

Punishment of Stealing from Public Money: A Contrastive Jurisprudential Study

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Abstract

In the Name of Allah, the Most Beneficent, the Most Merciful. All the praises and thanks be to Allah Who Provides mankind with all the necessities of a decent life, the most important of which is the preservation of money. The Islamic Sharia has been keen to promote a decent life and a secure life for every human being, by protecting the interests of Muslims through eliminating corruption and everything that would destroy society. The thieves who covertly terrorize and terrify people and plunder their money secretly, pose a great threat to society, its security, and its safety and therefore should receive a punishment for this crime in proportion to their act, and the purpose of the punishment is reform and restraint, and to preserve society's security and stability so that one lives safe and feels at ease about his money.

Allah Almighty says in the Holy Qur'an: "And as for the man who steals and the woman who steals, cut off their hands in retribution of their offence as an exemplary punishment from Allah. And Allah is Mighty, Wise. It is Allah's Wisdom and Mercy on His worshipers to impose the punishment for cutting off the thief's hand, and cutting is the appropriate rule to reward the thief without imperfection and inequity. That is why Islamic Sharia does not make his punishment caning, as it is not that deterrent punishment for the crime, and does not make it murder as it is severe ruling, so cutting the hands of thieves was the most appropriate punishment. This ruling was a necessity of His Wisdom, Mercy, and Justice for His worshipers.

The theft is forbidden for the thief as it is from Bayt al-mal "House of Muslims' Wealth" which is the treasury of the state, that is, the place where the public funds of the state are saved and the theft is also a treachery of every Muslim. The theft here is unlike stealing a specific person, from whom you can absolve.

In our time, such a kind of theft happened when money from Bayt al-mal "House of Muslims' Wealth" was looted after the US-led occupation of Baghdad, where a group of laymen robbed the state's institutions, and plundered them; nevertheless, we did not hear any of our esteemed scholars agreeing that this act is permitted.

*All Muslim scholars and philologists agree that whoever assault Muslims' Wealth - the state's properties and banks - by damaging and stealing should guarantee returning what was destroyed or stolen, and that whoever took something of the state's property should return a similar one like the stolen, with its value if it was valuable. The dispute among Muslim scholars and philologists was about cutting off the thief's hand, and they have two interpretations on this ruling and this is what we are trying to shed light on in the study entitled research: "**Punishment of Stealing from Public Money: A Contrastive Jurisprudential Study**". Praise be to Allah, Lord of the Worlds, and pray and peace be upon our master Muhammad and his family and companions.*

Keywords : Punishment , Public Money , Jurisprudential Study

Introduction

Praise be to Allah , Lord of the worlds, and may Allah Almighty bless our Prophet Muhammad and his family and companions. Either after .

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If the true Sharia prohibited theft from others and made the severance of the hand limited, in violation of the crime committed, then the prohibition against theft from the money house or public funds and state property is more severe and worsened, especially if the thief is rich has no right in the house of money; and the reason for cutting the thief's palm The sanctities of Muslims were violated for him first, and because he was not persuaded by the good that Allah Almighty had given him, then he tended to the property of others secondly, so Allah Almighty ordered that his hand be cut as a lesson to others, He is satisfied with what Allah Almighty has fulfilled on him, and this is the ruling of God, the Mighty, Wise, who mastered everything, And I talked about this jurisprudence issue in my research, which I called (Punishment for theft from state funds Comparative juristic study) and this is a useful brief study that includes two topics, the first of which is theft, and the house of money defining them, the rule of theft, and the wisdom of the legislation that limited it, and the second in attacking the state's money and its spoils of theft, And it includes the four doctrines of jurists in addition to the doctrine of the foreground, Zaidi and Ibadi in the ruling of the thief from the house of the Muslims' money and a comparative study of the issue and weighting among the sayings of the jurists, I ask Allah Almighty to accept it, to write to it the acceptance and benefit it to students of science and all Muslims, and praise be to God, Lord of the worlds, and prayers of Allah Almighty and peace We show A Muhammad and his family and companions Ahimein.

The first topic: Theft is its definition, its ruling, and methods of establishing it.

One of the purposes of Islamic law is to preserve the money that Allah has made trust in man's hands to seek to obey his Lord and to build the land on which his righteous successor succeeded him in order to establish his law, so Allah urged legal trade, and he forbade the forbidden gains, such as rape, injustice and usury, and among these forbidden gains: Theft, it is malicious money taken with a horrible crime.

1. The word (Theft (Al-Seraqea) Linguistically : in Arabic when the word taken in different positions of tenses, it could give different meaning.

Its mean that taken thing or hearing without permission Allah says: { But any that gains a hearing By stealth, is pursued By a flaming fire, bright (to see) }(1)

It is said:

He steals the sight of him, if he neglects his negligence to look at him, but taking as a matter of profession is deference, looting, stealth or rape, not in Thieving(2)

2. The word (Theft) in the Terminology of Fuqaha (Jurists): they differed as to the meaning of its exact meaning according to the restrictions contained therein according to several definitions, namely:

Firstly: According to al-Hanafi, its defined:

The sane adult took a quorum, or what it assessed as a quorum, in the possession of others, without any suspicion of it being in the face of invisibility or as a matter of disregard. (3)

Secondly: According to al-Malikiyah, its defined:

He took a free charge, which was unreasonable for his young age, or respectable money for others, a quorum that he removed from his Container with a single hidden intention that has no suspicion in it. (4)

Thirdly: According to al-Safi'i, its defined:

Take the money or the hidden thing from a counter without no suspicion. (5)

Fourthly: According to al-Hanbalih, its defined:

(1)Surah Al-Hajar, verse 18.

