

## Judicial Reluctance and Legal Gaps in Recognizing Gambling as a Ground for Divorce: An Islamic Law Analysis of Decisions of the Pekanbaru Religious Court

\*Fadel Muhammad<sup>a</sup>, Zulfahmi Bustami<sup>a</sup>, Muhammad Darwis<sup>a</sup>,  
Pujangga Candrawijayaning Fajri<sup>b</sup>, Naimah Mohamad Nasir<sup>c</sup>

<sup>a</sup> Universitas Islam Negeri Sultan Syarif Kasim Riau, Indonesia

<sup>b</sup> Universitas Harapan Bangsa, Indonesia

<sup>c</sup> International Islamic University Malaysia, Malaysia

\*Corresponding author: [fadelmuhammad08020@gmail.com](mailto:fadelmuhammad08020@gmail.com)

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### Abstract

*This study is motivated by the empirical finding that judges in the Religious Court Class 1A Pekanbaru do not explicitly use gambling as a legal ground for divorce, despite its inclusion in Government Regulation No. 9 of 1975 Article 19(a) and the Compilation of Islamic Law (KHI) Article 116(a). Moreover, Law No. 1 of 1974 on Marriage does not specifically recognize gambling as a cause of divorce, resulting in limited legal protection for affected parties. This research aims to analyze judicial reasoning and standards in adjudicating divorce cases involving gambling from an Islamic law perspective. This study employs a qualitative normative legal approach based on secondary data, utilizing statutory, case, and historical approaches. Data were collected through literature review and supported by interviews, and analyzed using qualitative analytical techniques to derive systematic and interpretative conclusions. The findings reveal that judges tend not to explicitly consider gambling as a primary ground for divorce, instead relying on arguments of continuous disputes and conflicts. Consequently, the normative provisions of Government Regulation No. 9 of 1975 Article 19(a) and KHI Article 116(a) are not optimally applied. From an Islamic law perspective, which prioritizes family welfare (maslahah), gambling can constitute a legitimate (syar'i) ground for divorce. In conclusion, there is a normative and practical gap in judicial application, indicating the need for legal reform. This study recommends strengthening legal provisions by explicitly incorporating gambling as a ground for divorce through amendments to Law No. 1 of 1974 to ensure legal certainty and protection.*

**Keywords:** Divorce Law; Gambling; Islamic Law; Judicial Reasoning.

### Abstrak

Penelitian ini dilatarbelakangi oleh fakta empiris bahwa hakim di Pengadilan Agama Kelas 1A Pekanbaru belum secara eksplisit menggunakan perjudian sebagai alasan perceraian, meskipun telah diatur dalam Peraturan Pemerintah Nomor 9 Tahun 1975 Pasal 19 huruf (a) dan Kompilasi Hukum Islam (KHI) Pasal 116 huruf (a). Selain itu, Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan tidak secara tegas mencantumkan perjudian sebagai alasan perceraian, sehingga menimbulkan kekosongan perlindungan hukum bagi pihak yang dirugikan. Penelitian ini bertujuan

untuk menganalisis pertimbangan dan standar hakim dalam memutus perkara perceraian yang melibatkan unsur perjudian dalam perspektif hukum Islam. Penelitian ini menggunakan metode kualitatif dengan pendekatan normatif hukum Islam berbasis data sekunder melalui studi kepustakaan, serta didukung pendekatan perundang-undangan, kasus, dan historis. Teknik pengumpulan data dilakukan melalui studi literatur dan wawancara, kemudian dianalisis menggunakan metode analisis kualitatif untuk menghasilkan temuan yang sistematis dan interpretatif. Hasil penelitian menunjukkan bahwa hakim cenderung tidak menjadikan perjudian sebagai dasar utama perceraian, melainkan menggunakan alasan perselisihan dan pertengkaran yang terus-menerus. Hal ini mengakibatkan ketentuan dalam Peraturan Pemerintah Nomor 9 Tahun 1975 Pasal 19 huruf (a) dan KHI Pasal 116 huruf (a) belum diterapkan secara optimal. Dalam perspektif hukum Islam yang menitikberatkan pada kemaslahatan keluarga, perjudian dapat menjadi alasan syar'i untuk perceraian. Penelitian ini menyimpulkan adanya kesenjangan antara norma dan praktik peradilan, sehingga diperlukan penguatan regulasi. Direkomendasikan adanya perubahan terhadap Undang-Undang Nomor 1 Tahun 1974 dengan menambahkan ketentuan eksplisit mengenai perjudian sebagai alasan perceraian guna menjamin kepastian hukum dan perlindungan para pihak.

