

## Between National Borders and Legal Boundaries: Jurisdictional Limitations in Reaching Online Gambling Providers Abroad

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### ABSTRACT

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The phenomenon of online gambling in Indonesia is increasingly worrying, marked by the increasing number of players and the involvement of Indonesian citizens as service providers from abroad. This situation presents challenges for law enforcement, particularly when perpetrators are located in countries that do not have legal cooperation with Indonesia. The ITE Law stipulates extraterritorial jurisdiction, which normatively authorizes action against perpetrators outside the country's territory. This study aims to analyze the regulation of extraterritorial jurisdiction in law enforcement against transnational online gambling perpetrators and proposes strengthening relevant legal instruments to increase the effectiveness of enforcement. This study uses a normative legal method with a statutory and conceptual approach. The results indicate that the regulation of extraterritorial jurisdiction in the ITE Law can serve as a legal basis for action against transnational online gambling perpetrators, but its implementation requires the support of stronger international cooperation instruments. Optimizing extradition treaties and mutual legal assistance in criminal matters is key to overcoming legal and technical obstacles. Furthermore, harmonization of legal interpretations between countries is necessary for effective law enforcement.

**Keywords:** *Online Gambling, Extraterritorial Jurisdiction, Law Enforcement, ITE Law, Extradition.*

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### 1. INTRODUCTION

The development of digital technology has transformed the way humans interact, work, conduct business, and even entertain themselves. One rapidly growing phenomenon in this era is online gambling. With just a smartphone and an internet connection, a person can access various forms of gambling without needing to visit a physical casino. These platforms offer a wide range of games, from sports betting to card games, packaged with attractive visuals, ease of access, and the promise of large profits in a short time. For some, online gambling is considered a convenient modern form of entertainment, but for law enforcement, this practice represents a complex major challenge.

The phenomenon of online gambling in Indonesia is not only growing among urban communities but has also spread to rural areas. Data from the Indonesian National Police Criminal Investigation Department (Bareskrim Polri) recorded that during the 2019–2024 period, the police successfully uncovered 6,386 online gambling cases involving 9,096 suspects [1]. During the same period, 6,081 bank accounts were frozen and 109,520 websites were blocked [1]. Moreover, the circulation of money from online gambling is estimated to reach IDR 600 trillion, with part of the funds flowing to ASEAN countries such as Thailand, Cambodia, and the Philippines. Ironically, most of the websites and servers used by perpetrators are located abroad, making law enforcement significantly more difficult [1]. Complicating matters further, some of the actors who serve as providers or operators of these activities also reside outside Indonesian jurisdiction, exploiting legal gaps to avoid prosecution. This raises a fundamental question: what if the perpetrators are not only service providers of online gambling but also Indonesian citizens who deliberately reside or move

abroad to evade legal enforcement? This phenomenon of legal migration creates a serious dilemma, namely that national law can easily "stop" at the border, especially without legal instruments allowing enforcement in foreign jurisdictions.

A concrete example is the exposure of an online gambling network case in early 2024, where several key perpetrators were found to operate from Cambodia and the Philippines. They used foreign servers, international bank accounts, and fake digital identities to obscure transaction traces [2]. Although the Indonesian National Police (Polri) has attempted to cooperate with local authorities, limitations in extradition agreements and differences in legal systems make the enforcement process slow and ineffective.

The issue is that Indonesian criminal law, as regulated in the Criminal Code (KUHP) and Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions (ITE Law), prohibits gambling and sets out sanctions. However, enforcing the law against perpetrators abroad is not as simple as enforcement within the country. The principle of state sovereignty in international law limits Indonesian law enforcement authorities from taking direct action in another country without the consent of that country [3]. As a result, enforcing the law against cross-border online gambling requires special international legal mechanisms.

The ITE Law regulates the application of extraterritorial jurisdiction, stipulating that Indonesian criminal law can be applied to anyone who commits an unlawful act outside Indonesian territory, as long as the act causes legal consequences in Indonesia or harms the interests of the state. Nevertheless, the application of extraterritorial jurisdiction does not automatically facilitate enforcement. Without strong international cooperation mechanisms, whether through extradition treaties, mutual legal assistance, or cross-border data exchange, enforcement against online gambling perpetrators abroad faces serious obstacles. This aligns with the view of criminal law experts who emphasize that successful cross-border law enforcement requires a combination of adequate national legal instruments and political commitment from partner countries [4].

