

Legal Analysis of the Misuse of Live Streaming on the TikTok Platform as a Medium for Promoting Online Gambling

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ABSTRACT

The rapid development of information and communication technology has significantly changed human behavior, particularly in the realm of social media, with platforms like TikTok gaining massive popularity. While TikTok's live-streaming feature provides opportunities for content creators to engage with their audiences and promote products, it has also led to the misuse of this platform for illegal activities, such as the promotion of online gambling. This research aims to conduct a juridical analysis of how TikTok's live-streaming feature has been exploited to promote online gambling, using a case study involving a popular TikTok live streamer. The study evaluates the legal frameworks regulating the promotion of online gambling through social media, focusing on the Indonesian ITE Law and the Criminal Code. A normative juridical approach is employed to assess violations of legal provisions by influencers, specifically their actions in promoting gambling sites under the guise of entertainment. The results reveal that while TikTok's live-streaming feature can be used for legitimate purposes, it can also facilitate illegal gambling promotion. The study concludes by recommending improved legal enforcement and policy development to address these challenges effectively.

KEYWORDS



TikTok Live Streaming, Online Gambling Promotion, ITE Law, Criminal Code, Criminal Law.

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INTRODUCTION

The change in the flow of information and communication technology development has brought about changes in the human mindset and in various activities carried out through this highly advanced technology. Of course, this development can make human work easier, accelerate the search for news and information, and facilitate the dissemination of beneficial information by users and readers, which is often carried out on social media. Through social media, interactions are no longer limited (Perundang-undangan, n.d.; Wildan, 2024). Through these networks, various types of information can be accessed by social media users from different applications such as TikTok and YouTube. Through these applications, people can not only present or access news but also frequently obtain entertainment content that attracts public attention (Alfitra & Faizin, 2021; Bahri, 2020; Efendi & Prasetijo, 2022; Ismail, Widiarti, & Dani, 2024; Kusuma & Hasyim, 2024). One of the most popular applications currently in use is TikTok.

Of course, this application has become the center of media attention and has many enthusiasts because the TikTok application not only provides entertaining content that is easily accessible, but also allows users to look for side jobs, such as promoting a business owned by someone else or collaborating with a particular brand (N. H. Pakpahan & Pakpahan, 2025; Sihombing, 2025; Simanjuntak, 2022). The TikTok live-streaming feature makes it easier for influencers or users to broadcast their businesses directly to an audience. Through this live feature, live streamers and audiences can communicate without limitations. The more viewers

there are, the more live streamers benefit, both from money transferred through the personal accounts of users who purchase promoted items and from gifts given by audiences to live streamers (Al-rasyid, 2023; Sugeng, 2020; Wijarnako & Syauket, 2022). TikTok Gifts are online-based virtual gifts or animated stickers given by viewers to live-streaming creators as a form of support or appreciation, which can be converted into coins and then exchanged for cash in the form of a balance in the creator's account. This mechanism technically resembles an electronic transaction that involves the exchange of value between users and TikTok as an intermediary platform. Therefore, live creators increasingly compete to build engaging content through TikTok live streaming to gain appreciation from audiences in the form of gifts.

Not only selling products or making endorsements, live creators also often broadcast entertaining content such as challenge-based content. When audiences give gifts, live-streaming users often become more enthusiastic in performing challenges using the unique features provided by the TikTok application, which are increasingly popular in attracting users' attention (Cokronegoro, 2025). However, along with the development of the application's features, negative impacts have also emerged in the form of misuse of the platform for prohibited or illegal activities, namely the promotion of online gambling (*judol*) through TikTok live streaming. Online gambling (cyber gambling) is a form of gambling conducted online using a computer or Android-based device that can be accessed through certain gambling websites. In carrying out this type of game, there is a transaction between the organizer and the player, in which both parties make a deposit before starting the game, and there is an element of profit and loss depending on the outcome of each round according to the bets placed by the players.

Gambling has become an increasingly concerning social problem considering the economic disparities in society, which influence individuals facing financial difficulties, such as those who struggle to obtain employment or earn income. As a result, some individuals seek the easiest way to obtain large sums of money by engaging in online gambling. Gambling as a shortcut to solving economic problems causes significant social unrest because it often leads to other criminal acts, for example stealing to obtain capital for gambling. The problem of gambling continues to increase with the development of the times, shifting from conventional gambling using physical tools to gambling based on information technology, commonly referred to as online gambling or abbreviated as *judol*. In previous research, online gambling has often been analyzed and identified through promotional content in advertisements displayed on social media, which show gambling advertisements lasting a few seconds or minutes, as well as live gamers whose content contains elements of online gambling. In addition, influencers who promote gambling activities through electronic media are not uncommon. However, a notable development is that online gambling promotion is not only conducted through social media advertisements or websites, but also through live streaming on the TikTok application using the gift feature available on the platform, which is intended for entertainment content but is misused for online gambling-related transactions.

