

The opinions of jurists on the legality of the state treasury and the use of its funds: a jurisprudential study

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Abstract

Islam has taken care of organizing all life, especially finance, in order to preserve rights and not to lose them. Money is one of the necessary things for the formation of modern life in which states are established and their institutions are carried out. It is the backbone of life and the financial system in every nation is a great basis for its social life. The economic system established by man, such as capitalism, communism, or socialism, and others, and each of these systems actually deals with the issue of man's connection to money and Islam. He treated this issue by controlling man's relationship with money so that the ownership of the individual does not overrule the ownership of society, nor the ownership of society over the ownership of the individual, and this is what the capitalist and socialist theories lose.

Introduction

Praise be to Allah, the Lord of the Worlds; and may His blessings and peace be upon our Prophet Muhammad and upon all his Family and Companions. Having said that:

The Islamic Shari'a came with a great approach in which it dealt with all aspects of human life, and this Shari'a, with its teachings and systems, did not leave any part of life's particles except that it made for it a system and a rule that guides man to the main goal, which is happiness in both worlds. With a correct approach to organizing and arranging them according to what the human interest does, the issue of public money is the issue of public money. Islam has dealt with this issue in a precise and court manner, whereby it laid down rules and principles for the wisest and fairest financial policy known to mankind, as it preserves public and private money, and because money is one of the important pillars that civilizations do. And after countries and societies witnessed a sophisticated development in all aspects of life, especially the money aspect, that is why I chose the title of my research in an important field of money, which is (the legality of the state treasury to use its money) and that Allah Almighty commanded us to protect the money that He made us entrusted in it and prohibited us from assaulting it because it is the basis of One of the obligations of worshiping Allah and establishing his duties is that he is the responsibility of the entire nation, because public money preserves the public interests, and in turn it preserves the entity of the Islamic state. a definition of the state treasury linguistically and terminologically and a statement of the most important sources of the treasury and the definition of public money linguistically and terminologically and its characteristics. The research plan required that it consists of an introduction, two chapters and a conclusion.

Defining the state's treasury linguistically and idiomatically, clarifying its most important sources, that has three requirements

Defining the treasury, linguistically and idiomatically

Treasury in Linguistics

Comes from the source of storing and storing a thing, so-and-so stores it in a treasury, and I store it for myself and my treasury is my heart, and treasury: the place in which the thing is stored.

Treasury in terminology

There are several definitions of the treasury whose meaning differs according to the Arabic Diacritical marks on the words, we show it as it comes

- 1 The treasury with a Kasra: the fountainhead, the place that has been prepared for the water to be filled then goes to the basin
- 2 The treasury with Fataha: the house prepared for dirhams and dinars, to be placed and preserved.

The definition of the state linguistically and idiomatically

Firstly: the state (with Fatah) and the state (with Kasra) : the obstacle in money and war together, it was said: the state, with Dhammah, in money, and the state with Fatah, in the war, it was said: the people are trading something (between them) .

secondly: the state idiomatically: it is a permanent and independent group of Individuals have a specific region and have a policy that comes from participating in submitting to a central authority that guarantees each of them to enjoy his freedom and their rights.

State treasury sources

The third requirement: the sources of the state treasury: The state treasury (Bayt al-Mal) is the institution that supervises the state's revenues and expenditures and its public resources in accordance with the provisions of Islamic Sharia. Shariah mandated it by text and jurisprudence, and it is an independent state apparatus belonging to the state treasury.

We will talk about the most important sources of the state treasury, which had an important impact and the main tributary to the treasury of the state since the establishment of the Islamic state during the era of the Prophet, peace be upon him, and to the establishment of modern states now and their name changed from the state treasury to the state treasury or state accounts.

The most important of these sources are

Firstly: Al-Fay

A name for what the Muslims did not spur for it any horses or camels like the money sent to the imam of the Muslims and the funds taken on the conciliation of the people of war.

From the Holy Quran

It's legality

Almighty Allah said: "And what Allah gave as booty (Fai') to His Messenger (Muhammad SAW) from them, for which you made no expedition with either cavalry or camel. But Allah gives power to His Messengers over whomsoever He wills. And Allah is

Able to do all things* And what Allah restored to His Messenger from the people of the towns - it is for Allah and for the Messenger and for [his] near relatives and orphans and the [stranded] traveler - so that it will not be a perpetual distribution among the rich from among you. And whatever the Messenger has given you - take; and what he has forbidden you - refrain from. And fear Allah ; indeed, Allah is severe in penalty.”

