

NON-PENAL POLICY APPROACHES IN ADDRESSING ONLINE GAMBLING CRIMES IN INDONESIA

Erix Purwanto¹, Teddy Asmara², Moh. Sigit Gunawan³
Swadaya Gunung Jati University, Cirebon, West Java, Indonesia
erixpurwanto@gmail.com



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Abstract: *Online gambling has evolved into a significant form of social pathology in Indonesia, marked by escalating accessibility, behavioral dependence, and broad social repercussions. Although Article 303 of the Criminal Code and Article 27(2) of the Electronic Information and Transactions Law provide clear penal foundations, their effectiveness in addressing player involvement remains limited due to the growing recognition of online gambling as a compulsive behavioral disorder rather than merely a legal violation. This study examines the legal liability of online gambling players and evaluates the feasibility of rehabilitation as a non-penal response. Using an empirical legal method combined with a socio-legal perspective, primary data were collected through a survey of 51 respondents in Cirebon Regency. The findings reveal that 64.7% of respondents struggle to stop gambling and 75.6% experience psychological distress, despite 98% acknowledging its criminal nature. These results highlight a gap between normative legal awareness and actual behavioral control, demonstrating the inadequacy of penal sanctions in addressing underlying addiction. The study proposes an integrative rehabilitation model incorporating medical, psychological, and social interventions as a more appropriate non-penal strategy within Indonesia's contemporary criminal policy.*

Key words: *Online gambling, non penal policy, rehabilitation, criminal liability*

I. INTRODUCTION

The rapid development of information and communication technologies in the past two decades has significantly transformed patterns of criminality in Indonesia, including in the domain of gambling. What was once a tangible, location-bound activity has now shifted into digital platforms that operate anonymously, transcend territorial boundaries, and are easily accessible through mobile devices. This transformation does not merely alter the modus operandi of gambling but also amplifies its sociological consequences, particularly for individuals vulnerable to compulsive behavior. From a criminological perspective, such a phenomenon reflects the emergence of a new social pathology shaped by the intersection of psychological vulnerability and technological facilitation (Kartono, 2005).

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Although Indonesian positive law has long prohibited gambling through Articles 303 and 303 bis of the Penal Code, and later extended such prohibitions to the digital sphere under Article 27(2) of the Electronic Information and Transactions Law, the unique characteristics of online gambling pose challenges to law enforcement (Soesilo, 1996). Existing punitive mechanisms were never designed for a context in which gambling occurs through decentralized platforms, anonymous accounts, and cross-border transactions. As a result, many individuals apprehended in gambling-related cases are not organizers or profit-seeking operators but ordinary users driven by behavioral addiction and impaired self-control. This places them in a complex position: legally offenders, yet socially and psychologically in need of therapeutic intervention.

Governmental reports illustrate the magnitude of this issue. The Ministry of Communication and Informatics has blocked millions of online gambling sites and applications, yet new platforms continue to emerge in a persistent and adaptive cycle. Meanwhile, police data indicate an increase in enforcement actions without any corresponding decline in gambling prevalence. Such patterns suggest that punitive measures alone are insufficient to alter behavior, particularly for those experiencing compulsive gambling. Psychological studies have demonstrated that problem gambling shares neuropsychological mechanisms with substance addiction, making a purely penal response inadequate to address its underlying causes (Muladi & Arief, 1992).

Empirical findings from this research reinforce these observations. A survey of 51 respondents in Cirebon Regency shows that 64.7% struggle to stop gambling online, even after experiencing repeated financial losses. A significant proportion of respondents (75.6%) reported symptoms of stress, anxiety, and other psychological disturbances linked to gambling activities. Furthermore, 64.7% stated that online gambling had adversely affected their family relationships and social interactions, indicating that its impact extends far beyond economic loss. When asked about the types of assistance they needed, 54.3% preferred medical support, followed by social and spiritual assistance. Interestingly, 98% of respondents were aware that online gambling is a criminal offence, yet this awareness did not translate into behavioral change, reflecting a deep disconnect between legal consciousness and personal self-control.

