

**Reinterpreting Online Gambling in Divorce Cases  
(Analysis Based on the Concept of *al-Sabab* in *Uşūl al-Fiqh*)**

**Reinterpretasi Judi Online dalam Kasus Perceraian  
(Analisis Berdasar Konsep *al-Sabab* dalam *Uşūl al-Fiqh*)**

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**Abstract:** *This study examines the phenomenon of the high rate of divorce lawsuits filed by wives in Aceh, particularly within the jurisdiction of the Mahkamah Syar'iyah Banda Aceh, which is significantly associated with online gambling behavior. The main issue in this research is the tendency of judges to inaccurately construct online gambling as a cause for divorce, where they often equate it with physical causality or deterministic natural laws. Therefore the author conducted research with the following problem formulation: 1) How do judges consider online gambling as a cause for divorce in the Mahkamah Syariyah Banda Aceh, and 2) How is online gambling considered a cause for divorce based on the concept of al-sabab in the science of uşūl al-fiqh. The data collected in this research is textual, so it must be analyzed using content analysis. The content analysis method is a technical step of text inference to ensure the text aligns with the context. This study found that the basis of judges' decisions and actions is not physical causality, but logical implications, known as philosophical causality. The two differ because physical causality is deterministic, while philosophical causality is probabilistic. Since judges cannot make their own laws, the causality held in legal discovery is the cause and effect desired by the Law Maker. Meanwhile, Islamic Family Law stipulates that disharmony is the cause of divorce, so disharmony is the true cause of divorce, while online gambling is a prerequisite for that true cause. In the science of Islamic jurisprudence (uşūl al-fiqh), this is called sharf al-illah. An in-depth understanding of the concept of al-sabab is highly recommended for judges to ensure that their legal arguments align with Islamic legal theory, as well as to maintain public trust in the judicial institution.*

**Keywords:** Divorce, Online Gambling, *al-Sabab*, *Uşūl al-Fiqh*

**Abstrak:** *Penelitian ini mengkaji fenomena tingginya angka perceraian cerai gugat di Aceh, khususnya di wilayah yurisdiksi Mahkamah Syar'iyah Banda Aceh, yang salah satunya secara signifikan dikaitkan dengan perilaku judi online. Masalah utama dalam penelitian ini adalah adanya kecenderungan ketidaktepatan hakim dalam mengonstruksikan judi online sebagai sebab perceraian, di mana hakim sering kali menyamakannya dengan kausalitas fisikal atau hukum alam yang bersifat deterministik. Maka penulis melakukan penelitian dengan rumusan masalah: 1) Bagaimana pertimbangan hakim terhadap judi online sebagai sebab perceraian, dan 2) Bagaimana judi online sebagai sebab perceraian berdasarkan konsep al-sabab dalam ilmu uşūl al-fiqh. Data yang dikumpulkan berupa teks, maka dianalisis menggunakan metode analisis isi (content analysis). Metode analisis isi adalah langkah teknis inferensi teks agar sesuai dengan konteks. Dalam penelitian ini ditemukan bahwa yang mendasari putusan dan tindakan hakim bukan kausalitas fisikal, tetapi implikasi logis yang disebut kausalitas*

*filosofis. Keduanya berbeda, karena kausalitas fisik bersifat deterministik, sedangkan kausalitas filosofis bersifat probabilistik. Mengingat hakim tidak boleh membuat hukum sendiri, maka kausalitas yang dipegang dalam penemuan hukum adalah sebab akibat yang dikehendaki oleh Pembuat Hukum. Sementara itu, Hukum Keluarga Islam menetapkan bahwa disharmoni adalah sebab dibolehkan perceraian, jadi sebab sebenarnya adalah disharmoni, sedangkan judi online adalah syarat bagi sebab sebenarnya. Dalam uşul al-fiqh, ini disebut syarat al-'illah. Pemahaman mendalam mengenai konsep al-sabab ini sangat direkomendasikan bagi para hakim guna menjaga kesesuaian argumentasi putusan dengan teori syariat, sekaligus demi mempertahankan tingkat kepercayaan masyarakat terhadap institusi peradilan.*

**Kata Kunci:** Cerai Gugat, Judi Online, al-Sabab, Uşul al-Fiqh

## Introduction

In the last few years, the number of divorce cases has increased rapidly in Aceh.<sup>1</sup> The Mahkamah Syar'iyah Aceh recorded 6,823 divorce cases at the end of 2022. Unfortunately, 5,213 of them were wives filing cases.<sup>2</sup> As for the Mahkamah Syar'iyah Banda Aceh, the number of divorce cases is as follows:



Data source: Mahkamah Syar'iyah Banda Aceh, 2024.

Researchers found in several cases that the reason was that her husband was addicted to online gambling. Then the judge ruled that online gambling was the cause of the divorce, as it is a deterministic relationship in physical causality, even though the cause and effect in legal reasoning is not the same as natural law (physical causality). In legal reasoning, cause is the judge's reason for his decision, which reason correlates with established law. In other words, the decisions rendered by judges must conform (*al-munāsib*) to the cases they face. Thus, what applies in legal reasoning is the philosophical causality that the *usuliyyūn* call *al-illah*.

Unfortunately, in several cases that the author researched, the judge did not clarify the correlation between the divorce decision he made and online gambling as the reason for the decision. It shows the judges' lack of understanding of the concept of *al-sabab* in the science of *uşul al-fiqh*. Yet, in carrying out their duties, particularly in Aceh Province,

<sup>1</sup> Masrizal, "Kasus Perceraian Tinggi Di Aceh," Serambi Indonesia, 2023, serambinews.com.