(2)Looking: Lisan Al-Arab 10/155 - 156,- Mukhtar Al-Sahah 1/125, Al-Ain 5/76, al-Maghreb in the agreement of al-Mohareb (Explained) 1/393 - 394, The Intermediate Dictionary 1/427 - 428, The Dictionary of Language Standards 3/154.

(3)Looking: Al-Ikhtiar (The Choice): 4/109, Bada'i Al-Sanai'a 7/65, and Mujamae Anhur 1/63.

(4)Looking: Hashiyat al-Kursi: 8/91. Hudud Ibn Arafah 2/649.

(5)Looking: Mughni al-Muhtaj 5/465, Hashita Qalyoubi and Amira: 4/187.

It is to take the money, in hidden face or to hide it(1) from his owner or his deputy. (2) or it is: Take a decent money to others and get him out of such things, and there is no suspicion for him in the intention of disappearance(3).

Fifthly: According to al-Zaidiyyah, its defined:

Taking the money with no permission(4)

Sixthly: According to al-Zahiriyyah, its defined:

Taking something secretly with no seen, and the thief is the one hidden by things which aren't his(5).

After presenting the definitions of (Theft) from the difference Jurists, they agreed that the intention was definitely and exactly to (Steal) (Taking the others money by the intention of Underrated)

However, al-Malik's considered stealing action by the children is considers as (Theft), as long as the child doesn't understand the power of the self-sin. (6)

The definition of (Theft), in Shariah also is in agreement to its language definition, in each of them, it call the taking of the money of others, but rather its concept of sharia has been further restricted by the establishment of a legitimate rule. (7)

3. Theft Judgment

The theft is prohibited in Islamic law and the penalty of theft is the cutting of the hand of thief, the cutting of the hand of thief, his maintenance and the preservation of money(8) ." the origin and proof of the prohibition of theft: are the sources of the agreed legislation, which is the book (holy Quran), Sunnah and consensus.

First, the evidence from the book (holy Quran): The Almighty saying: { As to the thief male or female cut off his or her hands: a punishment by way of example from God for their crime: and God is Exalted in Power. }(9)

The significance: This verse indicated the prohibition of theft. It indicated that the punishment for a thief is to cut off his hand and describe the punishment as negligence for the atrocity of guilt.

Second, the evidence from the Sunnah of the Prophet:

Abu'huraira "Allah be pleased with him" narrated: The Prophet "Allah's blessing and peace be upon him" said:

"Allah curses a thief who steals an egg and gets his hand cut off, or steals a rope and gets his hands cut off." (10) Narrated 'Aisha: may Allah be pleased .The Quraish people became very worried about the Makhzumiya lady who had committed theft. They said, "Nobody can speak (in favour of the lady) to Allah's Apostle and nobody dares do that except Usama who is the favourite of Allah's Apostle. " When Usama spoke to Allah's Apostle about that matter,

(1)Looking: Al-Mughni: 9/93. al-Ansaf: 10/253.

(2)Looking: Hashiyat al Rowad al-Morab': 7/353.

(3)Looking: Kashaf al-Qana: 6/129, Al-Muharrar fi al-Fiqh Imam Ahmad ibn Hanbal: Majd al-Din Abi al-Barakat v. 652. Al-Maaref Library, I / 2, 1984: 2/156.

(4)Looking: al-Sayl al-Jarrar: 4/359.

(5)Looking: al-Muhla: 11/327.

(6)Looking: Shrh Hdoud Ebn A'rfah 2/650.

(7)Looking: Jurisprudence Theories, by Islamic law expert Dr. Muhammad Zuhayli, Dar al-Qalam - Damascus: 35.

(8)Looking: Al-Fawakih Addawany 2/291.

(9)Surat Al-Māida: 38

(10)Sahih al-Bukhari (6401) 6/2489 Kitab al-Hudud, Sahih Muslim (1686) 3/1314 Kitab al-Hudud, Chapter: Theft and The Minimum Limit, Sunan al-Kubra lil Behaqi (16931) 8/253 Kitab al-Hudud, Chapter: Desire to Provoke and Insult.

Allah's Apostle said, "Do you intercede (with me) to violate one of the legal punishment of Allah?" Then he got up and addressed the people, saying, "O people! The nations before you went astray because if a noble person committed theft, they used to leave him, but if a weak person among them committed theft, they used to inflict the legal punishment on him. By Allah, if Fatima, the daughter of Muhammad committed theft, Muhammad will cut off her hand!" (1)

Abu'huraira "Allah be pleased with him" narrated: The Prophet "Allah's blessing and peace be upon him" said:

"When an adulterer commits illegal sexual intercourse, then he is not a believer at the time, he is doing it, and when a drinker of an alcoholic liquor drinks it, then he is not a believer at the time of drinking it, and when a thief steals, then he is not a believer at the time of stealing, and when a robber robs, and the people look at him, then he is not a believer at the time of doing robbery." (2)

The Prophet's Sunna is a clear indication of the sanctity of theft, for curiosity is only about the Commission of a forbidden order.

