

Reversed Burden of Proof in Online Gambling Fraud: Consumer Protection Based on Islamic Law in West Java

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Abstract

The widespread practice of online gambling in West Java has led to an increase in digital fraud cases causing significant consumer losses. Common schemes involve fictitious investment programs and fake prize offers that victims find difficult to prove directly. In this context, the application of the reversed burden of proof serves as a strategic criminal law policy to strengthen the position of victims before the law. This study examines the effectiveness of the reversed burden of proof in handling online gambling fraud cases, while exploring the role of Islamic legal principles – such as zakat and social justice – in expanding consumer protection. Using normative juridical and conceptual approaches, the study analyzes the Indonesian positive legal framework and its potential integration with Islamic legal mechanisms. The findings indicate that reversing the burden of proof can reduce evidentiary obstacles during judicial processes, while Islamic law adds a socio-economic dimension that complements the penal aspect. This study recommends an integrated legal reform that not only emphasizes sanctions but also reinforces substantive justice and comprehensive victim protection.

1. Introduction

The rapid growth of online gambling in Indonesia, particularly in West Java, has caused significant social and economic problems, including widespread consumer fraud.¹ Despite being illegal, online gambling persists, with many victims falling prey to scams disguised as investments or prize offers, as reported by the Financial Services Authority (OJK) in Cirebon in 2024. This situation calls for more effective legal protection for consumers harmed by digital crimes.² The application of reversed burden of proof as a criminal law policy can enhance law enforcement against digital fraud perpetrators, as explored by Munawar in the context of corruption crime.³ This approach allocates the burden of proof more fairly to protect victims. Moreover, law enforcement must integrate Islamic legal principles, particularly zakat management, as a socio-economic remedy to support victims' recovery, as discussed by

¹ Hanny Hilmia Fairuza, Nadhila Citra Suprianoro, and Ardani Rizky Trianto, "Conceptualizing the Establishment of BPPKE: Legal Protection for Businesses in Indonesia," *Jhbhc*, April 23, 2024, 58–68, <https://doi.org/10.30996/jhbhc.v7i2.10502>.

² Hakim Baihaqi, "68 Orang di Ciayumajakuning Mengadu Terkait Judi Online," *Bisnis.com*, October 15, 2024, <https://bandung.bisnis.com/read/20241015/550/1807705/68-orang-di-ciayumajakuning-mengadu-terkait-judi-online>.

³ Kunkun Abdul Syakur Munawar, "Pembuktian Terbalik Sebagai Kebijakan Kriminal Dalam Penanganan Tindak Pidana Korupsi," *Jurnal Ilmiah Galuh Justisi* 5, no. 2 (November 22, 2017): 224–45, <https://doi.org/10.25157/jigj.v5i2.820>.

Syakur and Kotyazhov.⁴ Research by Ahyani et al. highlights the importance of Islamic legal perspectives in addressing digital crimes,⁵ while Mustofa et al. emphasize strengthening zakat regulation as a social justice tool to reduce inequality caused by economic crimes.⁶ Solehudin et al. provide insights from Malaysia's progressive Islamic law framework on regulating online gambling, which can inform Indonesian policies.⁷ Protection of family and community from digital fraud is also analyzed by Mukaromah, who examines the synergy between Islamic family law and electronic information laws.⁸ Fibrianti et al. underscore the role of consumer legal awareness in supporting consumer protection regulations.⁹ Ramon Nofrial et al. discuss the imbalance between business actors and consumers in the digital era, highlighting the urgency of legal safeguards for victims.¹⁰ Ridwan Arifin et al. review future challenges in consumer protection in the digital economy,¹¹ while Fadia and Ichsan stresses the need to strengthen anti-money laundering frameworks to monitor transactions stemming from online gambling.¹²

Chandra et al. compare regulatory responses to money laundering risks in offshore banking, which is relevant for Indonesia's situation.¹³ Sriani et al. focus on human rights

⁴ Kukun Abdul Syakur Munawar and Andrey V. Kotyazhov, "Online Gambling, Dirty Money, and Family Breakdown: Islamic Legal Reflections on Promensisko 2025," *Munakahat* 1, no. 2 (June 27, 2025): 1-13.

⁵ Hisam Ahyani et al., "Fraud in the Digital Space: A Comparative Study of Jinayah Fiqh and Indonesian Criminal Law," *Jurnal Hukum Islam* 23, no. 1 (June 17, 2025): 37-72, <https://doi.org/10.28918/jhi.v23i1.02>.

⁶ Mustofa Mustofa et al., "Strengthening Zakat Regulation through the Siyāsah Māliyah Approach: A Constitutional and Legal Analysis of Indonesia and Malaysia," *JURIS (Jurnal Ilmiah Syariah)* 24, no. 1 (June 20, 2025): 111-26, <https://doi.org/10.31958/juris.v24i1.14637>.

⁷ Ending Solehudin et al., "Learning from Malaysia's Progresif Islamic Law Framework on Online Gambling: Insights for Indonesia," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 20, no. 1 (May 11, 2025), <https://doi.org/10.19105/al-lhkam.v20i1.14897>.

⁸ Dwi Fadilatul Mukaromah, Abdul Rahim, and Hasanah Abd Khafidz, "Leveraging Artificial Intelligence for Efficient and Transparent ZISWAF Management: Comparative Insights from Indonesia and Malaysia," *Munakahat* 1, no. 2 (June 27, 2025): 27-39.

⁹ Nurul Fibrianti et al., "Legal Culture and Legal Consciousness of Consumers: The Influence on Regulation and Enforcement of Consumer Protection Laws," *Journal of Indonesian Legal Studies* 8, no. 2 (November 24, 2023): 1267-1310, <https://doi.org/10.15294/jils.v8i2.69336>.

¹⁰ Ramon Nofrial et al., "The Consumer Protection in The Balance of Business Actors and Consumers: A Paradigm of Justice," *Jurnal Hukum* 41, no. 1 (March 1, 2025): 73-91.

¹¹ Ridwan Arifin et al., "Protecting the Consumer Rights in the Digital Economic Era: Future Challenges in Indonesia," *Jambura Law Review* 3, no. 0 (April 30, 2021): 135-60, <https://doi.org/10.33756/jlr.v3i0.9635>.

