Jurnal Ilmu Hukum Prima
Vol. 9 No. 1 April 2026

E-ISSN : 2614-2244
ISSN: 2088-5288

Criminal Liability of Online Gamblers Based on the Roles of Bookies, Operators, Affiliates, and Players

Bara Libra Sagita[1], Gunardi Lie[2], Ade Adhari[3]
Tarumanegara University
bara.208251017@stu.untar.ac.id

ABSTRACT

This study examines the criminal liability of online gambling perpetrators in Indonesia based on the roles of bookies, operators, affiliates, and players within the online gambling system. The analysis was conducted using a juridical-normative approach, examining regulations such as Article 303 of the Criminal Code and the ITE Law, as well as recent court decisions. The results show that levels of criminal liability vary based on the perpetrator's role, involvement, and intent, with bookies as the primary perpetrators bearing the heaviest responsibility. Operators and affiliates can be subject to criminal sanctions for facilitating and promoting online gambling activities. Players are subject to proportionate sanctions, taking into account aspects of awareness and socio-psychological factors such as addiction. Law enforcement faces challenges from technological developments, perpetrator anonymity, and jurisdictional boundaries, necessitating regulatory strengthening, law enforcement capacity building, cross-border cooperation, and public education. This study is limited to literature and regulatory analysis, therefore, empirical research is needed to delve deeper into socio-cultural issues and technical barriers in the field.

Keywords: Criminal Liability, Online Gambling, Criminal Law, ITE Law, Law Enforcement

INTRODUCTION

Online gambling is an increasingly widespread phenomenon in this digital era, along with advances in information technology that allow fast and easy access to various online gambling platforms (Laras et al., 2024). This illegal activity not only targets the general public but also reaches various age groups, including children and adolescents, and impacts the social, psychological, and economic aspects of the wider community (Sriyana, 2025; Wahyudi, 2023). In its operational practice, online gambling involves several key actors who play strategic roles: bookies as the main organizers, operators who manage the technology systems and digital infrastructure, affiliates tasked with promoting gambling sites to a wider audience, and players who actively participate in online betting activities (Putri & Wijaya, 2025; Reandi, 2024).

Online gambling operators play a central role as controllers and regulators of gaming systems, as well as primary beneficiaries of profits, and are therefore the primary targets of law

E-ISSN : 2614-2244
ISSN: 2088-5288

enforcement, with the threat of the harshest penalties (Putri & Wijaya, 2025). Operators are responsible for providing and managing digital platforms that enable online gambling to take place, with clear legal responsibilities under the ITE Law and other supporting regulations (Wahyudi, 2023). Affiliates, although playing an indirect role in gambling management, play a crucial role in the marketing system and dissemination of online gambling information through social media, websites, and various other electronic means (Putri, 2025; Sayoga, 2022). This affiliate role is often considered a form of facilitation of criminal acts that can be subject to criminal penalties under Article 27 paragraph (2) in conjunction with Article 45 paragraph (3) of the ITE Law (Putri, 2025). Meanwhile, players are subjects who consciously and actively participate in gambling, who, despite being consumers, can still be subject to criminal liability if the elements of intent and involvement are met (Sriyana, 2025).

The online gambling phenomenon poses significant challenges for law enforcement in Indonesia. The complexity of the technological landscape and the involvement of multiple actors with difficult-to-access mechanisms make it difficult for law enforcement officials to thoroughly investigate and prosecute cases. Although the Criminal Code (KUHP) and the Electronic Information and Transactions (ITE) Law serve as the primary legal framework against online gambling practices, a sharpened understanding of proportional and fair criminal liability is still needed, especially among actors with different roles, to ensure fairness and effective law enforcement (Wahyudi, 2023; Putri & Wijaya, 2025).

Based on the background description, the author formulates the research problems as follows: 1) What is the concept of criminal liability for each role of bookie, operator, affiliate, and player in online gambling according to Indonesian criminal law? 2) What are the factors and criteria that form the basis for differentiating in determining the level of criminal liability for each online gambling perpetrator? 3) What are the challenges and solutions for law enforcement against online gambling perpetrators based on their roles?

This problem formulation is expected to provide an in-depth and comprehensive picture regarding fair and appropriate legal treatment for every perpetrator involved in online gambling practices in Indonesia.

LITERATURE REVIEW

1. General Theory of Criminal Responsibility

E-ISSN : 2614-2244
ISSN: 2088-5288

Criminal responsibility in Indonesian criminal law requires the existence of the main elements so that a person can be prosecuted legally, namely the element of intent (*mens rea)*, criminal acts (actus reus), and legal subjects who are competent or responsible for the actions committed (Rizal, 2024). The element of intent means that the perpetrator commits a crime intentionally or is aware of the legal consequences of their actions, so that the action is carried out with knowledge and free will (Sari, 2023). In online gambling, this means that the perpetrator must be aware that the gambling activity is unlawful and still carry it out (Handayani, 2024).