**Kata Kunci:** Perceraian; Perjudian; Hukum Islam; Pertimbangan Hakim.

## INTRODUCTION

The gambling phenomenon in recent years has shown a significant escalation, especially as digital technology develops and the penetration of the internet becomes wider. Reports of various international agencies, such as the World Health Organization, classify problem gambling as part of an addictive behavioral disorder that impacts mental health and social well-being. In Indonesia, the Ministry of Communication and Information Technology notes that thousands of online gambling sites are blocked every year, indicating a high level of public access and participation in the practice. This condition shows that gambling is no longer conventional, but has transformed into a complex and difficult to control digital phenomenon.<sup>1</sup>

Normatively, the practice of gambling is contrary to the positive laws and social values that live in Indonesian society. From a national legal perspective, gambling is prohibited under the Criminal Code (KUHP) as well as various other derivative regulations. In addition, in a social context, gambling is seen as an activity that has the potential to undermine the moral order, especially among the younger generation who are vulnerable to environmental and technological influences.

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<sup>1</sup> Amir Fazlim Jusoh Yusoff and Iffah Abd Razak, "Sharia Issues on Loot Boxes in Online Games and Esport," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 7, no. 1 (March 31, 2023): 341, <https://doi.org/10.22373/sjhc.v7i1.16023>.

Therefore, gambling is not only positioned as a violation of the law, but also as a social problem with a systemic impact.<sup>2</sup>

In historical perspective, gambling is not a new phenomenon in Indonesian society. This practice has been around since time immemorial in many forms, from traditional games to modern betting.<sup>3</sup> However, socio-economic dynamics, such as economic pressure, unemployment, and income inequality, have also accelerated the development of gambling, especially in online form. Empirical studies show that individuals with vulnerable economic conditions tend to be more likely to engage in gambling in an attempt to gain instant profits, even though it is high-risk.<sup>4</sup>

From the perspective of Islamic law, gambling (*maisir*) is strictly prohibited because it contains elements of uncertainty (*gharar*), speculation, and the potential to harm other parties. The prohibition is affirmed in the Qur'an, especially Surah al-Ma'idah verse 90, which states that gambling is a heinous act and is included in the deeds of Satan that must be avoided. In addition, the hadith of the Prophet Muhammad PBUH also strengthens the prohibition of gambling as part of a practice that damages morals and social life. Thus, the prohibition of gambling in Islam is not only theological, but also has a strong social dimension.<sup>5</sup>

Correspondingly, the practice of gambling has serious implications for family resilience. In many cases, gambling triggers domestic conflicts that lead to divorce. Empirical data from the Pekanbaru Religious Court Class I.A shows an increase in divorce cases caused by gambling, from 3 cases in 2022 to 12 cases in 2023, from a total of 1,787 and 1,637 divorce cases each year. Although

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<sup>2</sup> Arista Candra Irawati and Eugenia Brandao Da Silva, "Beyond Formality in Indonesian Pretrial Law: KUHAP Reform, Human Rights, and Islamic Law," *Al-Ahkam* 35, no. 2 (October 1, 2025): 261–86, <https://doi.org/10.21580/ahkam.2025.35.2.28399>.

<sup>3</sup> Islamic Law and T H E Constitution, "ISLAMIC LAW, THE CONSTITUTION, AND DIGITAL MEDIA: A Study Of Islamic Discourse Construction In Contemporary" 25, no. 2 (2025): 20–36, <https://doi.org/10.30631/alrisalah.v25i2.1951>; Muhammad Reyhan et al., "Dampak Berjudi Dalam Pandangan Islam," *Gunung Djati Conference Series* 19 (2023): 820.

<sup>4</sup> Siti Mardiyah, Hamda Sulfinadia, and Abdurrahman Raden Aji, "Resolution Of Household Conflicts Due To Different Choices Of Presidential Candidates Perspective Of Islamic Law" 3 (2025): 43–64.

<sup>5</sup> Muhammad Nur et al., "From Text to Context : The Role of Kyai in Shaping Modern Islamic Inheritance Law" 19, no. 1 (2025): 31–50.

quantitatively the number is relatively small, this upward trend indicates an escalation of the problem that needs serious attention.<sup>6</sup>

One concrete example can be seen in case Number 203/Pdt.G/2022/PA. Pbr, where online gambling is one of the main factors causing household disharmony. In this case, the defendant's behavior who is addicted to online gambling triggers various conflicts, such as selfish attitudes, the use of abusive language, and failure to fulfill his obligations as a husband, both emotionally and materially. This case shows that gambling not only has an impact on the economic aspect, but also damages interpersonal relationships in the family.

