

Criminal Law Formulation in Combating Gambling Criminal Acts

Alfain Bahtiar ¹⁾ & Andri Winjaya Laksana ²⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: alfainbahtiar.std@unissula.ac.id

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia, E-mail: andri.w@unissula.ac.id

Abstract. *“Criminal Law Formulation in Combating Gambling Crimes” aims to analyze and formulate criminal law policies to eradicate gambling crimes in Indonesia. Gambling is classified as a social disease that causes moral, economic, and legal harm to society. Despite regulations in Articles 303 and 303 bis of the Criminal Code and Law Number 7 of 1974 concerning the Regulation of Gambling, as well as Article 27 paragraph (2) of the ITE Law, gambling—especially online—is still widespread. This study adopts a normative juridical approach, emphasizing the examination of secondary legal materials including statutory regulations, legal doctrine, and literature. The results indicate that current criminal law regulations have weaknesses both in the criminal formulation stage and in their implementation, especially in terms of legal certainty and deterrent effects. Future criminal law formulations should emphasize comprehensive policies, combining penal (repressive) and non-penal (preventive and educational) approaches that are in line with the principles of social defense and social welfare policies. This study concludes that the effectiveness of gambling crime prevention depends on the synchronization of legal reform, consistent law enforcement, and active public participation in supporting the creation of a law-abiding society.*

Keywords: *Criminal Law Formulation; Criminal Policy; Gambling Crime; Law Enforcement; Social Defense.*

1. Introduction

Today's society is heterogeneous, pluralistic because it consists of various tribes, cultural backgrounds, religions and social orders that differ between one tribe

and another, thus Indonesian law should be formed or arranged to meet the needs of its pluralistic society, so that the native population (indigenous) is displaced by the mixing of all kinds of cultures, ethnicities and cultures, making the views of the people who live in the suburbs who adhere to the concept of freedom. Some information can be known that the current economic conditions of the community are already at a very difficult and worrying stage. This is a result of the low income of the community, in addition to many members of the community who do not have jobs, loss of jobs due to layoffs (PHK) from the companies where they work. Even if they have jobs, the income they earn is far from sufficient to meet the needs of community members and their families. The economic conditions of the community tend to be increasingly difficult, very worrying and difficult society due to lack of employment opportunities and low income levels.¹

Low income is a burden faced by most people today. These factors force them to try to cover their financial needs. They resort to various methods, both legal and illegal. Some people resort to illegal methods because it's the best option for them. Although many of these methods could result in legal trouble, they persist in the hope that if they win, they can cover their living expenses.

To anticipate societal developments in relation to changes in crime, efforts can be made to plan the creation of criminal law that accommodates all societal dynamics. This is a policy issue, namely regarding the selection of means to regulate community life.

The consequences of gambling are known to occur in society; gambling always has negative consequences for society. Therefore, society's attitude is basically very much in favor of the continued, firm eradication of gambling without any repercussions. Discrimination against perpetrators, so that they appear deterred and aware that gambling is a social ill. A society already in a state of misery and hardship will be further exacerbated by the prevalence of gambling among certain groups. Gambling, which causes misery among the community, must be prevented and eradicated, or efforts must be made to prevent it, given its impact on society.²

Advances in science and technology undoubtedly influence how people think, behave, and act. These changes in attitudes, perspectives, and orientations influence legal awareness and the assessment of behavior. They determine whether an act is considered normal or, conversely, a threat to social order.

¹ <http://zenuciha.blogspot.com/2011/12/penyebab-perjudian-dan-solusi-mecegahya.html> accessible on July 21, 2022

² (<http://dimaslova.wordpress.com/2009/11/23/scientific-work-on-gambling-prevention-efforts/>)

Crimes that threaten social order often utilize or are facilitated by technology. These crimes are a relatively new type of crime and pose a threat to social order.

