

Prevention of Online Gambling Crime as an Effort to Protect Children in Indonesia from the Perspective of Criminology

Michelia Zahra Islami¹, Abdul Madjid², Dhia Al-Uyun³

¹Fakultas Hukum, Universitas Brawijaya, Malang, Indonesia, ² Fakultas Hukum, Universitas Brawijaya, Malang, Indonesia, ³ Fakultas Hukum, Universitas Brawijaya, Malang, Indonesia
Email: micheliazahra@gmail.com

ABSTRACT

Throughout 2023, KiDi's pediatric clinic in Pejaten, South Jakarta, treated nearly 50 children addicted to online gambling. From initially high school and junior high school teenagers, in the last three months, it has been elementary school children in grades 5 and 6, mostly from upper-middle-class families. In the long run, their quality of life will deteriorate further. The impact of online gambling starts from having no passion for life, not being able to focus on work, and even getting into debt, and the most fatal is committing suicide. Criminology focuses on finding knowledge or reasons about social symptoms such as crime in society or why defendants commit their evil deeds. The purpose of this research is to find out and analyze regulations related to online gambling and child protection and analyze the causes of children committing online gambling in order to find out what prevention strategies are appropriate to minimize online gambling by children. Regulations related to online gambling are regulated as in Articles 303, 303 bis of the Criminal Code, Articles 426-427 of the new Criminal Code, and Article 27 paragraph (2) of the ITE Law. Meanwhile, child protection regulations are regulated in Law No. 35 of 2014 concerning Child Protection. Prevention efforts can be carried out by supervising the association of children and providing an understanding that online gambling is an immoral act and can be charged with criminal sanctions.

Keywords:

Online Gambling;
Children;
Prevention

INTRODUCTION

The development of the times, followed by the development of technology and information in Indonesia, has led to the development of ways of socializing between people worldwide. Nowadays, communicating with others does not have to be done by meeting, but it can be done remotely. One way to communicate today is through social media. Social media has a broad impact on people's lives. However, the content on social media is not all good for society. Many contents on social media contain pornography, gambling and transactions of objects that are prohibited by law. This kind of content harms social media users who want to use it properly.

In Indonesia, social media is one of the preferred media for sharing moments and news. Social media users in Indonesia vary, ranging from children, teenagers, and adults to the elderly. However, not all content on social media is suitable for viewing and consumption for various ages, such as pornography and *online* gambling.

Referring to Article 303 paragraph (3) of the Criminal Code (from now on referred to as the Criminal Code), gambling is a game in which it is generally possible for a person to obtain an advantage that depends on luck alone, and also because the player is more skilled or skilled. This includes all bets relating to the decision of a race or other game not made by those participating and all other bets.

The crime of gambling is regulated in Article 303 of the Criminal Code, after which it was supplemented by Law Number 7 of 1974 concerning the Control of Gambling (LN of the Republic of Indonesia of 1974 No. 54, TLN of the Republic of Indonesia No. 3040), in 2023 it was revoked with the issuance of Law Number 1 of 2023 concerning the Criminal Code which is regulated in Articles 426-427. The crime

of gambling using the internet or social media, known as *online* gambling, is regulated in Article 27 paragraph (2) in *conjunction with* Article 45 paragraph (3) of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (LN Year 2024 No. 1, TLN No. 6905) (from now on referred to as ITE Law). Article 27, paragraph (2) of the ITE Law prohibits a person intending to distribute, transmit, or make accessible an electronic document or information containing gambling.

Along with the times, the crime of gambling is not only carried out traditionally. However, contemporary gambling can now be done without dealing with the parties who commit the crime of gambling. So, gambling that is done *online* uses *Website* media or applications that users can download and play immediately without having to meet the parties playing.

A child is someone who is not yet 18 (eighteen) years old, including children in the womb. Based on data from the BPS Central Bureau of Statistics in 2021, most children aged five years and over in Indonesia have accessed the internet for social media. The percentage reached 88.99%, the largest compared to other internet access purposes (Annur, 2021).