At the local level, especially in the city of Pekanbaru, gambling practices are still taking place both conventionally and online. The ease of access to digital platforms accelerates the spread of online gambling, which is often not detected directly by law enforcement officials. This is exacerbated by low digital literacy and weak social control in society, so that gambling is increasingly entrenched as a latent phenomenon that is difficult to eradicate.

In the context of family law in Indonesia, regulations related to divorce have actually provided space for various reasons that can be used as the basis for lawsuits, as stipulated in Government Regulation Number 9 of 1975 Article 19 and Compilation of Islamic Law Article 116. Nevertheless, judicial practice shows that gambling has not been consistently used as the main reason for deciding divorce cases. This creates a gap between existing legal norms and the social realities that are developing in society.

Based on this description, this study is important to examine in depth the relationship between gambling practices, especially online gambling, and the increasing divorce rate, as well as how positive legal perspectives and Islamic law respond to this phenomenon. In addition, this study also aims to identify the urgency of strengthening regulations and judicial practices in providing protection for family integrity. Thus, it is hoped that this research can make an academic and practical

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<sup>6</sup> Journal of Islamic Law, "Fitnah in the Digital Age: Regulating Social Media Misuse Through Islamic Criminal Principles" 10, no. 2 (2025), <https://doi.org/10.29240/jhi.v10i2.13369>; Maizul Imran, "Islamic Mass Organizations Figures' Views on *Ulī Al-Amr* : Implications for Indonesian Democracy and Compliance with The Government *Musda Asmara* Keywords : " 20, no. 2 (2025): 341–69; Suryana Agus, Noviansyah Indra, and Tamara Farah, "The Impact of Online Slot Gambling Among Youth on Work Morale in *Cisalak District*," *EduInnovation: Journal of Basic Educational Studies* 4, no. 3 (2024): 85–97.

contribution in formulating legal policies that are more responsive to contemporary social dynamics.

## **RESEARCH METHODS**

This study uses normative legal research methods with a conceptual approach and a case approach. The conceptual approach is used to examine the principles of Islamic law derived from classical and contemporary fiqh doctrines, while the case approach is applied to analyze judges' decisions in the practice of religious justice. This research is descriptive-analytical, that is, systematically describing the object being studied as well as critically analyzing it in order to obtain a comprehensive understanding of the legal problems being studied.

The data sources in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials were obtained from the decisions and considerations of the judges of the Pekanbaru Religious Court Class IA in 2022–2023 and the results of interviews with the judges of the Pekanbaru Court Class IA. Secondary legal materials include relevant literature such as fiqh books of the Shafi'i madhhab, tafsir, hadith lectures, hadith books, scientific books, and journal articles related to research topics. The tertiary legal materials include the Great Dictionary of the Indonesian Language, legal dictionaries, and other sources of information such as magazines, newspapers, and online media. The data collection technique is carried out through library research by tracing, identifying, and inventorying various relevant legal sources.

Data analysis was carried out qualitatively using descriptive-analytical methods and deductive reasoning. The data that has been collected is classified, systematized, and interpreted to find patterns, relationships, and conformity between Islamic legal norms and judicial practices. Furthermore, a critical evaluation of the judge's considerations was carried out with reference to the principles of Islamic law and relevant legal theories, so as to produce conclusions that were argumentative, systematic, and in accordance with international reputable scientific writing standards.

## **RESULTS AND DISCUSSION**

### **Gambling as a Reason for Divorce in the Judge's Decisions at the Pekanbaru Religious Court Class 1A**

In the practice of religious justice in Indonesia, the main standard used by judges in deciding divorce cases is that there are disputes and quarrels that occur continuously so that it is no longer possible to create a harmonious domestic life. This is reflected in two decisions of the

Pekanbaru Class IA Religious Court, namely Decision Number 203/Pdt.G/2022/PA. Pbr and 605/Pdt.G/2022/PA. Pbr, which shows that the judge focuses more on the existence of ongoing conflict than solely on the type of act committed by one of the parties. Thus, the juridical approach used by judges tends to be functional, namely assessing the impact of an act on the integrity of the household.