Third: The evidence of consensus is that the consensus of the jurists from the predecessor and the successor was held on the prohibition of theft, and to cut off the hand of its perpetrator, when the conditions for the reduction are met. (3)

4. Methods of proof of (Theft):

The theft is punishable only if it is proved to be stolen by one of the methods of proving theft:

First: Evidence:

It is one of the ways to prove the crime of theft and is the testimony of two witnesses. The Fuqua' were unanimous in proving the theft, according to the testimony of two free and fair Muslim witnesses, describing what should be in it⁽⁴⁾

Evidence of the Almighty saying:

{ And get two witnesses out of your own men }⁽⁵⁾

Second: Acknowledgment:

The other way to prove the theft is to acknowledge, there is no dispute between the jurists in proving the severing of the theft by acknowledgment, except that they differed in the number of times the declaration of two schools.

(1) Sahih al-Bukhari (6406) 6/2491 Kitab al-Hudud, Chapter: Hatred of intercession in the boundary if raised to The Sultan, Sahih Muslim (1688) 3/1315 Kitab al-Hudud, Chapter: Cutting the Robber, the Honorable, and Other And the prohibition of intercession in the boundaries, Sunan al-Tirmidhi (1430) 4/37 Kitab al-Hudud, Chapter: What came in Hatred to be interceded at the frontiers, Sunan Al-Nisae (4896) 8/72 The Book of Cutting theft.

(2) Sahih Al-Bukhari (5256) 5/2120 al-Aleshrahah book, Sunan Abi Dawood (4689) 4/221 Books Al-Dyat, Chapter: Evidence of Increasing and Decreasing Faith, Sunan al-Nisai (5659) 8/313 Book of the Beverages, Chapter: The prohibition of alcohol, Sunan Ibn Majah (3936) 2/1298 Book of temptation, Chapter: The prohibition of the pillage, Musnad Ahmad ibn Hanbal (6854) 2/197.

(3) Looking: Al'ijma'a Labn Almdhr, 1/110 - 111.

(4) Looking: Al'ijma'a Labn Almdhr 1/110.

(5) Surat Al-Baqarah verse 282.

The first school: It must be recognized twice, and to him Abu Youssef went from the Hanafi⁽¹⁾, and the Hanbali⁽²⁾, it was narrated on the authority of Ali, and Ibn Abi Laila⁽³⁾

The second school: It is sufficient for recognition once and does not need to be repeated twice. This was narrated from Ata, and the al-Thawri⁽⁴⁾ ⁽²⁴⁾, and to him, the Hanafi⁽⁵⁾ ⁽²⁵⁾ agreed, except Aba Youssef⁽⁶⁾ ⁽²⁶⁾, Al-Malikiyah⁽⁷⁾ ⁽²⁷⁾, and Al-Shafi'i⁽⁸⁾

Third: Refrain from performing Oath (Yameen/Qasam)⁽⁹⁾ ⁽¹⁰⁾ and this Shafi'i view, because it is the approval of a ruling⁽¹¹⁾.

5-Conditions to be used to establish theft threshold

The extent of theft is not held against the thief until conditions are met, some of these conditions are due to the thief, some are due to the stolen, and some are due to the stolen from it.

First: Conditions that refer to the thief:

That the thief is costly⁽¹²⁾ - a sane adult - when he was narrated from the Prophet ' **Allah prays on him'** he said: "The pen was removed from three: from the sleeper until he wakes up, and from the boy until he dreams, and from the crazy man until he is rational"⁽¹³⁾In answering the pieces, the pen is inscribed to the boy and the insane, and they are not charged, and this is contrary to the text⁽¹⁴⁾.

That it is not compulsion⁽¹⁵⁾, because the Prophet ' **Allah prays on him'** said: "God has surpassed my nation by mistake, forgetting, and what they have denounced".⁽¹⁶⁾

(1)Looking: Albeher Alraeq 5/56, al-Hidayah fi Sharh Bidayat 2/119, al-Mabsout al-Sarkhasi 9/182.

(2)Looking: Al-Muḥarar fi al-Fiqh 2/159, al-Mughni 12/464, al-Rawd al-Muraba'a 3/328, al-Furoo '6/121, Manar al-Sabeel 2/345.

(3)Looking: Al-Mughni 12/464

(4)Looking: al-Mughni 12/464.

(5)Looking: Albeher Alraeq 5/56, al-Hidayah fi Sharh Bidayat 2/119, Bada'i' al-Sana'i' 7/81, al-Mabsout al-Sarkhasi 9/182, Tabiiyn al Haqayiq 3/213.

(6)Looking: Albeher Alraeq 5/56, al-Hidayah fi Sharh Bidayat 2/119, al-Mabsout al-Sarkhasi 9/182

(7)Looking: Al-Kafi by Ibn Abd al-Barr 1/581, Al Tamar Al Dani" Sharh Risalt Aibn Abi Zaid Al Qirawani 1/601, Al-Fawakih Addawany 2/215, Hashiyat al-Dasuqi 4/346.

