

The Dimension of Islamic Law on Corporate Accountability in Online Gambling Operations as a Contemporary Form of Maisir

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Abstrak: Perkembangan teknologi informasi telah mendorong munculnya berbagai bentuk kejahatan siber, salah satunya adalah praktik judi online yang semakin kompleks dan terorganisir. Fenomena ini tidak hanya melibatkan individu, tetapi juga korporasi sebagai aktor utama dalam operasional dan pengelolaannya. Penelitian ini bertujuan untuk menganalisis dimensi hukum Islam terhadap pertanggungjawaban korporasi dalam operasional judi online sebagai bentuk maisir kontemporer, serta mengkaji relevansinya dengan hukum positif di Indonesia. Metode penelitian yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus, yang didukung oleh studi kepustakaan terhadap bahan hukum primer, sekunder, dan tersier. Hasil penelitian menunjukkan bahwa judi online secara substansial merupakan bentuk maisir yang diharamkan dalam hukum Islam karena mengandung unsur spekulasi (gharar), ketidakpastian, dan perolehan keuntungan tanpa usaha yang sah. Dalam perspektif hukum Islam kontemporer, korporasi dapat dikonstruksikan sebagai subjek pertanggungjawaban melalui pendekatan masalah dan maqashid al-shariah, meskipun secara klasik pertanggungjawaban pidana bersifat individual. Bentuk pertanggungjawaban korporasi mencakup dimensi moral, sosial, dan hukum, yang dalam implementasinya dapat dikenai sanksi ta'zir oleh otoritas negara. Lebih lanjut, penelitian ini menemukan bahwa integrasi antara hukum Islam dan hukum positif Indonesia menjadi penting dalam memperkuat efektivitas penanggulangan kejahatan judi online. Hukum positif memberikan dasar legal formal dalam penegakan hukum, sementara hukum Islam memberikan landasan etika dan moral yang berorientasi pada kemaslahatan dan pencegahan kerusakan (dar'u al-mafasid). Dengan demikian, pertanggungjawaban korporasi dalam operasional judi online tidak hanya dipahami sebagai kewajiban hukum, tetapi juga sebagai tanggung jawab moral dan sosial dalam menjaga keadilan dan keseimbangan dalam masyarakat.

Kata Kunci: Pertanggungjawaban Korporasi; Judi Online; Hukum Islam; Kejahatan Siber.

Abstract: The rapid development of information technology has led to the emergence of various forms of cybercrime, one of which is online gambling that has become increasingly complex and organized. This phenomenon not only involves individuals but also corporations as key actors in its operation and management. This study aims to analyze the dimension of Islamic law concerning corporate liability in the operation of online gambling as a form of contemporary maisir, as well as to examine its relevance within the framework of positive law in Indonesia. The research employs a normative legal method using statutory, conceptual, and case approaches, supported by library research on primary, secondary, and tertiary legal materials. The findings reveal that online gambling substantively constitutes a form of maisir, which is strictly prohibited in Islamic

law due to its elements of speculation (gharar), uncertainty, and the acquisition of profit without legitimate productive effort. From the perspective of contemporary Islamic law, corporations can be constructed as subjects of liability through the approaches of maslahah and maqashid al-shariah, despite the classical doctrine emphasizing individual criminal responsibility. The forms of corporate liability encompass moral, social, and legal dimensions, which in practice may be subject to ta'zir sanctions imposed by state authorities. Furthermore, this study finds that the integration of Islamic law and Indonesian positive law is essential to strengthen the effectiveness of combating online gambling crimes. Positive law provides a formal legal framework for enforcement, while Islamic law offers ethical and moral foundations oriented toward public welfare and the prevention of harm (dar'u al-mafasid). Thus, corporate liability in the operation of online gambling should not merely be understood as a legal obligation, but also as a moral and social responsibility in maintaining justice and social balance.

Keywords: *Corporate Liability; Online Gambling; Islamic Law; Cybercrime.*



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A. INTRODUCTION

The development of information and communication technology in the era of globalization has brought about a fundamental transformation in the structure and patterns of societal interaction. This change is marked by a shift from a localized society to a global one connected through digital networks. The internet, as a primary product of advances in information technology, has created a new space (cyberspace) that no longer recognizes geographical or time boundaries, enabling the exchange of information to occur quickly, widely, and without barriers [1]. On the one hand, this progress has had a positive impact in the form of easier access to information, efficient communication, and new digital-based economic opportunities. However, on the other hand, this development has also given rise to new forms of crime known as cybercrime. Cybercrime is an illegal activity that utilizes computer systems and internet networks as its primary means, impacting not only individuals but also threatening social order and legal stability [2].

