

LEGAL ANALYSIS OF CRIMINAL ACTS AGAINST FACILITIES RELATED TO INTENTIONALLY OFFERING OR PROVIDING OPPORTUNITIES TO THE GENERAL PUBLIC TO GAMBLE (Study of Medan District Court Decision Number 2228/Pid.B/2023/PN Mdn)

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ABSTRACT

formulation that has been explained. The government has issued a ban on permits for gambling activities, which means that all types and forms of gambling are considered illegal. These violations can be subject to criminal sanctions and the law enforcement process will be carried out in accordance with the provisions of criminal procedure law. social diseases in the form of gambling are divided into internal factors and external factors. The internal factors that cause the increase in gambling perpetrators are due to the inability to absorb the prevailing values and norms, the venting of feelings of disappointment due to the big defeats incurred. As for external factors, namely economic problems, and the influence of technological advances. Law enforcement against perpetrators who intentionally offer or provide opportunities to the general public is the defendant Lia Andini Als Dini who has been proven legally and convincingly guilty of committing a crime without rights by intentionally offering opportunities to the general public to gamble.

1. Introduction

Gambling is a crime that is difficult to eradicate. From a legal perspective, gambling is a crime that disturbs society. Gambling encourages people to always win, making them greedy and obsessed with winning. However, the result is often defeat. The impact of gambling can also encourage people to commit crimes such as theft, robbery, corruption, and other immoral acts.

Various types and forms of gambling have become widespread in everyday life, both openly and covertly. In fact, some communities have become permissive and seem to view gambling as normal and unnecessary. Consequently, many lottery and other gambling agents have opened up in various places, which have actually siphoned off significant amounts of public funds.

The impact of gambling is deeply detrimental to society and the nation's morals. Essentially, this crime disrupts public order, peace, and security. Furthermore, it has a significant impact on children, who will follow suit in gambling activities



they see occurring in their communities, resulting in material losses for those involved.

Given the facts, law enforcement against gambling is not optimal; gamblers and bookies are not punished according to applicable law, even though gambling is clearly a criminal offense that violates Indonesian law. Furthermore, in reality, the public is indifferent to the criminal gambling that occurs in their communities; they choose to remain silent, and there is no legal action that should be in place and implemented, namely, taking action to eradicate gambling and apprehend gamblers according to applicable law.

Awareness of the law is lacking, so how can the law itself develop in accordance with the desired legal ideals? Gambling practices exist in nearly every community, and local residents fail to report or take action to eradicate it. They tend to remain silent and allow this gambling practice to continue, even though this criminal gambling has numerous negative impacts on society.

One of the criminal cases of gambling is intentionally offering or providing the public with the opportunity to gamble, as in Medan District Court Decision Number 2228/Pid.B/2023/PN Mdn, where the defendant Lia Andini, also known as Dini, was legally and convincingly proven guilty of committing a crime without the right to intentionally offer the public the opportunity to gamble. Therefore, the defendant was sentenced to 1 (one) year and 4 (four) months in prison.

2. Research Method

This research is descriptive and analytical in nature, meaning it describes, examines, explains, and analyzes the issues surrounding law enforcement against perpetrators of online roulette gambling crimes, as related to statutory regulations.

The analysis examines the legal aspects, both in terms of the provisions of applicable regulations concerning law enforcement against perpetrators of crimes that intentionally offer or provide opportunities for gambling to the general public, and examines and reviews the application and implementation of these regulations in relation to law enforcement against perpetrators of crimes that intentionally offer or provide opportunities for gambling to the general public.

Based on the object of the research, which is positive law, the type of research used in this study is a normative juridical approach. As a normative juridical study, this study also analyzes the law, both written in books (law as it is written in the book) and the law decided by judges through the judicial process (law as





it is decided by the judge through the judicial process), often referred to as doctrinal research.

The data required for normative research is secondary data. The scope of secondary data is very broad, encompassing personal letters, diaries, and even official government documents.

To obtain objective, verifiable, and accountable results, the data in this study was obtained through library research, a method of data collection conducted through reviewing library materials or secondary data, including primary, secondary, and tertiary legal materials.

3. Research Results And Discussion

The difficult and concerning economic situation of the community is one of the causes of low income levels, which is a burden experienced by the majority of the population. Currently, these various factors have led to an increase in gambling in society as people try to cover their financial needs. Various methods are used, both legal and illegal.

