

CONTRACT OF BETTING AND GAMBLING IN THE JORDANIAN CIVIL LAW COMPARATIVE STUDY

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Abstract-*The Jordanian legislator addresses the contract of gambling and betting within the scope of speculative contracts, drawing on the regulation of provisions of Islamic jurisprudence with its various schools of thought¹, in addition to some rules of Journal of the Ottoman Judicial Rulings². The legislator has adhered to the general principle that dictates the nullity of the gambling and betting contract due to its violation of public order. Consequently, the same consequences that apply to a void contract in general are applied to its nullity - there is no enforcement, and the loser is entitled to reclaim what was paid without a justifiable reason within a specific period. Furthermore, both criminal and civil penalties are applicable side by side.*

Departing from the principle of the nullity of gambling and betting contracts, the Jordanian legislator allowed for the contract of betting in races, shooting, and similar sporting events, taking into consideration the reasons of fairness. This aligns with the principles of Islamic jurisprudence. However, the Jordanian legislator also follows the French legislation and other Arab legislations in this regard. As a result, charitable lotteries and deferred settlement contracts are permitted despite their inherent nullity, as they rely purely on chance, contrary to the provisions of Islamic jurisprudence.

Key terms: *contracts, speculative contracts, gambling, betting*

INTRODUCTION

Gambling and betting are synonymous terms³, as both involve playing against chance. It is said that anyone who engages in an activity that does not yield any benefit is simply a player. And anything that is manipulated or used for amusement is considered a game⁴. Therefore, the French legislator expressed gambling and betting with the term "Du jeu et du pari," which means playing based on probability, chance, and risk.⁵

However, betting is a specific form of gambling, distinguished from the general concept, Gambling encompasses all games, especially those games reliant on chance and luck, such as dice. Their ruling is either prohibition or nullity, whether they involve no compensation or are based on

¹ Jordanian Civil Code No. 43 of 1976, published in the Official Gazette No. 2645, and in force since 1 January 1977, Explanatory Notes to the Jordanian Civil Code, Copy issued by the Jordanian Bar Association, Amman, Jordan, 2015, part two. P.659.

²The Journal of the Ottoman Judicial Rulings is the Ottoman Civil Code, which was an attempt to codify the rules of Hanafi jurisprudence, See: Dr. Samer Mazen Al-Qabj, The Journal of Judicial Rulings, Its Sources and Impact on the Laws of the Islamic East, Dar Al-Fateh for Studies and Publishing, Amman, Jordan, 11, 2008, p. 49.

The Jordanian legislator, in organizing the gambling and betting transmitted to the articles (58), (97) and (1801) of the Judicial rulings Journal, see in an explanation of these articles: the Judicial rulings Journal and its explanations: Ali Haidar Khawaja Amin Afandi, Arabization: Fahmi Al-Husseini, Referees in Commentary to the Judgments Magazine, Dar Al-Gel, Beirut, first edition, 1411 A.H.-1991, issue of parts 4, Muhammad Khalid Al-Atassi and Muhammad Tahir Al-Atassi, Commentary of the Journal, Dar Al-Kukam in Commentary, Dar Al-Kujil, Beirut, Lebanon, six volumes, 2016.

³Ibn Manzūr, Lisān al-‘Arab, Volume VI, Bab al-Ya, p. 4959.

⁴Ibn Manzūr, Lisān al-‘Arab, Part (45), Bab Al-Lam, p. 4039

⁵ Articles 1965 à 1967 du Code civil des Français 1804

stipulated funds from one party or both parties, or from a third party unrelated to them. This is because they obscure thought and reason, causing the mind to imagine that coincidence influences life's events⁶. Furthermore, they fall under forbidden amusement, which diverts the individual from their purpose and leads them to neglect work and productivity. This often results in disputes and conflicts that erode social bonds.

The French civil legislator emphasized during the preparatory stages of the French Civil Code the unethical nature of gambling involving wagering, due to its promotion of selfishness. This is because it makes each player hope for the other's loss and encourages abstaining from work, as one of the French jurists stated, gambling can either be a form of entertainment, in which case it falls outside the realm of laws, or it can be speculative, and in that case, it is considered illegitimate.⁷

As for wagering, although it is a form of play, it is specific to a certain type of game, which is racing or competition, especially horse racing. The ruling varies depending on whether the race is without compensation, in which case it is permissible without restrictions. The permissibility of the race is an exception only if it serves a purpose that does not exist in other games. Even if it takes the form of play, it leads to a noble goal that removes it from the original prohibition, such as sports and preparation for the reasons of jihad. This meaning does not apply to other games, so they remain prohibited.⁸

However, if the race involves compensation, danger, or competition, it becomes permissible under certain conditions. It is necessary for the compensation to be offered by one of the competitors or by others. If a monetary condition is set by both parties, such as one saying to the other, "If I win, you owe me this amount, and if you win, I owe you that amount," where one gains and the other loses, then the race becomes prohibited gambling.

Some legal scholars differentiate between the contract of gambling and the contract of betting in terms of the role of the parties involved in each. In the contract of gambling, the gambler takes a positive role in attempting to achieve the agreed-upon goal. An example of this is a gambling player who participates in a game and puts forth effort to play. On the other hand, the role of the bettor is negative and limited to predicting the outcome through words rather than actions. An example of this is a spectator who places a bet and only watches the game, predicting its outcome without participating in it.

However, this opinion concludes that there is hardly any practical significance to this distinction in most cases, the rulings regarding gambling are generally the same as the rulings regarding betting. There is no significant difference in the legal judgment between gambling and betting, unless the law explicitly states otherwise.⁹

– **Legal regulation of gambling and betting:**

The legislator in the Jordanian Civil Law addresses the contracts of gambling and betting within the framework of contracts based on probability and uncertainty, which includes, in addition to the

⁶Dr. Wehbe Al-Zahaili, Islamic jurisprudence and its comprehensive evidence of Sharia evidence, sectarian views and the most important theological theories and the realization and graduation of the Prophet's hadith, Dar Al-Fikr - Syria - Damascus, fourth revised edition as amended by the previous edition, twelfth edition, part IV, p. 210

⁷FENET, P. Antoine. *Recueil complet des travaux-préparatoires du Code Civil*, 1836, Paris, P.535

⁸Aladdin, Abu Bakr bin Masoud Al-Kasani Al-Hanafi, Bada'i Al-Sana'i fi Tartib Al-Shari'a, Part VI, Dar Al-Kutub Al-Ilmiya, Beirut, 1st edition, 1997p. 206

⁹Abdel Razzaq Ahmed Al-Sanhouri, Al-Wasit in the Commentary on Civil Law, Part VII, Volume II (Gambling Contracts, Mortgages, Lifetime Pay and Insurance Contracts), Arab Heritage Revival House, Beirut, 1964, pp.985-987, see also: Maurice Nakhle, AL KAMEL in Civil Law Commentary Comparative Study, Part IX, Al-Halabi Law Publications, 2007, p. 219

gambling contract, both the lifetime salary and the insurance contract¹⁰. This indicates that, generally, such contracts are considered void and do not bind the contracting parties.

