

## THE EFFECT OF GAMBLING ON THE OCCURRENCE OF PROPERTY CRIME

Gunawan Widjaja<sup>1a</sup>, Wagiman Martedjo<sup>1b</sup>, Yohanes Khristoforus<sup>2c</sup>

<sup>1</sup> Lecturer, Faculty of Law, 17 August 1945 University, Jakarta

<sup>2</sup> Student, Faculty of Law, University of 17 August 1945 Jakarta

[widjaja\\_gunawan@yahoo.com](mailto:widjaja_gunawan@yahoo.com),

[bwagiman.martedjo@uta45jakarta.ac.id](mailto:bwagiman.martedjo@uta45jakarta.ac.id) [cyohanestiwu30@gmail.com](mailto:cyohanestiwu30@gmail.com)

### Abstract

Gambling has long been a social problem that can have a significant impact on the lives of individuals, families and society as a whole. This study aims to analyse the effect of gambling on the incidence of property crime, both in terms of income and losses caused by gambling habits in society. The data used in this study were obtained from the North Jakarta Police. Gambling, which is an activity involving betting money or goods with results dependent on luck, is often associated with various forms of crime. Property crimes such as theft, robbery, and fraud can be triggered by an individual's dependence on uncontrolled gambling. In this research, it is carried out normatively where gambling is an act prohibited by law and anyone, be it a new gambler or a recidivist who commits gambling, is subject to criminal law sanctions. As a result of the influence of gambling, it creates criminal motives (such as theft, fraud, and embezzlement), weakens self-control to commit crimes, and causes losses to other people's property. Normatively, gambling is regulated by laws in Indonesia such as the Criminal Code (KUHP) Article 303, Regional Regulations (Perda). The results showed that although gambling can provide short-term benefits, in the long run, gambling addiction often causes losses.

**Keywords:** Gambling, Property crime, Addiction, Social impact, and Criminal behaviour

### INTRODUCTION

Gambling is an act or activity that is prohibited and considered highly contrary to legal, religious, and social norms by society. Gambling is one of the forms of social deviance that has existed for a long time, and this form of deviance has become a habit in some communities where gambling has negative impacts that disturb society. In Indonesia, gambling is regulated under criminal law, specifically the Criminal Code (KUHPidana) and special laws on gambling. The Criminal Code, Articles 303 and 303 bis, serve as the legal basis for criminal penalties related to gambling in Indonesia, stating that "Any person who intentionally offers or provides an opportunity to engage in gambling without permission, or makes gambling a means of livelihood, or intentionally participates in a gambling enterprise, shall be punished

with imprisonment for a maximum of ten years and a fine of up to twenty-five million rupiah” and in Article 303 bis of the KUHP, paragraph (1) “any person who participates in gambling on public roads or at the edge of public roads or in places accessible to the public, except with the permission of the competent authority that has granted permission to conduct such gambling, and paragraph (2) "If the offence is committed within two years of a previous conviction for any of these offences, the penalty shall be imprisonment for a maximum of six years or a fine of up to fifteen million rupiah"”, However, despite being prohibited by the Government through law enforcement as stipulated in the Criminal Code and the Special Law No. 7 of 1974 on the Regulation of Gambling, gambling activities that contravene legal norms continue to thrive, both conventionally and through online media, and even lead to further consequences such as crimes against property, including theft, fraud, extortion, embezzlement, and robbery. This has become a serious legal and social issue that requires normative analysis.

The negative impacts of gambling problems are not limited to various aspects such as economic and social aspects, but also contribute to an increase in property crimes. According to R. Soesilo (p. 222), "those who engage in gambling are punished under Article 303 of the Criminal Code, while those who participate in gambling are punished under Article 303 bis of the Criminal Code."<sup>2</sup> According to Andi Hamzah (2017, pp. 92-93), "crimes committed by stealing (Article 362 of the Criminal Code) against property are unlawful and committed with the element of intent."<sup>3</sup>

Law No. 7 of 1974 on the Regulation of Gambling, the text of which states: *“Considering a. that gambling, which is increasingly causing public concern, endangering public life and morality, and contrary to the principles of Pancasila, needs to be regulated; b. that in order to regulate gambling, it is necessary to enact a law on the regulation of gambling;”*<sup>4</sup> The Regulation of Gambling clearly emphasises that gambling practices are in stark contrast to the values and norms of society, such as religious values, decency, and Pancasila morals, and have the potential to endanger the lives of individuals and the state. Although the legal framework in Indonesia is very clear in prohibiting gambling, gambling continues to show rapid development, especially with the emergence of various modern forms of gambling, such as online gambling, which is increasingly accessible and popular among the public.