International experiences provide additional insight. Singapore's National Problem Gambling Clinic and South Korea's Sports Gambling Rehabilitation Center offer integrated medical, psychological, and social services aimed at restoring individual functioning. These models demonstrate that an effective response to online gambling requires more than normative prohibitions; it calls for structured rehabilitation mechanisms for individuals affected by behavioral addiction.

In the framework of criminal policy, Hoefnagels underscores that crime control should not rely solely on penal measures, but should also encompass non-penal strategies such as prevention, education, and social support (Hoefnagels, 1973). Likewise, the Treatment and Social Reintegration theories recognize the need for therapeutic and rehabilitative approaches for individuals whose criminal conduct is driven by impaired volition (Edwards, 1998). Applied to the context of online gambling, these perspectives point to the necessity of differentiating between organizers who intentionally exploit gambling networks and players whose involvement is shaped by psychological dependency.

Taken together, the complexity of online gambling in Indonesia cannot be fully captured by formal legal analysis alone, as it involves a convergence of technology, social dynamics, behavioral addiction, and enforcement challenges. This situation calls for a deeper examination of how existing legal frameworks address the liability of online gambling players and how rehabilitative, non-penal approaches may be integrated into the law enforcement system. These considerations form the basis for the formulation of the research questions that guide this study.

II. RESEARCH METHOD

This study uses a socio-legal approach, which views law not only as a normative device, but also as a social phenomenon that works in interaction with human behaviour and experience. This approach was chosen because the issue of online gambling cannot be understood solely through the provisions of the Criminal Code or the Electronic Information and Transactions Law, but must be analysed together with the psychological, social and addictive behavioural factors that influence the players (Soekanto, 1986). Within this framework, this study is naturalistic qualitative, as described by Moleong, namely research that seeks to understand phenomena based on the subject's perspective in its natural context without manipulating variables (Moleong, 2019). The choice of this method allows researchers to capture the dynamics of online gamblers' experiences more fully, including their motives, social pressures, and obstacles to stopping gambling behavior.

Primary research data was obtained through questionnaires involving 51 respondents who were online gamblers in Cirebon Regency. Respondents were selected purposively to obtain an authentic picture of the intensity of gambling, self-control abilities, socio-psychological impacts, and the need for rehabilitative assistance. The questionnaire was used to capture general patterns, while in-depth interviews provided space for respondents to explain their motives, experiences of addiction, and the obstacles they faced when trying to quit (Moleong, 2019).

Secondary data consist of statutory regulations, court decisions, official reports from the National Police and the Ministry of Communication and Informatics, as well as scholarly literature in criminal law and criminology relevant to online gambling and rehabilitative policy frameworks (Arief, 2010). All data were analyzed using a descriptive-qualitative technique, guided by Miles and Huberman's stages of data reduction, categorization, and interpretation, enabling the integration of empirical findings with the normative legal framework (Miles & Huberman, 1994).

To ensure the validity and reliability of findings, this research applied source and method triangulation by cross-checking questionnaire results, interview data, and documentary sources. As emphasized by Soekanto, triangulation is a crucial element in empirical legal research to maintain consistency and strengthen the evidentiary basis of conclusions (Soekanto, 1986).

III. RESULTS AND DISCUSSION

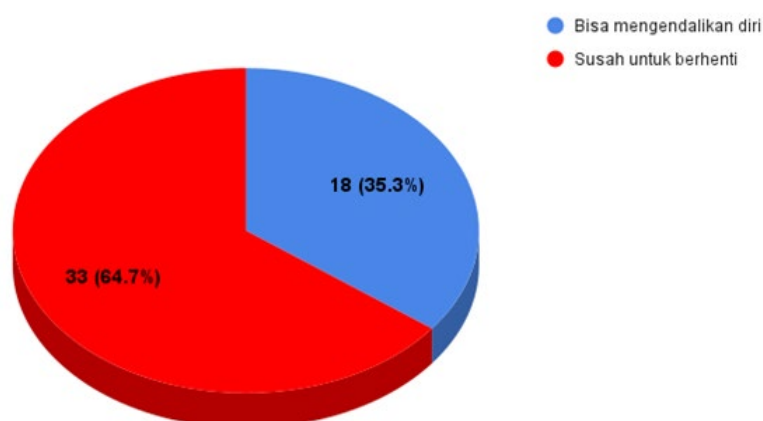
3.1 The Reality of Online Gambling in Indonesia

