Kot—which adjudicated an online gambling offence. The defendant in that case was a woman named Meli Haryati binti Sahrun, born in Banjar Agung on 5 February 1979 (aged 42 at the relevant time). She is an Indonesian national, female, and Muslim. Her registered residence

was Pekon Banjar Agung Udik, Pugung Subdistrict, Tanggamus Regency, and she was identified as a homemaker. The defendant was arrested on 17 February 2021. However, to properly describe the court's reasoning and disposition in this case, further details of the judgment—particularly the court's findings, legal considerations, and the sentence imposed—are required.

Based on the prosecution's criminal charge (*tuntutan pidana*), the defendant, Meli Haryati binti Sahrin, was found guilty of the offence as charged. The sentence imposed was two years and six months' imprisonment, accompanied by an order that she remain in custody. Evidentiary items—including a mobile phone, cash, transfer receipts, and a recap book—were ordered to be confiscated for destruction, with the exception of an ATM card, which was to be returned to the defendant. The defendant was also ordered to pay court costs.

The court declared the defendant lawfully and convincingly guilty of "intentionally providing an opportunity for gambling and making it a livelihood," as regulated under Article 303(1) point 1 of the Indonesian Criminal Code (KUHP). It is important to note that the judgment analysed in this study was rendered under—and therefore applies—the provisions of the pre-reform (old) KUHP in force at the time of adjudication, rather than the subsequently enacted Criminal Code regime. Article 303 KUHP prescribes a maximum penalty of ten years' imprisonment or a maximum fine of twenty-five million rupiah for any person who, without authorisation, is found to: (1) intentionally offer or provide an opportunity for gambling, make it a livelihood, or intentionally participate in a gambling enterprise; (2) intentionally offer or provide an opportunity for the public to gamble or participate in such an enterprise, regardless of the conditions or procedures applied; or (3) participate in gambling as a livelihood. Where the conduct is committed as part of one's livelihood, the right to pursue that livelihood may be revoked.

A gambling game is defined as any game in which the prospect of obtaining gain depends primarily on chance or on the player's skill. This concept also encompasses any wagering on the outcome of races or other games in which the bettor does not directly participate, as well as other forms of betting. The offence regulated under Article 303(1) point 1 of the Indonesian Criminal Code (KUHP) comprises both subjective and objective elements, including the subjective element of "intent" (*dengan sengaja*) and objective elements such as acting without authorisation and participating in another person's enterprise that offers or provides opportunities to gamble. By contrast, the offence under Article 303(1) point 3 KUHP is composed solely of objective elements, namely: the person who commits the act, acting without lawful authority, participation, as a business or livelihood, and in relation to a gambling game.

Historically, the prohibition of gambling in Indonesia transitioned from a misdemeanor under Article 542 of the KUHP to a felony offense designated as Article 303 bis of the KUHP, pursuant to Article 2(4) of Law No. 7 of 1974. This legislative shift explicitly reclassified gambling as a crime (*kejahatan*), targeting both the exploitation of gambling opportunities and unauthorized participation in public spaces. Under the current legal transformation, these provisions are modernized within the New Criminal Code (Law No. 1 of 2023), specifically under Articles 426

and 427. Article 426 of the New KUHP penalizes those who offer gambling as a livelihood or profession with a maximum of 10 years imprisonment, while Article 427 addresses participants, prescribing a maximum of 3 years imprisonment or a Category IV fine. Notably, the principle of recidivism—aggravated sanctions for offenses committed within two years of a final conviction—remains a core tenet of Indonesian penal policy, ensuring that the transition from the "Old" KUHP to the "New" KUHP maintains a rigorous deterrent effect against persistent gambling offenses.

In Decision No. 155/Pid.B/2021/PN Kot, the chronology of events was described as follows. On Wednesday, 17 February 2021, at approximately 20:00 WIB—or at least during February 2021—at Pekon Gumukmas, Pagelaran Subdistrict, Pringsewu Regency, or at another location within the jurisdiction of the Kota Agung District Court competent to hear and adjudicate the case, Meli Haryati binti Sahrin was alleged to have intentionally offered or provided an opportunity for gambling and to have made it a livelihood, and/or to have intentionally participated in an enterprise for that purpose. The incident began when the defendant, while sitting and smoking in the living room of the rented house she occupied with Rahmat Hardiansyah bin Sabardin in Pekon Gumukmas, was apprehended by law enforcement officers following public reports concerning an online gambling operator (*bandar*) of the *toto gelap* type that had caused community concern in the area. Following police action and a search, officers discovered several items as evidence: a red Vivo mobile phone used to access *toto gelap* online gambling; transfer receipts evidencing deposits to online *toto gelap* gambling accounts via Bank BRI accounts in the names of Yulianti and Josua Feedrick Pakpa; a blue Bank BRI ATM card used for gambling-related transfers; a notebook recording numbers drawn in the *toto gelap* online gambling activity; and cash in the amount of IDR 150,000, identified as stake money from gamblers, which was stored and found on the mat where the defendant was seated. The defendant and the evidentiary items were subsequently secured by the officers

