

Juridical Analysis of Online Gambling as a Challenge to Realizing Inclusive Digital Transformation in Indonesia

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Abstract

In the era of rapid digital transformation, digital inclusivity has become a crucial pillar of national development, ensuring equitable access to technology for all members of society. However, the widespread phenomenon of online gambling in Indonesia poses a serious challenge to achieving this goal. This study aims to juridically analyze online gambling practices as a structural barrier to realizing inclusive digital transformation. Using a normative legal research method with conceptual and statutory approaches, this study examines the weaknesses in the existing legal framework, particularly in the implementation of the ITE Law and the Criminal Code. It also evaluates law enforcement challenges in the context of transnational and anonymous cybercrimes. The analysis shows that overlapping regulations, limited international cooperation, insufficient monitoring technology, and low public digital literacy are the main obstacles in combating online gambling. Furthermore, the predominantly repressive legal approach is deemed inadequate to meet the need for a safe and inclusive digital transformation. Therefore, adaptive and collaborative regulatory reform is necessary, including strengthening digital literacy, establishing a protection system for vulnerable groups, and enhancing inter-agency and international cooperation. This study recommends a more holistic digital legal policy reform as a foundation for creating a digital ecosystem that is fair and free from the threat of online gambling.

Keywords: *Digital Transformation; Inclusivity; Online Gambling; Law Enforcement; Digital Literacy; Cyber Regulation; Transnational Crime*

INTRODUCTION

In the era of rapid digital transformation, information and communication technology (ICT) has become a fundamental pillar across various aspects of life, including social, economic, and governmental domains [1]. This transformation promises digital inclusivity, wherein every individual is granted equal access and opportunities to participate in the digital ecosystem. Inclusive digital transformation constitutes a critical foundation for modern nation-building, ensuring technology access for all levels of society without exception [2]. However, the proliferation of online gambling in Indonesia presents a serious challenge to achieving this goal. Online gambling frequently targets or undermines the economic stability of vulnerable groups, particularly those with limited digital literacy, thereby directly impeding the equitable distribution of digital benefits. Previous studies have demonstrated that online gambling is widespread due to its accessibility through applications and social media platforms, triggering adverse socio-economic consequences, especially for vulnerable groups such as students and low-income communities. Furthermore, the aggressive promotion of such activities through social media, in the absence of effective oversight, exacerbates public exposure to online gambling.

Regarding regulation, Indonesian law has prohibited online gambling through Article 27 (2) and Article 45 of the ITE Law (2024 amendment), but research indicates that the effectiveness of current law enforcement remains low. For example, in practice, the criminal threat in the ITE Law is lighter than in Article 303 of the Criminal Code, which provides less of a deterrent effect on perpetrators. On the other hand, inter-agency coordination and content monitoring technology are still not optimal, especially when gambling perpetrators operate from abroad using foreign platforms.

From a sociological and juridical perspective, most research highlights either positive legal aspects or social impacts, but few studies integrate an analysis of digital inclusivity within the context of equitable access to technology. Digital literacy has been proposed as a mitigation approach to reduce online gambling addiction, but it has not yet been integrated into an inclusive legal framework and digital transformation policy.

Previous research shows that the ease of access and anonymity offered by the internet have driven a significant surge in the number of online gambling users [3]. This phenomenon not only causes individual financial losses but also has broad social and psychological impacts, such as addiction, financial problems, and an increase in crime rates. From a legal perspective, online gambling poses new complexities due to its transnational and dynamic nature, which often exceeds existing jurisdictions and regulatory effectiveness [4].

In the era of rapid digital transformation, information and communication technology (ICT) has become a key pillar in various aspects of life, including social, economic, and governmental sectors [1]. This shift promises digital inclusivity, where every individual has equal access and opportunity to participate in the digital ecosystem. Inclusive digital transformation is a crucial pillar in the development of a modern nation, ensuring technology access for all members of society without exception [2]. However, the proliferation of online gambling in Indonesia presents a serious challenge to achieving this goal. Previous research has shown that online gambling is widespread due to its easy accessibility through applications and social media, and it triggers detrimental socioeconomic impacts, especially on vulnerable groups such as students and low-income communities. Additionally, aggressive promotions through social media without effective oversight further exacerbate public exposure to online gambling.