From the Sunnah of the Prophet

Umar ibn Al-Khattab (may Allah be pleased with him) reported: The property of Banu An-Nadir was among what Allah, the Almighty, bestowed upon His Messenger (may Allah's peace and blessings be upon him) as spoils for which the Muslims did not have to fight, neither on horses nor on camels. It belonged exclusively to the Messenger of Allah (may Allah's peace and blessings be upon him). So, he put aside his family's expenses for one year from it and whatever left was spent on horses and weapons (for fighting) in the cause of Allah.

what classified in the name of Fai': Many things be included in the name of Fai', which the jurists have mentioned that they are from the Fai', including:

- 1 What the Muslims took from the land and real estate from the infidels without fighting.
- 2 The lands that the Muslims gained by fighting, and that is when we see that it was not divided among the gainers.
- 3 What was agreed upon by the warriors of money they would pay to the Muslims.
- 4 What was taken from the infidels in terms of tax or rent on the lands owned by Muslims and paid by lease to the dhimmi, or from the lands that were approved in the hands of their owners from the people of the dhimmis by peace or force as theirs, and the Muslims have the tax on them
- 5 The tribute
- 6 Ashour Ah'l Al Dhimma: :it's known

When it takes the tenth and the plural is a lust and also one or half parts of the ten are taken from

Decimal land

- 7 The money of the apostate if he is killed or dies: he is the one who renounced the religion of Islam.
- 8 The wealth of a Dhimmi if he dies or is killed and has no heir, or what is left over from his heir, then it is fayy.
- 9 One-fifth (khums) of treasures whose owners have not been known for a long time.
- 10 The portion of Allah and His prophet from the khums.

Al-Fay Bank

The jurists differed regarding in the division of the fay' into:

The first saying: The majority of the Hanafi, Malik and Hanbali went, which is the saying of Al -Shafi'i in the old: that the fayy is not to divide into Khums, but it's all for Prophet Muhammad "peace be upon him" and those who mentioned with him in the Almighty saying:

“And those who came after them say: "Our Lord! Forgive us, and our brethren who came before us into the Faith,”

That the Prophet Muhammad "peace be upon him" bu Bakr, Omar, Othman, and Ali, they never make one-fifth (Khums) of the booty into five equal parts. Ibn al-Mundhir said: We do not memorize from anyone before al-Shafi'i in the fi'i Khums, like one-fifth (the Khums) of the booty. Ibn Taymiyyah said: Abu Bakr, Umar, Uthman and Ali never gave one-fifth of the wealth of fay', nor did Prophet Muhammad, peace and blessings of Allah be upon him, nor did they make one-fifth (Khums) of the booty five equal parts.

What was narrated that Umar, when he read the verse of Al -Fi'i, said:

This verse absorbed the people, and there was no one left among the Muslims who did not have a right in it, except for some of those you own from your slaves

The saying of the Prophet, peace be upon him: ((It is not permissible for me from what Allah has bestowed on you to the value of this, except for one-fift (khums), and one-fifth will be returned to you)).

That the dispute between Al -Shafi'i and the public is easy because both of them belong to the interests of Muslims in the life of Prophet " peace be upon him " and after his death

the second saying was previously said: Al -Shafi'i and Al -Zaydi went to the fact that the Fi'i is divided into five shares: A share of it is divided among those mentioned in the verse of Al-Fay', and they are the same ones mentioned in the verse of Al-Ghanima in Surat Al-Anfal, and four-fifths of the Prophet of Allah, peace and blessings be upon him, and the diligence of the Imam after him spends from it on himself, his family and whoever he sees.

On the saying of Al -Shafi'i, the Fi'I is divided into five shares:

1. For Allah and the Messenger, may blessings and peace be upon him, he spends from it on himself and his family, and what is left over is put into the interests of Muslims.
2. for relatives (they are Banu Hashim and Banu Abd al-Muttalib).
3. for orphans, orphans: he is separated from the father.
4. For the needy, the poor: the one who is made home by inability, meaning he who has nothing and needs to care about, and he is worse off than the poor, according to the correct opinion.
5. For the wayfarers: He is the traveler who is far from his home and has money with him.
6. The remaining four-fifths after dividing one-fifth for the Messenger of Allah, may Allah bless him and grant him peace, during his lifetime, and for the interests of Muslims after his death, are placed in the treasury and spent on the interests of the public.