This challenge becomes even more apparent when faced with the fact that not all countries have extradition or mutual legal assistance agreements with Indonesia. Extradition treaties facilitate the transfer of suspects or convicts from one country to another, while mutual legal assistance allows for the exchange of information, freezing of assets, and taking witness statements across borders [5]. Without these instruments, law enforcement efforts often hit a dead end, especially when the country where the perpetrator resides has no interest or legal framework aligned with Indonesia's efforts to combat online gambling.

In the context of law enforcement, jurisdictional limitations are not merely a technical issue but a fundamental problem that determines the application of the law itself. If the law cannot reach perpetrators abroad, then the message that "no crime goes unpunished" loses its meaning. This phenomenon raises serious questions about the extent to which national law can address borderless crime challenges and whether existing international legal instruments are sufficient to meet these challenges.

In reality, cross-border online gambling exploits weaknesses in a globally non-integrated legal system [6]. Perpetrators can move between jurisdictions, take advantage of countries that have no agreements with Indonesia, or operate from territories that legally provide protection for gambling activities. This situation turns law enforcement into a cat-and-mouse game, where

authorities must pursue perpetrators in an international legal arena full of political, diplomatic, and legal system constraints.

Various international legal instruments are actually available to overcome these obstacles. Indonesia, for example, has ratified several mutual legal assistance agreements with certain countries and has some extradition treaties. However, the reach of these agreements is still limited and does not cover all countries that serve as bases for online gambling operations. This creates an urgency to expand the network of international agreements, both bilaterally and multilaterally, so that law enforcement can be carried out more effectively.

In this context, the urgency of discussion is not only on expanding jurisdictional coverage but also on how existing legal instruments can be optimized to close the gaps exploited by perpetrators. The author considers that a normative analysis of extraterritorial jurisdiction regulations, its relation to cross-border online gambling, and its relevance to international agreements that Indonesia has or has not ratified, is an important step to find an effective law enforcement formula. By understanding existing limitations and examining the potential of relevant legal instruments, it is expected that a legal framework can be built that is more responsive to cross-border crime dynamics while providing maximum protection to society from the harmful impacts of online gambling.

Additionally, harmonizing national regulations with international provisions is also key. In some cases, obstacles arise not only from the absence of agreements but also from differences in legal definitions between countries. For example, in one country, online gambling may be legal, whereas in Indonesia, it is a criminal offense [7]. These differences often hinder the extradition process or mutual legal assistance, as other countries cannot execute Indonesia's requests to hand over perpetrators or collect evidence.

From the description above, it is clear that enforcement against online gambling perpetrators abroad requires a comprehensive legal strategy. This strategy not only involves national law enforcement but also integration with international legal instruments. Strengthening inter-country cooperation, expanding extradition agreements, and optimizing mutual legal assistance mechanisms are steps that implicitly indicate the direction for resolving this issue.

The problem of jurisdiction in cross-border online gambling enforcement reflects the major challenges of law enforcement in the era of globalization. Borderless crimes require laws capable of crossing national boundaries. Therefore, studying the limitations of jurisdiction and their relevance to international legal instruments is crucial, so that law enforcement is not only strict on paper but also effectively implemented.

## 2. METHODS

This research uses a normative legal research method that focuses on the study of relevant laws and regulations, legal principles, and doctrines. The approaches used are the statute approach and the conceptual approach. [8] The statutory approach is carried out by examining applicable legal provisions, including Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions, Law Number 1 of 2023 concerning the Criminal Code, as well as provisions of international agreements that have been ratified by Indonesia, including relevant extradition agreements. Meanwhile, the conceptual approach is used to understand and analyze the concept of extraterritorial jurisdiction, the principle of state sovereignty, and international cooperation mechanisms in enforcing cross-border criminal law. The

legal materials used in this research include primary legal materials, namely laws and international agreements that regulate the prosecution of online gambling perpetrators abroad; Secondary legal materials, in the form of legal literature, expert opinions, and relevant previous research results; and tertiary legal materials, such as legal dictionaries and legal encyclopedias. The legal materials were collected through library research. Furthermore, all legal materials were analyzed descriptively and analytically to provide a comprehensive picture of the limitations and opportunities for applying extraterritorial jurisdiction in law enforcement against transnational online gambling perpetrators.

