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# Analysis of online gambling crime prevention policies according to positive law and Islam in Indonesia

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**Abstract:** The development of information technology, especially the internet, has had a significant impact on various aspects of human life, including the increasing prevalence of online gambling in Indonesia. This research aims to analyze the policies for combating online gambling crimes based on positive law in Indonesia and the perspective of Islamic law. Using a normative legal method with a library approach, this research analyzes legislation, academic journals, and related legal literature. The research results show that although Indonesia has regulated online gambling through the Criminal Code (KUHP) and the Electronic Information and Transactions Law (ITE), the existing policies still face challenges in terms of implementation and supervision. The rapid development of technology and the cross-border nature of online gambling are the main obstacles in addressing the issue. In the perspective of Islamic law, online gambling is considered haram because it contains elements of speculation and harms society. Therefore, the Islamic legal approach emphasizes prevention, education, and rehabilitation. The recommendations put forward include updating regulations to be more responsive to new technologies, enhancing law enforcement capacity, and strengthening rehabilitation programs for offenders. This research is expected to contribute to the development of more effective policies in addressing online gambling in Indonesia.

**Keywords**: Online gambling, positive law, Islamic law

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#### Introduction

The development of technology and information, especially the internet, has had a very wide impact on various aspects of human life. The internet not only serves as a means to support progress in the fields of economy, education, and communication, but also opens up opportunities for activities that contradict legal and social norms (Hermawanto & Anggrani, 2020). This phenomenon makes the internet a double-edged sword; on one hand, it provides benefits for the welfare of society, but on the other hand, it also increases the potential for criminal activities (Ariyaningsih et al., 2023). One of the negative impacts of this technological development is the emergence of online gambling, which is increasingly rampant in Indonesia (Isnaini, 2017). Online gambling has now become a new trend that attracts many people, including in the form of online slot games and lottery, which can be easily accessed through digital devices.

Online gambling crimes are a form of crime that has emerged from the development of the cyber world (cybercrime). This crime is increasingly developing along with the rising accessibility of the internet and advancements in digital technology that enable online transactions (Yulianto et al., 2022). In a sociological perspective, crime is a product of society itself, so the higher the level of intellectuality in a society, the more complex the crimes occurring within it. Online gambling is a



Herdy Pratama Susantyo, Gadman Futor Abdillah, Mochammad Taufik Sanhaji, Muhammad Romzi, Muhammad Erfandi

concrete example of how technology can be used for illegal activities that are difficult to control due to their cross-border and anonymous nature (Lubis et al., 2023).

From the perspective of positive law in Indonesia, online gambling falls into the category of criminal offenses regulated by the Criminal Code (KUHP) as well as several other regulations, such as the Electronic Information and Transactions Law (UU ITE) and Government Regulations governing gambling (Rachman et al., 2023). The state has issued policies in an effort to combat online gambling through various approaches, including legal, social, and technological aspects. Law enforcement against online gambling perpetrators involves criminal sanctions in the form of imprisonment and significant fines as a means of prevention and enforcement.

In addition to violating positive law, online gambling also contradicts social norms and religious values (Bobby Ferly, 2023). From an Islamic perspective, gambling (maisir) is strictly prohibited because it contains elements of speculation and uncertainty that can harm both individuals and society at large (Jamaluddin & Zahid, 2023). The Qur'an explicitly prohibits all forms of gambling, as mentioned in Surah Al-Ma'idah verses 90-91, which explain that gambling is an act of Satan that can cause enmity and distracts people from their obligation to worship Allah. Therefore, the Islamic legal approach to tackling online gambling places more emphasis on prevention, education, and rehabilitation of offenders so that they can return to a better life. Thus, this research will analyze the policies for combating online gambling crimes based on positive law in Indonesia as well as the perspective of Islamic law. This study aims to identify the effectiveness of regulations implemented by the government in addressing online gambling, as well as to provide an Islamic perspective on tackling this crime. The hope is that this research can provide academic contributions as well as useful recommendations for the government, law enforcement, and society in facing the challenges of online gambling in the digital era.