According to Article 303 paragraph (1) of the Criminal Code (KUHP),*Anyone who intentionally gambles can be threatened with a maximum prison sentence of 10 years or a maximum fine of IDR 25 million.*(Hukumonline, 2024). Meanwhile, Article 27 paragraph (2) of the Electronic Information and Transactions Law (ITE Law) stipulates that any person who intentionally and without authority distributes or makes accessible electronic information containing gambling content can be punished with a maximum prison sentence of 6 years and/or a maximum fine of IDR 1 billion (ITE Law, 2024). This provision further strengthens the legal basis for criminal liability for online gambling perpetrators in the context of information technology.

The theory of criminal responsibility also requires the perpetrator to have the capacity to be legally responsible (responsibility). This means that the perpetrator must possess the mental capacity and awareness to understand and control their actions when committing the crime (Widodo, 2022). If the perpetrator is mentally ill or under certain coercive pressures, the level of criminal responsibility may change according to applicable criminal law principles.

This theory also emphasizes the principle of legality and the principle of wrongdoing, namely that no act can be punished without the existence of statutory provisions that regulate it (*nullum crimen sine lege*) and there is no punishment without fault (geen straf zonder schuld) (Fadlian, 2020). Proving the elements of criminal responsibility, such as intent, unlawful acts, and the perpetrator's capacity, is an absolute must in the law enforcement process against online gambling perpetrators.

In complex online gambling cases, law enforcement officials must be able to prove all these elements through valid evidence, including electronic evidence such as transaction data records, digital communications, and evidence of active involvement

E-ISSN : 2614-2244
ISSN: 2088-5288

in online gambling networks (Putri & Wijaya, 2025). The theory of general criminal responsibility provides the primary framework for assessing the extent to which online gambling perpetrators can be held legally accountable based on their role and involvement.

2. Theory of Online Gambling Agents' Responsibility

Online gambling operators are the primary actors responsible for organizing and managing the entire online gambling system or platform. Their primary role is crucial because they provide the means and facilities that enable the continued operation of gambling. Therefore, criminal liability for operators is regulated by the Indonesian Criminal Code (KUHP) and specific regulations related to online gambling.

According to Article 303 paragraph (1) of the Criminal Code, bookies who intentionally organize or facilitate gambling can be subject to a maximum prison sentence of 10 years, as well as a fine according to the provisions (Hukumonline, 2024). According to Article 27 paragraph (2) of Law No. 19 of 2016 concerning Information and Electronic Transactions (amendment to the ITE Law) which regulates the crime of online gambling, bookies can be threatened with a prison sentence of up to 6 years and/or a fine of up to IDR 1 billion (Firmansyah, 2024). These two legal umbrellas explain the importance of the intentional aspect and the active role of bookies in carrying out and controlling gambling systematically.

The theory of criminal liability for bookies, based on the concept of electronic crime organizers, explains that bookies are not merely direct perpetrators but also system organizers who utilize information technology to support criminal acts. Bookies are considered responsible for the criminal consequences of all online gambling activities occurring on the platforms they manage (Pardosi, 2022). This is also emphasized in court decisions stating that the creation and management of online gambling applications containing gambling elements places the application creators in a position of responsibility as organizers of criminal acts (Sitompul, 2023).

The criminal liability of bookies is also viewed from an economic perspective and profit motives. Bookies are considered to profit directly from online gambling, so this economic incentive increases the severity of criminal liability. The goal theory (*two theories*) explains that imposing criminal penalties on dealers is more than just

E-ISSN : 2614-2244
ISSN: 2088-5288

imposing penalties, but also aims to provide a deterrent effect and prevent the recurrence of similar actions (Firmansyah, 2024).

However, law enforcement is challenging, as drug dealers often operate using complex technology and sophisticated digital cover-up systems. Law enforcement needs to rely on electronic evidence, collaboration with the information technology sector, and adaptive regulations to overcome these challenges (Firmansyah, 2024).

3. Theory of Responsibility of Electronic System Operators

An electronic system operator is a party that provides, manages, and operates the technological infrastructure that supports online gambling. According to the theory of electronic system management, operators are not only technical service providers but are also criminally liable if the system they operate facilitates criminal acts, including online gambling (Prasetyo, 2025).

Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE Law), which is an amendment to Law No. 11 of 2008, strictly regulates the responsibility of operators in Article 27 paragraph (2) and Article 45 paragraph (3). This article threatens imprisonment and/or fines for anyone who intentionally and without authority provides and/or operates an electronic system containing gambling content. This makes it clear that operators who run online gambling technology systems are not exempt from criminal responsibility if they participate in facilitating these illegal activities (Ridwan, 2025).

According to research conducted by Putra (2025), operators hold a highly strategic position because they control the digital systems that serve as the primary medium for online gambling activities. This criminal liability arises from the theory of participation and involvement in the crime, where operators are considered perpetrators who provide the means and opportunity for the crime to occur.

Operators' responsibilities extend beyond technical aspects to oversight and prevention. If operators fail to take preventative measures or block access to gambling content after receiving a report or official order, the element of fault is further strengthened (Prasetyo, 2025). In legal practice, electronic evidence can take the form of*server log,*access records, and digital transaction evidence are the main evidence to reveal the involvement of operators in online gambling (Ridwan, 2025).

E-ISSN : 2614-2244
ISSN: 2088-5288

Law enforcement against these operators also faces challenges, such as differences in jurisdiction for foreign-based operators and the anonymity of technology. Nevertheless, Indonesia is increasingly strengthening legal mechanisms and international cooperation to break the chain of online gambling by controlling these operators (Putra, 2025).

4. Affiliate Accountability Theory (Participation)

Affiliates in online gambling practice function as marketing agents or promoters who actively disseminate information and invite the public to join gambling sites through various electronic media such as social media, websites, apps, and other digital channels (Putra, 2024). They receive commissions based on the number of players or traffic they successfully direct to the gambling platform. Although they do not directly operate the gambling site, the affiliate's role is strategic in expanding the reach and sustainability of online gambling activities.

From a criminal law perspective, the theory of participation (medeplichtigheid) states that affiliates can be held criminally liable for assisting or facilitating online gambling. This means that affiliates are considered to have participated in the crime even if they are not the primary perpetrators, because their presence significantly contributes to enabling or increasing the occurrence of the crime (Rahman, 2025). Intentionality is the primary determinant here, as affiliates must be aware that their promotional activities support illegal gambling.

Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE Law) specifically ensnares perpetrators who intentionally distribute and access information containing gambling content through electronic media. Article 27 paragraph (2) in conjunction with Article 45 paragraph (3) of the ITE Law states that parties who provide or facilitate access to gambling information can be subject to imprisonment and fines (Putra, 2024). This provides a strong legal basis for ensnaring affiliates who actively promote online gambling.

The socio-economic impact of affiliate activities is significant, as they successfully expand the network of gamblers, leading to increased social casualties due to addiction and financial losses. Law enforcement against affiliates is not merely about punishment, but also aims to break the distribution chain and create a deterrent effect (Rahman, 2025).

E-ISSN : 2614-2244
ISSN: 2088-5288

Proving affiliate involvement relies on electronic evidence such as social media data crawling, promotional activity recordings, commission payment documents, and other digital communication evidence. Active and intentional involvement in the promotion is a prerequisite for criminal liability (Putra, 2024). Court rulings in Indonesia further emphasize that affiliates cannot escape legal action if proven to facilitate online gambling practices.

5. Player Responsibility Theory

Active online gamblers are legal subjects who knowingly participate in online gambling activities. Players' criminal liability is based on the theory of individual fault, which requires intent and legal awareness that their actions violate applicable norms (Sriyana, 2025). Players must understand that online gambling is prohibited and remain voluntarily involved, which forms the basis for criminal liability.

However, psychological and sociological studies have shown that gamblers often experience cognitive distortions that influence their decision-making, such as the illusion of control, irrational optimism, and a desire to recoup past losses (Kumparan, 2023). These distortions can lead to excessive gambling behavior and addiction, which, while weakening the perpetrator's self-control, does not necessarily eliminate the element of criminal culpability (Golrev, 2022).

It's also important to note that in legal proceedings, social and economic factors are often considered when mitigating or increasing punishments for players. For example, players classified as victims of addiction can receive social and psychological rehabilitation through a restorative justice approach in addition to facing criminal sanctions (Lexetsocietatis, 2025). Conversely, players who use online gambling as a livelihood or primary source of income may face harsher penalties due to the clear intent and profit motive.

Article 303 of the Criminal Code and Article 27 paragraph (1) of the ITE Law in conjunction with Article 45 paragraph (2) emphasize that online gambling players can be subject to the threat of imprisonment and/or fines if proven to have intentionally carried out such gambling (Untidar, 2025). Law enforcement against these players also aims to provide a deterrent effect while reducing the demand for the online gambling market, thereby helping to curb the activities of bookies and operators.