<sup>2</sup> Rahmat Fajri, "Mahkamah Syar'iyah Catat Kasus Perceraian Di Aceh Capai 6.823 Perkara," Antara: Kantor Berita Inonesia, 2022, antaranews.com.

which implements Islamic law,<sup>3</sup> Mahkamah Syar'iyah judges cannot be separated from Islamic legal theory.

For example, Case Number 251/Pdt.G/2023/MS.Bna, the Panel of Judges found that the household had become disharmonious since 2021 because the husband wasted money on domino chip gambling, the husband was temperamental, issued a triple *talaq*, and left the wife in the past year. In case number 113/Pdt.G/2023/MS.Bna, the judge found that the household had been in disharmony since 2011, because the husband played online gambling, was in debt, did not provide for the family, and had left the family for 8 months. In Case Number 17/Pdt.G/2024/MS.Bna, the judge found that the household was in disarray because the husband was addicted to online gambling, committed infidelity, and failure to provide for the family. In an interview, the wife suspected that her husband was having an affair with an unexpected woman, a confidante of the wife.

These cases demonstrate that online gambling is one of a series of interconnected causes. The underlying cause is disharmony within the household. Government Regulation Number 9 of 1975 stipulates that neglecting family obligations can lead to divorce. In some cases, online gambling is an indirect cause and even seems to be a prerequisite for other causes. For example, online gambling causes a husband to neglect family support. In this case, online gambling becomes a prerequisite for the actual cause, namely, failure to provide support. The presence of online gambling as a prerequisite makes it appear to be a direct cause (*muqābalah al-mubāsyarah*).<sup>4</sup> However, the judge in his ruling stated that online gambling was the reason for the divorce, even though the actual direct reason was not providing maintenance.

Causality is one of the four principles of logical thinking (*qawānin al-fikr al-aqliyyah*/universal postulates of all reasoning),<sup>5</sup> namely the principle called sufficient reason (*qanūn al-wujūd alā al-'illah*/principium rationis sufficient/law of sufficient reason). This principle states that everything exists because of cause and effect.<sup>6</sup> Mistakes often occur due to a failure to distinguish between logical implication and physical causality.<sup>7</sup> One should be aware that the relationship between cause and effect in physical causality is very different from logical implications.<sup>8</sup>

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<sup>3</sup> Jabbar Sabil, "FIQH REFORM IN THE SULTANATE OF ACEH DARUSSALAM: IS IT MODERNISM OR MODERATISM? A STUDY OF THE HAREUTA SIHAREUKAT CUSTOM," *Jurnal Ilmiah Peuradeun* 13, no. 1 (2025): 569–98.

<sup>4</sup> Abū Ḥāmid Al-Ghazālī, *Syifā' Al-Ghalīl* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1999). p. 276.

<sup>5</sup> Jabbar Sabil, *Logika Dan Penalaran Hukum* (Depok: Raja Grafindo Persada, 2024). p. 32.

<sup>6</sup> Jan Hendrik Rapar, *Pengantar Logika; Asas-Asas Penalaran Sistematis* (Yogyakarta: Kanisius, 1996). hlm. 18.

<sup>7</sup> E. T. Jaynes, *PROBABILITY THEORY THE LOGIC OF SCIENCE* (New York: Cambridge University Press, 2003). p. 5.

<sup>8</sup> R. Burke Johnson, Federica Russo, and Judith Schoonenboom, "Causation in Mixed Methods Research: The Meeting of Philosophy, Science, and Practice," *Journal of Mixed Methods Research* 2, no. 2 (2017): 1–20.

The author is interested in this research because causality plays a vital role in legal reasoning. Therefore, judges must master the concept of *al-sabab*. Since the Mahkamah Syar'iyah operates in Aceh, which implements Sharia Law,<sup>9</sup> the concept of *al-sabab* mastered is derived from the science of *uṣūl al-fiqh*. The author formulates two research questions below: 1) How do judges consider online gambling as a cause for divorce in the Mahkamah Syar'iyah Banda Aceh? 2) How is online gambling considered a cause for divorce based on the concept of *al-sabab* in the science of *uṣūl al-fiqh*? To answer this question, the author examined several legally binding cases. The author hopes this research will raise awareness, particularly among judges, that causality in legal reasoning has a specific concept that aligns with legal theory.

## Method

This study is a normative legal research, also called doctrinal legal research with a case approach.<sup>10</sup> The data collected in this study are legal literature materials grouped according to the library's categorization system.<sup>11</sup> The author sorts data sources into categories of primary, secondary, and tertiary legal materials, as well as non-legal materials.<sup>12</sup>

The primary legal materials for this research are laws and copies of judicial decisions. The secondary legal materials consist of expert opinions found in fiqh books, *uṣūl al-fiqh*, and scientific articles. Meanwhile, the tertiary legal materials include translations of the Quran, *Mujam*, legal dictionaries, jurisprudence dictionaries, and so on. The author also examines non-legal materials, namely research results outside the legal field, in the form of documents, books, journals, or research reports related to this research.<sup>13</sup>

In this study, the author applies content analysis, specifically the technical step of text inference,<sup>14</sup> to ensure the text aligns with the context.<sup>15</sup> Therefore, the text becomes

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<sup>9</sup> Jabbar Sabil, "Fiqh and Siyasa Model of Integration: A Study of The Constitution of The Sultanate of Aceh Darussalam," *Legitimasi; Jurnal Hukum Pidana Dan Politik Hukum* 13, no. 1 (2024), <https://doi.org/10.22373/legitimasi.v13i1.23379>.

<sup>10</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, 1st ed. (Jakarta: Kencana, 2005). p. 172.

