
CRIMINAL ACTS OF GAMBLING AND ITS COUNTERMEASURES IN POHUWATO REGENCY

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This research aims to find out how the village government's efforts in winning gambling crimes in Kabupaten Pohuwato. The type of research used in this research is a type of empirical legal research. Efforts made by the village government against the countermeasures of gambling crimes in central Buntulia village in the form of socialization and socialization by providing understanding to the perpetrators are carried out by the village government in collaboration with police officers about the impact of playing gambling both legally and socially and The economy is both done in forum activities or directly in gambling locations. Furthermore, agreeing on the perpetrator who was caught while practicing gambling than by the police and the village government will give a warning and agree the perpetrators and the police officers in the form of an affidavit that the concerned will not repeat his actions. Then against the perpetrator who has made an agreement with the village government but was eventually caught playing gambling, it will then be handed over to the police for processing by the provisions of applicable law.

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I. INTRODUCTION

A. Background

In essence, each country has its legal constitution on which it is based. In Indonesia, the law is currently implemented and applies binding to the people of Indonesia. When a provision of law is made and formalized in a country then the provisions of the law are declared applicable. The law can trigger the occurrence of different community behaviors in the creation of community institutions. On the one hand, the law can change or create populist institutions. So that the discovery of direct contact, or also known as law as a tool in shaping the community (*Law as Social Engineering*).¹

The basis of this benchmark has an expectation to behave appropriately, which is then called the norm. Norms are born from the point of view of something that is said to be good or bad or generally said to be a value. So that the norm arises from human life (which is *ajeg*) as an abstraction of behavior that is done continuously in real terms.²

In essence, law enforcement is based on considering the influence of law enforcement as a guard to prevent and eradicate all forms of abuse and pervert behavior, both in the government environment and within the scope of society. The explanation is in line with the opinion expressed by Soerjono Soekanto who thinks that factors can affect law enforcement, namely:

1. Its legal factors (including the Act)
2. Law enforcement factors
3. Factors of facilities and facilities that support law enforcement
4. Community factors, namely the community where the law is applied
5. Cultural factors, namely as a result of work, copyright, and karma based on human karma in the association of life.

Realizing law enforcement as mandated by the 1945 Constitution is not easy. The controversial practices that occur in law enforcement efforts in this country from time to time are always controlled by the enforcement of the law management *system*.³

¹Hanafi Arief. 2016. *Pengantar Hukum Indonesia Dalam Tataran Historis, Tata Hukum dan Politik Hukum Nasional*. Yogyakarta: PT. LkiS Pelangi Aksara. Hlm. 1

²Soerjono Soekanto. 2013. *Faktor-Faktor yang Mempengaruhi Penegakan Hukum*. Jakarta:PT RajaGrafindo Persada. Hlm. 1-2

³Fence M. Yantu. 2011. *Idee Des recht Kepastian Hukum, Keadilan, dan Kemanfaatan (Implementasi dalam proses Peradilan Perdata)*. Yogyakarta: Pustaka Pelajar. Hlm. 5-6

A judiciary should achieve its expected objectives, namely justice and law. In the process of implementation, obligations and duties should have the usefulness (efficient) and successful (effective) by using human resources that are professional and expert with the use of budgets that are not much. In the realm of justice, the meaning of efficiency and effectiveness is not only based on examination and decision making, but also in the implementation of decisions.⁴

However, in certain cases the criminal law there is a difference from other provisions in general, namely in the implementation there is a special action packaged in the form of punishment intentionally to create a legal impact in the form of a *bijzondere leed* or suffering to people who have acted in violation of the provisions of the law that has been applicable in it.⁵

The law-conscious form is one aspect of the discovery of law. For example, a conscious form in maintaining the interests of the community. The creation of the law is essentially due to the emergence of friction or problems between the interests of everyone. To ensure the protection of his interests, everyone in the community environment should remember, take into account, safeguard and respect the interests of other human beings. So that the awareness of the law in essence contains everything about human actions has a major role against others regarding the deeds that are allowed and which are not allowed.⁶