Gambling has long been situated within the Indonesian legal framework as conduct that threatens public order and violates societal morality. This doctrinal orientation is preserved in the Kitab Undang-Undang Hukum Pidana (Indonesian Criminal Code), which maintains the

colonial-era provisions criminalizing gambling activities. Article 303 criminalizes those who “provide opportunities for gambling,” operate gambling houses, or otherwise facilitate such activities, whereas Article 303 bis specifically targets individuals who participate as players (Soesilo, 1996). The dual structure reflects a conceptual distinction between organizers who derive economic benefit, and players, who are positioned merely as participants (Moeljatno, 2008). In the digital environment, however, this legal differentiation blurs: online gambling platforms operate anonymously and across borders, making organizers difficult to trace while players become the primary subjects of identification and prosecution.

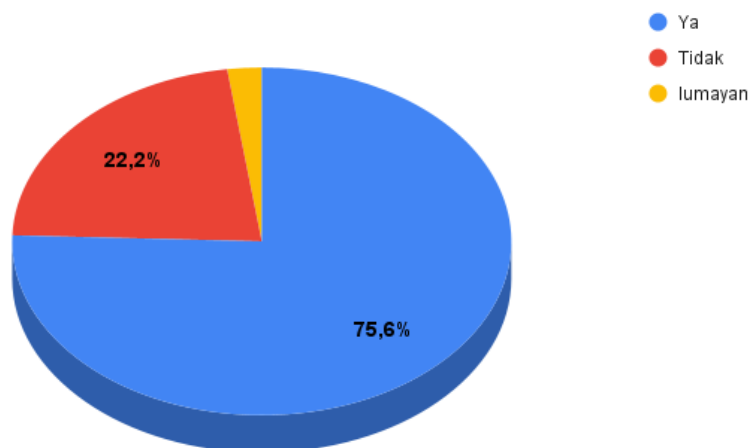
The transition from traditional, physically located gambling to online platforms has radically transformed behavioral dynamics and risk patterns. Online gambling’s anonymity, constant accessibility, and rapid reward cycles create conditions conducive to compulsive behavior. George Ritzer’s thesis on the “McDonaldisation of Society” is illustrative here, demonstrating how technological systems foster speed, efficiency, and predictability at the expense of individual self-regulation (Ritzer, 2004). Likewise, Barda Nawawi Arief emphasizes that technological developments generate new forms of criminal behavior that escape conventional penal mechanisms (Arief, 2010). Thus, online gambling is not only a criminal offence in normative terms, but also a social-digital phenomenon that has a compelling effect on players’ behaviour.

Empirical findings from this study based on a questionnaire distributed to 51 respondents in Cirebon Regency, reveal diverse characteristics among online gambling players. Most respondents did not begin gambling with criminal intent; instead, they gradually developed patterns of compulsive play as exposure to digital gambling stimuli increased. A significant 64.7% reported difficulty stopping despite repeated losses, while 35.3% stated they were still capable of self-control. The latter group largely consisted of individuals who had played only once or twice “out of curiosity.” These results strongly indicate the presence of behavioral addiction among players.