The most correct:

What the majority of jurists went to is that the booty (Fiy) is not divided into fifth, but all of the Prophet Muhammad " peace be upon him" and those who mentioned with him and that for all the poor and rich Muslims spend for their interests.

Types of the booty (Fiy): Other types of money enter into the booty, including:

The tribute: It is the money that is taken from the dhimmi every year and the amount is known.

Allah said: "Fight those who do not believe in Allah or in the Last Day and who do not consider unlawful what Allah and His Messenger have made unlawful and who do not adopt

the religion of truth from those who were given the Scripture - [fight] until they give the jizyah willingly while they are humbled.

The Tribute bank

The jizya is spent on the public interests of the Muslims, such as closing the gaps, building bridges and bridges, sufficiency of judges and scholars, and fighting.

Time of paying tribute

The jurists differed as to the time of paying the jizya, whether it should be taken at the beginning of the month or at the end of it.

There are two opinions

The first view: The Hanafis think that the jizya should be taken at the beginning of the new moon, because it is obligatory for blood injections in the future, so it should not be delayed until the end of the year.

The second view

The majority of the Malikis, Shafi'is and Hanbalis think that it should be taken at the end of it, because it is money that is repeated with the repetition of a year or is taken at the end of each year, such as zakat.

The most correct view

It is the opinion of the public, taking into account the ease and hardship of a person during the Sunnah.

B- Al-Kharj (tax): It is the money paid by the people of the dhimmis on the land that the Muslims have plundered and the sultan has approved them for in return for a known tax, provided that its ownership remains for all Muslims.

Evidence from the Noble Qur'an and the Sunnah of the Prophet:

From the Holy Quran

- The Almighty said: "Or is it that you (O Muhammad SAW) ask them for some wages? But the recompense of your Lord is better, and He is the Best of those who give sustenance"
- The Almighty said :“ Shall we then pay you a tribute on condition that you should raise a barrier between us and them”

From the Sunnah of the Prophet:

- The Messenger of Allah “peace be upon him “said: ((Profit follows responsibility.))
- Abu Hurayrah (may Allah be pleased with him) reported: The Messenger of Allah (may Allah's peace and blessings be upon him) said: “Iraq will withhold its dirham and Qafīz (measurement), the Levant will withhold its Mudd (measurement) and dinar, and Egypt will withhold its Irdabb (measurement) and dinar, and you will return to where you started from; you will return to where you started from; you will return to where you started from.”

The Tax properties

1. The tax is on the income of agricultural land, not on its ownership. Therefore, the land is exempted if it becomes unfit for production due to factors beyond the control of the owner, and the tax does not fall from it as long as the land is suitable for cultivation.

2. The tax is personal, taking into account the personal circumstances of the taxpayer, his financial position, and what each land bears
3. The tax is annual, which must be paid once a year. If the tax is a function, other than the muqasma tax, it is repeated by repeating the output from the land.
4. The tax is imposed on the basis of the principle of territoriality, i.e. the source of income regardless of the person's place of residence or nationality
5. The tax is an important source of public money for the Islamic State, as it is a source of strength throughout the ages and generations
6. The idea of keeping the land in the hands of its owners is more beneficial for the Islamic State and the Muslims, due to their long experience and their training in agriculture, as long as they are based on cultivating it with effort and vigor, unlike dividing it among the spoilers, because at that time they work in agriculture, and abandon jihad in the way of Allah, thus weakening the Islamic nation

The tax Bank

Al-Sarakhsi said: What is collected from the tax, it is for all Muslims, the imam gives from it as fighting gifts and on the occasions of Muslims

Al-Kasani said: As for the third type of tax and its sisters, it is the construction of religion, reforming the interests of Muslims, which is the provision of the rulers, judges and fatwa scholars from among the scholars, fighting, monitoring the roads, building mosques, ribat, arches, bridges, closing the frontiers, and repairing rivers in which no one owns.

Ibn Rushd said: Its kharaj is spent on the interests of Muslims from the livelihood of the fighters, building bridges, mosques, and other means of goodness.

Al-Nawawi said: What is taken from the tax of this land is spent by the imam in the interests of the most important Muslims, It is permissible to spend it on the poor and the rich among the people of the family and others.

The Hanbalis are of the view that the tax is spent in the interests of the Muslims.