Recently, a case that occurred in a village in Sukabumi Regency, West Java Province involved a live-streamed dancing activity on the TikTok application with villagers under the pretext of earning a living. The individual involved was Gunawan, also known as @sadb0r86, which is the name of his TikTok account with many followers. During the live broadcast, audiences frequently gave gifts to the @sadb0r account, causing the account to become more

viral and generate significant profits. However, negative actions occurred during this live streaming session when one of the viewers of the @sadbtor account, namely @flokito, sent many gifts. In response, @sadbtor became excited, danced enthusiastically, and expressed gratitude while saying phrases such as “*anti-rungkad*,” “*gacor*,” and “the link is on Google,” among others, which were interpreted as indicating the promotion of a *judol* site. On this basis, @sadbtor was arrested by the police and designated as a suspect in the promotion of online gambling sites because he indirectly promoted a gambling site through the live-streaming feature of the TikTok application using the gift-payment mechanism. After the arrest of @sadbtor by the Sukabumi Police Chief, the suspect denied involvement in the criminal act of *judol*. However, based on evidence in the form of screen recordings and the results of the investigation initiated through public complaints, @sadbtor was designated as a suspect in the promotion of *judol*. For these actions, the suspect may be charged with violations of Article 45 paragraph (3) in conjunction with Article 27 paragraph (2) of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions, or Article 55 paragraph (1) of the Criminal Code. However, one of the main difficulties in criminal law today lies in defining the elements of criminal acts committed through information technology media. 7A criminal act (*strafbaar feit*) is an act in which a rule of law prohibits certain conduct and imposes criminal sanctions on the violator. However, if the criminal act is not described in detail in the formulation of the article but produces the same impact, the question arises whether the utterance of certain terms in entertainment content, namely live streaming, can be categorized as “online gambling promotion” in a juridical sense. Although the Criminal Code and the ITE Law regulate the prohibition of online gambling promotion, difficulties remain in proving the *mens rea* (element of intentionality) in cybercrimes, where the act is packaged in such a way that it appears to be a lawful activity. This situation is reflected in the @sadbtor case, where the suspect defended himself by claiming that the content was purely entertainment.

Based on the background that has been explained, the researcher is encouraged to analyze more deeply whether the streamer’s actions can be considered criminal acts that violate the law and whether criminal liability can be imposed on the TikTok streamer. The primary objective of this research is to conduct a comprehensive juridical analysis of the misuse of TikTok’s live-streaming feature as a medium for promoting online gambling. Specifically, the study aims to investigate how influencers use disguised promotional language in live broadcasts to mislead audiences and circumvent legal scrutiny. Additionally, this research analyzes the applicability and effectiveness of current legal frameworks, particularly the Criminal Code and the ITE Law, in addressing online gambling promotion through digital platforms. The study also explores the form of criminal liability that should be applied to live streamers promoting online gambling, offering recommendations for improved legal enforcement and policy development in the digital age.

METHOD

This research used a normative juridical approach with a statutory approach (statute approach). Normative juridical legal research is a process of examining legal principles, norms, and doctrines to resolve existing legal issues. The normative juridical approach was chosen

because this research focused on the analysis of legal norms, laws and regulations, and their application in law enforcement practice.

This research was descriptive-analytical because it aimed to systematically describe the legal facts that occurred and then analyze them based on relevant theories and applicable laws and regulations. The study examined law enforcement issues in cases of online gambling promotion involving social media influencers, particularly by comparing the handling of the case involving Gunawan Sador with that of other influencers. Through this approach, the research explored the dimension of justice in criminal law enforcement, identified disparities in the application of legal norms, and analyzed the construction of more proportionate criminal liability. An in-depth study of statutory provisions was conducted to understand the doctrinal aspects of the law and their implementation in practice, thereby enabling the formulation of a comprehensive legal perspective regarding the enforcement of laws related to online gambling promotion.

RESULT AND DISCUSSION

1. Legal Analysis of the Misuse of Live Streaming on the TikTok Platform as a Medium for Promoting Online Gambling

Indonesia is one of the countries with the most TikTok users as of 2025. TikTok users in the country are projected to reach 194.37 million people by July 2025. This figure places Indonesia at the top position globally among other major countries. One factor driving the growth of TikTok users is that TikTok is among the applications that prioritize the security of user data privacy—a critical issue as technology develops alongside cybercrime—and TikTok has succeeded in ensuring user safety. This platform has also fostered widespread recognition for users through the content they upload, thereby increasing account ratings that benefit content creators. Interestingly, TikTok is not only used by young people but is also in great demand by adults, as content creators offer entertaining content—comedy, news, video uploads, and live streaming features—that appeals to all age groups. Given the growth of TikTok users in Indonesia, driven by creative content that entertains all demographics, the platform has also become a livelihood for TikTok streamers, who engage in endorsements or promotions during live streaming. (Deswitaku, 2025; Effendi Kusuma, 2023; Fahrurrozi & Gare, 2019) In the legal dictionary, promotion can be defined as "The activity of introducing, offering, or informing a certain good, service, or activity to the public with the aim of attracting interest, increasing sales, or expanding the use of the goods or services." This study highlights a case in which there was misuse of the live streaming feature on the TikTok platform, which is ordinarily used to promote goods, services, or entertainment content, but was instead suspected of openly promoting online gambling to live streams watched by thousands of viewers.