#### Method

This research uses the normative legal method or library research, which focuses on the analysis of legal policies through the study of legislation, academic journals, and related legal literature (Mahanum, 2021). This method was chosen to obtain a comprehensive understanding of the policy for combating online gambling crimes based on positive law and Islam (Stirling & Powell, 1986). The data used consists of primary and secondary legal materials. Primary legal materials include the Criminal Code, the Electronic Information and Transactions Law, and related government regulations. Secondary legal materials include books, scientific journals, and previous research, while legal materials such as legal dictionaries and encyclopedias serve as additional references. Data processing is conducted qualitatively using descriptive analysis methods to understand policy patterns and their effectiveness in addressing online gambling. The source triangulation technique was applied to ensure data validity by comparing various legal documents and scientific literature from credible sources (Susanto et al., 2023). This research aims to examine the effectiveness of policies implemented to combat online gambling and their alignment with Islamic legal principles, in order to provide recommendations for policymakers in formulating more effective handling strategies.

#### **Results and Discussion**

# Analysis of online gambling mitigation policies: perspectives of positive law and islamic law

Online gambling in Indonesia has become an increasingly developing issue in line with the rapid advancement of technology and internet accessibility. To address this issue, Indonesia has implemented various policies through the application of positive law, such as the Criminal Code (KUHP) and the Electronic Information and Transactions Law (UU ITE), as well as other government

Herdy Pratama Susantyo, Gadman Futor Abdillah, Mochammad Taufik Sanhaji, Muhammad Romzi, Muhammad Erfandi

regulations (Luthfi, 2021). This positive law aims to tackle online gambling with a focus on prevention, enforcement, and rehabilitation.

The Indonesian Penal Code (KUHP) categorizes gambling as a criminal offense that can be punishable by imprisonment and fines (Zainal, 2016). The articles in the Criminal Code related to gambling are used as the basis for law enforcement to prosecute gamblers, both conventional and online. However, with the rapid development of technology, the existing regulations are deemed less effective in addressing the phenomenon of online gambling that can be easily accessed through the internet and digital platforms. Moreover, the implementation of the ITE Law, which provides a legal basis for taking action against online gambling transactions, also faces challenges, especially in terms of monitoring and shutting down gambling sites, which often proves ineffective. Closed gambling sites are often replaced by new sites that emerge quickly, and the use of technology such as VPNs allows perpetrators to hide their identities and locations.

Another challenge is the lack of optimal supervision. The wide and affordable accessibility of the internet allows the public to easily access online gambling platforms. Although there are policies to shut down gambling sites, these measures are often not effective enough to prevent the rapid growth of online gambling. Moreover, the existing regulations, although they cover several legal aspects, have not fully addressed the issues of online gambling that continue to evolve with technological innovations. There is a need for legal updates that are more adaptive to the changing times and technological advancements.

In the perspective of Islamic law, gambling (maisir) is strictly prohibited because it contains elements of uncertainty that harm individuals and society. The Qur'an states in Surah Al-Ma'idah verses 90-91 that gambling is an act of Satan that can cause enmity among people and distance them from their obligation to worship Allah (Sumadi et al., 2024). Therefore, Islamic law views gambling as an act that not only violates religious norms but also disrupts the social and moral order of society. This perspective emphasizes that online gambling should be viewed as a deeper issue than just a legal violation; it also impacts social and spiritual damage.

The Islamic legal approach places more emphasis on prevention and education. Islam teaches to prevent harm before it occurs, and for that reason, a preventive and educational approach is very important in addressing online gambling. This approach includes social campaigns based on religious teachings, aimed at raising public awareness about the dangers of gambling and its impact on the lives of individuals and families. In addition, Islam also prioritizes rehabilitation for offenders. This rehabilitation approach does not only focus on punishment, but more on moral improvement and social recovery for gambling offenders. Therefore, rehabilitation becomes an important part of addressing online gambling, where offenders are given the opportunity to repent and return to a better life.

Although Indonesia's positive law policy already encompasses Positive law focuses more on enforcement with criminal penalties as an effort to provide a deterrent effect, while Islamic law emphasizes prevention and moral rehabilitation in the criminalization of gambling. There are differences in approach between positive law and Islamic law. Positive law policies need to be balanced with more humanistic principles of Islamic law, which prioritize moral education and rehabilitation. In this context, Indonesia can consider incorporating Islamic law perspectives into the formation of more comprehensive policies, with a more holistic approach based on religious values.