From what the jurists have said about the expense of the tax, I conclude that it is spent on the general interests of Muslims, but its spending depends on the imam's diligence in assessing the interests, and prioritizing the most important over the important.

One-fifth of the spoils

The jurists agree that it is one of the rituals of Allah, and it is a name for money taken from the infidels after the conquest and victory to make Allah's word supreme.

Legality

From the Noble Qur'an

It is divided into five categories mentioned in the Almighty's verse: And know that anything you obtain of war booty - then indeed, for Allah is one fifth of it and for the Messenger and for [his] near relatives and the orphans, the needy, and the [stranded] traveler, if you have believed in Allah and in that which We sent down to Our Servant on the day of criterion - the day when the two armies met. And Allah, over all things, is competent" the Almighty said: "Eat of what you have taken from the spoils; such is lawful and good, and fear Allah. Allah is Forgiving and Most Merciful."

From the Sunnah of the Prophet: As reported by the Prophet “peace be upon him”((The spoils did not solve anyone from us, because Allah Almighty saw our weakness and our impotence, so it is good for us))

What is included under the booty?

What is included under the booty is the following:

- 1- The captives: They are the fighting men of the infidels if the Muslims win their families alive.
- 2- Captivity: They are women and children, so it is not permissible for them to be killed if they are people of the Book, because the Messenger of Allah, peace be upon him, forbade the killing of women and children, and they are enslaved captives to be divided with the spoils.
- 3- The Earths: The Prophet, peace be upon him, said: ““If anyone takes a span of land unjustly, on the Day of Resurrection Allah will strangle him with it from seven earths.”
- 4- home
- 5- Movable property: It is all movable property that reaches the hands of the Muslim army in Dar al-Harb, given their strength.
- 6- The means: represented in clothing, weapons, equipment, livestock and treasures

Zakat: It is one of the Islamic obligations, and it is the money that comes out of the Muslim if he reaches the quorum and one year has passed. It includes gold, silver, prices, trade offers, fruits and crops. The jurists have unanimously agreed that zakat is obligatory for every Muslim man and woman if it reaches the quorum.

Evidence from the Noble Qur’an and the Sunnah of the Prophet

From the Noble Qur’an:

- 1 The Almighty said: “And establish prayer and pay zakat.”
- 2 It is a purification of the Muslim, as Almighty said in his book: “Take from their money a charity that purifies them and purifies them.
- 3 Allah said “Indeed he succeeds who purifies his ownself” Meaning: purify it from impurities
- 4 Allah said “And those who pay the Zakah.”

From the Sunnah of the Prophet

The Messenger of Allah,” may Allah’s prayers and peace be upon him”, said

“Islam is built on five testimony that there is no Allah but Allah and that Muhammad is the Messenger of Allah, establishing prayer, paying zakat, fasting and pilgrimage House Ramadan”

Abu Ayyub (May Allah be pleased with him) reported

A man said to the Prophet (peace be upon him): "Direct me to a deed which may admit me to Jannah." Upon this he (the Messenger of Allah (peace be upon him)) said, "Worship Allah and never associate anything with Him in worship, establish Salat, pay Zakat, and strengthen the ties of kinship."

Zakat Bank

- 1- Funding jihadist military movements that raise the banner of Islam and supporting individual and collective efforts aimed at restoring the rule of Islam.

- 2- Funding centers for the call to Islam that are established by honest men in non-Muslim countries with the aim of spreading Islam.
- 3- Preparing the military force that Allah commanded in His saying: “And prepare against them whatever forces you can muster, and all the cavalry you can mobilize, to terrify thereby Allah’s enemies and your enemies, “Among this power is the establishment of military factories to manufacture weapons, training soldiers in the arts of war and combat, as well as establishing military schools and colleges, printing military books and magazines for Muslim fighters to educate their souls, educating their minds, implanting Islamic values and concepts, building military hospitals and supplying them with doctors, nurses, equipment and medicines.
- 4- Extending military railways and building factories, the proceeds of which go to finance Islamic projects
- 5 Giving salaries to Muslim preachers for advocating non-Muslims or in Islamic areas exposed to Christianization and atheism campaigns.
- 6 Spending on building or renovating a mosque if the mosque is a center for the Islamic call to non-Muslims or to protect Muslims from Christianization and atheism campaigns

The legacy of the one who has no heirs

It is the inheritance whose owners died without having a legal heir to inherit, and it is divided into:

The estate of a Muslim who died without an heir

The jurists agreed that the estate of a Muslim who has no heirs is placed in the treasury and is spent on the interests of Muslims.

