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Criminal Legal Responsibility in Eradication of Online Gambling Crimes That Endanger Society

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Abstract

Online gambling is a gambling activity carried out via the internet, online gambling in Indonesia increases to 157 million every month, provinces in Indonesia such as West Java do the most online gambling with 235,568 million players. So this research will discuss the case above using normative. Criminal Code 303 explains the role of criminal law in eradicating online gambling crimes that endanger society, with criminal sanctions in the form of "(1) Threatened with imprisonment for a maximum of ten years or a fine of a maximum of twenty-five million rupiah jo (Juncto/layered articles)."

Law number 19 of 2016 concerning ITE Article 45 paragraph (2) Every person who intentionally and without authorization distributes, transmits, or makes accessible Electronic Information and/or Electronic Documents containing gambling content as intended in Article 27 paragraph (2) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah). To mitigate the negative effects of online gambling, it is important to collaborate with the Ministry of Communication and Information to block sites that are easily accessible. This will help to preserve moral and spiritual values and prevent further erosion. To mitigate the negative effects of online gambling, it is important to collaborate with the Ministry of Communication and Information to block sites that are easily accessible. This will help to preserve moral and spiritual values and prevent further erosion when unable to achieve what they desire due to pressure from gambling or debt, perpetrators may rationalize any means to obtain money, even if it means sacrificing their principles of truth, goodness, and religion aspect.

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A. Introduction

Responsibility is an important thing that must be applied in life, from responsibility comes good results. In general, according to the general dictionary of the Indonesian language, responsibility is 'a state of being obliged to bear everything (if something happens, you can be sued, blamed, prosecuted and so on). Responsibility is human awareness of behavior or actions that are intentional or unintentional. Responsibility also means acting as a manifestation of awareness of one's obligations. Responsibility is natural, meaning it has become part of human life, that every human being is certainly burdened with responsibility ^[1]. Responsibility can be associated with law. In English, law is called law, in Latin it is ius, in Dutch it is recht, in French it is called droit. The difference between the various languages in the world is only in the naming based on the dialect and language in those countries. As for the meaning, there is no significant difference and even tends to have the same meaning, namely a collection of prescriptions about what should be done in seeking justice. In fact, there is no single definition of law. As stated by Van Apeldoorn, it is difficult to formulate a complete definition of law because of the breadth of legal relationships

¹Anwar.,S.,S.,(2018) Responsibility for Education from the Perspective of Religious Psychology, Ar-Risalah Islamic Institute of Indragiri Hilir, p.3.file:///C:/Users/acer/Downloads/463-845-1-PB-1.pdfaccessed on June 29, 2024 at 1.33.

regulated by the law. Van Apeldoorn does not provide a definition of law, but provides a theory about the purpose of law, namely to create a just and peaceful society. Meanwhile, according to G Neimeyer, it is about the task of law, namely to regulate human activities in terms of their relationships with other humans in society ^[2]. If, related to one another, it is often referred to as legal responsibility, Ridwan Halim defines legal responsibility as something that is a further consequence of the implementation of a role, whether that role is a right and obligation or power.

In general, legal responsibility is defined as an obligation to do something or behave in a certain way without deviating from existing regulations ^[3]. Legal responsibility has 3 classifications, namely:

a) Administrative Legal Responsibility

Administrative legal responsibility means that the government is responsible for building a concept of governance management that emphasizes the involvement of government, community and private elements proportionally as the three main pillars. In administrative legal responsibility, it is associated with the principles of administrative legal responsibility, including:

1) Principle of Carefulness

The definition of the principle of accuracy until now has not been given with certainty, however this principle is the most frequently used principle. The principle of accuracy can be defined as The principle of accuracy means that a decision must be prepared and taken carefully. In the principle of accuracy there are several parts included in it, namely: Careful preparation, investigation, hearing, publication.

(a) Careful Preparation

The issue of careful preparation in the Netherlands is regulated in Article 3 paragraph 2 Awb, which stipulates that when preparing an order an administrative authority shall gather – necessary information concerning the relevant facts and the interests to be weighed. Indroharto explained that what is desired by the principle of careful preparation is that when preparing a decision, factors and circumstances that are relevant to the decision to be issued are sought, examined and collected, so that they can be included in the decision to be issued.

(b) Investigation (Carefulness Investigation)

In this stage, investigation activities are carried out regarding the implementation of a policy that has been decided, especially from the legal aspect whether there are any requirements and procedures that have been violated. If based on the investigation a violation occurs, it is processed so that a decision can be made and appropriate sanctions given according to the severity of the violation committed. This investigation stage by Philip M. Langbroek is said to be part of the principle of carefulness, and is an indirect obligation of the administrative body to investigate the case to obtain information that must be considered in making a decision.

(c) Hearing (Carefulness Hearing)

Hearing is part of the principle of accuracy. This principle requires that the interested parties are heard first, before they are faced with a detrimental decision, if the interested parties are given the opportunity to explain. JGBrouwer and AE Schilder argue that publication is: A fundamental requirement for law and treaties to enter into force is publication. From this opinion, it can be concluded that what is meant by publication is the enactment of a statutory regulation. Their opinion is based on the provisions of Article 88 of the Constitution of the Netherlands which stipulates "The publication and entry into force of act of parliament shall be regulated by act of parliament. They shall not enter into force before they have been published (The publication and entry into force of act of parliament shall be regulated by act of parliament. They shall not enter into force before they have been published

parliamentary act. The regulation shall not apply before they have been published)". This provision is similar to the provision in Article 87 of Law No. 12 of 2011 concerning the Formation of Legislation which stipulates: "Legislation shall come into force and have binding force on the date of promulgation, unless otherwise specified in the relevant Legislation. In order for everyone to know, this Law is ordered to be promulgated by placing it in the State Gazette of the Republic of Indonesia."

2) Principle of Rational Reasoning (Principle of Reasoning)

Providing rational reasons is one of the understandings of the nature of the procedure in designing a decision. This is necessary so that the decision has a good basis, especially in negative decisions, for example decisions containing a refusal of a permit, or the imposition of administrative fines ^[4].

b) Civil Legal Liability

Legal liability is private, civil legal liability is a legal obligation that requires one party to pay compensation or follow other court enforcement in a lawsuit. Civil liability has several principles that must be adhered to, including:

1) Principles of Civil Liability

Conventionally, civil liability only arises when contractual obligations or non-contractual obligations are not fulfilled. Contractual obligations are obligations arising from contractual relationships. This means that there is a legal relationship that is intentionally created and desired by the parties who make the agreement/contract. Meanwhile, what is meant by non-contractual obligations are obligations that arise because of the law that determines it. In such cases, the existing legal relationship is not based on an agreement but on an act that is determined by law as a legal relationship that gives rise to rights and obligations. One of the obligations that has been determined by law is the obligation to provide compensation for an unlawful act (onrecht matige daad) whether it is done due to one's own fault (Article 1365) or due to the fault of

²Riwanto.,A.,(2019) Basic Concepts of Law, Law and Time, pp. 3-4.<https://pustaka.ut.ac.id/lib/wp-content/uploads/pdfmk/SKOM443902-M1.pdf> accessed on June 29, 2024 at 1.38.