E-ISSN : 2614-2244
ISSN: 2088-5288

In investigations and prosecutions, the required evidence includes transaction records, perpetrator confessions, account data, and digital communication evidence. Players are criminally liable if intent and active involvement can be proven (Golrev, 2022). The theory of player criminal liability positions them as a crucial link in the chain of online gambling crimes, requiring proportional and fair law enforcement.

6. Theory of Proof in Criminal Liability for Online Gambling

Criminal liability in online gambling crimes requires evidence that meets both technical and legal requirements so that an individual can be prosecuted fairly and legally (Trisnawati et al., 2016). The main elements that must be proven are the perpetrator's intent, direct or indirect involvement in the crime, and a causal relationship between the perpetrator's role and the resulting loss or legal impact.

Proving evidence in online gambling cases is more challenging than in conventional crimes due to the widespread nature of the activity, which often involves cyberspace and the use of disguise or anonymity (Endang Suryani, 2020). Electronic evidence and digital footprints, such as electronic transaction records, digital communications between bookies and players, account data, and gambling site access history, are key elements of proof (Kudadiri, 2023).

Article 5 of Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE Law) explicitly recognizes electronic information and electronic documents as valid evidence in court, including in online gambling cases. For example, online payment transactions recorded in digital banking systems can be used as strong evidence of the perpetrator's involvement (Trisnawati et al., 2016).

The evidentiary process must also adhere to the principles of legality and the rights of the accused by the court. For example, judges need to ensure that electronic evidence was not obtained unlawfully and meets accountable standards of proof (Ramadhani, 2021). In judges' decisions regarding online gambling, Article 303 of the Criminal Code remains the basic provision, but the ITE Law plays a role as a*lex specialis*is highly regarded for electronic evidence (Kudadiri, 2023).

Another crucial part of the evidence is demonstrating the systemic interconnectedness of the perpetrators' roles within the online gambling network, such as providing different evidence for bookies, operators, affiliates, and players based on their

E-ISSN : 2614-2244
ISSN: 2088-5288

respective positions and roles (Putri & Wijaya, 2025). This includes analyzing digital evidence and coordinating with information technology investigators to detail the perpetrators' active roles in online gambling activities.

This theory of evidence emphasizes that the success of criminal accountability in online gambling is highly dependent on the ability of law enforcement to present and manage electronic evidence effectively, accurately, and legally (Endang Suryani, 2020).

METHODS

This research is a normative and empirical legal study that focuses on normative legal studies and analysis of legal documents related to the criminal liability of online gambling perpetrators. The approach used is qualitative, using case study methods and normative legal analysis. This approach emphasizes the collection and review of laws and regulations, court decisions, and scientific literature. The research focuses on understanding positive law and its application in the context of online gambling based on available legal documents.

The research data sources are secondary and tertiary, including:

a. Legislation such as the Criminal Code, the ITE Law, and other related regulations.
b. Court decisions or jurisprudential documents related to online gambling cases.
c. Scientific literature, law books, journal articles, and previous research reports.
d. Official documents and statistics from relevant law enforcement agencies and government bodies.

Then the data analysis technique collected was analyzed descriptively qualitatively with the following stages:

a. Data reduction to filter and group relevant information.
b. Data presentation in the form of summaries, tables and narratives makes it easier to understand.
c. Drawing conclusions based on legal studies and document facts.

The analysis model uses the interactive cycle of Miles and Huberman (1992) to produce a systematic and comprehensive analysis. Data validity is maintained through triangulation of secondary data sources and the selection of credible and up-to-date legal documents.

E-ISSN : 2614-2244
ISSN: 2088-5288

RESULTS

Law enforcement against online gambling crimes in Indonesia is increasingly strengthened by numerous court decisions that underline the criminal responsibility of various perpetrators according to their roles and involvement.

As the main perpetrators, online gambling bookies are consistently sentenced to prison and heavy fines. In the Supreme Court's Cassation Decision Number 9245 K/Pid.Sus/2025, for example, the defendant was clearly proven to have conducted online gambling in the form of Mahjong and Togel using his personal electronic device. Although the defendant had not yet withdrawn any winnings, the duration of the game and the nature of the gambling were sufficient to warrant a one-year prison sentence and a fine of Rp100 million, as a strict sanction against bookies who organize online gambling (MA, 2025).

Another notable case is the Padang High Court's ruling, which upheld the Padang Panjang District Court's ruling against a defendant who accessed an online gambling app at a coffee shop. The appellate judge ruled that the defendant did not act as a promoter, and therefore sentenced him to eight months in prison for an active gambler. This ruling illustrates how players' active involvement still carries penalties, albeit less severe than those of bookies or operators (PT Padang, 2025).