Just like in other nations around the world, gambling is also widespread in Indonesian society. However, because Indonesian law prohibits gambling, this activity is carried out clandestinely. Some people engage in and choosing a gambling action is then used as a shortcut to achieve a bright future.³

Gambling is considered a highly promising option, offering profits without the need for hard work. It's considered a convenient way for the common people to earn money more easily. They don't realize that the consequences of gambling are far more dangerous and detrimental than the potential benefits, which are very rare. Gambling is not condoned by any religion. Therefore, it can be said that gambling, for the general public, brings no benefits but instead exacerbates existing misery and suffering.

Gambling is often found in various places or locations, often unknown to authorities. Gambling is often found and practiced even near residential areas. This also applies in areas or around our homes. In community life, we inevitably encounter social problems. These problems are considered social problems if they have a negative impact on social interactions. These social problems disrupt the lives of citizens, significantly disrupting interactions within the community. These negative consequences can have a significant impact if not addressed promptly.

The crime of gambling is regulated not only in Article 303 and Article 303 bis of the Criminal Code, but also in Article 45 paragraph (2) of Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions. According to Duwi Handoko, there is no minimum criminal pattern for perpetrators of gambling crimes, whether regulated within or outside the Criminal Code (regulated in the ITE Law). Judging from the qualifications of criminal threats, the criminal threat for perpetrators of gambling based on the Criminal Code is alternative, namely that the perpetrator can be subject to imprisonment or a fine. Meanwhile, according to the ITE Law, the criminal threat for perpetrators of gambling is cumulative alternative, namely that the perpetrator can be subject to imprisonment only, or subject to imprisonment and a fine at the same time. The regulation of criminal acts of gambling is regulated not only in General Criminal Law (in the Criminal Code), but also in Special Criminal Law (outside the Criminal Code).⁴

³ [\(http://suhadirembang.blogspot.com/2010/09/perjudian-dalam-kajianterdahulu.html/\)\(dilemmah-efforts to overcome-gambling/\)](http://suhadirembang.blogspot.com/2010/09/perjudian-dalam-kajianterdahulu.html/)

⁴ Duwi Handoko. 2018. Victimless Crimes in Indonesia: Regulation and Problems, Menara Ilmu Journal, 3 (3): 38

Seeing the importance of a law to regulate matters related to electronic information and transactions, the government immediately ratified the ITE Law (Information and Electronic Transactions), which was ratified in 2008, one of the articles of which, specifically Article 27 paragraph 2, reads: "Any person who intentionally, without the right, distributes and/or transmits and/or making accessible electronic information and/or documents containing gambling content".

In web-based gambling games, it has been explained in the Qur'an that betting is something that is prohibited in Islamic teachings and also in the Criminal Code it has been explained regarding the implementation of online gambling in the ITE Law Article 27 paragraph (2) of Law No. 19 of 2016 amendments to Law No. 11 of 2008 for that reason to reduce a conflict that occurs in society related to gambling that is carried out on the internet or can also be called social media and can also be called Cybercrime, so that technological advances that have been facilitated provide space for perpetrators to continue to carry out online gambling.

Law enforcement, particularly the police, must act decisively and seriously in addressing crime, particularly the widespread gambling crime. To create a law-conscious society and maintain regional stability, law enforcement must take a serious approach to maintaining security and order within the community. The role of the community is also crucial, as legal development cannot proceed effectively if the community and law enforcement are not aligned.

Law enforcement as a process is essentially the application of discretion which involves making decisions that are not directly strictly regulated by legal rules, but has an element of personal judgment.⁵

The police aim to protect the community, trying to carry out their duties in accordance with the provisions stipulated in the law so that the implementation of police duties does not deviate and the community does not always blame police officers if there are things that are outside the function and authority of the police themselves.