Based on the online gambling promotion actions carried out by streamers on the TikTok LIVE application, it can be analyzed that what the streamer @sador86 promoted is the online gambling site known as Flokitoto. The classification of the Flokitoto site as an online gambling site is established through the analysis of three elements of gambling according to the doctrine of criminal law.

The first element is a game or a wager. Based on verification, the Flokitoto site provides various types of games that fall under the category of games of chance, namely the lottery (dark

toto). Lottery games are strictly prohibited under Article 303 of the Criminal Code *jo.* Government Regulation (PP) Number 9 of 1981, while slot games are purely chance-based because their results are determined by a random algorithm. As for live casinos, even though they contain an element of skill, the element of chance remains more dominant, and they are therefore qualified in the same manner as conventional gambling. Thus, the elements of game or wager have been fulfilled.

The second element is chance. In testing this element, three tests were performed. First, the probability-of-winning test showed that in 4D lotteries the probability of winning was only 1/1,000, and in slot games with an RTP of 95%, winnings were unpredictable because they were based on random algorithms. Second, testing for repeatable results proved that the outcomes of the game cannot be reproduced with the same strategy, unlike skill-based games such as chess or esports. Third, all games have a house edge, indicating that the system is designed to benefit the operator in the long run. These three tests prove that the element of chance has been juridically fulfilled.

The third element is the presence of betting. The analysis of the betting mechanism within the Flokitoto site shows three main indicators. First, a deposit system that requires users to deposit money through QRIS, bank transfer, or e-wallet with a minimum of IDR 10,000, which is juridically an initial bet or capital at risk. Second, the withdrawal system that allows the withdrawal of profits, as evidenced by a withdrawal transaction of IDR 3,560,000 by one of the user accounts. Third, there is no alternative to playing with virtual points, so users must bet real money. Upon the cumulative fulfillment of all three elements, it is proven that the Flokitoto site is an illegal online gambling site and the object of promotion in this case. In the context of gambling crimes, the act of promoting does not occupy the same position as that of the organizers, facility providers, and participants in gambling games, and therefore, this study examines more deeply the juridical analysis of the appropriate classification of the @sadb0r86 account, wherein elements of a criminal act for the misuse of live streaming can be found.

- a. The Organizer/Bookmaker (highest culpability) is the actor who opens and runs a gambling operation, playing a role in creating a website or online gambling platform that regulates the betting system and determines winnings; the bookmaker holds the greatest authority and power in the operation. In the case under study, the bookmaker of the gambling site in question is the owner/creator of the Flokitoto website, which was promoted by @sadb0r86 in his live stream.
- b. Facility Provider refers to the entity that provides the means or platform where a gambling crime occurs. In the case under study, TikTok's live streaming feature serves as such a facility, though it is not the principal actor.
- c. Promoter/Advertiser is a person who participates in promoting online gambling sites or platforms using social media. In this case, the researcher determined that the @sadb0r86 account owners, namely Gunawan and Ahmad Supendi, occupy the position of Promoters. In the streamer's account, the perpetrators do not participate in gambling, do not provide facilities, but disseminate information so that viewers are encouraged to gamble online.
- d. Players/Gamblers are actors who are directly involved in online gambling games by using money in gambling transactions, registering their own accounts on gambling websites, depositing money, playing slots, and incurring profits or losses. In this case, the viewers of

@sadb0r86 can be said to be the persons who accessed the Flokitoto website at the encouragement of @sadb0r86 acting as a promoter.

Based on the position of each perpetrator who participates in or assists the commission of online gambling, it must be reaffirmed which acts are punishable and which acts are contrary to the law, committed with culpability, so as to establish criminal accountability—this concept is referred to as *strafbaar feit*. In the elements of criminal acts (*strafbaar feit*), the objective elements are grouped to include several important components that must be met. (Nouvan, 2025; D. N. H. Pakpahan, n.d.; Putra, 2024) These objective elements include human actions that are active and passive, the consequences arising from these actions, and the circumstances that accompany the prohibited acts. Meanwhile, the subjective element relates to the inner disposition of the perpetrator, which reflects the existence of intentionality (*dolus*) or negligence (*culpa*) in committing a criminal act, so that the level of criminal responsibility can be measured proportionately and fairly.

