

FINANCIAL PENALTIES IN ACHIEVING THE PURPOSES OF INTERNATIONAL LAW AS A MODEL RESEARCH PRESENTED

Prof. Falah Abdul Rasoul Hammoudi Battah

Anbar University / College of Applied Sciences - Hit

الواجهة

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Introduction

Praise be to God who fulfilled the blessing of Islam on us and completed its provisions and teachings to be a constitution that governs the servants and fulfills their religious and worldly interests, and blessings and peace be upon the best of the people and the messenger of mercy to the worlds, our master Muhammad, may blessings and peace be upon him, and may God Almighty be pleased with the Companions and his relatives and followers and those who follow them in kindness until the Day of Judgment.

It is known that his glorious law came with provisions and teachings that dealt with all human problems and the severity of aspects of life, and one of the most important purposes of Islamic legislation is to preserve religion, money, soul and honor, and for that our Sharia came with texts and teachings that preserve and control these purposes in this worldly life. In our research, we will shed light on an important aspect of these objectives, which is the financial aspect and partly of the parts of this aspect, which are the financial penalties that our glorious Sharia has shown in the provisions of penalties related to the assault on the ownership of people's money. It is well known that the criminal penal code and others are for those who are neglected by our Islamic Sharia and do not exclude The financial aspect, as penalties were enacted to limit the abuse of money and property in order to safeguard them. In our research we will explain these provisions related to financial penalties, focusing on this on an important aspect of the financial penalties that our Sharia has defined as an important part of financial penalties, which is (blood money) as our example in these penalties that came By our Islamic law.

The search plan required three investigations, several demands and a conclusion.

As for the first topic: the definition of terms is shown in the title:

As for the second topic: I have devoted it to explaining the types of purposes achieved through financial penalties.

As for the third topic, it shows the jurisprudential applications of blood money.

As for the conclusion, I explained the most important results that I reached in my research.

The Almighty asked to help me in this research and to make it in the record of my goodness on the day that neither money nor sons would be of any use except for God who came with a sound heart.

God prayed on prophet Mohamed and his whole family and companions.

The first topic

Definition of title terminology

1- Financial penalties:

Punishment, based on its legislation, is a penalty for whoever violates the orders and prohibitions, and this means that it is (a marriage set by God Almighty to deter committing what is forbidden and leaving what is ordered) () and the basis for enacting the punishment is to ward off evil and bring interests, and this is the general basis upon which the provisions of Sharia are based, and marriage Includes punishments of hudud, retribution, discretion, discipline and other acts of worship and transactions based on the theory of Sharia that brings together the matter of the debt and the world, and among those penalties: Financial penalties; They are the penalties that affect a person's money, such as blood money, fine, and confiscation ().

2- Objectives of the Sharia:

The purposes of the Sharia are the interests that accrue to the servants in this world and the hereafter, whether they are obtained by bringing benefits or warding off harm, and in that says Imam Al-Ghazali: (But we mean by them - that is, by interest - maintaining the intent of the Sharia, and the intention of the Shariah of creation is five, which is to protect them Their religion, their soul, their intellect, their offspring, and their money, so everything that guarantees preserving these assets is an interest, and everything that misses these assets is corrupt and pushes it into an interest. ") The scholars have called these matters: the five colleges that are considered to them as the assets of Sharia and their general goals that aim to preserve them, Al-Shatibi said. : (The total principles that the Shari'a came to protect are five: religion, soul, mind, offspring, money) ().

- () Rulings of Sultanate of Mawardi: 221.
- () Provisions for Crime and Punishment, Muhammad Abu Hassan: 179.
- () The healing of Al-Alil to Al-Ghazali: 103.
- () Approvals: 3/26.

3- Blood money:

It is the money that the perpetrator pays the victim or his guardians as compensation for the felony he committed, whether the felony is on the soul or less than the soul, except that the jurists used to call the blood money for the compensation paid by the offender instead of the felony on the soul, and the indemnity for the compensation paid by the offender Instead of wounds, blood money is fixed in the Qur'an, Sunnah, and consensus with conclusive evidence ().

The second topic

Types of targets achieved by financial sanctions

Among the types that al-Maqasid have achieved through financial penalties:

- 1- It differentiated between the punishment of pure intentional deliberation and wrongdoing, and made it in the case of deliberate punishment, and in the case of blood money.
- 2- Taking into account the motives for the crime, in the case of blood money, the punishment was not ruled due to the absence of psychological motives for the perpetrator, and the fact that he did not intend the crime and did not think about it.
- 3- The Sharia looked at the crime that was caused by negligence and lack of caution, and therefore required blood money because it caused financial damage to the victim or his heirs.
- 4- Financial blood money was also imposed on the culprit because he harmed others, so the penalty for not being careful was being deprived of the money that people themselves were trying to collect, so this punishment is enough for a person to ensure vigilance and caution.

5- Charging blood money on the rational person in conditions of obtaining rights, the perpetrator and the guarantee.

This is the most important purpose of Sharia in the legislation of blood money.

