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Decree of Amir al-Mumenin, Shaikh al Qur'an and Hadith, Mawlawi Hebatullah Akhundzada, may Allah protect him regarding the enforcement of the Law on Prevention of Usurpation of Lands and Restitution of Usurped Lands

Decree No: 2

Date: 2/October/2023 (1445/2/10 AH)

Article One:

I shall approve the Law on Prevention of Usurpation of Lands and Restitution of Usurped Lands within (4) chapters and (22) articles.

Article Two:

This decree shall be effective from the date of approval and should be published in the official gazette together with the text of the aforementioned law.

Regards,

Amir al-Mumenin, Shaikh al Qur'an and Hadith, Mawlawi Hebatullah Akhundzada

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In the name of God, the Most Gracious, the Most Merciful

Praise be to Allah, Lord of the Worlds, and may blessings and peace be upon the Master of the Prophets and Messengers, his family and companions, and those who follow them in righteousness until the day of resurrection. And then Allah Almighty said: O you who have believed, obey Allah and obey the Messenger and those in authority among you.” (An-Nisa: 59)

Prophet Muhammad, may Allah bless him and grant him peace, said: “Whoever obeys me has obeyed Allah, and whoever disobeys me has disobeyed Allah, and whoever obeys the Amir (ruler) has obeyed me, and whoever disobeys the Amir (ruler) has disobeyed me.” [Narrated by Al-Bukhari No. 2957]

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Law on the Prevention of Usurpation of Lands and Restitution of Usurped Lands

Chapter One

General Provisions

Basis

Article 1:

This law has been prepared based on decree no. (9) dated 24 October 2022 (1444/3/28 AH) of his excellency Amir al-Mumenin Shaikh Al-Qur'an and Hadith Mawlawi Hebatullah Akhundzada, May Allah Almighty protect him. ¹

Objectives

Article 2:

The objectives of this law are as follows:

- 1- Restitution of usurped Emirate (government), public pasture, and waqf (endowed) lands. ²
- 2- Preventing the usurpation of Emirate (government), public pasture, and waqf (endowed) lands. ³

¹ O you who have believed, obey Allah and obey the Messenger and those in authority among you (Surat An-Nisa, verse 59)

Ibn Abidin said: (The order of the Sultan should be implemented). It means it should be followed, and it is not permissible to violate it... Obedience to the Imam, if not disobedience, is obligatory (Rad Al-Muhtar Ala Al-Durr Al-Mukhtar, vol 8. Page 132 Al-Rashidiyah)

Omar (may Allah be pleased from him) managed and arranged all these matters in a way that cannot be better than it (Al-Farouq, by Shibli Al-Numani, p. 254).

² - He said: The Prophet of Allah, may Allah's prayers and peace be upon him, was reclining, so he sit down, and said: "No, until you take the hand of the oppressor and compel him to tell the truth" (Sunan al-Tirmuzi, vol. 5, p. 252, Publisher: Mustafa Al-Babi Al-Halabi Library and Press Company – Egypt)

So he established the justice, returned the grievances of the Umayyads to their people, and returned the usurped properties to the public treasury, (Tuhfat al-Turk regarding what should be done in the property, p. 78)

³ - Article (58) of Majalatul Ahkam Al-Adliya : Interfering in the affairs of people should be based on the public interest. Because the Imam of the Muslims has general oversight over all the properties in public matters...

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Terminologies

Article 3:

The following terms refer to the following concepts:

1- **Land usurpation:** is to appropriate the land without the permission of the owner or a person who has the permission.⁴

2. **Owned land:** is the land that has a certain owner and has the authority to exercise all kinds of possessions in it.⁵

3- **lands not owned by anyone:** these are all the lands that have become state lands due to having no ownership, unknown ownership, and no heirs, and the owned

because the Sultan was given authority from Allah Almighty in order to preserve the blood of his servants and protect their honor and property (Sharh Al Majallat Al Salim, part 1, p. 43)

⁴ - Usurpation in Sharia law means taking the valued and respected property of a person without the owner's permission in a way that removes his possession (Al Hedayah, Sharh Bedayat al-Mubtadi, vol. 4, p. 11. Publisher: The Islamic Library.