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<sup>1</sup>. Criminal Code (KUHPidana) Articles 303 and 303 bis on the prohibition and penalties for gambling

<sup>2</sup>. R. Soesilo (1991). *Criminal Code (KUHP) and its Commentaries*, Complete Article by Article, Bogor: Politea

<sup>3</sup>. Andi Hamzah (2017), *Indonesian Criminal Procedure Law*. Jakarta: Sinar Grafika Offset

<sup>4</sup>. Law No. 7 of 1974 on Declaring Gambling as a Crime

Gambling is a social disease that has existed for a long time and is very difficult to eliminate or eradicate in society and even within Indonesia itself. Gambling has progressed significantly and should be taken seriously, as it has a negative impact on those who engage in it.

Gambling is generally defined as an activity that involves using money or other valuables as bets with the intention of gaining as much profit as possible from the amount of money wagered at the outset, with the outcome depending on the luck of the gambler. This definition of gambling includes all forms of gambling that are popular among the public.

Such as animal fighting, such as cockfighting, sheep fighting and buffalo fighting, horse racing, dog racing, and more modern gambling games such as lottery, cards, games of skill, using machines such as dingdong, pinball, roulette and others, except those officially organised by government agencies or charities, are not considered gambling.

Gambling is considered a deviant behaviour and activity with extremely negative impacts, where the negative effects of gambling are far-reaching, not only affecting individuals (personal) involved but also spreading into the family sphere and broader social structures, such as society or social groups within the community, due to consequences that include family economic damage, financial instability, and disruption of public safety, such as criminal offences involving property or the gamblers themselves, thereby harming the individuals involved and causing distress to the surrounding community. In determining whether an act is prohibited or constitutes a criminal offence under a legal regulation, criminal law policy is used, which can be formulated and provide guidelines for the creation of laws and the enforcement of criminal law against perpetrators of gambling-related criminal offences in the form of criminal sanctions<sup>5</sup>. The effects of gambling provide guidelines on the loss of creativity, waste of time, and the most serious problems are depression, stress, and despair, where individuals engage in gambling driven by urgent economic needs, where people are required to have money to meet their daily family needs, while they lack sufficient financial resources due to a lack of job opportunities, mass layoffs by companies, and a high standard of living, which drives the desire to have a lot of money.

However, if the gambler fails to win the game, he will suffer a significant loss because he will lose his bet.

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<sup>5</sup>. Teguh Prasetyo (2019). *Criminalisation in Criminal Law*, Volume 2, Bandung: Nusa Media, p. 2

Crucially, gambling causes addiction among gamblers because uncontrolled gambling activities can influence a person's behaviour to commit crimes. Gamblers who lose in gambling will be driven to find capital by various means or to pay off gambling debts through illegal means by committing crimes, namely crimes against property. In general, gambling damages mental health.

Gamblers who become addicted to gambling and lose their bets become increasingly curious to play again, eventually spending all their money and possessions on gambling.

Ultimately, these gamblers will go to great lengths to obtain funds for gambling, resorting to illegal activities such as theft, robbery, and embezzlement, all of which are crimes related to gambling.

Crimes against property can occur as a result of economic pressures caused by excessive gambling. Meanwhile, those involved in gambling often suffer significant financial losses, which creates a strong incentive to commit crimes in order to obtain money or goods.

There is ample evidence showing a link between gambling addiction and increased criminal activity, particularly property crimes such as theft, robbery, fraud, and embezzlement. Various reports on criminal cases in Indonesia explicitly indicate that many incidents of property crimes are motivated by the urgent need to finance gambling habits or to pay off debts incurred from gambling.

The shift in the *modus operandi* of gambling from conventional forms to sophisticated online platforms presents complex legal and technical challenges. This development is not merely a change in media but a fundamental shift in the way this crime operates, directly testing the capabilities of traditional law enforcement, namely the existing and clear legal framework, despite efforts to adapt by incorporating the Electronic Information and Transactions Law (EIT Law)

on Electronic Information and Transactions (EIT Law) to online gambling. This issue demonstrates that static legal responses and enforcement will always lag behind.

