

LEGAL LIABILITY OF STREAMERS RECIPIENTS OF DONATIONS FROM ONLINE GAMBLING SITES

Dwishar Kharismanto¹, Rifqi Ridlo Phahlevy²

^{1,2} Law Study Program, Muhammadiyah University of Sidoarjo, Indonesia

E-mail: qq_levy@umsida.ac.id

Article Info	ABSTRACT
Article history: Received Sep 16 2024 Revised Sep 18 2024 Accepted Oct 16 2024 Keywords: <i>Online Donation, Digital Crime, Legal Regulations</i>	Technological advances through social media have made a lot of progress. This has led to many changes in people's lives, such as donations as a means of collecting funds, which used to be done conventionally, now becoming digital. The existence of an online donation platform raises a new problem. Donation providers often misuse their authority to gain additional profits through online gambling advertisements distributed through their YouTube accounts. Based on these problems, the author conducted this research using normative juridical methods. Based on research, the author found that the act of spreading online gambling advertisements through the YouTube live streaming donation system violates the provisions stipulated in Article 27 Paragraph (2) of Law Number 19 of 2016 with the threat of imprisonment for a maximum of 6 years with a fine of IDR 1 billion. The government, as the authority to enforce the law against individual content creators who disseminate online gambling advertisements through a donation system, is expected to act decisively to reduce the increase in the number of online gambling cases. This is an open-access article under the CC-BY 4.0 license. 

Corresponding Author:

Rifqi Ridlo Phahlevy

Law Study Program, University of Muhammadiyah Sidoarjo, Indonesia

Email: qq_levy@umsida.ac.id

DOI: <https://doi.org/10.61796/ijblps.v1i10.226>

INTRODUCTION

In the present era, which has rapidly developed in line with the pace of information in modern times, the advancement of the internet plays an important role in communication for society today. The advancement of communication technology through social media has also experienced significant progress year after year. In this modern situation, social media has become increasingly difficult to control [1]. According to Jeremy Rifkin in his book titled *The Third Industrial Revolution*, in the early 1990s, the convergence of communication and energy began, creating a combination of internet

technology to build a strong foundation for the renewable revolution, which in turn established the solid infrastructure for the third industrial revolution. The digital revolution started with the internet and digital technology, and with the rapid growth of the internet recently, it has become easier to offer various types of services. This technological advancement has had a significant impact on both social life and the business environment.

Social media platforms frequently used or accessed by the public include WhatsApp, Instagram, Facebook, YouTube, and others. YouTube, in particular, is one of the many applications used to share content with the public, such as photos, images, videos, and audio. A vast amount of information in video form can be accessed on YouTube, including video games, current news, and various human activities. Individuals who intentionally showcase something they do in the form of video, image, or audio on YouTube are referred to as content creators. The content they produce must comply with the terms and agreements set by YouTube, such as ensuring that the content provides education, promotions, entertainment, or information. It is clear that content creators agree to have their content published for all YouTube users to view [1].

Recently, the rise of various content creators on the YouTube platform, focusing on games or gaming, has become a significant trend. They create diverse content covering various types of games such as Mobile Legends, Free Fire, PUBG, and others. In addition to generating income through AdSense ads provided by YouTube, they also utilize live streaming as an additional source of income. As a token of appreciation, viewers often donate to content creators who are live streaming through available links. Sometimes, YouTube content creators also include donation links in the descriptions of the videos they upload to their channels.

Saweria is a donation platform frequently used by YouTube content creators as a means of earning additional income through online contributions from viewers. Approximately 90% of Saweria users come from the gaming community. Interestingly, the top ten donation recipients on Saweria are also gamers, with an average donation of around IDR 27,000. The highest record of monthly earnings ever reached IDR 44 million, with some donors using pseudonyms instead of their real names, causing confusion in identifying the donors [1]. Donations are also subject to a 5% deduction when users withdraw funds through an online wallet.

An example of a case that involved Reza Oktavian, also known as Reza Arap, occurred in July 2021 when he received a donation of IDR 1 billion from Doni Salmanan during a live stream on the YouTube platform. This donation linked Reza Arap to Doni Salmanan's legal case. Doni Salmanan donated IDR 1 billion, but due to a deduction from the donation platform, Saweria, Reza Arap received IDR 950 million. "IDR 950 million, with a 5% cut from Saweria, leaving Reza with IDR 950 million," which was then returned to the National Police Criminal Investigation Agency. On YouTube, there are also other content creators, such as the YouTube channel Maxhill Antimage, who were exploited by illegal sites like online gambling to freely promote their services through

donations to these YouTubers. Although the YouTubers themselves do not promote these sites, according to Article 27 of the ITE Law, Paragraph 2, "Any person who intentionally and without authority distributes or transmits, or causes to be accessible, electronic information or electronic documents containing gambling-related content" may be held liable. The gambling sites are indirectly promoted because after a donation is made, the written message and sound promoting the site are displayed and read by the streamer [2].

