



## **Victimology Review of Online Gambling Perpetrators in the Perspective of Indonesian Criminal Law**

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### **ABSTRACT**

Victimology is a science used to study victims. Following its meaning Victimology comes from the Latin word *victima* which means victim and *logos* which means scientific knowledge or study. The ease of access to gambling websites lures many people to try and get involved with online gambling. This study aims to discuss the victimization review of online gambling perpetrators from the perspective of Indonesian criminal law. This research is sociological legal research. Victimology in this regard is defined as a scientific study of victimization, including the relationships between victims and offenders, the interaction between victims and the criminal justice system. In conclusion, gambling is not justified regardless of its form in terms of playing cards, lottery, or slot gambling. Everyone involved in gambling, whether as a bookie or a gambler, must face legal consequences related to his actions.

### **1. Introduction**

Victimology is a science used to study victims. Following its meaning Victimology comes from the Latin word *victima* which means victim and *logos* which means scientific knowledge or study. Van Djik suggests that there are two main types of victimology, namely general victimology and criminal victimology where general victimology explains the meaning of victims in a broad sense such as those who are victims of war, natural disasters, or others, while subject criminal victimology from a criminological perspective in law explains merging. issues of the causes of crime concerning the role of the victim in the criminal process.<sup>1</sup>

In Indonesia, gambling is not foreign to ordinary

people. The ease of access to gambling websites lures many people to try and get involved with online gambling. Currently, online gambling can be done simply by registering a phone number. A person who gambles can experience compulsive gambling disorder. Gambling disorder is the uncontrollable urge to keep gambling despite the toll it takes on your life. Gambling means that you're willing to risk something you value in the hope of getting something of even greater value. Gambling can stimulate the brain's reward system much like drugs or alcohol can, leading to addiction.<sup>2</sup> If you have a problem with compulsive gambling, you may continually chase batches that lead to losses, hide your behavior,



deplete savings, accumulate debt, or even resort to theft or fraud to support your addiction. Where gambling addiction gives an uncontrollable desire even though it costs his life. Gambling means that someone sacrifices something of value to get something more and gambling is as addictive as alcohol, drugs, or cigarettes.

In the world of slot system gambling, there is a name for a bookie or a party that provides online gambling services. Bookies are a group of people who provide various facilities to gamble in many ways, some are through slots, soccer gambling, or various forms of gambling provided on a website. Gambling is illegal under the Criminal Code.<sup>3</sup> In article 303 paragraph (1) of the Criminal Code it is explained "Threatened with a maximum imprisonment of ten years or a maximum fine of twenty-five million rupiahs, whoever without obtaining permission: (1) intentionally offers or provides opportunities for gambling games and as a search, or knowingly participate in a company for it; (2) intentionally offering or allowing the general public to play gambling or intentionally participating in a company for that, regardless of whether to take advantage of the opportunity there are certain conditions or the fulfillment of certain procedures; (3) taking part in gambling games as a livelihood.<sup>3</sup>

A bookie can be sentenced to a criminal penalty of Article 303 paragraph (1) of the Criminal Code where they intentionally offer or provide the opportunity to play gambling, usually, people who are tempted to gamble online are offered via SMS or advertisements on the website to download something illegal such as pirated software or films.<sup>4</sup> Most of the reasons why players gamble online are just for fun. Although the reasons given by the perpetrators are just for fun, in reality, the perpetrators do gambling continuously. This is because the perpetrator has lost so there is a desire to win, and wants to try again. This study aims to discuss the victimization review of online gambling

perpetrators from the perspective of Indonesian criminal law.