(Article: 881) Usurpation is taking someone's property and seizing it without his/her permission. The taker is called a usurper, and the seized property is called usurped and the owner is called the one from whom property is usurped. (Majalatul Ahkam Al-Adliya)

He said in the Muhit Al Burhani: According to Islamic law, usurpation means taking valuable and respected property without the owner's permission in a way that removes the owner's hand if it is in the hands of the owner or preventing the ownership if it is not in his/her hand. (Al-Fatawa al-Hindia, vol. 5, p. 119)

He said, without permission of the one who has permission, as Ibn al-Kamal did. (Al-Durr al-Mukhtar, Kitab al-Ghasab: vol. 5, p. 156, Osmania Press, Egypt)

⁵ - Clause 10 – Lands, at the beginning of Islam, can be divided into owned and unowned lands: owned lands are those that have a specific owner who has the right to sell them, mortgage them, endow them, and use of them in all kinds and includes Ushri lands and owned Kharaj lands (Ahkam Al Arazi& Shaker Nasser Haidar: p 7, Press: Ma'arif - Baghdad)

The owned lands are endowed, mortgaged, gifted, sold, pre-emption is applied on, and can be inherited (Sharh Majallat Al-Ahkam, vol 3.: p. 282, Publisher: Dar Al-Jeel

(Article: 5) – The owned properties(original and usufruct) are those whose owners have the right to use them in kind and usufruct, including the Ushri lands, that can be sold, rented, loaned, gifted, endowed, mortgaged, and inherited (Murshid al-Hiran, vol. 1, p. 43, Maktabat Dar al-Salam, Qahira)

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lands that were taken from the infidels by force or peace and were not given to the personal ownership but left for Muslims.⁶

4- Emirate (state lands): non-owned lands are called Emirate lands (state lands).⁷

⁶ - Clause 10. Unowned lands belonging to the public treasury that are as following:

(1) State lands, which are the lands that were kept for the state treasury and were not distributed to anyone, as well as those that were later transferred to the state treasury after death of the proprietors who have no heir.

(2) Unowned Kharaj lands.

(3) Mawat (barren) lands.

(4) Mahmiyah lands, which are now called abandoned land, are left for public benefits, such as roads and markets, or allocated to the people of a village, such as pastures, summer houses, winter houses, and firewood places. (Ahkam Al Arazi, Shaker Nasser Haidar, p 7, Ma'arif Press - Baghdad)

- Abu Hanifa— May the mercy of Allah be upon him - said: what was narrated from the Prophet Mohammad, May Allah bless him and his family and grant them peace, is this: "A person has no right except what his imam's grants him, then if He did not give permission, so it does not belong to him. And because Mawat (barren) land is a Ghanimat (property seized from infidels), it is necessary to obtain the permission of the Imam, like all other seized properties. This is because the Ghanimat is a name for what has been seized by soldiers by force of horses and riders, and the Mawat (barren) lands are the same. Because the entire land was under the hands of the soldiers, Muslims seized them forcefully and suddenly. So, all of them were Ghanimat (property seized from infidels). So no Muslim can take possession of them without the permission of the Imam, like all lands (Bada'i' al-Sana'i' fi Tartib al-Shara'i', vol. 6, p. 193)

- But some of the late Muslim jurists issued a fatwa stating that what is beyond them is a land that is neither Ushri nor Kharaj land, but rather it is called the state land, and it is known as the Land of the Ruler (Amir) which is the land that was conquered by force or by peace, but was not owned by the people, but rather allocated to the state treasury [Majma' Al-Anhar Fi Sharh Multaqa Al-Abhar, vol. 2, p. 461. Written by Amir Hamza] [Al-Feqh Al-Islami, vol. 4, p. 4605]

⁷ - But - 1 – Iqta (allocation) of Sultan's properties, 2 - the endowments of the fire temples, 3 - the properties of those who have no heirs and the fugitives, 5 - the rebels, 6 - the lands allocated for building and repairing roads, and the lands allocated for postal expenses, 7- rivers, 8- forests all of these lands were regulated by Omar, may Allah Almighty be pleased from him, only for the government, and their annual income, amounting to seven million, was allocated to works for the public goodness. Sometimes, an Iqta (allocation) was given from those lands to a person in exchange for his/her Islamic services, but these Iqta (allocations) were not excluded from the tax or Ushr in any way, and the remaining lands were given to their previous owners after the clearance of the tax. (Al-Farouq Lashibli Al-Numani, p. 192)

Every land that individuals do not own is owned by the state, whether the state exercises direct ownership over it or not, and it is called Amir lands since he is ruling on the state (Al Masmuat al Qazaya Islamia Moasira, vol. 3, p. 366) (Al-Masmuat Al-Qazaya Al-Islamia Moasira, vol. 3, pp. 367 and 368)