### 3. RESULTS AND DISCUSSION

#### 3.1 Legal Regulation in Indonesia Regarding the Enforcement Against Online Gambling Operators Operating Outside National Territory

The phenomenon of online gambling in recent years has experienced significant escalation, particularly with the development of digital technology that allows cross-border transactions to be conducted instantly [9]. These illegal operators are no longer limited to domestic networks; many now operate from outside Indonesia to avoid law enforcement action. More concerning, there are cases where Indonesian citizens (WNI) are directly involved as online gambling providers abroad, targeting the domestic market [10].

This situation raises a fundamental question: how can Indonesian law reach perpetrators who are physically outside national jurisdiction, yet whose criminal acts have significant impacts on Indonesian society? To answer this, it is necessary to examine in detail the provisions in existing legislation, including mechanisms of jurisdiction and law enforcement strategies.

Enforcement against online gambling providers operating from outside the country requires a "bridge" of norms: substantive criminal law (prohibitions and criminal sanctions), formal criminal law (authority and coercive tools), and cross-border instruments (extraterritoriality, extradition, and mutual legal assistance/MLA). Indonesia's legal framework primarily the ITE Law, the Criminal Code (KUHP, still in force), the Extradition Law, and the MLA Law already provides these instruments. The challenge lies in linking each provision effectively to reach perpetrators "hiding" beyond national borders.

The ITE Law serves as the main legal instrument for addressing online gambling. In this law, acts of providing or distributing content containing gambling material are explicitly prohibited. As stipulated in Article 27 paragraph (2) of the ITE Law, any person who intentionally and without rights distributes, transmits, and/or makes accessible Electronic Information/Documents containing gambling content commits a prohibited act. The element of "distributing/transmitting/making accessible" targets typical roles such as operators, admins, affiliates, and anyone who deliberately provides landing pages or game lobbies. This provision is the primary gateway for targeting providers rather than just players because the focus is on gambling content published or disseminated through electronic systems. The criminal sanction for violating Article 27 paragraph (2) is now a maximum of 10 (ten) years in prison and/or a fine of up to IDR 10 billion. The increase in maximum penalties marks a stricter policy toward online gambling at the content/service provider level, while also strengthening its deterrent effect.

To address jurisdictional issues, the ITE Law provides extraterritorial jurisdiction in Article 2, which extends the application of the law to acts causing legal consequences in Indonesia and/or directed at the interests or population of Indonesia, even if the acts occur abroad. The explanation of Article 2 emphasizes that the scope of the ITE Law crosses territorial borders when the impact is felt in Indonesia [11]. This means providers operating servers or organizations abroad can still be prosecuted if their market, victims, or legal consequences are in Indonesia. Additionally, Article 40 of the ITE Law grants the government, particularly the Ministry of Communication and Digital (Komdigi), the authority to block access to content and/or electronic systems facilitating online gambling. This is not a criminal provision but an administrative tool to cut operational channels (websites, applications, payment gateways). This authority is reinforced in amendments to the ITE

Law and operationalized through access-blocking policies for problematic content. Changes to Article 43 expand investigators' powers, including ordering electronic system providers to close/restrict accounts, request logs, and perform digital forensic actions. For cross-border online gambling cases, these provisions are critical for securing electronic evidence, disabling distribution channels, and expediting administrative-investigative measures while MLA/extradition processes are underway.