The judges in the two decisions consistently used the grounds of dispute and quarrel as the main basis for divorce, as stipulated in Article 19 letter (f) of Government Regulation Number 9 of 1975 and Article 116 letter (f) of the Compilation of Islamic Law (KHI). Disputes are understood as conditions of disharmony that are sustainable and irreconcilable. In this context, the judge not only assesses the existence of conflicts, but also the intensity, frequency, and impact on the continuity of the household, so that divorce is seen as the last resort (*ultimum remedium*).<sup>7</sup>

Gambling in the analyzed case is not used as the sole reason for divorce, but rather as a factor causing the appearance of prolonged disputes. The fact that the defendant has a habit of playing online gambling has direct implications for the disruption of family economic stability, reduced attention to spouse and children, and the emergence of abusive behavior in communication. Thus, gambling is positioned as a causal variable that triggers domestic conflicts, rather than as the primary normative basis in judges' considerations.<sup>8</sup>

Empirical data in both rulings showed that gambling correlated with various forms of violations of domestic obligations, such as non-fulfillment of alimony, neglect of responsibilities as the head of the family, and the occurrence of verbal violence. This condition strengthens the argument that gambling practices have a multidimensional impact on household fractures. Sociologically, the phenomenon of online gambling increasing in Indonesia, which according to reports by several law enforcement agencies has increased significantly in recent years, is an external factor that also affects the dynamics of divorce in religious courts.<sup>9</sup>

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<sup>7</sup> Decision Number 203/Pdt.G/2022/PA. Pbr; Decision number 605/Pdt.G/2022/PA.Pbr.

<sup>8</sup> Prasetyo J.C.T Simorangkir, Rudi T. Erwin, *Legal Dictionary* (Jakarta: Sinar Grafika, 2010), p. 46.

<sup>9</sup> Marta, Rahma Fitria, Fakhurrazi M. Yunus, Nurul Fithria, Ozioma Victoria Uchime, and Nur Farahin Afiqah Daud, trans. 2026. "Child Custody in Divorce of Husband Abandonment: Judge's Subjectivity Based on the Benefit of the Child

Interestingly, the judge does not necessarily make gambling a reason for divorce if it is not proven to cause significant disputes. This shows that the judge's authority in divorce cases is still bound by the existence of a concrete dispute between the parties. In other words, gambling acts that are latent or do not have a direct impact on household disharmony are not enough to be used as a basis for marriage dissolution. This approach emphasizes the importance of the principle of "broken marriage theory" in the practice of religious justice.<sup>10</sup>

Although normatively Article 19 letter (a) of Government Regulation Number 9 of 1975 and Article 116 letter (a) of the KHI explicitly mention gambling as one of the reasons for divorce, in practice the judges in both decisions do not use the provisions directly. Instead, the judge prefers to use the basis of disputes and quarrels. This indicates a tendency towards pragmatic interpretation, where judges focus more on the real consequences of an act than on its normative classification.<sup>11</sup>

The non-use of the provisions regarding gambling as a direct reason for divorce can also be understood in the context of proof. Proving gambling in a formal juridical manner is often more difficult than proving the existence of a dispute that can be supported by witness testimony. Therefore, judges tend to choose legal grounds that are easier to prove and have direct relevance to the parties' household conditions. This approach also reflects the principle of simplicity, speed, and low cost in the judicial process.

In both rulings, witness testimony has a very significant role in proving the existence of disputes and quarrels. The witness provided information about the relationship patterns of the parties, the frequency of conflicts, and the defendant's behavior, including gambling habits and their impact on the family. This is in line with the civil procedure law which places witnesses as the main evidence in factual cases, especially when written evidence is limited.

Overall, the judicial practice at the Pekanbaru Religious Court Class IA shows that gambling is positioned more as a causal factor (*causa*) than the main legal reason (*ratio decidendi*) in divorce. The

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Determination No. 310 Pdt.G 2023 MS. Bna". Al-Battar: Jurnal Pamungkas Hukum 3 (1): 67-81. <https://doi.org/10.63142/al-battar.v3i1.490>.

<sup>10</sup> Mardani, *Civil Procedure Law and Religious Justice and Syar'iyah Court* (Jakarta: Sinar Grafika, 2009), p. 37.

<sup>11</sup> Law No. 7 of 1989 Religious Justice, 1889.

judge prioritized a sustainable conflict-based approach as the main indicator of household breakdown, while still considering the principle of Islamic personality as regulated in the Religious Justice Law. These findings confirm that there is interpretive flexibility in the application of Islamic family law in Indonesia, as well as show the need to standardize legal arguments in order to create stronger and measurable consistency of decisions in the future.