¹² Yanti Fadia and Muhammad Alwan Zain Nusantara, "Strengthening Anti-Money Laundering Framework in Online Banking: Bank Indonesia's Initiatives and Countermeasures," *Jurnal Hukum* 39, no. 2 (December 29, 2023): 252-69, <https://doi.org/10.26532/jh.v39i2.31970>; Muchammad Ichsan et al., "Digitalization of Islamic Banking in Indonesia: Justification and Compliance to Sharia Principles," *Jurnal Media Hukum* 31, no. 2 (September 26, 2024): 244-61, <https://doi.org/10.18196/jmh.v31i2.22485>.

¹³ Tofik Yanuar Chandra et al., "Economic Opportunities of Offshore Banking and Regulatory Responses to Money Laundering Risks: A Comparative Study," *Jurnal Hukum* 40, no. 2 (December 23, 2024): 153-73, <https://doi.org/10.26532/jh.v40i2.37115>.

violations due to fraud in Islamic financial institutions,¹⁴ while Ahyani et al. explore the intersection of *siyāṣah syar'iyah* and Islamic constitutionalism in zakat regulations supporting social protection.¹⁵ Studies by Harefa,¹⁶ and Fellani (dates not specified) link economic hardship to gambling behaviors, highlighting zakat's critical role in mitigating social impact.¹⁷ Research by Hidayat et al.,¹⁸ and Abdussalam et al.,¹⁹ (dates not specified) demonstrates zakat's positive influence on quality economic growth and social equity, which are essential in protecting victims of online gambling. Additionally, studies by Al-Banna & Nurdany,²⁰ Fitriyah et al.,²¹ Zulkifli and Kirin,²² and Hamzah et al.,²³ reinforce zakat's role in sustainable development and addressing social problems.

Given the growing digital fraud landscape and the socio-religious implications of online gambling in West Java, this research is vital in offering a holistic legal framework that bridges formal law and Islamic principles.²⁴ The core problem addressed in this study revolves around how legal policy, specifically the reversed burden of proof, can be applied to protect consumers, and how Islamic law, through zakat, can be integrated to support victims socio-

¹⁴ Endang Sriani, Farid Hasan, and Sukron Ma'mun, "Violation of Human Right for Collateral Fraud in Sharia Financial Institution Based on Fiduciary Guaranty Law and Rahn Law," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 1 (June 15, 2023): 133–43, <https://doi.org/10.31958/juris.v22i1.9157>.

¹⁵ Zahrotul Lutfiah, Utry Setiyoningsih, and Masuwd Mowafg Abraham, "The Impact of Tax Revenue and Inflation Rate on Economic Growth in Indonesia," *Al-Tijarah* 1, no. 2 (July 5, 2025): 1–13.

¹⁶ Beniharmoni Harefa et al., "Revitalization of Indonesian Criminal Law through the Acknowledgment of Living Law: An Investigation of the Sigajang Laleng Lipa' Customary Law," *Jurnal Hukum Novelty* 15, no. 2 (October 29, 2024): 248–67, <https://doi.org/10.26555/jhn.v15i2.28234>.

¹⁷ Anisa Fellani et al., "Community Empowerment Efforts Through Creative Economic Training for Housewives with Batik Jumputan in Purwajaya Village, Ciamis Regency," *Nahdlatul Fikr* 1, no. 2 (April 15, 2025): 59–74.

¹⁸ Asep Syarifuddin Hidayat, "Sharia and State's Intervention: Uncertainty Cryptocurrency in Indonesia," *AHKAM: Jurnal Ilmu Syariah* 23, no. 1 (June 26, 2023), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/31876>.

¹⁹ Hisam Ahyani et al., "Building Progressive Islamic Law in Zakat Distribution to Support Sustainable Development Goals: A Maqasid Sharia Perspective in Indonesia," *Journal of Lifestyle and SDGs Review* 5, no. 2 (January 6, 2025): e04071–e04071, <https://doi.org/10.47172/2965-730X.SDGsReview.v5.n02.pe04071>.

²⁰ Hasan Al-Banna and Achmad Nurdany, "Sustainability of Islamic Rural Banks: A Social Qardh Financing Approach," *Global Review of Islamic Economics and Business* 9, no. 2 (2021): 087–095, <https://doi.org/10.14421/grieb.2021.092-08>.

²¹ Salwa Zahra Zulfiani Fitriyah and Nurul Ilyana Muhd Adnan, "Integrating Rukyatul Hilal Practices and Islamic Family Law: Case Study in Banjar City, Indonesia," *Munakahat* 1, no. 2 (June 27, 2025): 14–26.

²² Zuanda Zulkifli and Arwansyah bin Kirin, "Reformulating Ushuliyah Principles to Strengthen Waqf-Based Halal Tourism Industry in Indonesia and Malaysia," *Al-Tijarah* 1, no. 2 (July 5, 2025): 14–29.

²³ Imron Hamzah et al., "Legal Foundations for Inclusive Halal Tourism in West Java: Between Constitutional Principles and Practical Challenges," *Syariah: Jurnal Hukum Dan Pemikiran* 24, no. 2 (2024): 503–29, <https://doi.org/10.18592/sjhp.v24i2.15513>.