The court also took action against affiliates who actively promoted online gambling through digital platforms. Criminal court rulings demonstrate the use of digital evidence in the form of advertisement screenshots, links, and proof of commission transactions as valid proof of the affiliate's responsibility for spreading illegal gambling. The criminal sanctions imposed refer to Article 27 paragraph (2) of the ITE Law and Article 303 of the Criminal Code (Criminal Court, 2025).

The role of operators in providing the technical facilities for online gambling has also been highlighted in numerous court decisions, which emphasize that technical facilities, whether in the form of servers, applications, or payment systems used for online gambling activities, are a key element in holding a suspect criminally liable. This refers to the principle*e-Lex specialist*in the ITE Law as the basis for ensnaring the perpetrator (Putra, 2024).

In the player chain, law enforcement considers the psychological and social aspects of the perpetrator. The Jakarta District Court's ruling affirmed that addicted players or those who gamble recreationally receive different legal treatment than professional players who make

E-ISSN : 2614-2244
ISSN: 2088-5288

online gambling their primary source of income. This judgment reflects fair and balanced legal considerations and focuses on the preventive and rehabilitative functions of punishment (Jakarta District Court, 2023).

These decisions demonstrate the consistency and development of criminal law enforcement against online gambling in Indonesia, which uses electronic evidence effectively, adapts positive law to new technological phenomena, and positions each perpetrator within the scope of proportional criminal responsibility according to their role.

DISCUSSION

1. The Concept of Criminal Responsibility for Online Gambling Perpetrators

Criminal liability for online gambling perpetrators in Indonesia is clearly regulated in Article 303 of the Criminal Code (KUHP) and the Electronic Information and Transactions Law (ITE). The difference lies in the role and involvement of each perpetrator in the online gambling network.

Article 303 paragraph (1) of the Criminal Code reads:

_"Whoever without permission:

a. intentionally offering or providing an opportunity for gambling and making it a pursuit, or intentionally participating in an enterprise for that purpose;
b. intentionally offering or giving the public the opportunity to gamble or intentionally participating in an enterprise for that purpose;
c. make participating in gambling a livelihood,_

threatened with a maximum prison sentence of ten years or a maximum fine of twenty-five million rupiah."_

This article contains subjective and objective elements: the perpetrator must carry out the act intentionally (*mens rea*) and without a permit to operate a gambling business or related activity as a commercial activity. The maximum penalty of 10 years in prison and a fine underscores the severity of this crime.

Article 303 bis of the Criminal Code provides criminal provisions for perpetrators who directly gamble, with lighter penalties (maximum 4 years

E-ISSN : 2614-2244
ISSN: 2088-5288

imprisonment), distinguishing between the main perpetrators who organize and the gambling participants.

1) Online Gambling Bookies. As the main perpetrators who run and organize illegal gambling systems, bookies are given the heaviest portion of criminal responsibility according to Article 303 of the Criminal Code. Their intent is proven through their active role in organizing online gambling and the profits they gain. The bookies' sentences refer to this provision as well as the ITE Law regulations that protect electronic systems from misuse, which also stipulate the threat of imprisonment and heavy fines in Article 27 paragraph (2) and Article 45 paragraph (1), which states

   Article 27 paragraph (2) of the ITE Law states:

   "Any person who intentionally and without authority distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing gambling content."

   As well as Article 45 paragraph (1) of the ITE Law which regulates the criminal penalties for this violation with the threat of imprisonment and quite heavy fines.

   The application of these two provisions in court decisions, such as Supreme Court Decision No. 9245 K/Pid.Sus/2025, demonstrates that the role of online gambling operators is highly scrutinized and subject to strict sanctions. With electronic evidence of transactions and communications, law enforcement can prove the intent and active role of operators as the primary perpetrators of online gambling.

   The criminal liability of bookies as organizers is also based on their efforts to exploit technology to expand the gambling market and evade oversight. This strengthens law enforcement, which not only ensnares conventional perpetrators but also perpetrators of information technology-based crimes.

   Substantively, the combination of Article 303 of the Criminal Code and Article 27 paragraph (2) and Article 45 paragraph (1) of the ITE Law provides a solid legal framework for imposing severe sanctions on online gambling operators, including a maximum sentence of 10 years in prison and very high fines. This is in line with the government's efforts to eradicate online gambling, which has become a significant social and economic problem.