In the Jordanian Civil Law, Article (915) states that any agreement related to gambling and betting is deemed void. This means that the parties are not obligated to fulfill their obligations under these contracts.

On the other hand, Articles from (909) to (914) regulate the contract of betting as an exception to the general rule of voidability. This implies that these articles outline exceptional cases where betting contracts may be considered valid and binding.

This treatment of gambling and betting contracts in the Jordanian Civil Law indicates that the general rule is their invalidity, but there are exceptions that can render some instances of betting valid according to the law.

Research Plan: General Rule, Invalidity of Gambling and Betting Contracts due to Contravention of Ethics and Public Order, and the Exception Allowing Betting Contracts. Therefore, we will first investigate the general rule, then the exception.

The First Topic Invalidity of Gambling and Betting

Article (915/1) of the Jordanian Civil Law states: "Every agreement on gambling or betting that is prohibited shall be void."¹¹ The Jordanian legislator relied on the provisions of Islamic jurisprudence in declaring the nullity of gambling and betting¹². Islamic jurisprudence prohibits the acquisition of wealth through illegitimate means, without justification or legitimate reason. The act of gambling and betting can lead to the loss of money by the loser without a legitimate cause, and the winner gaining wealth without a legitimate reason¹³. Thus, gambling, which is prohibited, falls within the framework of unjust enrichment or acquiring wealth without a legitimate reason, as deemed by Islamic jurisprudence.

Since the contract of gambling and betting is void due to its violation of public order, every interested party has the right to invoke its nullity. This applies to the losing gambler, as well as to those affected by the contract, whether in a public or private capacity, and the creditors. Similarly, any interested party has the right to establish their claim of payment through various methods of proof, including evidence and indicators of the nullity of the debt. The court has the authority to rule on this matter on its own initiative.

The assertion of payment can be initially presented before the Court of Appeal and subsequently before the Court of Cassation.¹⁴

¹⁰ Articles 909-915 are devoted to regulating the gambling and betting contract, corresponding to articles (1965-1967) of the French Civil Code, articles (1024-1026) of the Lebanese Code of Obligations and Contracts, articles (739-740) of the Libyan Civil Code, articles (975-976) of the Iraqi Civil Code, articles (705-706) of the Syrian Civil Code, articles (739-740) of the Egyptian Civil Code, articles (1013-102) of the United Emirates Civil Code, articles (16) of the Code of the Penal Code) 92-1097) of the Moroccan Civil Code, articles (1452-1455) of the Tunisian Civil Code.

¹¹ Corresponding to Article (705/1) of the Syrian Civil Code, Article (975/1) of the Iraqi Civil Code, Article (1965) of the French Civil Code.

¹² Among them are a number of jurisprudence rules that have been codified in the Code of Juridical Judgments, in particular: article 58, article 97, article 1801 of the Code.

¹³ Dr. Ahmed Ibrahim Qairouz, Facilitator and Gambling - His Reality and Contemporary Images (Comparative Jurisprudence Study), Ministry of Endowments and Islamic Affairs, Doha, Arruqa for Studies and Publishing, Amman, p. 1, 2016, p. 311

¹⁴ Article 168/2 of the Jordanian Civil Code.

The nullity of the contract of gambling and betting entails a civil consequence, which is that the loser in gambling or betting is not obligated to compensate the winner for their losses. If the winner initiates a claim to demand fulfillment from the loser, the loser is not required to make such payment. This is what is known as "restitution of gambling"¹⁵ (second claim). If the loser voluntarily pays the losses, they are allowed to reclaim what they paid without justification¹⁶ (first claim).

The first requirement

Claim for Restitution

For the loser in an invalid gambling and betting contract, they have the right to initiate a legal claim for the nullity of the contract in order to reclaim what they paid without justification. Firstly, we will examine the legal basis of the restitution claim, and then discuss proving the debt related to gambling and the statute of limitations for the restitution claim.

The First Subsection

The Legal Basis for the Claim of Restitution

The loser has the right to establish their claim for the nullity of the gambling and betting contract in order to reclaim what they paid, based on the specific rule regarding the nullity of the contract of gambling and betting¹⁷ and/or the general rules for contract nullity¹⁸, and/or the rules of unjust enrichment¹⁹. The loser retains the right to reclaim what they paid even if there was a contrary agreement, and this agreement is considered void due to its violation of public order. Article (915/2) explicitly states this meaning.

Contrasting laws align with the Jordanian Civil Law's perspective. The Syrian and Iraqi Civil Laws grant the loser the right to reclaim what they paid within a certain period²⁰. However, this differs from the French Civil Code and the Lebanese Civil Code. Article 1967 of the French Civil Code states, "Under no circumstances may the loser recover voluntarily paid amounts, unless cheating, deception, or fraud by the winner is proven."²¹ Similarly, Article 1026 of the Lebanese Law of Obligations and Contracts states, "The loser is not entitled to recover what was paid by choice in a game or bet devoid of any cheating".

The stance of both the French and Lebanese legal systems is based on the presumption that the loser in an invalid bet voluntarily and consciously initiates the payment of their loss, driven by their own conscience. This is due to the belief that the debt arising from gambling is a matter of honor, and therefore, they are not entitled to reclaim what they paid. We do not agree with the approach taken by these laws, as it weakens the impact of the nullity of the gambling and betting contract.

In practical reality, it often happens that a gambler borrows money for the purpose of gambling or to cover their losses in gambling:

¹⁵ Abdel Razzaq Ahmed Al-Sanhouri, *Al-Wasīf* in the Commentary on the Civil Code, op. cit., p. 1001

¹⁶ The Jordanian Penal Code also establishes criminal penalties for illegal gambling along with civil penalties., in addition to the Penal Code, as other sanctions, as in the Code Securities, Charitable Lottery System No. 17 of 1972, and the Professional License Act of 1999.

¹⁷ Article 915 (2) of the Jordanian Civil Code states: "Whoever loses in gambling or betting shall be prohibited from recovering his payment within six months from the time he paid the loss".

¹⁸ Article 168 of the Jordanian Civil Code.