One rapidly growing form of cybercrime is online gambling. This phenomenon has become a serious problem in Indonesia because it not only violates positive legal norms but also conflicts with moral, social, and religious values. Online gambling offers easy access, anonymity, and the potential for high financial returns, attracting people from all walks of life, regardless of age, social status, or economic level. This situation is exacerbated by structural factors such as poverty, low digital literacy, and weak oversight of digital activities [3].

From an Islamic legal perspective, the practice of gambling is known as maisir, which is strictly prohibited due to its elements of speculation (gharar), uncertainty, and the potential for harm to others. The prohibition on maisir extends not only to the direct perpetrators but also to those indirectly involved in supporting, facilitating, or profiting from such activities. Therefore,

online gambling, as a form of contemporary *maisir*, raises complex legal issues, particularly when it involves corporate entities [4].

Developments in modern criminal law indicate that criminal offenses are no longer limited to individuals (natural persons), but also include legal entities or corporations (legal persons). Corporations, as entities with legal rights and obligations, can be held criminally liable for acts committed within the scope of their activities. In this context, corporations often act as facilitators, system providers, or even direct managers of online gambling platforms [5].

The phenomenon of corporate involvement in online gambling practices in Indonesia is increasingly evident, as reflected in several cases uncovered by law enforcement. This indicates that online gambling crimes are no longer individualistic but have evolved into organized crimes involving corporate structures with complex operational systems. Therefore, the legal approach used cannot be solely based on positive criminal law but also requires a broader normative approach, including an Islamic legal perspective [6].

Under Indonesian positive law, corporate liability for criminal acts, including online gambling, has been accommodated in various regulations, such as the Electronic Information and Transactions Law and other related regulations. However, these regulations still focus on formal legal aspects and have not fully integrated the ethical and moral dimensions stipulated in Islamic law [7].

Islamic law offers a more comprehensive approach, emphasizing substantive justice, moral responsibility, and the prevention of harm (*dar'u al-mafasid*). In this context, corporate liability is understood not only as the legal consequences of unlawful acts but also as a form of accountability to sharia values, which prohibit all forms of economic activity that are exploitative and detrimental to society [8].

Based on this description, it is important to examine in depth how Islamic law views and regulates corporate accountability in online gambling operations as a form of contemporary gambling. This research uses a normative juridical approach by examining sources of Islamic law, such as the Qur'an, Hadith, and the opinions of Islamic scholars, combined with an analysis of applicable laws and regulations in Indonesia. Thus, this research is expected to make an academic contribution to the development of Islamic criminal law studies, while also offering an alternative perspective in efforts to combat online gambling crimes that is oriented not only toward law enforcement but also toward fostering moral and ethical awareness in community life.

B. METHOD

This research is a normative legal research that positions law as a system of norms that regulate human behavior in society. The study focuses on analyzing corporate accountability in online gambling operations as a form of contemporary gambling from an Islamic legal perspective, while still considering the positive legal framework in Indonesia. This research uses a legislative approach to examine regulations related to gambling crimes and corporate accountability, a conceptual approach to examine criminal law doctrine and the concept of gambling in Islamic law, and a case study approach to understand the application of norms in practice. The legal materials used consist of primary legal materials in the form of the Qur'an,

Hadith, and relevant laws and regulations, as well as secondary legal materials in the form of scientific literature and expert opinions. The legal materials were collected through a literature study, which was then analyzed qualitatively using descriptive-analytical methods to obtain a systematic and comprehensive understanding of the dimensions of Islamic law regarding corporate accountability in online gambling practices..

C. DISCUSSION

1. Online Gambling as a Contemporary Form of Maisir in Islamic Law.

In Islamic law, gambling is known as *maisir*, which refers to any activity involving betting, speculation, and the acquisition of profit without legitimate means. The prohibition against *maisir* is explicitly stated in the Qur'an, including in Surah Al-Ma'idah, verses 90–91, which places gambling alongside other reprehensible acts such as alcohol and practices that undermine moral order. This prohibition is based on the consideration that *maisir* is not only detrimental to individuals but also has social consequences in the form of hostility, dependency, and neglect of spiritual and social obligations. [9].

