

**Review Article****LEGAL SANCTIONS FOR PEOPLE OF THE CRIME OF GAMBLING ACCORDING TO ARTICLE 303 OF THE CRIMINAL LAW**¹David Febrianto Sinaga, ²Zainal Abidin Pakpahan, ³Nimrot SiahaanEmail : ¹davidsinaga335@gmail.com, ²zainalpakpahan@gmail.com, ³nimrotsiahaan4@gmail.com**Article History**

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Journal homepage:<https://jurnalarjunajusticia.com/index.php/ijeck>**Abstract:**

This research was conducted with the aim of finding out legal sanctions for perpetrators of the crime of gambling according to Article 303 of the Criminal Code. This type of research uses normative legal research. The results of the research and discussion state that the criminal sanctions for perpetrators of gambling crimes contained in article 303 paragraph (1) of the Criminal Code are: imprisonment for a maximum of ten years or a fine of a maximum of twenty-five million rupiah, initially only subject to a maximum criminal penalty. two years and eight months with an initial fine of up to ninety thousand rupiah, whoever without obtaining permission: a. Deliberately offering or providing opportunities for gambling games and making it a pursuit, or deliberately participating in an enterprise for that purpose; b. Deliberately offering or giving/the opportunity to the general public to play gambling or deliberately participating in a company for that purpose, regardless of whether to use the opportunity of a condition or the fulfillment of a procedure; and Article 542 of the Criminal Code which has been amended to become 303 bis paragraph (1). Threatened with a maximum imprisonment of four years or a maximum fine of ten million rupiah: a. Whoever uses the opportunity to play gambling, which is held in violation of the provisions of Article 303; b. Any person who participates in gambling on a public road or on the side of a public road or in a place that can be visited by the public, unless there is permission from the competent authority who has given permission to carry out such gambling, paragraph (2) If two years have not passed since the time of committing the offense. Convictions that become permanent due to any of these violations may be subject to imprisonment for a maximum of six years or a fine of a maximum of fifteen million rupiah.;

Keywords: *Legal Sanctions, Crime, Gambling;*

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INTRODUCTION

Gambling today is increasingly worrying. The beginning of gambling for someone could be because of curiosity about gambling, because the curiosity that arises eventually comes to the feeling of wanting to try, after trying once, twice, three times until they finally get used to it and want to always do it. Gambling is included in the category of criminal offenses whose perpetrators can be punished. Gambling clearly damages a person's morals and personality, so we see many gamblers whose lives are increasingly poor and in shambles. Gambling carried out by someone is considered to be able to provide wealth quickly and in a short time. In fact, gambling will actually cause you to lose money and wealth. Because the nature of gambling is never certain, you can win but you can also lose. The dangers of gambling have been mentioned in Law no. 7 of 1974 concerning Controlling Gambling that gambling is essentially contrary to Religion, Morals and Pancasila Morals, and is dangerous to the livelihood and life of the community, Nation and State. So it is felt that there is a need for efforts to curb gambling, or even eliminate gambling in Indonesian territory. The threat of criminal punishment regarding gambling has been deemed no longer appropriate with current developments, so changes need to be made by increasing the penalties for gambling perpetrators, where previously the provisions in the Ordinance dated March 7 1912 (Staatsblad of 1912 Number 230) had been amended several times. and added, most recently by Ordinance dated 31 October 1935 (Staatsblad 1935 Number 526), deemed no longer appropriate to current developments. So it is necessary to re-enact regulations regarding gambling that can change people's mindset that gambling is an act that from a religious and moral perspective is very damaging to a person's personality. It was felt that the existing punishments had not had a deterrent effect on gambling perpetrators until Law No. 7 of 1974 concerning Controlling Gambling.