³Mustamu.,J.,(2018) Government Legal Accountability (Study on Scope and Relationship with Discretion), Faculty of Law, Pattimura University, Ambon, SasI Journal, Ambon, Vol.2 No.2, Pg. 7.

⁴Wiratno., (2019) Introduction to State Administrative Law, Trisakti University Publisher, Jakarta, Fifth Printing, First Edition, pp. 3-26.

another person under his/her supervision (Article 1367) -in many literatures such responsibility is referred to as qualitative responsibility or vicarious liability- as well as losses caused by the negligence of others ^[5].

c) Criminal Legal Responsibility

Criminal legal responsibility is a legal concept that holds an individual accountable for his/her actions or omissions if he/she is found to have committed a crime. Criminal legal responsibility deals more with cases or matters that occur in Indonesia, in enforcing criminal legal responsibility it must be in accordance with the Criminal Code so that the sanctions or criminal penalties enforced are in accordance with the rule of law.

The Criminal Code or Criminal Code is closely related to legislation. The Criminal Code can be used as a reference for criminal penalties in criminal cases such as online gambling. If explained separately, according to Kartini Kartono, gambling is defined as "Intentional betting, namely risking one value or something that is considered valuable by realizing the risks and certain expectations on events, games, competitions and events that are not/not yet certain. Gambling is one of the activities or games carried out by people in almost all countries which is still popular and continues to grow to this day, such as the United States, Italy, Singapore, China, Japan, and other countries including Indonesia. In Indonesia, gambling is an act that is contrary to religious norms, morals, decency, and law. And can be detrimental to those who gamble and the general public. So that gambling is considered one of the diseases of society (concentrated) and is dangerous for the lives and lives of the Indonesian Community, Nation, and State ^[6]. It has been explained in the Criminal Code or KUHP that gambling is prohibited as follows in Article 303 of the Criminal Code, which states: anyone who without permission (1) intentionally offers or provides the opportunity for gambling and makes it a livelihood, or intentionally participates in a company for gambling.

for that;" (2) intentionally offering or giving the public the opportunity to gamble or intentionally participating in a company for that, regardless of whether to use the opportunity there are conditions or the fulfillment of certain procedures;" (3) making participation in gambling a search. Although there are already legal regulations that regulate it, there are still many people who gamble, even gambling that used to be done in the real world has now moved to cyberspace because of the increasingly advanced digital world such as the internet, the Internet (Inter-Network) is the term for a collection of computer networks that connect academic, government, commercial, organizational, and individual sites. The Internet provides access to telecommunication services and information resources for

millions of users spread throughout the world. The internet services currently available include direct communication (email, chat), discussions (Usenet News, email, mailing lists), distributed information resources (World Wide Web, Gopher), remote login and file traffic (Telnet, FTP), and various other services ^[7]. With the internet, users are more practical in accessing it, but it is very unfortunate that some people misuse the use of the internet, such as the internet being used for online gambling. Online gambling is also a crime, online gambling refers to gambling activities carried out via the internet, where gamblers must agree to the rules of the game and the bets that will be made. If the selected team wins the match, then the gambler is entitled to a prize according to the amount of the bet placed ^[8]. Online gambling or online gambling has a negative impact on the perpetrators such as moral and spiritual values that exist in him will be increasingly eroded, because when what he wants he cannot get, and because of the urge to gamble or his debt, the perpetrator will justify any means to get money even though it must eliminate the values of truth, goodness and religiousness in him. Although the negative impact is very fatal, online gambling is increasing rapidly at this time, where individuals are involved in gambling activities virtually through online platforms such as websites or applications such as Domino 99 (kiukiu), online poker, and online soccer gambling, of course all of these websites or applications are connected to the internet ^[9]. Online gambling of course violates Article 27 Paragraph (2) of Law Number 19 of 2016 concerning Electronic Information and Transactions, which reads as follows: "Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain gambling content ^[10]. This violation is reinforced by the increase in online gambling in the world, it can be seen that the percentage of online gambling such as America every month increases to 31.2 million, plus in parts of Asia such as Australia every month increases to 23.1 million. For Indonesia it increases to 157 million every month, parts of the Indonesian province such as West Java do the most online gambling 235,568 million perpetrators. For example, online gambling:

1. Supreme Court Decision with Decision NUMBER 91/PID.SUS/2023/PT DKI

The defendant, Achmad alias Mamat Bin Alm Basrawi, had gambled online because online gambling accounts "bagas123", "ibu123" and "angelihutahaen" were found on the defendant's cellphone, as well as the defendant's m-banking account which was used to play online gambling and deposit and withdraw gambling money ^[11]. From the percentages and cases above, it can be seen that online gambling cases can be subject to 2 criminal sanctions as follows:

(a) Based on the Criminal Code 303, criminal sanctions

⁵Widiyastuti.,S.,M.,(2020) Principles of Civil Liability, Cahaya Atma Pustaka, Yogyakarta, Fifth Edition, First Edition, pp. 9-10.

⁶Suharya.,R.,(2019) The Phenomenon of Gambling Among Adolescents in Samarinda Seberang District, Faculty of Sociology, Faculty of Social and Political Sciences, Mulawarman University, Samarinda, Volume 7 Number 3, Page 1.

⁷Jalaham.,A.,P.,Mananeke.,L.,Loindong.,S.,S.,R.,(2018) Exploration of Word Of Mouth, Trust, and Price Factors on Satisfaction of Online Shopping Violators (Case Study of Lazada Violations in Manado City), Faculty of Economics and Business, Department of Management, Sam Ratulangi University Manado, EMBA Journal, Manado, p. 2.

⁸Subagyo.,A.,A.,M.,Astuti.,L.,(2022) Factors Influencing Students to Gamble Online, Law Study Program, Faculty of Law, Muhammadiyah University of Yogyakarta, Indonesian Journal of Criminal Law and Criminology (IJCLC), Yogyakarta, Volume. 3, Issue. 3, P. 181.

⁹Zurohman.,A., Astuti.,T.,M.,P., and Sanjoto.,T.,B.,(2019) The Impact of Online Gambling Phenomenon on the Weakening of Social Values in Adolescents (Study at Campusnet Data Media, Sadewa Branch, Semarang City), Social Sciences Study Program, Postgraduate, Semarang State University, Indonesia, Journal of Educational Social Studies, Semarang, Volume 5 Number 2, P. 2.