Conceptually, gambling (*maisir*) is characterized primarily by uncertainty (*gharar*), excessive speculation, and unfair profit distribution. In practice, one party gains profits without productive effort, while the other party suffers losses. Therefore, gambling (*maisir*) contradicts the Islamic principle of distributive justice, which requires that all wealth be acquired through lawful and proportionate efforts. This principle aligns with the objectives of *sharia* (*maqasid al-shariah*), particularly in safeguarding wealth (*hifz al-mal*) and preventing social harm (*dar'u al-mafasid*) [4].

In the modern context, online gambling represents a transformation of conventional gambling practices into a more complex and systematic digital form. Advances in information technology have enabled online gambling activities to be conducted through various platforms, such as websites and internet-based applications. Although the medium has changed, the legal substance remains the same: the element of betting (*stake*), uncertainty of outcome, and profits obtained without legitimate productive processes. In fact, digitalization has actually strengthened the characteristics of gambling by increasing the frequency, speed, and scale of transactions [10].

Furthermore, online gambling has additional characteristics that exacerbate its impacts compared to conventional gambling. Easy access without time and space constraints allows anyone to participate, including vulnerable groups such as teenagers and low-income communities. The anonymity offered by digital systems also complicates monitoring and law enforcement, allowing perpetrators to operate with relatively little risk. Furthermore, the use of algorithmic systems in online gambling platforms is often designed to create the illusion of winning, ultimately encouraging addictive behavior and dependence [11].

From a socio-economic perspective, online gambling practices have significant negative impacts, such as increased poverty, broken family relationships, and the potential for other crimes like fraud and money laundering. Within the framework of Islamic law, this situation demonstrates a preponderance of the harmful element (*mafsadah*) over the beneficial element (*maslahah*), thus strengthening the basis for prohibiting the practice. Therefore, the

prohibition on gambling (*maisir*) is not only normative-theological but also rationally justified in maintaining social and economic stability [12].

Furthermore, with the development of the digital economy, online gambling practices are often no longer conducted individually, but rather involve organized systems managed by corporate entities. Corporations, in this case, act as platform providers, transaction system managers, and even fund flow controllers. This corporate involvement demonstrates that gambling has become institutionalized in a more complex form, thus requiring a more comprehensive legal approach, including accountability. Therefore, both normatively and substantively, online gambling can be classified as contemporary gambling, which is prohibited in Islam. This prohibition applies not only to individuals directly engaging in gambling but also to all parties involved in the operational chain, whether as facilitators, system providers, or those profiting from the activity [13].

Classically, Islamic criminal law (jurisprudence) places the individual as the primary subject of criminal responsibility, based on the principle of *taklif* (legal imposition), which requires reason (*'aql*) and free will (*ikhtiyar*). Consequently, criminal responsibility in Islam is initially personal (*al-mas'uliyah al-fardiyyah*), where a person is only responsible for his or her own actions [14]. This principle is reflected in the principle that no one bears the burden of another's sins (*la taziru waziratun wizra ukhra*). However, developments in modern social and economic realities, particularly the emergence of corporate entities as actors in economic activity, require an expanded framework of accountability within the Islamic legal framework.

In the contemporary context, corporations can no longer be viewed simply as collections of ordinary individuals, but as legal entities with organizational structures, collective goals, and the capacity to undertake actions that have a broad impact on society [13]. Therefore, through a functional approach and the principle of benefit (*maslahah mursalah*), modern Islamic legal thinkers have opened up the opportunity to recognize corporations as subjects that can be held accountable, even though they do not directly fulfill the requirements of *taklif* like individuals. This approach is based on the need to maintain justice and prevent legal vacuums in collective and organized actions [15].

In this case, a corporation is seen as a representation of the collective will of its managers and stakeholders. Every corporate policy, decision, and activity is essentially the result of the actions of individuals acting within their structural capacity. Therefore, when a corporation engages in prohibited practices such as online gambling, accountability does not stop with the individual perpetrators but can also be constructed collectively for the corporate entity as a whole [6]. This is crucial to prevent the "false protection" of legal entity status, which is often exploited to avoid legal liability. Furthermore, Islamic law contains several principles that can serve as a normative basis for imposing liability on corporations. The principle of *al-ghunm bi al-ghurm* asserts that every benefit must be balanced with risk or responsibility, while the principle of *al-kharaj bi al-dhaman* states that the right to profit is accompanied by the obligation to bear the consequences of that activity. In this context, if a corporation profits from an illicit activity such as online gambling, then morally and legally, the corporation is obligated to bear the consequences of the resulting losses, both to individuals and to society at large [16].