First, the perpetrator's actions were clearly fulfilled and proven by uttering promotional words during the live stream. Second, the consequences arising from the perpetrator's actions—namely, uttering promotional words referencing gambling sites—resulted in the spread of gambling information to thousands of viewers, potentially causing those viewers to participate in gambling, thereby establishing a sufficient causal relationship. Causal relationship is one of the important principles in the criminal law system for examining the cause-and-effect of the perpetrator's actions, which serves to determine the extent to which an act can be attributed as the legal cause of the actual harm that occurs. Third, certain circumstances that accompany the act are clearly fulfilled, in that the act was carried out through the live streaming feature of the TikTok application. Although the Criminal Code has regulated the crime of gambling in Articles 303 and 303 *bis*, the regulation does not clearly encompass the act of promoting online gambling through social media. This is because the Criminal Code was drafted in the pre-digital era and did not anticipate the development of information technology.

Therefore, the ITE Law serves as *lex specialis* that specifically regulates criminal acts through electronic systems, including the dissemination of gambling information, as governed by Article 27 paragraph (2) of the ITE Law of 2024. In determining the criminal liability of the promoters in question through TikTok live streaming, it is necessary to analyze the elements contained in Article 27 paragraph (2) of the ITE Law. (Rofiana & Agung, 2023; Sitanggang et al., 2023; Wulandari, 2024) The article states that "Everyone knowingly and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have gambling content." Based on the formulation of the article, there are several elements that must be met to determine criminal liability, namely by proving subjective and objective elements. The subjective element pertains to a criminal act committed by the perpetrator with intent (*dolus*) or negligence (*culpa*), reflecting a specific mental state because the act committed is intrinsically related to the psychological condition of the perpetrator. The subjective elements in the context of the article are "everyone" and "deliberately." Meanwhile, the objective element refers to an unlawful act committed by the perpetrator through outward physical actions that produce the consequences of the act. The objective element in Article 27 paragraph (2) of the ITE Law is the unauthorized act of "distributing" and/or "transmitting" and/or "making accessible" gambling content.

The subjective element, pertaining to the perpetrator's culpability, is analyzed separately from the objective element of the criminal act. Therefore, to establish criminal liability, one must first prove the subjective elements, namely "everyone" and "intentionally." Additionally, three traditional forms of intentionality must be analyzed to determine the position of the perpetrators of the crime of promoting online gambling.

a. Everyone

The formulation in Article 27 paragraph (2) of the ITE Law, the element of "everyone" has the same meaning as the element of "whoever," which provides an authentic definition as stated in Article 1 number 21, which states that the person in question is an individual whether an Indonesian citizen, a foreign citizen, or a legal entity. This means that anyone—an individual or an institution that is a legal entity—who violates the provisions of Article 27 paragraph (2) will be given criminal sanctions. In the case of the promotion of online gambling sites through the TikTok LIVE application, the element of "everyone" is fulfilled in Gunawan and Ahmad Supendi as the owners and managers of the @sadb0r86 account, who broadcast and promote the Flokitoto online gambling site. These two persons are capable legal subjects, able to take responsibility for their actions, namely distributing and transmitting electronic information that has gambling content through the TikTok LIVE digital platform.

The author analyzed that the owners of the @sadb0r86 account, Gunawan and Ahmad Supendi, who promote the online gambling site contained in the @flok0toto1 account, are legal subjects who can be held accountable for their actions. As the owners and operators of the TikTok LIVE account, Gunawan and Ahmad Supendi have full control over the content they broadcast, including the decision to promote the online gambling site after receiving gifts from the promoter's account. They are persons who directly commit criminal acts by uttering promotional sentences, mentioning the name of gambling sites, and providing information on how to access the site to the audience. Thus, the element of "everyone" in this article has been fulfilled because Gunawan and Ahmad Supendi are identifiable legal subjects who can be held criminally responsible for their actions in disseminating electronic information related to gambling through the TikTok LIVE social media platform.

b. Intentionality as Direct Intent

Opzet als oogmerk occurs when the perpetrator consciously and deliberately aims to cause consequences that are prohibited by law. That is, criminal consequences are the primary target of the perpetrator's actions. Actions are carried out with full will and intention to achieve these consequences. In this context, the perpetrator would not commit the act if the anticipated consequences are not in accordance with what was desired. In analyzing the case of the @sadb0r86 streamers, Gunawan and Ahmad Supendi initially conducted live streaming while dancing to entertain their audience, with the primary goal of receiving gifts or donations from viewers on the TikTok application. However, when one of the viewers—the @flok0toto account, representing one of the major online gambling websites—sent large-value gifts, Gunawan and Ahmad Supendi began promoting the online gambling site to their other viewers. Although the promotion was not the initial primary goal, it can be qualified as *opzet* due to the existence of *bewustheid* (awareness).