¹⁰Law Number 19 of 2016 concerning Electronic Information and Transactions (Supplement to the State Gazette of the Republic of Indonesia Number 5952).

¹¹Supreme Court Decision with Decision NUMBER 91/PID.SUS/2023/PT DKI, Jakarta, pp. 1-12.

are imposed in the form of "(1) Threatened with a maximum imprisonment of ten years or a maximum fine of twenty-five million rupiah in conjunction with (Juncto/layered article) Law Number 19 of 2016 concerning Information and Electronic Transactions Article 45 paragraph (2) Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have gambling content as referred to in Article 27 paragraph (2) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah). So this journal will discuss in detail regarding Criminal legal responsibility in eradicating online gambling crimes that endanger the community.

B. Research Methodology

Methodology is a formula in the application of research where in conducting the research there are steps and also research results. While methodology is a method or technique that is arranged regularly which is used by a researcher to collect data/information in conducting research that is adjusted to the subject/object being studied. While research is a series of scientific activities in order to solve a problem. So research is part of a problem-solving effort. The function of research is to find explanations and answers to problems and provide alternatives for possibilities that can be used to solve problems. Explanations and answers to the problem can be abstract and general as in basic research and can also be very concrete and specific as is usually found in applied research ^[12]. If, combined into one then research methodology is a science that studies how to make a correct scientific research. In general, research methodology is divided into two, namely:

(a) Quantitative Research Methodology

Quantitative Research Methodology, as stated by Sugiyono, can be interpreted as a research methodology based on the philosophy of positivism, used to research certain populations/samples, sampling techniques are generally carried out randomly, data collection uses research instruments, data analysis is quantitative/statistical with the aim of testing the established hypothesis ^[13].

(b) Qualitative Research Methodology

Qualitative research methodology is research that places more emphasis on the analysis of deductive and inductive conclusion processes and on the analysis of the dynamics of the relationships between observed phenomena, using logic ^[14]. Qualitative research methodology is more widely used in research that relies on theory, such as qualitative legal research methodology. Qualitative legal research methodology is divided into 3 qualitative legal research methodologies, namely:

1) Empirical Qualitative Legal Research Methodology

Empirical law research, namely the study of unwritten positive law regarding the behavior of community members in social life relationships. Empirical legal research reveals living law in society through actions carried out by society. The focus of the research is directed at Empirical/Sociology (law as human interaction), Social theory regarding sociological law (primary data), qualitative analysis, research steps Problem-Theory-Method-Data-Analysis-Conclusion.

2) Normative Qualitative Legal Research Methodology

Legal research that examines written law from various aspects, namely theoretical, historical, philosophical, comparative, structural and compositional, scope and material, consistency, general explanation and articles, formality and binding force of a law, as well as the legal language used, but does not examine the applied or implementation aspects ^[15]. Especially in this study with the theme of Criminal legal responsibility in eradicating online gambling crimes that endanger society using normative qualitative research methodology focusing on (Research on legal principles, research on Legal Systematics, Research on the level of legal synchronization, Research on Legal History, and Research on Comparative Law. Theoretical framework Internal theories about

legal data, data in the form of secondary data such as:

- (a) Criminal Code
- (b) Law Number 19 of 2016 concerning Electronic Information and Transactions (Supplement to the State Gazette of the Republic of Indonesia Number 5952).

Which is synchronized with primary data such as legal dictionaries, court decisions related to cases, journals, and research-related literature to obtain the Determination of Criteria, Identification, Collection of Norms, Organization of the collected Norms.

C. Discussion

The application of a task to determine criminal sanctions in resolving a case is referred to as criminal legal responsibility. Legal responsibility is the continuation of objective blame on a criminal act based on applicable law, subjectively to the perpetrator who meets the requirements of the law to be subject to criminal penalties for his actions. Criminal legal responsibility can also be interpreted as Responsible for a criminal act means that the person concerned can legally be subject to criminal penalties for that act. According to Barda Nawawi Arief, Criminal responsibility essentially contains the meaning: Reproach to the perpetrator (legal subject) for the criminal act he has committed. Therefore, criminal responsibility contains objective blame and subjective blame. This means that objectively the perpetrator has committed a criminal act (a prohibited/unlawful act and is subject to criminal penalties according to applicable law) and

¹²Dharminto.,(2019) Research Methods and Sample Research, p. 2.http://eprints.undip.ac.id/5613/1/METODE_PENELITIAN_-_dharminto.pdf accessed on July 4, 2024 at 14.24.

¹³Suwarsa.,T.,Hasibuan.,A.,R.,(2022) The Influence of Restaurant Tax and Hotel Tax on Local Original Income of Padangsidempuan City for the 2018-2020 Period, D3 Accounting, Indonesian Post Polytechnic, Accounting Journal, Bandung, Vol. 14 No. 2, P.7.

¹⁴Zuchri Abdussamad.,Z.,(2021) Qualitative Research Methods, CV. syakir Media Press, Makassar, First Printing, First Edition, p. 47.

¹⁵Purwati.,A.,(2020) Legal Research Methods Theory and Practice, CV. Jakad Media Publishing, Surabaya, First Printing, First Edition, P. 90.

subjectively the perpetrator deserves to be blamed or blamed/ be held responsible for the crime he committed so that he deserves to be punished ^[16]. Before enforcing criminal legal responsibility there must be a criminal legal responsibility system so that it can be enforced structurally. The legal responsibility system must fulfill 3 elements of criminal legal responsibility such as:

- 1) Criminal punishment is essentially the imposition of suffering or misery or other unpleasant consequences;
- 2) The punishment was given intentionally by a person or body that has power; and
- 3) This punishment is imposed on a person who has committed a crime according to the law ^[17]. Then, there must be a connection with the principles of criminal legal responsibility, including:

1) Principle of Legality

The principle of legality has the following meaning: no act can be punished except by virtue of the criminal law that existed before the act was committed ^[18]. The principle of legality can be upheld with the following elements:

(a) Lex Scripta: written

In the civil law system, the first aspect is that punishment must be based on law, in other words based on written law. The law (statutory, law) must regulate behavior (actions) that are considered criminal acts. Without a law that regulates prohibited acts, then acts cannot be said to be a crime. This implies that customary law/living law cannot be used as a basis for punishing someone. The inability of custom to be the basis for punishment does not mean that custom has no role in criminal law. It is important in interpreting the elements of crimes contained in the criminal acts formulated by the law.

