

Criminal Law Analysis of the Role of Influencers in Online Gambling Promotion in Indonesia

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ABSTRACT

The phenomenon of online gambling in Indonesia involving influencers as promoters through social media raises complex criminal law issues. This normative research with a statutory approach analyzes legal regulations and criminal liability of influencers in online gambling promotion. The results indicate that this practice is regulated through Article 27 paragraph (2) in conjunction with Article 45 paragraph (3) of the ITE Law No. 1/2024 with a maximum criminal threat of 10 years and/or a fine of IDR 10 billion, Article 426 of Law No. 1 of 2023 concerning the Criminal Code with a maximum imprisonment of 9 years or a category VI fine, as well as the Consumer Protection Law. Criminal liability requires accountability capacity, intent, and absence of justification reasons, accompanied by consequences in the form of criminal sanctions, asset seizure, and social media account blocking.

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Introduction

The rapid development of information and communication technology has transformed the face of Indonesia's digital world, particularly in terms of promotion and advertising through social media platforms. The increasingly rampant phenomenon of online gambling in Indonesia has raised complex legal issues, especially with the involvement of influencers or content creators in promoting illegal gambling sites. Data from the Financial Transaction Reports and Analysis Center (PPATK) shows that throughout 2024, there were 209.5 million transactions related to online gambling with a fantastic total fund circulation of IDR 359,800,000,000,000 (three hundred fifty-nine trillion eight hundred billion rupiah), involving approximately 16.3 million active players in Indonesia.

The seriousness of this issue has prompted law enforcement authorities to take firm action against various parties involved in the online gambling ecosystem, including influencers and content creators who promote it. Several cases have reached the court decision stage, such as the case of Vienna Varella Angeli Parinussa, a 19-year-old celebgram

with 57,000 followers who was sentenced to 1 year 6 months in prison and a fine of IDR 30,000,000 (thirty million rupiah) by the Denpasar District Court for promoting the KYOTA98 online gambling site through Instagram Story. A similar case also befell I Kadek Darmayasa alias "Pak Rama", a famous content creator in Bali with around 150,000 followers, who was sentenced much more severely with 4 years in prison and a fine of IDR 300,000,000 (three hundred million rupiah) by the Bangli District Court. The variation in sentences imposed on these influencers shows that the Indonesian judicial system has begun to seriously address the issue of online gambling promotion by considering the level of involvement, impact, and number of followers affected by such promotional activities.

The involvement of influencers in online gambling promotion has become a serious issue requiring special attention from the aspect of criminal law. The Head of the Criminal Investigation Agency of the Indonesian National Police noted that since the establishment of the Special Task Force for the Eradication of Online Gambling in November 2024, 85 content creators or influencers have been designated as suspects for allegedly promoting online gambling sites on social media. This phenomenon shows how massive the role of influencers is in disseminating illegal gambling practices to the wider community, especially to young people who are the main targets of their content.

In the context of Indonesian positive law, the practice of online gambling promotion by influencers is an action that is expressly prohibited and subject to criminal sanctions. Article 426 of Law No. 1 of 2023 concerning the Criminal Code (KUHP) states that anyone who without permission offers or provides opportunities to gamble and makes it a livelihood or participates in a gambling enterprise shall be punished with imprisonment for a maximum of 9 (nine) years or a fine of at most category VI. This provision is strengthened by Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), specifically Article 27 paragraph (2) which prohibits the distribution of gambling content with a maximum criminal threat of 10 years imprisonment and/or a maximum fine of IDR 10,000,000,000 (ten billion rupiah).

The social and economic impacts of online gambling promotion by influencers are very significant and detrimental to society. Research shows that online gambling has caused increased conflicts within families, where many individuals experience social isolation and damage to interpersonal relationships both within families and among friends and colleagues. Data from the Central Statistics Agency (BPS) reveals a worrying trend, where divorce cases due to gambling increased drastically from 648 cases in 2020 to 2,889 cases in 2024, indicating a serious change in household conflict dynamics.

The economic aspect of the impact of online gambling is no less worrying, considering that most online gambling players actually come from groups of people with limited income or even below the Regional Minimum Wage (UMR). PPATK data shows that people with monthly income below IDR 1,000,000 (one million rupiah) use almost 70% of their income to play online gambling, while people with income of IDR 1,000,000 (one

million rupiah) to IDR 2,000,000 (two million rupiah) per month use 41.35% of their income for such activities. This condition indicates a decline in household economic conditions, debt accumulation, and personal bankruptcy as direct consequences of online gambling addiction.