Prohibitions on gambling and criminal threats against gambling are also regulated in Law no. 7 of 1974 concerning Controlling Gambling, and is equipped with implementing regulations, namely Government Regulation no. 9 of 1981 concerning Implementation of Law no. 7 of 1974. On the other hand, Moeljatno in his book the Criminal Code clearly regulates, prohibits and threatens gambling as regulated in Article 303 Book II Chapter XIV concerning Crimes Against Morality.¹

All criminal acts of gambling are declared crimes, this is the meaning of Article 1 of Law no. 7 of 1974 concerning Controlling Gambling. Currently, gambling has experienced many changes along with technological developments in the modern era. Conventional gambling has actually been known to the public for a long time, even existing during the Dutch colonial era. Currently gambling has been modified with online gambling. Conventional gambling that used to occur a lot, for example, cockfighting gambling, card gambling, lottery gambling and other gambling. Now, gambling is no longer done offline but can be done online using the application. Gambling basically uses money as a betting tool from the smallest value to infinite value. In developed countries, gambling is even given its own space and is often protected by the state. There is even some gambling involved in championship events in that country. For example, casino gambling exists in several countries such as China and America. The formulation of the problem that the author raises in this research is how the legal sanctions applied to perpetrators of gambling crimes according to Article 303 of the Criminal Code.

¹ Moeljatno, Kitab Undang-Undang Hukum Pidana (KUHP), Bumi Aksara, Cetakan Ke-21, Jakarta, 2001, hal. 102

RESEARCH METHODS

The type of research used is a juridical-empirical research method, namely a research and understanding process based on a methodology that investigates a social phenomenon and human problem. Conduct field research related to efforts to handle the crime of gambling according to Article 303 of the Criminal Code. The approach taken is sociological juridical, namely the occurrence of social phenomena in society

RESULTS AND DISCUSSION

1. Gambling Regulations in the Indonesian Positive Legal System;

Regulations regarding gambling were originally regulated in the Criminal Code, specifically in Article 303 of the Criminal Code. However, after the promulgation and enactment of Law no. 7 of 1974 concerning the Control of Gambling there are several changes in the sound of these articles. We can see the changes in question in Article 303 and Article 542 of the Criminal Code. These changes are in article 2 of Law no. 7 of 1974 which states that:

- 1) Change the threat of punishment in Article 303 paragraph (1) of the Criminal Code, from a maximum imprisonment of two years and eight months or a maximum fine of ninety thousand rupiah to a maximum imprisonment of ten years or a maximum fine of -a total of twenty-five million rupiah.
- 2) Change the threat of punishment in Article 542 paragraph (1) of the Criminal Code, from a maximum imprisonment of one month or a maximum fine of four thousand five hundred rupiah, to a maximum imprisonment of four years or a maximum fine of -a total of ten million rupiah.
- 3) Changing the threat of punishment in Article 542 paragraph (2) of the Criminal Code, from a maximum imprisonment of three months or a maximum fine of seven thousand five hundred rupiah to a maximum imprisonment of six years or a maximum fine of amount of fifteen million rupiah.
- 4) Changing the designation of Article 542 to Article 303 bis.

Where Article 303 of the Criminal Code regulates the law regarding gambling in Indonesia and this article contains the punishments received by gambling perpetrators.

Article 303 of the Criminal Code reads:

- 1) Any person without permission shall be subject to a maximum imprisonment of ten years or a maximum fine of twenty-five million rupiah:
 - a. Deliberately offering or providing opportunities for gambling games and making it a pursuit, or deliberately participating in an enterprise for that purpose;
 - b. Deliberately offering or giving/the opportunity to the general public to play gambling or deliberately participating in a company for that purpose, regardless of whether to use the opportunity of a condition or the fulfillment of a procedure;
- 2) If the person guilty of committing the crime while carrying out the search, his or her right to carry out the search may be revoked.
- 3) What is called a gambling game is any game, where in general the possibility of making a profit depends on sheer luck, also because the player is more trained or more skilled. This

includes all bets on the results of competitions or other games that are not held between those competing or playing, as well as all other bets.

Apart from Article 303 of the Criminal Code concerning gambling, another article that regulates similar matters is Article 303 bis of the Criminal Code. The contents of this article include:

- a. Whoever uses the opportunity to play gambling, which is held in violation of the provisions of Article 303;
- b. Anyone who participates in gambling on a public road or on the side of a public road or in a place that can be visited by the public, unless there is permission from the ruling authority who has given permission to carry out such gambling.

(2) If two years have not passed since the violation has been committed due to one of these violations, a maximum imprisonment of six years or a maximum fine of fifteen million rupiah may be imposed.