A bequest with all the money or more than one third of those who have no heirs

The jurists differed regarding a bequest with all the money or more than a third of those who have no heirs:

The first view

The Hanafis, Hanbalis, Zaydis and Ibadis have gone to the point that the bequest is preceded by the treasury. If a person who has no heirs bequeathed more than a third, it is permissible for him to do so. The Messenger, may Allah’s prayers and peace be upon you, said: ((It is better for you to leave your heirs rich than to leave them as dependents)). He who has no heirs should not object to him regarding what he bequeathed a third of his money or all of it because there are no heirs.

The second view

The Malikis, Shafi’is and Zahiriyyah hold that it is not permissible to make a bequest for someone who does not have an heir with more than a third of the money, even if the testator does not have an heir of the right to the treasury. Rather, it is valid for one third.

And they used as evidence what was proven on the authority of Saad bin Abi Waqqas that he said:” The Messenger of Allah, may Allah bless him and grant him peace: visited me,

I said: Will I bequeath all of my money? He said: No, I said: What is the half? He said: No, I said: Is it a third? He said: Yes, and a third is a lot”.

The most correct:

most correct: A bequest for more than a third of those who do not have an heir is permissible, because the Prophet, peace and blessings be upon him, mentioned the Most High prohibiting the increase in the bequest over a third, so he said: ((It is better for you to leave your heirs rich than to leave them poor)). Because the ruling revolves around its cause and cause, existence and non-existence, and therefore if the Legislator suspends a ruling for a reason or a cause, that ruling ceases with their demise.

The blood money of a person who was killed and had no heir

The jurists agreed that the blood money of a person who was killed without an heir is paid to the Muslim treasury. They quoted as evidence the saying of the Messenger of Allah, may Allah's prayers and peace be upon him: ((I am the heir of him who has none, paying blood money on his behalf.))

Legacy of a foundling

Foundling linguistically

Taking something from the ground picks it up, it is the newborn who is found lying on the road without knowing his parents

Foundling Idiomatically: He is every undistinguished boy who does not know his lineage or tenderness who has lost his way or was thrown out by his family out of fear of the family or fleeing from the accusation of adultery in the street of wasted by a sinner, and whoever adopts him is a gainer.

The majority of jurists agreed that the inheritance of a foundling if he dies and he has no heir is to the treasury. If he has a wife, then she has a quarter and the rest goes to the treasury.

A dhimmi's estate

his the inheritance of a public money resource if he does not have an heir

- The Hanafi School held that if a dhimmi dies and has no heir, his money will be for the common Muslims.
- The Malikis are of the view that whoever dies by force and has no heirs, his money belongs to the Muslims
- The Shafi'is held that if a dhimmi dies without an heir, or if he did not take it, then his leftover or the rest of it is spent on the treasury as a part because he has no owner, not that it is an inheritance.
- The Hanbalis are of the view that if a dhimmi or a trustee dies, he has no heirs from the dhimmis, no covenant, and no security, his money will be the perfection of the dead Muslim who has no heirs.

Jurisprudential adaptation of the right of the bayt al-mal to money that has no inheritance: The jurists differed in determining the attribute on which such an estate is to be placed in the treasury, according to two views:

The first saying: The right of the treasury in it is for the sake of ownership and entitlement, and not by way of inheritance, so it is more like lost money. The Hanafis and Hanbalis held this view, and they cited the following as evidence:

If placing the estate in the treasury is for inheritance, The rules of inheritance would apply to him from not giving anything to non-Muslims because there is no inheritance between

Muslims and non-Muslims, and the inequality between males and females, near and far in giving to Muslims, and other rules of inheritance that the Bayt al-Mal did not adhere to.

- 1- If the deceased does not have an heir, and we said: The treasury is his heir, then it does not become possible to issue a bequest from him within the limits of a third or more for the poor, for example, because those bequeathed to them are among the total of those entitled to what is in the treasury, So the will for them is like the will for an heir, and it depends on the heirs' permission, so who has the right to issue this leave.
- 2- Inheritance is based on certainty, definiteness, and saying that the treasury is inherited. This is not achieved, as it is conditional on the absence of another heir, whoever the deceased may be.