According to Timbo Mangaranap Sirait (p. 92), technological and information developments are a double-edged sword. On the one hand, technological and information developments contribute to the improvement of welfare, progress, and human civilisation. On the other hand, technological and information developments have become an effective means of carrying out legal actions and have led to the development of new forms of crime, such as online gambling.<sup>6</sup>

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<sup>6</sup>. Timbo Mangaranap Sirait (2021), *Special Criminal Law in Theory and Its Enforcement*, Yogyakarta: Deepublish

The phenomenon of online gambling in Indonesia has been on the rise recently. To reduce and curb the high levels of online gambling in society, the Ministry of Communication and Information Technology (Kominfo) has blocked hundreds to thousands of gambling-related content since 2018 until 2023. Despite the significant efforts made by Kominfo to block gambling content, the demand for online gambling platforms remains high, indicating that gambling prevention efforts face serious challenges, both from the government through Law No. 19 of 2016 on the Amendment to Law No. 33 of 2009 on the Implementation of the 2004 Constitution of the Republic of Indonesia, which prohibits gambling, and online gambling platforms remain prevalent, indicating that efforts to combat gambling face serious challenges, both from the government through Law No. 19 of 2016 amending Law No. 11 of 2008 on Information and Electronic Transactions, and from society. Timbo Mangaranap Sirait stated, "Law No. 11 of 2008 was enacted to anticipate the misuse of criminal gambling activities in the ITE world and misuse in public (general) and private spaces, as well as to establish order and legal certainty in the world of technology and information and regulate its safe utilisation."<sup>7</sup> . The Electronic Information and Transactions Law No. 11 of 2006 was amended into Law No. 19 of 2016 amending Law No. 11 of 2008 on Electronic Information and Transactions.

In addition, gambling serves as a catalyst for social and economic disintegration within families. Various sources consistently describe the destructive impact of gambling on family stability and the economy, as well as the increase in property crime, compounded by the psychological coercion characteristic of addiction, creating a cycle of despair for those involved in gambling. This despair then becomes a strong motivator for individuals to resort to illegal means of committing property crime to obtain money.

Gambling causes financial stress, which in turn leads to crime. This is because addressing gambling addiction goes beyond the issue of criminal justice alone; it is a critical public health and social welfare issue. Effective interventions must be multi-faceted and not only include law enforcement but also strong public health initiatives for addiction treatment and comprehensive family support services. This holistic approach is essential to reduce the profound ripple effects of gambling on community well-being.

This phenomenon highlights the urgency of conducting an in-depth study on the influence of gambling on the emergence of property crime. This research will

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<sup>7</sup> Ibid

examine the issue from the perspectives of criminal law, criminology, and sociology with the aim of providing a comprehensive understanding and formulating more effective prevention strategies in Indonesia.

Given this phenomenon, it is important to understand how gambling influences the emergence of property crime in society and the destructive impact of gambling.

Therefore, this study aims to analyse in depth the criminal law framework in gambling to determine the extent and magnitude of the influence of gambling on the increase in gambling crimes and the emergence of property crimes in society, particularly among individuals involved in uncontrolled gambling activities, as well as to evaluate the effectiveness of law enforcement in combating gambling and related property crimes.

## **Research Method**

The type of research used in this study is normative legal research, through an approach that examines theories, concepts, and reviews legislation related to this study or a legislative approach and case studies. Normative legal research is legal research that places law as a system of norms.

The type of research was chosen because the researcher aims to examine everything related to the influence of gambling on the emergence of property crimes.

Based on the issues studied by the author, the author uses the *normative legal* method. The normative legal research method or legal literature research method is a method or approach used in legal research conducted by examining existing literature. Normative legal research, also known as legal literature research, is "legal research conducted by examining literature or secondary data only". Normative legal research is "legal research that places law as a system of norms. The system of norms referred to here concerns the principles, norms, and rules of legislation, court decisions, agreements, and doctrines (teachings).

From the perspective of its nature, this thesis is a descriptive legal research study aimed at accurately describing a particular condition, employing a prescriptive approach, and seeking to provide solutions or recommendations *for problem-solving*.

Data is information or material that can be used as a basis for study (analysis or conclusions). In a study, data is classified into Primary Data and Secondary Data. Primary Data is data obtained directly from the original source. Secondary Data is data obtained from official documents, books, research results in the form of reports, and so on.

The sources of data in this writing are as follows:

- 1). *Library Research*, where the author attempts to obtain and extract data from books related to this study. The places where this library research was conducted include
  - a. Law Faculty Library, University of 17 August 1945.
  - b. Books and legal literature owned by the author that are relevant to the research.

In legal research, there are three types of data required, the first type is called Primary Legal Materials, Secondary Legal Materials, and Tertiary Legal Materials, which are explained as follows:

1. Primary Legal Materials

Primary legal materials are legal materials that are authoritative in nature, meaning they have authority.<sup>58</sup> Primary legal materials consist of legislation, official records or minutes in the drafting of legislation, and court decisions. The primary legal material with the highest authority is the Constitution (UUD) because all regulations below it, both in content and spirit, must not contradict the Constitution. The next primary legal material is legislation.

Laws are agreements between the government and the people, and therefore have binding legal force for the administration of state affairs. Primary legal materials, in addition to legislation, which has authority, are court decisions. Court decisions are the concrete manifestation of legislation.