Changes to the provisions of Article 2 of Law no. 7 of 1974 concerning Controlling Gambling, there were changes to the threat of imprisonment and fines. The original provision was that Article 303 of the Criminal Code regulated a maximum penalty of two years and eight months. After the amendment, the penalty was given to a maximum of ten years, the original fine was a maximum of ninety thousand rupiah to twenty-five million rupiah. Legal penalties, both in terms of criminal penalties and fines, for perpetrators of gambling crimes are considered appropriate, so that they can provide a deterrent effect for the perpetrators. The next change is to Article 542 of the Criminal Code which was amended with Article 303 bis. Article 542 of the Criminal Code is contained in Book III of the Criminal Code, namely regarding Violations (Overtredingen). This includes, Classification of criminal acts into crimes and violations (misdrijven en overtredingen).²

The provisions of Article 303 bis which were originally provisions of Article 542 of the Criminal Code and are based on Law no. 7 of 1974 concerning Controlling Gambling has been amended, the provisions of Article 542 of the Criminal Code become Article 303 bis in accordance with Article 2 paragraph (2) of Law no. 7 of 1974, clearly changes the threat of criminal punishment from imprisonment for a maximum of one month or a fine of a maximum of four thousand five hundred rupiah to a prison sentence of a maximum of four years or a fine of a maximum of ten million rupiah. Further in Law no. 7 of 1974 Article 2 paragraph (4) changed the designation of Article 542 to Article 303 bis. These criminal threats and fines are in accordance with the mention of violations and crimes, if a violation is mentioned the criminal threat is lighter, whereas for crimes the criminal threat and fines will be heavier.

With the implementation of Article 303 bis of the Criminal Code replacing Article 542 of the Criminal Code, it is clear that Article 542 of the Criminal Code is declared no longer valid. Furthermore, after the enactment of Law no. 7 of 1974 concerning the Control of Gambling, then the Ordinance dated 7 March 1912 (Staatsblaad 1912 Number 230) as amended and supplemented several times, most recently with the Ordinance dated 21 October 1935 (Staatsblaad 1935 Number 526) was declared revoked and no longer applies.

The public needs to know that Articles 303 and 303 bis, which were originally regulated in Article 542 of the Criminal Code, stipulate that prohibitions accompanied by criminal threats as intended in these articles only apply to conventional gambling, not online gambling, because basically when discussing gambling online, then there must be additional devices included, for

² Prodjudikoro, Wirjono, 2014 *Asas-Asas Hukum Pidana di Indonesia*, RefikaAditama, Cetakan Ke-6, Bandung, hlm.12

example the internet and other electronic uses and the law must also be appropriate to accommodate the use of information technology and electronic transactions such as the use of the ITE Law regulations..

CONCLUSION

It is clear that the Criminal Code clearly and firmly regulates the prohibition against gambling. In the Criminal Code it is regulated in Article 303 and Article 303 bis where Article 303 bis is an amendment to Article 542 of the Criminal Code as well as changes to the contents of these articles which initially provided legal threats and lighter fines which were changed to heavier criminal threats and penalties. higher fines than before. The change in the term from Violation to Crime is a crime which is influenced by the threat of criminal penalties and higher fines than before in Law no. 7 of 1974 concerning Controlling Gambling. The gambling in question is conventional gambling whose reach is only within the territory of the Republic of Indonesia. Gambling is a criminal act and is known as an unlawful act, but the act of breaking the law can be eliminated if it turns out that the gambling event has received permission from the authorized institution and is declared legal to carry out. Sanctions for perpetrators of gambling crimes are a maximum imprisonment of ten years or a maximum fine of twenty-five million rupiah for someone who deliberately offers or provides an opportunity to play gambling and uses it as a pursuit, or deliberately participates in an enterprise for that purpose. as well as deliberately offering or giving/the opportunity to the general public to gamble or deliberately taking part in a company for that purpose, regardless of whether to take advantage of the opportunity of a condition or the fulfillment of such a procedure. A maximum prison sentence of four years or a maximum fine of ten million rupiah: Any person who uses the opportunity to play gambling, which is held in violation of the provisions of Article 303 and participates in gambling on a public road or on the side of a public road or in a place that can be visited by the public, unless there is permission from the competent authority who has given permission to carry out gambling, and if the violation committed has not passed within two years since there was a permanent conviction for one of these violations, he will be sentenced to imprisonment for a maximum of six years or a fine of up to a lot of fifteen million rupiah.

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