Overall, the online gambling mitigation policy implemented by Indonesia through positive law has shown good efforts, but it still needs improvement to be more effective. The development of technology and the nature of online gambling, which can adapt quickly, demand more flexible and adaptive regulations. The Islamic legal approach, with an emphasis on prevention, education, and rehabilitation, can be an effective complement in addressing online gambling issues, especially by integrating strong moral and social values. The combination of positive legal policies that are

Herdy Pratama Susantyo, Gadman Futor Abdillah, Mochammad Taufik Sanhaji, Muhammad Romzi, Muhammad Erfandi

responsive to technological developments and Islamic legal principles that emphasize social rehabilitation can create more sustainable and effective solutions in addressing the challenges of online gambling in Indonesia.

### Analysis of the effectiveness of positive legal policies

The effectiveness of positive legal policies in tackling online gambling in Indonesia still faces various challenges, despite serious efforts from the government in implementing related regulations. In general, the existing regulations, such as the Criminal Code (KUHP) and the Electronic Information and Transactions Law (UU ITE), provide a strong foundation for law enforcement against online gambling. However, the effectiveness of these policies in addressing online gambling issues still needs further evaluation, especially due to the rapid development of technology and the ways perpetrators evade legal detection.

In terms of law enforcement implementation, the existing regulations do provide a sufficient legal basis for law enforcement officers to address online gambling. The Criminal Code criminalizes gambling as a crime, while the Electronic Information and Transactions Law provides a basis for taking action against transactions conducted online. However, in practice, the effectiveness of this policy is hindered by several factors. First, the proliferation of online gambling is closely related to advancements in information technology that allow perpetrators to operate anonymously, whether by using VPNs, encryption applications, or rapid domain changes. This makes law enforcement through site blocking or identifying perpetrators very difficult. Although blocking gambling sites has been carried out, new sites with different addresses often appear within a short period, making the resistance against online gambling tend to be temporary and not fully resolve the issue.

In addition, the existing legal framework still does not fully encompass the latest technological developments. The regulations often lag behind the rapid pace of innovation in the digital world, allowing new platforms to emerge. The closure of gambling sites by the government and internet service providers (ISPs) can indeed reduce public access, but this measure does not address the root of the problem. Online gambling transactions that occur through applications or social media, which are more integrated into people's daily lives, often go undetected, even though these are the main channels for the circulation of gambling.

On the other hand, a major challenge in enforcing online gambling laws is the limited human resources available to monitor and supervise online transactions (Kristiyanto, 2019). The limited number of experts in the field of information technology and law enforcement related to cyberspace poses a significant obstacle in tackling this internet-based crime. Although the police and other related institutions have made efforts to train officers in the field of cybercrime, the constantly changing technology makes the law enforcement process less than optimal.

Social and cultural barriers also affect the effectiveness of this policy. Gambling, although prohibited by law and social norms, is often considered a form of entertainment or a way to quickly earn money by some segments of society (Karli et al., 2023). A more permissive view of gambling hinders stricter prevention and control efforts. Moreover, the lack of public awareness regarding the dangers of online gambling, especially among younger internet users, poses a significant challenge in implementing preventive policies.

In order to enhance the effectiveness of positive legal policies towards online gambling, a more comprehensive approach is needed, by integrating regulations that are more responsive to technological developments, strengthening the supervision of online transactions, and improving the capacity of human resources involved in law enforcement. In addition, education and socialization to the public regarding the dangers of online gambling must also be strengthened, considering the important role of the community in supporting the prevention of this crime (Manalu, 2019). Thus, although the existing policies are quite good as a legal basis, their implementation requires

Herdy Pratama Susantyo, Gadman Futor Abdillah, Mochammad Taufik Sanhaji, Muhammad Romzi, Muhammad Erfandi

strengthening to be more effective in addressing the increasingly complex and evolving issue of online gambling.

# Review of islamic law perspective in addressing online gambling

A review of the Islamic legal perspective on tackling online gambling involves an approach that differs from positive law (Kesuma, 2023). Islam, in its view, does not only see gambling as a crime that must be punished, but further teaches prevention, education, and rehabilitation as the main steps to address the social problems caused by online gambling.