### **Analysis of Judges' Considerations in Divorce Due to Gambling at the Pekanbaru Religious Court Class 1A**

Analysis of Decision Number 203/Pdt.G/2022/PA. Pbr shows that the judge's consideration in the case of divorce due to gambling at the Pekanbaru Religious Court Class IA is built through a systematic normative juridical framework, by integrating civil procedure law, marital material law, and Islamic law principles. This case is significant because it represents the judge's argumentation pattern in qualifying gambling behavior, especially digital-based gambling, as a factor that causes household disharmony that leads to divorce.

In the procedural legal aspect, the panel of judges first assesses the validity of the defendant's summons which has been carried out properly in accordance with legal procedures. The defendant's absence without a valid reason then becomes the basis for the judge to examine and decide the case *verstek* (in absentia). This consideration not only refers to positive legal provisions, but is also strengthened by the doctrine of *fiqh* which states that the party who fails to summon the judge can be considered to have aborted his right to defense. This approach shows the harmonization between national procedural law and normative values in Islamic law.<sup>12</sup>

Furthermore, the judge emphasized that even though the case was examined without the presence of the defendant, the burden of proof remained on the plaintiff. This is in line with the general principle of proof in civil law which requires the existence of valid and sufficient evidence to support the prosecution argument. In this case, the plaintiff succeeded in presenting written evidence in the form of a marriage certificate that has met the formal and material requirements, so that it is juridically able to prove the existence of a legal marital relationship between the parties since September 4, 2018.<sup>13</sup>

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<sup>12</sup> Decision Number 203/Pdt.G/2022/PA.Pbr.

<sup>13</sup> *Ibid.*

In addition to written evidence, the plaintiff also presented evidence in the form of witness statements that have significant evidentiary strength. Two witnesses presented have met the formal requirements as witnesses, namely adults, legal capability, and giving testimony under oath. Materially, their testimony was considered consistent and relevant to the subject matter, especially related to the defendant's habit of online gambling, the use of abusive words, and the inability to meet the family's economic needs.<sup>14</sup>

Based on the entire evidence, the panel of judges then formulated the legal facts that became the basis for considering the verdict. These facts include the existence of a legal marital relationship, the occurrence of repeated disputes and quarrels due to the defendant's gambling behavior, the condition of separation of residence since November 2021, and the failure of peace efforts that have been carried out by the family. This fact shows that there is a permanent rift in the domestic relationship (irretrievable breakdown of marriage).<sup>15</sup>

In the context of material law, the judge qualified this condition as a valid reason for divorce based on Article 19 letter (f) of Government Regulation Number 9 of 1975 jo. Article 116 letter (f) of the Compilation of Islamic Law, namely the occurrence of constant disputes and quarrels that do not allow domestic life to be maintained. Thus, gambling in this case does not stand as a single reason, but rather as a major factor that triggers prolonged conflicts in the household.<sup>16</sup>

The judge's consideration also emphasized the failure to achieve the goal of marriage as stipulated in Article 1 of Law Number 1 of 1974 and Article 3 of the Compilation of Islamic Law, namely forming a family that is *sakinah*, *mawaddah*, and *rahmah*. The defendant's behavior of constantly gambling, being rude, and negligent in carrying out his obligations as a husband is considered to have eliminated the essence of a harmonious and responsible husband-wife relationship. Therefore, household sustainability is seen as no longer having a basis for benefits.<sup>17</sup>

Furthermore, the results of the interview with the judge corroborated that the approach used was not solely normative-based, but also considered sociological aspects and the interests of the parties. The judge considered that the condition of the household that had been

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<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

"broken" and lasted for a certain period of time without any intention of improvement was not worthy of being maintained. The principle of fiqh "dar' al-mafasid muqaddam 'ala jalb al-masalih" (rejecting harm takes precedence over attracting benefits) is the philosophical foundation in deciding this matter.<sup>18</sup>

On the other hand, there is a tendency in several other decisions in the Pekanbaru Religious Court Class IA that focus more on positive law than on the explicit postulates of Islamic law. Nevertheless, the substance of the decision still reflects the values of substantive justice that are in line with sharia principles. This shows that there is flexibility in the practice of religious justice in integrating various legal sources proportionately.

Thus, it can be concluded that the judge's consideration in a gambling divorce case is based on a combination of procedural validity, evidentiary strength, and analysis of substantial damage to the domestic relationship. Gambling is positioned as a determining factor that triggers ongoing conflict and family dysfunction. These findings confirm that a holistic approach that combines juridical, sociological, and philosophical aspects is the main character in the reasoning of judges at the Pekanbaru Religious Court Class IA in deciding divorce cases.