¹⁹ Article (293) of the Jordanian Civil Code states: "No one shall take the money of another for no legitimate reason. If he takes it, he must return it." Article 296 of the same law states: "Whoever does something that he thinks is his duty and then it turns out not to be his duty, he shall be entitled to recover it from his arrest, if it exists and for his value or if it does not."

²⁰ Article 705/2: Syrian Civilian, Article 975/2: Iraqi Civilian.

²¹ French Civil Law in Arabic, Dalouz Edition 2009, 8th edition, Arabic, Part III, Saint Joseph University, Center for Legal Studies of the Arab World, Lebanon, 2012, p. 1887

Firstly, borrowing for the purpose of gambling: If the primary reason for entering into a loan agreement is directly related to gambling, and the lender is aware of this reason, then the loan agreement is void due to the illegitimate nature of its cause, which is gambling. However, if the lender is not aware that the cause of the loan is gambling, then the loan agreement is valid.

As an invalid loan contract does not create legal obligations, the lender is not compelled to fulfill their commitment to provide the borrowed money. Therefore, if the borrower receives the money, the lender can reclaim it without considering the purpose of the loan. The basis for restitution here is the receipt of undue payment²². The French Court of Cassation has ruled on this matter, stating: "If the casino customer cannot benefit from Article 1965 of the Civil Code, the situation changes if it is proven that the debt relates to a loan granted by the casino to fund the game"²³.

Secondly, borrowing to cover losses: If the reason for entering into a loan agreement is to cover losses, the loan contract is valid, producing its effects between the lender and the borrower due to the legitimacy of its cause. However, in the case of a gambling contract where the losing gambler borrows to cover their losses, the contract remains void. In this scenario, the gambler has the right to reclaim what they paid because this payment is not based on a valid binding right.²⁴

The Second Subsection

Proof of Gambling Debt and the Statute of Limitations for its Restitution

It is permissible to establish that the debt originates from gambling or betting, and subsequently prove the invalidity of its source using all means of proof. Article (915/2) is explicit in allowing this, and the claim for restitution is subject to a statute of limitations of six months from the time the loser paid their losses²⁵. It would have been preferable for the restitution period to be extended to three years to align the provisions for reclaiming gambling or betting debt with the general rules of unjust enrichment, where the restitution period is three years²⁶. The Egyptian and Syrian legislations have adopted this approach²⁷, while the Iraqi legislator allows the loser in a gambling or betting transaction to reclaim what they paid within one year from the time the loss was incurred.²⁸

The Second Requirement

Rejection of a creditor's gambling debt claim as defense

If the loser in gambling or betting initiates a lawsuit to declare the contract void and reclaim what was paid, they are entitled to refuse the demand from the winner to fulfill the gambling debt, in what is known as "reject the gambling debt claim". In this regard, the loser maintains that they are not obligated to fulfill the gambling or betting debt due to the invalidity of its source. An invalid contract has no legal effect²⁹, and neither party to it has the right to enforce it. The absence of legal enforceability for gambling debt due to its lack of legal protection does not make it a natural debt under the responsibility of the losing debtor. Gambling and betting contracts are void, and a natural debt or obligation cannot arise from an invalid contract.³⁰

²² Abdel Razzaq Ahmed Al-Sanhouri, *Al-Wasīf* in the Commentary on the Civil Code, op. cit., p. 998

²³ Cassation, civil, Chambre Civile 1, 8 April 2021, 19-20.644.

²⁴ Abdel Razzaq Ahmed Al-Sanhouri, *Al-Wasīf* for the Commentary on the Civil Code, op. cit., p. 1000

²⁵ Article (915/2) of the Jordanian Civil Code

²⁶ Article 311 of the Jordanian Civil Code.

²⁷ Article 739/2. of the Egyptian Civil Code, Article (705/2) of the Syrian Civil Code

²⁸ Article (975/2) of the Iraqi Civil Code

²⁹ Article 168/1 of the Jordanian Civil Code

³⁰ Abderrazak Ahmed Al-Sanhouri, *Al-Wasīf* in the Commentary on the Civil Code, op. cit., pp. 1001-1003

The loser in gambling or betting cannot be compelled to pay the loss even if the contract is validated or if a settlement is reached (the first Subsection). Guaranteeing a gambling debt through personal or real security is not valid (the second Subsection).

The First Subsection

Validity of Void Wagering Contracts and Compromise Thereon

No acknowledgment of a void contract, regardless of its form, is effective³¹. The loser's acknowledgment of the gambling debt is not recognized, and any commitment to pay this debt, even in writing, is invalid. The loser is not bound to fulfill this commitment, even if the acknowledgment or commitment is made long after the gambling or betting took place. The same rule applies to issuing commercial documents, such as promissory notes, checks, or bills of exchange, for the amount of the gambling debt. If the loser issues such a document, they have the option to use it to pay the gambling debt. Furthermore, they have the right to reclaim these documents through a claim of invalidity³². If the document is transferred to a bona fide holder, the loser is not obligated to pay the gambling debt due to the principle of purification of obligations. If the loser is compelled to pay the bona fide holder of the document, they have the right to reclaim what they paid from the winner. The loser can even involve the winner as a guarantor in the lawsuit brought against them by the bona fide holder of the document³³. If the loser issues a check for the amount of the loss in favor of the winner, the check is invalid.

The gambling or betting debt of the loser does not expire in favor of the winner through offsetting, whether it is a mandatory offset by law, a voluntary offset by agreement of the parties, or a judicial offset by court order³⁴. Offset requires the similarity of the debts³⁵, and offsetting cannot occur between a void gambling debt and another valid debt. Similarly, the gambling debt does not expire through the combination of obligations, as if the loser were an heir to the winner. Obligations do not combine in the case of a void debt.³⁶

Settlement is not permissible in the context of gambling or betting debt. Settlement is a binding agreement to resolve disputes between the reconciling parties by mutual consent³⁷. It is a requirement for a valid settlement that the subject matter be capable of being the subject of a contract³⁸. However, since gambling and betting debt is inherently void due to its prohibition by religious teachings and its violation of public order or morality, any settlement regarding such debt is also void.³⁹

Arbitration, like settlement, is not permissible in matters where settlement is not allowed. Therefore, arbitration is not valid in cases involving a gambling or betting debt, which is already void by nature.⁴⁰

The Second Subsection:

Guarantee of Gambling Debt

³¹ Article 168 of the Jordanian Civil Code.

³² Abdel Razzaq Ahmed Al-Sanhouri, *Al-Wasīṭ* in the Commentary on the Civil Code, op. cit., p. 1004

³³ Article 147 of the Jordanian Trade Act No. 12 of 1966.

³⁴ Article 147 of the Jordanian Trade Act No. 12 of 1966.