²⁴ Heni Widianingsih and Muhammad Safdar Bhatti, "Human Rights in Islamic Family Law and Statutory Regulations: Challenges and Interactions Across Countries," *Nahdlatul Fikr* 1, no. 2 (April 15, 2025): 1–15.

economically.²⁵ Therefore, the aim of this study is to explore the application of the reversed burden of proof in cases of online gambling fraud and to analyze the potential role of zakat as a complementary Islamic legal mechanism to enhance consumer protection and promote social justice.²⁶

The rapid expansion of online gambling in Indonesia, particularly in West Java, exposes significant vulnerabilities in both consumer protection and legal enforcement frameworks. Despite clear legal prohibitions, the persistence of online gambling scams highlights the limitations of existing regulations and enforcement mechanisms. Victims, often unaware of the fraudulent nature of these schemes, suffer severe financial losses and psychological distress. This growing phenomenon reveals urgent gaps in legal safeguards, especially in addressing the complex nature of digital crimes that transcend traditional jurisdictional and evidentiary boundaries. Without effective legal instruments tailored to the digital era, consumer rights remain inadequately protected, exacerbating social and economic inequalities.²⁷

At the heart of the challenge is the difficulty in proving online gambling fraud due to the clandestine and transnational character of such crimes. Traditional legal principles placing the burden of proof primarily on victims can hinder access to justice, especially when evidence is controlled or concealed by perpetrators operating from foreign servers or using advanced technologies. The reversed burden of proof emerges as a promising legal innovation, shifting evidentiary responsibility onto accused parties to better protect victims and promote judicial fairness. However, its application requires careful integration within Indonesia's legal system to avoid potential abuses while ensuring effective enforcement. This introduces a critical legal policy question: how can reversed burden of proof be operationalized to enhance protection for consumers harmed by online gambling fraud?

Simultaneously, the socio-economic fallout from online gambling necessitates complementary mechanisms beyond criminal law. Islamic law, particularly through the institution of zakat, offers a valuable socio-religious framework to support victims' recovery and social reintegration. Zakat management, grounded in principles of social justice and economic equity, can provide financial relief and empowerment to those burdened by gambling-induced debts. Yet, challenges remain in aligning Islamic legal principles with national regulations and ensuring transparent, accountable distribution to eligible victims. This research thus seeks to bridge formal legal approaches and Islamic socio-economic solutions, exploring how the reversed burden of proof and zakat can together form a holistic legal policy that protects consumers, promotes justice, and mitigates the social harms caused by online gambling in West Java.

²⁵ Ulummudin Ulummudin, Habibi Habibi, and Andrey V. Kotyazhov, "Sharia Economic Law Review on Minimum Work Tenure for Lecturer Certification at West Java PTKIs," *Al-Tijarah* 1, no. 2 (June 30, 2025): 62-73.

²⁶ Ahmad Rofik, Ahmad Hapidin, and Arwansyah bin Kirin, "Legal Interpretation of Conditional Polygamy Prohibition in Marriage Contracts: A Comparative Study in Islamic Law," *Munakahat* 1, no. 2 (June 27, 2025): 40-51.

²⁷ Dea Tiara Hanandita and Annisa Sativa, "Liability for Delay in Disbursement of Insurance Claims at Joint Life Insurance Bumi Putera 1912," *Jhbbc*, July 23, 2024, 154-65, <https://doi.org/10.30996/jhbbc.v7i2.11325>.

2. Methods

The use of a normative legal research method in this study is essential, given the complexity of online gambling fraud, which often evades traditional enforcement due to its digital and cross-border nature. Legal norms currently in force—such as the ITE Law and Consumer Protection Law—lack specificity in protecting victims from deception that is technologically sophisticated and psychologically manipulative.²⁸ This methodological choice underscores the need for a doctrinal reconstruction of evidentiary standards, particularly the application of the reversed burden of proof as a way to shift legal protection toward the victims rather than allowing perpetrators to exploit legal loopholes.²⁹ The statutory analysis thus serves as a critical tool to test whether existing legal instruments are capable of accommodating the unique evidentiary challenges posed by digital gambling fraud.³⁰

Moreover, integrating a conceptual approach rooted in Islamic legal thought is not merely an academic exercise—it responds to a real socio-religious need. Many victims of online gambling face both economic collapse and social stigma, and formal law alone is insufficient to restore their dignity or economic independence.³¹ Through the exploration of zakat as a mechanism of socio-economic restoration and *maqāṣid al-sharī'ah* as a foundation for legal policy, this study aims to develop a complementary framework that reinforces state law with Islamic ethical mandates.³² The methodology is thus structured to bridge doctrinal gaps between positive law and Islamic norms, enabling a multidimensional response to a crisis that affects not only individual rights but also public morality and social justice in contemporary Indonesia.

3. Results and Discussion

3.1. The Impact of Online Gambling on Consumers in West Java and the Legal and Regulatory Challenges, Including the Application of Reversed Burden of Proof

The rapid proliferation of online gambling in West Java has led to various negative consequences for consumers, including financial losses, psychological distress, and social disruption. Many gambling platforms operate deceptively under the guise of investment schemes or prize promotions, targeting individuals—especially those with limited digital literacy—with promises of quick and high returns. For example, a resident of Cirebon

²⁸ Hisam Ahyani, "Protecting Yourself from Online Fraud and Hacking: An Islamic Perspective," *Abdurrauf Journal of Islamic Studies* 3, no. 3 (October 4, 2024): 171–80, <https://doi.org/10.58824/arjis.v3i3.141>.

²⁹ Selvia Nola, Suci Zalsabilah Basri, and Sylvi Nur Hafiza, "Legal Protection for Customer of Bankrupt Rural Bank (Bpr) in Indonesia," *Jhbbc*, February 22, 2021, 109–18, <https://doi.org/10.30996/jhbbc.v4i1.4485>.

³⁰ Roy Hanafi, "The Effect of Lecturer Service Quality and Lecture Facilities on Student Satisfaction of the Faculty of Economics and Business, Islamic University of Malang," *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)* 5, no. 4 (October 14, 2022): 29892–900, <https://doi.org/10.33258/birci.v5i4.7144>.

³¹ Dave David Tedjokusumo and Carissa Amanda Siswanto, "Legal Protection for Foreign Investments Aligned with the Second Principle of Pancasila: A Scholarly Exploration," *Jhbbc*, February 4, 2024, 32–45, <https://doi.org/10.30996/jhbbc.v7i1.9872>.