### **Reconstruction of Judges' Considerations in Determining Gambling as a Ground for Divorce from an Islamic Law Perspective**

The judge's decision in the Pekanbaru Religious Court Class IA shows that there are normative and conceptual problems in qualifying gambling as a reason for divorce. In some rulings, gambling behavior is not placed as the main reason for divorce, but rather is reduced to the category of "constant disputes and quarrels". This approach creates juridical ambiguity because gambling as an act against the law and religious norms has substantially different characteristics than ordinary domestic conflicts. Academically, this reduction has the potential to obscure the construction of material law and weaken the prescriptive power of Islamic law in regulating the causes of divorce.<sup>19</sup>

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<sup>18</sup> M. Nasir, *Interview*, Pekanbaru Religious Court Class 1A, February 17, 2025; Ermida Yustri, *Interview*, Pekanbaru Religious Court Class 1A, February 17, 2025.

<sup>19</sup> B Shailaja et al., "Case Report: Unusual Presentation of Problematic Pornography Use with Comorbid Delusional Disorder," *Indian Journal of Psychiatry* 60, no. 5 Supplement 1 (2018); H Tanabe and D Okazaki, "Group Psychotherapy for

In Indonesia's positive legal framework, the grounds for divorce have been regulated restrictively in laws and regulations, but there is still room for interpretation by judges in constructing legal facts. Gambling as a form of social deviance should be categorized as an act that directly damages the household, not just a trigger for conflict. Empirical data show that addictive behaviors such as gambling are significantly correlated with increased divorce rates, especially due to economic stress, domestic violence, and loss of trust in the husband-wife relationship.<sup>20</sup> Therefore, it takes judicial courage to place gambling as *causa prima* in divorce, not as a derivative variable.

From the perspective of Islamic law, gambling (*maysir*) is expressly qualified as a prohibited act. This prohibition has a strong normative basis in the Qur'an, particularly in Surah Al-Baqarah verse 219 and Surah Al-Maidah verse 90-91, which affirm that the negative impact of gambling far outweighs the benefits. In this context, gambling is not only seen as an individual moral offense, but also as a threat to the social and family order. Therefore, making gambling a reason for divorce has strong theological legitimacy.<sup>21</sup>

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Gambling Disorder in a Local Mental Health and Welfare Center in Japan," *Journal of Behavioral Addictions* 8, no. Supplement 1 (2019); Heri Tahir, Andi Aco Agus, and ni'matul Aliyah Fajri Utari, "ANALYSIS OF FACTORS CAUSING THE DIVORCE RATE IN THE WATANSOPPENG RELIGIOUS COURT," *Tomalebbi : Journal of Thought, Legal Research, Pancasila and Citizenship Education* 10, no. 3 (2023).

<sup>20</sup> Indira Aprilia Sani, Sahmiar Pulungan, and Nurcahaya Nurcahaya, "Analysis of Marriage Breakdown Due to Quarrels Due to Social Media in the Religious Court of Kisaran City," *Kamaya: Journal of Religious Studies* 6, no. 4 (November 2, 2023): 472–86, <https://doi.org/10.37329/kamaya.v6i4.2732>; Akhmad Saifudin Khilmi, Ahmad Izzuddin, and Miftahul Huda, "Online Gambling Addiction as a Reason for Divorce: A Juridical Analysis of Child Protection of Property," *Journal of Islamic Family Law Research*, December 23, 2025, 99–110, <https://doi.org/10.29313/jrhki.v5i2.7573>; Abdul Muttalib, Jumarim, and Muhammad Mutawali, "The Phenomenology of Child Marriage: The Perspective of Religious Leaders, Customs, and the Government of Lombok," *Journal of Islamic Family Law Research*, December 27, 2025, 79–90, <https://doi.org/10.29313/jrhki.v5i2.7351>.

<sup>21</sup> Fatmawati Fatmawati and Kasmianti Kasmianti, "PENYEBAB PERCERAIAN DALAM KELUARGA DI KOTA PALU," *Musawa: Journal for Gender Studies* 13, no. 2 (December 31, 2021): 150–69, <https://doi.org/10.24239/msw.v13i2.858>; Arbian Sukma Birawa and Hamim Zaky Hadibasyir, "Spatial Analysis of Comparison of Divorce Rates before, during COVID-19 Pandemic, and New Normal in Bandung City," *Proceeding ISETH (International Summit on Science, Technology, and Humanity)*, January 21, 2025, 180–90, <https://doi.org/10.23917/iseth.5359>; Putri Rahmayanti et al., "Analysis of the Decision of the Bogor Religious Court on the Causes of Divorce of Husband and

Further, the Maqashid al-Shariah approach provides a comprehensive analytical framework in understanding the impact of gambling on the integrity of the household. Maqashid al-Shariah emphasizes the protection of five fundamental aspects, namely religion, soul, intellect, heredity, and property. In this context, gambling simultaneously undermines all five aspects, thus substantially contradicting the main purpose of Islamic law.<sup>22</sup> Therefore, any form of tolerance for gambling practices in the household is contrary to the basic principles of Islamic law.