The legitimacy of blood money was assigned in the Qur'an, Sunnah and Al-Ijmaa, during our presentation during our third show

The third topic: blood money is a model for financial penalties

The first requirement: blood money between custom and Sharia

The custom in the language: the knowledge of the earth: what is raised from it, and the plural is a form. And the ropes and clouds: the first and the highest ones, and one of them is custom, and the convention and convention: a strike from the palm in Bahrain (). Al-Laith said: The custom: the knees of the Persians: the knowledge of the Persians: the origin of its knowledge. Others said: It is the meat on which the norm grows. Thaleb, on the authority of Ibn Al-Arabi: Al-Araf: known, by annexation. The custom of breaking: patience (). And (custom) is the opposite of denial, it is said: the first is custom, that is, known ().

Tradition in idiom: Although the jurists differed in defining "custom", their definitions revolve around one meaning:

One:

(1) Urf has two parts: verbal and verbal; So the word is the one that comes to say when it is given in the custom, such as the word of the animal that is specialized in the custom of the donkey. The mulk is the one who specializes in white, and the dress pertains to the shirt. As for the actual custom, it is what people are known to use. And it was said that the actual custom is not specific to eating wheat: the first apparent ().

(2) The chosen one defines it as that which is not settled in the souls from the side of the minds, and the sound character has received it with the sound.

(3) Knowledge, knowledge and knowledge: every good characteristic that the minds can satisfy and the souls can reassure about.

He who does good does not lose his reward ... The custom between God and people does not go away ()

Diyah between custom and Sharia:

One of the greatest prohibitions is the sanctity of the blood of a Muslim with God, the Blessed and Exalted be He, and killing the soul that God has forbidden except with truth is one of the greatest sins, and the texts from the Qur'an and Sunnah have combined to explain this:

First: The Qur'an:

1 - The Almighty said: {And do not kill the soul that God has forbidden except with the truth of you and with it, and with it you may be sane.

2- And the Almighty said: (And do not kill the soul that God has forbidden) except with the truth.

3- And the Almighty said: {And those who do not pray with God with another deity, nor kill the soul that God has forbidden except with the truth) (Al-Furqan 6: 68).

4- And the Almighty said, indicating the severity of premeditated murder: {And whoever kills a believer deliberately, his reward will be Hell, forever in her, and God is angry with him and He is forbidden by Him. (93) Second: the year:

1- On the authority of Abu Hurayrah, may God be pleased with him, on the authority of the Prophet, may God's prayers and peace be upon him, who said: "Avoid the seven righteous things," they said: O, may God bless him and grant him peace? He said: «polytheism, magic, psychology and murder which Allah has forbidden except the right, eat usury, eat orphan, and Administrating Day crawl and tossed chaste believing women Algaflat» ().

2. Abdullah, is the son of Massoud, said: The Messenger of Allah peace be upon him: "The blood of a Muslim who testifies that there is no god but Allah and that I am the Messenger of Allah, only one of three: a divorced adulterer, self esteem, and Leaver's religion Junctions For congregation "().

3- On the authority of Abu Huraira, he said: The Messenger of God, may God's prayers and peace be upon him, said: "Every Muslim is against a Muslim, his blood is sacrosanct."

Third: the consensus:

Likewise, Muslims are unanimously agreed that the blood of a Muslim is inviolable. IbnQudaamah said: "The scholars are unanimously agreed, that the free Muslim led by his murderer, though Magda parties, non-existent senses, the killer is true only of creation, or the vice versa. As well as the disparity in science and honor, wealth and poverty, health and disease, strength and weakness, Old and young, power and driving, and some of these characteristics, did not prevent storytelling "().

So, praise be to God, it has been proven that the blood of a Muslim is forbidden according to the Qur'an, the Sunnah, and consensus.

Obligation of retribution:

The scholars have agreed on the necessity of retribution against the murderer deliberately, because God Almighty says: {O those who believe, stories about the dead have been written upon you (Al-Baqarah: 178).

Legality of blood money:

The blood money is prescribed according to the Qur'an, Sunnah and consensus, as is evident in the following:

(1) The book:

✓ Almighty: What was the believer to kill a believer except a mistake and killed a believer mistake Freeing believing slave and friendly Muslim to his family said, but to believe it was the people of the enemy of you is a believer Freeing locked neck and that was some among you, including the Charter of the ransom of a Muslim to his family and edit Secured neck

Though from some among you, including the Charter of the ransom to a Muslim family and freeing the neck of it is locked fast for two consecutive months did not find repentance from Allah, Knower was a wise} (women / 92).

And the significance of the noble verse is that it is a text about paying blood money to the blood relatives, which indicates its legitimacy.

✓ He says: {O you who believe! Retribution in free dead heat-slave female slave and a female, it is pardoned him from his brother something good and followers of the performance to him with kindness so ease your Lord and mercy it is attacked

Conclusion

After the success of God Almighty for me in completing my research, we must ultimately stand on the most important results that I have reached in my research, and we can summarize these results in the following matters:

1 - Our Islamic Sharia has taken great interest in matters of money, earning and spending, and has set a special law for it to protect it from abuse by weak souls, which indicates that it has made protecting financial property one of its most important legislative purposes.

2- Financial penalties are based on their legislation, but they are a penalty for those who violate orders and prohibitions, meaning that they are a marriage set by God Almighty to deter perpetrators from prejudice to property and people's money.

3 - Our glorious Sharia differentiates in the penalties between the punishment of pure will and wrongfulness in a felony, so it made it in the case of intentional retribution and in the case of blood money.

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