<sup>11</sup> Kaelan M.S., *Metode Penelitian Kualitatif Interdisipliner: Bidang Sosial, Budaya, Filsafat, Seni Agama Dan Humaniora* (Yogyakarta: Paradigma, 2012). p. 147.

<sup>12</sup> Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: Rajawali Pers, 2003). p. 30.

<sup>13</sup> Dyah Ochterina Susanti and A'an Efendi, *Penelitian Hukum* (Jakarta: Sinar Grafika, 2014). p. 4.

<sup>14</sup> Klaus Krippendorff, *Content Analysis: An Introduction to Its Methodology*, 2nd ed. (California: SAGE Publications, Inc., 2004). p. 18.

<sup>15</sup> Noeng Muhadjir, *Metodologi Penelitian Kualitatif* (Yogyakarta: Rakesarasin, 1992). p. 78. According to Noeng Muhadjir, content analysis is a scientific analysis of the communication or expressions, including efforts to classify the signs used in communication, using criteria as the basis for classification, and using certain techniques to make predictions.

clear and can be categorized.<sup>16</sup> Then the author carried out data reduction, data display, and concluded.<sup>17</sup> The following tabulation is the reasons for divorce at the Mahkamah Syar'iyah Banda Aceh:

**Table 1. The Reasons for Divorce at the Mahkamah Syar'iyah Banda Aceh 2021-2023**

Number	Reasons for Divorce	2021	2022	2023	Total
1	Adultery	-	-	-	
2	Drunkenness	-	1	-	<b>1</b>
3	Drugs	-	-	-	
4	Online gambling	2	2	3	<b>7</b>
5	Leaving one's partner	28	37	30	<b>95</b>
6	Imprisonment	2	2	6	<b>10</b>
7	Polygamy	1	1	2	<b>4</b>
8	Domestic violence	9	16	7	<b>25</b>
9	Physical disabilities	1	-	1	<b>2</b>
10	Constant disputes and quarrels	241	212	254	<b>707</b>
11	Forced marriage	-	-	-	<b>-</b>
12	Apostasy	-	2	2	<b>4</b>
13	Economic problems	16	11	13	<b>40</b>
14	Other reasons	-	-	-	<b>-</b>
	<b>Total</b>	<b>300</b>	<b>284</b>	<b>311</b>	<b>895</b>

Data source: Mahkamah Syar'iyah Banda Aceh, 2024.

It shows that from 2021 to 2023, the Mahkamah Syar'iyah Banda Aceh ruled on seven divorce cases caused by online gambling. The author presents only three of these cases as samples in this paper. The author compares the wording of the sample decisions to identify similarities and differences in intent. The author applied triangulation by requesting third-party interpretations and interviewing judges at the Mahkamah Syar'iyah Banda Aceh to ensure the accuracy of the interpretation of the sample decisions.

The object of this research is legal phenomena that must be analyzed using legal theory,<sup>18</sup> namely the theory of *al-sabab*.<sup>19</sup> The author concludes using the deductive inference method, which starts from general propositions and ends in specific conclusions.<sup>20</sup> In this case, the concept of *al-sabab* is a universal proposition that applies to particular cases.

<sup>16</sup> Sugiyono, *Memahami Penelitian Kualitatif* (Bandung: Alfabeta, 2016). p. 89.

<sup>17</sup> A. Michael Huberman and Matthew B. Miles, "Manajemen Data Dan Metode Analisis," in *Handbook of Qualitative Research*, ed. Norman K. dan Yvonna S. Lincoln Denzin (Yogyakarta: Pustaka Pelajar, 2009). p. 591.

<sup>18</sup> Bernard Arif Sidharta, *Refleksi Tentang Struktur Ilmu Hukum*, 1st ed. (Bandung: Mandar Maju, 1999). p. 122.

<sup>19</sup> Jabbar Sabil, *Menalar Hukum Tuhan* (Banda Aceh: LKaS, 2009). p. 87.

<sup>20</sup> Bambang Sunggono, *Metodologi Penelitian Hukum* (Jakarta: RajaGrafindo Persada, 2005). p. 12.

## Discussion

### A. Understanding divorce and online gambling

The word divorce means separation, or the breaking off of a relationship as husband and wife.<sup>21</sup> In Indonesia, a divorce petition filed by a wife (or her intermediary) against her husband is called *cerai gugat*. The wife submits a petition to the Mahkamah Syar'iyah to have her separation handled and decided against her husband. At that time, the Court has the authority to issue its official decision through the divorce proceedings.<sup>22</sup>

Viewed from a *fiqh* perspective, a divorce proposed by the wife is called *khulū*, derived from the word *kha-la-a*, which means to revoke (*na-za-a*).<sup>23</sup> In terms of terminology, the word *khulū* means to eliminate the bonds of marriage by accepting a certain amount of property (*izālah milk al-nikāh bi akhḥ al-māl*).<sup>24</sup> The legal basis is the following hadith:<sup>25</sup>

Narrated from Ibn Abbās: That the wife of Šābit ibn Qays came to Prophet Muhammad and said: Rasulullah, I do not want to divorce my husband because of temperament and religion, but I hate disbelief in Islam. Prophet Muhammad said Do you want to return that garden to him? The woman answered: Yes, I will. So Rasulullah said to Šābit ibn Qays: Accept the garden and divorce him with one *talaq*. (HR. al-Bukhari).