(8)Looking: Al'umu 7/150, Eynat ltabayn 4/163, Al Iqna Al-Mawardi 1/172, Al Iqna Sherbiny 2/541, Al-Waseet 6/480, Hashiyat Al-Bajrami 4/226.

(9)Looking: Rawda Ltabayn 7/354

(10)Looking: Refrain from performing Oath (Yameen / Qasam): That is, he claims a theft that requires cutting, so he denied and swore, then nothing is on him, and if we eat, the right is returned to the plaintiff, so if he swears, the money must be cut and cut, because the dismissed right is like recognition and evidence: see: Rawda Ltabayn 7/354

(11)Looking: Nihayat al-Muhtaj7/463

(12)Looking: Bada'i Al-Sanayeh 7/67, almiewnt 3/1414; Al-Hawi 13/296; Al-Mughni 10/262.

(13)Looking: Sunan Abi Dawood, Kitab al-Hudood, a chapter in Majnoun that steals or afflicts a border 12/51.

(14)Looking: Bada'i Al-Sanayeh 7/96.

(15)Looking look: -Mughni Al-Muhtaj 5/489; kashaf alqunae 6/129

(16)Looking: Sunan Ibn Majah, The book of divorce, the divorce of the person and the forgotten, 2/517.

To be aware of the prohibition⁽¹⁾ because lack of knowledge of that is suspicion, and the border is read as suspicion according to the ability⁽²⁾.

Second: Conditions that are attributed to the stolen items:

The stolen amount to the amount of the nisaab⁽³⁾; when it was narrated from the Prophet ' **Allah prays on him**' that he said: "The hand shall be cut in a quarter of a dinar onward"⁽⁴⁾, and the jurists differed in the amount of the nisab.,So the majority of the Malikis, Shafi'is and Hanbalis went as cutting in a quarter of pure dinars or its value or three dirhams of silver⁽⁵⁾ And Abu Hanifa concluded that he does not cut in less than ten dirhams⁽⁶⁾.

The stolen money must belong to another person⁽⁷⁾.

Unbelievable⁽⁸⁾; Because the Prophet ' **Allah prays on him**': "Adraua border Muslims what you can, it was his way out then leave him, the Imam to err in pardon is better than to err in punishment"⁽⁹⁾ as if stealing owed the debt of the debtor; as it does not interrupt the father of stealing money and his son is not He was born from the wealth of his father - Vertical proportions - and no slave from the money of his master, nor if one of the other spouses stole, and the thief was not cut off if he stole food to fill his hunger⁽¹⁰⁾.

To be financed money⁽¹¹⁾, and all that is permissible to be sold and funded by people, and compensation is taken for it to be cut off in his theft, and if he stole wine or a dog, or dead untreated dead skin, whether for a Muslim or a dhimmi, he does not cut it among the majority of jurists, and thus he said the Hanafi, Maliki, Shafi'i and Hanbali⁽¹²⁾ It was narrated from Atta that the wine of the dhimmi was cut off and that the thief was a Muslim, because They have no money⁽¹³⁾.

That the money taken from a score is similar to it⁽¹⁴⁾ ; that the Prophet ' **Allah prays on him**': "He was asked about the suspended fruit, and he said:" He who has in it a person who has no need of taking nothing, nothing on him, and whoever comes out of something from it, then he has a fine of punishment After he 'yuwyh aljaryn', he reached the price of a almajan, and he must cut"⁽¹⁵⁾.

(1)looking:. nihayat almuhtaj' End of the needy' 7/462 kashaf alqunae 'Scout Mask' 6/130.

(2)Looking ;kashaf alqunae 'Scout Mask' 6/130.

(3)look:. Al-Mabsut 9/136; Bada'i Al-Sanayeh 7/76; The beginning of Mujahid End of Al-Muqtassid 2/447; Ammunition 'aldhkhirt' 12/143.

(4)Looking: Sahih Al-Bukhari, Book of Borders, Chapter on the words of God Almighty: "And the thief and the thief, so cut off their hands." 12/115.

(5)Looking: Beginning of Al-Mujtahid and End of Al-Muqtasid 2/447; Al-Hawi 13/269; Mughni Al-Muhtaj 5/546.

(6)Looking: Looking: Bada'i al-Sanayeh 7/76, 77; Al-Mabsut 9/136, 137/469;

(7)Looking: Al-Mabsut 9/180; Ammunition'aldhikhirt' 12/151; Mughni Al-Muhtaj 5/469; Scout for Mask 6/143

(8)Looking: Bada'i Al-Sanayeh 7/67; The beginning of Al-Mujtahid and the end of Al-Muqtasid 2/451; Mughni Al-Muhtaj 5/471; Al-Mughni 10/262

(9)Al-Tirmidhi Mosque with the masterpiece'tuhfat' of Al-AhudiThe Border Gates, the chapter on Preventing Boundaries 4 / 572-

(10)Looking Bada'i Al-Sanayeh 7/67; Al-Fawwani'fruits' Al-Dawani 2/351; Rawdat Al-Talebeen 7/335-336; Mask Finder 'kashaf alqanae' 6 / 141-142

(11)Looking: Bada'i Al-Sanayeh 7/67; Rawdat Al-Talebeen 7/332; Al-Maskah Al-Qana' kashaf alqunae '6/129

(12)-Looking: Al-Mabsut 5/368; Ammunition' aldhikhirt' 12/152; Rawdat Al-Talebine 7/332; Al-Mughni 10/282.