Based on the BPS data, it is inevitable that many social media users in Indonesia are dominated by children who are still underage, especially for social media. Based on the information of one paediatrician who handles children who experience social media addiction, Doctor Kurniawan Satria Denta, as long as he practices, cases that are handled are usually about children who experience addiction to *online* games or learning difficulties. However, in its development in recent years, the symptoms complained about by parents are still the same. Namely, children are becoming more wasteful and grumpy, unable to sleep and eat, being alone, and disrupting learning performance.

After further investigation by Doctor Kurniawan Satria Denta, the cause of children becoming more wasteful and grumpy is that children experience online gambling addiction. Children make bets and learn online gambling through social media and streaming media conducted on the internet. Based on their confession, depositing slots or placing bets does not always use a bank account. There is another easier way: buy or share credit and send via wallet or electronic money with a nominal value of Rp10,000.

Throughout 2023, the KiDi clinic specializing in children in Pejaten, South Jakarta, has been treating nearly 50 children addicted to *online* gambling. From high school and junior high school teenagers, in the last three months, it has been elementary school children in grades 5 and 6, mostly from upper-middle-class families (BBC.com, 2023). In the long run, their quality of life will deteriorate further. Bad things can happen at any time, he said. Starting from having no passion for life, not being able to focus on work, and even getting into debt and the most fatal is committing suicide.

Criminology is a field of social science that studies crime from a social perspective. In addition, criminology can also be referred to as the sociology of criminals as it deals with the learning between individuals who go against social norms. Criminology seeks to discover the symptoms of crime in society or why defendants commit their evil deeds (Sahetapy, 1982).

Criminology has many theories that can influence societal crime. In addition, social structure theories include social disorganization, strain, cultural deviance, and behavioural norms theories. In addition, there are the Associatom difference theory,

anomy theory, general strain theory, cultural deviance theory, and behavioural norms theory. Legal scholars in Indonesia use criminology to research or examine a crime that occurs in society to determine the motives and reasons people commit crimes. Criminology theory can be used to analyze and investigate many crimes in Indonesia.

METHOD

This study's research type is normative juridical, which is legal research conducted by examining library materials or secondary data (Soekanto & Mamuji, 2013). The research approach in this study is statutory (*statute approach*), a procedure carried out by examining regulations and laws relevant to the legal issues being addressed (Marzuki, 2013). The legal materials used in this research are divided into two, namely primary legal materials and secondary legal materials. Primary legal materials in this research are Law Number 1 of 1946 concerning the Criminal Code, Law Number 35 of 2014 concerning Child Protection, Law Number 1 of 2023 concerning the Criminal Code, Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions. Meanwhile, secondary legal materials in this research consist of books, journals, doctrines, cases, jurisprudence, and the results of recent symposia related to research issues (Ibrahim, 2006). The data collection methods in this research are literature studies and Internet studies. The data analysis technique in this research is descriptive-qualitative, describing the data obtained qualitatively and then linking the data with theories and legal provisions to discuss each research problem.

RESULT AND DISCUSSION

1. Regulation of *Online* Gambling Crime and Child Protection in Indonesia

According to the Big Indonesian Dictionary (KBBI), gambling is where people bet with money or valuables (such as playing cards and dice). Meanwhile, *online* gambling is a gambling game that involves the use of intermediaries via the internet to play it. According to Article 303, paragraph (3) of the Criminal Code, gambling is any game where the chances of winning depend mostly on luck and the player's ability level. This includes all rules relating to decisions made in a race or other game, including other rules not made by individuals participating in the race or game.

Based on the above understanding, the researcher can conclude that online gambling is a game where players bet money according to the game's rules and the number of bets set by the player with the internet intermediary media.