Based on this hadith,<sup>26</sup> the reasons for proposing a divorce petition are: 1) a disharmonious household; 2) bad character and behavior of the partner. Therefore, if moral and religious shortcomings of the husband threaten his wife, then she is allowed to file a divorce petition, even if their household is harmonious (*al-wifāq*). However, some scholars believe that only if the household is not harmonious (*al-shiqāq*).<sup>27</sup> It is seen in this hadith that the consequence of divorce is one *talaq*, but according to some scholars, the consequence is *fasakh*,<sup>28</sup> and this does not reduce the number of *talaq*.<sup>29</sup> Then Article 19 of Government Regulation No. 9 of 1975 details the reasons that permit a request for divorce as follows:

<sup>21</sup> Tim Redaksi, *Kamus Besar Bahasa Indonesia*, 4th ed. (Jakarta: Gramedia, 2008). p. 261.

<sup>22</sup> Intan Saziqil Fitri, "Faktor Penyebab Tingginya Angka Cerai Gugat Di Pengadilan Agama Bandung," *Al-Ahwal AlSyakhsyiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 3, no. 1 (2022). p. 104.

<sup>23</sup> Ibn Manzūr, *Lisān Al-'Arab* (Cairo: Dār al-Hadīs, 2003).v. III, p. 182.

<sup>24</sup> al-Jurjānī, *Kitāb Al-Ta'Rifāt* (Singapura: al-Haramayn, n.d.). p. 135.

<sup>25</sup> Muḥammad ibn Ismā'īl Abū 'Abd Allāh al-Bukhārī, *Ṣaḥīḥ Al-Bukhārī* (Beirut: Dār Ṭūq al-Najāh, 2001). jld. V, hlm. 46.

<sup>26</sup> This hadith also shows that the Prophet imposed certain rewards, but this is not applied in the context of family law in Indonesia, even though the government enforced divorce without compensation.

<sup>27</sup> 'Abd 'al-Karīm al-Rāfi'ī, *Azīz Syarḥ Al-Wajīz* (Beirut: Dār al-Kutub, 1997). v. XIV, p. 328.

<sup>28</sup> Salman Abdul Muthalib, "Fasakh Nikah Due to Disease in the Islamic Family Law of Perak Malaysia," *JURNAL EL-HADHANAH: Indonesian Journal of Family Law and Islamic Law* 3, no. 1 (2023): 54–76.

<sup>29</sup> Al-Nawawī, *Minhāj Al-Ṭālibīn* (Beirut: Dār al-Minhāj, n.d.). v. II, p. 515.

1. One of the parties commits adultery or becomes a drunkard, addict, gambler, etc., which is difficult to cure.
2. One party leaves the other party for 2 (two) consecutive years without permission and without a valid reason or for other reasons.
3. One party receives a prison sentence of 5 (five) years or a heavier sentence after the marriage takes place.
4. One party commits cruelty or serious abuse that endangers the other party.
5. One party suffers from a physical disability or illness resulting in him/her being unable to carry out his/her obligations as husband/wife.
6. There are continuous disputes between husband and wife, and there is no hope of living in harmony again in the household.

Gambling in the point above means a game using money or valuables as a bet (such as playing dice or cards).<sup>30</sup> It is called *maysir* in Arabic, which means easy.<sup>31</sup> In terms of terminology, the word *maysir* means the gambling game of the Arab Jahiliyah (*qummār al-arab fi al-jāhiliyyah bi al-azlām wa al-qidāḥ*).<sup>32</sup> The legal basis for gambling is prohibition from Allah in the Quran, because prohibition means *haram*.<sup>33</sup> Apart from verse 219 of Surah al-Baqarah, the *maysir* was also prohibited by verse 90 in Surah al-Maidah.

Online gambling is an activity carried out via the internet network using electronic devices, such as computers, laptops, tablets, or smartphones. Online gambling emerged in the 1990s, when the small Caribbean nation of Antigua and Barbuda established a free trade zone in 1994 that allowed US bookies to take telephone bets on horse racing and sports.<sup>34</sup> Then, it spread around the world on various platforms.

Online gambling has been regulated in the Republic of Indonesia by UU Nomor 11 Tahun 2008, concerning Electronic Information and Transactions. Article 27 paragraph (2) stipulates: Any person who intentionally and without authority distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents containing gambling content. Gambling itself is considered an unpleasant behavior. It is regulated by UU Nomor 16 Tahun 2019 as an amendment to UU Nomor 1 Tahun 1974. Article 39, paragraph 2, stated that online gambling is an unpleasant act that disturbs family harmony and can even lead to domestic violence.

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<sup>30</sup> Tim Redaksi, *Kamus Besar Bahasa Indonesia*. p. 590.

<sup>31</sup> Manzūr, *Lisān Al-‘Arab*. v. IX, p. 454.

<sup>32</sup> Jumhuriyyat Maṣr al-‘Arabiyyah, *Mu‘Jam Alfāz Al-Qur‘ān Al-Karīm* (Cairo: Majma‘ al-Lughah al-‘Arabiyyah, 1989). v. II, p. 1217.

<sup>33</sup> Al-Jaṣṣāṣ, *Aḥkām Al-Qur‘ān* (Beirut: Dār Iḥyā’ al-Turāṣ al-‘Arabī, 1992). v. II, p. 10.

<sup>34</sup> Dede Irman Pirdaus, Kalfin, and Yasir Salih, “The Impact of Online Gambling on Marital Relationships and Divorce Rates: A Literature Review,” *International Journal of Ethno-Sciences and Education Research* 4, no. 3 (2024): 74–79.

Up to this point, it concluded that there are two reasons for divorce: 1) the household is not harmonious (*al-shiqāq*); 2) the household is harmonious (*al-wifāq*), but the wife is afraid of the bad character and bad behavior of her husband. These two reasons for divorce and the six points above converge on one main reason: neglecting family obligations. It is philosophical causality that *uṣūliyyūn* discussed under the title of *al-sabab*.