The police are state apparatus in law enforcement that have a very important role, namely as security maintainers whose implementation is to prevent and overcome a crime. The police generally have two types of power. First, is the police power in the legal field and second is the police power in the government field. These three powers give rise to three main functions in the police, namely

⁵ SeorjonoSoekanto. 2018. Factors Influencing Law Enforcement in Depok: RajawaliPers, page 7

as law enforcement officers, as servants which include maintaining public order, and as protectors of the community.⁶

One of the crimes frequently committed by people in Indonesia is gambling. Due to poverty, many people are tempted to gamble, earning money simply by sitting and playing cards. Generally, people engage in gambling activities with Using playing cards, dominoes, cockfighting, dice, and lottery. Gambling is a form of crime that is difficult to eradicate and has even become a social disease. Gambling is a type of crime, as defined by Article 303 of the Criminal Code, Law Number 7 of 1974. Islam also prohibits gambling.

Furthermore, it is also explained in the Al-Quran, Surah Al-Maidah verse 90 which reads:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِنَّمَا الْخَمْرُ وَالْمَنِيرُ وَالْأَنْتَصَابُ وَالْأُرْلَمُ رِجْسٌ - مِنْ عَمَلِ الشَّيْءِ 'طِنٌ فَاجْتَنِبُوهُ لَعَلَّكُمْ تُفْلِحُونَ

Translation: O you who believe! Indeed, drinking alcohol, gambling, (sacrificing to) idols, and drawing lots of fortunes with arrows, are heinous acts and are among the acts of Satan. So stay away from those (actions) so that you will be lucky.⁷

According to Haryanto Mintarum, the gambling law clearly states the criteria for gambling and several penalties, but in reality, law enforcement for gambling cases is still considered difficult to enforce.⁸

Gambling, as one of the things classified as a social disease, still exists and is carried out by certain members of society.

To obtain the profits expected to be obtained through gambling, even from day to day there is a tendency for gambling to become more widespread in various forms, both openly and covertly, making it difficult for authorities to eradicate it. Therefore, the author has chosen a thesis title, namely a legal analysis of the investigation process of online gambling crimes at the Semarang City Police Resort.

2. Research Methods

This research uses a normative legal approach, namely by examining or analyzing secondary data in the form of secondary legal materials, understanding law as a set of regulations or positive norms within the legal system that governs human

⁶ Ibid., page 10

⁷ Al-Quran surah almaidah verse: 90

⁸ (<http://suhadirembang.blogspot.com/2010/09/perjudian-dalam-kajianterdahulu.html/>)(dilemmiah-efforts to overcome-gambling/)

life. Therefore, this research is understood as library research, namely research on secondary data.⁹

3. Results and Discussion

3.1. Criminal Law Regulations in Combating Gambling Crimes

Problematic gambling behavior is also widespread in Indonesian society. However, because Indonesian law prohibits gambling, these activities are conducted clandestinely. Gambling in Indonesian society can be found across all levels of society. The forms of gambling vary, from traditional forms like dice games, cockfighting, games of skill, and football betting to the use of sophisticated technology such as gambling via mobile phones or the internet. Online gambling is also widely used by gamblers, although data is not available on whether Indonesian internet users frequently browse slot sites, which are now prevalent in drawing or gaming models.

In order to combat the crime of gambling, it is necessary to balance this with comprehensive reform and development of the criminal justice system, through legislative policy, known as formulation policy. As stated in the previous chapter, the policy of formulating and establishing criminal sanctions in legislation can also be referred to as the formulation policy stage. Formulation policy holds a very strategic position when viewed from the perspective of the Indonesian government.

of the overall policy of operationalizing criminal law. This view is in accordance with the opinion of Barda Nawawi Arief who stated that:

The legislative policy stage is the most strategic stage in terms of operationalizing criminal sanctions. At this stage, the policy guidelines for the criminal and sentencing system are formulated, which also serve as the legislative basis for the following stages: the application of criminal penalties by the courts and the implementation of criminal penalties by the criminal enforcement authorities.¹⁰

The importance of a legislative basis for a criminal policy, GP Hoefnagels stated as follows:¹¹

I agree that the view that effectiveness is a prerequisite for legitimacy and is an element worth considering in matters of punishment, but effectiveness itself is not a guarantee for the existence of criminal justice, it is limited not only by effectiveness and usefulness but especially by legality.

⁹ Soerjono Soekanto & Sri Mamudji, *Normative Legal Research, A Brief Review*, Rajawali, Jakarta, 1985, p. 15.