From the explanation above, previous research is needed as a guide for writing scientific articles and to distinguish between past research and the current study being conducted. The first study, written by Theresa Novita Iyandraputtri, is titled Legal Protection for Donors in Online Donation Systems in Indonesia, No. 1, Vol. 7, 2019. It aims to provide solutions for parties concerned with legal protection for donors who donate funds through online crowdfunding in Indonesia. This study uses a normative legal research method, systematically investigating problems in a more formal and scientific manner. The conclusion of the legal issues that have arisen in the implementation of the donation-based crowdfunding system or online donation activities in Indonesia is the low sanctions for violators [3]. The second study, written by Muhammad Hafid Siddiq, is titled Islamic Legal Review of Saweria Practices on YouTube (Analysis of Fiqh Muamalah Perspective), Vol. 6, No. 1, 2022. It aims to explore the Fiqh Muamalah aspects of Saweria practices on YouTube and the ideal regulations related to Saweria on YouTube. Using descriptive analysis, the research involves determining the topic, collecting data, and understanding the topic. The conclusion is that it is difficult to determine whether crowdfunding is permissible, as there is no direct interaction, and it is challenging to identify the recipients of the funds [4]. The third study, written by Ahmad Sathibi Fakhruddin, is titled Online Donations via Saweria.co from a Fiqh Muamalah Perspective (Case Study of MTH SG Content Creators), Vol. 5, No. 1, 2022. It aims to examine the legality of online donations through Saweria.co by the content creator MTH SG from the perspective of Fiqh Muamalah. This research uses an empirical juridical method, collecting primary data directly from the research object by interviewing respondents connected to the study [5]. The conclusion based on the sources cited by the author is that giving online donations through Saweria.co to content creators like MTH SG involves two parties, providing support to creators, and is considered a gift in religion, which is permissible. The fourth study, written by Gusti Fadhil Fithrian Widya Mataram, is titled The Law of Microtransactions in Online Mobile Games, Vol. 12, No. 2, 2021. It discusses the innovation of microtransactions in Indonesia, which is based on Law No. 11/2008 jo Law No. 19/2016, and how it still has the potential to cause problems without providing legal certainty. Using a normative method, the research examines legal norms referenced in relevant laws. The conclusion is that Indonesia lacks specific regulations on microtransactions, and existing rules merely shift time and place but do not align with the advancing business and technology. Indonesia lags behind countries like the Netherlands, Belgium, and China, which have specific regulations on microtransactions due to the understanding of its urgency and harmful effects if left unchecked [6]. The fifth study,

written by Laily Indrianingsih and Budiarsih, is titled Legal Analysis of Negative Content on the YouTube Platform in Indonesia, Vol. 2, No. 3, 2022. It aims to analyze society's legal perspective on negative content on YouTube in Indonesia, using a normative legal approach while considering legal and conceptual frameworks.

Table 1. Previous Research

No	Author's Name and Thesis Title	Research Questions and Findings	Differences
1.	Theresa Novita Iyandraputri - Legal Protection for Donors in the Online Donation System in Indonesia	1. What are the legal issues in the process of donating funds through the online donation system in Indonesia? Theresa Novita Iyandraputri's research aims to contribute positively to civil law studies and expand knowledge in the field of civil law, particularly concerning donation-based crowdfunding. The author's findings show that the role of donors in donation-based crowdfunding sites does not align with the consumer criteria regulated by the Financial Services Authority (OJK) Law. The Consumer Protection Law (UUPK) stipulates that business actors are legal subjects, as stated in Article 1, Number 3 of the UUPK.	The author found that current laws are not strict in regulating content creators who unintentionally promote online gambling sites while distributing their content.
2.	Muhammad Hafid Siddiq - Islamic Legal Review of Saweria Practices on YouTube (Fiqh Muamalah Perspective Analysis)	1. How can the Fiqh Muamalah aspect of Saweria practices on YouTube be understood? This research, conducted by Muhammad Hafid Siddiq, aims to identify the ideal regulations regarding Saweria practices from the perspective of Fiqh Muamalah on the YouTube platform. It concludes that proving whether crowdfunding is halal or haram is difficult due to the lack of direct interaction, and it is also challenging to identify the recipients of the funds.	In contrast, this study focuses on online donation regulations, exploring loopholes in Article 27 of the ITE Law, Paragraph 2, and how these loopholes allow the promotion of online gambling sites through donations to YouTube content creators without facing legal consequences.