³² Mellya Embun Baining et al., "Finding The Maqashid Al-Syariah Performance Model on Syariah Management Accounting Information System Values," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 24, no. 2 (December 30, 2024): 87–104, <https://doi.org/10.30631/alrisalah.v24i2.1642>.

reportedly lost nearly IDR 50 million after unknowingly participating in an online investment scheme that turned out to be illegal gambling.³³

The challenges are compounded by fragmented regulations and weak enforcement. Although online gambling is explicitly prohibited under Indonesian law, many platforms continue to operate through foreign servers or social media channels, highlighting significant gaps in legal protections.³⁴ In this context, the policy of reversed burden of proof emerges as a crucial criminal law innovation.³⁵ This approach shifts the evidential burden to the accused – requiring perpetrators to prove the legitimacy of their activities – thus enhancing victim protection and judicial fairness in online gambling fraud cases. The reversed burden of proof is particularly relevant given the difficulty of collecting evidence in digital crimes and the vulnerable position of victims.³⁶ It allows the justice system to expedite case handling and prevent the criminalization of innocent consumers who fall prey to fraudulent schemes. By easing the evidentiary burden on victims, this policy aims to strengthen legal safeguards and improve access to justice.³⁷

Financial devastation remains the most apparent consequence of online gambling. Victims often deplete savings, incur debt, or liquidate assets in futile attempts to recover losses, plunging into destructive cycles of indebtedness.³⁸ This financial strain extends beyond individuals, severely impacting families and leading to personal crises. Psychological effects such as guilt, shame, anxiety, and depression are widespread. In socially conservative regions like West Java, stigma surrounding gambling discourages victims from seeking help, exacerbating mental health issues and sometimes leading to suicidal ideation.

Socially, online gambling contributes to family breakdowns, loss of trust, and divorce. Gambling addiction among parents can cause neglect and instability for children. Desperate to fund gambling habits, some individuals resort to criminal acts such as theft and fraud. Law enforcement in West Java has observed increases in fraud and petty crime linked to gambling-related distress. Enforcement faces significant obstacles. Indonesia's Information and Electronic Transactions Law (ITE Law) criminalizes gambling content dissemination and access under Article 27(2), but enforcement is inconsistent. Operators evade detection by

³³ Baihaqi, "68 Orang di Ciayumajakuning Mengadu Terkait Judi Online."

³⁴ Fibrianti et al., "Legal Culture and Legal Consciousness of Consumers."

³⁵ Ezequiel Malarino, "The Standard of Proof and Crime Prevention: A Theoretical and Empirical Analysis," *The International Journal of Evidence & Proof* 28, no. 4 (October 1, 2024): 259–79, <https://doi.org/10.1177/13657127241228309>.

³⁶ Jumni Nelli et al., "The Immorality of a Husband as the Cause of a Working Wife to File for Divorce Lawsuit in Indonesia," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 1 (June 13, 2023): 119–32, <https://doi.org/10.31958/juris.v22i1.7392>.

³⁷ Farida Arianti et al., "Legality of Agricultural Products Weight Cutting as a Cost of Risk in Trade," *JURIS (Jurnal Ilmiah Syariah)* 22, no. 2 (December 27, 2023): 355–65, <https://doi.org/10.31958/juris.v22i2.10291>.

³⁸ Shrabani Saha and Kunal Sen, "Do Economic and Political Crises Lead to Corruption? The Role of Institutions," *Economic Modelling* 124 (July 1, 2023): 106307, <https://doi.org/10.1016/j.econmod.2023.106307>.

frequently changing domains or relocating servers abroad. Digital payment systems, including cryptocurrencies, complicate tracing cross-border financial flows.³⁹

A critical legal issue is the blurred line between perpetrators and victims within the criminal justice system. The principle of *lex certa*, requiring clear legal norms, is often unmet. Article 27(2) does not distinctly differentiate between the mastermind organizers (actor intellectualis) and consumers who unknowingly access gambling sites.⁴⁰ This ambiguity risks wrongful criminalization of victims, undermining legal certainty and protection rights.⁴¹ Moreover, the fundamental principle of non-self-incrimination may be violated. Victims reporting losses risk being coerced into self-incriminating statements despite lacking intent or knowledge. The absence of clear procedural safeguards raises concerns about abuse of authority and threatens justice and fairness.⁴² Limited inter-agency coordination further hampers efforts.⁴³ While the Ministry of Communication and Informatics blocks gambling websites, enforcement is divided among the OJK, police, and others without effective synergy. Technological evasions like proxy servers and encryption add to enforcement challenges.

To address these issues, enhanced collaboration among stakeholders is essential, including better regulatory coordination, tighter oversight of digital financial systems, and international cooperation through mutual legal assistance.⁴⁴ Internet Service Providers (ISPs) and digital platforms must also be legally obligated to detect, block, and report gambling content, with administrative sanctions for non-compliance.⁴⁵ Civil legal remedies under Article 1365 of the Indonesian Civil Code (*onrechtmatige daad*) can empower victims to seek compensation from fraudulent operators, complementing criminal law enforcement.⁴⁶

Online gambling in West Java has caused extensive economic and social harm while exposing critical legal and enforcement weaknesses. Clarifying legal distinctions between perpetrators and victims, strictly applying reversed burden of proof, upholding *lex certa* and

³⁹ Rizqi Umar Al Hashfi et al., "Online Payment: Individual Characteristics and Digital Financial Inclusion in Oic Countries," *Journal of Islamic Monetary Economics and Finance* 6, no. 4 (November 25, 2020): 767–88, <https://doi.org/10.21098/jimf.v6i4.1148>.

⁴⁰ Artha Febriansyah et al., "Reversal Burden of Proof in Process of Proving Money Laundering Cases in Indonesia," *Indonesia Law Review* 13, no. 1 (April 30, 2023), <https://scholarhub.ui.ac.id/ilrev/vol13/iss1/5>.

⁴¹ Syed Faisal Shah, Mohamed Albaity, and Mahfuzur Rahman, "Banks' Return Reaction to Freedom, Sentiment, and Uncertainty," *Journal of Open Innovation: Technology, Market, and Complexity* 9, no. 1 (March 1, 2023): 100015, <https://doi.org/10.1016/j.joitmc.2023.100015>.

⁴² Encep Taufik Rahman et al., "The Dynamics of The Fatwa on the Prohibition of Interfaith Greetings: Maqasid al-Shariah and Its Implications for Multicultural Families in Indonesia," *Justicia Islamica* 22, no. 1 (June 2, 2025): 25–48, <https://doi.org/10.21154/justicia.v22i1.9661>.