Information technology, the internet, and communication through social media have changed people's behaviour and human civilization. Advances in technology and information have made the world borderless, leading to rapid social, economic and cultural changes. Information technology can now be a double-edged sword because, in addition to helping and easing human work, advances in technology and information also help humans to violate the law quickly.

Over the years, gambling has become one of the most popular games in society. Gambling has been regulated in Article 303 of the Criminal Code. Furthermore, it was supplemented by Law Number 7 of 1974 concerning Gambling Control, after which it was abolished by Law Number 1 of 2023 concerning the Criminal Code, which is regulated in Articles 426-427.

The rapid development of technology worldwide also affects people's lives in

Indonesia, including new modes of criminal acts. Gambling crimes are not only conventional gambling games but also develop by utilizing technological advances. For this reason, the Indonesian government has made regulations on gambling crimes more detailed and modern. In Indonesia, the crime of *online* gambling is regulated in Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions. Precisely in Article 27, paragraph (2) of the ITE Law. More details of the arrangements related to gambling crimes in Indonesia are as follows.

a. Article 303 of the Criminal Code (Law Number 1 Year 1946)

"(1). Shall be punished by a maximum imprisonment of ten years or a maximum fine of twenty-five million rupiahs any person who without obtaining a license:

- a) Intentionally offers or provides opportunities for gambling games and makes a profession out of it or intentionally participates in an enterprise for that purpose;*
- b) intentionally offers or allows the public to play at gambling or intentionally participates in an enterprise for that purpose, irrespective of whether a condition or a procedure has been fulfilled for the use of the opportunity;*
- c) making participation in gambling games an occupation.*

(2). If the offender commits the crime in the exercise of his profession, he may be deprived of the exercise of said profession.

(3). "Gambling game" means any game in which the probability of profit generally depends on sheer luck and the fact that the player is better trained or skilful. "Gambling game" includes any bet on the decision of a race or other game which is not made between the participants in the race or game and any other bet.

b. Article 303 bis of the Criminal Code

"(1). Shall be punished by a maximum imprisonment of four years or a maximum fine of ten million rupiahs:

- a) Any person who makes use of an opportunity to play at gambling, which has been organized in violation of the provisions of Article 303.*
- b) Any person who participates in gambling on a public road or, on the side of a public road or in a place accessible to the public, except with the permission of the competent authority which has granted such permission.*

(2). If during the commission of the offence, two years have not yet elapsed since an earlier conviction of the offender on account of one of these offences has become final, a maximum imprisonment of six years or a maximum fine of fifteen million rupiahs shall be imposed."

c. Article 426 of Law Number 1 Year 2023 on the Criminal Code

"(1) Shall be punished with a maximum imprisonment of 9 (nine) years or a maximum fine of category VI, any person who without girl.

- a) offering or providing opportunities to play gambling and making a livelihood or participating in gambling establishments;*
- b) offering or providing opportunities to the public to play gambling or to participate in gambling enterprises, regardless of whether there is a condition or procedure that must be fulfilled in order to use such opportunities or*
- c) make participation in gambling games a means of livelihood.*

!2! If the criminal offence referred to in paragraph (1) is committed in the exercise of profession, additional punishment may be imposed in the form of revocation of rights as referred to in Article 86 letter f."

d. Article 427 of Law Number 1 Year 2023 on the Criminal Code

"Every person who uses the opportunity to play gambling held without a license

shall be punished with a maximum imprisonment of 3 (three) years or a maximum fine of category III."

- e. Article 27 paragraph (2) of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions

"Every person intentionally and without right distributes, transmits, and makes accessible Electronic Information and Electronic Documents with gambling content."

Regulations on child protection in Indonesia are regulated as in Law Number 35 of 2014 concerning Child Protection. It is a form of child participation that must be maintained and protected. Because children are an integral part of human survival and the sustainability of a nation and state. In the Indonesian constitution, children have a strategic role, which explicitly states that the state guarantees the right of every child to live, grow, and develop and to protect from violence and discrimination.