c. *Sengaja dengan kesadaran kepastian* (Intentionality with Awareness of Certainty)

In the @sadbtor86 case, it is not appropriate to categorize the act as intentionality with the awareness of certainty (*opzet als zekerheidsbewustzijn*) because this form of intentionality only applies when the consequences of the perpetrator's actions are not the main goal, but are the inevitable consequences that must occur to achieve another goal. Intentionality with awareness of certainty is usually applied to cases where the perpetrator seeks a certain goal, but is aware and certain that other consequences will necessarily occur, such as the classic example of someone who bombs an aircraft to kill one person while knowing that other passengers will also die. In the @sadbtor86 case, the act of promoting online gambling through TikTok LIVE is not a side effect or an inevitable consequence of another action but rather the direct and core purpose of their actions. Gunawan and Ahmad Supendi actively and directly mentioned the name of the Flokitoto site with the intention of making the audience aware of, interested in, and able to access the online gambling site. This promotional action was carried out in a targeted manner and constitutes the primary purpose of their actions, not merely a side effect that was bound to occur.

Although the motivation behind the action was to receive gifts or money from @flokkitoto, the means of achieving such financial goals was to deliberately promote the gambling site, so that the gambling promotion itself becomes the direct intent of the criminal act committed.

d. *Sengaja dengan kemungkinan* (Intentionality with Awareness of Possibility)

That is, a perpetrator continues to act as desired even though undesirable consequences may arise, yet the perpetrator deliberately proceeds with the act. Furthermore, the @sadbtor86 case does not constitute intentionality with awareness of possibility, or *dolus eventualis* (*opzet als mogelijkheidsbewustzijn*), because this form of intentionality only applies when the perpetrator does not desire the direct consequences but is aware of the possibility or risk that such consequences may occur and accepts that risk.

In intentionality with awareness of possibility, the perpetrator merely thinks or conjectures that certain consequences may occur from his actions, but still commits the act with an attitude of indifference, accepting the possibility. In fact, Gunawan and Ahmad Supendi, as owners of the @sadbtor86 account, did not merely realize the possibility or suspect that their actions constituted online gambling promotion; rather, they knew with certainty that what they were doing was promoting the Flokitoto online gambling site. This form of intentionality is therefore inapplicable, as their conduct was not merely a possibility of promotion but a deliberate and certain act of promotion.

Thus, in the @sadbtor86 case, the fulfillment of the element of intentionality under the ITE Law establishes that the intentionality of Gunawan and Ahmad Supendi constitutes culpable conduct. (Gainsbury, Russell, Blaszczynski, & Hing, 2015; Vuorinen, Savolainen, & Oksanen, 2024) The intentionality of a criminal actor has a closer psychological relationship to the act—whether the act is prohibited or undertaken out of necessity—compared to negligence, because the criminal sanction is significantly heavier when the act is committed deliberately as opposed to negligently (*culpa*). There are even certain offenses that, if committed negligently, do not constitute a criminal act. According to Moeljatno, guilt is the

inner relationship between the perpetrator and his actions that cause criminal consequences. That is, a person is considered guilty if he is capable of being held accountable (*toerekeningsvatbaar*), there exists an inner relationship (mental attitude) to the acts committed, and there is no ground for excuse or forgiveness (such as coercion, self-defense, or mental disorder).

Thus, intentionality and culpability share a hierarchical relationship, wherein intentionality is a specific form of fault that must be present in a criminal act under the ITE Law to satisfy the requirements for criminal responsibility. Without an element of intentionality (conscious intention), it is difficult to prove that the perpetrator violated the ITE Law criminally. Regarding the objective element in Article 27 paragraph (2) of the ITE Law—specifically, the unauthorized act of distributing and/or transmitting and/or making accessible gambling content—the fulfillment is as follows:

- a) Distributing refers to a series of electronic devices and procedures that function to prepare, collect, analyze, store, display, announce, transmit, and/or disseminate electronic information, with electronic systems characterized by the ability to process digital data and store information. Transmitting refers to the conveyance of a message from one person to another. The actions of Gunawan and Ahmad Suspendi clearly fulfilled this element, as they disseminated the name and link of the gambling site through audiovisual means.
- b) Making it accessible means that when the perpetrator disseminates the gambling information, the audience can access such information using only a mobile phone or laptop. During the live stream, Gunawan directed viewers to information they could independently access by stating, "the link is on Google," thereby clearly fulfilling this element.