Speaking of unlawful acts, there is an opinion that "against the law" is a click among experts. Some experts assume that if a deli formulation lists things "against the law" then there must be proof of it and vice versa, if it is not consumed there is no need for proof of it. This assumption is the assumption of experts who understand formal, such as Prof. Simons.⁷

The law should be the guardian of order, tranquility, and guidelines of behavior in people's lives. The law must be a renewal of the survival of the nation and the state should be created that is based on the future (for word looking), can not be built based on what happened in the past (back word looking). On this basis, the law should be an encouragement and pioneer in the change of people's way of life to be better and create benefits for all parties. One legal issue that concerns the public and the government is gambling.

Gambling cases are increasing in number and the way to operate them is growing. One of them is card gambling that has reached several active players

⁴Irianto Tiranda, Fenty Puluhalawa, Johan Jasin. 2019. *Konsep Ideal Penanganan Perkara Tindak Pidana Korupsi Pungutan Berdasarkan Asas Peradilan*. Jambura Law Review. Vol 1 (2). Hlm. 130

⁵R.A.F. Lamintang. 2011. *Dasar-Dasar Untuk Mempelajari Hukum Pidana Yang Berlaku Di Indonesia*. Bandung: PT Citra Aditya Bakti. Hlm. 16.

⁶Dwi Oktavia Ariyanti, Muhammad Ramadhan, Js. Murdomo. 2020. *Penegakan Hukum Pidana Terhadap Pelaku Penambangan Pasir Secara Ilegal*. Jambura Law Review . Vol 2 (1). Hlm.40

⁷Leden Marpaung. 2005. *Asas-Teori-Praktik Hukum Pidana*. Jakarta: Sinar Grafika. Hlm. 46

until now can be concluded by many enthusiasts. In essence, gambling acts are not in harmony with religious norms, immorality, and Pancasila, and have a detrimental impact on people's lives. Gambling is a form of violating Indonesian culture. Gambling has also become a society's disease that has been difficult to eliminate since long ago. People involved from the city to his minions who have never been with any form of gambling activity in the community environment.⁸

As found by prospective researchers when conducting pre-research in Buntulia Subdistrict, especially in Central Buntulia Village, gambling practices continue to grow and are rife by most of the people in the village. One form of activity that is misused is Card Gambling. Where the culprit comes from all circles, children, teenagers, adults, to the elderly including pregnant women in it.⁹

Based on the results of an interview with Mr. Abdul Latif Bin Hola SH as the Head of Central Buntulia Village, that in the village there has been a case of gambling. As the data collected by prospective researchers that do gambling is found in two places, namely Cempaka Hamlet and Meranti Hamlet. Of the 635 residents in Cempaka Hamlet who do gambling about 10% which means approximately 63 people. Likewise with the hamlet of Meranti of 725 residents who do gambling about 5% which means about 36 people. So that of the two hamlets that do the most gambling is Cempaka Hamlet.

The source also explained that daily in the two hamlets almost everyday gambling. Such gambling is done in several places (houses) and the most advantaged are homeowners who are used as gambling venues because it is a livelihood for them. In this case, the Head of Central Buntulia Village has done various ways such as socialization, education, reprimand, even threatened to be removed from village assistance if caught playing gambling but this gambling game is not heeded by them because it has become a habit. In addition, they also have no other activities other than gambling.¹⁰

Deputy Kasat KBO Reskrim Mr. Yobtan R. Frans S.H also stated that gambling was carried out in the act through mediation from the village-poles government level and subsequently given an affidavit. If it reoccurs, it will be processed to the court stage.

From these observations, prospective researchers found many cases of gambling carried out by the community, including the practice of cockfighting gambling with betting, lottery gambling, and more concerning is card gambling

⁸Lanka Asmar. 2017. *Peranan Orang Tua Dalam Proses Persidangan Tindak Pidana Perjudian Yang Dilakukan Oleh anak*. Bandung: CV Mandar Maju. Hlm. 1

⁹Wawancara: Kepala Desa Buntulia Tengah (ALBH). 15 Desember 2020 Pukul 17:45

¹⁰Wawancara: Kepala Desa Buntulia Tengah (ALBH). 03 April 2021 Pukul 15:15

which is a gambling activity that has existed since long ago until now carried out in the community environment. Even this type of gambling has penetrated to children.