It was revealed that, since late December 2020, the defendant began engaging in *toto gelap* online gambling after receiving an SMS message inviting her to join an online gambling website. Using the account name “*Hadijah*” on the *Dafa Toto* application, she participated as an ordinary player in online gambling, including live games “*24 spin*” and online lottery-style gambling (*togel*). In late January 2021, while attending a family-related reception event at a neighbour’s house, the defendant was observed playing the “*24 spin*” online game by several individuals who became curious and asked what she was playing; she stated that she was playing a “*live game*.” After learning that the defendant also played online *togel*, they requested that she accept and place their bets on their behalf.

In early February 2021, individuals who wished to “*deposit*” or entrust *togel* bets began visiting the defendant’s rented residence, and she provided them with an opportunity to place lottery numbers through her. The “*24 spin*” live game operated by requiring players to predict numbers generated by a randomising mechanism, whereas in *toto gelap* online gambling, bettors typically selected a minimum of two and a maximum of four digits, with wager amounts ranging from IDR 1,000 to IDR 500,000. Where the selected number(s) matched the outcome, the bettor’s account balance would increase accordingly.

Individuals placing togel numbers typically visited the defendant's rented residence in Pekon Gumukmas, Pagelaran Subdistrict, Pringsewu Regency, and placed wagers of approximately IDR 10,000 to IDR 20,000 per bet. The defendant would then deposit the bettors' funds to the bank account indicated in the Dafa Toto gambling account. After the bet was placed, bettors awaited the results; if the selected number appeared, they would come to the defendant's house to collect their winnings. To withdraw balances from the account, the defendant registered a bank account number so that funds would be automatically transferred to the registered account, after which she would withdraw cash via an ATM. The bank account used by the defendant to withdraw online gambling proceeds was a Bank BRI account No. 0660-01-005612-53-7 in the name of "Hadijah."

On average, approximately five bettors placed togel numbers through the defendant each day. The last individuals recorded as placing togel bets through the defendant were Anton (DPO) and Sulimin (DPO), both residents of Pekon Gumukmas. The defendant received a commission of 9% from each online gambling transaction, reportedly amounting to IDR 90 per bet. Where a bettor's number was successful, the bettor would provide the defendant with a voluntary additional payment (*seikhlasnya*), averaging approximately IDR 10,000 per bet. The total profit obtained by the defendant from February 2021 until her arrest was estimated at approximately IDR 300,000. Prior to engaging in online gambling activities, the defendant worked as a tapis embroiderer and as a vendor of *jasuke* and doughnuts. However, after acting as an online gambling intermediary/operator, she used the proceeds to meet daily living needs. Rahmat Hardiansyah bin Sabardin stated that the defendant treated online gambling as a livelihood to support the family's finances.

On the basis of the above chronology, the defendant may be regarded as having satisfied the constituent elements of Article 303(1) KUHP. The defendant intentionally offered and provided other persons with the opportunity to gamble and treated the activity as a livelihood by receiving a percentage-based commission from each online gambling transaction. Such conduct falls squarely within the prohibition under Article 303(1) KUHP, which threatens imprisonment or a fine for persons who, without authorisation, facilitate gambling and make it a source of income. Accordingly, on the available facts, the defendant can be said to have fulfilled the elements required under Article 303(1) KUHP.

Article 303(1) KUHP contains several elements that must be established to determine whether the provision has been violated. Based on the court's factual narrative, those elements were met in this case. First, the defendant intentionally offered and provided other persons with the opportunity to gamble. This is reflected in the fact that she facilitated access to online gambling through the Dafa Toto application and accepted **togel** bets directly from bettors. She also participated in the process of depositing bettors' funds into her online gambling account, demonstrating intentionality in enabling others to engage in gambling activities.