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addiction, financial problems, and an increase in crime rates. From a legal perspective, online gambling poses new complexities due to its transnational and dynamic nature, which often exceeds existing jurisdictions and regulatory effectiveness [4].

Therefore, this study aims to juridically analyze the phenomenon of online gambling as a fundamental challenge in realizing an inclusive digital transformation. This analysis will focus on the existing legal framework in Indonesia, the challenges of law enforcement in dealing with this cybercrime, and the urgency of developing adaptive and proactive regulations. Thus, this research is expected to make a significant contribution to the formation of effective policies for eradicating online gambling, while also ensuring that digital transformation can proceed safely, equitably, and inclusively for all members of society.

METHOD

This study uses a normative legal research method with a conceptual approach and a statute approach. The conceptual approach is used to review and analyze legal concepts relevant to the problem, namely online gambling, digital transformation, and inclusivity. Meanwhile, the statute approach is used to identify and examine related laws and regulations, such as Law No. 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 concerning Information and Electronic Transactions (ITE), as well as other implementing regulations [5].

The type of data used is secondary data, consisting of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations. Secondary legal materials include research findings, scientific journals, and books relevant to the research topic. Tertiary legal materials are legal dictionaries and encyclopedias. All data are collected through a literature review and analyzed qualitatively. The data analysis is performed by interpreting, identifying, and elaborating on the relationships between legal concepts to address the existing problems. The overall method aims to gain a deep understanding of the legal issues related to online gambling in the context of inclusive digital transformation and to formulate concrete policy recommendations [5],[6].

RESULTS & DISCUSSION

1. Indonesian Legal Regulations Governing Online Gambling in the Context of Digital Transformation

Indonesia's legal framework for regulating and addressing online gambling has been established through several legislative instruments, but it has not been fully effective in responding to the dynamics of evolving digital crime. Normatively, gambling is regulated in Article 303 of the Criminal Code (KUHP) and Article 27 paragraph (2) in conjunction with Article 45 paragraph (2) of Law No. 1 of 2024 concerning the Second Amendment to Law No. 11 of 2008 concerning Information and Electronic Transactions (ITE). The Criminal Code regulates the general prohibition of gambling, while the ITE Law serves as the main legal basis for gambling crimes in the digital space. However, the overlap between these two instruments often creates a duality in legal application that actually hinders enforcement effectiveness [7].

In practice, law enforcement officials more often use Article 303 of the Criminal Code because it is deemed to impose a heavier sentence, even though the *locus delicti* is in the digital space. In principle, according to *lex specialis derogat legi generalis*, the ITE Law should be the primary reference for prosecuting technology-based crimes. This inconsistency reflects a

structural weakness in the national legal system, which has not been fully able to adapt to the characteristics of cybercrimes like online gambling [4].

However, in the context of highly dynamic digital transformation, this legal framework faces several significant challenges. First, the enforcement of laws against online gambling sites is often hampered by the transnational nature of the internet. Many servers and operators of online gambling sites operate outside of Indonesia's jurisdiction, which complicates the process of prosecution and the extradition of perpetrators [8]. Second, the existing legal framework focuses more on prosecuting service providers and perpetrators, while aspects of prevention and rehabilitation for victims or gambling addicts have not been comprehensively accommodated. Existing regulations do not specifically regulate preventive measures, public education, and protection for vulnerable communities [9].

In addition to normative issues, challenges in law enforcement also arise from technical and institutional aspects. The lack of digital forensics capacity, limited cross-border cooperation, and a weak online content monitoring system mean that efforts to eradicate online gambling are often reactive and partial. Many gambling sites that have been blocked by the Ministry of Communication and Digital (Komdigi) reappear with new domains, indicating that a purely repressive approach is not sufficient to address this crime comprehensively [10].