¹⁰ Barda Nawawi Arief, *Legislative Policy...*, op.cit. p. 3.

¹¹ibid., p. 3

Another opinion was put forward by HL Packer, that formulation policy in the field of penal law is very important for sentencing policy, which is one of the current controversial issues in criminal law.¹²

L Packer put forward three issues which are "a number of current controversial issues in the criminal law", namely;

1. The issue of strict liability;
2. sentencing policy;
3. the insanity defense;

Based on the above perspective, it can be concluded that legislative policy or formulation is the most important aspect of the overall effort to operationalize criminal sanctions. Besides serving as the foundation for subsequent stages, it also serves as the legal basis for criminal policy. However, what is crucial about this formulated policy is the extent to which its strategic position can influence the process and mechanisms of law enforcement in efforts to combat crime, particularly gambling.

The formulation of policy formulation in order to overcome criminal acts of gambling is stated in Article 1 paragraph (1) of Law Number 7 of 1974 concerning the Regulation of Gambling which regulates criminal sanctions, which reads:

"Changing the threat of punishment in Article 303 paragraph (1) of the Criminal Code, from a maximum prison sentence of two years and eight months or a maximum fine of ninety thousand rupiah to a maximum prison sentence of ten years or a maximum fine of twenty-five million rupiah."

From the aforementioned article, the government is taking the issue of criminal gambling seriously. In legal policy, gambling is a priority for eradication, using criminal law as a means of prevention.

One of the provisions of Law Number 7 of 1974 concerning the Regulation of Gambling is a form of formulation and determination of criminal sanctions by lawmakers. This policy formulation serves the practical benefit of law enforcement officials in handling problems related to gambling crimes. Another intention of the lawmakers in formulating basic provisions regarding the determination of gambling as a crime is based on the belief that gambling is contrary to religion, morality, and Pancasila morals, and endangers the livelihoods and lives of society, the nation, and the state.

In order to examine the formulation of policies to combat the crime of gambling, as stipulated in Law Number 7 of 1974 concerning the Regulation of Gambling, as

¹² H.L. Packer, *The Limits of Criminal Sanction*, Stanford University Press, California, 1968, p. 13

a regulation or provision that improves the Criminal Code, the criminalization policy will first be discussed.

Starting January 2, 2026, Indonesia will implement a new Criminal Code that updates several provisions, including the crime of gambling.

The regulations are regulated in Article 426 and Article 427 of Law 1/2023. Article 426 of Law 1 of 2023. Gambling perpetrators who act as organizers or entrepreneurs can be subject to a maximum prison sentence of 9 years or a maximum fine of category VI (currently equivalent to ± IDR 2 billion), if:

1. Offering or providing the opportunity to gamble as a livelihood;
2. Participating in a gambling company; c. Making gambling a profession

Article 427 of Law 1 of 2023. For those who only participate in gambling, the provisions are: A maximum prison sentence of 3 years or a maximum fine of category III (around IDR 50 million).¹³

3.2. Weaknesses of Criminal Law Regulations in Combating Gambling Crimes

The purpose of sentencing is an important thing in every application of criminal law, however in practice most judges who impose sentences are still bound by a systematic juridical view, meaning that judges always reduce incidents by only paying attention to relevant juridical factors and paying less attention to factors concerning the defendant.¹⁴

Incidents like the one above can be caused by weak legal regulations for gambling crimes, such as inconsistent criminal sanctions from current regulations. In the old Criminal Code (Articles 303 and 303 bis), the threat of imprisonment for gamblers reached 4 years, while in the new Criminal Code (Articles 425–427 of Law No. 1 of 2023) it was reduced to only 1 year. This gives the impression that the new Criminal Code is more permissive towards gambling, even though sociologically gambling practices in Indonesia are increasingly complex, including online gambling. According to Moeljatno, criminal law must fulfill both repressive and preventive functions. If the penalty is too light, the preventive function will not function optimally.¹⁵

The weakness of legal regulation lies in an overly legalistic and administrative legal approach. The legalistic and administrative approach of the Criminal Code only allows for legal gambling with government permission. This approach has the potential to contradict social and religious norms, as gambling is viewed

¹³ https://www.ilslawfirm.co.id/pidana-perjudian-pasal-di-kuhp/?utm_source=chatgpt.com
accessed August 29, 2025.