B. Problem Formula

Bagaimana tindak pidana perjudian dan penanggulangannya di Kabupaten Pohuwato.

C. Research Methods

This research is a type of empirical legal research, using research data in the form of primary data obtained from facts in the form of information, events, behavior that occurs directly in the field obtained by interviews from competently selected sources and from data in the form of secondary data obtained from literature review and/or review in various literature by having a relationship to the problem studied or also research material. related to legal literature.¹¹

II. DISCUSSION

A. Countermeasures

Contained in the Great Dictionary of Indonesian (KBBI) countermeasures based on the word "tangling" means to face, overcome. Countermeasures are efforts made to prevent, face or overcome a situation as well as efforts to improve a person's behavior that is contrary to rules or norms in society. Countermeasures can also be interpreted as giving a way out of people who violate the norm to minimize the possibility of deviant acts happening again.

Carrying out criminal law to create countermeasures to gambling activities that become violent against the norm should not stop. Because the activity of gambling is threatening the norms of social norms are likely to provide the threat of individual tension and tension in the environment of many people.¹²

Therefore, to overcome efforts against the law, the state creates legal provisions to maintain security in the community, and the community is protected from acts that are contrary to the norm.¹³

¹¹Weny A. Dunga, Abdul Hamid Tome. 2019. *Identifikasi Faktor Penghambat Penyelenggaraan Faktor Pengawasan Ketenagakerjaan Di Provinsi Gorontalo*. Jambura Law Review. Vol 1 (1). Hlm. 9

¹²Aniza Lakoro, Lisnawati W. Badu, Nuvazria Achir. 2020. *Lemahnya Kepolisian Dalam Penanganan Tindak Pidana Perjudian Togel Online*. Jurnal Legalitas. Vol 13 (1) Hlm. 33

¹³Mohamad Rizky Alhasni, Lisnawati W. Badu, Novendri M. Nggilu. 2019. *Menakar Peran Kepolisian Dalam Mencegah Tindak Pidana Pencabulan Terhadap Anak Di Bawah Umur*. Jurnal Legalitas. Vol. 12 (2). Hlm. 112

Crime prevention efforts or commonly referred to as criminal policy. According to Marc deAncel, *the criminal policy* is "A rational effort of society in tackling crime".

There are two common ways to deal with criminal acts:

- a. Penal efforts, are an effort to fight crime that focuses more on efforts that are repressive (oppression/eradication/crackdown) after the crime occurs. Barda Nawawi Arief explained that countermeasures through this penal line can also be referred to as efforts made through criminal law. This effort is a countermeasure that focuses more on the repressive nature, namely actions taken after crimes occur with law enforcement and punishment for crimes that have been committed. In addition, through this penal effort, actions taken to overcome crime to the act of coaching and rehabilitation.¹⁴
- b. Non-Penal efforts, is an effort to combat crime that focuses more on efforts that are preventive (prevention/deterrence/control) before the crime occurs. The main target of this crime is to deal with factors conducive to the cause of crime, therefore, the main target is to deal with factors conducive to the cause of crime that centers on problems or social conditions that can directly or indirectly cause or punish the crime. Thus, judging by the policy of countering crime, these non-criminal efforts have a strategic position and play a key role that must be intensified and effective. (Barda Nawawi Arief, 1996).¹⁵

Furthermore, the most strategic non-penal effort is all efforts to make society a social environment and a healthy environment both materially and immaterial from criminogenic factors. All levels of society with all their potential should be used as the main factor that supports efforts to fight crime. The potentials of the community need to be explored, utilized and developed, and also effective. For example, raids/operations carried out by police officers in certain places that are prone to crime, carry out activities oriented to community services, and various potential utilization efforts available.