Prevention and education are the two main pillars in the Islamic legal approach to online gambling. In the Islamic perspective, preventing harm is better than treating it, and this is reflected in the emphasis of religious teachings to keep the community away from any activities that can harm individuals or society, including gambling. Islam teaches that gambling is a forbidden (haram) act, which contains elements of speculation, uncertainty, and losses, both material and social. Therefore, prevention becomes the main priority in efforts to combat online gambling. For that reason, Islam encourages comprehensive educational campaigns in society regarding the dangers of gambling, both from religious and social perspectives. This education can be conducted through various channels, such as religious teachings in mosques, schools, mass media, and digital platforms, to provide a deeper understanding of the negative consequences of gambling. In Islamic teachings, the importance of maintaining moral integrity and faith serves as the main foundation in prevention efforts (Hilmin & Noviani, 2023). Teaching the community to recognize and understand the risks of online gambling, such as addiction, financial loss, and social impact, is key in fostering a preventive attitude towards this crime. Furthermore, the preventive approach in Islam goes beyond just counseling and education, but also includes strengthening social and religious norms at the community level. A society that strongly upholds religious and social values will find it more difficult to fall into the temptation of gambling. Therefore, Islam teaches the importance of strengthening social bonds based on moral values, such as honesty, hard work, and mutual care, which will reduce the potential for individuals to engage in gambling practices. In this way, the prevention of online gambling will be more effective, as society can more easily identify and avoid behaviors that contradict religious teachings.

The rehabilitation approach is also an integral part of the Islamic legal perspective in addressing online gambling. Islamic law views that individuals involved in crime should not only be punished, but more importantly, the focus is on how to bring them back to the right path (Makhrus Munajat, 2019). Rehabilitation in Islamic law does not only talk about punishment as a deterrent effect, but more about the restoration of the perpetrator's morals and ethics so that they can contribute positively to society again. In the context of online gambling, rehabilitation includes efforts to improve the behavior of the offenders with a more humane approach. This can be done through counseling, spiritual guidance, and intensive religious education, aimed at changing the mindset and behavior of individuals involved in gambling. In many cases, individuals caught up in gambling often experience psychological and emotional problems, such as addiction and feelings of depression. Therefore, rehabilitation based on Islamic values aims to provide individuals with an understanding of the negative impact of gambling on their lives, families, and society. This rehabilitation also involves a process of remorse (repentance) and guidance to improve morals, as well as returning individuals to the right path in accordance with Islamic teachings.

The rehabilitation approach in Islamic law also pays more attention to the social aspects of individuals involved in online gambling. This means that in addition to personal rehabilitation, the perpetrator also needs to be encouraged to reintegrate into social life in a more positive way. For example, through constructive activities such as social service, preaching, and community empowerment programs. This aims to improve the social life of the individuals while simultaneously reducing the likelihood of them getting involved in gambling practices again. Thus, the Islamic legal

Herdy Pratama Susantyo, Gadman Futor Abdillah, Mochammad Taufik Sanhaji, Muhammad Romzi, Muhammad Erfandi

perspective on addressing online gambling places more emphasis on preventive and rehabilitative approaches, rather than on repressive enforcement. Prevention through in-depth education and the strengthening of social and religious morality is the main step to avoid the occurrence of online gambling, while rehabilitation aims to correct the offenders and return them to the right path. This approach can provide a more holistic and humane solution in addressing online gambling, which not only prioritizes punishment but also long-term recovery and improvement for individuals and society.

#### Weaknesses and strengths of existing policies

The existing online gambling mitigation policy in Indonesia has various strengths and weaknesses that need to be analyzed to improve its effectiveness. The weaknesses of this policy lie in several aspects, particularly in terms of implementation and supervision. Although there is already a strong legal basis through the Criminal Code (KUHP) and the Electronic Information and Transactions Law (UU ITE), this policy still has not been able to effectively address the problems caused by online gambling. One of the main weaknesses is the lack of adequate supervision over transactions and rapidly growing gambling sites. The technology used by gambling operators, such as VPNs and encryption applications, allows them to evade monitoring and the closure of identified sites. With the emergence of new gambling sites shortly after the block, the site closure policy feels temporary and less effective in the long run. In addition, the limited human resources in the field of cybercrime also pose an obstacle in maximizing law enforcement.

Moreover, existing policies are often not sufficiently responsive to the rapidly evolving dynamics of technology. In this context, the rapid development of information technology often precedes the updating of legal regulations, causing existing regulations to lag behind and fail to keep pace with the changes. The lack of coordination between the government, internet service providers, and the private sector is also one of the obstacles in creating effective policies. However, the existing policies also have several strengths that need to be appreciated. One of its main strengths is the strict enforcement of criminal penalties, both in the form of imprisonment and heavy fines. This approach is expected to deter online gambling offenders and the general public. This clear and severe punishment sends a strong signal that the government is serious about tackling online gambling.