3.	Ahmad Sathibi Fakhruddin - Online Donations via Saweria.co from a Fiqh Muamalah Perspective (Case Study of MTH SG Content Creator)	1. What are the legal implications of withdrawal fees charged to Saweria users? Ahmad Sathibi Fakhruddin's research seeks to explore the legal aspect of withdrawal fees from Saweria.co, viewed through Fiqh Muamalah. The conclusion is that online donations and withdrawal fees are considered gifts, and the fees charged align with the principles of ijarah, with both parties agreeing to the terms.	The author takes a different approach, focusing on Article 27, Paragraph 2 of the ITE Law, identifying a legal loophole that allows individuals to promote online gambling sites through online donations on social media platforms like YouTube without legal repercussions.
4.	Gusti Fadhil Fithrian Widya Mataram - The Law of Microtransactions in Online Mobile Games	1. How do innovations in microtransactions in Indonesia, based on Law No. 11/2008 jo Law No. 19/2016, anticipate legal certainty? The research conducted by Gusti Fadhil Fithrian Widya Mataram highlights that Indonesia lacks specific regulations on microtransactions. Existing laws, such as Law No. 11/2008 jo Law No. 19/2016, fail to provide legal certainty and can lead to new problems. Indonesia lags behind countries like the Netherlands, Belgium, and China, which already have special regulations regarding microtransactions.	The author focuses on the loopholes in Article 27, Paragraph 2 of the ITE Law, which regulate online gambling but still allow promotions for online gambling sites through online donations on platforms like Socialbuzz and YouTube channels during live streams.
5.	Laily Indrianingsih, Burdiasih - Legal Analysis of Negative Content on the YouTube Platform in Indonesia	1. How does the public perceive the legal framework regarding negative content on YouTube in Indonesia? The research by Laily Indrianingsih and Budiarsih concludes that legal protection for society is regulated by several laws in Indonesia. Law No. 32/2002 concerning Broadcasting, Article 36, Paragraph 1,	The research contrasts with earlier studies as it examines donors who intentionally promote online gambling sites

and the standards issued by the Indonesian Broadcasting Commission (KPI) in Article 37, Paragraph 2, form the basis for these regulations.

through Socialbuzz and display these on YouTube, which violates Article 27, Paragraph 2 of the ITE Law. This article clearly states that anyone who intentionally publishes prohibited acts related to gambling will face imprisonment for up to 6 years and a fine of up to IDR 1 billion.

The difference between previous research and the current study lies in the fact that previous studies mostly focused on Islamic law and donation-based crowdfunding. In contrast, the current research focuses on donors who exploit loopholes to promote gambling sites through online donations on platforms such as YouTube and websites, without restriction. Therefore, the researcher is interested in studying the legal aspects of online donations through Sociabuzz, which are used by certain content creators on YouTube social media platforms to promote illegal activities such as gambling site promotions. Based on this issue, the researcher has titled the study "Legal Liability of Streamers Receiving Donations from Online Gambling Sites". The research questions formulated are: 1. How are the patterns of donations from online gambling sites by streamers classified as illegal? 2. What are the legal liabilities of streamers receiving donations from online gambling sites? The purpose of this research is to identify the classification of online donation patterns that lead to the promotion of gambling sites, which violates legal provisions, and to understand the legal liabilities of streamers receiving donations from online gambling sites. The legal benefits of this research are to provide insights into how online donations can lead to the display and promotion of gambling sites in violation of legal provisions, and to clarify the legal liability of streamers who receive donations from online gambling sites. This research will contribute to changing public behavior and attitudes towards online donations related to online gambling, and serve as a reference for developing better and more effective laws to regulate and prevent improper behavior in online donations.

METHODS

This research uses a normative juridical method, which involves studying and collecting literature or secondary data[7]. This research method gathers information from primary legal sources, such as the ITE Law No. 11/2008, as well as secondary legal sources derived from relevant journal articles and research papers, which are analyzed and simplified. Therefore, it is crucial to study the regulations affecting the legal actions addressed in this research. To facilitate this research, secondary data will be used. Secondary data refers to information not obtained directly from the field, but rather from literature or reference materials. Data analysis activities involve evaluating the processed data, and the form of analysis is adjusted to the type of data being used. The legal material analysis employs deductive reasoning.

RESULTS AND DISCUSSION

A. Classification of Donation Patterns from Online Gambling Sites by Streamers Who Break the Law

Donations, which were previously done by directly assisting recipients, have become easier and more practical with digitalization. Today, donations can be made anytime and anywhere using applications that provide online donation features. One such application is Sociabuzz. Sociabuzz is a marketplace that facilitates transactions between service buyers and service providers. Sociabuzz offers several features, each serving different purposes, such as Sociabuzz GIGS, Sociabuzz SHOUTOUT, Sociabuzz TRIBE, and Sociabuzz SHOP [8]. In online donations, the Sociabuzz TRIBE feature is used to facilitate recipients by providing support, donations, or appreciation in the form of money from donors. However, alongside these conveniences, there are loopholes that irresponsible parties exploit.