¹⁴ Muladi and Barda Nawawi Arief, Theories..., op.cit. pp. 115-116

¹⁵ Moeljatno. Principles of Criminal Law. Jakarta: Rineka Cipta 2008. p. 45

morally as corrupting society. Satjipto Rahardjo emphasized that the law should address the living law within society. Legalizing gambling through government permission has the potential to clash with the legal values inherent in Indonesia's religious society.¹⁶

Legal regulations are also weak, particularly regarding the delay in regulating online gambling. The new Criminal Code (KUHP) does not yet specifically regulate online gambling, even though this practice is most prevalent in the digital age. Regulations are still general, making law enforcement difficult, particularly in the following areas:

1. Proof (server is located abroad).
2. Jurisdiction (cross-border actors).
3. Supervision (internet access is difficult to control)

In addition to the Criminal Code, gambling is also regulated by the Electronic Information and Transactions (ITE) Law (specifically regarding online gambling), Emergency Law No. 12 of 1951 (clear weapons used in gambling arenas), and Regional Regulations. However, these regulations often overlap and create duplication of law enforcement authority, resulting in weak enforcement consistency. This is where overlapping regulations come into play. Soerjono Soekanto emphasized that legal uncertainty often arises from regulatory disharmony, ultimately reducing the effectiveness of the law itself.¹⁷

- a. Electronic Information and Transactions Law (ITE Law) – Online Gambling
 1. Legal basis: Article 27 paragraph (2) of Law No. 11 of 2008 concerning ITE as amended by Law No. 19 of 2016. The norm states "Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing gambling content."
 2. Sanctions: Regulated in Article 45 paragraph (2) of the ITE Law, namely a maximum prison sentence of 6 (six) years and/or a maximum fine of IDR 1,000,000,000 (one billion rupiah).
 3. Key features: Targets gambling activities conducted through electronic media (the internet, apps, social media, websites). This includes not only gamblers but also those who distribute or provide access to online gambling. Law enforcement is often hampered because many servers and organizers are located overseas (cross-border jurisdictions).

¹⁶ Satjipto Rahardjo, *Law in the World of Order*. Jakarta: UKI Press 2006 p. 120

¹⁷ Soerjono Soekanto, *Factors Influencing Law Enforcement*. Jakarta: Raja Grafindo Persada 2006, p. 89

b. Emergency Law No. 12 of 1951 – Sharp Weapons in the Gambling Arena

1. Legal basis: Emergency Law No. 12 of 1951 concerning "Amending the 'Ordonnantie Tijdelijke Bijzondere Strafbepalingen' (Temporary Criminal Law Regulations Ordinance)". Article 2 paragraph (1) "Anyone who without the right brings into Indonesia, makes, receives, tries to obtain, hands over, or has in his possession, keeps, carries, hides, uses a weapon for hitting, a weapon for stabbing, or a weapon for stabbing, shall be punished with imprisonment for a maximum of 10 (ten) years."
2. Relevance to gambling: In practice, gambling crimes are often accompanied by the use of sharp weapons (for example, in cockfighting arenas or when conflicts arise between players). Therefore, law enforcement officers not only charge perpetrators under gambling articles (the Criminal Code or the new Criminal Code), but also under Emergency Law No. 12 of 1951 if they are found in possession or use of sharp weapons without a permit.

This criminal threat is more severe than the gambling article, so it is often used as a cumulative article in the indictment.

c. Regional Regulation (Perda) – Prohibition of Gambling in the Region

1. DKI Jakarta Regional Regulation No. 8 of 2007 concerning Public Order → prohibits all forms of gambling and gives the Public Order Agency (Satpol PP) the authority to enforce order.
2. West Java Regional Regulation No. 13 of 2011 concerning the Implementation of Order, Cleanliness and Beauty which contains a prohibition on gambling.