³⁵ Article 345 of the Jordanian Civil Code.

³⁶ Abdel Razzaq Ahmed Al-Sanhouri, *Al-Wasīṭ* in the Commentary on the Civil Code, op. cit., p. 1008

³⁷ Article 647 of the Jordanian Civil Code.

³⁸ Article 163/1 of the Jordanian Civil Code.

³⁹ Article 163/2 of the Jordanian Civil Code.

⁴⁰ Article 9 of the Jordanian Arbitration Act No. 31 of 2001

Guaranteeing a gambling debt, whether personally or through an endorsement, is not valid. Therefore, any endorsement of a gambling debt, whether it is an endorsement of a right or an endorsement of a debt, is considered void. This applies whether the endorsement is made without the loser's consent or with their consent. Acceptance of the endorsement does not validate what is inherently void. The validation cannot be conferred by acceptance⁴¹.

If the endorsement pertains to an endorsement of a right, the endorser (the loser) has the right to reclaim any payments made to the endorsee (the winner) related to the debt, even if the endorsee acted in good faith and was unaware that the right had originated from gambling or betting. Similarly, in the case of an endorsement of a debt, the endorser (the loser) can also reclaim any payments made by the endorsee (the winner) based on that debt. This is because the loser had the right to reclaim the payment of the gambling debt, and therefore the endorsee can also reclaim that payment. This is allowed under Article 1005 of the Jordanian Civil Code, which gives the endorser the right to assert any defenses related to the debt that they had against the endorsee, even if the endorsee acted in good faith and was unaware of the origin of the debt.

Just as the endorsement of a gambling debt is not permissible, guaranteeing it is also not valid. The guarantee of an invalid debt is considered void. If a guarantor fulfills the invalid debt, they have the right to reclaim it. Additionally, the collateralization of a gambling debt through a contractual real guarantee, whether it is a security mortgage or a possessory mortgage, is also not permissible. The pledgor (the one providing collateral) has the right to reclaim any possessory collateral, and they can request a declaration of the nullity of the security mortgage and the removal of the registration from the real estate record.⁴²

The Second Topic

Validity of Gambling and Betting

Article (910) of the Jordanian Civil Code states: "It is permissible to contract bets in horse racing, archery, and in what is related to sports or preparations for reasons of strength."⁴³ In this section, we will discuss the concept of the bet contract and its elements in the first part, and then we will address the scope and subject matter of the bet contract in the second part.

The First Requirement

The Legal Concept of Betting Contract and Its Elements

In this Requirement, we will address the definition of the bet contract and its characteristics in the first subsection, and then we will discuss its elements and effects in the second subsection.

The First Subsection

Definition of Betting Contract and Its Characteristics

Gambling and betting linguistically connote risk-taking. Gambling and betting occur in various forms, including competitions involving horse racing and other activities⁴⁴. In legal terms, gambling and betting constitute a contract as defined by the Jordanian Civil Code: "A contract in which a person commits to providing a sum of money or another designated item to the winner who achieves the specified goal within the contract"⁴⁵.

From the definition, the following legal characteristics of the contract of (gambling/betting) can be inferred:

⁴¹ Abdel Razzaq Ahmed Al-Sanhouri, *Al-Wasīṭ* in the Commentary on the Civil Code, op. cit., p. 1006

⁴² *Ibid.*, p. 1008-1009

⁴³ corresponding to articles (706) of Syrian code civil, and (976) of Iraqi code civil, and (1966) of French code civil.

⁴⁴ Ibn Manẓūr, *Lisān al-ʿArab*, Volume III, Part (29), p. 1757, p. 1758.

⁴⁵ Article (909) Jordanian Civilian.

1. The contract of (gambling/betting) falls under contracts of risk, speculative contracts, or contracts of chance, or contracts of (Gharar):

(Gharar) linguistically refers to risk or uncertainty⁴⁶. In legal terminology, it refers to an unknown future event. The contract of gambling or betting falls under speculative contracts, where the performances of the parties are not determined at the time of contract formation. Instead, they are determined in the future based on the occurrence of an uncertain event, which is either gaining or losing. This potential for gain or loss forms the basis of the contract.⁴⁷

However, the lack of specification of performances in the contract of (gambling/betting) based on an uncertain future event doesn't make it a conditional contract. A conditional contract depends on the fulfillment of a specific condition for its existence. On the other hand, a speculative contract is already established, and its realization depends on which party will gain and which will lose based on the uncertain event.⁴⁸

In the context of the contract of (gambling/betting), (Gharar) is an essential element. The subject matter of the contract is based on the realization of a speculative event agreed upon. The existence of the (gambling/betting) inherently involves an element of uncertainty. This is different from (Gharar) in a contract in general⁴⁹, which is considered a defect among the potential flaws that might affect mutual consent. In financial transactions, it is required that the subject matter is precisely defined to avoid extreme uncertainty, under the penalty of rendering the contract void⁵⁰

2. The contract of gambling is a consensual contract:

It does not require a specific form or format. The contract of gambling is established through the offer made by one of the gamblers and the acceptance by the other gambler. In this way, gambling differs from a promise of a prize, as the contract of gambling is formed only through the combination of offer and acceptance. In contrast, a promise of a prize arises solely from the will of the promisor without dependence on acceptance, unless it involves obligating a third party.⁵¹

3. The contract of gambling is one of the contracts of exchange:

The contract of gambling involves offering a benefit with money, and it could also involve offering a non-monetary benefit⁵². The person participating in the wager doesn't intend to donate or be the loser; rather, their intention is to win and come out as the winner⁵³. In exchange for the potential gain, there is the possibility of experiencing a loss.⁵⁴

4. The contract of gambling is a binding contract for both parties:

Islamic jurisprudence has different opinions regarding the necessity or permissibility of the contract of gambling, which can be summarized into three views: the first opinion asserts that the contract

⁴⁶ Ibn Manẓūr, *Lisān al-ʿArab*, vol. V, Bab al-Ghayn, part 36, pp. 3233-3235.,

⁴⁷ Abdel Razzaq Ahmed Al-Sanhouri, *Al-Wasīṭ* in the Commentary on Civil Law, former reference, p. 988, Maurice Nakhlah, complete in the Commentary on Civil Law Comparative Study, previous reference, p. 220

⁴⁸ Al-Sanhouri, *Al-Wasīṭ* in the Commentary on the Civil Code, op. cit., p. 986

⁴⁹ Articles 145 and (147) of the Jordanian Civil Code.

⁵⁰ Article 161 of the Jordanian Civil Code

⁵¹ Article 250 of the Jordanian Civil Code.