## B. Understanding the *al-sabab*

The word *sebab* means something that causes another thing.<sup>35</sup> This word is a loan word from Arabic (*al-sabab*), which means what is conveyed to others (*kullu syay yutawaṣṣal bihi ilā ghayrih*).<sup>36</sup> Terminologically, according to Imam al-Ghazālī, *al-sabab* is something whose existence makes something else exist, but does not exist because of it (*mā yahṣul al-syay indahu lā bihi*). It is similar to the road (*al-tarīq*) or the rope (*al-ḥabl*), because the road leads to the destination, and the rope is a tool for drawing water from a well. But reaching the destination is not due to the path, and drawing water is not due to the rope; rather, it is due to something called *al-'illah*.<sup>37</sup>

The word *al-'illah* comes from the word *ilāl*, which means drinking the second sip.<sup>38</sup> This word also means disease because it changes a person from a healthy state to a sick one.<sup>39</sup> Terminologically, *al-sabab* is more general than *al-'illah*, because every *al-'illah* is *al-sabab*, but *al-sabab* is not necessarily *al-'illah*. For example, a sale and purchase agreement, which indicates the willingness and is the reason for the transfer of ownership, is both *al-'illah* and *al-sabab*. It differs from the position of the sun, which is *al-sabab* for prayer, and is not *al-'illah*. Here is the definition of *al-'illah*: *Al-'illah* is a clear and measurable attribute that is used as a place for the law to depend on and has a correlation (conformity/*al-munāsib*) with legal provisions.<sup>40</sup>

It shows that conformity (*al-munāsib*) is a characteristic of *al-'illah*; it is a concept called *al-manā*, as in the following definition: *Al-'illah* is the meaning contained in legal actions. One obtains conformity in it as the basis of Islamic law.<sup>41</sup>

This definition shows that *al-'illah* is a concept. Someone knows this concept through the correlation between law and legal action. Meanwhile, as *al-sabab* does not necessarily correlate. The following is the definition of *al-sabab*: *Al-Sabab* is a clear and measurable attribute that Sharia assigned the rule, whether it is appropriate or not.<sup>42</sup>

<sup>35</sup> Tim Redaksi, *Kamus Besar Bahasa Indonesia*. p. 1235.

<sup>36</sup> Manzūr, *Lisān Al-'Arab*. v. IV, p. 460.

<sup>37</sup> Abū Ḥāmid Al-Ghazālī, *Al-Mustafā Fī 'Ilm Al-Uṣūl* (Beirut: Dār al-Kutub al-'Ilmiyyah, 2000). p. 75.

<sup>38</sup> Manzūr, *Lisān Al-'Arab*. v. VI, p. 409.

<sup>39</sup> Al-Ghazālī, *Al-Mustafā Fī 'Ilm Al-Uṣūl*. p. 75.

<sup>40</sup> Wahbah al-Zuhaylī, *Uṣūl Al-Fiqh Al-Islāmī* (Beirut: Dār al-Fikr, 1986). v. I, p. 95.

<sup>41</sup> Alī Ḥasballāh, *Uṣūl Al-Tasyrī' Al-Islāmī* (Cairo: Dār al-Fikr al-'Arabī, 1982). p. 147.

<sup>42</sup> Ḥasballāh. p. 153.

Imam al-Ghazālī says *al-sabab* are human actions that contain *al-'illah*, for which Sharia establishes the law. Considering that the law is the will of Sharia (*insyā al-ḥukm*), almost all legal provisions of Sharia have a correlate with legal actions (conformity/*al-munāsib*). Therefore, judges guided by *al-illah* in making legal findings, not *al-sabab*. Imam al-Ghazālī stated:<sup>43</sup>

We say: we are not avoiding it, but the basic of *ta'tīl* is something that can be reasoned it's *al-'illah*, then what is followed is *al-'illah*, unless there is evidence that indicates the necessity of following *al-sabab* which contains *al-'illah*, not following *al-'illah* itself (*nafs al-'illah*).

This statement is a theory of legal science that is useful as an analytical tool in the study of online gambling as a cause of divorce. It means, a term used in its literal sense, but also used for other things because it is related to the true meaning.<sup>44</sup> Therefore, the term *al-sabab* used to mean *al-sabab* itself, and *al-illah*. So it is not surprising if someone uses the word *al-sabab* to mean *al-illah*. However, in legal reasoning, there should be no ambiguity between *al-sabab* and *al-illah*, because a judge making a legal finding based on *al-illah*, the characteristic of which is conformity.

According to Imam al-Ghazālī, the jurists use the word *al-sabab* in the following four possible meanings:<sup>45</sup>

1. *Al-Sabab* means *sharḥ al-illah*. Sometimes *al-sabab* is interpreted as equivalent to the direct agent (*muqābalat al-mubāsharah*), even though the direct agent is not *al-sabab*. For example, if a dug hole kills someone, then someone says that the hole is the *al-sabab* of the death. In fact, the actual cause of death is the fall itself (*al-illah* is the fall that kills). But the fall will not occur without the hole, so the hole referred to as *al-sabab* here is essentially a condition for *al-illah*.
2. *Al-Sabab* means *illat al-illah*. For example, someone says a gunshot is the cause of a death. In fact, the wound caused by the gunshot is the real killer. If one looks closely, the relationship between the gunshot and the wound indicates intentional killing. So it is believed the gunshot caused the wound that killed him. The relationship between gunshots and fatal wounds shows that shooting is *al-illah*, not merely *al-sabab*. When the wound results in death, it is clear that it is *al-illah* for the loss of life. Therefore, a gunshot is *al-illah* for another *al-illah*, meaning that shooting is *al-illah*, a cause for the wound that causes the loss of life. Therefore, calling a gunshot as *al-sabab* for the obligation of *qisās* is to call the *illat al-illah* as the *al-sabab* for the law.
3. *Al-Sabab* means *al-sabab*. It is the use of the word *al-sabab* in its own meaning. For example, breaking an oath is *al-sabab* to pay *kaffārah*, so breaking an oath is the cause, while the *kaffārah* is the effect. Therefore, the word *al-sabab* means something that

<sup>43</sup> Al-Ghazālī, *Syifā' Al-Ghalīl*. p. 36.