The role of influencers in the online gambling promotion ecosystem is very strategic and dangerous because they have the ability to influence the opinions and behavior of their followers in large numbers. The Ministry of Communication and Digital Affairs has taken firm action by closing access to various social media accounts that are indicated to infiltrate links to online gambling sites, including influencer accounts such as @cinemalokal.id which has many followers on Instagram.

The complexity of legal issues in cases of online gambling promotion by influencers lies in various increasingly sophisticated and disguised modus operandi. Influencers not only conduct promotions directly but also use covert strategies by inserting links or referral codes in content that appears ordinary, making detection and law enforcement difficult. This phenomenon shows direct cooperation between online gambling companies and social media platform owners or influencers to promote gambling services to social media users through business-to-business (B to B) contracts.

Law enforcement against influencers involved in online gambling promotion faces various complex challenges, especially related to technical aspects of proof and digital jurisdiction. Although regulations are quite comprehensive with the Criminal Code, ITE Law, and various other supporting regulations, their implementation still faces serious obstacles due to weak supervision and rapid adaptation of promotional modes by perpetrators. The limitations of content detection and moderation systems on social media platforms in handling increasingly sophisticated and disguised gambling promotion content require more effective coordination between law enforcement officials, digital regulators, and social media platforms.

The urgency of handling this issue is increasingly high considering the massive impact that has occurred and the potential for greater escalation in the future. The formation of the Online Gambling Eradication Task Force through Presidential Decree Number 21 of 2024 shows the government's seriousness in handling this problem in an integrated and coordinated manner. However, the effectiveness of criminal law enforcement against influencers involved in online gambling promotion still requires in-depth analysis to understand existing legal loopholes and optimize crackdown strategies that can provide a deterrent effect as well as maximum protection for the community.

Theoretical Framework

Theory of Criminal Liability

The theory of criminal liability is a fundamental concept in the criminal law system that regulates the basis and conditions for punishing a person who has committed a criminal act. In English, *pertanggungjawaban pidana* is referred to as criminal responsibility or

criminal liability, while in Dutch it is known as *toerekeningsvatbaarheid* (Amrani and Ali, 2015).

Criminal liability in essence is a mechanism created as a reaction to violations of certain agreed-upon acts, which concern not only legal aspects but also moral values or public decency embraced by a society. This concept aims to determine whether a suspect or defendant can be held responsible for a criminal act that has occurred, in other words, to determine whether the person should be acquitted or punished (Moeljalento, 2008).

According to Roeslan Saleh, criminal liability is defined as the continuation of the objective blame attached to a criminal act toward a person who, subjectively, meets the conditions to be punished for that act. Objective blame refers to the act committed by a person that constitutes a prohibited act or one that is contrary to the law, both formally and materially, whereas subjective blame refers to the perpetrator of such prohibited act (Saleh, 2003).

The basis of criminal liability is fault (*schuld*), which may take the form of intent (*opzet*) or negligence (*culpa*). This principle indicates that the basis for holding a person liable is placed in the concept or reasoning regarding whether the elements of the criminal offense can be proven. If the elements of the criminal offense are proven, then fault is also considered proven and consequently the person can be punished (Huda, 2006).

The requirements of criminal liability comprise three main aspects: first, the presence of *dolus* (intent) in committing the criminal act; second, the presence of *culpa* (negligence) such that due to this negligence a criminal act occurs; and third, the absence of grounds for the elimination of punishment. The principle that correlates with criminal liability is the fundamental maxim of criminal law, namely “no punishment without fault” (*geen straf zonder schuld: actus non facit reum nisi mens sit rea*) (Maramis, 2012).

Theory of Law Enforcement

The theory of law enforcement is a concept that discusses the process of implementing and applying legal norms in practice in order to achieve the objectives of law itself. In the context of criminal law, law enforcement has three main functions, namely preventive (prevention), pre-emptive (early detection), and repressive (sanctioning) measures against legal violations occurring in society (Sudarto, 2010).

This theory explains that the effectiveness of law enforcement is influenced by several fundamental factors: legal substance, legal structure, and legal culture. Legal substance includes statutory regulations governing prohibitions and sanctions; legal structure encompasses law enforcement institutions such as the police, the prosecutor's office, and the courts; while legal culture relates to public awareness of and compliance with the law (Rahadjo, 2009). In the context of criminal law enforcement against online gambling promotion by influencers, this theory provides a framework for understanding the challenges and obstacles encountered in the enforcement process. The legal substance aspect covers provisions in the Criminal Code, the ITE Law, and other related regulations governing the prohibition of gambling and its promotion. The legal structure aspect includes coordination

among law enforcement agencies in dealing with cyber and digital crimes, whereas the legal culture aspect relates to public understanding of the dangers of online gambling and compliance with applicable rules.