Based on the analysis of the elements of criminal acts, it can be concluded that the misuse of TikTok LIVE as a medium for online gambling promotion is a criminal offense as stipulated in Article 27 paragraph (2) of Law Number 1 of 2024 concerning the Second Amendment to the ITE Law. This conclusion is based on the fulfillment of all the elements that must be proven. First, the act of promotion is qualified as a criminal offense based on the broad interpretation of the phrase "distribute and/or transmit and/or make accessible" in Article 27 paragraph (2) of the ITE Law. Second, the promoted site is proven to be an online gambling site because it meets three elements of gambling, namely the existence of games/competitions, the element of chance, and betting. Furthermore, there is an element of intentionality in the form of *opzet als zekerheidsbewustzijn* (awareness of certainty), whereby the perpetrators realize that their actions will necessarily promote the online gambling site. This act is unlawful because it is carried out without rights and violates the provisions of the law. With the fulfillment of these elements, the act of promoting online gambling through TikTok LIVE can be categorized as a criminal act for which the perpetrators can be held criminally liable.

2. Forms of Criminal Liability for Live Streamers as Perpetrators of Online Gambling Promotion on the TikTok Platform

In general, criminal law holds a person criminally responsible when that person has committed an act formulated as a crime by law. Thus, a person can be held criminally liable if he has committed a criminal act. Criminal responsibility can be interpreted as a normal or healthy mental state, wherein one possesses the intellectual capacity to distinguish between right and wrong—in other words, the ability to recognize the unlawful nature of an act and to determine one's own will accordingly. There are at least two factors for determining the

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existence of criminal responsibility: the cognitive factor and the volitional factor. The cognitive factor refers to the ability to distinguish between permissible and impermissible acts. Meanwhile, the volitional factor refers to the ability to align one's behavior with the understanding of what is and is not permitted. A person who has fulfilled all the elements of a criminal act, as formulated in criminal law, is referred to as a criminal perpetrator.

A crime can involve more than one person; in criminal law, this is referred to as participation in a criminal act. In the Criminal Code, the inclusion of criminal acts is often referred to as *deelneming*, which involves two or more persons committing a criminal act. Meanwhile, according to Satochid Kartanegara, *deelneming* means "when several people or more than one person are involved in one crime." The inclusion of this criminal act gives rise to various forms of punishment applied to each perpetrator. To determine the appropriate form of criminal liability for the owners of the @sadb86 TikTok account, it is first necessary to understand their position and role in the online gambling promotion ecosystem.

In this case, Gunawan and Ahmad Supendi, as managers of the @sadb86 account, acted as promoters or advertisers who disseminated information about the Flokitoto gambling site to thousands of viewers through the TikTok live streaming feature. Their role differs from that of the owner of a gambling site who organizes gambling, from the TikTok platform that provides technological infrastructure, and from the audience who merely receives information. Streamers are positioned as active disseminators of information who deliberately promote online gambling sites, having received large-value gifts from the @flokito1 gambling promoter account. In one live broadcast, watched by thousands of viewers, the @sadb86 account blatantly mentioned the name of the gambling site, praised it using the terms "*gacor*" and "*anti-rungkad*," and provided instructions on how to access it by saying "the link is on Google" and "ready for WD" (withdrawal).

The identification of this role becomes the basis for analyzing the juridical qualifications of their actions and determining the form of criminal liability that can be imposed. It is therefore necessary to explain the forms of participation in committing criminal acts. The inclusion of criminal acts is regulated in Articles 55 and 56 of the Criminal Code. Based on these articles, participation is divided into two major categories, namely:

a. Makers/*Dader* (Article 55 of the Criminal Code), which consists of:

The perpetrator (*pleger*) is the person who performs an act that fulfills all the elements of the crime. Unlike the sole *dader*, the *medepleger* in committing a crime requires the involvement of at least one other person, as in the case of the instigator (*uitlokker*). Ordering to do (*doenpleger*) refers to a person who performs an act through the intermediary of another person, where that intermediary is treated merely as a tool. Meanwhile, those who participate (*medepleger*) are all persons who deliberately commit a criminal act together. There must be at least two persons involved: the one who performs the act and the one who participates in performing it. Both parties must have committed acts of execution, thereby fulfilling the elements of a crime. In this case, the owners of the @sadb86 account, namely Gunawan and Ahmad Supendi, are categorized as *medepleger* under Article 55 paragraph (1) subparagraph 1 of the Criminal Code, as they met the requirements for participation in committing a criminal act. There is conscious cooperation between the streamers and the @flokito1 account owners, without the need for a formal agreement, and there is cooperation in the

physical execution of promoting online gambling sites. This is evidenced by their actively promoting gambling sites through the words "*Father Floki is gacor, guys. The link is on Google*" in their TikTok LIVE broadcast, as well as receiving gifts as compensation.

b. *Pembantu* (Accomplice)

Classified as an assistant (*medeplichtige*) to a crime refers to the perpetrator who deliberately provides assistance at the time the crime is committed, or the perpetrator who deliberately provides the opportunity, means, or information to commit the crime. The relationship between a person's status and capacity of involvement in a criminal act, as governed by Articles 55 and 56 of the Criminal Code, also determines the applicable criminal sanction. If a person's involvement is as a principal perpetrator—whether as a *pleger*, *medepleger*, *doenpleger*, or *uitlokker*—he may be subject to the maximum criminal sanction provided under the relevant article. However, if a person's involvement is as a *medeplichtige* or assistant to the perpetrators, the maximum criminal sanction may be reduced by one-third from that provided under the violated article.