1. Criminal

Asas a concordance states, the concept of criminal law in Indonesia is based on criminal law from the Netherlands, so the word "criminal act" is the origin of the word "strafbaar feit" which is a word in Dutch when interpreted to Indonesian meaning with various terms. Thus, various views are expressed in Indonesian as an equation of the term "strafbaar feit", for example: "criminal acts, criminal events, criminal acts, and punishable deeds".¹⁶

¹⁴ Barda Nawawi Arief, 2011, *Bunga Rampai Kebijakan Hukum Pidana*, Semarang: Fajar Interpratama, Hal. 45

¹⁵ Babu suryani, 2018, *Pendekatan Integral Penal Policy Dan Non Penal Policy Dalam Penanggulangan Kejahatan Anak*, Doktrina: Journal of Law, 1 (2) Oktober, Hlm. 72

¹⁶ Lukman Hakim. 2020. *Asas-Asas Hukum Pidana*. Yogyakarta: CV Budi Utama. Hlm. 3

According to Moeljatno, "deli's actions refer only to the nature of what is done, which is a nature that includes criminal threats to offenders." Furthermore, Moeljatno said, the formulation of the delikanaan act protects three aspects, namely the subject that is the purpose of legal norms (*normaddressaat*), rights that are not allowed (*strafbaar*), and the threat of punishment (*strafmaat*). The whole aspect is the criminalization that becomes the scope of the delink conversation. Furthermore, the form of accountability only includes subjective aspects of the perpetrators of delinking deeds. In this phase, the issue of legal making or the nature of defying the law no longer becomes the axis of the problem, further addressing the question of the form of criminal liability of the delink maker.¹⁷

B. Efforts of the Village Government in Tackling Gambling Crimes in Puhuwato Regency (Central Buntulia Village)

Regarding the gambling practices that exist in the village of Central Buntulia which has become a phenomenon that is so important both in terms of socio-economic and moral. Existing gambling practices then led to setbacks in terms of the socioeconomic environment as well as the fall of morality that existed at gambling establishment locations in the village of Central Buntulia.

Based on the poor situation of gambling activities in Central Buntulia, the Village Government and the Police have carried out various countermeasures against the practice of this activity. Which then this gambling practice should require the efforts of handlers in its countermeasures. The Village Government as a government structure that has the closest connection with its people has its duties and responsibilities in managing the system of government in their villages and taking care of the situation and conditions in their territory.

In the village of Central Buntulia itself, his government has made various efforts to carry out countermeasures against gambling crimes in the village. That is;

1. Socialization and Counseling, socialization and counseling in question is to provide understanding to the village government that cooperates with police officers about the impact caused by activities from playing gambling both legal and socio-economic consequences.

This effort is a path taken by the Central Buntulia village government as an effort to provide awareness to the community related to the adverse effects that will arise from this game. Aswell prevention efforts in the community against this game with the expected results that the community then becomes reluctant to practice gambling after being given an understanding of the adverse effects of this game.

¹⁷Ibid. Hlm. 4-5

In the implementation of the socialization, the village government runs it by directly educating the community in the place where gambling takes place as well as dispersing the activity. In the educational activities, the village government also involved Bhabinkamtibmas. In addition to the education that is directly in the location, in other efforts, the village government also conducts open socialization in the form of forums, namely by presenting Bhabinkamtibmas and Participation Forum for the Welfare of Women and Children (PUSPA Forum).

2. Make an Agreement, in raids carried out by parties responsible in law enforcement or this case the police. Perpetrators who successfully netted in the operation of the raid will then be given actions by the applicable provisions. But if the perpetrator who was caught in the first netted community in the raid then the people who play gambling will be given wisdom by the village government who can be this between the people who are the perpetrators agree with the village government that the person concerned will no longer repeat his actions and if the community is later re-caught as a person. Gambling players for the umpteenth time then the community will not get forgiveness and tolerance again from the village government but against the community will be directly acted by the provisions of the applicable legislation.