One common misuse is the promotion of online gambling sites through online donation platforms. According to Barkatullah (2009), technological advancements and the rapid growth of the internet have made it an effective medium for entrepreneurs to promote online gambling sites to people around the world. This is known as paperless transactions without face-to-face interaction. Regarding gambling activities, conventional gambling is regulated under Article 303 of the Wetboek van Strafrecht (Criminal Code). However, if gambling is conducted via digital or electronic media, it is regulated under Article 27, Paragraph 2 of the ITE Law No. 1/2024 [9].

These online gambling sites often disguise themselves as organizations or foundations in need of donations or as donors offering help with specific intentions. They create false, heartwarming stories to gain sympathy from the public and encourage them to donate. However, the funds collected are not used to help others but rather to finance the operation of online gambling sites. This, of course, disturbs society and harms those who genuinely need assistance [10]. Another method sometimes used by online gambling sites is by donating to donation recipients. These donations are accompanied by messages, images, or even videos promoting the online gambling sites. The promotion can include

links to the gambling sites, invitations to participate in online gambling, and false testimonials from individuals claiming to have won money on the gambling sites. This misuse of online donation features turns them into a platform for promoting online gambling.

Online donations that result in the display and promotion of online gambling sites can be categorized as gambling promotion based on the legal framework that regulates gambling prohibition in the ITE Law and the Criminal Code (KUHP). Gambling, as defined in Article 303 Paragraph (3) of the KUHP, refers to any game that generally allows the possibility of profit depending solely on luck, or due to the player being more skilled or experienced. This includes all forms of betting related to race decisions or other games that are not organized by those who participate in the competition or game, as well as all other bets. In essence, any game where profits depend solely on chance, and any bet where the outcome is not determined by the player, is categorized as gambling. This definition also includes any act that offers or provides opportunities for gambling, as well as the direct or indirect promotion of gambling. The legal provisions related to the prohibition of online gambling are regulated in Article 27, Paragraph (2) of Law No. 1/2024, which amends the ITE Law. It states: "Any person who intentionally and without authority distributes, transmits, or makes accessible electronic information or electronic documents containing gambling shall be subject to criminal penalties."

Further definitions are as follows:

1. Distribution refers to the sending or dissemination of electronic information and documents to many people or several parties using an electronic system.
2. Transmission refers to the sending of electronic information and documents to other parties using an electronic system.
3. Making accessible refers to all actions other than distribution or transmission via electronic systems, which cause electronic information and documents to be accessible to other parties or the public.

Affiliates who promote online gambling sites may be subject to criminal penalties. Criminal penalties are a means to achieve the goal of punishment and are only applied to individuals who have violated the provisions of the law without justifiable reasons, except in cases where the act itself constitutes a criminal offense. If gambling is conducted via virtual or electronic media, it is regulated under Article 27, Paragraph 2 of the ITE Law No. 1/2024. Furthermore, Article 303, Paragraph 1 of the KUHP may apply if a person disseminates information containing gambling-related content, not only in the context of online distribution via the internet or social media but also for offline gambling activities conducted in the community without the use of information technology [11].

Additionally, anyone who violates Article 27, Paragraph (2) of Law No. 1/2024 is subject to imprisonment for up to 10 years or a fine of up to IDR 10 billion, as stipulated in Article 45, Paragraph (3) of Law No. 1/2024. To prevent the dissemination and use of prohibited electronic information or documents, the government has the authority to

enforce access restrictions and/or order electronic system providers to block access to electronic information or documents containing pornography, gambling, or other prohibited content, as stipulated in the law and enforced using available technology. "Access restriction" includes actions such as blocking access, closing accounts, or deleting content. This also includes blocking social media accounts.

Furthermore, Article 303, Paragraph (1) of the KUHP regulates the prohibition of gambling, including the promotion of gambling. This shows that any form of promotion that offers or provides opportunities for gambling can be considered illegal. Gambling, as defined in Article 303, Paragraph (3) of the KUHP, is: "Any game that generally allows the possibility of profit depending solely on luck, or due to the player being more skilled or experienced. This includes all bets related to race decisions or other games that are not organized by those who participate in the competition or game, as well as all other bets. In essence, any game where profits depend solely on chance, and any bet where the outcome is not determined by the player, is categorized as gambling". Additionally, the prohibition of gambling is regulated in the old KUHP under Articles 303 and 303 bis, which were still in effect when this article was published, as well as in Articles 426 and 427 of the new KUHP, which will come into force three years from the date of enactment, in 2026.