⁴³ Abdul Rahim et al., "Minimum Marriage Age in the Compilation of Islamic Law: A Progressive Ijtihad Based on Maslahah Fardiyyah and 'A'liyyah," *Jurnal Hukum Islam* 23, no. 2 (2025): 281–312, <https://doi.org/10.28918/jhi.v23i2.02>.

⁴⁴ Hisam Ahyani and Zakiyyu Muhammad, "Digitalization and Maqāṣid Al-Sharī'ah: Navigating Halal Lifestyle in Indonesia," *Nahdlatul Fikr* 1, no. 2 (April 15, 2025): 16–29.

⁴⁵ Mukhlis Latif and Muhammad Mutawalli, "Fiqh of Civilization in Building a Legal State: The Relevance of Muhammad Arkoun's Thought," *Al-Ahkam* 33, no. 2 (October 31, 2023): 207–30, <https://doi.org/10.21580/ahkam.2023.33.2.16643>.

⁴⁶ Ali Murtadho Emzaed et al., "Restriction of Islamic Civil Society Participation: Genealogy of Zakat Legal Politics and Its Centralized Management in Indonesia," *Journal of Islamic Law* 4, no. 2 (August 9, 2023): 148–71, <https://doi.org/10.24260/jil.v4i2.1444>.

non-self-incrimination principles, improving institutional coordination, and involving all relevant parties are vital steps toward a fair and effective response to the pervasive threat of online gambling.

The implementation of the reversed burden of proof in online gambling cases is not merely a progressive legal strategy—it is a critical necessity for safeguarding victims from unjust criminalization. In situations where perpetrators disguise illegal gambling through digital platforms and seemingly legitimate schemes, victims often lack the capacity or evidence to defend themselves effectively. By shifting the burden of proof onto those who profit from such activities, law enforcement can focus on identifying and prosecuting the intellectual actors rather than uninformed users. This approach aligns with modern criminal law principles that emphasize victim protection and serves as a crucial instrument for achieving substantive justice amid digital evidentiary challenges.

Furthermore, the application of reversed burden of proof must be accompanied by a clear reaffirmation of the *lex certa* principle and the right against self-incrimination, ensuring that its enforcement does not lead to abuse of authority. The legal system must clearly distinguish between deceived consumers and those who knowingly organize or facilitate gambling. Without a refined legal framework, victims remain at risk of being wrongfully prosecuted due to vague legal definitions, institutional fragmentation, and technological loopholes. Thus, applying the reversed burden of proof is not just a procedural adjustment, but a concrete expression of justice and legal certainty—signaling the state's commitment to protecting its citizens from evolving cybercrime threats.

3.2. Legal and Fiqh Foundations of Zakat Distribution for Online Gambling Victims, Including the Relevance of Reversed Burden of Proof

The issue of distributing zakat to victims of online gambling presents a complex challenge requiring analysis from both Islamic jurisprudence (fiqh) and Indonesian positive law. Zakat, one of Islam's five pillars, aims to alleviate poverty by supporting specific groups of needy people (*mustahik*).⁴⁷ The Qur'an in Surah At-Taubah verse 60 lists eight recipient categories, including the *gharimin*—those burdened by debt.⁴⁸ Online gambling victims, who often suffer financial loss and debts, may qualify as *gharimin* and thus potential zakat recipients.⁴⁹

Classical fiqh does not explicitly address online gambling, as it is a modern phenomenon. This gap has led scholars to exercise *ijtihad* (independent reasoning) to apply

⁴⁷ Asmuni, Andri Soemitra, and Ermi Suhartyni, "Strategic Analysis (Baznas) Sumut on Impossible Assistance and Development in Productive Zakat Management," *BIRCI-Journal* 4, no. 1 (January 14, 2021): 72–88, <https://doi.org/10.33258/birci.v4i1.1538>.

⁴⁸ Muhammad Nuzulul Qur'ani et al., "Strengthening the Competencies of Islamic Religious Education Teachers in Facing the Era of Society 5.0," *Thawalib* 6, no. 1 (April 18, 2025): 138–50, <https://doi.org/10.54150/thawalib.v6i1.593>.

⁴⁹ Ali Mas'ud, Tutik Hamidah, and Sudirman Sudirman, "Pengelolaan Wakaf Produktif Dalam Membentuk Mutu Pendidikan Madrasah Diniyah: Productive Waqf Management in Forming the Quality of Madrasah Diniyah Education," *Thawalib* 5, no. 2 (October 5, 2024): 371–88, <https://doi.org/10.54150/thawalib.v5i2.469>.

traditional zakat categories to contemporary social problems.⁵⁰ Islamic schools of thought differ: the Hanafi and Maliki madhabs strictly forbid gambling and generally reject zakat distribution to those involved in gambling, fearing it may condone prohibited acts.⁵¹ Conversely, the Shafi'i and Hanbali schools allow zakat aid for repentant victims facing hardship, emphasizing *maqāṣid al-sharī'ah* (higher objectives of Islamic law) focused on mercy, harm prevention, and social rehabilitation.⁵²

Under Indonesian law, Law No. 23 of 2011 on zakat management does not explicitly include gambling victims as *mustahik*, creating a regulatory ambiguity.⁵³ Zakat institutions like BAZNAS must carefully interpret these provisions, balancing Islamic principles with legal realities. Authoritative fatwas and guidelines are vital to avoid interpretive conflicts and maintain ethical zakat distribution.⁵⁴ The Indonesian Ulema Council (MUI) Fatwa No. 13/2011 prohibits purification of wealth derived from unlawful means such as gambling and forbids zakat to active gamblers. MUI also declares all gambling forms – including online gambling – haram due to their social and economic harms. However, no explicit fatwa addresses zakat for repentant victims still suffering financial fallout.⁵⁵

Contemporary Islamic scholars are exploring progressive *ijtihad* allowing zakat assistance for repentant victims, aligning with *maqāṣid al-sharī'ah* and emphasizing rehabilitation and harm prevention. This approach reflects the urgent social need to support victims' recovery through financial aid combined with psychological and vocational support.⁵⁶ Incorporating the legal principle of reversed burden of proof strengthens this framework by protecting victims during criminal proceedings related to online gambling fraud. It shifts evidentiary responsibility to accused parties, enabling victims—who often face difficulties proving fraud—to access justice and rehabilitation more effectively.⁵⁷ This legal innovation complements the *fiqh*-based social welfare approach by ensuring victims are not wrongfully

⁵⁰ Iwan Permadi, Diah Pawestri Maharani, and Md Yazid Ahmad, "Legal Perspectives on Digitalising Land Certificates: Analyzing Synchronization and Harmonization in Indonesia's Job Creation Law," *Jurisdictie: Jurnal Hukum Dan Syariah* 15, no. 2 (2024): 337–79, <https://doi.org/10.18860/j.v15i2.28859>.