⁵² Dr. Saad Bin Nasser Bin Abdulaziz Al-Shatri, *Competition and Provisions in Islamic Law, Fundamental Jurisprudence Study*, Capital Publishing and Distribution House, Al-Ghaith Publishing and Distribution House, I1, Saudi Arabia, Riyadh, 1997 AD.44

⁵³ *Ibid.*, p. 43

⁵⁴ Maurice Nakhle, *AL KAMEL in Civil Law Commentary Comparative Study*, op. cit., p. 220

of gambling is absolutely obligatory upon its formation, the second opinion holds that the contract is not obligatory⁵⁵, the third opinion suggests that the contract of gambling is obligatory for the party committing to compensate, while it may or may not be obligatory for the other party.⁵⁶

These varying opinions reflect the diversity of perspectives within Islamic jurisprudence regarding the nature and legal status of gambling contracts.

In legal jurisprudence, it is generally recognized that the contract of gambling is binding on both parties upon its formation. However, when it comes to the execution of the contract, if the gambling or betting is between two individuals and one of them is the loser, the contract becomes binding on the losing party alone, without affecting the other party. This perspective emphasizes the obligation of the losing party to fulfill their commitment under the contract of gambling.⁵⁷

The Second Subsection

Elements and Conditions of the Betting Contract and Their Consequences

Firstly, the Elements and Conditions:

The contract of gambling requires the following elements and conditions to be valid:

1. **Mutual Consent:** For a gambling contract to be valid, there must be more than one participant, as the purpose is to determine the winner, which cannot be established with fewer than two participants⁵⁸. The validity of the consent in a gambling contract depends on the fact that the outcome of the event being bet upon must involve the personal participation of the contracting parties⁵⁹. Comparative legal texts explicitly emphasize this point, unlike the Jordanian law⁶⁰. If a third-party place a bet on the victory of one of the participants, the contract is not valid; rather, it constitutes an illegal wager.⁶¹

It is also required that both parties engaging in the gambling contract have the capacity to dispose of the amount they are wagering in case of loss. Moreover, the mutual consent regarding the event or match being bet upon should be free from defects of consent. This principle is in line with general legal rules and regulations concerning evidence.⁶²

2. **Subject Matter:** The parties to a gambling contract commit to carrying out a specific action to determine the better skilled or more capable of the two in that action. In this context, the concept of offering a substitute or compensation is permissible in gambling contracts, as it serves as an incentive to engage in that action:

⁵⁵ Muaffaq Al-Din Abi Mohammed Abdullah Bin Ahmed Bin Mohammed Bin Qaddama, *al-Mughni walyahi al-sharh al-kabir*, Part 11, T1, Al-Manar Egypt Press 1348 H/1929 A.D., p. 131, Khalifa Bin Yahya Bin Said Al-Jabri, *Judgments of Competitions in Islamic Jurisprudence*, Master's Message, Al Al Bayt University, 2001, p. 68

⁵⁶ Ahmed Hamed Mohamed Al-Talhi, *Judgments of Competitions in Islamic Jurisprudence*, Comparative Study, Master's Thesis, Umm Al-Qura University, Saudi Arabia, 1988, p. 68

⁵⁷ Abdel Razzaq Ahmed Al-Sanhouri, *Al-Wasīṭ in the Commentary on Civil Law*, op. cit., p. 988, Maurice Nakhleh, *AL KAMEL in Commentary on Civil Law Comparative Study*, op. cit., p. 220

⁵⁸ Dr. Saad bin Nasser bin Abdulaziz Al-Shatri, *Islamic Sharia Competitions and Judgments*, op. cit., p. 246

⁵⁹ Alan Benabant, *Civil Law, Private Civil and Commercial Contracts*, Translation by Mansour Al-Qadi, University Institute for Studies, Publishing and Distribution, Beirut-Lebanon, 2004, 11, p. 693.

⁶⁰ See Article 740 of Egyptian Civil code, Article 706/1 of Syrian Civil code, Article 976/1 of Iraqi Civil code.

⁶¹ Al-Sanhouri, *the Al-Wasīṭ in explaining the civil law*, op. cit., p. 1021

⁶² *Ibid.*, margin p. 1022

A. Offering a Substitute⁶³: The following conditions must be met for the validity of offering a substitute or compensation in a gambling contract:

I. It must be known⁶⁴, whether through observation, quantity, quality, or description⁶⁵. It can be a specific item, either immediately or at a later time, or it can involve a debt, whether it is due immediately or in the future, or a combination of both immediate and deferred elements.⁶⁶

II. The obligated party must commit to delivering a specific consideration by their own volition⁶⁷. This condition aims to avoid the appearance of gambling. Therefore, it is valid for one of the competitors to provide the consideration in a wager contract⁶⁸. If the wager is between two groups, each group is treated as a single entity in terms of committing to the consideration⁶⁹. Additionally, it is permissible for the consideration to be provided by non-competitors, individuals who are not parties to the contract, whether it's an authority figure, guardian, or an ordinary person, as long as they use their personal funds to establish the reward for the winner.⁷⁰

Islamic jurisprudence has differed regarding the validity of providing consideration by all competitors. The majority of jurists hold that it is not permissible to provide consideration by all competitors unless a valid reason exists, such as one of the competitors being authorized to participate. However, some later Hanafi scholars permit providing consideration by all competitors even without a valid reason. On the other hand, most Maliki scholars hold that it is not permissible to provide consideration by all competitors, even if a valid reason is present.⁷¹

The Jordanian Civil Law does not explicitly require the presence of a valid reason when providing consideration by all competitors. Therefore, providing consideration by all competitors is considered akin to gambling according to the Jordanian Civil Law.⁷²

B. Performing an action to achieve the intended purpose of the contract:

It is a requirement for the specified action to be performed that it is feasible and achievable. Furthermore, it should be well-defined and specific, eliminating any ambiguity. Since the required action in a gambling contract varies depending on the different fields of gambling, it is described based on its location, timing, and tools. For instance, in a race, the distance between the starting point and the finish line would be defined, and in archery, the number of shots and acceptable hits would be specified. This ensures clarity and avoids any confusion or dispute regarding the fulfillment of the contract.⁷³

3. The cause of contract:

Here, we distinguish between the cause of obligation for the gamblers, which is an objective cause that does not vary with the type of sport underlying the gambling contract, and the cause of

⁶³ Ahmed Hassan Mohamed Amer, Prizes, Jurisprudence and Contemporary Applications, Master's Thesis, University of Jordan, 2004, pp. 9-p.17.

⁶⁴ Article 911 of the Jordanian Civil Code.