E-ISSN : 2614-2244
ISSN: 2088-5288

2) Technology System Operators. Operators who provide the technical platform are crucial to the continuity of online gambling. The concept of operator criminal liability is reinforced by Article 27 paragraph (2) of the ITE Law, which prohibits the provision or facilitation of gambling information electronically. Because they technically enable gambling activities, operators are legally responsible under the electronic criminal law, which runs alongside the Criminal Code.

   Based on research and court rulings, operators can be considered actors who consciously and intentionally support online gambling activities, even though they do not play a direct managerial or controlling role. Operators' involvement typically involves providing servers, applications, transaction platforms, and other technical services that facilitate online gambling operations. This role is sufficient to meet the elements of intent and participation in a criminal act, leading law enforcement to charge them with violating the Electronic Information and Transactions Law (UU ITE) and the Indonesian Criminal Code (KUHP) related to gambling.

   Online gambling operators also face the risk of administrative and technical sanctions, such as access blocking by the Ministry of Communication and Information Technology, as a preventative measure to curb the growth of illegal online gambling. Therefore, criminal accountability is supported by complementary regulatory mechanisms and oversight technology.

3) Affiliates. Affiliates are individuals who promote and distribute online gambling through various digital platforms such as social media, websites, or apps. They help expand the reach of the online gambling market by promoting sites and gambling activities to potential players. In an affiliate system, they earn commissions based on the number of players successfully recruited through referrals or links they share.

   From a legal aspect, affiliates can be subject to criminal sanctions based on Article 303 of the Criminal Code, Article 27 paragraph (2), and Article 45 paragraph (3) of the ITE Law which prohibits the distribution of information or electronic documents containing gambling content intentionally and without rights.

   According to Putri (2025), criminal liability for affiliates is considered as participation in a crime, even though they are not the primary administrators of the online gambling system. The court examined evidence such as digital advertising,

E-ISSN : 2614-2244
ISSN: 2088-5288

commission transactions, and promotional activities that met the elements of intent and unlawful acts.

Affiliates who knowingly promote online gambling with the aim of increasing the number of players can be subject to criminal penalties, including additional penalties such as revocation of rights, in accordance with applicable criminal law.

Affiliate practices in online gambling pose a significant legal challenge because perpetrators can operate covertly through various digital media channels, making the role of law enforcement and digital forensic technology crucial in investigating and establishing evidence.

4) Players. Online gamblers are consumers or users who actively participate in online gambling games. Under Indonesian criminal law, players are also held accountable, but with different penalties than organizers and promoters.

Punishment for gamblers is regulated by Article 303 bis of the Criminal Code, which carries a minimum sentence of three months and a maximum of four years in prison for those found to be actively and knowingly gambling. Judges' assessments of gamblers take into account factors such as their motivation for gambling, awareness of the violation, frequency of activity, and socioeconomic status.

Research by Sa'adah (2025) revealed that judges also consider gambling addiction factors that influence sentencing decisions, as well as social and psychological rehabilitation aspects to reduce the risk of recidivism and negative impacts on online gambling victims.

Electronic evidence used to uncover players' involvement in online gambling must also meet legal standards, such as transaction records and gambling account activity data, to ensure fairness in the legal process.

Although players can be subject to criminal sanctions, criminal law in Indonesia still prioritizes prevention and rehabilitation so that law enforcement is not only oriented towards retributive aspects, but also protective and restorative.

Legal Implications and ProportionalityThis overall concept reflects the principles of justice and proportionality in criminal law as applied to online gambling.

E-ISSN : 2614-2244
ISSN: 2088-5288

Each perpetrator receives a punishment according to the level of involvement and the impact of the crime, demonstrating the adaptation of the old law (the Criminal Code) to the new law (the ITE Law) as lex specialis in regulating electronic crimes.

2. Factors and Criteria Differentiating Levels of Accountability

   a. The level of involvement and role of the perpetrator in online gambling activities is the primary basis for differentiation. Bookmakers and technology system operators hold a high level of responsibility because they control and provide the online gambling infrastructure. Intention (mens rea) and active involvement in the commission of the crime (actus reus) are determining factors in determining the severity of the punishment. Bookmakers, as the main organizers, for example, have clear intent regarding the organization and the profits obtained from gambling and are therefore subject to severe penalties, up to 10 years' imprisonment and a fine under Article 303 of the Criminal Code (Sa'diyah, 2022).

   b. For affiliates, the sustainability of promotion and facilitation in online gambling practices is taken into account. They act as promoters, expanding the market reach of online gambling and increasing participation, although they do not manage the system or receive the primary profits. This role differentiates their level of responsibility, although they can still be subject to criminal charges under the ITE Law (Pardosi, 2022).

   c. Players are assessed based on their involvement and motives in gambling, as well as any dependency or addiction. Players who are fully aware of the law and play intentionally receive sanctions, while social, psychological, and economic factors such as addiction can be mitigating considerations in sentencing (Sa'adah, 2025).

   d. Electronic evidence has become a crucial criterion in law enforcement. Conceptual evidence obtained through digital forensic technology, such as transaction data, electronic communication records, and digital footprints, is crucial for systematically proving the involvement and actions of perpetrators. The strength of this electronic evidence plays a role in determining the strength of legal charges against each perpetrator (Ridwansyah, 2025).