Pursuant to Article 303(1) point 1 of the Indonesian Criminal Code (KUHP) and Law No. 8 of 1981 on Criminal Procedure (KUHP), the Court rendered the following orders:

1. Declared the defendant, Meli Haryati binti Sahrn, lawfully and convincingly guilty of the offence of intentionally providing an opportunity for gambling and making it a livelihood.
2. Sentenced the defendant to one (1) year and seven (7) months' imprisonment.
3. Ordered that the period of arrest and detention already served by the defendant be fully credited against the imposed sentence.

This provision sets out the constituent elements of gambling-related offences (including in the online environment), which may be elaborated as follows:

- 1) Offering or Providing an Opportunity to Gamble. This refers to conduct whereby a person intentionally offers or facilitates another person's participation in gambling, including through digital means. In practice, this may involve operating an online gambling website or application, circulating invitations or promotional links via text messages, email, or social media, or otherwise enabling access to online gambling services.
- 2) Making Gambling a Livelihood. This element captures conduct whereby gambling is treated as a principal source of income. For example, an individual may obtain substantial profit by operating an online gambling platform or acting as an online gambling operator (bandar) who receives commissions or other financial benefits.
- 3) Participating in a Gambling Enterprise. This refers to involvement in a business or organised operation related to online gambling, whether as an owner, operator, or member of an organisational structure. The scope may include a range of functional roles within an online gambling organisation, such as platform management, customer service, operational coordination, or other forms of participation that support the gambling enterprise.

Building upon the judicial decision against Meli Haryati binti Sahrn, a significant legal shift becomes apparent when the application of the old KUHP (Article 303) is read alongside the modernised frameworks introduced by the amended UU ITE (Law No. 1 of 2024) and the new KUHP (Law No. 1 of 2023). Although the court secured a conviction under traditional penal provisions, a comparative legal reading indicates that the newer instruments provide more technologically attuned and institutionally assertive mechanisms for addressing the intrinsically digital character of online gambling. The court's reliance on Article 303(1) of the old KUHP largely foregrounded the defendant's act of "providing an opportunity" to gamble and the "livelihood" dimension of the conduct, as reflected in the acceptance of bets and the receipt of a percentage-based commission. Yet the operational modality evidenced in the case—namely the use of the Dafa Toto application, a mobile handset, and transfer-based deposits—maps more directly onto the offence construction under Article 27(2) of the UU ITE as amended, which criminalises the intentional and unauthorised distribution, transmission, and/or making accessible of electronic information or documents containing gambling content. In this regulatory design, the evidentiary focus shifts from physical facilitation to the digital enablement of access, thereby widening potential liability to conduct that effectively operationalises platform access even where traditional indicia of "offering opportunity" are

contested. Relatedly, the documentary and device-based items seized in the case—such as transfer receipts and mobile units—would, under the UU ITE framework, be treated as electronic evidence amenable to digital forensic processing, strengthening the evidentiary chain in a manner that is structurally distinct from reliance on conventional records (e.g., manual recap notes) often associated with offline gambling prosecutions.

A parallel intensification is observable under Article 426 of the new KUHP, which recalibrates the “livelihood” rationale by explicitly capturing the organisational and professionalised features of gambling operations. The defendant’s role in channeling deposits to third-party accounts and facilitating transactional flows is more readily understood, under the new KUHP, as participation in a gambling enterprise rather than merely an individual act of providing an opportunity to gamble. In addition, the new KUHP’s sanctioning architecture introduces a materially stronger financial deterrent through Category VI fines, which offers a more direct response to commission-based profit models than short custodial sentences and minimal case-related financial liabilities. Taken together, these developments suggest that a layered prosecutorial approach grounded in the amended UU ITE and the new KUHP would not only strengthen the fit between legal norms and the technological modality of online gambling, but also expand the enforcement lens from the individual offender to the digital and financial infrastructure that sustains the activity. In this sense, the Meli Haryati case functions as a transitional reference point between two legal eras: while Article 303 KUHP remained sufficient to establish culpability, it was comparatively limited in capturing the scale, dissemination, and networked organisation characteristic of contemporary online gambling ecosystems. The newer frameworks, by contrast, facilitate a strategic move from person-centred culpability (livelihood-oriented facilitation) toward infrastructure-oriented disruption (digital accessibility and enterprise participation), thereby supporting enforcement rationales aimed at dismantling the broader operational architecture rather than merely sanctioning peripheral intermediaries.