The second saying: that the right of the treasury in it is by way of inheritance, i.e. by way of causal blindness, and to this saying the Malikis and Shafi'is went The owners of this saying inferred the saying of the Prophet, may Allah's prayers and peace be upon him: "I am the heir of the one who has no heirs, who is wiser than him and his inheritance." And they said: As he, may Allah's prayers and peace be upon him, does not inherit anything for himself, and we spend such an estate in the interests of Muslims, then this is evidence of the inheritance of the treasury.

The most correct:

What the Hanafis and Hanbalis held that the right of the Bayt al-Mal in the estates that have no inheritance is on the path of ownership and entitlement, and not on the path of inheritance, and this is due to the strength of their arguments, and also that the hadith that the owners of the second opinion quoted are weak. And inheritances that have no inheritance are a resource from the state treasury, whether that is through the king and entitlement, as the Hanafis and Hanbalis said, or through inheritance, as the Malikis and Shafi'is said.

Taxes

Fifth: Taxes: These are cash amounts that individuals pay forcibly to the state free of charge and definitively to achieve financial, economic and social purposes.

Al-Shatibi has issued a fatwa that it is permissible to impose a tax on people if Bayt al-Mal is unable to carry out their public interests, and his document in that interest sent said:

If we decide on an obedient Imam who lacks the multiplication of soldiers to fill the gaps, protect the king of the vast diameters, vacate the house of money and the needs of the soldiers rise to what is not enough for them, then the Imam if he is just to employ on the rich what he deems sufficient for them at once until the money of the house of money appears and then to consider employing this on yields and fruits and so on so that the allocation of people to it does not lead to the instigation of hearts, and that falls a little bit of a lot so that it does not prejudice anyone and gets the intended.

Tax legitimacy: Legality of taxes: Taxes are an important resource of the state's treasury in the present era, and imposing them is a right of the Muslim guardian, which is permitted by the provisions of Islamic Sharia, considering that he is entrusted with the interests of the nation. Its legitimacy has been stipulated by a large number of our ancient jurists and some contemporary scholars, and their sayings are:

Al-Sarakhsi said: "If there is no money in the treasury, and the need arises to equip the army to defend the Muslims, then the imam has to judge the people as much as he needs it for that because he is commanded to look at the Muslims, and if the army is not prepared to pay,

the polytheists will appear against the Muslims, so they take money, offspring and souls. A good measure is to control the owners of wealth as much as he needs to prepare the army so that they can be secure in anything else.

Ibn Hazm said: (It is obligatory on the rich people of every country to provide for their poor, and the Sultan forces them to do so, if the zakat is not paid for them, or for the rest of the Muslims' wealth, then it is established for them with what they eat from the inevitable food, and from clothing for the winter And summer is like that, and with a dwelling that shelters them from rain, and summer and sun, and the eyes of passers-by.)"

Al-Qurtubi said: (Scholars have agreed that if Muslims have a need after paying zakat, then the money must be spent on it. Malik, may Allah have mercy on him, said: People must redeem their captives, even if that takes their money, and this is unanimously agreed.)"

Professor Al-Bahi Al-Khouli said: After he mentioned that the Sultan of the State in the collection is limited to two types, periodic and non-cyclical: (That this right is intended by something other than the periodic, and it does not have a fixed term, but rather its time comes if something happens to the nation that does not raise the state's treasury by filling its demands such as wars, famines, epidemics, floods and the like)

Sixth: State resources: These vary by several paragraphs, and they are as follows:

Al-Rikaz

Meaning Al-Raqaz, and it is from Al-Rukaz (a buried treasure), meaning affirmation. "or hear even a whisper of them!" i.e.: sound and Al-Rikaz for the people of Hijaz: the treasures of the pre-Islamic period buried in the ground, and for the people of Iraq: the minerals and the two sayings that the language bears; Because both of them are concentrated in the earth: any constant.

It is said to concentrate it, to concentrate it, to concentrate it if it is buried, and to concentrate the man if he finds the ore, and to collect the pillar is ore. The Jurists differed as to whether ore is a mineral:

The first saying

The majority of jurists from the Maliki, Shafi'i and Hanbali schools are of the view that minerals are not ore, so minerals are part of the earth, and ore is what was found from pre-Islamic burials, that their traces may be found on it or found in their graves or buildings. reported that the Prophet (may Allah's peace and blessings be upon him) said: "There is no compensation for one killed or wounded by an animal or by falling in a well or because of working in a mine, and one fifth is due on the buried treasure." The Prophet, may Allah's prayers and peace be upon him, in this hadith differentiated between metal and ore with kindness, so it is clear that it is not

The second saying

The Hanafi school held that ore includes what was found from the burial of the pre-Islamic era, or what was extracted from the underground of the earth, whether it was part of it or it was in it by the action of other influences, and they cited the saying of the Prophet, peace be upon him: ((and in the five ore)).