⁵¹ Selvi Aprilia and Anajeng Esri Edhi Mahanani, "Analisis Perjanjian Kredit Syariah Dikaitkan Dengan Mekanisme Penyelesaian Sengketa Di PNM Mekaar Syariah," *Jhbhc*, August 27, 2023, 94=108-94=108, <https://doi.org/10.30996/jhbhc.v6i2.9238>.

⁵² Anggara and Ika Yulia Fauzia, "The Role of Islamic Financial Literacy in Preventing Online Slot Gambling Among Gen Z," *Jurnal Justisia Ekonomika: Magister Hukum Ekonomi Syariah* 8, no. 2 (December 20, 2024): 1190–1201, <https://doi.org/10.30651/justeko.v8i2.24023>.

⁵³ Iwan Permadi et al., "Resolving Disputes Arising from Land Acquisition for Public Purposes Involving Indigenous Peoples in the Nusantara Capital Region," *Journal of Law and Legal Reform* 5, no. 2 (April 30, 2024): 705–48, <https://doi.org/10.15294/jllr.v5i2.731>.

⁵⁴ Wan Zulkifli Wan Hassan et al., "The Management of Zakat Distribution in the Practice of Fatwa in Terengganu, Malaysia," *IJCIET* 8, no. 11 (November 23, 2017): 834–51.

⁵⁵ Emi Masrurroh, Endah Silviana, and Nurul Ilyana Muhaad Adnan, "Harnessing Tax Policy to Accelerate Islamic Economy as a Growth Engine in Developing Countries," *Al-Tijarah* 1, no. 2 (June 30, 2025): 30–45.

⁵⁶ Toha Andiko, Zurifah Nurdin, and Ahmed Abdul Malik, "Reactualization of Wali Mujbir in the Modern Era: Maqasid Sharia Analysis of Imam Shafi'i's Concept Regarding Wali's Ijbar Right," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 2 (December 31, 2023): 274–91, <https://doi.org/10.30631/alrisalah.v23i2.1403>.

⁵⁷ Tedjokusumo and Siswanto, "Legal Protection for Foreign Investments Aligned with the Second Principle of Pancasila."

burdened or criminalized, thus preserving their rights while facilitating zakat-supported recovery programs.⁵⁸ Comprehensive rehabilitation should involve zakat institutions, law enforcement, mental health experts, and social workers. The Islamic principle of *Sadd Dzari'ah* (blocking means to sin) further underscores the need for preventive efforts including strict regulation, public education, and economic empowerment to reduce gambling harms.⁵⁹

While Indonesian law and MUI fatwas prohibit zakat for active gamblers, nuanced *ijtihad* opens opportunities to assist repentant victims through zakat as part of holistic recovery. The integration of reversed burden of proof in criminal law enhances this social justice endeavor by ensuring fair treatment of victims and enabling effective utilization of zakat for social empowerment in line with Islamic and national legal principles. Clear regulation, transparency, and accountability in zakat management are essential to ensure funds effectively empower victims and align with both Islamic ethics and Indonesian law.

The integration of reversed burden of proof within the legal framework significantly enhances the protection and empowerment of online gambling victims seeking zakat assistance. By shifting the evidential responsibility to the accused, this principle mitigates the risk of victims being unjustly criminalized or burdened during legal proceedings. Such a mechanism not only facilitates access to justice but also supports the moral and legal legitimacy of zakat distribution to repentant victims, who otherwise might be excluded due to regulatory ambiguities. This alignment of criminal justice innovation with Islamic social welfare principles underscores a progressive and compassionate approach to addressing contemporary challenges through both fiqh and national law.

Moreover, the nuanced application of *ijtihad* and *maqāṣid al-sharī'ah* principles to zakat distribution reflects an urgent social imperative: to balance strict prohibitions against gambling with the ethical responsibility to aid those harmed by it. This progressive interpretation enables zakat institutions to play a pivotal role in holistic victim rehabilitation – combining financial aid, psychological support, and preventive measures such as *Sadd Dzari'ah*. Ultimately, this approach exemplifies how Islamic legal theory and Indonesian law can converge to produce just, practical solutions that protect vulnerable populations, uphold legal certainty, and foster social welfare in a rapidly evolving digital age.

3.3. Integrating *Maqāṣid al-Sharī'ah* into Zakat-Based Social Recovery for Online Gambling Victims in Indonesia, Including the Role of Reversed Burden of Proof

The escalating crisis of online gambling in Indonesia presents not only legal and economic challenges but also profound moral and social dilemmas requiring a comprehensive response. Islamic legal politics, grounded in *Maqāṣid al-Sharī'ah*, provides a foundational framework to address these issues. The key objectives of *Maqāṣid al-Sharī'ah* – namely the protection of wealth (*al-māl*), life (*al-naḥs*), and intellect (*al-'aql*) – are deeply relevant to guiding

⁵⁸ Syabbul Bachri et al., "The Criminalization of Polyamory Perspective Islamic Penal Law and Indonesian New Penal Code," *Al-Istinbath: Jurnal Hukum Islam* 8, no. 2 November (November 9, 2023): 406–40, <https://doi.org/10.29240/jhi.v8i2.7221>.

⁵⁹ Harefa et al., "Revitalization of Indonesian Criminal Law through the Acknowledgment of Living Law."