In the aspect of hifz ad-din (religious observance), gambling has been proven to divert individuals from their religious obligations and spiritual values. Gambling often leads to negligence in carrying out religious commandments, as it is affirmed in the Qur'an that gambling is a means of Satan to keep people away from remembering Allah. In the context of the household, this condition has implications for the decline in the quality of the family's religious life, which ultimately weakens the moral foundation of marriage.<sup>23</sup>

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Wife Due to Online Gambling,” *MIZAN: JOURNAL OF ISLAMIC LAW* 13, no. 1 (2025); Lusiana Desvia et al., “Divorce Lawsuit on the Reason Husband Is Addicted to Online Gambling,” *Jurnal Elsyakhshi* 2, no. 2 (2024).

<sup>22</sup> Mukhamad Sukur and Nurush Shobahah, “SYIQAQ AS A REASON FOR DIVORCE IN THE TULUNGAGUNG RELIGIOUS COURT,” *Ahkam: Journal of Islamic Law* 9, no. 1 (July 31, 2021): 175–92, <https://doi.org/10.21274/ahkam.2021.9.1.175-192>; Abdul Aziz, “The Phenomenon of Divorce Is Caused by Online Gambling in East Jakarta,” *Al-Madinah: Journal of Islamic Civilization* 1, no. 2 (December 17, 2024): 197–210, <https://doi.org/10.70901/2brpvm36>; Muhammad Zubir, “GAMBLER'S HUSBAND AS A REASON FOR FASAKH NIKAH (Comparative Analysis of the Legal Reasoning of Fiqh Syāfi'yyah and Article 116 of the KHI),” *Journal of Sharia and Islamic Economics* 2, no. 1 (June 18, 2024): 54–66, <https://doi.org/10.71025/nnpb1n63>; Adinda Firsta Deni Maharani, Djanuardi Djanuardi, and Sherly Machmud Imam Slamet, “Juridical Review of the Breakdown of Marital Relations Due to Divorce Caused by Gambling Behavior Reviewed Based on Marriage Law and Islamic Law,” *Mandub : Journal of Politics, Social, Law and Humanities* 2, no. 3 (July 19, 2024): 398–416, <https://doi.org/10.59059/mandub.v2i3.1508>.

<sup>23</sup> Muhammad Zubir, “Gambler's Husband as a Reason for Fasakh Nikah (Comparative Analysis of the Legal Reasoning of Fiqh Shafi'yyah and Article 116 of the KHI),” *QISTHOSIA: Journal of Sharia and Law* 5, no. 2 (December 30, 2024): 127–37, <https://doi.org/10.46870/jhki.v5i2.1150>; Muhammad Latif, Lia Amaliya, and Muhamad Abas, “The Influence of Online Gambling as a Cause of Divorce Reviewed in Marriage Law in Indonesia (Study of Decision No. 2450/Pdt.G/2024/PA. Krw),” *Journal of Law, Humanities and Politics* 6, no. 1 (October 20, 2025): 78–79,

Furthermore, in the perspective of *hifz an-nafs* (the preservation of the soul), gambling has a significant psychological impact. Various studies show that gambling addiction can trigger mental disorders such as depression, anxiety, and suicidal tendencies. This condition not only endangers the individual perpetrator, but also other family members who also feel the emotional and psychological impact.<sup>24</sup> Thus, maintaining marriage in these conditions actually has the potential to cause greater *mafsadat*.

Within the framework of *hifz al-'aql* (the maintenance of reason), gambling undermines the rationality of the individual. The decisions taken by gamblers tend to be irrational and speculative, thus interfering with the function of reason as the main instrument in wise decision-making. This has a direct impact on the inability of individuals to carry out their roles and responsibilities as productive heads of families and family members.<sup>25</sup>

In the aspect of *hifz an-nasl* (maintenance of offspring), gambling contributes to the disintegration of the family. Conflicts caused by financial loss and emotional instability often lead to domestic violence and child neglect. In the long term, this condition can affect children's psychological and social development, thus threatening the sustainability of a quality generation.