The efforts of the agreement are intended to provide tolerance and forgiveness to the people who were first caught as gambling actors who aim to provide a deterrent effect and a sense of kapok to the community so that the community does not repeat its actions.

3. Submitted to the Police, furthermore after providing wisdom and tolerance to the community that became the perpetrator if the community is still netted raids at a later date then the village government will no longer tolerate the community because the efforts of the agreement that has been done before, in fact, do not provide a sense of kapok and deterrent effect on the community so that the community is Still carrying out the forbidden practice, then to provide a deterrent effect to the community then the village government submits the community to the police so that it is in a process that is by the provisions of the applicable law.

In the hope that carrying out this legal process can provide a deterrent effect not only to the people who become gambling players but also to other communities to no longer do gambling activities.

Furthermore, the handler of this criminal act is not only charged to the polic and the government but these countermeasures become the responsibility of the community as a whole. It is based on no matter how much effort is made by the authorities or in this case the village government but if the community does not

participate in the effort or still does not want to cooperate with the village government which in this context is to obey all village policies, then all kinds of efforts made by the authorities will only lead to disarming.

To counter gambling practices carried out by the village government there are still people who play gambling activities, it then indicates that the countermeasures carried out by the village government still have not received the same results. Not the maximum results obtained are caused by the legal factors that exist in the middle Buntulia village community as previously spelled out that the mindset of the community is very influential in the efforts of countermeasures from this practice.

The condition regarding legal awareness in the Middle Buntulia community is more specific to the people involved in gambling game activities is still very low. Actually, in the knowledge of the perpetrators who play gambling is already known about the legal consequences of playing gambling but most of the people who do the activity seem to rule out the legal consequences of carrying out this activity and continue to be active in playing gambling.

Another cause of the emergence of fear of the legal consequences that will result from playing gambling is that so far the punishment given to the perpetrators of gambling games caught is still relatively mild. As in some perpetrators who have been arrested while carrying out gambling activities, the perpetrator is given a penalty in the form of warning sanctions and asked for an agreement in the form of an affidavit containing that the perpetrator will not do it again and after the sanction, the perpetrator is finally released so that he reflects on the perpetrator's threat of sanctions against gambling players in the village of Central Buntulia is classified as mild. So that it does not give a maximum deterrent effect to the people who do gambling activities in the village of Central Buntulia both people who have been caught before or other communities that do similar activities but have never been caught at all.

This can be reviewed from the data that throughout 2020 the number of cases and perpetrators who have been processed by law - invitation amounted to 1 case with the number of perpetrators as many as 4 people.

Furthermore, regarding the condition of the law consciousness in the community that plays gambling in the middle buntulia is also influenced by the performance of the law enforcement officers themselves, namely in terms of raid efforts carried out by the authorities themselves, based on the results of research obtained from the field found that raids carried out by police officers who cooperate with the village government are still rarely done, Operations or raids carried out by the authorities are not routinely

carried out every day or every week but the raids are carried out at an unspecified time. The raid can be done twice a month or once a month. So that the efforts of the raid are still relatively rarely carried out. The impact of gambling practices in the location is still relatively free in carrying out its activities because the raids carried out are still relatively rarely done which when compared to the intensity of gambling practices in these locations that tend to be high.

As a result, the people carrying out gambling activities tend not to feel the threat that is too high due to raid efforts that are relatively rarely done earlier. As if embedded in their thinking is that the rare raids give the possibility of more time for them to play gambling. So that the gambling community will the level of awareness and the level of compliance with the law is still so low. By the perpetrators of this practice, most of them no longer consider the legal impact arising from doing this practice so that there is a fear of legal threats faced.

Furthermore, another cause of low legal awareness in the people involved in the practice of this illegal game is the condition of their daily lives, which is meant by the daily conditions is that most of the people involved in gambling practices in the village of Central Buntulia are people who have odd jobs such as managing fields, coconut climbing, and other odd jobs, In the process of the work certainly does not take all day which then by the gambling players in the village of buntulia is utilizing their existing time to play gambling. Which then continues up to gambling games as their daily activity.