The theory of law enforcement also emphasizes the importance of a holistic approach that does not only focus on repressive measures, but also on prevention through education, public outreach, and the development of effective monitoring systems. In the digital era, law enforcement must be able to adapt to technological developments and new modus operandi used by offenders, including in the promotion of online gambling through social media platforms.

Method

This research uses a descriptive-analytical normative juridical method with data collection through library research. Primary legal materials include the 1945 Constitution, Criminal Code, Criminal Procedure Code, Consumer Protection Law, Money Laundering Law, ITE Law, and Presidential Decree on the Online Gambling Task Force. Secondary legal materials consist of books, journals, scientific articles, and legal expert opinions, while tertiary materials include legal dictionaries, KBBI, encyclopedias, and relevant internet sources. Data is analyzed qualitatively through stages of data reduction, data presentation, and conclusion drawing presented descriptively-analytically to provide a comprehensive picture of the problem and relevant recommendations.

Results and Discussion

1. Criminal Law Regulations in Indonesia Regarding Online Gambling Promotion Practices

Criminal law regulation of online gambling promotion practices in Indonesia is regulated firmly through various complementary laws and regulations, reflecting the government's seriousness in addressing this digital crime phenomenon. The rapid development of technology has driven the transformation of gambling crimes from conventional forms to more massive and difficult-to-supervise digital forms, thus requiring comprehensive and specific legal regulations.

Law of the Republic of Indonesia Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) is the main legal instrument that specifically regulates online gambling crimes including promotional aspects. Article 27 paragraph (2) of the ITE Law explicitly states that anyone who intentionally and without right distributes, transmits, and/or makes accessible electronic information and/or electronic documents containing gambling is strictly prohibited. This provision covers various forms of online gambling promotion carried out through electronic media such as social media, websites, applications, and other digital platforms.

The criminal sanction regulated in Article 45 paragraph (3) of the ITE Law for violations of Article 27 paragraph (2) is very severe, namely imprisonment for a maximum of 10 (ten) years and/or a maximum fine of IDR 10,000,000,000.00 (ten billion rupiah). This increase in punishment threat from the previous version which was only 6 years

imprisonment and a fine of IDR 1,000,000,000 (one billion rupiah) shows the government's seriousness in eradicating increasingly rampant online gambling promotion practices. This tightening of sanctions is intended to provide a stronger deterrent effect to perpetrators, considering the negative impacts caused by online gambling promotion are very massive and detrimental to society economically, socially, and morally.

In addition to the ITE Law, criminal law regulations regarding online gambling promotion also refer to provisions in Article 426 of Law No. 1 of 2023 concerning the Criminal Code. Law Number 8 of 1999 concerning Consumer Protection is also relevant in the context of online gambling promotion, specifically related to misleading and consumer-detrimental promotional practices. Article 1 paragraph (6) of the Consumer Protection Law defines promotion as activities to introduce or disseminate information about a product and/or service to attract consumer buying interest, and in the context of online gambling, this promotion clearly contradicts consumer protection principles because it directs the public to illegal activities that are potentially detrimental. The criminal sanction in Article 62 paragraph (1) of the Consumer Protection Law is imprisonment for a maximum of 5 years or a maximum fine of IDR 2,000,000,000.00 (two billion rupiah).

The Indonesian Advertising Ethics (EPI) also prohibits all forms of gambling promotion, where in Roman III Letter A 2.25 it is stated that all forms of gambling and betting may not be advertised or promoted, either openly or covertly. Although EPI is not a legally binding statutory regulation, this provision becomes an ethical guideline in the advertising industry and can be considered in law enforcement.

In addition to criminal sanctions, there are also administrative sanctions imposed by the government through the Ministry of Communication and Informatics (Kominfo), including blocking sites or social media that promote online gambling so that they can no longer be accessed by internet users, revocation of business licenses if the perpetrator is a company or legal entity, service termination by internet service providers, and administrative fines as a form of financial sanction. This legal regulation also reaches various parties involved in the online gambling promotion ecosystem, including influencers, celebgrams, content creators, and social media platforms that facilitate such promotion.