In addition to specific laws, the Criminal Code (KUHP) also contains provisions relevant to law enforcement, namely Articles 303 and 303 bis, which essentially punish anyone who intentionally: organizes, provides opportunity, participates in gambling, or makes it a source of income. The element of "providing opportunity" is useful for operators offering access (e.g., rooms, servers, or game interfaces), while "making it a source of income" is relevant for bookies/admins who earn consistent profits. Although formulated in the offline era, these offenses are often used as general norms alongside the ITE Law, especially if prosecutors want to emphasize gambling as the core offense (beyond just electronic content) [12]. Article 303 bis covers other forms of involvement facilitating gambling (e.g., participating in prohibited facilities). In online gambling structures, this provision is often applied to supporting actors in the ecosystem, such as payment front providers, runners, or physical booth managers directing users to online channels.

Law Number 1 of 1979 on Extradition plays an important role in enforcing against online gambling operators operating from outside Indonesia. Article 1 defines extradition as the surrender of a person by one country to another for prosecution or execution of a sentence. This is relevant in handling online gambling operators abroad. Article 2 states that extradition is conducted based on agreements, but if no agreement exists, it can proceed on the principle of reciprocity. This means that even if Indonesia has no treaty with the country where the perpetrator resides, extradition is still possible if there is mutual willingness. Article 3 regulates that extraditable offenses are determined in annexes or agreements. In modern practice, determination is usually based on a minimum criminal threat. Online gambling offenses meet the principle of double criminality if they are also considered crimes in the requested country. However, if the country legalizes online gambling, the extradition request may be denied. Articles 4 and 5 provide exceptions for political or military offenses, while Articles 9 and 10 regulate formal and material requirements for requests, such as the identity of the perpetrator, a description of the crime, and adequate preliminary evidence. The completeness and quality of documents are key to the success of an extradition request.

From the author's analytical perspective, the strength of the Extradition Law lies in its flexibility to still allow the transfer of perpetrators even without formal treaties, thanks to the principle of reciprocity [13]. However, its main weakness is reliance on cooperation from other countries, meaning the success of extradition heavily depends on the legal compatibility in the requested country and the diplomatic relations established. Law enforcement strategies include expanding the network of extradition treaties, optimizing mutual legal assistance to strengthen evidence, and employing diplomatic approaches that involve shared interests with other countries in combating cross-border crimes such as online gambling. This approach is expected to close loopholes that perpetrators have exploited to operate safely beyond Indonesian legal reach.

Law Number 1 of 2006 on Mutual Legal Assistance (MLA) provides the legal basis for Indonesia to request or provide assistance in handling cross-border criminal cases, including identification, summoning witnesses/experts, submission of documents, searches, seizures, confiscation of criminal proceeds, asset blocking, and presenting individuals (Articles 2 and 3). These provisions are highly relevant in tackling cross-border online gambling to track perpetrators, servers, payment flows, and criminal proceeds. Article 4 clarifies that MLA is different from extradition. Article 5 allows cooperation based on treaties or the principle of reciprocity. Article 6 lists grounds for refusal, such as political, military, and *ne bis in idem* considerations, while Article 56 allows the use of INTERPOL channels as a complement to international coordination.

The current legal framework faces fundamental weaknesses, particularly in applying the extraterritorial principle in Article 2 of the ITE Law, which lacks a “long arm” of physical enforcement. Criminal prosecution of perpetrators abroad still depends on extradition or MLA, which can be hindered if the requested country does not criminalize similar acts (double criminality) or even legalizes certain practices [2]. The old KUHP (Articles 303/303 bis) remains relevant but was developed in a physical context, making it less precise for digital modus operandi, so the ITE Law dominates usage. Moreover, cross-border coordination consumes time and resources, while online gambling operations move rapidly across jurisdictions.

Optimizable strategies include employing “multi-door” charges with the ITE Law as the central axis, supported by the KUHP to cover various roles of perpetrators. Law enforcement must aggressively utilize administrative and digital forensic instruments for access blocking and evidence collection from the outset. MLA should be maximized for tracking and asset freezing, while reciprocity-based extradition should be applied following case theories that meet double criminality. In the medium term, Indonesia needs to expand extradition and MLA agreements with countries that serve as bases for online gambling operations to strengthen legal certainty.