Table 2. Comparison of the KUHP and UU 1 of 2023

KUHP	UU 1/2023
Article 303 Paragraph (1) Faces a maximum prison sentence of 10 years or a maximum fine of IDR 25 million, anyone without permission: 1. Intentionally offers or provides opportunities for gambling and makes it their livelihood, or intentionally participates in a company for that purpose. 2. Intentionally offers or provides opportunities to the public for gambling or intentionally participates in a company for that purpose, regardless of whether the use of the opportunity has conditions or a procedure that must be met. 3. Becomes involved in gambling for livelihood purposes.	Article 426 1. Punishable by a maximum prison sentence of 9 years or a maximum fine of Category VI, which is IDR 2 billion, anyone who without permission: a. Offers or provides opportunities for gambling and makes it their livelihood or participates in a gambling company. b. Offers or provides opportunities to the public for gambling or participates in a gambling company, regardless of whether conditions or procedures must be met for the use of the opportunity.
Article 303 bis Paragraph (1) Faces a maximum prison sentence of 4 years or a maximum fine of IDR 10 million: 1. Anyone who uses the opportunity to gamble, violating the provisions of Article 303.	Article 427 Anyone who uses the opportunity to gamble without permission is subject to a maximum prison sentence of 3 years or a maximum fine of Category III, which is IDR 50 million.

2. Anyone who participates in gambling on public roads or on the roadside and in places accessible to the public unless permission is granted by the relevant authorities.

Thus, if online donations to a streamer result in the promotion of online gambling sites through displays or sounds that appear after the donation is made, this can be considered illegal gambling promotion. This is because such actions indirectly facilitate the promotion of online gambling sites and are carried out with intent, which may incur criminal penalties based on the applicable laws. Specifically, this refers to the ITE Law 1/2024, Article 27 (2), which states that any person who intentionally and without rights distributes, transmits, or creates accessible information and electronic documents containing gambling can be punished with a prison sentence of up to 10 years and a maximum fine of 10 billion.

As mentioned in the article from Hukum Online titled "Displaying Gambling Site Ads," the offense of gambling under the ITE Law and its amendments is more focused on the "content" or "substance" of gambling, rather than the act of participating in gambling itself. This means that any content that is directly or indirectly related to gambling can be classified as a criminal act.

In the implementation of online donations, there must be individuals who play a role in socializing and disseminating the donation links using various methods, both verbally and in writing. This should be done with trustworthy and reliable actions, as donors essentially provide contributions for social or individual interests, hoping to create a positive impact through the use of the donated money by the recipients. There are various ways that content creators can often initiate donations aimed at social and humanitarian activities. One example of promoting a content creator's online donation site through live streaming on YouTube via Sociabuzz is:

- a. **Providing a Donation Link that is disseminated through Live Streaming on YouTube.**

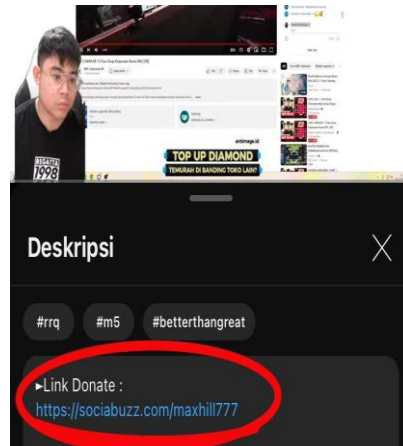


Figure 1. Web Donation Link

As shown by the line in the figure, the content creator provides a donation web link during the live streaming on YouTube, which will later direct viewers to the donation website.

- b. **Entering the Donation Amount to be Given**

A screenshot of a mobile application interface for entering a donation. The app is titled 'Selesai' and the URL is 'sociabuzz.com'. The interface has a green header bar. Below the header, there is a form with the following fields: 'Nominal' (IDR 10,000), 'Pesan' (panik dikit), 'Nama Anda' (kharis), and 'Email Anda' (jajajsjsj@gmail.com). There is a checkbox for 'Anonim' and a checkbox for 'Sembunyikan email saya dari Maxhill' which is checked. The bottom of the screen shows a navigation bar with icons for back, forward, share, and search.

Figure 2. Entering the Donation Amount

After being directed to the web link, the donor will enter the donation amount to be given to the livestream.

c. Making Digital Payments via E-Money or Bank Transfer

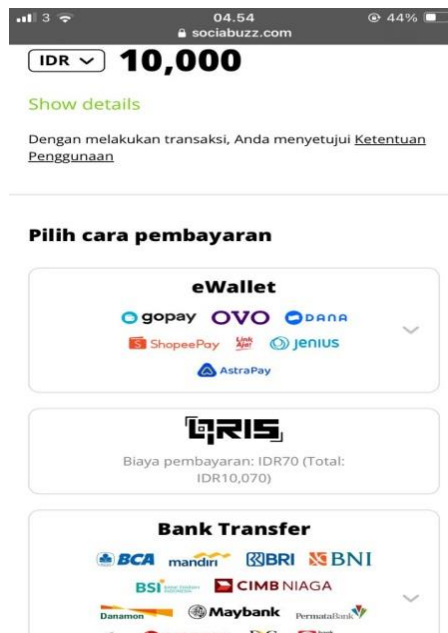


Figure 3. Payment via E-Money

In the next step, the donor will be directed to make a payment through a digital wallet or bank transfer. After all the steps are completed, the funds will enter the account that created the donation link, with a 5% tax deduction per transaction made by the application. The ease of access in providing assistance to others through online donations is sometimes exploited by irresponsible individuals to commit criminal acts.