One common method is gambling. Even though they know that gambling is prohibited and will result in legal action, they continue to gamble, hoping that winning will cover their living expenses.

Gambling is considered a very promising option, offering profits without the need for hard work. Gambling is considered a suitable option for the lower classes to earn money more easily. They are unaware that the consequences of gambling are far more dangerous and detrimental than the potential profits, which are rarely obtained.

Some people gamble to meet their needs, while others gamble for the pleasure or enjoyment of gambling. Despite their relatively good economic circumstances and often being able to meet their needs, they still gamble because of their passion. Even though they are financially secure, they continue to gamble, engaging in their hobby in their free time or while busy with work.

Various forms of gambling have become widespread in everyday life, both openly and covertly. Some communities have even become permissive and seem to view gambling as normal and unnecessary. Consequently, many gambling establishments and other forms of gambling have opened in various places, which have actually siphoned off significant amounts of public funds. Meanwhile, there is the impression that law enforcement is not taking this gambling problem seriously enough. Even more concerning, some gambling establishments are suspected of being protected by security forces.

Gambling is an act that violates religious norms, morals, ethics, and the law, and endangers the livelihoods and lives of society, the nation, and the state. From a





national perspective, gambling has negative and detrimental effects on the morals and mental health of society, especially the younger generation.

The fundamental weakness of this widespread gambling practice is the lack of coordination between the government, officials, and local communities, resulting in ineffective enforcement. This is despite strong commitments from state officials to eradicate gambling.

The complexities of society, which often lead to the erosion of religious and moral values, prevent comprehensive moral improvement efforts. A declining spiritual state leaves the community vulnerable to influence and easily persuaded to engage in negative behavior.

The community's key actors, including religious leaders, community leaders, and prominent figures, must be involved in all forms of gambling eradication efforts.

Economic factors also influence the desire to gamble and stimulate clandestine gambling activities, with the prospect of greater profits.

Generally, people's incomes can be classified as middle-income, but some low-income groups can also create a desire to gamble, attracting gamblers and engaging in it. For people with low socio-economic status, gambling is often seen as a means to improve their standard of living. With very little capital, they hope to maximize profits or become rich quickly without significant effort. For people with low socio-economic status, gambling is often seen as a means to improve their standard of living.

Efforts or policies to prevent and address crime fall under the purview of criminal policy. This criminal policy is inseparable from broader policies, namely social policy, which comprises social welfare policies and social defense policies. Crime prevention efforts through criminal law are essentially part of legal prevention efforts (particularly criminal law enforcement), so it is often said that criminal law policy is also part of law enforcement policy.

Indonesia is a country based on the rule of law, so anyone who commits a crime must be held accountable for their actions through the legal process. Law enforcement implies that a crime is an act prohibited by law, where the prohibition is accompanied by a threat (sanction) in the form of a specific penalty as accountability. This relates to the principle of legality, which states that no act can be punished unless it is regulated by law. Therefore, anyone who violates a prohibition, even if the prohibition is regulated by law, can be subject to sanctions or punishment, while the threat of punishment is directed at the person who caused the incident.

This is in line with Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which expressly states that Indonesia is a country based





on the rule of law. Therefore, national development in the legal sector is aimed at ensuring that society obtains certainty, order, and legal protection based on truth and justice, while providing a sense of security and peace.

Someone directly involved in gambling will tend to think negatively and irrationally. It is even unlikely to trigger larger criminal acts. From a behavioral perspective, it's also easy to predict: they tend to isolate themselves and seek out like-minded communities. Thus, gambling may be a social disease as old as humanity itself, yet it continues to fulfill a human need. The definition of gambling by society is any game or activity based on chance or without the use of money or goods as stakes.

There are two opposing views or assessments regarding gambling in social life, each of which is difficult to discern. Some accept and enjoy gambling, while others dislike it and reject it, even shunning it, considering it a condemned act. This society desires a good life free from all actions deemed undesirable or inappropriate.

Thinking economically is indeed appropriate for accelerating the flow of income and/or desired results, and can accumulate relatively quickly; with gambling, money flows easily. This is the view or assessment of those who enjoy and accept gambling, who focus solely on profit, ignoring its negative consequences. Efforts to combat online gambling crimes using criminal sanctions (laws) or penal measures are the oldest method, as old as human civilization itself. Even today, the use of penal measures remains a reliable tool for criminal policy. According to Barda Nawawi Arief, the use of penal measures (sanctions/criminal law) to regulate society (through legislation) is essentially part of a policy.