The lack of a non-penal approach can also lead to weak gambling regulations. Non-penal approaches are efforts outside of criminal law to prevent, reduce, or address crime without resorting to punishment. Gambling regulations in Indonesia remain repressive (imprisonment and fines), but lack preventive aspects such as education, rehabilitation, and community empowerment to prevent gambling. This allows gambling to continue to thrive because the underlying socio-economic problems remain unaddressed. Barda Nawawi Arief reminded that modern criminal law policy should prioritize a balance between penal and non-penal measures to ensure more effective prevention.¹⁸

The substantial weaknesses of the regulations, both in the old Criminal Code (Articles 303, 303 bis) and the new Criminal Code (Articles 425–427 of Law No. 1

¹⁸ Barda Nawawi Arief, Anthology of Criminal Law Policy. Jakarta: Kencana. 2008 p. 152

of 2023), show a reduction in the criminal threat from 4 years to 1 year. This reflects a weakening of the legal substance in terms of prevention and repression — contrary to Moeljatno's (2008) theory that states that criminal law must have both repressive (deterrent) and preventive (preventive) functions.

The legal substance also appears inconsistent between the Criminal Code, the Electronic Information and Transactions Law (UU ITE), Emergency Law No. 12 of 1951, and Regional Regulations, resulting in overlapping authority and legal sanctions. This creates legal uncertainty, as criticized by Soerjono Soekanto (2006), who argued that the disharmony between regulations reduces the effectiveness of law enforcement. In terms of legality and morality, the new Criminal Code allows for legal gambling with government permission, even though social and religious norms in Indonesia reject gambling. This demonstrates a conflict between the substance of positive law and living law (law that lives within society). Satjipto Rahardjo (2006) emphasized that the law should not only enforce the text of the law but also consider the social and moral values of society. Gambling regulations in Indonesia do not yet reflect a balance between legal certainty, social justice, and societal moral values. The legal substance remains normative and unresponsive to social dynamics such as online gambling.

Legal structure, related to law enforcement agencies and officials, and the mechanisms for enforcing the law, remains weak in law enforcement against gambling, particularly cross-border online gambling. Obstacles include providing evidence due to servers located overseas, jurisdiction of transnational perpetrators, and suboptimal digital oversight. This demonstrates that the law enforcement structure has not adapted to technological developments and globalization. Gambling law enforcement in Indonesia remains partial, sectoral, and uncoordinated. Institutional reforms are needed to strengthen cross-sector synergy and digital-based law enforcement capabilities.

From a legal culture perspective, it reflects the attitudes, values, and behavior of society towards the law. Conflicts between Social Norms and Positive Law. Indonesian society, culturally and religiously, rejects gambling because it is considered detrimental to family morals and economics. However, regulations permitting gambling under the government have created a legal legitimacy crisis in the public eye. This indicates a gap between written law and living law. Furthermore, there is low legal awareness in Indonesian society. Many people still view gambling as ordinary entertainment, especially online. The lack of legal and moral education leads to high levels of public participation in gambling practices. Both in terms of legal culture and Indonesian society, the Indonesian legal culture does not fully support the implementation of anti-gambling policies. It is necessary to establish a legal culture that is morally, religiously, and participatory so that social norms align with positive legal norms.

3.3. Criminal Law Formulation in Tackling Gambling in the Future

1. Formulation of Criminal Law in the New Criminal Code

Criminal law formulation is the legislative policy stage in the criminal law system, namely how legal regulations are formulated by lawmakers to prevent and address criminal acts. According to Barda Nawawi Arief, the formulation stage is the most strategic stage in criminal law policy, because the quality of crime prevention is determined by the quality of the legal formulation.¹⁹ In the context of gambling, future criminal law formulation must respond to social, economic, and digital technology challenges that make gambling increasingly complex, particularly cross-border online gambling.