This fact is then supported by one of the data that was successfully obtained from the interview, namely "we gamble just for fun and to fill our free time" said one of the perpetrators of this gambling practice. Gambling players view gambling activities as other normal activities that do not matter for them to do every day.¹⁸

Furthermore, in gambling players who come from mothers based on the results obtained that the mothers do gambling activities because they do not have a job at home, the average work of housewives in the village of Central Buntulia is as housewives. After finishing their housework the mothers will then play gambling as a means of filling their daily time which then continues on the activity of playing gambling eventually becomes their routine activity.

Regarding the mindset of the community towards this gambling activity, this gambling activity has also actually been carried out by the community in the village of Central Buntulia since long ago. This game they have been playing for a long time as well as on tour temp. An activity that is done continuously and

¹⁸Interview with gambling offenders on September 7

continuously will turn the activity into a habit, regardless of the bad or good activity if it has become a habit it will be done continuously and not an easy job to eliminate it. Likewise with this gambling game because this game has been done for a long time so that this game then becomes a habit for them and to move the community to leave this game is not an easy matter even after the community knows the adverse effects of the activity. Despite the efforts that have been made in terms of tackling this gambling crime to eliminate the desire and desire of the community in practicing gambling still has not met a bright spot or is still not effective.

The mindset of the community has also actually been formed in such a way in terms of the level of legal awareness that exists in the community in the village of Central Buntulia, it is based on in addition to gambling activities in the area also doing various other illegal activities, one of which is the activity of consuming alcoholic beverages, in the gambling location some places trade liquor which is then also consumed by the students. the gambling offender. Gambling is also supported by other illegal activities so that the mindset of the public regarding legal awareness is also very affected by it so that the environment is indeed very contrary to the provisions of the prevailing norms both in law and society and religion.

The mindset about the level of legal awareness that exists in the community or this case playing gambling is an activity that one of the causes is the environment itself as well as the opposite of environmental problems or in this case, the level of legal awareness is caused by the gambling game itself, in its meaning that the whole between gambling activities and the environment creates the same consequences. There is a low level of legal awareness in society. In activity of playing gambling, one of the causes is the low level of legal awareness in the Middle Buntulia community it is based on the level of community compliance with the legal provisions there, where the level of compliance with legal provisions, in this case, the crime of gambling in the location is still low in addition to playing gambling in the location also circulating practices from consuming liquor to the rise of the commotion caused by Insecurity from the environment so that actions that are contrary to legal norms or more specifically on the practice of playing gambling also become commonplace to be done for the community in the location.

Conversely, the level of legal awareness in the village is also one of the causes is the activity of playing gambling itself, in this case, is the activity of playing gambling becomes one of the activities that people routinely do without regard to the legal consequences arising from playing gambling, so that in that situation created actions that are contrary to legal norms, Because the activity is carried out continuously so that it causes the emergence of a situation in the community where the community has become accustomed to doing activities that violate the applicable provisions. Furthermore, the impact is the emergence

of a possibility for the community to do other activities and the activity is consuming liquor. On the other hand, consuming liquor has long been done by various communities that technically consume or distribute liquor that is contrary to the applicable provisions classified as criminal acts. This situation has a mutually led impact, on the one hand, the mindset situation in the social environment has an impact on the high activity of playing gambling but on the other hand, the high activity of gambling also has an impact on the situation of the mindset that exists in the social environment of the community.

III. Conclusion

Efforts made to counter the crime of gambling in the village of Central Buntulia in the form of socialization and socialization by providing understanding to the perpetrators are carried out by the village government which is the same as the police officers, especially related to the impact caused and social and economic consequences, which are conducted in forum activities or directly in gambling locations. Furthermore, make again against the perpetrator who was caught while practicing gambling. The police and the village government will give a warning and agree on the perpetrators and the police officers in the form of an affidavit, that the concerned will not repeat his actions. Then against the perpetrator who has made an agreement with the village government but was eventually caught playing gambling, it will then be handed over to the police for processing by the provisions of applicable law.

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