(b) Lex Certa: Clear and detailed

In relation to written law, lawmakers (legislature) must formulate clearly and in detail regarding actions that are called criminal acts (crimes, crimes). This is called the principle of *lex certa* or *bestimmtheitsgebot*. Lawmakers must define clearly without ambiguity (*nullum crimen sine lege stricta*), so that there is no ambiguous formulation regarding actions that are prohibited and sanctioned. Unclear or overly complicated formulations will only create legal uncertainty and hinder the success of (criminal) prosecution efforts because citizens will always be able to defend themselves that such provisions are useless as guidelines for behavior.

(c) Analogy

Analogy means expanding the applicability of a regulation by abstracting it into a legal rule that is the basis of the regulation (*ratio legis*) and then applying this general rule to concrete actions that are not regulated by law. The application of

regulations by analogy is carried out if there is a *lacuna* (*leemte* or *lucke*) in the law for actions (events) that are similar to what is regulated by law. However, on the other hand, if there is a (new) event that is not regulated by law, then the regulation is not applied, if it does not comply with the ratio of the regulation. Such use is called *argumentum a contrario* (giving reasons in reverse/*bewijs van het tegendeel*).

(d) Non-Reactive

The principle of legality is viewed from the perspective of the scope of application of criminal law according to time related to non-retroactivity, requiring that the provisions of laws and regulations that formulate criminal acts cannot be applied retroactively (non-retroactively) ^[19].

2) The principle of no crime without fault

The principle of no punishment without fault or the principle of fault means that a person who has committed an act that is contrary to the applicable criminal law regulations cannot be punished due to the absence of fault in the act ^[20].

3) Principle of Non-Retroactive Effect

The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted on the basis of retroactive laws are human rights that cannot be reduced under any circumstances ^[21]. From the principles above, it is certain that criminal legal responsibility is related to the Criminal Code and the Law. The source of criminal legal responsibility that we use today still uses the codification originating from the Dutch East Indies era, *Wetboek van Strafrecht*, in the Dutch East Indies era for criminal law, unlike in civil law, there has been a unification for all groups of the population. This unification was achieved on January 1, 1918. This Criminal Code is a copy of the Dutch *WvS* which was completed in 181 and came into effect in 1886. The Criminal Code that came into effect after independence on August 17, 1945 was the Criminal Code inherited from the Dutch East Indies era with important changes based on Law No. 1 of 1946. Based on Law No. 73 of 1958 (LN No. 127 of 1958) which among other things states that Law No. 1 of 1946 applies to the entire territory of Indonesia. The systematic provisions of criminal law regulated in the Criminal Code consist of:

1. Book I: regarding general provisions
2. Book II: about crime
3. Book III: on violations. While the criminal sanctions regulated in the Criminal Code are formulated in Article 10 of the Criminal Code, which consist of: Principal penalties: 1. Death penalty; 2. Imprisonment; 3. Imprisonment; and 4. Fines Additional penalties: 1. Revocation of certain rights; 2. Confiscation of certain

¹⁶Krismiarsih.,(2018) Individual Criminal Responsibility System, Semarang Magister Library, Semarang, First Printing, First Edition, pp. 1-112.

¹⁷Wahyuni.,F.,(2019) Basics of Indonesian Criminal Law, PT Nusantara Persada Utama, South Tangerang, First Printing, First Edition, P. 10.

¹⁸Tahir.,A.,(2018) Exploring the Meaning of the Principle of Legality and Its Development in Indonesia, Faculty of Sharia and Law, UIN Sunan Kalijaga, Yogyakarta, p. 6.file:///C:/Users/acer/Downloads/1358-2792-1-SM-1.pdfaccessed on June 1, 2024 at 14.21.

¹⁹Sudibyo.,A.,Rahman.,A.,H.,(2021) Deconstruction of the Principle of Legality in Criminal Law, Faculty of Law, University of Majalengka, PRESUMPTION of LAW, Majalengka, Volume 3 Number 1, Pp.6-8.

²⁰Wirajaya.,A.,A.,N.,(2018) The Principle of No Crime Without Fault (The Principle of Fault in Relation to Corporate Criminal Liability, p. 4.file:///C:/Users/acer/Downloads/5283-1-8364-1-10-20130429.pdf accessed at 12.44on June 1, 2024.

²¹Fadhilah.,A.,I.,(2019) Implementation of the Retroactive Principle in Serious Violations of Human Rights in Indonesia, Ministry of Research, Technology and Higher Education, Brawijaya University, Faculty of Law, Scientific Journal, Malang, p. 8.https://media.neliti.com/media/publications/35339-ID-Pemberlakuan-asas-retroactive-dalam-pelanggaran-besar-terhadap-hak-asasi-human.pdfaccessed on July 1, 2024 at 22.33.

goods; and 3. Announcement of the judge's decision ^[22].

The 1945 Constitution of the Republic of Indonesia was formed from Japan's promise to grant independence to the Indonesian people in the future. The promise included, "since long ago, before the outbreak of the Greater East Asian War, Dai Nippon had begun to try to free the Indonesian people from the power of the Dutch East Indies government. The Dai Nippon army simultaneously mobilized its armed forces, both on land, sea, and air, to end the Dutch colonial rule". Since then, Dai Nippon Teikoku has viewed the Indonesian people as younger brothers and has guided the Indonesian people diligently and sincerely in all areas, so that it is hoped that in the future the Indonesian people will be ready to stand alone as a Greater East Asian nation. However, promises are just promises, colonizers are still colonizers who always want to oppress and drain the wealth of the Indonesian people for longer. After Japan was beaten back by the allies, Japan no longer remembered its promise. After surrendering unconditionally to the allies, the Indonesian people were freer and more flexible to act and not depend on Japan until independence arrived. After the independence of the Republic of Indonesia was achieved, the need for a constitution seemed non-negotiable and had to be formulated immediately, so that Indonesia would be a complete sovereign country, when the 1945 Constitution was successfully ratified as a constitution by the Preparatory Committee for Indonesian Independence (PPKI, Dokuritsu Junbi Inkai). The decision of the PPKI plenary meeting was actually very crucial because the Montevideo Convention (1933) clearly stated that the minimum eligibility requirements for recognition of a country were based on two elements. First, the declarative element, namely the existence of recognition from other countries, and second, the constitutive element, as the main element which includes the existence of a people, territory, and sovereign government. On August 17, 1945, according to the facts (*ipso facto*) we did declare independence as a country. However, regarding sovereign government and territory, legally (*ipso jure*) it was only legally 'owned' and 'recognized' on August 18, 1945 through the PPKI plenary meeting which determined Soekarno as president and Mohammad Hatta as vice president, and also determined the 1945 Constitution as the constitution of the Republic of Indonesia. The transfiguration of the constitution in this case (*casu quo*) can be considered a birth certificate for a new state, so that the relationship (*betrekking*) of the constitution with its country is very closely intertwined, so inherent, and becomes something that is absolutely there (*conditio sine qua non*). There is not a single country in the world that does not have a constitution. Imagine a house without a foundation. Standing, but not sturdy. That is the personification of the function of the constitution, it supports and guarantees the firmness of the big house called the country. The nobility of the constitution is also what makes it the basic law and the higher law. In the constitution there is also a scope of outlook on life (*way of life, weltanschauung*) and the inspiration of the nation that has it. From this argument, the constitution is then used as the main source of law (*rechtsbron*), so that there should not be a