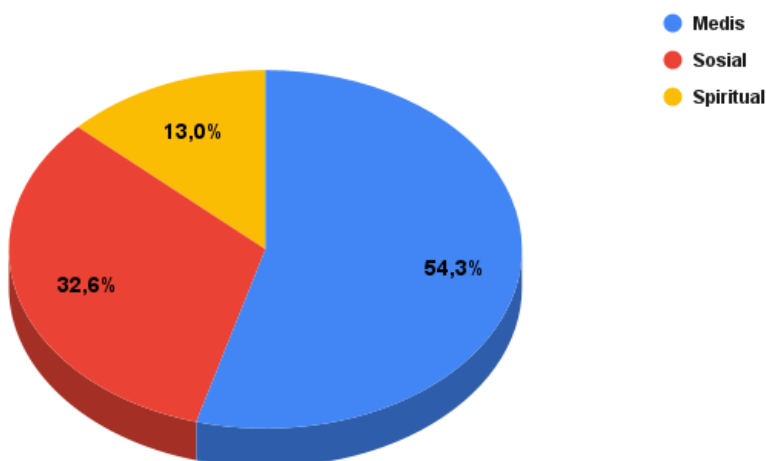
Picture 1. Difficulty in Stopping Online Gambling

The psychological consequences are equally notable. The survey indicates that 75.6% experienced anxiety, stress, or related psychological disturbances, while smaller proportions reported no such effects or provided other responses. This demonstrates that online gambling constitutes not only a legal issue but also a public mental-health concern, making it inappropriate to categorize all players under the same punitive framework.



Picture 2. Psychological Impact of Online Gambling

Respondents also expressed varied needs for assistance: 54.3% indicated the need for medical support, 32.6% sought social assistance, and 13% preferred spiritual guidance, with the remainder identifying other forms of support. This distribution confirms that gambling addiction manifests across medical, social, and spiritual domains, requiring holistic intervention rather than a solely punitive response.



Picture 3. Assistance Needed by Online Gambling Players

These aggregated findings show that online gambling players in Indonesia constitute a vulnerable population shaped by psychological pressures, social influences, and digital design features that encourage compulsive engagement. The continued application of Article 303 bis KUHP and Article 27(2) of the Electronic Information and Transactions Law, which penalize players, does not adequately reflect this reality. Notably, 98% of respondents acknowledged that online gambling is a criminal offense yet continued to participate, illustrating the limited deterrent effect of penal measures when addiction, rather than rational calculation, motivates behavior (Muladi & Arief, 1992).

Taken together, these empirical and doctrinal observations demonstrate that online gambling should be treated as a complex socio-legal phenomenon rather than a homogeneous criminal act. The characteristics of players, the psychological harm they experience, and their expressed need for support indicate that a more proportionate and humane legal response is required, one that incorporates rehabilitative elements and differentiates between types of players rather than relying solely on criminal penalties.

3.2 The Rehabilitation Model for Online Gambling Players in Indonesia

The rising prevalence of online gambling in Indonesia illustrates a complex behavioral phenomenon that cannot be fully understood through a purely legal–normative lens. Empirical data collected from 51 respondents in Cirebon Regency demonstrate that 64.7% of players report significant difficulty stopping their gambling behaviour despite repeated financial losses, while 74.5% acknowledge experiencing psychological disturbances such as anxiety, stress, or emotional instability. These findings affirm that online gambling constitutes not merely a statutory offence, but a form of behavioral addiction that operates through identifiable psychological mechanisms.

This interpretation aligns with Mark D. Griffiths' Six Components of Addiction, which conceptualizes non-substance-related addictive behaviour through six diagnostic markers: salience, mood modification, tolerance, withdrawal, conflict, and relapse (Griffiths, 2005). In the context of online gambling, these components emerge visibly through increased frequency of play, the inability to regulate impulses, reliance on gambling to alleviate emotional distress, and the growing conflict experienced in familial and social relationships. Online gambling platforms amplify these mechanisms through structural features such as high event frequency, near-miss stimuli, instant accessibility, and digital anonymity, elements that, according to Griffiths, substantially accelerate the transition from recreational play to compulsive behaviour (Griffiths, 2005).

In contemporary criminological and public-health literature, several rehabilitation models have been developed to address addictive behavior among online gambling participants. These models provide an analytical foundation for designing a responsive policy framework that recognizes gambling disorder as both a legal and clinical problem.