⁶⁵ al-Mughni wa-yalihi al-sharh al-kabir, op.cit, p. 131

⁶⁶ Article (912/2) of the Jordanian Civil Code.

⁶⁷ Article 911/1 of the Jordanian Civil Code.

⁶⁸ Article (914) of the Jordanian Civil Code.

⁶⁹ Article 912/1. of the Jordanian Civil Code.

⁷⁰ Aladdin Al-Samarqandi, Tuhfat al-Fuqaha, Part Three, Dar Al-Kutub Al-Ilmiya, Beirut - Lebanon, 1st Edition 1984, p. 348, Abu Muhammad Ali bin Ahmad bin Said bin Hazm al-Andalusi, al-Muhallābi'lAthār, part five, Beirut Science Textbook House T1, 2003, p. 425

⁷¹ Khalifa Bin Yahya Bin Saeed Al-Jabiri, Judgments of Contests in Islamic Jurisprudence, op. cit., pp. 103-119

⁷² Article (914) of Jordanian civil code.

⁷³ Article (911/2) of Jordanian civil code, and See Dr. Saad bin Nasser bin Abdulaziz Al-Shatri, Islamic Sharia Competition and Judgments, previous reference, pp. 112-114.

obligation for each competitor or participant, which is to achieve the specified goal in the contract as agreed upon in order to obtain the compensation or consideration. If the compensation is from one of the competitors, their cause of obligation to pay the compensation arises from their failure to achieve the specified goal in the contract. It is a requirement for the cause of obligation to be valid and well-defined, eliminating any potential for disputes due to ambiguity.

As for the cause of the gambling contract itself, it is the motivator or incentive for entering into the contract, and it is a personal cause that may vary from one party to another. The incentive for gambling can be merely obtaining money, enhancing physical fitness, or developing skills. It is a requirement for the cause to be valid. Additionally, if it serves as a motive for pursuing health, strength, and physical well-being within the boundaries of the law and public order, it remains valid⁷⁴. In Islamic jurisprudence, legitimate gambling is discussed in the context of preparation for jihad, considering it as one of the means of readiness for it⁷⁵.

4. "Gharar" (excessive uncertainty):

"Gharar" (excessive uncertainty) is an essential element in the gambling contract. However, allowing "Gharar" in gambling is permissible only when it serves the purpose of encouraging the engagement in the cause of jihad or to determine the most skilled and capable among the participants in the required activity.⁷⁶

If the possibility of winning or losing is certain, it is not permissible even if the likelihood of one outcome is greater. In such a case, the element of encouragement is not achieved. This leads to gambling becoming an obligation with no valid purpose, rendering it frivolous and futile.⁷⁷

For the possibility of winning or losing to be valid, the following conditions must be met:

- A. The competition must involve items that allow for being preceded and succeeded.
- B. The possibility of one participant overtaking the other must exist. For example, in a race, the intention is to compete and determine the winner. If one participant is significantly behind, the race becomes futile and prohibited.

In competitions involving ridden animals, the animals must be of the same type, ensuring fairness. It is not permissible to compete between different types of animals, like horses and camels, as their natural differences would render the competition meaningless.⁷⁸

In archery competitions, participants must possess skill in archery. The purpose is to determine the most skilled, and someone without the necessary skill is equivalent to someone who doesn't exist⁷⁹. However, this does not imply an absolute equality of skill among participants; rather, it signifies a degree of proximity in skill to ensure the potential or possibility of each participant winning over the other.⁸⁰

- C. Equality between all participants in the prize undermines the purpose of the competition. The intent of offering the prize is to encourage competition. If everyone is made equal in terms of

⁷⁴ Article 910 of Jordanian civil code

⁷⁵ Ibn Qayyim al-Jawziyya, *Al-Foroosiyah al-Muhammadiyah*, Investigated by Zaij bin Ahmed Al-Nashiri, supervised by Bakr bin Abdullah Abu Zaid, Publications of the Islamic Fiqh Academy in Jeddah, Saudi Arabia, Dar Al-Fawa'id Science for Publishing and Distribution.

⁷⁶ Aladdin Al-Samarqandi, *Tuhfat al-Fuqaha*, op. cit., p. 348

⁷⁷ Aladdin, Abu Bakr Bin Masoud Al-Kasani Al-Hanafi, *Bada' Al-Sanayaa'*, Part 6 Dar Al-Kutub Al-Alamiya, Beirut I1 1997., p. 206

⁷⁸ Ahmed Hamed Mohamed Al-Talhi, *Judgments of Competitions in Islamic Jurisprudence*, op.cit, pp. 54-58

⁷⁹ Khalifa Bin Yahya Bin Saeed Al-Jabiri, *Judgments of Contests in Islamic Jurisprudence*, op. cit., p. 150

⁸⁰ Alan Benabant, *Civil Law, Private Civil and Commercial Contracts*, op. cit., p. 677

the prize, each participant would know that they are entitled to the prize regardless of their performance, whether they lead or lag. Consequently, they would not put in the effort to compete, defeating the intended purpose.

Similarly, if the reward for the first-place winner is significantly reduced compared to others, this also contradicts the aim of the competition. It would discourage participants from striving for the first-place position, instead encouraging them to aim for a lower position to secure a larger reward. Therefore, the principle of differentiation in rewards based on performance is essential to maintain the motivation and purpose of the competition, driving participants to actively compete and excel.⁸¹

Secondly, the impact of the contract of wager:

If the contract of wager is valid, the loser becomes obligated to provide a sum of money or another item, whether in the form of compensation or stakes, to the winner who achieves the specified goal⁸². In contrast to the Jordanian Civil Law, both the Syrian Civil Law and the Iraqi Civil Law stipulate that the amount of the wager should not be excessive. If it exceeds a reasonable limit, the court has the authority to reduce the wager⁸³. Therefore, if the participants agree upon an amount that significantly surpasses the intended goal of the wager, it is considered speculative trading. The penalty for this is that the judge may decrease the amount to an appropriate level and rule in favor of the reduced amount for the winner of the competition. If the loser has already paid the full amount, they have the right to request a reduction from the court and to reclaim the difference from the winner.⁸⁴

As for the French Civil Code, Article 1966 addresses the matter in case of excessive amounts and states: "However, the court may reject the request if the amount is excessive."⁸⁵ The French legislator considers a wager unlawful speculation if the amount is excessive, leading to its nullity. Consequently, the judge dismisses the request of the winner and does not award them any reduced amount⁸⁶. It was previously mentioned that if the loser voluntarily pays the amount to the winner, according to French law, they cannot reclaim any part of the payment.⁸⁷

The Second Requirement

The Scope of Subject Matter of the Betting Contract

The Prophet Muhammad, peace be upon him, said: "There is no race except in spears, shoes, or hooves."⁸⁸ Scholars have debated the interpretation of race mentioned in the noble hadith. Does it refer to wager or to competition? The prevailing opinion is that the intended meaning of race is wager⁸⁹, which means wagering. Wagering, in terms of racing, can be divided into two types: the first is wagering without a bet, which is permissible in all types of racing. The second is wagering with a bet, which is permissible in specific types, such as racing between horses, camels, and other hoofed animals, according to the majority of scholars. It is also permissible unanimously among scholars in activities like archery or combat. Wagering is also allowed in foot races according to the

⁸¹ Article (913) of the Jordanian Civil Code.

