

## PUNISHMENT FOR FRAUD OFFENDERS THROUGH ONLINE ARISAN IN MEDAN CITY

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### ABSTRACT

*Technological developments have a negative influence and lead to new crimes. There are several crimes related to abusing technology such as data manipulation, hacking, software theft, including online Arisan that was originally done conventionally. This research aims to analyze the arrangements and penalties given to perpetrators of fraud through online Arisan in the jurisdiction of Medan police. Using empirical juridical analysis research methods with qualitative types, data collection methods through field studies in the form of observations, interviews, and documentation. Efforts are needed to combat fraud crimes through online Arisan in the city of Medan by providing counseling to social media users, in order to be wiser in responding to every information obtained. The regulation of fraud is generally regulated in articles 378 and 372 of the Criminal Code specifically in article 28 paragraph 1 (one) Jo Article 45 paragraph 1 of Law No. 19 of 2016 concerning Amendments to Law No.11 of 2008 concerning ITE. The threat of criminal sanctions in special regulations with the threat of imprisonment for a maximum of 6 (six) years and/or a fine of at most one billion rupiah.*

Keywords: Punishment, Online Arisan, Fraud,

### INTRODUCTION

Society is a group of social creatures in which each person has a role to meet the needs of his life. Social relations in humans are one of needs, so humans have relationships with other humans. *Arisan* is a series of money-raising activities that are carried out systematically by agreement in a certain period. When the Money collected in the agreed period arrives in time, then the draw is made to determine who the winner will get the money in that period.

Fraud cases occur in Indonesia with an online *Arisan* modus operandi, including in Surabaya, Jakarta, Makassar, and also Medan and other major cities. In the city of Medan, there are at least two female Police Reports with the initials SDDS as Reported which is the city / owner / owner of *Arisan* Online. The reason for the victims' ambition to participate in online *Arisan* is tempted by the many benefits that are lured by fraudsters. The *Arisan* lasted safely without a hitch for several months, until the victim forgot that there was a risk of losing the money he invested with *Arisan* through social media. The members of the *Arisan* who are tempted by big profits are constantly investing hundreds of millions. However, since receiving a large amount of money, the manager / city / owner of the online *Arisan*.

In Indonesia has a culture if the winner of the *Arisan* is required to hold a meeting in the upcoming *Arisan*. In the large dictionary Indonesian explained *Arisan* is the activity of collecting money and goods that are calculated the same value by the person who carries out the activity which then they make a draw which then determines who gets the winner in the draw, the implementation of the lottery is carried out at the next meetings periodically until all members get it.

Online *Arisan* almost every day these words appear on social media. Many are caught in cases of online *Arisan* fraud because they judge that online *Arisan* is a form of investment, a way to sharpen money, and is a form of saving. Hope that the investment quickly increases rather than saving in the Bank. The agreement of *Arisan* participants in making *Arisan* on goods and money at a certain time resulted in an agreement between *Arisan* participants which then *Arisan* is an agreement referring to Article 1320 of the Civil Code. The participants of the online *Arisan* have confidence in maintaining oral agreements, based on the principle of consensualism.

This activity raises problems when the participants of the *Arisan* do not get payment from the agreed *Arisan*. Good ethics are needed in the management of online *Arisan*. However, it causes problems if the manager of the *Arisan* is otherwise so that the act is an act of embezzlement and fraud regulated in 372 and 378 of the Criminal Code and specifically regulated in the ITE Law.

### DISCUSSION

The presence of the internet has changed the pattern of life in community activities. The Internet is seen as a field of news and communication news to explore all corners of the world, dissemination and transfiguration of knowledge and ideas and creativity in intellectual groups and scholars in the world. The presence of Internet technology leads to an increase to a new environment formed with the nickname of social media, namely something a forum for dialogue through computerization. everyone and human beings cannot arbitrarily do in cyberspace / internet for example publishing something that violates the law such as immorality, gambling, insulting someone. or defame a person's reputation, exploitation and/or defamation.

Any person or criminal can be threatened with criminal law if spreading / providing false and false news information that makes the loss of certain product users in electronic transactions , as well as the information provided to create the intention to hate and conflict. Against certain individuals and community groups based on ethnicity, religion, race, and between groups (SARA) for that, Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions was created.

The ITE Law consists of 13 chapters and 54 articles which are new legal regimes to regulate *cyber space* activities in Indonesia. Some of the important aspects regulated in the ITE Law are as follows:

Expansion of aspects of jurisdiction (*extra territorial jurisdiction*), in proof (*e-evidence*), consumer protection, electronic signatures, management of licenses and electronic transactions, viewpoints on domain names, personal security through internet media, the role of the state and the public. Acts that are prohibited in disseminating information that violates ethics, morals and norms that live in society, namely gambling, pornography, fraud, computer crimes, using and or accessing computers and or electronic systems, cause transmission of programs, information, codes or orders, computers and or electronic systems protected by the state to be damaged. Use and/or access computers and/or electronic systems without rights.