Furthermore, the maqasid al-shariah approach also strengthens the legitimacy of corporate accountability. The primary objective of sharia is to safeguard five fundamental aspects: religion, life, intellect, lineage, and wealth. Online gambling practices operated by corporations clearly contradict these objectives, particularly in terms of protecting wealth (hifz al-mal) and intellect (hifz al-'aql), as they have the potential to cause economic loss and dependency that undermines individual rationality. Therefore, imposing responsibility on corporations is part of an effort to safeguard the public interest and prevent wider harm [17].

From a sanction perspective, Islamic law recognizes the concept of ta'zir, a type of punishment whose determination is left to the competent authorities (ulil amri) by considering the level of harm caused. In this context, corporations involved in online gambling operations can be subject to administrative and financial sanctions, as long as these sanctions are intended to provide a deterrent effect (zajr) and prevent recurrence of the offense. Thus, although corporations are not subjects of taklif in the classical sense, within the framework of contemporary Islamic law, they can still be held accountable as part of a mechanism to protect the public interest (maslahah 'ammah) [18]. Thus, the recognition of corporations as subjects of accountability in Islamic law is not a deviation from classical principles, but rather the result of legal ijihad that adapts to changing times. This approach demonstrates the flexibility and relevance of Islamic law in addressing modern challenges, including the phenomenon of technology-based crimes such as online gambling involving corporate entities.

2. Forms of Corporate Accountability in Online Gambling Operations.

From an Islamic legal perspective, accountability for gambling practices is not only individual, but also collective and structural. This is based on the fact that modern crimes, including online gambling, are often committed through organized systems and involve various parties within a single operational unit. Therefore, corporations, as entities that play a central role in providing, managing, and controlling online gambling activities, cannot be separated from the construct of accountability. In this context, corporate accountability encompasses interrelated and inseparable moral, social, and legal dimensions. [19].

First, moral and religious accountability are fundamental dimensions of Islamic law. Corporations, while not directly subject to taklif, nonetheless represent the will and actions of the individuals within them [4]. Therefore, corporate involvement in gambling practices requires collective moral awareness to cease all activities that conflict with sharia principles. In this regard, the concept of repentance is interpreted not only individually but also institutionally, namely by implementing policy changes, ceasing haram operations, and ensuring that future business activities align with halal and ethical values. This dimension is crucial because Islamic law is not solely oriented toward sanctions but also toward improvement (ishlah) and moral transformation. Second, social responsibility emphasizes the corporate obligation to remedy the negative impacts caused by online gambling practices. Gambling activities have been proven to cause various social harms, such as increased poverty, family conflict, and the degradation of societal morals. Within this framework, corporations are not only required to cease their activities but are also responsible for providing restitution or compensation for the losses incurred [19]. This principle aligns with

the concept of *dhaman* in Islamic law, namely the obligation to compensate for losses resulting from actions that harm others. Furthermore, corporations can also be required to contribute to social recovery programs, such as public education, rehabilitation of gambling addiction victims, and strengthening digital literacy as a form of ongoing social responsibility.

Third, legal accountability is a formal dimension that can be enforced through state authorities. In the context of a modern state, corporations involved in online gambling operations can be subject to various forms of sanctions, including criminal, administrative, and civil sanctions. Islamic law provides a foundation through the concept of *ta'zir*, a type of punishment not specifically stipulated in the texts but left to the discretion of the authorities (*ulil amri*) taking into account the level of harm caused. The flexibility of *ta'zir* allows the state to formulate proportionate and effective sanctions against corporations, such as large fines, revocation of business licenses, freezing of assets, and even dissolution of legal entities [18]. Furthermore, in the context of organized crime such as online gambling, the application of sanctions to corporations must also consider the principles of deterrence (*zajr*) and deterrence (*الردع*). This means that sanctions imposed should not only be intended to punish but also to prevent similar violations in the future, whether by the same corporation or other entities. In this regard, transparency in law enforcement and consistency in the application of sanctions are crucial factors in creating an effective deterrent effect.

Furthermore, corporate accountability can be expanded through a structural approach, tracing the chain of responsibility back to those who control and benefit from the activity, such as directors, shareholders, and other affiliated parties. This approach is crucial to avoid the practice of shifting responsibility (corporate veil) often used to protect individuals behind legal entities. In Islamic law, this aligns with the principle of substantive justice, which demands that every party contributing to harm be held accountable according to their role. Therefore, corporate accountability in online gambling operations, from an Islamic legal perspective, is not limited to formal legal aspects but also encompasses broader moral and social dimensions. This approach demonstrates that Islamic law serves not only as a law enforcement instrument but also as a value system aimed at creating justice, balance, and well-being in social life.