Islamic social finance institutions, especially zakat bodies, in designing sustainable and ethically grounded rehabilitation strategies.⁶⁰

Online gambling negatively impacts individuals and families on multiple levels: financially leading to overwhelming debts, emotionally causing stress and anxiety, and intellectually impairing judgment and moral reasoning.⁶¹ Addressing gambling must therefore go beyond punitive measures.⁶² A restorative strategy anchored in Islamic objectives enables zakat to function as a rehabilitative tool, harmonizing spiritual values with the practical needs of affected individuals.⁶³

First, the protection of *al-māl* can be achieved through zakat allocations for gambling victims classified as *gharimin*—those burdened with insurmountable debts. Contemporary fiqh interpretations allow zakat distribution to repentant victims no longer engaged in prohibited acts, supporting their economic recovery rather than perpetuating hardship.⁶⁴ *Second*, the principle of *al-nafs* (life) necessitates that zakat institutions actively support the psychological and emotional healing of gambling victims.⁶⁵ This includes partnerships with mental health experts, addiction counselors, and religious educators to provide holistic rehabilitation, restoring dignity, preventing self-harm, and rebuilding purpose.⁶⁶ *Third*, the protection of *al-‘aql* (intellect) underscores the importance of education and awareness to prevent relapse.⁶⁷ Zakat bodies should support public education campaigns, workshops, and religious outreach to improve moral awareness and financial literacy, fostering resilience among former gamblers and the broader community.⁶⁸

In operationalizing these objectives, zakat institutions must navigate the interplay between Islamic law and Indonesia’s national legal system. Law No. 23 of 2011 on Zakat

⁶⁰ Julien Chopin, Lucas Tosi Rodriguez, and Stefano Caneppele, “Defining and Estimating the Illegal Gambling Market: A Scoping Review,” *Journal of Economic Criminology* 4 (June 1, 2024): 100068, <https://doi.org/10.1016/j.jeconc.2024.100068>.

⁶¹ Ais Surasa and Arwansyah bin Kirin, “Dynamics of Critical Thinking Among Islamic Family Law Students: A Study at STISA Ash-Shofa Manonjaya Tasikmalaya, Indonesia,” *Nahdlatul Fikr* 1, no. 2 (April 15, 2025): 30–44.

⁶² Francesc Ortega and Amy Hsin, “Occupational Barriers and the Productivity Penalty from Lack of Legal Status,” *Labour Economics* 76 (June 1, 2022): 102181, <https://doi.org/10.1016/j.labeco.2022.102181>.

⁶³ Ending Solehudin and Hisam Ahyani, “Legal Compliance on Sharia Economics in Halal Tourism Regulations,” *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 1 (April 1, 2024): 58–79, <https://doi.org/10.22373/petita.v9i1.224>.

⁶⁴ Zahrotul Habibah, Abdul Karim, and Dian Permana, “Modern Technology in Qibla Direction Mapping: A Comparative Case Study Between Indonesia and South Korea and Its Implications for Islamic Family Law,” *Munakahat* 1, no. 2 (June 27, 2025): 52–63.

⁶⁵ Nurul Ilyana Muhd Adnan et al., “The Distribution of Zakat Fund to the Poor Entrepreneurs Using Micro Finance,” *International Journal of Academic Research in Business and Social Sciences* 11, no. 2 (February 13, 2021): 231–40.

⁶⁶ Dedah Jubaedah et al., “Strengthening Sharia Economics in Jayapura’s Muslim Minority Communities through Fiqh al-Aqalliyat,” *Jurnal Ilmiah Al-Syir’ah* 23, no. 1 (June 20, 2025): 18–33, <https://doi.org/10.30984/jis.v%vi%i.3265>.

⁶⁷ Oki Ciputri, Oki Safitri, and Muhammad Nurullah Panotogama, “Islamic Education Curriculum Design Based on Sufism,” *Thawalib* 6, no. 1 (April 5, 2025): 1–16, <https://doi.org/10.54150/thawalib.v6i1.584>.

⁶⁸ Nadia Djawas Dara and Hasanah Abd Khafidz, “Consumption Tax Policy Responses in Indonesia and Malaysia: An Islamic Economic Perspective on Global Uncertainty,” *Al-Tijarah* 1, no. 2 (June 30, 2025): 46–61.

Management sets a legal foundation but lacks clear guidelines on eligibility for gambling victims.⁶⁹ Therefore, authoritative fatwas from bodies like the Indonesian Ulema Council (MUI) and potential legal reforms are urgently needed to clarify the inclusion of such recipients.⁷⁰ A critical legal innovation that complements these efforts is the reversed burden of proof principle in criminal law.⁷¹ This approach shifts the evidentiary burden onto alleged perpetrators in online gambling fraud cases, thus protecting victims who often lack the means to prove deception or coercion.⁷² By safeguarding victims from wrongful accusations and ensuring fairer judicial processes, the reversed burden of proof enhances social justice and supports the ethical distribution of zakat for rehabilitation purposes.⁷³

Islamic maxims such as *al-darar yuzāl* (harm must be eliminated) support zakat-based interventions by emphasizing harm removal not only from individuals but also families and communities affected by gambling.⁷⁴ Similarly, *al-maslahah al-‘āmmah* (public interest) legitimizes zakat as a means to maintain social cohesion and stability. Effective institutional coordination is essential.⁷⁵ Zakat institutions must collaborate with government agencies, law enforcement, rehabilitation centers, and religious organizations to develop comprehensive programs that include financial aid, vocational training, and small business grants for rehabilitated gamblers.⁷⁶ These initiatives transform Islamic principles into tangible social benefits. Transparency and accountability remain critical in these programs.⁷⁷ Zakat funds must be distributed strictly to eligible, sincerely repentant individuals, supported by robust

⁶⁹ Alsri Nurcahya et al., "Evolution of Service Marketing and Relational Education," *Thawalib* 5, no. 2 (October 5, 2024): 421–32, <https://doi.org/10.54150/thawalib.v5i2.484>.

⁷⁰ Dery Ariswanto, M. Faiz Nashrullah, and Mashudah Sabilaturrizqi, "Analysis of Sharia Economic Law on the Transformation of Non-Halal Fund Management in Islamic Financial Institutions in DSN Fatwa," *Mediasas* 8, no. 2 (May 29, 2025): 330–42, <https://doi.org/10.58824/mediasas.v8i2.341>.