single law and regulation (*wettelijk regeling*) that contradicts it (*in strijd zijn met de grondwet*). The birth of the 1945 Constitution decades ago was actually the climax of the struggle of the Indonesian nation as well as a masterpiece (*magnus opus*) of the nation's founders (the founding fathers and mothers). The specialness of a constitution lies in its very noble nature by encompassing consensuses (*toestemming*) on the essential principles (*principles, beginselen*) in the state. Thus, the constitution can be said to be a noble national document (a national document) which is in fact a legal and political document (*political and legal document*) ^[23].

There is no difference between the Criminal Code and the 1945 Constitution of the Republic of Indonesia because the 1945 Constitution of the Republic of Indonesia is part of the Criminal Code. The Criminal Code and the 1945 Constitution of the Republic of Indonesia can enforce criminal sanctions according to the criminal cases that occur, in general crimes are as evil acts or actions, where an act is considered a crime based on the nature of the act, if the act is detrimental to society or individuals either materially ^[24]. According to several experts, the definition of crime is:

1) Moedikdo Moeliono

Crime is an act of violating legal norms which is interpreted or should be interpreted by society as an act that is detrimental, annoying and should not be tolerated.

2) WA Bonger, that

"Crime is a very anti-social act that is consciously challenged by the state in the form of giving suffering (punishment or action)."

3) AS Nature

Crime is behavior that violates criminal law. No matter how bad an act is, as long as the act is not prohibited by criminal law, the act is still considered an act that is not a crime. Or any act that violates norms that still exist in society.

4) Saparinah Sadli

The form of "deviant behavior" that always exists and is attached to every form of society, there is no society free from crime. In general, crime or often called criminality can occur due to several causal factors, including:

(A) Internal Factors (Factors From Within a Person)

Internal factors are factors that are within a person, there are two internal factors, namely:

(a) General Internal Factors

Internal factors are generally influenced by external factors which are generally low education, someone who has low education does not understand the norms and rules that apply in society, minimal knowledge about norms and rules makes the person unable to distinguish between what is right and what is wrong from the perspective of norms that exist in society. Low levels of education are inversely proportional to a person's intelligence which sometimes becomes a supporting factor for individuals in committing crimes, in certain types of crimes high intelligence is needed to do so. By mastering special abilities, individuals will be tempted to commit crimes, because the skills they have can be easily used to commit these crimes.

²²Efritadewi, A., (2020) Criminal Law Module, UMRH Press, Tanjungpinang, First Printing, First Edition, pp. 10-11.

²³Saputra, Y., (2019) History of the 1945 Constitution of the Republic of Indonesia as the Constitution in Indonesia, UIN Sunan Kalijaga Yogyakarta, www.vivajusticia.law.ugm.ac.id, Yogyakarta, Edition 26, pp. 3-5.

²⁴Criminal Code.

(b) Internal Factors Are Specific

Internal factors specifically influenced from outside are specifically related to psychological conditions (personality problems often cause deviant behavior). Special characteristics that cause crime are low mentality and intelligence. People who have low mentality if they continue to experience pressure from outside tend to commit deviations or crimes, low mentality is closely related.

(B) External factors (external) (Factors from outside a person)

External factors (external) (Factors From Outside a Person) there is a theory that states that crime is related to human environmental factors and this factor has a big influence. The environmental school as stated by A. Lacassagne, G. Tarde, F. Turatti, NN Colajani, Von Myr, Bonger and Shuterland has the motto "Die welt istshuld an mir als ich" (The world is more responsible for my condition than I am myself), This theory argues that a person can commit a crime if there is:

- a. An environment that provides opportunities for crime to arise
- b. Lsocial environment that provides examples or role models
- c. Leconomic environment (poverty, misery)
- d. Ldifferent social environments (differential association).

With the power of Intelligence, sharp Intelligence can assess realistically, then it is easier to adapt to society, on the contrary if someone has low intelligence then it will be difficult to adapt to society, so that person will feel increasingly distant from the life of society, and unable to do something, so that person will feel depressed and seek their own way that deviates from the norms in society. There are several elements that also people commit crimes, including:

a. The quality of the perpetrator

The quality of the perpetrator is the good or bad of the perpetrator and the extent to which he understands the norms that apply in society.

b. Causality

Quality is the relationship between an action as a cause and a reality as a result.

c. Illegitimacy

The unlawful nature always includes a criminal act, whether the unlawful nature is explicitly stated in the formulation of the criminal act or not explicitly stated in the formulation of the criminal act. The element of fault always includes a criminal act, whether it is explicitly stated in the formulation of the criminal act or not explicitly stated in the formulation of the criminal act, except in the formulation of the criminal act there is an element of negligence. In order for an act to be fulfilled as a criminal act, it must fulfill the elements of unlawful nature and fault ^[25]. Because of these causal factors and elements of crime, other people can commit crimes,

crimes also have several types which can be seen from:

a) Crime According to Science

Scientifically, crime can be seen from the philosophy and results of previous research related to crime. Scientifically, crime has several types or is divided into:

(1) Criminal Anthropology

Anthropology is the science of evil humans (somatic), this science provides answers to questions about what signs evil people have in their bodies, whether there is a relationship between ethnicity and crime.

(2) Criminal Psychology

Criminal Psychology is the science of criminals seen from the perspective of their souls.

(3) Psycho- And Neuropathology

Psycho-Criminal and Neuropathology Criminal is the science of criminals who are mentally or nervously ill.

(4) Poenology

Poenology is the science of law and the development of punishment, its meaning and benefits.

(5) Crime Statistics

Criminal Statistics is the science of collecting, calculating, measuring and processing figures on crime phenomena.