Children, as determinants of the future direction of the nation and state, certainly require special attention to be guaranteed their rights and to obtain legal protection by law and justice. In this case, every child is entitled to protection from being subjected to persecution, torture or inhumane punishment.

For this reason, the guarantee of legal certainty to every child has the right to obtain freedom following the law; arrest, detention, or imprisonment of children is only carried out when following applicable law and can only be done as a last resort. Substantially, children's rights can be guaranteed by the legal protection of children.

2. Efforts to Prevent Online Gambling Crime as a Protection for Children in Indonesia

Online gambling crimes have been very troubling in Indonesia. Adults and children are also targeted as players by unscrupulous makers of *online* gambling games. Based on the information of one paediatrician who handles children who are addicted to social media, Doctor Kurniawan Satria Denta, as long as he practices, many cases are usually handled regarding children who are addicted to *online* games or learning difficulties. However, in its development in recent years, the symptoms complained about by parents are still the same. Namely, children are becoming more wasteful and grumpy, unable to sleep and eat, being alone, and disrupting learning performance.

After further investigation by Doctor Kurniawan Satria Denta, the cause of children becoming more wasteful and grumpy is that children experience online gambling addiction. Children make bets and learn online gambling through social media and streaming media conducted on the internet. Based on their confession, depositing slots or placing bets does not always use a bank account. There is another easier way: buy or share credit and send via wallet or electronic money with a nominal value of Rp10,000.

Throughout 2023, the KiDi clinic specializing in children in Pejaten, South Jakarta has been treating nearly 50 children addicted to *online* gambling. From high school and junior high school teenagers, in the last three months it has been elementary school children in grades 5 and 6, mostly from upper middle class families (BBC.com, 2023). In the long run, their quality of life will deteriorate further. Bad things can happen at any time, he said. Starting from no passion for life, not being able to focus on work, even getting into debt and the most fatal is to commit suicide.

This *online* gambling crime must be addressed immediately because the impact of this *online* gambling is very dangerous, especially for children. The negative impacts caused by *online* gambling crimes, such as depression, theft of personal data, pornographic content, suicide, and the threat of *malware* and viruses (Syarif, 2020). In addition to these impacts, *online* gambling crimes can also cause and influence the occurrence of other criminal acts such as murder, theft, and embezzlement. Like the robbery that occurred in Cianjur Regency, MR (16), a vocational high school student in Cianjur Regency, was desperate to rob and point a sharp weapon at a minimarket cashier in Sirnagalih Village, Cilaku District, Cianjur Regency. The action was allegedly carried out to pay debts due to *online* gambling addiction (Detik.com, 2024). Meanwhile in Lampung Regency there was also a robbery caused by someone who was in debt due to *online* gambling addiction, a teenager from Terbanggibesar Village, Terbanggibesar District, Central Lampung Regency with the initials AI (19) was desperate to commit robbery because of his addiction to slot gambling (Lampost.co, 2023).

Since children are the future assets of the country, they must be taken care of. A child's development is crucial to their future as it is the gradual development of biologically related traits and characteristics that occurs as a child learns from his or her own experiences (Kesuma et al., 2019). Legal protection is the responsibility to guarantee and protect the interests of children. According to legal protection theory, child protection is a commercial form that creates conditions and circumstances that allow children's rights and obligations to be carried out humanely (Aprilianda, 2017).

Criminology is a social science discipline that studies crime from a social perspective. As such, criminology can also be referred to as the sociology of criminals as it is concerned with learning between individuals who go against social norms. Criminology seeks to find out about the symptoms of crime in society or why defendants commit their evil deeds (Sahetapy, 1982).

Criminology as a part of the science of law can be used to determine the causes of a person committing a criminal offense. In addition, criminology can also be used to analyze or prepare steps to prevent criminal acts in society. To prevent criminal acts, such as *cyberbullying* committed by children, it is necessary to know the reasons why a child does it. Sutherland's differential association theory is known in criminology. According to his theory, crimes committed by humans stem from the influence of society and normal psychological and sociological lessons.