⁷¹ Federico Carmelo La Vattiata, "'Pecunia Olet' (Sometimes): A Comparative Analysis of Italian and UK Legislations on Combating the Infiltration of Organised Crime into the Economy," *Journal of Economic Criminology* 5 (September 1, 2024): 100079, <https://doi.org/10.1016/j.jeconc.2024.100079>.

⁷² Iqbal Kamalludin, "Women and Children as Victims of Financial-Based Violence in Online Gambling Circles: A Criminological Approach to Criminal Law and Rehabilitation Policy in Indonesia," *Sawwa: Jurnal Studi Gender* 19, no. 1 (April 30, 2024): 1–28, <https://doi.org/10.21580/sa.v19i1.22628>.

⁷³ Hisam Ahyani et al., "Social Justice in the Welfare of Private Lecturers: A Legal Review of Salaries, Certification, and BPJS Ketenagakerjaan in Indonesia," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 3 (2024), <https://doi.org/10.29303/ius.v12i3.1501>.

⁷⁴ Badingatur Rizqiyah et al., "From Queues to Clicks: A Case Study on ServiceTransformation Using Byond by Bank Syariah Indonesia," *Nahdlatul Fikr* 1, no. 2 (April 15, 2025): 45–58.

⁷⁵ Enang Hidayat and Abu Umar Faruq Ahmad, "Legal Maxims of Ba'i Ibn Al-Arabi's Contract and Their Relevance to Contemporary Muamalah Maliah Issues," *Jurnal Hukum Islam* 21, no. 1 (June 7, 2023): 1–28, https://doi.org/10.28918/jhi_v21i1_01.

⁷⁶ Muhammad Taufiki, Rokani Darsyah, and Mahmud Ridha, "The Use of Maxims (al-Qawā'id al-Uṣūliyyah Wa al-Fiqhiyyah) in Legal Argumentation of Sharia Economic Court Decisions in Indonesia," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 17, no. 1 (June 30, 2022): 165–88, <https://doi.org/10.19105/al-lhkam.v17i1.6070>.

⁷⁷ Hisam Ahyani, Memet Slamet, and Tobroni, "Building the Values of Rahmatan Lil 'Alamin for Indonesian Economic Development at 4.0 Era from the Perspective of Philosophy and Islamic Economic Law," *Al-lhkam: Jurnal Hukum & Pranata Sosial* 16, no. 1 (June 27, 2021): 111–36, <https://doi.org/10.19105/al-lhkam.v16i1.4550>.

monitoring and evaluation mechanisms.⁷⁸ Maintaining public trust in zakat management is especially important when addressing sensitive social problems like gambling.

Integrating *Maqāṣid al-Sharī'ah* into zakat management in Indonesia provides a morally and socially responsive framework to mitigate online gambling's impacts. By protecting wealth, life, and intellect, zakat institutions can support victims financially, spiritually, and psychologically. The complementary role of the reversed burden of proof in the legal system strengthens victims' rights and facilitates just rehabilitation. This holistic approach rooted in Islamic law and national legal principles, empowers zakat as a transformative force for recovery and social justice.

The integration of *Maqāṣid al-Sharī'ah* principles into zakat-based recovery programs establishes a comprehensive ethical and practical foundation for addressing the multifaceted harms caused by online gambling. By focusing on the protection of wealth, life, and intellect, this framework ensures that zakat institutions not only provide immediate financial relief but also facilitate holistic rehabilitation, including psychological healing and moral education. This approach transcends punitive legal responses by emphasizing restoration and prevention, ultimately fostering resilience and social harmony within affected communities. In this way, Islamic social finance becomes a dynamic tool that harmonizes spiritual values with urgent social needs in Indonesia's contemporary context.

Furthermore, the reversed burden of proof principle in criminal law significantly enhances the effectiveness of these initiatives by safeguarding victims' legal rights and ensuring fair judicial treatment. Shifting evidentiary responsibility to alleged perpetrators alleviates the difficulties victims face in proving fraud and coercion, enabling timely access to justice and support services. This legal innovation complements the *maqāṣid*-driven zakat framework by protecting vulnerable individuals from wrongful criminalization while facilitating their access to rehabilitation resources. Together, these integrated legal and religious principles form a robust foundation for social justice and recovery, empowering zakat as a transformative force in combating the social crisis of online gambling in Indonesia.

4. Conclusions

Online gambling in West Java presents complex economic, psychological, and legal challenges for victims, who frequently suffer financial losses and social stigma. The existing legal framework is currently insufficient, especially in distinguishing between perpetrators and victims, leading to risks of unjust treatment. This situation underscores the need for innovative legal policies, such as the application of the reversed burden of proof, to enhance consumer protection in judicial proceedings.

From the Islamic legal perspective, zakat serves as a meaningful rehabilitative mechanism grounded in *Maqāṣid al-Sharī'ah*—especially the protection of wealth (*mal*), life (*naḥs*), and intellect (*'aql*). Victims who repent and experience financial hardship may qualify as *gharimin* (debtors) eligible for zakat assistance, aiding their economic recovery and social reintegration. Nonetheless, clear guidelines and coordination among legal and religious institutions are vital to ensure the ethical and effective distribution of zakat. By integrating

⁷⁸ Fahriansyah Fahriansyah, Muhammad Ruslan, and Abd Rahman, "Implementation of Islamic Values in the Education of Children Aged 4-6 Years," *Thawalib* 6, no. 1 (April 5, 2025): 17-26, <https://doi.org/10.54150/thawalib.v6i1.599>.

Maqāṣid al-Sharī'ah principles into zakat management and aligning them with the reversed burden of proof policy, a comprehensive legal-social framework can be developed. This framework combines penal reforms with socio-religious support—such as financial aid, education, and psychological assistance—to empower victims and prevent recurrent fraud. Institutional collaboration among zakat organizations, law enforcement, and social services is essential to achieve this goal, fostering a justice system that harmonizes Islamic values with national law for substantive consumer protection.

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