The use of penal or criminal law as a means of combating online gambling crimes is highly appropriate in Indonesia's criminal policy. Penal law emphasizes its repressive nature, meaning all efforts/policies taken after or during the occurrence of a crime or offense. This is intended to prevent recurrence of crimes, or at least minimize their frequency and quality.

In efforts to combat online gambling crimes, the police and their staff consistently carry out several preventive and repressive activities. Repressive measures taken by the police, as an investigative agency, constitute an effort to take action and enforce the law against the actual threat of online gambling crimes by unauthorized and irresponsible individuals.

The judge's considerations in sentencing are closely related to the issue of imposing the criminal sanctions imposed for the crime. Based on legal considerations, the elements of the Public Prosecutor's charges, which have been





legally and convincingly proven, must be deemed sufficiently fulfilled in the defendant.

Judges have the freedom to independently consider the severity of imprisonment for each decision they make. This independence is absolute and unimpeded by any third party. This ensures that court decisions are truly objective. The judge's freedom to determine the severity of imprisonment must also be guided by the maximum and minimum limits. This freedom must be based on a sense of justice for both the defendant and the community, and on a sense of responsibility to God Almighty.

In making a decision, judges consider legal considerations, including the prosecutor's indictment, the defendant's testimony, witness testimony, evidence, and articles of criminal law. They also consider non-legal considerations, including the background of the defendant's actions, the consequences of the actions, the defendant's condition, and the defendant's economic situation. Furthermore, the judge must be convinced of whether the defendant committed a crime as stipulated in the elements of the crime charged.

In making a decision and imposing a criminal sanction, judges must consider legal considerations, including the prosecutor's indictment, the defendant's testimony, witness testimony, evidence, and articles of criminal law. There are also non-legal considerations, including the background of the defendant's actions, the consequences of the actions, and the defendant's condition at the time of the offense.

Decisional considerations, such as the perpetrator's personality, actions, age, education level, whether male or female, the environment, and national identity, require attention. In other words, considerations of interests must be aligned with the legal norms, principles, and beliefs that apply in the society in which the defendant lives.

Also, considering the existence of human rights, which are linked to the criteria for determining whether an individual is capable of being responsible or not, ensure fairness in the application of punishment. The legal issue that arises is which criminal law theory should be used in making a decision regarding a criminal case.

The judge's decision is essentially based on the accusations against the defendant and the results of the examination conducted during the trial. If the accusations are proven and the defendant is punishable, the judge can determine the severity of the sentence based on the criminal law theory used. Judges are given freedom in using criminal law theory because it is not stipulated in the legislation in the Criminal Code, jurisprudence, legal science, or doctrine. However, in practice, judges commonly use a combined theory in determining the severity of





punishment. This means that although judges are given the freedom to determine the severity of punishment between the maximum and minimum limits, this does not mean that there must be a subjective assessment from the judge. Therefore, judges can use a combined theory, where at least the understanding of protecting the interests of society is not abandoned, in addition to punishment for the perpetrator.

4. Conclusion

The factors contributing to the rise in social ills in the form of gambling are divided into internal and external factors. Internal factors contributing to the increase in gambling include an inability to absorb prevailing values and norms, and the venting of frustration resulting from significant losses. External factors include economic problems and the influence of technological advancements.

The law enforcement action against the perpetrator who intentionally offered or provided an opportunity to the public, namely the defendant Lia Andini alias Dini, has been proven legally and convincingly guilty of committing the crime of Intentionally Offering an Opportunity to the Public to Gamble Without Rights. Therefore, the defendant is sentenced to one year and four months in prison. The judge's legal consideration in the Medan District Court decision Number 2228/Pid.B/2023/PN Mdn is that all elements of Article 303 bis paragraph (1) 2 of the Criminal Code have been fulfilled, so that the defendant must be declared to have been legally and convincingly proven to have committed a criminal act without rights by intentionally offering the public the opportunity to gamble, as in the second indictment and in the defendant there was no basis to eliminate the criminal offense so that the defendant was declared to be responsible for his actions.

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