In practice, both content creators and websites that provide online donation features often collaborate with third parties to display online gambling ads within the application. This clearly violates the laws in Indonesia, as gambling, whether conventional or online, is considered illegal.

The dissemination of online gambling ads by irresponsible individuals is usually done to earn ad revenue (adsense) from the ads displayed on their YouTube accounts. If left unchecked, this habit could lead to a major problem in Indonesia, as these actions violate the law and may eventually lead to public interest in participating in online gambling. Meanwhile, the government, as the authority responsible for eradicating online gambling, has already implemented preventive measures, which are expected to minimize online gambling activities that are still rampant in Indonesia.

In practice, content creators, who are often role models for the public, from youth to adults, can cause harm to everyone if they set a bad example. Therefore, in this research, the author aims to explore more deeply how some rogue content creators carry out their actions by spreading online donation links during YouTube livestreams while embedding several online gambling ads. Below is the pattern used by those who promote online gambling through online donation websites:

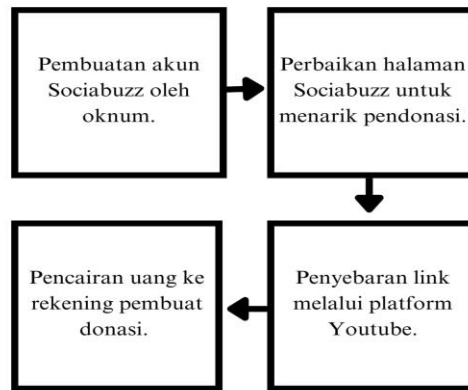


Figure 4. Flow of the Online Donation Process via Sociabuzz

The first thing rogue content creators do is create a Sociabuzz account as a platform to receive donations from donors. Then, they edit their Sociabuzz page to make it as attractive as possible to catch the attention of potential donors. Next, they share the donation link across various social media platforms, including YouTube live streams. Once the donor receives and clicks the link to make a donation, online gambling ads will be embedded with the goal of generating additional revenue through adsense, allowing these individuals to gain even more profit.

This action clearly disadvantages donors who intend to contribute to content creators they believe to be trustworthy in responsibly allocating the received donations for the right purposes. In practice, there are several classifications of actions taken by content creators or streamers. These actions are categorized into those that meet the elements of a criminal offense under Article 27, Paragraph 2 of the ITE Law No. 1/2024, and those that do not. Below are the classifications of donation patterns from online gambling sites by streamers or content creators:

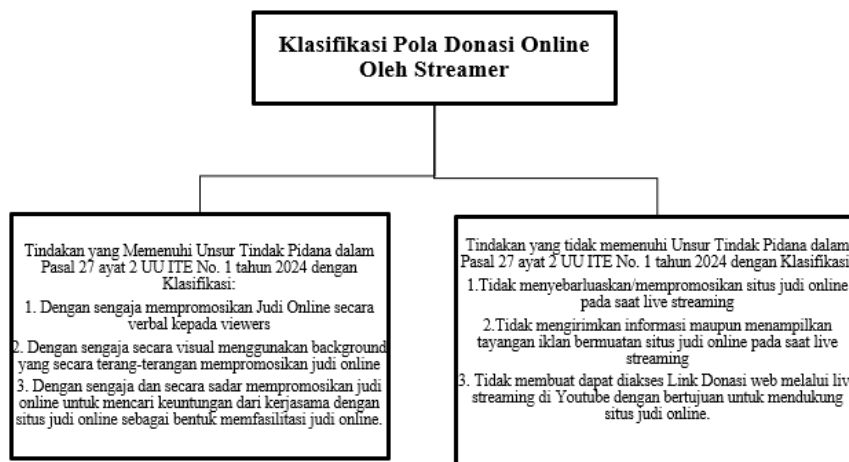


Figure 5. Classification of Online Donation Patterns by Streamers

From the figure above, it can be seen that there are some actions by content creators or streamers that meet the elements of a criminal offense or can be categorized as illegal actions in accordance with Article 27, Paragraph 2 of the ITE Law No. 1/2024, and actions that do not meet the elements of a criminal offense or can be categorized as legal actions. The classification of legal and illegal actions can be determined by the streamer's pattern of either spreading online gambling or not doing so through online donations.