On the other hand, from the perspective of inclusive digital transformation, online gambling practices actually widen the gap in digital access and security. Communities with low digital literacy are the most vulnerable to exposure to online gambling promotions, especially through social media and disguised advertisements. The absence of regulations that emphasize the protection of vulnerable groups shows that Indonesia's digital legal policies are not fully aligned with the principle of inclusivity. This has the potential to hinder the goal of equitable and widespread digital development for all members of society [11].

Furthermore, there is a lack of integration between criminal law policy and digital literacy as a preventive strategy. In the context of digital crimes such as online gambling, legal protection should not only be repressive but also educational and promotional. Inclusive digital transformation demands a legal framework that not only prosecutes perpetrators but also empowers society to understand and protect themselves from potential digital risks. Therefore, there is a need for more adaptive, collaborative, and digital justice-oriented regulatory updates as the main foundation for inclusive digital transformation.

2. The Legal Challenges Faced by Law Enforcement in Combating Online Gambling

The juridical challenges faced by law enforcement in eradicating online gambling in Indonesia are highly complex, primarily due to two key characteristics: its cross-border (transnational) nature and the anonymity of perpetrators. These factors significantly diminish the effectiveness of law enforcement, despite the relative adequacy of the existing legal framework. International legal conventions, such as the Macolin Convention or the Convention on the Manipulation of

Sports Competitions (MLA), adopted by the Council of Europe in 2014, were specifically designed to regulate and address manipulation in sporting events, including through illegal online gambling practices. However, Indonesia has not yet ratified this convention, rendering its provisions neither directly applicable nor legally binding within the national jurisdiction. Nevertheless, the principles and international norms embedded in the MLA can serve as valuable

references for the development of national policies, particularly in addressing the proliferation of online gambling in Indonesia. Legally, Indonesia continues to rely primarily on its domestic legislative instruments, such as the Indonesian Penal Code (KUHP), the Electronic Information and Transactions Law (UU ITE), and various derivative regulations prohibiting gambling activities, including those conducted through electronic media. Therefore, while international conventions such as the MLA have not been formally adopted, their relevance remains significant in shaping national policy directions aligned with global efforts to combat transnational crimes, including online gambling. The integration of international norms into the national legal system may represent a strategic step in strengthening a more adaptive legal regime capable of responding to global challenges in the digital era.

a. Transnational Nature

Online gambling operates without territorial boundaries. The servers, operators, and even the bank accounts used are often located outside of Indonesia's jurisdiction. This creates a major obstacle in the investigation and prosecution process. Hidayat and Sugiarto (2019) explain that the main difficulty lies in the process of arresting perpetrators located abroad and the blocking or confiscation of assets not under Indonesian law. Although international cooperation mechanisms such as extradition and Mutual Legal Assistance (MLA) exist, the process is often time-consuming, complicated, and not always successful. Additionally, differences in jurisdiction and regulations between countries prevent Indonesian law enforcement from acting directly without the consent of the relevant country [8].

b. Anonymity of Perpetrators

The second characteristic is the anonymity facilitated by technology. The use of virtual private networks (VPNs), proxy servers, cryptocurrencies, and other digital payment methods allows perpetrators to conceal their true identities [12]. This anonymity makes it difficult for law enforcement to track digital footprints, identify perpetrators, and gather strong evidence. The lack of specific regulations regarding the use of digital assets like cryptocurrency in illegal activities also adds a legal loophole that online gambling perpetrators can exploit. The difficulty of penetrating these layers of anonymity often leads law enforcement to target only small players or end-users, rather than the major bookies or site operators who are at the core of the problem [13].

In the context of inclusive digital transformation, these challenges are even more relevant. People with low digital literacy often do not understand that their online activities are still in violation of national law. Without an educational and digital legal literacy approach, a deterrent effect on individual perpetrators and vulnerable communities is difficult to achieve and may even exacerbate the gap in secure digital access.