In this study, the author analyzes that the actions of Gunawan and Ahmad Supendi cannot be categorized as aiding (*medeplichtige*) because the acts they committed are directly in violation of the law; their role is therefore as active participants in criminal acts, not merely helpers. Based on the applicable legal provisions, both the @sadbtor86 and @flokito1 account owners are subject to the same criminal sanctions. This is regulated in Article 45 paragraph (3) of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Information and Electronic Transactions, which states that "Every Person who deliberately and without the right distributes, transmits, and/or makes accessible Electronic Information and/or Electronic Documents that have gambling content as referred to in Article 27 paragraph (2) shall be sentenced to a maximum prison sentence of 10 (ten) years and/or a maximum fine of IDR 10,000,000,000.00 (ten billion rupiah)."

In the context of online gambling promotion, @sadbtor86 is not the only one to have attracted social media attention; many other influencers have been similarly implicated. In the context of influencers such as Gunawan Sadbor and others who promote online gambling sites, if their actions are directly contrary to the law and have met the elements of a *delict*, their position is as an active participant (*medepleger* or *dader*). This means they have the status of perpetrators subject to the full criminal sanction, not merely helpers (*medeplichtige*) who bear a lesser degree of criminal liability. Therefore, influencers who directly and actively promote online gambling should receive the same legal treatment and not merely be regarded as helpers whose role is lighter.

However, in practice, there is an inconsistency in the legal handling of influencers who promote online gambling. Although juridically they occupy the same position as active participants, some—such as Sadbor—have been processed through the legal system to the point of being designated as suspects and serving detention, without reaching prosecution and trial, while others have not been processed at all, and still others have been processed through to a final court judgment with permanent legal force, despite occupying the same juridical position. Legal Analysis of the Misuse of Live Streaming on the Tiktok Platform as a Medium for Promoting Online Gambling

This raises serious concerns about justice and legal certainty, as the principle of equality before the law has been neglected.

One pertinent example is the case of Denny Cagur, an artist and member of the Indonesian House of Representatives, who was also suspected of promoting online gambling sites but whose case was not advanced to further legal proceedings. Denny Cagur has fulfilled all the elements of online gambling promotion. The element of "everyone" in Article 45 paragraph (3) in conjunction with (*jo.*) Article 27 paragraph (2) of ITE Law Number 1 of 2024 is an objective element that encompasses individuals, groups, communities, and business entities, whether incorporated or unincorporated. In the context of law, the legal subject (*rechtsubject*) is a party that bears rights and obligations, encompassing both natural persons and legal entities. Because Denny Cagur is an individual (*natuurlijk persoon*) who is also a subject of law, he fulfills the element of "everyone" as referred to in the article.

Denny Cagur also fulfilled the element of "deliberately and without rights." His claim of ignorance was a statement made to avoid self-incrimination and is an untrue statement. Denny Cagur's claimed ignorance (*feitelijke dwaling*) regarding online games that are in fact online gambling cannot serve as a valid defense because he does not satisfy the legal requirements for such a defense. His status as a public figure makes it implausible that he was unaware that what he was promoting was an online gambling site, given the substantial remuneration for online gambling promotion and the public figure's obligation to verify the products they endorse. The element of "without rights" does not need to be proven, considering the enactment of Government Regulation (PP) Number 9 of 1981 concerning the Implementation of Gambling Regulation. Denny Cagur has also fulfilled the element of "distributing, transmitting, and/or making accessible Electronic Information and/or Electronic Documents that have gambling content," as the circulation of the video in question establishes his fulfillment of this element.

The case was dismissed from investigation on the grounds that there was insufficient evidence, that the event did not constitute a criminal act, and that proceedings were halted by operation of law. Until now, the case remains at the examination stage and has not reached the detention or prosecution process. This is different from Gunawan Sadbor, who has been designated as a suspect, is undergoing a period of detention, and is subject to further legal proceedings. This difference in treatment demonstrates an inconsistency in law enforcement against influencers who are juridically in the same position as active participants in online gambling promotion. This inconsistency raises serious concerns regarding legal justice, because all perpetrators who are equally involved in the crime of promoting online gambling should receive equal legal treatment without discrimination. Inequality in the handling of cases like this can reduce public trust in the justice system and potentially weaken the role of law as a tool to enforce justice and legal certainty. Not only Denny Cagur, but other influencers such as Nikita Mirzani, Wulan Guritno, and others have experienced differential treatment in the handling of similar cases.