B. Legal Accountability of Streamers Receiving Donations from Online Gambling Sites

Donations, which were previously made conventionally, have developed rapidly due to the ease of access and services provided by digital advancements, leading to the emergence of several platforms offering online donation services. In practice, there is a clear difference between conventional and online donations. The rapid development of the digital age has also influenced the laws enforced in Indonesia, particularly regarding online donations. This is in line with the opinion expressed by Fadil Zumhana, Deputy Attorney General for General Crimes, who stated that legal changes will occur, and the law must keep pace with societal developments to provide justice, certainty, and benefits to the public [12].

Indonesia, as a legal state, regulates crimes committed both conventionally and online under Law No. 1/2024 on Information and Electronic Transactions. This law governs cases of individuals spreading online donations through YouTube live streaming who deliberately embed online gambling ads, either verbally or visually. These acts are regulated under several articles of Law No. 1/2024 and the Criminal Code regarding Information and Electronic Transactions.

Here are several articles in the latest Law on Information and Electronic Transactions No. 1/2024 and the Criminal Code that can be used to prosecute those spreading online gambling ads through YouTube live streaming under the pretext of online donation links:

1. Article 27, Paragraph 1 of the ITE Law No. 1/2024 explains that certain actions meet the elements of electronic crime, which include the distribution or dissemination of electronic information and documents to many people using electronic systems that contain gambling.
2. Article 426, Paragraph (1), Letter a explains that anyone who offers or provides an opportunity to gamble, makes gambling their livelihood, or participates in a gambling enterprise can be punished with imprisonment for up to 9 years or a fine of up to category IV.
3. Article 426, Paragraph (1), Letter b explains that anyone who offers or provides an opportunity for the public to gamble or participates in a gambling enterprise, regardless of whether there are conditions or procedures required to use that opportunity, can be punished with imprisonment for up to 9 years or a fine of up to category IV.

These clear regulations regarding the dissemination of online gambling ads serve as a guide for law enforcement to take legal action against content creators who misuse their content to profit under the guise of online donations. A streamer who receives donations from online gambling sites and facilitates the promotion of these sites, whether verbally or visually, can be considered to indirectly promote online gambling.

From a legal perspective, a streamer who receives donations from online gambling sites and facilitates this promotion can be seen as a party involved in promoting online gambling, especially if their actions enable or support gambling activities that are prohibited with intent. A streamer who receives donations from online gambling sites and facilitates this promotion can be considered to indirectly promote online gambling. This is because their actions support the promotion of online gambling sites to their audience with intent [13].

Therefore, a streamer who receives donations from online gambling sites and facilitates this promotion can be viewed as a party promoting online gambling, based on the legal provisions that prohibit gambling under the ITE Law and the Criminal Code. Their actions enable the spread of gambling information, which can lead to criminal penalties if done with intent. However, if a streamer receives donations from online gambling sites without the intent to spread gambling content, their actions cannot be considered as supporting online gambling activities and they cannot be prosecuted [14].

Zurohman (2015) defines gambling as a social disease and crime, stating that the growth of gambling harms the social system. Islam forbids gambling, and gambling and betting are considered sinful or prohibited. Gambling is something that the devil encourages humans to do to disobey God's commands, as it is evil and creates destruction. The presence of online gambling must be viewed broadly, as online gambling is a phenomenon resulting from technological advancements, and its negative impact is enormous [11].

A streamer can be held accountable for accepting donations from online gambling sites, especially if the donations are used for unlawful purposes. However, this also depends on the streamer's intent and whether they were aware that the online gambling site violated the law. A streamer may be required to cancel or return donations received from an online gambling site if it is found that the site is illegal [15]. This could be part of the legal resolution of the case. Streamers may face legal penalties, including imprisonment or fines, depending on the laws in their country or jurisdiction. The return of donation funds is not specifically regulated by law but follows applicable legal procedures [16].

The legal accountability of streamers who receive donations from online gambling sites depends on the circumstances. If a streamer receives donations from online gambling sites, they must be aware that promoting online gambling is a criminal offense, violating Article 27, Paragraph 2 of the ITE Law No. 1/2024 and Article 426, Paragraph (1), Letters a and b of the Criminal Code, as well as Article 9, Paragraph (2) of Law No. 8/1999 on Consumer Protection. If a streamer commits this crime, they are obligated to

be held accountable and can be prosecuted under these regulations. However, if a streamer only receives direct donations from users that are not related to online gambling promotions, they will not be held legally accountable for the crime of promoting online gambling. However, they must observe the boundaries set by the applicable laws to protect consumers from criminal acts. Thus, the legal accountability of streamers receiving donations from online gambling sites depends on the situation, as well as the streamers' understanding and adherence to the applicable laws [16].

CONCLUSION

The existence of online donation platforms is often misused by irresponsible content creators to seek additional profit by advertising online gambling under the guise of online donations on YouTube. This clearly violates legal provisions, as the distribution of information containing elements of gambling is regulated in Article 27, Paragraph (2) of Law No. 1/2024, which states: "Anyone who intentionally and unlawfully distributes, transmits, or makes accessible information or electronic documents containing gambling content can face a maximum imprisonment of 10 years and a fine of Rp 10 billion."