(13)Looking Al-Mughni 10/282.

(14)Looking; Rawdat Al-Talebeen 7/336 , Al-Maskah Al-Qana' kashaf alqunae '6/134.

(15)Sunan Abi Dawood, book of the snapshot 5 / 90-91

Third: Conditions that are attributed to the stolen items:

That the owner's hand for money is correct⁽¹⁾.

To request and raise the stolen property from him, requesting the governor from the owner, because the owner of the money may have authorized the thief to take it⁽²⁾.

6-The wisdom of legislation alone:

One of the secrets of a person's happiness in this world is that he lives safe and reassuring his money, so the maintenance of money is one of the necessities of a safe life, so it is from the wisdom and mercy of God in his servants, that he put the appropriate punishment for every thief, spoils the society and lives and prejudices his security, so he imposes a penalty Cut off the thief's hand, and cut off is the appropriate rule to reward the thief without a punch or a mist⁽³⁾, so the street does not make his punishment a flogging, so it is a deterrent punishment for his crime, and he does not make it a killing, so it is a harsh ruling, so the severance was due to his wisdom, and this limit required his wisdom and mercy, And his justice to his servants⁽⁴⁾, it is narrated from **Al-Asma'i** who said: "I have read (and the thief And the thieves severed their hands with what they won, a remission of God and God is Forgiving, Merciful)⁽⁵⁾ .

As a foreigner of an Arab, he said what was said of this, and I said the word of allah, he said prepared and then repeated, and he said: This is not the word of allah, so I paid attention and read, "And allah is dear and wise." Then he said, I hit this word of God. And if he had forgiven and had mercy, he would not be cut off⁽⁶⁾.

7-Definition of the money house in the language and convention, its characteristics in Islam, and examples thereof

Money in language: Everything that a person owns is called.

In the terminology: The scholars differed regarding the definition of money, according to the following terms:

The Hanafi jurists defined money: that of course what is inclined, and it can be saved for the time of need, and the money is proven by the funding of all people or some of them⁽⁷⁾

Maliki defined the money, as it is what the king rests on, and the owner touts from others, if he takes it from his face⁽⁸⁾.

Ibn al-Arabi, the author of the Book of the Rulings of the Qur'an, said: It is what greediness extends to, and it is usually valid and legal to use it⁽⁹⁾ .

Al-Shafi'i defined it as: what was beneficial to it; that is, it was prepared to be used⁽¹⁰⁾ .

(1)Looking -Badaa'i Al-Sanayeh 7/80; Ammunition' aldhikhyrt' 12/153; Rawdat Al-Talebeen 7/333-334; Al-Maskah Qana' kashaf alqunae '6/134.

(2)Looking:. Al-Mabsut 9/144; Mask Scout 6/132.

(3) - That is, neither increase nor decrease- Looking : As-Sahih 3/989, student students 1/45.

(4) - Looking : Badaa'at Al-Ikaid 2/211, Al-Ahkam Explanation of the fundamentals of Al-Ahkam 4/352.

(5)- Surat al-Ma'idah 38

(6) - Looking: Key of ideas to prepare for House Resolution 1 / 160-161.

(7)Looking: The response of the confused; Ibn Abdeen, 3/4.

(8)Looking Agreements 'almuafaqat'; Shatby, 2/33.

(9)Looking: Rulings of the Qur'an, 'ahkam alqurani' 3/153.

(10)Looking:: Al-Manthur in Al-Qaeda, 3/2222, Islamic Affairs in Kuwait.

Al-Suyuti mentioned al-Shafi'i, who said: The name of money falls only on what has value that is sold with it, and it is necessary to destroy it, even if it is reduced, and what people do not offer, such as: fils, and the lik ⁽¹⁾.

The Hanbalis knew it: money is legally permissible for its benefit at all; that is: in all cases, or it is permissible to acquire it without a need⁽²⁾.

8-Characteristics of public money in Islam:

Public money in Islam is characterized by features derived from the words of jurists that distinguish it from private money, the most important of which are the following:

The true owner of the property of what is in the domain of public money is Allah - glory be to Him - based on his saying, glory be to Him { He who created for you all of the earth and then He leveled to Heaven So they settled in seven heavens, and He is all knowledgeable)⁽³⁾. And what is the land for the people of the earth?

The right to use and exploit public money is the group, because they are composed of individuals and each one has an eternal monument as well as a human entity, and the Almighty created all that is on earth for all people so that their lives may be established as individuals and as groups.

It is the public money that was made for the sake of man. He is the one who works and does this for the command of God. He is the one who mocked this money for all people without distinction between individuals, nor between groups, such as seas and rivers, minerals and water.

People get benefits from public money, often without hardship or sacrifice, because it is a mockery of God Almighty.