These considerations underscore the complexity of regulating gambling—particularly online gambling—and the centrality of law enforcement in safeguarding justice and protecting society from its adverse effects. The regulatory dynamics surrounding gambling, with a specific focus on online modalities, have become increasingly salient in the contemporary digital era. Although criminal law provides a general framework for addressing gambling conduct, distinct challenges arise where gambling is conducted online through electronic media. The absence of explicit and tailored provisions within the KUHP has historically generated uncertainty in enforcement, thereby requiring the Government and competent authorities to rely on more specialised legislative instruments to regulate and control online gambling practices.

In this context, Law No. 7 of 1974 on Gambling Control, the Electronic Information and Transactions regime (UU ITE), and Government Regulation No. 9 of 1981 on the Implementation of Gambling Control have functioned as the primary legal bases for responding to online gambling. Through these instruments, the State seeks to provide clearer regulatory direction regarding online gambling practices and to articulate legal responsibility for actors involved in such activities.

Law enforcement remains pivotal to ensuring compliance with the applicable regulatory framework. Nevertheless, the challenges of enforcement cannot be disregarded. Law enforcement authorities frequently encounter difficulties in identifying and suppressing online gambling practices that operate in legal grey areas or, in some cases, beyond the territorial jurisdiction of the state. Moreover, technological advancement enables gambling operators to continually adapt and modify their operational methods, thereby increasing the complexity of investigative and enforcement efforts.

Beyond technical constraints, political and social factors also shape the enforcement landscape for gambling-related offences. Tensions may arise between individual liberty claims and the public interest in safeguarding collective welfare, which can complicate legal and policy decision-making in this domain. In addition, systemic risks such as corruption and political influence may undermine enforcement effectiveness, insofar as certain actors may seek to manipulate legal processes for private gain or political advantage.

In this context, it is important to recognise that law enforcement is not a static process; rather, it is a continual endeavour that must adapt to evolving legal, technological, and social environments. To address these challenges, cooperation among government, law enforcement agencies, and the private sector is essential. Such collaboration facilitates the exchange of information and resources necessary to identify and respond more effectively to illegal gambling practices. In addition, public education and awareness initiatives are critical for reducing demand for illegal gambling. By strengthening public understanding of the risks and consequences associated with gambling, demand for unlawful gambling services may be expected to decline in a meaningful way. Ultimately, criminal accountability for online gambling constitutes a complex governance challenge that requires a holistic approach—integrating coordinated action by the state, law enforcement institutions, private-sector stakeholders, and the broader public. Only through such collective efforts can effective enforcement be achieved and societal interests protected on a wider scale.

3.2. Rehabilitation as a Penal Measure for Online Gambling Offenders.

Rehabilitation as a penal measure represents a concept of substantial significance within modern criminal justice systems. It entails efforts to restore offenders so that they may resume productive social functioning after serving their criminal sentence. In this framework, rehabilitation is not conceived solely as punishment, but as a corrective and restorative process aimed at transforming offenders' behaviour and underlying cognitive patterns. It is important to emphasise that rehabilitation as a mode of criminal sanctioning rests on a strong philosophical foundation. A core premise of criminal justice is that punishment should serve a socially useful purpose—for both the offender and society at large. In this respect, rehabilitation is often positioned as a more humane and constructive alternative to purely punitive responses.

The rehabilitation process may commence from the moment an offender enters the criminal justice system. Following a finding of guilt, the offender may be placed within an intervention framework designed to address the underlying determinants of criminal conduct.

Rehabilitative approaches can encompass a range of programmes, including counselling, psychological therapy, skills training, and social reintegration measures. A central premise of rehabilitation is the recognition that many offenders experience psychological, emotional, or social problems that contribute to their offending behaviour. Accordingly, rehabilitation seeks to support offenders in resolving these issues and in developing the competencies necessary to manage everyday life without reverting to criminal patterns of conduct.

Rehabilitation also encompasses preparations for an offender's return to society upon completion of a sentence. This may involve reintegration programmes designed to assist individuals in securing employment, housing, and the social support required to sustain a crime-free life. In addition, rehabilitation emphasises personal responsibility and repentance, in the sense that offenders are expected to acknowledge wrongdoing, express remorse, and commit to positive behavioural change. By taking responsibility and making efforts to remedy past misconduct, offenders may restore self-respect and dignity and, over time, regain societal trust.