(6) Sociology of Crime

Criminal Sociology is the science of crime as a social phenomenon. The main questions answered by this field of science are to what extent the causes of crime in society (social etiology) in a broad sense also includes investigations into the physical conditions of its surroundings (geographic, climatological and meteorological) ^[26]. If, seen from a scientific perspective, the most frequently occurring crimes are criminal social crimes or often referred to as general crimes such as:

(A) Psychological Crime

Psychological/psychological violence is more verbal, namely actions and/or words that result in loss of self-confidence, loss of ability to act, feelings of helplessness and fear ^[27]. For example:

(1) Economic violence

Economic violence consists of 2, namely Mild Economic Violence, in the form of making deliberate efforts that make the victim dependent or economically helpless or whose basic needs are not met. And Severe Economic Violence, namely acts of exploitation, manipulation and control through economic means in the form of: Forcing the victim to work in an exploitative manner including prostitution, Prohibiting the victim from working but neglecting him, Taking without the knowledge and without the consent of the victim, seizing and or manipulating the victim's property ^[28].

(2) Insult

Insult is a criminal act that must be followed up as an act that is detrimental to the individual or victim. The definition of insult itself concerns the dignity and self-esteem of a person. The criminal act that is qualified by the Criminal Code as Insult or defamation is formulated in Article 310 of the Criminal Code, namely: Paragraph (1): "Anyone who

²⁵ <https://repository.unair.ac.id/32535/4/4.%20BAB%20I%20PENDAHULUAN.pdf> accessed on July 4, 2024 at 12:44.

²⁶ Adnan.,I.,Basriadi.,(2021) Policies That Can Be Implemented In Minimizing Begal Crimes Through Applied Criminology In Central Lombok NTB, Lecturer at Darussalam Bermi Islamic College, Darussalam Journal: Thoughts on Constitutional Law and Comparative Law, Central Lombok, pp. 1-23.

²⁷ Fitriah.,N.,(2021) Crimes of Psychological Violence and Neglect of Women as Human Rights Violations, Sari Mulia University, DE JURE Critical Laws Journal, Banjarmasin, Vol. 2 No. 1, Pg. 8.

²⁸ Kodai.,D.,(2019) Study on Economic Neglect as Domestic Violence, Legal Science, Faculty of Law, University of Gorontalo, Gorontalo Law Review, Gorontalo, Volume I, Number 1, Pp. 1-11.

intentionally attacks the honor of a person's good name by accusing them of something, the intention of which is clearly so that it is known to the public, is threatened with defamation with a maximum imprisonment of nine months or a maximum fine of four thousand five hundred rupiah" Paragraph (2): "If this is done in writing or a picture that is broadcast, shown or posted in public, then it is threatened with written defamation with a maximum imprisonment of one year and four months or a maximum fine of four thousand five hundred rupiah" Paragraph (3): "It does not constitute defamation or written defamation, if the act is clearly done in the public interest or because it is necessary to defend oneself" [29].

(3) Intimidation

Acts of intimidation or bullying are often associated with the foreign term, namely bullying. Bully itself means "someone who uses their power and influence to bully, intimidate, or hurt others". Acts of intimidation occur everywhere and come in many forms, where the perpetrators tend to group together in carrying out their actions, to intimidate one victim [30].

(4) Terror

Terrorism in this context is defined as an act of violence or a threat to commit an act of violence aimed at a random target (no direct relationship with the perpetrator) that results in mass damage, death, fear, uncertainty and despair. The act of terrorism is carried out in order to impose the will on the party considered an opponent by the terrorist group, so that their interests are recognized and respected. With this kind of definition, the elements that must be present in the definition of terrorism are acts of violence that result in mass damage, death, fear, uncertainty and despair; the target of the action is a random target that has no direct relationship with the perpetrator; finally, driven by the motivation of the perpetrator's interests which cannot be specifically focused on political motivations alone considering that (in many cases) non-political interests such as beliefs are also the background behind it [31].

(5) Sexual Violence

Sexual violence is an act that includes sexual harassment, physically forcing a wife to have sexual intercourse and/or having sexual intercourse without consent [32].

(B) Physical Crime

Physical violence is an act that causes pain, injury, wounds, or disability to a person's body and/or causes the death of the victim [33]. There are several types of physical crimes, including:

(1) Theft

Theft in Article 362 of the Criminal Code states: Whoever

takes something, which is wholly or partly owned by another person, with the intention of possessing it unlawfully, is threatened with theft, with a maximum imprisonment of five years or a maximum fine of nine hundred rupiah. Theft comes from the root word *curi* which means secretly or secretly and a thief is a person who commits theft. Thus, the definition of theft is a person who takes another person's property secretly or secretly in an illegal manner. Theft is a crime against property regulated in Articles 362 to 367 of the Criminal Code.

(2) Pickpocketing

Pickpocketing is a negative activity involving stealing items in the form of money in pockets, wallets and bags, mobile phones and others belonging to other people or not their rights quickly, agilely and without being known by the victim or people around him. Pickpocketing is a criminal act that meets Article 365 paragraph 3 of the Criminal Code with a legal threat of 15 years in prison.

(3) Mugging

Mugging is a negative action or deed by forcibly seizing another person's valuables, resulting in material loss for the mugging victim. This is a criminal act that fulfills Article 365 paragraph 3 of the Criminal Code. legal threat of 15 years in prison.

(4) Mugging with a sharp weapon

It is the confiscation of the victim's property by threatening to hold up a firearm so that the victim who is afraid hands over his property. This crime meets Article 368 with a maximum sentence of 10 years in prison.

(5) Murder

It is an act that eliminates or takes someone's life. The definition of murder like this means that the criminal act of murder is not classified as whether it is done intentionally or unintentionally and or semi-intentionally. The crime of murder is listed in Article 388 of the Criminal Code with the penalty of death or life imprisonment or for a certain period of time for a maximum of twenty years.

(6) Corruption

It is the behavior of individuals who use authority and position to gain personal gain, harming public and state interests. The crime of corruption meets Article 209 of the Criminal Code with a sentence of four years in prison

(7) Fraud

Fraud is an act of someone with trickery, a series of lies, a false name with the intention of benefiting oneself without rights. A series of lies is a series of false sentences arranged in such a way that it is a story of something as if it were true [34]. Fraud continues to evolve with the times, such as fraud in

²⁹Criminal Code.

³⁰Mustofa.,M.,(2020) Understanding Terrorism: A Criminology Perspective, Indonesian Journal of Criminology, Vol. 2 No. III, pp. 1-9.<https://media.neliti.com/media/publications/4224-ID-memahami-terorisme-untuk-perspekti-kriminologi.pdf>accessed on July 4, 2024 at 16.26.

³¹Fakhri.,Diana.,R.,(2020) Strategy of the Aceh Terrorism Prevention Coordination Forum (FKTP) in Curbing Terrorism in Banda Aceh City, Da'wah Management Study Program, Ar-Raniry State Islamic University, AL-IDARAH: JOURNAL OF ISLAMIC MANAGEMENT AND ADMINISTRATION, Banda Aceh, Vol. 4, No.1, pp. 1-21.