The new Criminal Code (Law No. 1 of 2023) provides a new legal basis for combating gambling. Articles 425–427 stipulate:

- a. Organizing gambling without a permit, the maximum prison sentence is 5 years or a fine of category V (Rp. 500 million).
- b. Gamblers, maximum imprisonment of 1 year or a fine of category II (Rp. 10 million).
- c. Legal gambling only applies if there is permission from the government.

This formulation emphasizes the administrative permit aspect as the distinguishing factor between legal and illegal. However, in the future, this formulation should be strengthened to avoid the impression of "legalizing" gambling, which conflicts with social and religious values in Indonesia. According to Moeljatno, criminal law should function not only as a means of social control but also as a reflection of society's moral values.²⁰

2. Criminal Law Formulation in Tackling Online Gambling

Online gambling requires special regulation due to its characteristics: it is cross-border, difficult to monitor, uses digital transactions, and is easily accessible. Currently, it is only briefly regulated in Article 27 paragraph (2) of the ITE Law, with a maximum criminal penalty of 6 years' imprisonment and a fine of IDR 1 billion.

Future formulations need to use the following aspects:

- a. Lex specialist regarding online gambling, which regulates organizers, players, platform providers, and financial intermediaries.

¹⁹ Barda Nawawi Arief, Anthology. ,op.cit. p. 26

²⁰ Moeljatno Principles of Law ,op.cit. p. 45

- b. International cooperation through extradition treaties and mutual legal assistance (MLA).
- c. Corporate sanctions for internet service providers or applications that facilitate gambling.

As Muladi points out, the effectiveness of criminal law is determined by its ability to adapt to developments in criminal technology. Without new formulations, online gambling will simply become a "cybercrime" that is difficult to prosecute.²¹

The formulation of the above laws must go through a process of Penal and Non-Penal Approaches. The formulation of future criminal law must combine penal (repressive) and non-penal (preventive) approaches. The Penal approach, strict penalties for large-scale gambling organizers, bookies, and transnational networks. And the Non-Penal approach, Public Education about the dangers of gambling, Rehabilitation programs for gambling addicts, Strengthening the economy of small communities so they do not fall into gambling as an alternative livelihood. Quoting Satjipto Rahardjo, the law does not only function to punish, but also as a means of social engineering to build a society free from deviation.²²

Viewed from the perspective of "criminal policy", efforts to combat gambling crimes, which are a form of moral crime, cannot be carried out partially through criminal law.

However, an integral or systemic approach must also be taken. Therefore, efforts to combat gambling must also be pursued with a socio-cultural, moral, and educational approach.

Combating gambling crimes, in addition to using criminal law, must also prioritize flexible efforts to adapt to current societal developments. However, establishing legal provisions concerning morality is challenging, as laws (regulations) must be positioned appropriately to accommodate the diversity of standards and standards regarding morality and the rapid advancement of technology. Therefore, the government must address these developments by drafting regulations that can address and address morality crimes, particularly gambling crimes.

Direction of future legal formulation based on the dynamics above, the formulation of criminal law for combating gambling in the future must be directed at:

- a. Update the Criminal Code by strengthening the prohibition on online gambling and increasing sanctions for bookies.

²¹ Muladi, Selected Chapters. ,op.cit. p. 89

²² Satjipto Rahardjo, Law in the World of Order. Jakarta: UKI Press 2006. p. 120

- b. Harmonization of regulations between the Criminal Code, the ITE Law, Emergency Law No. 12 of 1951, and Regional Regulations, to avoid overlap.
- c. Corporate criminal regulations for digital platforms and financial providers involved.
- d. Integration of penal and non-penal, so that gambling prevention is more comprehensive.

In the author's opinion, the direction of reforming criminal law formulations to combat gambling must truly position criminal law as the *ultimum remedium*, not the *primum remedium*. This means that criminal law should only be used when other efforts such as legal education, economic empowerment, and strengthening community morals are ineffective. This is crucial so that criminal law does not become a rigid tool, but rather serves to improve social conditions. Furthermore, I believe that emphasizing rehabilitative aspects for perpetrators, particularly in the context of online gambling, is far more beneficial than simply imposing prison sentences. This way, future criminal law formulations will not only ensnare perpetrators but also address the root causes of gambling itself.