Overall, eradicating cross-border online gambling depends not only on existing legal norms but also on adaptive, collaborative, and evidence-based enforcement strategies. Integration between national legal instruments, international cooperation, and the use of digital forensic technology is key to closing legal loopholes and sustainably disrupting cross-border operations.

### **3.2 Application of Extraterritorial Jurisdiction and International Treaties in Law Enforcement Against Online Gambling Operators Abroad**

The phenomenon of online gambling operators operating from outside Indonesia requires law enforcement that extends beyond national boundaries. Extraterritorial jurisdiction allows Indonesia to apply national law to acts committed abroad that have an impact within the country [1]. This is relevant because online gambling operators, admins, or facilitators are often located in other countries to exploit legal loopholes, while their targets or servers remain connected to Indonesia. However, the application of this principle cannot stand alone; it requires integration with international legal instruments, including extradition treaties and mutual legal assistance (MLA), to ensure effective law enforcement and the execution of criminal sanctions [14].

The ITE Law, particularly Article 2, provides a legal basis for law enforcement to prosecute perpetrators located abroad if their actions have an impact in Indonesia. This principle allows normative actions, such as criminal prosecution, against perpetrators physically outside the national jurisdiction. Nevertheless, the effectiveness of this principle depends on international cooperation to enforce verdicts, as Indonesian authorities lack physical authority to arrest perpetrators abroad. In practice, law enforcement through extraterritorial jurisdiction requires a combination of national legal strategies, diplomacy, and the use of international instruments.

The Extradition Law serves as the main instrument to transfer perpetrators from other countries to Indonesia. Article 1 defines extradition as the surrender of a person for the purpose of prosecution or execution of a sentence, while Article 2 emphasizes that extradition is carried out through bilateral/multilateral agreements or on the principle of reciprocity if no treaty exists. Article 3 regulates the criteria for extraditable offenses and the principle of double criminality, meaning online gambling offenses must also be considered unlawful in the requested country. Articles 4 and 5 set exceptions and formal and material procedures, including preliminary evidence (*prima facie* case) and the identity of the perpetrator. In practice, the success of extradition heavily depends on the legal compatibility of the requested country. If the country legalizes certain forms of online gambling, the extradition request may be denied. Therefore, enforcement strategies must consider case theory, for example by emphasizing elements of fraud, illegal access, or illegal content related to online gambling operations, rather than gambling *per se*.

Law Number 1 of 2006 on MLA is an important instrument for cross-border evidence collection and asset tracking. Article 2 provides the legal basis for the Indonesian government to request or provide assistance in criminal matters and guidelines for MLA agreements. Articles 3 paragraphs (1)–(2) cover the scope of assistance, such as identification, summoning witnesses/experts, submission of documents, searches, seizures, confiscation of criminal proceeds, asset blocking/freezing, and presenting individuals. In the context of online gambling, these provisions enable authorities to trace operators, servers, payment flows, and criminal proceeds. Article 4 clarifies that MLA is not extradition, although both can run in parallel. Article 5 allows MLA implementation through treaties or the principle of reciprocity if no treaty exists, while Article 6 provides grounds for refusal, such as political, military, or *ne bis in idem* considerations. Article 56 also affirms the use of INTERPOL as a supplementary channel for cross-border coordination.

Although extraterritorial jurisdiction and international treaties provide a strong normative foundation, several weaknesses remain. First, extraterritoriality without a “long arm” of physical enforcement depends on cooperation from other countries; without extradition or MLA, prosecution is difficult to execute. Second, the principle of double criminality and the legal stance of the requested country may result in rejection if the country does not criminalize certain forms of gambling. Third, older KUHP provisions such as Articles 303/303 bis remain relevant but are more suitable for physical contexts, making the ITE Law more effective for handling digital modus operandi. Fourth, cross-border coordination consumes significant time and resources, while online gambling operations are agile and easily shift jurisdictions.

Law enforcement strategies against cross-border online gambling operators should adopt an integrated approach that combines national and international instruments. The use of “multi-door” charges is a primary step [15], with the ITE Law as the central axis to prosecute perpetrators for digital acts impacting Indonesia. The ITE Law allows authorities to prosecute for illegal access, fraud, and dissemination of online gambling-related content, while the KUHP can be used cumulatively to address various roles of perpetrators, from operators and admins to facilitators, ensuring all positions in the operational chain are legally accountable.