The most correct saying

What the majority of jurists held that the ore is what was found from the pre-Islamic burials, that their traces were found on it or found in their graves or buildings. Based on this, ore differs from the mineral that is part of the earth, and that the fuqaha' have agreed that ore, in the words of the Prophet, peace and blessings be upon him: ((and in the five ore)) includes the pre-Islamic burial of gold and silver, whether it was milled or otherwise.

Rikaz Bank

The jurists differed as to whether the zakat bank is spent on the eight categories, or the al-fai' bank, i.e., for the public interests of the state

The first saying

The majority of jurists from the Hanafi, Maliki, Hanbali, and Al-Muzni of the Shafi'i schools are of the view that one-fifth of the ore is spent on the fi'i, not the zakat, and that it is for the interests of Muslims and is not specific to the eight categories.

The second opinion

The Shafi'is are of the view that the zakat bank is spent The most correct: It is the view of the public that one-fifth of the treasure is spent on the fie, i.e. it is one of the resources of public money that the imam spends on public interests and spends it on interests that benefit Muslims, such as building mosques and aqueducts, invasion, building frontiers, the livelihood of judges, paying off debts, marrying off singles and others.

Oil: It is one of the important materials of public money resources in the present era, Dr. Yusuf Al-Qaradawi said The jurists differed as to whether oil is from ore or not:

The first saying

Oil and similar minerals are ore, and based on his saying, it is permissible for individuals to own it and take out one-fifth in it.

The second saying

that oil is not an ore, which is what the majority of jurists from the Hanafi, Shafi'i, Hanbali and Zaydi schools held, as they stated that oil does not have private property, but rather is public money. Stones are visible as mummy in no one's property, so no one has the right to petrify them without anyone else, nor does it have the authority to prevent them for himself, nor for a private person, because all of this is apparent as water and pasture.

The most correct saying

It is what the majority of jurists held that it is not ore, and it is from public money

Customs

Customs duties are a monetary amount that an individual forcibly pays to the state on the occasion or in exchange for obtaining a special service.

Tithing linguistically

The plural of tithing means what was from their money for trade, not for alms, and what they need from that?

Tithing in the terminology of the jurists

It has two meanings

The first

Ten trades and sales, which is what is taken from the trade of the people of war and the people of dhimma, if they move to the house of Islam.

The second

Ten alms or zakat outside the land, and the first to put the tenth in Islam is Omar Ibn Al-Khattab (may Allah be pleased with him).

The legality of tithing from the Sunnah of the Prophet, consensus and reasonable

The jurists infer the legality of taking tithes from a non-Muslim with the Sunnah, consensus and reasonableness.

The Sunnah

The Prophet Muhammad, “peace and blessings be upon him” said: ((Tithes are to be levied on Jews and Christians, but not on Muslims.)) This hadith indicates that tithes are not taken from Muslims, but tithes are taken from Jews and Christians in the trade that they engage in in Islamic countries.

The consensus

Omar Ibn Al-Khattab (may Allah be pleased with him) sent the tax collector to take the tithe in the presence of the companions (may Allah be pleased with them) and none of them disagreed with him in that, so it was unanimous

Reasonable

The merchant who moves his trade from one country to another needs safety and protection from thieves and road robbers, and the Islamic state secures this through its trade routes and corridors, just as the merchant benefits from the public utilities of the Islamic state. Him and his use of the public utilities of the Islamic State.

Public properties of lands and others: It is permissible for the Sultan to protect land that is not owned by anyone, and what the Sultan protects from the land is the subject of any economic activity of the state, and its ownership is affiliated with the Bait Al-Mal, such as grazing or agriculture, etc.

The concept of public money in Islamic jurisprudence, and it has several demands: The first requirement

Defining money, linguistically and idiomatically

Money linguistically

It is infinitive financing: in the Arabic language it is a word between the three letters meim, waw and laam, and it is the one who finances a man: that is, he took money and has money in it.