When viewed from a criminological point of view and associated with the theory of differential association put forward by Sutherland, it can be analyzed that factors in the environment around a child can influence the reasons why a child engages in *online* gambling is an environment that normalizes or familiarizes *online* gambling as a shortcut for someone to get a lot of money in a fast time. In addition, the influence of influencers who promote *online* gambling also adds to the influence of children to play *online* gambling. Several cases such as the Palembang-based celebrity Priazi Sundana or commonly known as Ubey (25) were arrested by the police. He was arrested after receiving *online* gambling endorsements on social media accounts (Detik.com, 2022). In addition, a female celebrity in Bengkulu with the initials MK (20) was arrested by the Bengkulu Police Special Criminal Investigation Directorate (Ditreskrimsus) cyber team for promoting *online* gambling sites on her Instagram account (Antaranews.com, 2020).

In addition to using the differential association theory put forward by Sutherland, researchers also relate it to the theory of situational crime prevention.

Situational prevention is a prospective approach to crime prevention. According to Clark, Cornish and Heuer, situational prevention includes a series of actions that can be taken by many parties to prevent crime through eliminating or reducing opportunities for crime to occur. This strategy focuses on changing the environment, in order to reduce offenders' opportunities to commit crimes and protect victims. Parties should always take the appropriate actions needed to reduce opportunities and situations. Activities are directed at changing criminal behavior, and changing the pattern of relationships between offenders and victims, for example by changing the situation of crime and victimization of a person or changing environmental conditions including time and place, because in some cases of crime, changes in environmental conditions make it more difficult for crime to occur. Operationalization of situational prevention methods include: eliminating some dangers, reducing some risks by reducing the level of damage, reducing some risks by taking security measures, and increasing the number of police to frighten and prevent violations (Dermawan, 2001).

The *Situational crime prevention* approach seeks a deeper understanding of crime and crime prevention strategies in terms of the context of crime, including through understanding the environment, organization, and society as well as the space that may trigger crime (Me & Spagnoletti, 2005). If the phenomenon of *online* gambling is related to the theory of situational crime prevention, what must be known is that the cause of children doing *online* gambling is due to the influence of their environment which legalizes or permits *online* gambling. The fact is that *online* gambling is a criminal act that can be subject to criminal sanctions.

In this case, a situational crime prevention approach can be an alternative prevention in preventing *online* gambling. What can be done is to limit the use of social media for children so that they are not exposed to *online* gambling. In addition, law enforcement related to *online* gambling and those who promote it must be carried out more by law enforcement officials, in this case the police.

As for some efforts to prevent criminal acts of *online* gambling for child protection in terms of criminological perspectives are as follows

- a. Provide counseling to students, and the community about the dangers and disadvantages of online gambling.

Children must be equipped with the mindset that there is nothing instant in this world, including in this case is earning money. In promoting *Online* gambling to the public, the lure of getting money in an easy and fast way is used to attract children. This is what needs to be emphasized to children that there is nothing instant in this world, including in this case is getting money. This mindset can be instilled in children through counseling to students conducted by NGOs or the government through relevant agencies about the disadvantages of *online* gambling. With the counseling on the dangers of *online* gambling, it is hoped that it can prevent and overcome the problem of *online* gambling crimes, especially to protect children from the dangers of *online* gambling.

- b. Involve student organizations in campaigning against *online* gambling, in addition to involving social organizations, youth organizations, professional organizations, and student organizations.

