

A Study of Thematic Truth of Gambling Concerning Internet Betting with an Emphasis on Imam Khomeini's Views¹

Seyyed Mohammad Hadi Ghaboli Dorafshan²
Roqyeh Bakhshi³

Detailed abstract

Research Paper

All the rulings of Islam are based on the health of religion, intellect, soul, property and honor. The Holy Quran, as the main source of human guidance, forbids him from acquiring wealth through false means. Gambling is one of the ways to earn illegal income, which, despite the financial benefit in some cases, brings many social corruptions.

Like other matters that have taken a new form with the passage of time and the advancement of technology, the gambling is not exempt from this variability and has found new figure in the present era. Considering that gambling is a crime from the point of view of the Islamic Penal Code and the non-hearing of gambling-related lawsuits based on the civil law, it is very important to know the new figure of this act. In this article, an attempt is made to investigate the validity of gambling on internetie's bettings.

In order to achieve this goal, the opinions of jurists and lawyer will be examined and compared with special attention to the opinions of Imam Khomeini with a descriptive-analytical method, and the concept and definition of gambling will be explained from their point of view. Then, the evidences cited to prove the claim are presented.

Regarding the background of the issue, it should be said that so far no independent research has been done on the issue of internetie's bettings.

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2. Assistant Professor, Department of Jurisprudence and Principles of Islamic Law, Faculty of Theology and Islamic Teachings, Ferdowsi University, Mashhad, Iran, Email: h.ghaboli@um.ir

3. PhD Student, Department of Jurisprudence and Principles of Islamic Law, Faculty of Theology and Islamic Teachings, Ferdowsi University, Mashhad, Iran, (Corresponding Author), Email: bakhshi0214@gmail.com

By examining the definitions of gambling from the point of view of lexicographers, jurists and lawyer and analyzing Imam's opinions, gambling means gambling with the condition of a mortgage, and the instrument does not have anything to do with it. internetie's bettings is a new figure of gambling.

With several reasons, it is possible to prove the objective truth of gambling on internetie's bettings. The first is that the game is not just a physical act and gambling is one of its meanings. Also, in today's age, the limitation to physical location does not prevent people from communicating, and betting sites are virtual casinos for winning and losing. In the same way that the place is abolished by custom in Khayar Majlis and the concept of amulet, the physical place is also abandoned in relation to the gambling house.

Also, the element of custom plays an important role in the Imam's words, in cases such as the meaning of charms, the difference between the parties to a transaction in the choice of the assembly, gambling tools, the definition of wealth, the definition of deficiency in the discussion of occultism, the exclusion of chess from being a gambling tool, and so on have benefited.

From the point of view of custom, betting is also considered a kind of game and entertainment, and it is possible to apply gambling house to betting sites from the point of view of custom.

In addition, the word "Mayser" in the Qur'an is interpreted as gambling; Because the benefit of gambling is to acquire other people's property without hardship and difficulty, and considering that gambling is absolute, it is possible to eliminate the characteristic of the tool

Another point is that the existence of the principle of acquittal in criminal matters or the implementation of the Dar rule in the limits or even punishments cannot prevent the adherence to general terms in Article 705 of the Islamic Penal Code approved in 1392 (Gambling by any means is prohibited and the perpetrators are They will be sentenced to six months of imprisonment or 74 lashes, and if they are found guilty of gambling, they will be sentenced to both punishments), because the principle of acquittal, as the thinkers of the science of principles have stated, is the doubt in the duty or ruling, which originates from the lack of text, summaries the text or the conflict is the text, while in the assumption of the problem, not only there is no summary or conflict in terms of the text, but the existence of the explicit text of the aforementioned Article 705 prevents the implementation of the principle of acquittal. Also, referring to the Dar rule is pointless in the assumption of the problem, because in cases where there is a doubt, the said rule can be cited, and despite the letter of the Article 705 of the Penal Code, the doubt is ruled out. In addition to the arguments presented, it should also be noted that the very act of gambling is so abhorrent to the Shari'ah that the means of doing it is irrelevant, and whatever means it is done, it is subject to the rule of sanctity. Paying attention to this obnoxiousness and in other words, understanding the purposes and tastes

of the Sharia, has made the thinkers of Imami jurisprudence, including Imam Khomeini, and according to them, the penal legislator, to correctly declare that gambling by any means is prohibited.

Also, according to the philosophy of banning gambling, which is the prohibition of acquiring money through illegal means and preventing its social corruption, and according to the application of the narrations about gambling, which allow gambling with anything. The result is that the tool doesn't matter. The meaning of hadiths is used in such a way that the important thing in gambling is financial gain and loss, and the form of this verb does not differ by any means.

From the point of view of Lawyer, four elements must be present for gambling to be valid. These elements include: the money to be mortgaged, the agreement of the parties, the possibility of winning and losing, and the means of winning and losing; Since all four elements necessary for the realization of gambling, the existence of money, the satisfaction of two people, the possibility of winning and losing, and the working tools, which are the computer and the Internet, are present in internetie's bettings, there is no more room left to monopolize the truth of gambling with physical tools.

As a result, With resorting to reasons such as extent of game's meanings, possibility of calling the gambling-house to the bettings sites, custom, philosophy of sanction the gambling, predication of Ahadith about this case and lack the interfering of special instrument in means of gambling, can admit the thematic gambling of truth on internetie's bettings.

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