The utilization of administrative instruments and digital forensics is also crucial. Law enforcement can issue take-down or access-blocking orders against websites, applications, and payment flows, while simultaneously collecting logs, metadata, and digital evidence needed to support MLA or extradition requests. This not only slows down online gambling operations but also strengthens the evidentiary basis in judicial processes. Maximizing MLA is a key strategy for asset tracing, account freezing, and cross-border evidence collection. Through MLA provisions, authorities can conduct searches, seizures, confiscation of criminal proceeds, and block or prohibit related transactions. A “follow the money” strategy has proven effective in weakening operators based abroad, while also providing a preventive effect on their capital and operations.

Reciprocity-based extradition should be utilized to transfer perpetrators to Indonesia, especially if the requested country lacks formal treaties [16]. Case selection must consider the principle of double criminality, emphasizing additional elements such as fraud, illegal access, or illegal content to increase the likelihood of extradition approval. Expanding the network of extradition and MLA agreements with countries hosting online gambling operations is a strategic medium-term step. This reduces dependence on ad hoc reciprocity, enhances legal certainty for the surrender of perpetrators and assets, and strengthens sustainable cross-border cooperation.

With this integrated strategy, law enforcement authorities have a comprehensive framework to tackle cross-border online gambling operators. This integrated approach not only enforces national law effectively but also leverages international instruments to close operational gaps, making the fight against digital crime sustainable and adaptive to technological and globalization dynamics.

The application of extraterritorial jurisdiction and international instruments such as extradition and MLA forms an important foundation for law enforcement against online gambling

operators abroad. Its success in practice still requires cross-border coordination, reliable evidence, precise charge strategies, and the use of digital forensic technology. Integration between national law and international cooperation allows authorities to close operational loopholes, ensuring that law enforcement is not only normatively effective but also practically enforceable. Enforcement against online gambling operators operating from outside Indonesia demonstrates the complexity of challenges in the digital and globalized era. While extraterritorial jurisdiction provides a normative basis to prosecute acts abroad, practical success depends on international cooperation, availability of valid evidence, and legal alignment with partner countries. The integration of the ITE Law, KUHP, extradition treaties, and mutual legal assistance enables authorities to build a stronger framework, close operational gaps, and enforce sanctions effectively. An integrated strategy combining multi-door charges, administrative instruments, digital forensics, optimized MLA, and expanded international agreements provides Indonesia with optimal opportunities to prosecute cross-border perpetrators effectively and sustainably. Consequently, law enforcement efforts are not only formalistic on paper but also capable of delivering deterrent effects, protecting the public, and demonstrating the capacity of national law to address borderless digital crimes.

## CONCLUSION

Law enforcement against online gambling perpetrators operating outside Indonesia faces complex challenges due to jurisdictional limitations and differing legal attitudes in other countries. The Electronic Information and Transactions (ITE) Law provides the basis for extraterritorial criminalization of acts affecting Indonesia, while the Criminal Code (KUHP) remains a general umbrella for crimes involving various perpetrators. However, the effectiveness of national law alone is limited without the support of international mechanisms. Instruments such as extradition and mutual legal assistance (MLA) are key to prosecuting perpetrators located abroad. The Extradition Law allows for the transfer of perpetrators to Indonesia, while adhering to the principles of reciprocity and double criminality. While the MLA Law facilitates asset tracing, evidence collection, and the freezing of cross-border financial flows. An integrated enforcement strategy, including multi-pronged indictments, the use of administrative and digital forensic instruments, the optimization of MLA, and the expansion of extradition and MLA treaties, can strengthen law enforcement effectiveness, close operational loopholes for perpetrators, and ensure a tangible legal impact. This integrated effort not only enforces legal norms but also creates a deterrent effect, protects the public, and affirms Indonesia's legal capacity to address borderless digital crime. This conclusion emphasizes the importance of synergy between national law and international mechanisms as a foundation for effective, adaptive, and sustainable law enforcement.

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