All people have the right to benefit from public money according to the rules established by the guardian, and deduced from the provisions and principles of Islamic law⁽⁴⁾.

9-Types and models of public money in Muslim countries:

We can show types and models of public money and its forms, so it is public money ,Mosques, churches, all places of worship, education and treatment, orphanages, the elderly and all buildings dedicated to various social services. Transport was carried out from streets, bridges, ports, and all public utilities.

Community infrastructure and service projects, such as: water and electricity, telecommunications, and sanitation.

All lands designated for state benefits of all kinds, such as: stadiums and sports arenas.

All minerals extracted from public lands Seas and rivers, water filters, canals and canals.

10-Pictures of theft from public money

There have been many images that represent theft from public funds, and few people pay attention to these pictures, including:

Embezzlement of cash from banks.

- Theft of electricity from the state by stopping the counter hour for electricity or water. Because some people believe that he has a right to that, especially if the state is an infidel and Allah - the Exalted, the Majestic - says: (God commands you to give the trusts to its people)⁽⁵⁾.

(1)Looking Looking: likes and isotopes; al'ashbah walnazayir; for Al-Suyuti 1/327, i Dar Al-Kitab Al-Alami

(2)Looking: Explanation of the utmost wills, sharah muntahaa al'iiradat; for Bahwati, 2/142, Dar Al-Fikr.

(3)albaqra 29.

(4)Looking: The sanctity of public money in the light of Islamic law, p. 24. . Behavingly.

(5)Women 'alnisa' 58 .

Theft, fraud, dishonesty, bribery, and bribery. The Prophet - may Allah bless him and grant him peace - said: "Bring faithfulness to those who trust you, and do not betray those who betray you"⁽¹⁾

- Profiting from employment and using public funds for political purposes.
- Obtaining commissions from buyers, suppliers, or the like, in exchange for facilitating a number of matters without the owner's knowledge, and it is considered a bribe prohibited as well.

Assaulting all public property - hospitals, parks, and parks - that do not have a designated owner.

- Credit on donation funds is specific to the state, and taking it from them, and this is a betrayal of the trust because it is considered a public fund.
- To dispose of the funds suspended for mosques, and to use it for personal purposes.
- Manipulation and theft of medicines, for example: that a doctor prescribes a type of medicine that the patient does not need, and give it to the pharmacy dealing with the stolen goods.
- Escape and conceal from the collection of public transport and trains authority.

The second topic: Assault on state funds and booty with theft

There is no disagreement between scholars and jurists that whoever assaulted the Muslims' money house - the state's properties and banks - by damaging and stealing was a guarantor of what was destroyed or stolen, and that whoever took something of the state's property would have to return the same if it was gay, and its value if it was valuable, but rather the dispute between them He has cut off the thief's hand from the money house, and they have two doctrines.

The first doctrine: Non-establishment of the limit on who stole from the home of money, whether the thief, rich or poor, which is the view of the Hanafi ⁽²⁾ and Shafi'I ⁽³⁾ and Hanbali ⁽⁴⁾, and the Imamiyyah ⁽⁵⁾, and Zaydiyyah ⁽⁶⁾⁽⁷⁾ among them Hadawiyah ⁽⁸⁾, and saying: " The caliphs Umar, Ali, Al-Sha'abi, Ibrahim Al-Nakha'i, and Al-Hakam Bin Otaiba " ⁽⁹⁾.

Hanafi and Hanbali evidence, and those who agreed : The owners of this opinion were inferred from evidence from the Sunnis, and it is reasonable, as follows:

(1) It was included by Abu Dawood in Al-Sunan, 2/108, Al-Tirmidhi in Al-Sunan, 1/238, Al-Darimi in his Sunnah, 2/2644, Al-Daraqutni in his Sunnah, (303), and the ruler 'lhakim' in "Al-Mustadrak" (2/46). Al-Tirmidhi said: "Hadith Hasan Ghareeb," and classed as saheeh by al-Albani in al-Silsilah al-Saheehah, hadith number 423.

(2) - Looking: plucking in Fatwas 2/649, Badaa'i 'Al-Sanaa'i 7/70, Al-Banna Sharh Al-Hidaya 7/29.

(3) - Looking: Mother Al-Shafi'i 4/313, Al-Hawi Al-Kabeer 13/350, Bahr al-Madhab 13/77.

(4) - looking : Al-Kafi in the jurisprudence of Imam Ahmad 4/74, the singer by Ibn Qudama 9/135, who is interesting in explaining Al-Muqana 7/446.

(5) - Al-Sadiq was asked: "A man who steals from the spoil anything that he must? , Which is a quarter of a dinar cut. " Boundary reports and reinforcements for Mr. Pelegani 1/335.

(6) - Looking: the doctrine crown to the provisions of doctrine 7/35, the sea, the combined flowering of the doctrines of scholars scholars 14/243.

(7) - Ahmad ibn Yahya al-Murtada said: "It is not forbidden for someone who stole from the home of money, because it is like a subscriber. Doctrine Crown 7/35.

(8) - Looking: The Paths of Peace 2/439.