## 2. Methods

This research is sociological legal research. Sociological legal research aims to determine the correlation between law and society. Because in this study the author directly conducts research on the location or place under study to provide a complete and clear picture of the problem under study. Thus, it is expected to be able to reveal the effectiveness of law enforcement in society and be able to identify unwritten laws that apply to society.<sup>2</sup>

## 3. Results and Discussion

### Victimology review of online gambling perpetrators

Victimology in this regard is interpreted as a scientific study of victimization, including the relationships between victims and their offenders, interactions between victims and the criminal justice system -- namely the police (and prosecutors) and agencies, judiciary, as well as corrections officials -- and the association of victims with other social groups, such as the media, business people, social movements.<sup>1,5</sup> In this study, someone who gambles is a victim of a bookie who offers to offer an invitation to invite victims to gamble on their website. a sweet invitation that finally someone has a curiosity to take part in these online gambling activities.<sup>6</sup>

But actually, this online gambling does not arise from an invitation from a bookie but also from how the surrounding environment makes someone interested in trying online gambling. This victimization theory is referred to as lifestyle theory, meaning that a person becomes a victim because of his lifestyle. People of certain demographics are more vulnerable to criminal victimization because their lifestyle has exposed them to risky situations. on the probability of a person an individual is found at a



certain location and at a certain time under certain circumstances to make contact with certain people.<sup>8</sup>

Lifestyle theory describes how this individual meets his friends in an area whose friends also often play online slot gambling, so he is tempted to join because there is a phenomenon commonly called fear of missing out (FOMO).<sup>7</sup> Feelings of FOMO that are left unchecked can trigger negative things such as fatigue, stress, depression, and even sleep problems. This feeling affects a person's dissatisfaction with their life and feeling that what they have done or had is never enough. Besides that, it can trigger the emergence of financial problems as mentioned in the symptoms above, someone is willing to spend a lot of money to stay up-to-date and not out of date. In this case, it is clarified in deviant place theory where individuals become victims because the surrounding environment in deviant place theory makes these individuals become victims unrelated to their lifestyle.<sup>8</sup>

In repeated victimization, there is a risk factor, especially those related to socio-demographic characteristics such as age, gender, area of residence, and alcoholism. This factor explains the repeated victimization influenced by place of residence and circle of friends. The factor of residence affects a person to gamble if his neighbors are gamblers. Even though these online gambling players are victims of other people's invitations, gambling players can still be made suspects by the law itself. Because of the principle of benefit which states that victim protection is not only aimed at achieving benefits (both material and spiritual) for victims of crime, but also the benefit of society at large. Therefore, efforts to reduce criminal acts are associated with the theory of responsibility, which states that essentially everyone must be held accountable for their legal actions, including criminal acts.<sup>9</sup>

### **The legal consequences of online gambling**

Gambling is defined by the Criminal Code (KUHP) article 303 paragraph 3 which reads "What is called a gambling game is any game, where in general the possibility of making a profit depends on mere luck, also because the players are more trained or more proficient. It includes all bets on the decision of competitions or other games that are not held between those participating in the competition or playing, as well as all other bets."

In the world of gambling, there are two perpetrators of criminal acts, namely the bookie and the victim or those who play online gambling. These bookies usually carry out promotions to invite people to play through their platform and entice them with promotional promotions such as cashback where someone who deposits money on their website gets more money to play on the website. Things like this have been regulated in article 303 paragraph 1 which "deliberately offers or allows the general public to play gambling or deliberately participates in a company for that, regardless of whether to take advantage of the opportunity there are certain conditions or the fulfillment of certain procedures."

In the world of slot gambling, many people make a livelihood by broadcasting live on platforms such as Youtube, or Facebook lives where people broadcast their activities playing slot gambling openly to the public to entertain the audience and promote slot gambling. itself. This is a matter that can be criminalized following article 303 paragraph 1 point 1 of the Criminal Code which "intentionally offers or provides an opportunity for gambling games and makes it a search, or intentionally participates in a company for that;"