The government, as the authority responsible for enforcing the law against content creators who misuse their platforms, is expected to act firmly to curb the rising number of online gambling cases. This issue needs to be addressed from its root cause, which is the spread of advertisements and information promoting online gambling through YouTube accounts under the pretext of conducting online donations.

REFERENCES

- [1] Ammirudin and Z. Asikin, *Pengantar Metode Penelitian Hukum*. Jakarta: Rajawali Pers, 2010.
- [2] R. S. Putri, "Gebrakan Baru! Youtube Bikin Game Online 'Playables,'" *CNBC Indonesia*, 2024. <https://www.cnbcindonesia.com/tech/20230624141235-37-448916/gebrakan-baru-youtube-bikin-game-online-playables> (accessed Mar. 19, 2024).
- [3] T. CNN, "Reza Arap Beberkan Pemakaian Uang Saweran Doni Salmanan," *CNN Indonesia*, 2024. <https://www.cnnindonesia.com/hiburan/20220406152642-234-781156/reza-arap-beberkan-pemakaian-uang-saweran-doni-salmanan/> (accessed Mar. 19, 2024).
- [4] Muhaimin, *Metode Penelitian Hukum*. Mataram: Mataram University Pers, 2020.
- [5] T. N. Iyandraputri, "Perlindungan Hukum Donatur Dalam Sistem Donasi Online Di Indonesia," Universitas Sebelas Maret, 2019.
- [6] M. T. Aimana and Fahrullah, "Analisis Fiqh Muamalah Terhadap Praktik Giveaway Bersyarat dalam Akun Instagram @Giveaway.Oyi," *J. Ekon. dan Bisnis Islam*, vol. 5, no. 1, pp. 172–181, 2022.
- [7] A. S. Fakhruddin, "Analisis Pemberian Donasi Online Lewat Saweria.co Perspektif Fiqh Muamalah (Studi Kasus di Konten MTH SG)," 2022.
- [8] G. F. F. Luthfan, "Hukum Microtransaction Dalam Online Mobile Games," *Media Keadilan J. Ilmu Huk.*, vol. 12, no. 2, pp. 357–375, 2021.

- [9] H. Sunaryati, *No Title Penelitian Hukum Di Indonesia Pada akhir Abad Ke-20 / C.F.G. Sunaryati Hartono*. Bandung: Citra Aditya Bhakti, 2006.
- [10] P. Saputro, “Mengenal Sociabuzz, Platform Donasi Doni Salmanan ke Reza Arap,” *Detik.com*, 2024. <https://inet.detik.com/cyberlife/d-5631859/mengenal-sociabuzz-platform-donasi-doni-salmanan-ke-reza-arap> (accessed Mar. 19, 2024).
- [11] I. Y. Nono, A. A. S. L. Dewi, and I. P. G. Seputra, “Penegakan Hukum Terhadap Selebgram yang Mempromosikan Situs Judi Online,” *J. Analog. Huk.*, vol. 3, no. 2, pp. 235–239, 2021.
- [12] H. A. Ardita, “No Affiliator Judi Online Dalam Perspektif Hukum Positif Indonesia,” *Aladalah J. Polit. Hukum, Sos. dan Hum.*, vol. 1, no. 4, pp. 1–8, 2023.
- [13] U. Sahal, “Marak Artis dan Influencer Promosi Judi Online di Media Sosial, Ini Tanggapan Dosen UM Surabaya,” *um-surabaya.ac.id*, 2024. <https://um-surabaya.ac.id/article/marak-artis-dan-influencer-promosi-judi-online-di-media-sosial-ini-tanggapan-dosen-um-surabaya> (accessed Mar. 19, 2024).
- [14] A. Maulana, “Fadil Zumhana: Hukum Harus Bisa Mengikuti Perkembangan Masyarakat,” *unpad.ac.id*. <https://www.unpad.ac.id/2023/03/fadil-zumhana-hukum-harus-bisa-mengikuti-perkembangan-masyarakat/> (accessed Mar. 19, 2024).
- [15] Pande Putu Rastika Paramartha, Anak Agung Sagung Laksmi Dewi, and I Putu Gede Seputra, “Sanksi Pidana terhadap Para Pemasang dan Promosi Iklan Bermuatan Konten Judi Online,” *J. Prefer. Huk.*, vol. 2, no. 1, pp. 156–160, 2021, doi: 10.22225/jph.2.1.3062.156-160.
- [16] S. Desriwaty, “Pertanggungjawaban Pidana Terhadap Pelaku Promosi Judi Online Yang Dilakukan Melalui Media Sosial Ditinjau Dari Perspektif Hukum Pidana,” Universitas Putera Batam, Batam, 2023.