Nevertheless, rehabilitation should not be treated as a panacea for all crime-related problems. In certain cases, rehabilitative interventions may prove ineffective, particularly where offenders demonstrate little or no willingness to change. In such circumstances, more stringent penal measures may be required to protect society from the risks posed by individuals who are resistant to rehabilitation. Rehabilitation as a sanctioning approach is also subject to critique. Some argue that rehabilitative models place disproportionate emphasis on offenders while insufficiently addressing the interests of victims and the broader community. From this perspective, there are circumstances in which more severe punishment is considered necessary to vindicate victims' rights and to signal unequivocally that criminal conduct will not be tolerated..

Notwithstanding the critiques and practical challenges associated with rehabilitation, many jurisdictions have increasingly adopted rehabilitative approaches within their criminal justice systems. This orientation reflects the view that rehabilitation may offer a more humane, effective, and sustainable response to crime. By providing offenders with structured opportunities to reform and to become contributing members of society, rehabilitation can contribute to reducing recidivism and, in turn, enhancing overall social welfare.

The evolution of sentencing philosophy from an orientation of "punishment" toward "rehabilitation" reflects a broader shift in modern legal thought regarding the purposes of criminal sanctions. Moving beyond traditional perspectives that framed suspects, defendants, or convicts as morally "sinful" or inherently "evil," contemporary approaches increasingly adopt a more humane view that recognises offenders as legal subjects—human beings situated within complex social contexts. This conceptual trajectory has been articulated by various Western scholars, including Wolfgang Friedman, Hyman Gross, Herbert L. Packer, Rupert Cross, E. Anthony, Jeremy Bentham, and others.

Although the "*pemasyarakatan*" idea has long been advanced, its practical implementation has not consistently been supported by a clear conceptual framework or adequate institutional

capacity. The regulatory basis for correctional administration has, in important respects, continued to rely on older instruments that are no longer fully aligned with the rehabilitative objectives of the “pemasyarakatan” model. One such instrument is the Ordinance of 10 December 1917, Staatsblad 1917 No. 708, commonly referred to as the Gestichtenreglement. This condition underscores the need for revision and renewal of correctional concepts and regulations to ensure coherence with the goals of rehabilitation and social reintegration. It also highlights the importance of strengthening infrastructure, facilities, and staff training within correctional institutions so that rehabilitative functions can be carried out more effectively. Through such reforms, the correctional system would be better positioned to fulfil its role in guiding and rehabilitating prisoners so that they may return to society as productive and responsible members.

Within this framework, rehabilitation may serve as a valuable alternative—or complement—to the imposition of punitive sanctions in the criminal justice system. The rehabilitative model emphasises guidance and personal reform for individuals involved in criminal conduct, with the objective of enabling them to re-enter society as productive and responsible members. In this sense, rehabilitation treats suspects, defendants, and convicted persons as subjects capable of change rather than merely as objects of punishment. It proceeds by identifying the underlying determinants of offending behaviour—whether psychological, social, or economic—and by providing appropriate interventions to address those determinants.

Rehabilitation further proceeds from the premise that punitive sanctions alone are not invariably effective in preventing reoffending. By contrast, where appropriate attention, skills training, and necessary support are provided, individuals involved in criminal conduct may be afforded meaningful opportunities for self-correction and behavioural change. The objective of rehabilitation is therefore not merely to punish, but to prevent the recurrence of crime by delivering suitable interventions and facilitating social reintegration. This entails ensuring access to education, vocational training, social support, and—where required—mental health and addiction services.

Through a rehabilitative approach, offenders are afforded opportunities to address past wrongdoing, acquire new competencies, and rebuild their lives as productive and responsible citizens. Such outcomes benefit not only the individual, but also society at large, by reducing crime and enhancing social welfare. Rehabilitation enables the criminal justice system to adopt a more proactive crime-prevention role, shifting the paradigm from punishment alone toward guidance and restoration. Accordingly, strengthening rehabilitation programmes, equipping correctional staff with appropriate training, and updating relevant regulatory frameworks are critical steps toward a more effective and humane criminal justice system—one that not only imposes sanctions, but also facilitates reform and transformation.