(9) - Supervision of the doctrines of scholars 7/196, the building, Sharh Al-Hidaya 7/29, the singer of Ibn Qudama 9/135, Al-Mahli 12/311, Mirqat Al-Mufyat 6/2360, Sabeel Al-Salam 2/439.

1 - What Ibn Abi Shaybah narrated in his classified (musanafuh) on Al-Qasim: 9 that a man was stolen from the house of money, So Sa'ad wrote to Omar " May Allah be pleased with him" So Omar to Sa'd wrote " May Allah be pleased with him": he has no partition, and he has a share in it .: (1)(2)

2- On the authority of al-Sha`bi: 9 A man was stolen from the house of money, and he was raised to me, so he did not cut it, then he said: He has a share in him .: (3).

3-On the authority of Obaid Al-Abras, on the authority of Ali " May Allah be pleased with him" connected : 9He brought a man who stole a forgiveness from the fifth, and he said: He has no piece of it and he is a traitor .: (4)(5)

4-It is reasonable that they said: Every Muslim has a right to the house of money, so the poor have luck, and a share in the house of money, and perhaps shame prevented him from telling people that he is poor, or something else that he used to extend his hand to take from himself this money, and the rich man who takes care of Muslim affairs, Like the imamate, the call to prayer, and the teaching has the right ,But if he is rich, and he does not do any of the interests of Muslims, what is his right? Answer: It may one day be of rights, then he has suspicion, then this right is a suspicion that reads from him as if he stole money from him in which there is a company, so if a Muslim steals from a house Money is a sum that reaches the nisab, this is only a ruling for ta'zir, because this house of money is the house of the Muslims 'money, and the thief is a Muslim (6).

He replied: This is not an excuse for abrogating the limit of God Almighty, as this is from what no text in the book, nor from

It is true of the Sunnah, and there is no consensus among the ummah, and if he has a stake in the household of money, then this does not mean that he takes the share of others (7).

Discuss the evidence

Ibn Hazm answered them: He did not protest those who did not see the pieces in two arguments: one of them: that he has a common share in it, and the second: that it is the saying of two companions who do not know the opposite of them .. As for the protest that it is the saying of a group of the companions there is no argument in our saying one Without the Messenger of Allah " May God bless him and his family and companions" And as for their protest that he has an inheritance in it, this is not an argument in dropping the limit of God Almighty, as this issue is not what the Qur'an says, nor what is true of the Messenger of Allah " May God bless him and his family and companions" nor from what the entire community agreed upon: there is no argument for them other than this mayors The three ... and his being in the household of money, and in the spoil a share that does not allow him to take the share of others, because it is forbidden to him by consensus there is no dispute (8).

(1) - It was included by Ibn Abi Shaybah in his work: (No. 28563, the Man's Gate is Stolen from House, 5/518).

(2) - This effect is strange (weak). Looking: Full moon enlightening 8/676.

(3) - It was included by Ibn Al-Jaad in its Musnad: (No. 657, Bab Shuba, on the authority of Mughira Bin Maqsim, 1/111).

(4) - It was included by al-Bayhaqi in the Lesser Sunnah: (No. 2648, Chapter No Cutting, 3/321), Knowledge of the Sunnah and Antiquities 12/434, classified by Abdul Razzaq 10/212.

(5) - Al-Bayhaqi said: It was narrated connected to the mention of Ibn Abbas in it, and in its chain of narration it was weak, and Ibn Hajar said: I did not find it from him. See: Al-Badr Al-Munir 8/676, Al-Summaris Al-Habir - Cordoba 4/129.

(6) - Looking: plucking in Fatwas 2/649, Building Sharh Al-Hidaya 7/29, Al-Hawi Al-Kabeer 13/350, Al-Mughni Ibn Ibn Qudama 9/135, Sabeel Al-Salam 2/439.

(7) - looking: politeness in the abbreviation of Blog 4/454, the statement in the doctrine of Imam Shafi'i 12/470, brief explanation Khalil Al-Khurshi 8/92 470.

(8) - Looking: Al-Mahalla 12/311 -313.

The second doctrine: The thief cuts off from the house of money, which is the opinion of the Malikis⁽¹⁾, and the most likely view among the Shafi'is⁽²⁾⁽³⁾ and the opinion of al-Dhahiriyyah⁽⁴⁾, Ibadis differed⁽⁵⁾, In the thief from Bayt Al-Mal, with this view he said: "Abu Thor, Abu Sulaiman, Hammad, and Ibn Al-Mundhir."⁽⁶⁾

Evidence of the second opinion and its discussion:

The owners of this opinion were inferred by evidence from the book, and the reasonable.

1-From the book(The Holy Quran) : Allah Almighty saying: (The thief and the thief have cut their hands off as part of what they have earned from Allah)⁽⁷⁾.

The significance: the general meaning of the verse of theft, as the thief from the house of money goes under the general verse, because the suspicion here is weak⁽⁸⁾.