<sup>44</sup> Sabil, *Logika Dan Penalaran Hukum*. p. 84.

<sup>45</sup> Al-Ghazālī, *Syifā' Al-Ghalīl*. p. 276.

becomes a place of legal support even though the correlation is not known (conformity/*al-munāsib*).

4. *Al-Sabab* means *al-illah*. People often use the word *al-sabab* to mean *al-illah*; as a result, the meaning of the word *al-sabab* becomes the same as *al-illah*. For example, someone mentions the sale and purchase agreement as *al-sabab* for the transfer of property rights, then the sale and purchase is both *al-sabab* and *al-illah*. It is a use of the word *al-sabab*, which is not in accordance with the definition of *al-sabab*, but because the law of Sharia does not exist by itself, so this term is permissible. Sharia law exists through the command of Allah (*khiṭāb al-Shāri*) and the *manāṭ al-ḥukm*. While the *manāṭ al-ḥukm* can be *al-sabab*, that the correlation is unknown, or it can also be *al-illah*, which exists in *al-sabab*.

The author emphasized that *al-sabab* is not the same as natural causality (natural law), because legal provision is the will of *al-Shāri* (Law Maker). Therefore, legal provisions contain the *maqāṣid al-Shāri* (intention of the Law Maker).<sup>46</sup> Ulemas find the *maqāṣid* in the relationship between law and legal acts. According to Imam al-Ghazālī, this is the reason why *talīl* is carried out on the legal provision, not on legal acts, because *talīl* of a legal act means removing it from its place of legal provision.<sup>47</sup> For example, *talīl zina* because of mixed offspring, this results in nullifying *zina* from the law of haram if it does not cause mixed offspring, for example, using contraceptives to commit *zina*.

The concept of *al-sabab*, as discussed in the science of *uṣūl al-fiqh*, is less popular among judges at the Banda Aceh Sharia Court. It is why the author did not find the explanation of the divorce case that aligns with the theory of *al-sabab* in *uṣūl al-fiqh*.

### C. Divorce lawsuit on the grounds of online gambling

The author interviewed judges at the Banda Aceh Sharia Court, who said:<sup>48</sup>

In divorce cases, the fault lies not in the breakdown of the marriage, whether the defendant or the plaintiff. Rather, the marriage is unsalvageable. Coupled with daily arguments, the children are traumatized. He added that if online gambling is proven to be the cause of the breakdown of a marriage, resulting in the neglect of the rights of the wife, then it is clear that online gambling can lead to divorce.

It shows a tendency for judges to view online gambling as a direct cause for divorce. The author suspects this tendency stems from reference to Government Regulation No. 9 of 1975. The regulation lists gambling as one of the reasons for divorce. Unfortunately, many judges do not understand this regulation from a legal theory perspective. According to Bernard Arif Sidharta, the theory of legal science as an independent scientific discipline lies between the abstract-critical-speculative Philosophy

<sup>46</sup> Jabbar Sabil, *Maqāsid Syariah* (Depok: Raja Grafindo Persada, 2022). p. 58.

<sup>47</sup> Al-Ghazālī, *Al-Mustaṣfā Fī 'Ilm Al-Uṣūl*. p. 331.

<sup>48</sup> Wawancara dengan Bapak Bukhari, S.H, selaku Hakim Mahkamah Syar'iyah Banda Aceh, pada tanggal 8 Maret 2024.

of Law and Legal Science in the concrete-positivist-prescriptive-practical dogmatic sense.<sup>49</sup> In this way, legal theory is a tool for clarifying the correct understanding of legal dogmatic texts. In the context of Islamic law, legal theory is a domain of the *uṣūl al-fiqh*.

According to the legal theory mentioned above, judges must adhere to *al-illah* in making a legal finding. Therefore, what judges refer to as *al-sabab* is actually *al-illah*. Considering that law is the will of the Law Maker (*al-Shāri*), then *al-illah*, which is the reason for divorce, is the cause and effect that motivates the Law Maker to establish the law (*inshā al-hukm*). Referring to the Hadith of the Prophet and existing regulations, it is clear that the reasons for divorce are: 1) household disharmony, and 2) the wife is afraid of her husband's badness.