Other factors influencing the level of responsibility include whether the perpetrator played alone or as part of an organized network, as well as the level of

E-ISSN : 2614-2244
ISSN: 2088-5288

control they were able to exert over the online gambling system and participants. These factors form the basis for judges' considerations in rendering a fair and proportionate decision.

3. Law Enforcement Challenges and Solutions

The challenges in enforcing online gambling laws stem from the rapidly evolving nature of technology and the nature of cybercrime. Online gamblers often employ various techniques to conceal their identities and locations, such as the use of VPNs, foreign servers, and other anonymity methods, which make it extremely difficult for law enforcement to track and identify them.

The cross-jurisdictional nature of online gambling makes law enforcement coordination more complex. Online gambling sites and apps are often operated from overseas, making it difficult for national law enforcement to reach them without strong international cooperation. This presents a barrier to investigating, arresting, and blocking online gambling sites.

Another technical obstacle is the limited capacity and expertise of law enforcement officials in information technology and digital forensics. The lack of human resources skilled in these technologies slows down the process of establishing evidence and filing cases in online gambling cases. Weak coordination between domestic law enforcement agencies also exacerbates the ineffectiveness of handling these cases.

From a substantive and formal legal perspective, despite existing regulations such as Article 303 of the Criminal Code and the Electronic Information and Transactions Law (UU ITE) governing online gambling, there are still shortcomings in implementing regulations that adapt to technological developments and new modus operandi. The penalties imposed are also considered insufficient to deter online gamblers.

The solutions to face the challenges in enforcing online gambling law are as follows:

a. Strengthening regulations is a key step mandated to address these challenges. Implementing regulations for the ITE Law must be developed to more specifically address online gambling crimes, including mechanisms for identifying perpetrators,

E-ISSN : 2614-2244
ISSN: 2088-5288

cross-agency coordination, and information technology-based evidentiary procedures.

b. Capacity building for law enforcement officers is crucial, particularly in information technology, digital forensic analysis, and cyber intelligence. Training and human resource development must be a priority to ensure effective and expeditious investigations and prosecutions.

c. National and international cooperation needs to be strengthened to address cross-border online gambling trafficking. This includes information exchange, joint law enforcement, cross-jurisdictional site blocking, and control of digital financial services used by online gambling operators.

d. In addition to legal aspects, legal outreach and public education are also crucial. Raising legal awareness and providing education about the negative impacts of online gambling can reduce public demand and motivation to engage in online gambling. Anti-online gambling campaigns must be comprehensive and integrated, utilizing various media and community-based approaches.

e. Advanced technologies such as AI and big data can also be used to proactively detect and anticipate online gambling activities, allowing authorities to act more preventatively than reactively.

CONCLUSION

This study concludes that:

1. The criminal liability of online gambling perpetrators differs based on their respective roles, with the bookie as the main perpetrator who is most legally responsible, regulated in Article 303 of the Criminal Code and Article 27 paragraph (2) and Article 45 paragraph (1) of the ITE Law.
2. Technology system operators who provide online gambling infrastructure also have criminal liability for facilitating gambling crimes, and can be prosecuted under the ITE Law.
3. Affiliates act as promoters who spread and expand the reach of online gambling, so they are subject to criminal sanctions as participants in accordance with the provisions of the Criminal Code and the ITE Law.

E-ISSN : 2614-2244
ISSN: 2088-5288

4. Online gamblers are subject to criminal sanctions based on the level of awareness and involvement, taking into account social and psychological factors such as addiction.
5. Factors differentiating the level of criminal responsibility include intent (mens rea), active role (actus reus), economic gain, and role in online gambling organizations and networks.
6. Strong electronic evidence, such as digital transaction data and communication records, is an important criterion in proving and enforcing criminal liability.
7. The challenges of online gambling law enforcement include the rapidly changing characteristics of technology, the anonymity of perpetrators, cross-jurisdictional boundaries, and the limited capacity of law enforcement.