Article 45 paragraph 2 and Article 28 paragraph (I) of Law No. 19 of 2016 concerning Electronic Transaction information with this article the perpetrator of criminal acts can be held accountable for his actions. The basic principles for achieving the goal of punishment for criminal offenders are that punishment is universal, the application of punishment materials in line with the needs of society, to improve the perpetrators of criminal acts. This affects the judge in deciding a case.

The use as a means of retaliation for crimes that have been committed by someone legitimizes based on the Retributive Theory. (Luh Rina Apriani, 2010). By Romli Atmasasmita (2005:83-84) that criminal prosecution to the perpetrator to satisfy the victim's feelings of revenge, warning that the perpetrator's actions harm others and showing the impression of the severity of an offense and the criminal imposed. Relative theory views crime as an effort to protect society and prevent crime (general prevensi level). And the combined theory according to Pallegirino Rossi that criminals are retaliation to the guilty person alone in accordance with the crimes he committed. It takes proportion to give punishment to perpetrators in accordance with the principles of justice, legal certainty and the principle of benefits. Radbruch talks about the mind of the law (*idee des Rechts*) which serves to guide man in a life of punishment. Satjipto Rahardjo said "legal certainty concerns the issue of "law being written down", not about justice and expediency. (Rahardjo, 2006: 136).

The criminal act of fraud with online *Arisan* mode is a criminal act. So that in the step of solving this problem, the actualization of laws and regulations is needed. Law enforcement issues. is an attractive matter to discuss because it is related to the presence of law and man. The law will not be able to create its own purpose and purpose, because the law is solely a rule. Therefore, the existence of officers (law enforcement) is needed for the implementation of legal purposes. With the method of seeing the law as mentioned above, the strengthening of the law (law enforcement) not only maintains the standard system of one legal provision, but creates the implementation of the rules contained in the legal foundation.

The following is a comparison table for the regulation of Fraud Crimes according to general and special regulations:

No	FRAUD THROUGH ONLINE ARISAN ACCORDING TO THE CRIMINAL CODE	FRAUD OFFENCES THROUGH ONLINE ARISAN ACCORDING TO THE ITE LAW
1.	Article 378 of the Criminal Code on fraud "anyone with the intention to unlawfully benefit oneself or others by using a false name or false dignity (hoedaningheid) ; by deception, or a series of lies, moving others to hand over something to him, or to give debt or abolish pintang, threatened, for fraud, with a maximum imprisonment of four years.	Article 28 paragraph 1 of the ITE Law regulates invalid / false news that causes harm to consumers in transacting in electronic media.

For violations of Article 28 paragraph (1) of the Electronic Information and Transactions Law, perpetrators are threatened with imprisonment for a maximum of six years and/or a maximum fine of Rp. 1,000,000,000,- (1 Billion Rupiah) in accordance with article 45 paragraph 2 (two) of the Electronic Information and Transaction Law. So, from the formulations of Article 28 paragraph 1 (one) of the Electronic Information and Transaction Law and Article 378 of the Criminal Code, we can know that the two regulate different things. Where article 378 of the Criminal Code regulates fraud (explanation of the elements in Article 378 of the Criminal Code), while Article 28 paragraph 1 (one) of the Electronic Information and Transaction Law regulates fake news that causes consumer harm in electronic transactions (explanation of the elements in Article 28 paragraph 1 (one) of the Electronic Information and Transaction Law). However, the two criminal acts have something in common, that is, they can cause harm to others. However, the formulation of Article 28 paragraph 1 (one) of the Electronic Information and Transaction Law does not require the existence of an element of "benefiting oneself or others" as stipulated in Article 378 of the Criminal Code on fraud.

Here is a table on the Comparison of Punishment Sanctions for Perpetrators of Fraud Through Online *Arisan* , namely:

No.	THE THREAT OF PUNISHMENT FOR PERPETRATORS OF FRAUD THROUGH ONLINE ARISAN ACCORDING TO IN GENERAL	THE THREAT OF PUNISHMENT FOR PERPETRATORS OF FRAUD THROUGH ONLINE ARISAN ACCORDING TO SPECIFIC REGULATIONS
1.	Article 38-39 of the Criminal Code on fraud concerning the Confiscation of Moving or immovable Objects belonging to criminals obtained from their crimes.	Article 45 paragraph (1) of the ITE Law is threatened with imprisonment for a maximum of six years and/or a maximum fine of Rp. 1,000,000,000,- (1 Billion Rupiah)
2.	Article 378 of the Criminal Code on fraud, with a prison sentence of four years."	

## CONCLUSION

1. In dealing with issues related to crime in cyberspace, related to the emergence of fraud for consumer / user losses in electronic transactions, jurisdiction on fraud crimes based on Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions are found in the determination of Article 28 paragraph 1 of Law No. 19 of 2016 concerning Electronic Information and Transactions and for the Perpetrators can be convicted which has been regulated in article 45A paragraph 1, with a maximum imprisonment of 6 years and/ or a maximum fine of Rp 1,000,000,000.00 (one billion rupiah). The existence of invalid / false news that causes losses to consumers in transacting in electronic media.
2. The punishment that will be given to the perpetrators of online fraud fraud in the general law is with a maximum criminal threat of 6 years and / or a maximum fine of Rp 1,000,000,000.00 (one billion rupiah).

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