In addition, this policy also involves various parties in the mitigation efforts, including the government, the community, and the private sector. The government, through the police and related agencies, continues to strive to shut down gambling sites and conduct outreach to the community. The private sector, especially internet service providers, are also involved in monitoring and blocking gambling sites. The involvement of various parties shows a collaborative effort in addressing online gambling, which can strengthen policy implementation.

The existing regulations have also started to adapt to the times, although not fully. The existence of the ITE Law provides a legal basis for addressing online transactions related to online gambling, which shows progress in tackling internet-based crimes. Although there is still much room for improvement, this policy shows that Indonesian law is striving to keep up with technological developments by formulating regulations that are more relevant to the current digital conditions. Overall, although the existing policy has some weaknesses in terms of implementation and supervision, it also has fundamental strengths in terms of the application of strict criminal penalties and the involvement of various parties. The refinement of policies that are more responsive to technological developments and the enhancement of human resource capacity in law enforcement will increase the effectiveness of these policies in combating online gambling.

#### Policy recommendations and improvement steps

Based on the analysis that has been conducted, a number of policy recommendations and improvement measures can be proposed to strengthen the response to online gambling in Indonesia.

Herdy Pratama Susantyo, Gadman Futor Abdillah, Mochammad Taufik Sanhaji, Muhammad Romzi, Muhammad Erfandi

These recommendations include improving existing regulations, strengthening law enforcement, and adopting a more holistic approach that incorporates Islamic legal perspectives. First, to enhance the effectiveness of existing positive legal policies, it is important for the government to update and refine the existing regulations to be more responsive to the developments in digital technology. This update must include adjustments to the new methods used by online gambling operators, such as transactions using cryptocurrency, encryption applications, and social media platforms that often serve as the main channels for gambling. The formulation of regulations that are more adaptive to new technologies will help law enforcement agencies identify and take action against online gambling operators more effectively. In addition, the update of monitoring and surveillance systems, including the use of technology to detect illegal transactions, is also highly necessary.

Second, there is a need to strengthen the capacity of human resources in the field of cybercrime law enforcement. This includes more intensive training for law enforcement officers in the field of information technology and digital systems. In addition, improving coordination among related agencies, such as the government, internet service providers, and law enforcement agencies, will strengthen joint efforts in addressing the issue of online gambling. Efforts are also needed to strengthen international cooperation given the often cross-border nature of online gambling. From the perspective of Islamic law, these improvement measures should also include a more holistic approach, including increasing religious awareness among the community. Counseling and education based on Islamic teachings can be conducted through various channels, such as mosques, schools, and digital media, with the aim of increasing public understanding of the prohibition of gambling and the dangers it poses. This approach does not solely rely on punishment, but rather emphasizes prevention by strengthening religious values in daily life. Furthermore, the implementation of rehabilitative punishment also needs to be considered. Islamic law views rehabilitation as part of the solution to social problems, including online gambling. Therefore, instead of solely prioritizing repressive criminal sanctions, it is important to provide rehabilitation facilities for online gambling offenders. This rehabilitation program can include counseling, spiritual training, and social activities aimed at improving behavior and moral recovery of the offenders, as well as guiding them back to the right path. This will provide a more humane approach based on long-term recovery for the individuals involved. Finally, the role of religious communities is very important in supporting efforts to combat online gambling. Society and religious institutions can play an active role in creating a conducive environment for preventing gambling through religious activities, moral education, and outreach that touches on spiritual and social aspects. Success in tackling online gambling does not only depend on policies and law enforcement but also on cultural changes and public awareness of the importance of maintaining moral and social integrity in line with religious teachings. With these measures, it is hoped that the online gambling prevention policy in Indonesia will become more effective and comprehensive, as well as in line with religious values that can support the creation of a safer and more prosperous society.

#### Conclusion

Addressing online gambling in Indonesia through positive law faces challenges in terms of implementation and supervision, especially due to rapid technological advancements and the anonymous nature of gambling. Although existing regulations, such as the Criminal Code and the Electronic Information and Transactions Law, have addressed this issue, their effectiveness remains limited. In the perspective of Islamic law, online gambling is haram and requires a more preventive approach, such as education and rehabilitation. The recommendations of this research include updating regulations to be more responsive to technology and strengthening rehabilitation programs, as well as integrating value-based religious approaches to more effectively prevent and address online gambling.

Herdy Pratama Susantyo, Gadman Futor Abdillah, Mochammad Taufik Sanhaji, Muhammad Romzi, Muhammad Erfandi

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