These two kinds of *al-illah* are grounds for criticizing the judge's statement that online gambling is *al-sabab* for divorce. As mentioned before, mistakes often occur due to a failure to distinguish between logical implication and physical causality. If the judge assumes that *al-sabab* is a physical causality, then it is refuted because there is no deterministic relationship between divorce and online gambling. In fact, the divorce occurred with a cause determined by the judge. Consider the following physical causality logic:

$$\begin{array}{l} \text{If } A \text{ is true, } B \text{ is true.} \\ \hline A \text{ is true.} \\ \hline \text{Therefore, } B \text{ is true.} \end{array}$$

Based on this reasoning, people state: If it is heavily cloudy at 09.45 (A), then it will rain at 10.00 (B); if it is heavily cloudy at 09.45 (A is correct), then it will definitely rain at 10.00 (B is correct). Admittedly, observing thick clouds at 9:45 a.m. doesn't guarantee rain at 10:00 a.m. Nevertheless, common sense dictates that plans and actions should align with the beliefs developed when observing the thick clouds.<sup>50</sup> So, physical causality does not underlie human decisions and actions; rather, it is replaced by logical implications, such as probability, or by philosophical causality. Kenneth T. Gallagher stated: Most of our lives are spent in acting, and acting does not require and most often does not allow hidebound certitude. It can be satisfied with probability.<sup>51</sup>

If a judge makes decisions and actions based on physical causality, then the judge is adhering to natural law. However, natural law does not have an imperative nature that limits human free will. Meanwhile, only God can limit human free will, because God's will is above all. Subordinate to it is the government authority (*ulil amr*), as explained in

<sup>49</sup> Sidharta, *Refleksi Tentang Struktur Ilmu Hukum*. p. 122.

<sup>50</sup> Jaynes, *PROBABILITY THEORY THE LOGIC OF SCIENCE*.

<sup>51</sup> Kenneth T. Gallagher, *The Philosophy of Knowledge* (New York: Sheed and Ward, 1964). p. 151.

the Qur'an in verse 59 of Surah An-Nisa'.<sup>52</sup> If what underlies human decisions and actions is logical implication, then there is no reason to hold on to physical causality (natural law). Judges indeed have the authority to issue decisions, but they cannot make their own laws. Instead, they must base their decisions on positive law. Therefore, the causality that the judge relies on is the logical implication, namely *al-illah*.

According to the hadith and positive law, the reasons for divorce are: 1) a disharmonious household; 2) the partner's bad character and behavior. In this case, online gambling could be the cause of one or both of these *al-illah*. Referring to the categories created by Imam al-Ghazālī, it appears that online gambling is a condition for one or both of these *al-illah*. Therefore, the judge's statement that online gambling is a cause for divorce is actually a condition for *al-illah*. It is because online gambling has implications for household disharmony, or causes wives to be afraid of their husbands' bad behavior.

Finally, based on the concept of *usul al-fiqh*, referring to online gambling as a cause of divorce means referring to *al-sabab* with the meaning of *shart al-illah*. Awareness of this meaning is essential for legal argumentation based on *al-illah*, because it shows that the judge has mastered the *usul al-fiqh*. Another reason is that the Mahkamah Syar'iyah Banda Aceh applies Islamic family law, whose basis is *usul al-fiqh*. Therefore, the Mahkamah Syar'iyah Banda Aceh needs judges who master the *usul al-fiqh*.

## Conclusion

This study concluded that judges tend to view online gambling as a reason for divorce. According to Government Regulation No. 9 of 1975, gambling is one of the reasons for filing for a divorce. Most judges understand *al-sabab* in the sense of physical causality, which conceptually refers to the laws of nature. In fact, understanding this regulation must be done from the perspective of legal theory: judges guided by *al-illah* in making legal findings, not *al-sabab*. From the perspective of legal theory, the cause that judges rely on in determining law is logical implication, known as philosophical causality. Even in the context of physical causality, which is considered determinant, human decisions and actions are based on logical implication. Based on the concept of *al-sabab* in the *uṣūl al-fiqh*, the statement of online gambling as *al-sabab* is actually a condition for *al-illah* (*shart al-illah*). Online gambling is not a direct cause, but it has implications for household disharmony, and it causes wives to be afraid of their husbands' bad behavior. Meanwhile, *al-illah* as the reason for a divorce, is the cause and effect underlying the will of *al-Shāri*. Therefore, the judge should make a decision based on the *al-illah* in the positive laws. In conclusion, according to the science of *uṣūl al-fiqh*, online

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<sup>52</sup> Syahrizal Abbas et al., *Filsafat Hukum Islam*, ed. Jabbar Sabil, 1st ed. (Banda Aceh: Ar-Raniry Press, 2021). p. 84.

gambling as *al-sabab* means the condition of *al-illah* (*shart al-'illah*). Awareness of *al-sabab* in accordance with the conception of *uṣūl al-fiqh* is very important for two reasons: 1) This concept is an indicator that the legal arguments put forward by the judge are in line with the provisions of Sharia Law; 2) The Muslim community in Aceh has more confidence in judges who have a good grasp of the concept of *uṣūl al-fiqh*, because it shows that the judge has competence in the field of Sharia Law. Conversely, a lack of mastery of the concept of *uṣūl al-fiqh* reduces public trust in judges and the Mahkamah Syar'iyah. Therefore, the judges recommended studying the *al-sabab* theory well.