2. Criminal Liability of Influencers Involved in Online Gambling Promotion in Indonesia

The criminal liability of influencers involved in online gambling promotion in Indonesia is based on criminal law principles that require the fulfillment of elements of criminal liability before a person can be held accountable for their actions. Criminal liability occurs because of a criminal act or violation committed by someone, and in the context of online gambling promotion, influencers who conduct such activities can be considered to have committed unlawful acts threatened with criminal sanctions.

Based on criminal law theory, criminal liability consists of three main conditions that must be met cumulatively. First, accountability capacity of the perpetrator, which means the perpetrator must be legally competent both in terms of age and mental state. Second, the existence of an unlawful act, namely a psychological attitude of the perpetrator related to their behavior, namely done intentionally (*opzet*) or unintentionally/negligence (*culpa*). Third, absence of justification reasons or reasons that eliminate criminal liability for the perpetrator, such as coercion, necessary defense, or emergency situations.

In cases of influencers promoting online gambling, the element of intent (*dolus*) becomes a crucial element that must be proven. Intent in criminal law includes three forms, namely intent as purpose (*opzet als oogmerk*), intent with certainty consciousness (*opzet bij zekerheidsbewustzijn*), and intent with possibility consciousness (*opzet bij mogelijkheidsbewustzijn*). Influencers can be considered criminally liable if proven to intentionally promote or advertise online gambling, receive financial benefits from such promotional activities, and are aware that the activities promoted violate the law.

The criminal liability of influencers in online gambling promotion is regulated in various legal provisions mentioned earlier. Based on Article 27 paragraph (2) in conjunction with Article 45 paragraph (3) of the ITE Law, influencers who distribute, transmit, or make accessible electronic information containing gambling can be punished with imprisonment for a maximum of 10 (ten) years and/or a maximum fine of IDR 10,000,000,000 (ten billion rupiah).

In addition to based on the ITE Law, influencers can also be charged with Article 426 of Law No. 1 of 2023 concerning the Criminal Code which regulates sanctions for gambling organizers or parties participating in gambling enterprises. Although this article was initially aimed at physical organizers, in its development it can be applied to online gambling promotion conducted by influencers because they are considered to assist or participate in gambling activities by promoting its platform. The criminal threat in Article 426 paragraph (1) of Law No. 1 of 2023 is imprisonment for a maximum of 9 (nine) years or a maximum fine of category VI (equivalent to approximately IDR 2,000,000,000 or two billion rupiah).

Another important aspect in influencer criminal liability is tracing financial benefits obtained from online gambling promotional activities. If influencers receive payment from online gambling organizers, that money can be confiscated as proceeds of crime, and they can be subject to additional sanctions based on the Money Laundering Crime Law (UU TPPU). This is because payments received by influencers come from illegal online gambling activities, so they can be categorized as proceeds of crime that must be confiscated and seized for the state.

The process of law enforcement against influencers promoting online gambling follows the criminal procedural law mechanism regulated in the Criminal Procedure Code (KUHAP). The first stage is investigation, where the police receive reports or complaints from the public about alleged online gambling promotion activities by influencers. After the investigation leads to evidence of criminal action, an investigation is conducted to collect evidence and designate suspects.

Investigators have the authority to conduct searches and seizures of relevant evidence, such as computers, mobile phones, servers, or other digital devices used to promote online gambling. If strong evidence of influencer involvement is found, then arrest and temporary detention are carried out for further processes. After the investigation is complete and there is sufficient evidence, the Public Prosecutor (JPU) carries out the prosecution stage by preparing an indictment and submitting the case to court.

In trials, judges will examine the proof of criminal elements and criminal liability of influencers based on trial facts, witness statements, and other evidence. Judges have a very important role in determining the existence of elements required for criminal liability. If these elements cannot be proven, then the influencer cannot be held criminally liable and must be released or acquitted. However, if proven guilty, the judge will hand down a

sentence in the form of criminal punishment in accordance with applicable provisions, whether in the form of imprisonment, fines, or a combination of both.

Law enforcement practices against influencers promoting online gambling have shown significant developments with various court decisions that have obtained permanent legal force. One case that has attracted public attention is the case of Vienna Varella Angeli Parinussa, a 19-year-old celebgram from Jakarta who has more than 57,000 followers on Instagram with the account @vienna.parinussaaa. Vienna was arrested for promoting the KYOTA98 online gambling site through Instagram Story from February to April 2025 in the Monang-Maning area, West Denpasar. The Denpasar District Court through the Panel of Judges chaired by Ni Luh Suastini handed down a sentence of 1 year 6 months imprisonment and a fine of IDR 30,000,000 (thirty million rupiah) subsidiary 1 month confinement based on Article 27 paragraph (2) in conjunction with Article 45 paragraph (3) of the ITE Law in October 2025.