³²Fitriah.,N.,(2021) Crimes of Psychological Violence and Neglect of Women as Human Rights Violations, Sari Mulia University, DE JURE Critical Laws Journal, Banjarmasin, Vol. 2 No. 1, Pg. 8.

³³Ibid., p. 8

³⁴Rafida Khairani.,R.,Ariesa.,Y.,(2019) Analysis of Factors Affecting the Crime Rate of North Sumatra (Economic Approach), Universitas Prima Indonesia, Economic Studies and Public Policy, North Sumatra, Vol. 4 No. 2, pp. 5-6.

online gambling.

Online gambling refers to gambling activities conducted via the internet, where gamblers must agree to the rules of the game and the bets to be made. If the selected team wins the match, then the gambler is entitled to a prize according to the amount of the bet placed ^[35]. Online gambling can occur through online sites or applications, for example:

(1) **Poker God** (<http://www.pokerdewa.com>)



Dewa poker is a real money poker site. According to several sources, dewa poker comes from Indonesia and has 4,377,094 users. How to play is as usual, like playing Texas Holdem Poker on Facebook but before playing dewa poker there are some things to note, namely the user must have a BCA ATM card and a minimum balance of IDR 50,000. After that, create an account to get a User Name (Username) and Password (Password) to enter the site. Same as creating an email, but the account number in the form must be filled in clearly. Then enter the balance in the account that will be the capital in this game. And if the user wins and wants to exit the game, then the user just clicks 'ZLWKGUDZ_FKLS'. And the money we win can be withdrawn at the specified ATM.

(2) **Pai Gow Poker** (<http://www.paigowpokeronline.net>)



Pai Gow Poker is a combination of poker games with domino strategy. In the game of pai gow poker, 53 cards are used including the joker, then the players will be dealt 7 cards. The registration method is the same as creating an email and other internet accounts, but the account number in the form must be filled in clearly. The first way to play is to place a bet on

the betting circle on the table, the betting limit on the table is a minimum of 2 dollars to a maximum of 100 dollars for each game. After that, click 'HDO'. Then arrange your hand cards by moving 2 cards to the second highest place to arrange the hand cards. After that, you will see the dealer's hand cards and all bets will be determined. If the player wins, they will get paid 1 to 1 minus a commission by the Dealer of 5 percent and if the game is a Tie or does not win and does not lose, the player's bet will be returned. If the user wins and gets a lot of chips and then wants to exit, then the user just clicks and the money we win can be withdrawn at the specified ATM.

(3) **88 Agile** (www.88tangkas.net)



This online gambling site is done by the perpetrator depositing an amount of money ranging from Rp100,000.00 (one hundred thousand rupiah) to 400,000.00 (four hundred thousand rupiah) via BCA ATM to a specified account number, after which the perpetrator can create a password and username to play this gambling site. Then the perpetrator follows the specified game which varies such as guessing pictures or letters. If you win, the money that has been transferred increases by Rp10,000.00 (ten thousand rupiah) while if you lose, the perpetrator's money decreases by Rp5,000.00 (five thousand rupiah). If the user wins and gets a lot of chips and then wants to exit, the user just clicks. Then The money we win can be withdrawn at the designated ATM ^[36]. The sites and applications above are the causes of online gambling, plus several other causal factors that cause online gambling to actually occur, such as:

(a) **Internal Factors Causing Online Gambling**

Internal Factors Causing Online Gambling are the factors causing online gambling from within. Such as:

(1) **Economic Factors**

Economic factors are the main driving force in online gambling, with many economic problems, ranging from the difficulty of getting a job, rising food prices, inflation, and also below average salaries making it difficult for people to meet their needs. With the ease and sacrifice that is relatively small and produces quite a lot of money, this encourages online gambling actors.

³⁵Fanani.,A.,F.,Rafly Putra Tritasyah.,R.,P.,(2023) The Prevalence of Online Gambling Among Young People in *Legal Perspective*, Sunan Ampel State Islamic University, Fundamental Justice Journal, Surabaya, Volume 2 Number 2, Pp. 1-15.

³⁶Aldyano.,L.,Suntoro.,I.,Adha.,M.,(2019) Adolescent Attitudes Towards the Negative Impacts of Online Gambling Habits in RT. 05 Lingkungan 003 Kedaton, Faculty of Teacher Training and Education, University of Lampung Bandar Lampung, University of Lampung Bandar Lampung, P. 8,<https://media.neliti.com/media/publications/249934-none-7ac6c097.PDF> accessed on July 4, 2024 at 15.52.

(2) Perception Factors of Gambling Games

This factor is driven by the thought of the possibility of winning this game with great confidence. Basically, online gambling games for beginners will be given victory to continue playing, this makes people who play online gambling believe in the probability of winning and their luck every time they play. With the confidence and benefits obtained, it affects the player's perception that if they do not win in this game, in the next game they will win. This is what makes the perpetrator addicted and difficult to get out of this game.

(3) Legal Awareness Factor

The public is not yet aware of the law regarding online gambling games. Many people do not know about online gambling regulations and consider it not something that violates the law. Even if they know about the regulations, they seem not to be afraid of the punishment given, because the sanctions against perpetrators who only play online gambling are not severe and it is difficult to find evidence.

(b) External Factors Causing Online Gambling

External factors that cause online gambling come from outside, such as:

(1) Technological development

The development of technology has indeed made it easier for perpetrators to access online gambling sites. Although many sites have been closed, bookies have not run out of ideas to open online gambling sites in various ways so as not to be detected by the authorities. In addition, the development of fintech ranging from e-wallets to m-banking makes it easier for online gamblers to transact online gambling. With the protection of transaction data in fintech, this has made it difficult for authorities to obtain evidence of online gambling transactions carried out by individuals.

(2) Environmental Factors

The environment influences how individuals make decisions and behave. Friendships or environments that involve a lot of online gambling, encourage individuals to try gambling. The rise of promotions through mass media, even openly promoted by influencers by offering tempting benefits, is one of the problems that drives the increasing number of gambling transactions^[37]. The factors causing online gambling are many who dare to commit online gambling violations, the violations have been explained in the Criminal Code or Criminal Code that gambling is prohibited as follows Article 303 of the Criminal Code, which states: anyone without permission (1) intentionally offers or provides an opportunity for gambling and makes it a search, or intentionally participates in a company for that; "(2) intentionally offers or provides an opportunity for the general public to gamble or intentionally participates in a company for that, regardless of whether to use the opportunity there are conditions or the fulfillment of certain procedures;" (3) makes participation in gambling a search. And Article 27 Paragraph (2) of Law Number 19 of 2016 concerning Information and Electronic Transactions which reads as follows: "Any person intentionally and without the right to

distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that have gambling content^[38].