Thus, the case of Denny Cagur underscores that although the juridical position of other influencers is the same as Sadbor's, law enforcement practices have been inconsistent, which demands improvement and firmness from law enforcement officials so that the principle of equality before the law is genuinely upheld in all cases of online gambling promotion. The resolution of Denny Cagur's case demonstrates the inconsistency of law enforcement compared

to the @sadbtor86 case. Although both are influencers who promoted online gambling and violated the ITE Law, the legal treatment received is vastly different. The @sadbtor86 case was processed to the suspect and investigation stage, but did not proceed to trial. Although neither case reached the trial stage, there is a notable difference in the handling process: @sadbtor86 was designated as a suspect, while Denny Cagur's legal status remained only at the examination stage, without being designated as a suspect. This difference emphasizes that law enforcement practices are inconsistent, demanding improvement and firmness from law enforcement officials so that the principle of equality before the law is truly enforced in all cases of online gambling promotion, without selective enforcement or discrimination.

This inequality in law enforcement is even more evident when compared to the case of Vienna Varella Angeli, an influencer from Bali who was also involved in the promotion of online gambling. Unlike the cases of Denny Cagur and @sadbtor86, which did not reach the trial stage, the case of Vienna Varella was processed completely to the court. Vienna was designated as a suspect, underwent an investigation, and was ultimately required to account for her actions before the judge. In the trial, the prosecution sought a sentence of 2.5 years in prison, but she was sentenced²⁴ to 1 year and 6 months in prison by a panel of judges on October 14, 2025, for violating the ITE Law. The legal process experienced by Vienna demonstrates that law enforcement officials are indeed capable of taking strict and comprehensive action against perpetrators of online gambling promotion; however, not all cases are handled with the same rigor. The differences in handling among these three cases raise significant questions about the standards and parameters used by law enforcement in deciding which cases are brought to trial and which are discontinued.

Based on an in-depth analysis of the case of Gunawan Sadbor and its comparison with the cases of other influencers who promote online gambling, this study confirms that there are fundamental inconsistencies in criminal law enforcement in Indonesia that seriously threaten the pillars of the rule of law. The Sadbor case demonstrates that even though law enforcement officials designated him as a suspect and subjected him to detention for violations of Article 45 paragraph (3) *jo.* Article 27 paragraph (2) of Law Number 1 of 2024 concerning ITE, the legal process was not continued to the prosecution and trial stage. The fact that Sadbor fulfilled all elements of the online gambling promotion offense—including the elements of "everyone," "deliberately and without rights," and "distributing, transmitting, and/or making accessible electronic information that has gambling content"—yet did not obtain legal certainty through a court decision with permanent legal force reflects structural weaknesses in Indonesia's criminal justice system. This inconsistency is further evident when compared to the handling of the Denny Cagur case, in which the subject was only examined without a suspect determination and the investigation was halted despite his being in the same juridical position as an active participant, as well as the case of Vienna Varella Angeli, which was processed thoroughly to a sentence of 1 year and 6 months in prison by the court. This disparity in legal treatment cannot be justified in a country that upholds the principle of equality before the law as mandated in Article 27 paragraph (1) of the 1945 Constitution and Article 4 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power.

CONCLUSION

This study emphasizes the importance of criminal law oversight of social media activities that facilitate or promote online gambling in Indonesia. The findings indicate that although existing regulations, particularly the Criminal Code (KUHP) and the Information and Electronic Transactions Law (ITE Law), provide a sufficient legal framework to address online gambling practices, significant challenges remain in their implementation, especially in the digital environment. Through the analysis of the @sadb0r86 case, the research concludes that the misuse of TikTok's live-streaming feature to promote online gambling constitutes a criminal offense under Article 27 paragraph (2) in conjunction with Article 45 paragraph (3) of Law Number 1 of 2024 concerning the Second Amendment to the ITE Law. The promotional actions fulfilled both the subjective element—intentional dissemination of gambling-related information—and the objective element—distributing and making accessible electronic information containing gambling content to thousands of viewers through live streaming. Nevertheless, proving the element of *mens rea* remains a key challenge because such promotional activities are often disguised as entertainment content using coded language. In terms of criminal liability, perpetrators can be categorized as *medepleger* (co-perpetrators) under Article 55 paragraph (1) of the Criminal Code and may face a maximum penalty of ten years' imprisonment as stipulated in Article 45 paragraph (3) of the ITE Law. Unlike conventional endorsement-based promotions by influencers, the @sadb0r86 case demonstrates that financial benefit can also arise indirectly through TikTok's gift feature, which strengthens the element of fault in online gambling promotion. Future research is recommended to examine more deeply the evidentiary challenges in proving intentionality in digital content, as well as the development of clearer regulatory guidelines and enforcement standards for social media platforms and influencers involved in online gambling promotion.

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