4. Conclusion

1. Criminal law regulations addressing gambling crimes in Indonesia have evolved, from the old Criminal Code (Law No. 7 of 1974) to the new Criminal Code (Law No. 1 of 2023). These changes demonstrate the state's commitment to eradicating gambling, but weaknesses remain in the consistency of sanctions, their effectiveness, and their adaptation to technological developments. 2. The weaknesses of criminal law regulations in dealing with gambling include: the reduction of criminal threats in the new Criminal Code which gives the impression of being permissive, a legal approach that is too legalistic-administrative so that it has the potential to conflict with social and religious values, delays in responding to online gambling, and disharmony between regulations (Criminal Code, ITE Law, Emergency Law, Regional Regulations) which causes legal uncertainty. 3. Future criminal law formulations should be directed toward reforming the Criminal Code to more firmly regulate gambling, particularly online gambling, strengthen sanctions for bookies and transnational networks, while maintaining criminal law as the *ultimum remedium*. Integration of penal and non-penal approaches is essential, so that efforts. Combating gambling is not only repressive but also preventive through education, rehabilitation, and community empowerment. From a criminal policy perspective, combating gambling crimes cannot be done in isolation but must be pursued through an integrated approach involving social, cultural, moral, and educational aspects. Therefore, a sound criminal law formulation must be able to adapt to societal dynamics while being consistent with the values of Pancasila.

5. References

Journals:

Duwi Handoko. 2018. Tindak Pidana Tanpa Korban Di Indonesia Pengaturan dan Problematikanya, Jurnal Menara Ilmu, 3 (3): 38

Lihat Harkristuti Harkrisnowo, Reformasi Hukum: Menuju Upaya Sinergistik Untuk Mencapai Supremasi Hukum yang Berkeadilan, Jurnal Keadilan Vol. 3, No. 6 Tahun 2003/2004.

Muladi, "Kapita Selekta Sistem Peradilan Pidana" Badan Penerbit UNDIP, Semarang, 1995: 35 Muladi, Kapita Selekta Sistem Peradilan Pidana, Undip, Semarang, 1995

Satjipto Rahardjo, Masalah Penegakan Hukum Suatu Tinjauan Sosiologis, BPHN Departemen Kehakiman, Tanpa Tahun, hal. 18

Books:

- , Kapita Selekta Hukum Pidana, Citra Aditya Bakti, Bandung, 2003, Hal. 240.

- , Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan, PT Citra Aditya Bakti, Bandung, 2001. hal. 73

- , Masalah Penegakan Hukum dan Kebijakan Penanggulangan Kejahatan, PT. Citra Aditya Bakti, Bandung, 2001, hal. 73-74.

Barda Nawawi Arief, Bunga Rampai Kebijakan Hukum Pidana, Citra Aditya Bakti, Bandung, 2002, hal. 32

Soerjono Soekanto. 2018. Faktor-faktor yang mempengaruhi Penegakan Hukum Depok: Rajawali Pers, hal 7

Soerjono Soekanto & Sri Mamudji, Penelitian Hukum Normatif, Suatu Tinjauan Singkat, Rajawali, Jakarta, 1985, hal. 15.

Soerjono Soekanto, Faktor-Faktor Yang Mempengaruhi Penegakan Hukum, Rajawali Press, Jakarta, 1983

Regulation:

Criminal Code

Criminal Procedure Code Law No. 8 of 1981 concerning Criminal Procedure Law

Internet:

previous study.html/ (dilmiah-efforts to combat gambling/)

(<http://dimaslova.wordpress.com/2009/11/23/scientific-work-on-gambling-prevention-efforts/>)

(<http://suhadirembang.blogspot.com/2010/09/perjudian-dalam>

<http://zenuciha.blogspot.com/2011/12/penyebab-perjudian-dan-solusi-mecegahya.html> accessed in 2025