Lastly, in the perspective of *hifz al-mal* (preservation of wealth), gambling is inherently contrary to the principles of economic justice in Islam. Property obtained through speculative mechanisms and harming other parties does not have sharia legitimacy. In fact, gambling

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<https://doi.org/10.38035/jihhp.v6i1.6287>; Risma Wulandari, "Analysis of Islamic Law in the Consideration of the Judge of the Decision of the Mojokerto Religious Court (PA) No.2161/Pdt.G/2021/Pa.Mr," *Sakinah: Journal of Islamic Family Law* 1, no. 1 (2023); Eka Nur Sania, Ahmad Munir, and Rusydi Rusydi, "The Basis of Reasons for Divorce Lawsuits by Wives Against Husbands Addicted to Online Gambling," *LAW Specialist Legal Scientific Journal* 1, no. 1 (2025).

<sup>24</sup> Muji Buddin SM et al., "ISLAMIC LAW, THE CONSTITUTION, AND DIGITAL MEDIA: A Study of Islamic Discourse Construction in Contemporary Indonesia"; Mardiyah, Sulfinadia, and Aji, "Resolution Of Household Conflicts Due To Different Choices Of Presidential Candidates Perspective Of Islamic Law"; Nur et al., "From Text to Context : The Role of Kyai in Shaping Modern Islamic Inheritance Law."

<sup>25</sup> Jusoh Yusoff and Abd Razak, "Sharia Issues on Loot Boxes in Online Games and Esport"; Omar Saad Ahmed et al., "Fitnah in the Digital Age: Regulating Social Media Misuse Through Islamic Criminal Principles"; Imran, "Islamic Mass Organizations Figures ' Views on Ul ī Al- Amr : Implications for Indonesian Democracy and Compliance with The Government Musda Asmara Keywords :"

practices often cause the economic destruction of the family due to significant loss of assets.<sup>26</sup> Therefore, normatively and sociologically, gambling deserves to be constructed as a stand-alone reason for divorce. Based on the overall analysis, it is necessary to reformulate the judicial approach in the religious justice environment to be more progressive in accommodating the values of Islamic law, by explicitly recognizing gambling as a reason for independent divorce in order to ensure substantive justice and protection of family institutions.

## **CONCLUSION**

The conclusion of this study shows that the practice of judges' consideration in divorce cases on the grounds of gambling in the Pekanbaru Religious Court Class 1A has not fully accommodated the relevant normative standards in the procedural law of religious courts. In particular, the principle of Islamic personality as a fundamental principle has not been used as an explicit basis in the construction of legal considerations. As a result, judges tend to shift the basis of consideration from the reason for gambling to the reason for constant disputes and quarrels, even though normatively gambling has been expressly regulated in Government Regulation Number 9 of 1975 Article 19 letter (a) and the Compilation of Islamic Law Article 116 letter (a). This condition shows that there is an insynchronization between positive legal norms and judicial practice which has implications for the reduction of the substantial meaning of gambling as a reason for divorce.

Furthermore, this study found that judges focus more on factual indicators such as the existence of prolonged disputes, neglect of spouses, and household disharmony in deciding divorce cases. This approach results in a weak construction of causality between gambling behavior and household rifts, so gambling is not placed as *causa prima* in legal considerations. Implicitly, the legal basis used more often refers to the provisions of disputes and quarrels as stipulated in Government Regulation Number 9 of 1975 Article 19 letter (f) and Compilation of Islamic Law Article 116 letter (f). These findings indicate a pragmatic tendency in judicial practice that is oriented towards purely empirical proof, without optimizing specific norms that have been provided by laws and regulations.

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<sup>26</sup> Irawati and Da Silva, "Beyond Formality in Indonesian Pretrial Law: KUHAP Reform, Human Rights, and Islamic Law"; Reyhan et al., "Dampak Berjudi Dalam Pandangan Islam"; Omar Saad Ahmed et al., "Fitnah in the Digital Age: Regulating Social Media Misuse Through Islamic Criminal Principles."

From the perspective of Islamic law, gambling as a cause of divorce has strong normative legitimacy, especially when the behavior is repetitive, does not show a desire to improve, and has an impact on the neglect of obligations in the household. Therefore, wives have the right to file for divorce as a form of protection for the continuity of family life and religious values. Based on these findings, this study recommends the need to strengthen regulations through the revision of Law Number 1 of 1974 by including explicit provisions regarding gambling as a reason for divorce, as well as increasing the consistency of judges in integrating positive legal norms and Islamic legal principles, in order to realize legal certainty, substantive justice, and protection of family institutions.

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