Another important case is the decision against I Kadek Darmayasa alias "Pak Rama", a famous content creator in Bali who has around 150,000 followers on various social media platforms such as Facebook and TikTok. Pak Rama from Banjar Penaga, Landih Village, Bangli District, is known as an eccentric figure who often provides assistance to the community and sells motor vehicles. However, he was proven to promote online gambling by uploading promotional videos on social media and conducting live draw raffles to determine winners. The Bangli District Court through the Panel of Judges chaired by Anak Agung Ayu Diah Indrawati with member judges I Gede Parama Iswara and Suasana Cicilia Kemala Humau handed down a much heavier sentence, namely 4 years imprisonment and a fine of IDR 300,000,000 (three hundred million rupiah) subsidiary 5 months confinement plus case costs of IDR 5,000 (five thousand rupiah) in September 2025.

In another case involving a female student, Komang Ayu Cahyani, a 19-year-old celebgram from Sambangan Village, Sukasada District, Buleleng, was sentenced to 10 months imprisonment and a fine of IDR 3,000,000 (three million rupiah) subsidiary 2 months confinement by the Singaraja District Court in August 2025. Cahyani, who was registered as a student at one of the state universities in Singaraja, was proven to violate Article 45 paragraph (3) juncto Article 27 paragraph (2) of Law Number 1 of 2024 for promoting online gambling sites through her two personal Instagram accounts.

These three cases show that law enforcement against influencers promoting online gambling has been carried out realistically and consistently by law enforcement officials in various regions of Indonesia, with variations in punishment adjusted to the level of involvement, number of followers, promotional impact, as well as mitigating and aggravating circumstances. Data from the Head of the Criminal Investigation Agency of the Indonesian National Police Komjen Wahyu Widada noted that since the establishment of the Online Gambling Eradication Desk in November 2024, 85 influencers have been designated as suspects for allegedly promoting or endorsing online gambling sites on social media.

Law enforcement efforts against influencers promoting online gambling are not only repressive through criminal action but also preventive through education and socialization regarding the dangers and legal consequences of online gambling. The government, law enforcement officials, and the community need to work together in monitoring and reporting online gambling promotional activities conducted by influencers. Social media platforms also have moral and legal responsibility to monitor and delete

online gambling promotional content that violates platform policies as well as statutory regulations in Indonesia.

Conclusion

The practice of online gambling promotion in Indonesia is regulated in Article 27 paragraph (2) in conjunction with Article 45 paragraph (3) of Law No. 1 of 2024 concerning ITE which prohibits distributing, transmitting, or making accessible electronic information containing gambling with a maximum criminal threat of 10 years imprisonment and/or a maximum fine of IDR 10,000,000,000 (ten billion rupiah). Article 426 paragraph (1) of Law No. 1 of 2023 concerning the Criminal Code regulates sanctions for gambling organizers with a maximum imprisonment threat of 9 (nine) years or a maximum fine of category VI (equivalent to approximately IDR 2,000,000,000 or two billion rupiah) for anyone who without permission offers or provides opportunities to gamble and makes it a livelihood or participates in a gambling enterprise. This regulation covers all forms of online gambling promotion through social media, websites, applications, and other digital platforms, with significant tightening of sanctions to provide a deterrent effect.

Influencers who promote online gambling can be held criminally liable based on Article 27 paragraph (2) in conjunction with Article 45 paragraph (3) of the ITE Law with a maximum criminal threat of 10 years imprisonment and/or a maximum fine of IDR 10,000,000,000 (ten billion rupiah). This criminal liability requires the fulfillment of the element of intent (*dolus*), accountability capacity, and absence of justification reasons. Influencers are considered criminally liable if proven to intentionally promote online gambling, receive financial benefits, and are aware that their activities violate the law. In addition to criminal sanctions, money from promotion proceeds can be confiscated as proceeds of crime and influencers can be charged with the Money Laundering Crime Law. The law enforcement process follows the Criminal Procedure Code starting from investigation, inquiry, prosecution, to trial in court.

The government needs to strengthen coordination between the Ministry of Communication and Informatics, police, and social media platforms for rapid blocking and firm action against online gambling promotion perpetrators systematically. Influencers must conduct thorough verification of products or services to be promoted and reject suspicious endorsement offers or those potentially violating the law to avoid criminal charges.

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