In the context of Indonesia, a predominantly Muslim country, the integration of positive law and Islamic legal values is an inevitable necessity in efforts to combat online gambling. Indonesian positive law recognizes corporations as subjects of criminal law and provides various instruments to prosecute perpetrators, including regulations in the areas of information technology, money laundering, and general criminal law. However, the approach used tends to be formal and legalistic, emphasizing solely the fulfillment of the elements of the crime and legal proof, without deeply addressing the ethical and moral dimensions underlying such behavior. Meanwhile, Islamic law offers a more substantive and holistic approach. The prohibition on gambling (*maisir*) is intended not only to punish perpetrators but also to maintain social balance, protect property, and prevent broader damage to society (*dar'u al-mafasid*). Within this framework, law is not merely understood as a set of repressive rules, but also as a preventive and educational instrument aimed at fostering collective awareness of the importance of avoiding harmful activities. Therefore, the integration of positive law and Islamic law can result in a more comprehensive law enforcement approach,

emphasizing not only enforcement but also prevention and development. This integration can be realized through several strategic approaches.

First, value harmonization, namely by internalizing Islamic legal principles such as justice (al-'adl), benefit (maslahah), and responsibility (amanah) into the formulation and implementation of positive legal policies. Second, strengthening regulations that not only regulate prohibitions and sanctions but also encourage ethical business practices in accordance with Sharia principles. Third, optimizing the role of religious and social institutions in educating the public about the dangers of online gambling as a form of gambling, thereby fostering a values-based legal awareness. Furthermore, this integration is also crucial in the context of law enforcement against corporations. Positive law can play a role in imposing firm and measurable sanctions, while Islamic law can strengthen the moral legitimacy of those sanctions. Thus, law enforcement is not only coercive but also persuasive, supported by values held by society. This is expected to increase the long-term effectiveness of the law, particularly in addressing latent and recurring crimes such as online gambling.

Furthermore, the integration of Islamic law and positive law can also foster a new paradigm in corporate accountability, one that is not solely oriented toward economic profit but also emphasizes social and moral responsibility. Corporations are no longer viewed simply as business entities, but as part of a social system obligated to uphold the values of justice and well-being. From this perspective, corporate involvement in online gambling practices is not only a violation of the law but also a denial of ethical responsibilities that should be upheld. Therefore, corporate accountability in online gambling operations cannot be understood narrowly as a legal obligation alone, but must be seen as a manifestation of the moral and social responsibility inherent in every business entity. The integration of Islamic law and positive law provides a stronger and more comprehensive foundation for addressing the phenomenon of online gambling, while simultaneously encouraging the creation of a legal system that is not only formally just but also substantively meaningful for the lives of the people [20].

D. CONCLUSION

Online gambling is a contemporary form of gambling (maisir) expressly prohibited by Islamic law due to its inherent elements of speculation, uncertainty (gharar), and the acquisition of profits without legitimate means. The transformation of gambling into a digital form does not alter its legal substance; in fact, it amplifies its negative impacts through ease of access, anonymity, and global reach, potentially damaging the social and economic fabric of society. In modern legal developments, corporations have been recognized as legal subjects subject to criminal liability. From an Islamic legal perspective, although the classical concept places the individual as the primary subject, through the maslahah and maqasid al-shariah approaches, corporations can be constructed as subjects of collective responsibility. This is based on the principle that every party profiting from an act, including those that are haram (forbidden) such as gambling (maisir), must bear the consequences of the resulting impact. Corporate accountability in online gambling operations encompasses moral, social, and legal dimensions. Morally, corporations are obligated to cease activities that contravene sharia and undertake institutional improvements. Socially, corporations are responsible for redressing losses caused to society. Meanwhile, legally, corporations can be subject to ta'zir sanctions by the state in the

form of fines, revocation of business licenses, or dissolution of legal entities. Integrating Islamic law with positive law is a strategic approach to combating online gambling crimes. Positive law provides a formal legal basis for law enforcement, while Islamic law strengthens the ethical, moral, and welfare dimensions. Thus, corporate accountability is understood not only as a legal obligation but also as a moral and social responsibility to maintain balance and justice in society.

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