## References

- 'Abd 'al-Karīm al-Rāfi'ī. *Azīz Syarḥ Al-Wajīz*. Beirut: Dār al-Kutub, 1997.
- A. Michael Huberman, and Matthew B. Miles. "Manajemen Data Dan Metode Analisis." In *Handbook of Qualitative Research*, edited by Norman K. dan Yvonna S. Lincoln Denzin. Yogyakarta: Pustaka Pelajar, 2009.
- Abbas, Syahrizal, Jabbar Sabil, Ali Abubakar, Mizaj Iskandar, and Dedy Sumardi. *Filsafat Hukum Islam*. Edited by Jabbar Sabil. 1st ed. Banda Aceh: Ar-Raniry Press, 2021.
- Abdul Muthalib, Salman. "Fasakh Nikah Due to Disease in the Islamic Family Law of Perak Malaysia." *JURNAL EL-HADHANAH: Indonesian Journal of Family Law and Islamic Law* 3, no. 1 (2023): 54–76.
- Al-Ghazālī, Abū Ḥāmid. *Al-Mustasfā Fī 'Ilm Al-Uṣūl*. Beirut: Dār al-Kutub al-'Ilmiyyah, 2000.
- . *Syifā' Al-Ghalīl*. Beirut: Dār al-Kutub al-'Ilmiyyah, 1999.
- Al-Jaṣṣāṣ. *Aḥkām Al-Qur'ān*. Beirut: Dār Iḥyā' al-Turaṣ al-'Arabī, 1992.
- al-Jurjānī. *Kitāb Al-Ta'Rīfāt*. Singapura: al-Ḥaramayn, n.d.
- Al-Nawawī. *Minhāj Al-Ṭālibīn*. Beirut: Dār al-Minhāj, n.d.
- Amiruddin, and Zainal Asikin. *Pengantar Metode Penelitian Hukum*. Jakarta: Rajawali Pers, 2003.
- Fajri, Rahmat. "Mahkamah Syar'iyah Catat Kasus Perceraian Di Aceh Capai 6.823 Perkara." Antara: Kantor Berita Inonesia, 2022. antaranews.com.
- Fitri, Intan Saziqil. "Faktor Penyebab Tingginya Angka Cerai Gugat Di Pengadilan Agama Bandung." *Al-Ahwal AlSyakhsyiyah: Jurnal Hukum Keluarga Dan Peradilan Islam* 3, no. 1 (2022).
- Gallagher, Kenneth T. *The Philosophy of Knowledge*. New York: Sheed and Ward, 1964.
- Ḥasballāh, Alī. *Uṣūl Al-Tasyrī' Al-Islāmī*. Cairo: Dār al-Fikr al-'Arabī, 1982.
- Jan Hendrik Rapar. *Pengantar Logika; Asas-Asas Penalaran Sistematis*. Yogyakarta:

- Kanisius, 1996.
- Jaynes, E. T. *PROBABILITY THEORY THE LOGIC OF SCIENCE*. New York: Cambridge University Press, 2003.
- Johnson, R. Burke, Federica Russo, and Judith Schoonenboom. "Causation in Mixed Methods Research: The Meeting of Philosophy, Science, and Practice." *Journal of Mixed Methods Research* 2, no. 2 (2017): 1–20.
- Jumhuriyyat Maṣr al-‘Arabiyyah. *Mu‘Jam Alfāz Al-Qur’Ān Al-Karīm*. Cairo: Majma‘ al-Lughah al-‘Arabiyyah, 1989.
- Krippendorff, Klaus. *Content Analysis: An Introduction to Its Methodology*. 2nd ed. California: SAGE Publications, Inc., 2004.
- M.S., Kaelan. *Metode Penelitian Kualitatif Interdisipliner: Bidang Sosial, Budaya, Filsafat, Seni Agama Dan Humaniora*. Yogyakarta: Paradigma, 2012.
- Manzūr, Ibn. *Lisān Al-‘Arab*. Cairo: Dār al-Hadīs, 2003.
- Marzuki, Peter Mahmud. *Penelitian Hukum*. 1st ed. Jakarta: Kencana, 2005.
- Masrizal. "Kasus Perceraian Tinggi Di Aceh." Serambi Indonesia, 2023. serambinews.com.
- Muhadjir, Noeng. *Metodologi Penelitian Kualitatif*. Yogyakarta: Rakesarasin, 1992.
- Muḥammad ibn Ismā‘īl Abū ‘Abd Allāh al-Bukhārī. *Ṣaḥīḥ Al-Bukhārī*. Beirut: Dār Ṭūq al-Najāh, 2001.
- Pirdaus, Dede Irman, Kalfin, and Yasir Salih. "The Impact of Online Gambling on Marital Relationships and Divorce Rates: A Literature Review." *International Journal of Ethno-Sciences and Education Research* 4, no. 3 (2024): 74–79.
- Sabil, Jabbar. "Fiqh and Siyasa Model of Integration: A Study of The Constitution of The Sultanate of Aceh Darussalam." *Legitimasi; Jurnal Hukum Pidana Dan Politik Hukum* 13, no. 1 (2024). <https://doi.org/10.22373/legitimasi.v13i1.23379>.
- . "FIQH REFORM IN THE SULTANATE OF ACEH DARUSSALAM: IS IT MODERNISM OR MODERATISM? A STUDY OF THE HAREUTA SIHAREUKATCUSTOM." *Jurnal Ilmiah Peuradeun* 13, no. 1 (2025): 569–98.
- . *Logika Dan Penalaran Hukum*. Depok: RajaGrafindo Persada, 2024.
- . *Maqasid Syariah*. Depok: RajaGrafindo Persada, 2022.
- . *Menalar Hukum Tuhan*. Banda Aceh: LKaS, 2009.
- Sidharta, Bernard Arif. *Refleksi Tentang Struktur Ilmu Hukum*. 1st ed. Bandung: Mandar Maju, 1999.
- Sugiyono. *Memahami Penelitian Kualitatif*. Bandung: Alfabeta, 2016.
- Sunggono, Bambang. *Metodologi Penelitian Hukum*. Jakarta: RajaGrafindo Persada,

2005.

Susanti, Dyah Ochterina, and A'an Efendi. *Penelitian Hukum*. Jakarta: Sinar Grafika, 2014.

Tim Redaksi. *Kamus Besar Bahasa Indonesia*. 4th ed. Jakarta: Gramedia, 2008.

Wahbah al-Zuhaylī. *Uṣūl Al-Fiqh Al-Islāmī*. Beirut: Dār al-Fikr, 1986.