## DISCUSSION

The legal regulation of gambling in Indonesia is comprehensive and spread across several main laws. The Criminal Code (KUHP) through Articles 303 and 303 bis regulates gambling as a criminal offence, with a definition that includes games of chance or skill and varying penalties depending on the role of the perpetrator (organiser or gambler).

Under Law No. 7 of 1974, Articles 1, 2, and 3 on the Regulation of Gambling, the prohibition of gambling is reinforced by stating that all gambling-related criminal acts are crimes contrary to religion, morality, legal norms, and the moral principles of Pancasila, and pose a threat to the state. For online gambling, although not specifically regulated in the conventional Criminal Code, perpetrators of gambling can be prosecuted under the Information and Electronic Transactions Law (ITE Law), particularly Article 27(2) and Article 45(2), which impose criminal penalties for the dissemination of information containing gambling content. On the other hand, property crimes are detailed in the Criminal Code, covering various forms of violations of property rights. Types of property crimes include theft (Articles 362-367), extortion (Article 368), threats (Article 369),

embezzlement (Articles 372-376), fraud (Articles 378-405), destruction of property (Articles 406-412), and receiving stolen property (Articles 480-482). These crimes have essential elements, namely the intent to unlawfully possess property in theft, the use of violence or threats in extortion, or the control of another person's property not obtained through a crime in embezzlement. Substantive criminal law fundamentally establishes which acts are punishable, who can be held criminally liable, and what types of punishment are imposed on perpetrators of crimes against property.

The relationship between gambling and the emergence of property crime can be explained through several interrelated and reinforcing causal mechanisms as follows:

- a. Gambling, particularly online gambling, leads to severe addiction, which in turn causes significant financial losses. These losses become the primary motivator for individuals to commit property crimes. The purpose of committing property crimes is to obtain funds to continue gambling or to pay off accumulated debts.
- b. Gambling triggers deviant behaviour, including property crimes. These criminal acts are an individual's attempt to adapt or cope with the pressure experienced by gamblers. Research shows a strong statistical relationship between gambling problems and crime: the more severe a person's gambling problem, the greater the likelihood that they will commit a crime. More than 60% of gamblers commit crimes related to gambling, and the majority of these crimes are driven by the need for money to gamble or to pay gambling debts. This indicates that gambling can create a cycle where urgent financial needs resulting from gambling losses lead individuals to commit crimes, which in turn exacerbate their financial problems and trigger further criminal acts.
- c. Gambling behaviour and methods of obtaining money illegally can be learned and normalised through social interaction. Gambling behaviour exhibited by significant individuals in a person's environment can influence them to participate. In online gambling, this trend can develop among teenagers due to peer interactions and promotions by influencers who portray gambling as an easy way to make money, highlighting how deviant behaviour can spread through social processes, where individuals learn techniques and motivations to commit crimes from their environment.
- d. How do gamblers who are desperate due to losing at gambling rationalise criminal actions as the fastest and easiest way to obtain financial gain, even though it is risky? For some people facing economic difficulties, gambling is seen as an easy option to make money.



Due to urgent needs, perpetrators view property crimes as the only way to address their financial problems, even though they are aware of the legal consequences.

- e. How changes in routine and lifestyle due to gambling addiction can increase the likelihood of criminal behaviour, as someone addicted to gambling becomes unproductive at work, withdraws from family and friends. These behavioural changes create "motivated offenders" and increase exposure to suitable targets or reduce "vigilance," thereby facilitating property crimes.

## **CONCLUSION**

Based on the findings of the research and legal analysis presented above, the researcher can draw the following conclusions for this thesis:

1. Gambling is a criminal offence that is regulated in Article 303 of the Criminal Code and Law No. 7 of 1974. However, gambling continues to be prevalent both conventionally and online, indicating weak law enforcement against gambling in society.
2. Gambling has a strong causal relationship with the emergence of property crimes such as theft, fraud, extortion, embezzlement, and even robbery. Perpetrators of property crimes often commit criminal acts as a result of gambling addiction or economic pressure due to gambling losses.
3. Law enforcement against gambling offenders is not yet optimal and does not have a significant deterrent effect. Additionally, the lack of oversight and weak legal action against online gambling, as well as the minimal social rehabilitation available for gambling addicts, further contribute to this situation.
4. Based on theoretical analysis through a criminal law approach, gambling can be categorised as a root crime that triggers subsequent crimes, particularly crimes against property.

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Article 303 regulates gambling without a licence.

Article 303 bis Regulates gambling that is not a means of livelihood

Article 426 and 427 Regulating Gambling as a Criminal Offence  
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