2-It is plausible: because he stole money from a score, which has no suspicion of a particular one, and he has no right to it before his need, so whoever takes over his share cuts off if it is a quorum⁽⁹⁾, And because the house of money is a goal for the Muslim community and the thief does not deserve anything from it except after the imam gives it, so you know the right of every Muslim in it to be a gift from the imam, and because his ownership belongs to all Muslims and the imam is a representative of them in preserving it and the rivalry in stealing it is like stealing from the money shared by a group of people.⁽¹⁰⁾

and as for the Shaafa'is, they differentiate between the money being attained by a group of it, or one of its assets, Or its branches, there is no cut off here because of the suspicion, and between the money being made for a group of which there is no cut it⁽¹¹⁾

Weighting: After studying the issue and examining the most favorable sayings of the fuqaha 'in this matter - and God knows best - detail, if the thief is poor, and stole from the money of alms, or money intended for the interests of the poor, and their riches such as building mosques, schools and bridges, then he is not cut off, so his right to alms is almost You read the limit, And if the thief is rich and wealthy, then he has no right to this money, so he must cut, and it appeared to us from the evidence of the two teams also that the traces in which those who said not to cut were all weak, so the inference fell on them. **Ibn Hazm** said: "As for we do not have an argument in our The words of someone without the Messenger of Allah" May Allah bless him and his family and companions" and as for their protest that he has a share in it, this is not an excuse to drop the limit of God Almighty, as this issue is not what the Qur'an

(1) - looking: Blog 4/549, Refinement in the abbreviation of Blog 4/454, brief explanation Khalil Al-Khurshi 8/92, footnote to Desouqi 4/337.

(2) – looking : The statement in the doctrine of Imam Shafi'i 12/470.

(3) - Al-Masoudi said: "If a Muslim steals from the house of money ... does he have to cut off? The statement in Shafi'i jurisprudence 12/470.

(4) – Looking : Sweetener 12/311.

(5) – Looking : Explanation of the Nile and the recovery of the sick person 30/54.

(6) - - Looking : Supervision of the schools of thought of 7/197, Al-Banna Sharh Al-Hidaya 7/29, Al-Mughni Ibn Ibn Qudamah 9/135, Al-Mahalal Al-Athar 12/311, Mirqat Al-Mufayat 6/2360, Sabeel Al-Salam 2/439.

(7) surat almayida 38 .

(8) Looking : Anecdotes and increases over what is in the blog 14/393 ,footnote to El Desouki on the great explanation 4/337, comprehensive in the jurisprudence of Imam Malik 2/934.

(9) - Looking: Brief explanation Khalil Al-Khurshi 8/92, comprehensive in the jurisprudence of Imam Malik 2/934.

(10) -looking : A footnote to El-Desouky (4/337), Tafseer Al-Qurtubi (6/169), Al-Mahli (11/328), Damascene Shine (9/227), provisions of theft in Sharia and Law (211)

(11) -looking : The statement in the doctrine of Imam Shafi'i 12/470.

says, nor what is true of the Messenger of Allah, " May Allah bless him and his family and companions" Neither is the consensus of the ummah " (1).

The principle in this matter is cutting, until there is a clear suspicion, which is: either its poverty or it is in the interest of the Muslims, such as teaching and the Imamate, and the like, this does not allow him to steal from the money house, the theft is forbidden to him, and the reason is that it is the home of Muslims 'money and stealing it is a betrayal of all A Muslim, because every Muslim has a right to it, unlike stealing a specific person, because this can disintegrate him and absolve you, and it has happened in our time that is like stealing from

Bayt Al-Mal, which happened after the occupation of the beloved Baghdad by the invading American forces, where a group of weak souls robbed the state's institutions, and they plundered an incident called "decisive or farhoud." On the contrary, these thieves became a pariah group in society.

Conclusion

- 1-The money is one of the five essentials that Islamic law is keen to preserve.
- 2-Allah Almighty has established the deterrent penalties for those who exceed the legal limit on how to collect and own money
- 3-The effect is the result of the action, and it is called jurists (rulings).
- 4- The limit in Sharia means a punishment that is obligatory and legally obligatory for Allah Almighty.
- 5-The fuqaha 'agreed that the theft was intended to take money on the basis of Hidden.
- 6-Prohibition of theft based on the consequent penalty.
- 7-The basic prohibition on theft: the book, Sunnah and consensus.
- 8-The theft is proven by one of two things: evidence or acknowledgment, and the Shafi'i increased the Right back.
- 9-The thieving threshold shall not be imposed on the thief until the conditions for both the thief, the stolen, and the stolen from it are fulfilled.
- 10- One of the most dangerous things that threaten social, economic and political security is the attack on public money, which has taken various forms, including: thefts, embezzlement, bribery, breach of trust, and dealing with usury, Allah - the Almighty - warns us against wasting it, And spend it out of place.
- 11-There is no disagreement among the jurists that whoever assaulted the Muslims 'money house - the property of the state and its banks - by damaging and stealing was a guarantor of what was destroyed or stolen, and that whoever took something of the state's property must return a similar one if it was gay, and its value if it was valuable, but the dispute between them occurred in He cut off the thief's hand from the house of money, and they have two doctrines in it: This is what we discussed in this research this tag ("Theft from state money is a comparative juristic study)" And the last of our prayers is that praise be to Allah, Lord of the worlds, and prayers and peace be upon our master Muhammad and upon his family and companions and peace.

(1) - almahlaa 12/ 312 .

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