3. The Urgency of Legal Regulatory Reform to Ensure an Inclusive, Secure, and Gambling-Free Digital Transformation

The shortcomings of the Indonesian Penal Code (KUHP) and the Electronic Information and Transactions Law (UU ITE) in handling online gambling lie in their normative and technical limitations in confronting increasingly complex forms of digital crime. The KUHP, as a legacy of colonial-era legislation, does not specifically regulate online-based gambling. The provisions commonly applied to prosecute gambling offenders, such as Article 303 of the KUHP, only address conventional forms of gambling and fail to accommodate the cyber and cross-border

dimensions of online gambling. Consequently, law enforcement authorities encounter significant difficulties in prosecuting perpetrators who utilize digital platforms or operate from abroad. Meanwhile, the UU ITE does provide a legal basis for addressing illegal activities in the digital sphere; however, its application in the context of online gambling faces considerable challenges. One specific weakness of the UU ITE is the inaccurate classification of online gambling as an independent cybercrime offense. The law merely prohibits the distribution or access to gambling-related content (Article 27 paragraph 2), without encompassing other crucial aspects such as digital financial transaction mechanisms, the involvement of third parties (e.g., platform providers or payment gateways), and the organizational structure of transnational syndicates. Moreover, the UU ITE has not yet furnished sufficiently robust legal instruments to mandate international cooperation in prosecuting online gambling operators who are located beyond Indonesia's jurisdiction [13].

The urgency of adjusting legal regulations to online gambling practices is very high, considering the socioeconomic impacts and the digital access disparities it causes in society. Since the issuance of Law No. 1 of 2024 (a revision of the ITE Law), even though online gambling has been subject to criminal sanctions of up to 10 years in prison and a maximum fine of Rp 10 billion (Article 27 (2) in conjunction with Article 45 of the ITE Law), its implementation remains limited in practice and by institutions. This is evident from the high number of illegal sites that continue to emerge and change domains, as well as the appearance of more than 2 million gambling sites that have been blocked by Komdigi, showing that the current legal approach is not effective enough [4].

Adjusting regulations is crucial because of the nature of online gambling, where servers are located abroad, transactions use opaque financial methods, and digital technologies such as applications, VPNs, and aggressive promotional algorithms are exploited. The existing regulations do not yet capture aspects of fintech, the dominance of domains/electronic institutions, and the anonymous identities of perpetrators, which allows online gambling operations to continue even when sites are blocked [14].

Furthermore, this urgency also includes a systemic and inclusive approach through crossagency collaboration, which has so far been considered suboptimal. Coordination between the Ministry of Communication and Digital (Komdigi), the police, the Financial Services Authority (OJK), the Financial Transaction Reports and Analysis Center (PPATK), and international institutions has not been strategically integrated. Law enforcement proceeds in a partial manner without integrating regulations in the areas of digital finance, content monitoring, and criminal procedural law (KUHAP), which remains weak in accommodating cross-border electronic evidence [15].

Meanwhile, to promote inclusive digital transformation, the legal approach should ideally not only be repressive but also supplemented with digital literacy, legal education for vulnerable communities, and mechanisms for civilian complaints and reporting. Digital and financial literacy are the first line of defense in preventing people from easily getting trapped in online gambling. Without regulations that strengthen public education, people become more vulnerable to digital exploitation, making it difficult for them to enjoy the benefits of digital transformation safely and fairly.

The adjustment of legal regulations is an urgent need to address the challenges of online gambling and to ensure inclusive digital transformation in Indonesia. Without regulatory reform

efforts that involve inter-agency harmonization, modernization of criminal procedural law, and public literacy and education programs, vulnerable communities will remain in the most precarious position. Therefore, the government and legislature need to promptly formulate comprehensive and adaptive regulations to the dynamics of the digital world.

CONCLUSION

Based on the juridical analysis presented, it can be concluded that online gambling is a significant challenge in realizing inclusive digital transformation in Indonesia. Although the existing legal framework, particularly the ITE Law, provides a legal basis for prosecuting online gambling, its enforcement still faces various obstacles. The main challenges lie in the transnational nature and anonymity facilitated by technology, which make it difficult for law enforcement to track perpetrators, block sites, and confiscate assets located outside of national jurisdiction.

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