1. The Clinical–Therapeutic Model conceptualizes addiction as a neurobiological disorder that requires structured professional intervention. This approach is widely adopted in the United States and the United Kingdom, where individuals exhibiting symptoms of

gambling disorder are referred to psychiatrists or clinical psychologists for stabilization and diagnostic assessment (UK Gambling Commission, 2019). Central to this model is the use of Cognitive Behavioral Therapy (CBT), which seeks to correct maladaptive thinking patterns and disrupt destructive behavioral cycles associated with online gambling. CBT has become one of the most prevalent rehabilitation modalities in Singapore and Australia, reflecting its strong empirical grounding in treating behavioral addictions. Through cognitive restructuring, impulse-control training, and relapse-prevention strategies, this model aims to restore individual agency and reduce compulsive tendencies (National Council on Problem Gambling, 2021).

2. The Social–Community Model, by contrast, emphasizes the social, moral, and economic dimensions of recovery. This approach is anchored in the principle of social reintegration, which views rehabilitation not merely as clinical correction but as the restoration of an individual’s relational and community ties. In this model, support networks, community mentoring, and social-welfare interventions constitute essential components of recovery. In the Indonesian context, characterized by a strong religious and communitarian orientation, this model often includes spiritual counseling, moral guidance, and value-based assistance aimed at rebuilding personal identity and fostering ethical self-regulation. The model aligns with reintegrative theories that underscore the significance of social bonds in preventing relapse and reducing recidivistic behaviors.
3. The Integrative Model, which synthesizes clinical and social approaches into a unified rehabilitation framework. This model acknowledges that online gambling addiction is multifaceted, simultaneously psychological, social, and moral, therefore cannot be effectively addressed through a single disciplinary perspective. By combining therapeutic treatment, psychosocial support, and community-based reintegration, the integrative model offers a holistic pathway that is particularly suitable for jurisdictions seeking to balance humanistic treatment with the broader demands of criminal policy. Its multidimensional orientation makes it a strong candidate for adoption in Indonesia, where the intersection between legal responsibility, public health concerns, and socio-cultural values requires a harmonized rehabilitative strategy.

Blaszczynski and Nower’s Pathways Model of Problem Gambling provides an analytically robust framework for understanding the heterogeneous profiles of online gambling participants. The model identifies three major categories shaped by varying degrees of psychological vulnerability and etiological risk (Blaszczynski & Nower, 2002). *The first group*, behaviorally conditioned gamblers, consists of individuals who do not possess inherent psychological or biological predispositions, but who gradually develop problematic gambling habits as a result of positive reinforcement, such as early wins, the high-speed nature of digital games, and the constant accessibility of online platforms. This pattern closely mirrors the situation in Indonesia, where many individuals begin gambling “out of curiosity” and subsequently transition into compulsive behavior. Empirical findings from Cirebon Regency show that 64.7% of respondents report difficulty stopping despite repeated losses, illustrating the behavioral conditioning cycle identified in the model.

The second group consists of emotionally vulnerable gamblers, individuals who grapple with emotional distress such as anxiety, chronic stress, depressive tendencies, or

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adjustment problems, and who turn to gambling as an escape mechanism (Blaszczynski & Nower, 2002). The data mirror this description: 74.5% of respondents experienced anxiety or psychological strain either as a cause or consequence of online gambling. *The third group*, antisocial impulsivist gamblers, is characterized by high impulsivity, poor self-control, and traits associated with antisocial behaviour. This category is more likely to engage in secondary criminal acts such as fraud, theft, or misappropriation of funds to sustain their gambling (Blaszczynski & Nower, 2002). For this group, therapeutic measures alone are insufficient; a combination of penal and rehabilitative interventions becomes necessary to address both the behavioral disorder and the criminogenic risks involved.

In addition to the Pathways Model, the American Psychiatric Association's DSM-5 classification of gambling disorder provides a further diagnostic lens. DSM-5 delineates the severity of gambling disorder into mild, moderate, and severe, based on symptoms such as preoccupation with gambling, compulsive urges, tolerance, withdrawal, and repeated failure to control the behavior (American Psychiatric Association, 2013). When mapped onto Indonesia's empirical data, the severity spectrum helps establish a scientifically defensible categorization of online gambling participants:

1. Recreational players, who gamble infrequently and retain full self-control, thus requiring no rehabilitative intervention;
2. At-risk or problem gamblers, who exhibit early loss of control and mild-to-moderate psychosocial impairment, and therefore warrant structured integrative rehabilitation;
3. Addictive or severe gamblers, whose disorder significantly disrupts family, employment, and mental health, necessitating comprehensive integrative rehabilitation;
4. Impulsive–antisocial gamblers, who manifest concurrent criminal tendencies and may appropriately be subjected to penal measures or hybrid penal–rehabilitative responses.