Even though there has been a warning of legal regulations not to gamble online, there are still many who gamble online, as seen from the percentage of cases such as America every month increasing to 31.2 million, plus in parts of Asia such as Australia every month increasing to 23.1 million. For Indonesia, it has increased to 157 million every month, parts of the Indonesian province such as West Java have the most online gambling, 235,568 million perpetrators. Examples of online gambling cases will be explained as follows:

1. Supreme Court Decision Number 123/Pid.Sus/2023/PN Pyh defendant named Monika Oktavia Ningrum Pgl. Monik committed online gambling with evidence - 1 (one) black flashdisk, Sandisk brand, 16gb which is a place to store screenshots of content and extract results of Monikaoktavianingrum's Instagram account with the url <https://www.instagram.com/monikaoktavianingrum/>; - 1 (one) Gmail account with the name Monikaoktavianingrum@gmail.com which is used to log in to Monikaoktavianingrum's Instagram account with the url <https://www.instagram.com/monikaoktavianingrum/>; - 1 (one) Telkomsel Simcard 081270513144; - 1 (one) Tri Simcard 089531609542; - 1 (one) BCA Tahapan Expression ATM card in blue and white with card number 5379413021234791 and account number 6145147259. Confiscated for destruction - 1 (one) unit of blue iPhone 13 Mini brand cellphone with IMEI 35042813482930^[39]. From the case above, three criminal elements have been included, namely:

a. Quality

The Supreme Court Decision Case Number 123/Pid.Sus/2023/PN Pyh shows that the defendant or perpetrator cannot control his lust, seeks his own profit and does not think about the risks or consequences that will occur in the future.

b. Qualification

Supreme Court Decision Case Number 123/Pid.Sus/2023/PN Pyh the defendant was able to gamble online due to internal causal factors (factors causing weak legal awareness) and external causal factors (factors causing excessive use of technological developments to the point of creating a risk) such as online gambling.

c. Illegitimacy

In the case of Supreme Court Decision Number 123/Pid.Sus/2023/PN Pyh, there were two legal violations committed, namely:

- (1) Violating the principle of no punishment without fault because the defendant above has committed a mistake, namely online gambling, so he must be prosecuted unless he is not guilty or has not committed any mistake.
- (2) Violating the Principle of Legality where the prohibition of online gambling has been in a legal regulation, namely the Criminal Code or Criminal Code that gambling is prohibited

³⁷Criminal Code.

³⁸Law Number 19 of 2016 concerning Electronic Information and Transactions (Supplement to the State Gazette of the Republic of Indonesia Number 5952).

³⁹Supreme Court Decision Number 123/Pid.Sus/2023/PN Pyh, Payukumbuh, pp. 1-23.

as follows Article 303 of the Criminal Code, which states: anyone without permission (1) intentionally offers or provides an opportunity for gambling and makes it a search, or intentionally participates in a company for that; "(2) intentionally offers or provides an opportunity for the general public to gamble or intentionally participates in a company for that, regardless of whether to use the opportunity there are conditions or the fulfillment of a procedure;" (3) makes participation in gambling a search. And Article 27 Paragraph (2) of Law Number 19 of 2016 concerning Information and Electronic Transactions which reads as follows: "Any person intentionally and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that contain gambling.

However, this violation is still included in the violation of the principle of legality. So that the Supreme Court Decision Case Number 123 / Pid.Sus / 2023 / PN Pyh can be given criminal sanctions in accordance with the Criminal Code 303 is subject to criminal sanctions in the form of "(1) Threatened with a maximum imprisonment of ten years or a maximum fine of twenty-five million rupiah in conjunction with (Juncto / layered article) Law Number 19 of 2016 concerning ITE Article 45 paragraph (2) Any person who intentionally and without the right to distribute and / or transmit and / or make accessible Electronic Information and / or Electronic Documents that have gambling content as referred to in Article 27 paragraph (2) shall be punished with a maximum imprisonment of 6 (six) years and / or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah). From the above case, it has violated many legal rules in addition to having a negative impact on online gambling perpetrators, namely:

(a) Material Value

Material value, namely everything that is useful for human life, in relation to the material value is useful for human physical life or human physical needs. So anything that can be useful as a spiritual or physical filler has material value.

(b) Vital Values

Vital values, namely everything that is useful for humans to be able to carry out life activities or is useful for humans to be able to carry out activities or actions.

(c) Spiritual Values

Spiritual values, namely everything that is useful for the human spirit, the spirit is the same as the human soul or heart. These spiritual values can be divided into four types: (1) truth values, which are based on human reason (ratio, budi, cipta), (2) beauty values or aesthetic values which are based on human feelings (aesthetis, gevoel, rasa), (3) goodness values, or moral values, which are based on human will (will, wollen, karsa), (4) religious values, which are the highest and absolute spiritual values. These religious values are based on human beliefs or convictions^[40]. After the legal responsibility for online gambling is in place, it is hoped that it can be implemented properly so that similar cases in the future can be minimized or even eliminated altogether.

D. Closing

Criminal legal responsibility in eradicating online gambling crimes that endanger the community has been explained in the Criminal Code 303 which is subject to criminal sanctions in the form of "(1) Threatened with a maximum imprisonment of ten years or a maximum fine of twenty-five million rupiah in conjunction with (Juncto/layered article) Law Number 19 of 2016 concerning Information and Electronic Transactions Article 45 paragraph (2) Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain gambling content as referred to in Article 27 paragraph (2) shall be punished with a maximum imprisonment of 6 (six) years and/or a maximum fine of IDR 1,000,000,000.00 (one billion rupiah). The suggestion is to further emphasize the implementation of legal responsibility in eradicating online gambling because in reality this regulation cannot be enforced properly, there are still many online gambling applications that are easily accessible, besides that there must be cooperation with the Ministry of Communication and Information to block online gambling sites so that it can minimize and will further reduce the many negative impacts of online gambling such as The moral and spiritual values that exist in him will be further eroded, because when what he wants he cannot get, and because of the urge to gamble or his debt, the perpetrator will justify any means to get money even if it means eliminating the values of truth, goodness and religion in him.

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⁴⁰Zurohman.,A., Astuti.,T.,M.,P., and Sanjoto.,T.,B.,(2019) The Impact of Online Gambling Phenomenon on the Weakening of Social Values in Adolescents (Study at Campusnet Data Media, Sadewa Branch, Semarang City), Social Sciences Study Program, Postgraduate, Semarang State University, Indonesia, Journal of Educational Social Studies, Semarang, Volume 5 Number 2, P. 2.

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