It is possible that the role of students in the fulfillment of the tri dharma of higher education, including community service, can be used to encourage *anti-online* harassment campaigns. As is known, students are agents of change, and they serve as mobilizers in society. In addition, students have an obligation to contribute

to society. They can do so by informing others, especially parents and children, about the importance of avoiding *online* gambling.

c. Make regulations regarding age restrictions on children to access social media

As Indonesian law has not set a maximum limit for children's use of social media, it is undeniable that this is one of the contributing factors to the large number of children exposed to *online* gambling. Children easily register and access social media, so they can access the content there, both positive and negative. Because children have easy access to social media, they learn about everything on social media, including *Online* which is often done by Indonesian citizens.

d. Parents must supervise their children's socialization.

Parents play an important role in monitoring how their children behave. Parents should know who their children hang out with. This is due to the fact that the company a child keeps can influence them; if the child hangs out with good people, they will also be influenced to be good, but if the child hangs out with bad people, the badness of the person will also be transmitted and followed by the child.

In addition, parents can keep an eye on their children on social media by knowing their social media accounts and passwords. Although children need privacy in their lives, parents also have the right to monitor their children when they interact with social media because children can be affected by the influences that are there. In addition, since parents can still control the age of the child, parents are also automatically responsible for unwanted circumstances. Therefore, parents are expected to supervise their children's socialization both in the real world and on social media.

Discussion

The use of information technology, the internet, and communication through social media has changed people's behaviour and human civilization. Advances in technology and information have made the world borderless, leading to rapid social, economic and cultural changes. The field of information technology can now be said to be a double-edged sword because in addition to helping and easing human work, advances in technology and information also help humans to easily violate the law.

Over the years, gambling has become one of the popular games in society. Gambling has been regulated in Article 303 of the Criminal Code. Furthermore, it was supplemented by Law Number 7 of 1974 concerning Gambling Control, after which it was abolished by Law Number 1 of 2023 concerning the Criminal Code, which is regulated in Articles 426-427.

When viewed from a criminological point of view and associated with the theory of differential association put forward by Sutherland, it can be analyzed that the factors in the environment around a child can influence the reasons why a child engages in Online gambling is an environment that normalizes or familiarises Online gambling as a shortcut for someone to get a lot of money in a fast time. In addition, the influence of influencers who promote online gambling also adds to the influence of children to play online gambling.

In addition to using the differential association theory put forward by Sutherland, researchers also relate it to the theory of situational crime prevention. The Situational crime prevention approach seeks to conduct a deeper understanding of crime and crime prevention strategies in terms of the context of crime, including through understanding the environment, organizations, and communities and spaces that may trigger crime. (Me & Spagnoletti, 2005) If the phenomenon of online gambling is associated with the theory of situational crime prevention, what must be known is that

the cause of children doing online gambling is due to the influence of their environment which legalizes or permits online gambling. The fact is that online gambling is a criminal act that can be subject to criminal sanctions.

In this case, a situational crime prevention approach can be an alternative prevention in preventing online gambling. What can be done is to limit the use of social media for children so that they are not exposed to online gambling. In addition, law enforcement related to online gambling and those who promote it must be carried out more by law enforcement officials, in this case the police.

CONCLUSION

In Indonesia, regulations related to *online* gambling are regulated as in Article 303 of the Criminal Code (Law Number 1 of 1946), Article 303 bis of the Criminal Code, Articles 426-427 of Law Number 1 of 2023 concerning the Criminal Code, Article 27 paragraph (2) of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions. Meanwhile, regulations related to child protection in Indonesia are regulated in Law Number 35 of 2014 concerning Child Protection.

From a criminological point of view, differential association theory suggests that environmental factors play a role in encouraging children to engage in *online* gambling. In this case, they are tempted and interested in playing *online* gambling because *online* gambling can be one of the fastest alternatives to get a lot of money. This lure is offered by *online* gambling providers through influencers who promote them through their social media.

Based on the criminological review of *the* causes of *online* gambling committed by children, it can be seen that preventive measures that can be taken by the government, law enforcement, and parents include providing counseling to students and the community about the dangers of *online* gambling, making laws that limit the age of children to use social media and requiring parents to monitor their children's activities on social media.

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