⁸² Article 909 of the Jordanian Civil Code

⁸³ Article 706/1 of Syrian Civil code, Article 976/1 of Iraqi Civil code.

⁸⁴ Abderrazak Sinhouiri, Al-Wasīṭ in the Commentary on Civil Law, op. cit., p. 1022

⁸⁵ Art (1966) of French Civil Code

⁸⁶ Abderrazak Sinhouiri, Al-Wasīṭ in the Commentary on Civil Law, op. cit., p. 1023

⁸⁷ Article (1967) of French Civil Code

⁸⁸ Dr. Saad Bin Nasser Bin Abdulaziz Al-Shatri, Competitions and Islamic Sharia Provisions, op. cit., p. 140- 208.

⁸⁹ al-Mughni wa-yalihi al-sharh al-kabir,, op. cit, p. 127

Hanafi school of thought⁹⁰. These specific types are exceptions to the prohibition due to their nature as instruments of warfare, requiring skill and proficiency⁹¹.

Article 910 of the Jordanian Civil Code is in line with Islamic jurisprudence. It allows wagering in races, archery, and any activity related to strength, health preservation, sports, and fitness. Sports linguistically means a source of satisfaction, replacing undesirable conditions with commendable ones. Some wise individuals describe it as turning away from sensual desires. In the medical context, sports are movements causing fatigue, prescribed for health preservation⁹². Anything exceeding sports, like card games such as poker, roulette, bridge, and others, falls into unlawful gambling.⁹³

Although Jordanian legislation closely aligns with the regulated principles of Islamic jurisprudence regarding wagering and gambling, it permits certain practices that are religiously prohibited, such as charitable lotteries and deferred sales.

The First Subsection

Charitable Lottery

The Jordanian Civil Code does not explicitly mention lottery games like the corresponding legislations⁹⁴. However, the Jordanian Penal Code and the Charitable Lottery System address the game of lottery⁹⁵. This game involves issuing sequentially numbered tickets for sale at specified prices. A specific date is set for drawing the winning tickets, which entitle the holders to predetermined cash prizes. The drawing is conducted purely by chance or random selection, where chance determines the winners⁹⁶. The lottery is similar to dice in that it relies on randomness, suppressing thought and reason.

This concept is emphasized in Article 397/3 of the Jordanian Penal Code, which defines the lottery as any method or scheme used for selling, donating, managing, or distributing money through lotteries or games of chance. This can involve throwing dice, drawing tickets, using numbers, symbols, figures, spinning wheels, trained animals, or any other method, regardless of its nature.

Therefore, the general rule is that all forms of lotteries are invalid, whether they involve monetary compensation or not, due to their reliance on chance. The consequences of invalidating lotteries are similar to those of invalidating gambling and wagering, resulting in civil penalties. Every participant has the right to reclaim their payments, and winners must return their winnings. Criminal penalties can also accompany civil penalties.⁹⁷

An exception to the aforementioned general rule was granted by Article (2) of the Charitable Lottery System, allowing the General Union of Charitable Societies to issue charitable lotteries. Article (13) of the same system prohibits any other entity apart from the General Union of Charitable Societies from issuing charitable lotteries in Jordan. The General Union of Charitable Societies is considered a local institution that provides material and moral assistance and is

⁹⁰Badaa' Al-Sanayaa', op. cit., p. 206

⁹¹al-Mughni wa-yalihi al-sharh al-kabir, op.cit, p. 128

⁹² Sport is a source of satisfaction, Mohit Al Mohit Dictionary, Almoalim Boutros Bustani, Papa El Ra'a 356, Science Textbook House, Beirut, Lebanon, 2009.

⁹³ Maurice Nakhle, AL KAMEL in Civil Law Commentary Comparative Study, op. cit., p. 225

⁹⁴ Articles (705) and (706) of the Syrian Civil Code, and articles (975) and (976) of the Iraqi Civil Code.

⁹⁵ Charitable Lottery Law No. 17 of 1972, issued pursuant to article 4, paragraph 3, of the Ministry of Social Affairs and Labor Law No. 14 of 1965 and amended by a modified system for charitable lottery No. 29 of 1977

⁹⁶ Al-Sanhouri, Al-Wasīf in the Commentary on Civil Law, op. cit., p. 1024

⁹⁷ Articles 397 and 398 of the Jordanian Penal Code.

engaged in social welfare, charitable activities, and acts of kindness, either directly or indirectly. The proceeds from this lottery are allocated for charitable purposes overseen by the General Union of Charitable Societies and affiliated charitable societies.⁹⁸

Through administrative authorization, the lottery becomes a legitimate project contrary to the general rule⁹⁹. Therefore, contributors to this endeavor are not entitled to reclaim their payments, and winners have the right to claim their winnings. In one of the decisions of the French Court of Cassation, it was stated: "Engaging in games of chance in resorts and mineral baths is an activity permitted by law and regulated by public authorities. Therefore, the request of the establishment for compensation for damage and loss, and the enforcement of a check without funds, cannot be rejected on the grounds that the establishment's claim is based on a gambling debt not recognized by the law"¹⁰⁰.

The Second Subsection

Futures Contracts

The concept of these contracts is based on the sale of priced securities or commodities, without the seller being obligated to deliver the sold item, and the buyer is not obligated to pay the price until a specific date known as the settlement day¹⁰¹. Many traders engage in selling securities or commodities they do not own at the time of sale. Often, neither the seller nor the buyer intends to make actual delivery, thus reducing the transaction of buying and selling to merely paying the price difference between the prices.