Defining money idiomatically

By looking at the books of jurists and searching for the definition of money idiomatically, we find that their expressions have differed in its definition. The following is a presentation of the definitions of jurists, which are:

First: the definition of the tap The Hanafi school defines it as: a name for what is created to establish our interests with it, but considering the attribute of finance and acquisition And they knew him: What is financed and saved for need, and it is specific to notables, so the ownership of benefits came out As they knew it: it is all that people own of cash, offers, animals, benefits, real estate, and so on, except that in our knowledge, the name of money comes from the name of money, which is cash and offers.

It is now clear to me, through the definitions of the Hanafi masters, that the summary of their definitions of public money is: - What can be acquired and what is meant by the possession of a thing and saving it for the time of need. Capacity and selection status.

Second: Definition of the owners And the Malikis defined it: It is what the king falls upon and the owner overwhelms others with if he takes it from his face, and food, drink, and clothing of all kinds and what leads to it from all the property are equal in that.

Third: The definition of Shafi'i's Al-Shafi'i, may Allah have mercy on him, defined it: It is everything that does not fall under the name of the highest money, its value is sold by it, and the consumer is obligated to the value, even if I say, and what people do not put forward, such as the penny and the like. And Al-Zarkashi defined it: that he did not benefit from it, that is: he was ready to benefit from it.

Fourth: Defining the Hanbalis The Hanbalis defined it: it is everything that has a permissible benefit that is not necessary And they knew it: What is absolutely permissible to use and possess without need And they also knew him: Everything that has a benefit is permissible without a need or necessity.

The most correct

What the Hanbalis and the majority of jurists went to in their definition of money: it is everything that is financed and owned legally without a need and was benefited by it, and this is what the jurists unanimously agreed upon, and Allah knows best.

Definition of the public (al'aam in Arabic) linguistically and terminology

The public linguistically

He is from the source of his paternalism and a turbaned man, meaning the generosity of the uncles, and the man circulated: that is, he became a master because the crowns of the Arabs are turbans.

In summary, the definition of the public: It is the word derived from the general and means comprehensiveness on the basis of plurality

Defining public money idiomatically

Public money

It is money that is earmarked for the purpose of public benefits without being owned by a specific person Or: it is the money allocated to satisfy the needs of the public benefit without standing for the benefit of one person without another, and everyone has the right to benefit from it, which is the opposite of private money.

The characteristics of public money

There are several characteristics that distinguish public money from private money, and these characteristics are:

Allah Almighty is the real owner of all that is called public money, because he is the creator of everything and the one controlling it: "It is He who created for you all of that which is on the earth.." And that what was created on the earth is for its inhabitants from the people of the earth, including all its benefits for them, in order that Allah grant them provision, as they are those who seek in that land for the sake of sustenance, confirming the saying of the Most High "He it is Who has made the earth smooth and subservient to you (for your benefit), so traverse (far and deep) into its spacious paths (for your spiritual and material advancement),

and (thus by active labour) eat of His sustenance (and enjoy His gifts). To Him will you all return after your having been raised to life”.

The right to use and exploit public money is considered to be for all the group on the basis that each of them has an independent entity that needs those benefits and this is in the creation of Allah Almighty and His appreciation of all people.

Everything that is called public money is the work of Allah or the man-made who works by Allah’s command, and that work is harnessed to him by the facilitation and blessing because it is public for people without discrimination between an individual over another or a generation at the expense of another generation, including: pastures, fire, rivers, minerals, and so on People are partners in it, according to the text of the hadith of the Prophet “May Allah’s peace and blessings be upon you” ((People are partners in three: water, food, and fire)) and this is one of the ease and facilitation of Allah Almighty if he wants everyone to obtain these things

Conclusion

After Allah Almighty has facilitated and enabled me to complete my research, it is necessary to mention some results that I can draw from the research, including the following:

- 1- The public money is divided into the money of the state and the money of the nation, so the money of the state is what is limited to the right of disposal and benefit to the state, and the money of the nation is money in which the right to dispose and benefit is not limited to a specific individual, but the ownership of the thing in it is the public ownership of Muslims.
- 2- Public money has resources, some of which are fixed and some of which are not fixed. They may exist in one era and not in another, and they may be found in one place and not found in another. The fixed resources feed the state treasury throughout the year and that is for legitimate spending.
- 3- The public money is intended for the public benefit and it is not permissible for a specific individual to be entrusted with it in order to deprive the rest of the citizens of this use and whoever opposes this rule is considered illegal.

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