Many people have made this slot gambling a means of making extra money through live broadcasts because in live broadcasts apart from being able to earn money from gambling, they also get additional money from AdSense or advertisements



that usually appear in the middle of their videos. This is also mentioned in Article 303 paragraph 2 of the Criminal Code which reads "If the guilty commits the crime in carrying out his search, his right to search can be revoked." This has violated cybercrime in the form of illegal content which is a crime by entering data or information into the internet about something that is not true, unethical, and can be considered violating the law or disturbing public order. For example, making false news or slander that discredits the dignity or self-esteem of other parties, matters relating to pornography or the production of information which is a state secret, agitation, and propaganda against the legitimate government, and so on.<sup>6</sup>

If the bookie in online gambling is regulated in Article 27 paragraph 2 of Law Number 11 of 2008 concerning Electronic Information and Transactions "Everyone intentionally and without rights distributes and/or transmits and/or makes electronic information and/or electronic documents accessible. which has a gambling charge." use of this article is following the legal principle of *lex specialist derogat legi generali* following Article 62 paragraph 2 of the Criminal Code which reads "If an act is included in a general criminal rule, it is also regulated in a special criminal rule, then only that particular one is are applied".

In *lex specialist*, a person can be convicted following Article 45 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions which reads "Anyone who knowingly and without rights distributes and/or transmits and/or make accessible electronic information and/or electronic documents containing gambling content as referred to in Article 27 paragraph (2) shall be sentenced to a maximum imprisonment of 6 (six) years and/or a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah).

In addition to a bookie, a person who plays online slot gambling can also be sentenced to a crime in Article 303bis paragraph 1 point 1 of the Criminal Code, which states that "Threatened with imprisonment for a maximum of four years or a maximum fine of ten million rupiahs, whoever takes advantage of this opportunity. gambling, which is carried out in violation of the provisions of Article 303" and if a person plays in a public place, he can be punished in 303bis paragraph 1 point 2 of the Criminal Code, namely "anyone who participates in gambling on a public road or a public road or in a place that can be visited by the public, unless there is permission from the competent authority who has permitted to carry out the gambling." Someone who is convicted of gambling is often said to have violated Article 27 paragraph 2 of Law Number 11 of 2008 concerning information and electronic transactions, but online gambling players according to the author do not have strong legal force because in the Elucidation of Law of the Republic of Indonesia Number 19 of 2008 2016 Regarding Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, it is explained that;

"What is meant by "distributing" is sending and/or disseminating Electronic Information and/or Electronic Documents to many People or various parties through Electronic Systems. What is meant by "transmitting" is sending Electronic Information and/or Electronic Documents addressed to one other party through the Electronic System. What is meant by "make accessible" are all actions other than distributing and transmitting through Electronic Systems that cause Electronic Information and/or Electronic Documents to be known to other parties or the public."

In the explanation only explain the consequences of the bookmakers not on players because the bookie is a person who distributes a website in order to access gambling content then a player can only be



punished with article 303bis of the Civil Law Code if examined in accordance with textual because interpretatio cessat in claris, interpretation est perversio which means if the text or editor of the Law is clear, It is no longer permissible to interpret it. The interpretation of clear words means destruction.

*Geen Straf Zonder Schuld*, that is, there is no law without fault. Even though someone who plays this gambling is someone who can be called a victim but he still makes mistakes because he gambles online even though he does not know that gambling is illegal, still *Ignorantia juris non excusat* where ignorance of the law cannot be forgiven and *Lex dura sed ita scripta laws are harsh but must be enforced*. And also *Lex dura, sed tamen scripta* where the law is cruel, but that's how it's written.

#### 4. Conclusion

Gambling is not allowed regardless of its form in terms of playing cards, lottery, or *slot*. People from certain demographics are more vulnerable to experiencing criminal victimization because their lifestyle has exposed the emergence of situations that contain the risk of fear of missing out (FOMO). Even though people who gamble are victims, they still make mistakes because gambling is illegal. According to the principle of *Ignorantia juris non excusat* where ignorance of the law cannot be condoned and *Lex dura sed ita scripta*, the law is harsh but must be enforced and also *Lex dura, sed tamen scripta* where the law is cruel, but that's how it's written.

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