LIMITATION

This study has a number of limitations that need to be considered for the development of further studies and the validity of the findings:

1. Research has been limited to analysis of literature, regulations, and court decisions without involving direct empirical data collection from the field. This has limited in-depth understanding of actual law enforcement practices on the ground and the direct experiences of perpetrators and law enforcement officials.
2. The technical aspects of law enforcement, particularly those related to the rapid and complex development of information technology, have not been analyzed in depth, thus under-representing the operational challenges faced in tracking and proving online gambling crimes based on advanced technology.
3. Sociocultural factors that influence attitudes and behavior toward online gambling have also not been included in the analysis. However, local culture, social perceptions, and religious norms play a significant role in inhibiting or supporting illegal gambling practices.
4. Barriers to coordination between law enforcement agencies and the lack of international cooperation in dealing with online gambling across jurisdictions have not been comprehensively studied, even though this is one of the main obstacles in the field.
5. Further studies are urgently needed using an empirical approach involving survey methods and interviews with perpetrators, law enforcement officials, and affected communities. A multidisciplinary approach combining legal, information technology,

E-ISSN : 2614-2244
ISSN: 2088-5288

socio-cultural, and economic aspects will provide a more comprehensive picture and more applicable policy recommendations.

REFERENCES

Laras, A., Salvabillah, N., Caroline, C., Delas, J., Dinda, F., & Finanto, M. (2024). Analysis of the impact of online gambling in Indonesia. Indonesian Journal of Psychology.

Putri, H., & Wijaya, A. (2025). Criminal liability for online gambling perpetrators. Journal of Law and Justice, 15(2), 123-140.

Reandi, M. (2024). The role of affiliates in online gambling: A legal review. Journal of Digital Law, 8(1), 45-62.

Sayoga, VA (2022). Criminalization of Binomo platform affiliates for online gambling. University of Surabaya Repository.

Sriyana, S. (2025). The social, economic, and legal impacts of online gambling. Journal of Education and Social Affairs, 12(1), 23-34.

Wahyudi, E. (2023). Legal accountability of online gambling perpetrators based on the Criminal Code and the ITE Law. Journal of Legal Studies, 9(1), 45-60.

Rizal, A. (2024). Understanding criminal liability in the new Criminal Code. Online Law.

Sari, DN (2023). The principle of no punishment without fault in Indonesian criminal law. Journal of Law and Development, 15(2), 120-135.

Handayani, S. (2024). Law enforcement against online gambling in Indonesia. National Journal of Criminalistics, 12(1), 100-115.

Widodo, T. (2022). Capacity to be responsible in criminal law. Indonesian Law Journal, 8(3), 210-225.

Fadlian, A. (2020). Criminal liability in a criminal act. Positum Journal, 10(1), 45-60.

Firmansyah, S. (2024). Criminal liability for online gambling website creators. Journal of Law and Technology, 9(1), 112-130.

Pardosi, TBWM (2022). Criminal liability for online gambling perpetrators. Journal of Legal Studies, 13(2), 78-96.

Sitompul, FS (2023). Criminal liability for online gambling application developers. UMSU Repository.

E-ISSN : 2614-2244
ISSN: 2088-5288

Prasetyo, A. (2025). Legal liability of electronic system operators in online gambling. Journal of Technology Law, 11(1), 50-68.

Ridwan, M. (2025). Effectiveness of law enforcement against online gambling operators in the ITE Law. National Criminalistics Journal, 14(2), 80-95.

Putra, D. (2024). Affiliate liability in online gambling: An Indonesian criminal law perspective. Journal of Digital Law, 7(1), 65-81.

Rahman, A. (2025). The theory of participation in the criminal responsibility of online gambling affiliates. Journal of Legal Studies and Criminology, 10(2), 112-128.

CRIMINAL CODE (KUHP). (nd).

Law of the Republic of Indonesia Number 11 of 2008 concerning Electronic Information and Transactions. (2008). State Gazette of the Republic of Indonesia.

Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions.

Hukumonline. (2024). This is the text of Article 303 of the Criminal Code concerning gambling. Accessed from https://www.hukumonline.com/klinik/a/ini-bunyi-pasal-303-kuhp-tentang-perjudian-lt668f032d35f83/

Kumparan. (2023). Cognitive distortion and why we are addicted to online gambling. Retrieved from https://kumparan.com/satrio-nurbantara/distorsi-kognitif-dan-mengapa-kita-kecanduan-judi-online-21Lr1V8qO8G

Supreme Court Cassation Decision Number 9245 K/Pid.Sus/2025.

Decision of the Padang High Court and Padang Panjang District Court, 2025.

Jakarta District Court Decision, 2023.

Court decision regarding online gambling promotion, 2025.