To illustrate this, suppose a seller sells a hundred shares at a future date for ten dinars each, assuming that the share price will drop to nine dinars on the settlement day. This implies a speculation on the price decrease. On the other hand, a buyer who purchases these shares at ten dinars each is speculating that the share price will rise to eleven dinars on the settlement day, a speculation on the price increase. When the settlement day arrives, the seller's hope of the share price decreasing to nine dinars may be realized, and in this case, the seller receives the difference from the buyer. The seller gains one dinar per share, making a total profit of a hundred dinars collected from the buyer. Conversely, the buyer's hope of the share price increasing to eleven dinars may be fulfilled, and in this case, the buyer receives the difference from the seller, which is also a hundred dinars for the hundred shares.¹⁰²

The forward sale intended to be reduced to merely paying the price difference between the prices is considered speculation akin to unauthorized gambling. The seller is gambling on the price decrease, and the buyer is gambling on the price increase. It resembles throwing dice, relying on chance and luck. Therefore, it becomes invalid, and the loser is not obliged to pay the price difference, and if paid, it can be reclaimed. Similarly, the forward sales were considered inapplicable to the rules of Articles (1965) and (1967) of the French Civil Code until the Law of 28 March 1885, which permitted forward sales for the purpose of stabilizing transactions in the stock exchange.¹⁰³

The situation in Jordanian law aligns with the conclusions drawn from French law. It permits deferred settlement contracts contrary to Islamic law¹⁰⁴. In principle, forward sales are not

⁹⁸ Article 3 (a) of the Charitable Lottery System.

⁹⁹ Article 1027 of the Lebanese Code of Duties and Contracts.

¹⁰⁰ Cass. civ. ch.mixte, March 14, 1980, Gaz. Pal., 1980, 1er sem. p. 290, with the conclusions of M. le 1er Avocat Général J. Robin; JCP 1980, IV, 205.

¹⁰¹ Article 2 of the Securities Act.

¹⁰² Al-Sanhouri, Al-Wasīf in the Commentary on the Civil Code, op. cit., Margin of p. 1032-1033

¹⁰³ Article 1 Loi of March 28, 1885 on the marchés à terme.

¹⁰⁴ International Islamic Fiqh Council Resolution No. 6, (1/7) Al-Majma Magazine (Sixth Issue, C2 P1273, Seventh Issue C1 P73 and Ninth Issue G2 P5).

permissible in Islam due to the postponement of both items of the contract. Additionally, they involve trading in money for no real benefit. The proper use of funds requires a dual benefit, serving individual and public interests by investing in projects that bring benefits to both individuals and society. Forward sales do not meet these criteria.¹⁰⁵

However, a valid forward sale is one conducted in accordance with the regulations of the Securities Market (Stock Exchange) licensed by the Jordan Securities Commission¹⁰⁶. It is regulated by the Securities Law and its instructions¹⁰⁷. If the contract is not concluded according to these regulations and rules and it is evident that it is merely a speculation between two individuals, one betting on the price increase and the other on the price decrease, and the winner receives the price difference, then it constitutes unauthorized and invalid gambling. The loser is not bound to pay the price difference, and if paid, it can be reclaimed¹⁰⁸.

Conclusion

– Results: The study has reached the following main conclusions:

1. The Jordanian civil legislator addressed the contracts of gambling and wagering in the first section of the fourth chapter of the second book concerning contracts, under the title "Contracts of Deception." Article 915 tackled the general rule that renders the contract of gambling and wagering void. Meanwhile, the contract of wagering was treated as an exception to the general rule. Article 909 defined the contract of wagering, specifying its scope and conditions for validity in articles 910-914. Clarificatory notes of the civil law affirmed that these provisions were formulated based on the principles of Islamic jurisprudence.

2. Contracts of gambling and wagering are categorized as contracts of hazard, probability, or deception. Ignorance is a requirement in such contracts. The contracted parties rely on a speculative matter upon which they agree. Therefore, the existence of gambling and wagering without ignorance is inconceivable. The principle is the prohibition of gambling, especially when it involves mere amusement. However, gambling and wagering have been permitted in certain games for charitable purposes or those related to health and strength. The allowance for these contracts requires that compensation be limited and reasonable.

3. The Jordanian Civil Law relies on the principles of Islamic jurisprudence in most cases. However, at times, it resorts to the Latin legal system to complement its provisions. This intersection results in inconsistencies and contradictions in some regulations concerning gambling and wagering.

4. There are no civil judgments from the Jordanian judiciary regarding contracts of gambling and wagering because cases related to these contracts are dealt with by the criminal courts.

These conclusions reflect the intertwining of Islamic jurisprudential principles and civil laws, as well as the challenges that may arise when attempting to apply Islamic principles within modern legal systems.

– Recommendations:

1. The allowance of gambling and wagering constitutes an exception to the prohibited act of gambling. Therefore, the Jordanian legislator is advised to abolish charitable lotteries and

¹⁰⁵ Dr. Ahmed Ibrahim Kairouz, *Facilitator and Gambling - His Reality and Contemporary Images (Comparative Jurisprudence Study)*, Ministry of Endowments and Islamic Affairs, Doha, Arruqa for Studies and Publishing, Amman, p. 1, 2016, p. 311

¹⁰⁶ Article 2 and Article 3 of the Securities Act No. 18 of 2017, and Article 2 of the Securities Registration, Deposit and Settlement Instructions of 2017 are issued in accordance with the provisions of Article 81/a of the Securities Act No. 18 of 2017.

¹⁰⁷ Securities Act No. 18 of 2017

¹⁰⁸ Al-Sanhouri, Al-Wasīl in the Commentary on the Civil Code, op. cit., p. 1036

forward contracts due to their harmful social and economic effects. The desired goals of these practices can be achieved through alternative means and methods.

2. The Jordanian legislator is recommended to unify the legal basis for regulations governing gambling and wagering. This unification will ensure the coherence and harmony of these provisions.
3. The legislation should keep pace with emerging forms of entertainment and recreation that have become fertile grounds for gambling and wagering.
4. The statute of limitations for reclaiming gambling debts should be extended to three years to align with the general rules of unjust enrichment. The current six-month limitation is insufficient. This adjustment would align the Jordanian law with the practices of Egyptian and Syrian legislations.
5. The Jordanian legislator is advised to stipulate that wagering contracts should be related to the outcome of a personally participated match as a condition for their validity. This is in line with comparative legislations such as the Egyptian Civil Code (Article 740), Syrian Civil Code (Article 706/1), and Iraqi Civil Code (Article 976/1).
6. The legislator is recommended to specify a reasonable limit for wager amounts, with the provision that excessive wagers can be reduced by the court. This approach is consistent with comparative legislations such as the Syrian Civil Code (Article 706/1) and Iraqi Civil Code (Article 976/1).
7. Given the broad and intricate scope of wagering contracts, the general and abstract provisions in the Jordanian Civil Law may not suffice to encompass all aspects. Therefore, the Jordanian legislator should consider issuing detailed regulations and instructions specific to each field where wagering contracts are valid.

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