Internal factors encompass individual characteristics such as age, social position, religious orientation, recreational or entertainment needs, and educational background. Changes in an individual’s physical or mental condition may influence behavioural tendencies associated with criminal conduct, including involvement in online gambling. Social and economic conditions

also play a salient role: individuals with a lower social standing or limited access to constructive recreational outlets may face a heightened risk of engaging in offending behaviour. Conversely, external factors relate to the individual's surrounding environment, including the temporal and spatial context in which offences occur. Environments that create opportunities for crime, peer groups that normalise harmful behaviour, economic pressures, and differing social milieus may collectively shape an individual's propensity to participate in online gambling.

Individuals involved in online gambling practices may require social rehabilitation interventions, consistent with legal frameworks that emphasise protection and recovery for persons adversely affected by gambling-related behaviour. Determining whether an online gambler requires social rehabilitation necessitates an assessment of the social, economic, and mental-wellbeing impacts generated by the individual's gambling practices.

From a social perspective, online gambling may produce social isolation, interpersonal conflict, and disruptions to an individual's social functioning. In this context, social rehabilitation is directed toward facilitating social reintegration and repairing interpersonal relationships impaired by gambling behaviour. Severe economic impacts—such as accumulated debt, job loss, or difficulties in meeting basic needs—also constitute important considerations. Social rehabilitation may therefore aim to support individuals in restoring financial management capacities and rebuilding economic self-reliance. In addition, online gambling may adversely affect mental health by increasing the risk of conditions such as depression, anxiety, or chronic stress. Social rehabilitation, in this regard, would provide appropriate psychological support and therapeutic interventions to address resulting mental health problems.

Harmful behavioural changes—such as the misuse of alcohol or drugs, as well as aggressive or otherwise detrimental conduct—may also indicate the need for social rehabilitation. In such cases, rehabilitation programmes are oriented toward assisting individuals in replacing maladaptive behavioural patterns with healthier, more adaptive forms of conduct. Finally, where an individual has developed dependence on online gambling and is unable to control the behaviour, more specialised rehabilitative intervention becomes necessary. The objective of social rehabilitation in this context is to provide appropriate support to facilitate recovery from dependence and to enable the individual to regain optimal functioning within society. Accordingly, decisions to enrol individuals in social rehabilitation programmes should be grounded in a comprehensive assessment of the impacts of online gambling on the person concerned, taking into account social, economic, mental health, and behavioural dimensions.

4. Conclusion

Although gambling is generally prohibited under Indonesian criminal law insofar as it satisfies the statutory formulation of an offence, enforcement has historically been complicated by interpretive uncertainty and doctrinal fragmentation arising from the absence of an explicit online gambling provision within the KUHP, which in turn necessitated reliance on external instruments such as Law No. 7 of 1974 on Gambling Control, Law No. 11 of 2008 on Electronic Information and Transactions (UU ITE), and Government Regulation No. 9 of 1981 on the Implementation of Gambling Control. This regulatory “patchwork,” while providing a basis for

attributing criminal liability to organisers, facilitators, livelihood-based actors, and active participants, often proved insufficient to address the anonymity, scalability, and organisational complexity of contemporary online gambling, contributing to a deterrent deficit reflected in nominal sanctions and short custodial outcomes. The current synchronisation of Law No. 1 of 2023 (the New KUHP) and Law No. 1 of 2024 (the Second Amendment to the UU ITE) substantially resolves these longstanding gaps by internalising digital gambling conduct within a more coherent and layered national criminal framework: the New KUHP, inter alia through Articles 426 and 427, reframes liability around the professional and enterprise-based character of gambling operations, while the amended UU ITE, through Article 27(2), supplies a technology-specific *lex specialis* by refining prohibited conduct into the modalities of distributing, transmitting, and making accessible gambling content. This legislative modernisation also strengthens penal leverage by prioritising economic disruption through higher-value fines—Category VI penalties and UU ITE fines—thereby targeting the financial viability of online gambling ecosystems rather than treating cases as isolated individual misconduct. At the same time, a comprehensive response cannot be exhausted by punitive escalation alone: given the documented mental, social, and behavioural harms associated with online gambling, rehabilitation should be positioned as a complementary policy instrument within criminal justice, oriented toward reform and reintegration. In this sense, Indonesia's contemporary framework signals a transition from fragmented regulation toward an integrated, multidimensional strategy that combines technology-specific criminalisation and financially meaningful deterrence with rehabilitative pathways capable of addressing the underlying vulnerabilities that sustain demand and recurrence.

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