In the Indonesian context, empirical findings demonstrate that the needs of affected individuals are multifaceted and cannot be addressed through a singular intervention model. Nearly half of the Cirebon respondents indicated a need for medical assistance, while 29.4% reported the need for social support, and 11.8% expressed a preference for spiritual guidance. These patterns underscore the necessity of a holistic rehabilitative framework, tailored to the socio-cultural fabric of Indonesian society.

A staged integrative model is therefore appropriate for Indonesia: beginning with an initial assessment of addiction severity; followed by medical stabilization for acute psychological disturbances; psychological interventions, primarily cognitive-behavioral approaches to reform maladaptive thought patterns; structured social reintegration supported by family engagement; and finally, spiritual strengthening consistent with the cultural and religious context of the community. Such mechanisms could be structured similarly to Indonesia's integrated assessment system for narcotics offenders, albeit with modifications to reflect the dynamics of behavioral addiction.

From an institutional perspective, the scale and complexity of online gambling suggest the relevance of establishing a dedicated national agency akin to the National Narcotics Board

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(BNN). A specialized body could coordinate cross-ministerial data, formulate national prevention strategies, and operate community-based and digital rehabilitation facilities. While BNN serves as a valuable reference point regarding its dual mandate of law enforcement and rehabilitation, an agency for online gambling should emphasize behavioral recovery, harm reduction, and digital literacy rather than punitive enforcement alone.

The diversity of rehabilitative models highlights the broader policy argument that online gambling participants cannot be treated as a uniform category within the criminal justice system. Differences in psychological vulnerability, behavioral drivers, and the presence or absence of criminogenic factors require differentiated responses. Within this framework, rehabilitation should not be misconstrued as leniency, but rather as a legitimate criminal policy instrument for cases where impaired self-control is central to the offending conduct. Penal sanctions remain pertinent for those who occupy strategic roles or derive material profit within the gambling structure. A differentiated, integrative policy approach thus provides a more effective, humane, and substantively just foundation for addressing the contemporary challenges posed by online gambling in Indonesia.

IV. CONCLUSION

The legal mechanism governing online gambling participants in Indonesia remains firmly rooted in a penal-justice paradigm that prioritizes punishment over recovery. Under Article 303 bis of the Indonesian Criminal Code (KUHP) and Article 27(2) in conjunction with Article 45(2) of the Electronic Information and Transactions Act (ITE Law), the law does not draw a meaningful distinction between operators, facilitators, and players. As a consequence, all parties are legally constructed as offenders within a uniform criminal framework. This undifferentiated approach produces a tension between formal justice and substantive justice, as individuals who gamble due to addiction, psychological vulnerability, or socio-economic pressure are treated no differently from commercial actors who profit from the gambling ecosystem.

A non-penal response in the form of integrative rehabilitation offers a more balanced and contextually appropriate alternative for addressing online gambling behaviour among players. This model combines legal supervision with psychosocial therapy and, where culturally relevant, spiritual reinforcement. It situates the gambler not merely as a criminally culpable actor but as an individual experiencing a behavioral disorder that necessitates therapeutic and social intervention. The model also allows for differentiated treatment based on the gambler's level of addiction, psychological profile, and risk of harm to self or others. To ensure effective implementation, this rehabilitative approach requires institutionalization through a dedicated rehabilitation framework—potentially a specialized body responsible for assessment, treatment, monitoring, and community reintegration of individuals affected by online gambling. Such an institution would enable the State to operationalize a more humane and evidence-based criminal-policy design, shifting from a purely punitive architecture to one that aligns rehabilitation with the broader objectives of public health and substantive justice.

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