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This article indicates that the mawat (barren) land is rehabilitated in two ways: the first is to be the property of the reviving person, and the second is to not be the property of the reviving one, but rather be the usufruct of the reviving person only. Based on the applicable land law, no one is authorized to revive the mawat (barren) land so that to be the property of the reviver. Rather, it is authorized to revive the land so that the land itself becomes the property of the state treasury, and in this case, the revived land becomes the land of Rule r(Amir) (Durar Al-Hukam Fi Sharh Majallat Al-Ahkam, vol. 3, p. 281 and 282, publisher: Dar Al-Jeel)

Article (1272): If someone revives and constructs a Mawat (barren) land with the Sultan's permission, he becomes its owner, and if the Sultan or his attorney appoints someone to revive the land on the condition that only benefits from it and does not take its ownership, that person should use that land in the manner he has been authorized and does not own that land (Journal of Judicial Provisions)

So, he has the right to use the land's usufruct according to what Sultan permits him, but in terms of its ownership, it is owned by the state treasury, so he cannot inherit it as a Sharia inheritance and cannot sell it as he sells his other properties (Badr Al-Fatawa, vol. 1, p. 358, with reference to Sharh Al-Majallah by Muhammad Khaled Al-Atasi, vol. 4, p. 204)

- Abu Yusuf - may Allah Almighty have mercy upon him - said in the book of Kharaj: the imam has the right to take decisions on all Mawat (barren) lands and everything that does not belong to anyone and decides what he deems appropriate, and more beneficial for Muslims (Rad Al-Muhtar Ala Al-Durr Al-Mukhtar, vol. 4, p. 193). Publisher: Dar Al-Fikr (Beirut)

- According to Muhammad: If the land is owned during Islam, it will not be Mawat (barren) land, and if its owner is not known, it will be for the Muslim community (Islamic jurisprudence and its evidence, vol. 6, p. 409, publisher: Dar Al-Fikr - Syria - Damascus)

I said: This is a third type, which means neither Ushri nor Kharaj land. It is called the state land (Huz), and it is the one whose owners died without a heir and transferred to the state treasury or obtained by force and kept for the Muslims until the Day of Resurrection and its ruling, as mentioned in Tatarokhania, is this that it is permissible for the Imam to give to an irrigator in one of two ways: By regarding the owners in the position of an owner and by paying the tax (Rad Al-Muhtar Ala Al-Durr Al-Mukhtar, vol. 4, p. 179).

- but the lands conquered by Muslims are divided into three kinds:

One: It was owned by force or power in a way that they separated them by force, captivity, or exile. The Muslim jurists have different opinions regarding this kind of land after being conquered by Muslims... Abu Hanifa said: that the imam has the choice to divide it among the occupiers, so it would be Ushri land, or return it to the infidels with a tax to be imposed on it, so it would be Kharaj land, and the infidels would become Dhimmi infidels or endows it for all Muslims that the land, in this case, will become the land of Islam [Al-Ahkam Al-Sultaniya, p. 215, publisher: Dar Al-Hadith - Qahira]

- So the right of the heirs will not be proved on what is obtained during apostasy, so all the properties that have no owner become the properties of the state treasury (Islamic jurisprudence and its evidence, vol. 10, p. 7880, publisher: Dar Al-Fikr - Syria - Damascus)

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The Emirate lands are as follows: ⁸

- This indicates that the imam has the right, as he deems expedient, to appropriate the treasury land for ownership of its usufruct just as he gives the property itself, as there is no difference between the land and property to give to the one who is in need to make use of it. I did not see anyone who told us about it (Rad Al-Muhtar Ala Al-Durr Al-Mukhtar, 4 p.: 194 Publisher: Dar Al-Fikr - Beirut)

(Procedure of lands in Islam, by Mufti Muhammad Shafi', p. 109 and 110]

- According to Abu Hanifa, the revival of land should take place with the permission of the Amir (ruler), based on the hadith: "A person has only what his/her imam has allowed for him/her, so if he does not give permission, it should not be taken because these lands were in the hands of the infidels, then they returned to the Muslims, so they are "Fay (lands that fall in the hands of Muslim without war and peace" and the imam is the one responsible for distributing the fay." and the same is giving spoils (Ghanimat) to the killer according to him, peace and blessings be upon him: "Whoever kills a person gets his spoils (ghanimat). This is an act of the Messenger, may Allah bless him and grant him peace, based on the imamate and politics way, not through the Sharia and prophecy." (Islamic Jurisprudence and its Evidence, vol. 6, p. 418, Publisher: Dar Al-Fikr - Syria - Damascus)

- According to the Hanafi and Maliki schools - and this is what the judge preferred based on two narrations from Ahmad – no khums (fifth one of property) is imposed on spoil, and it should be given to the Muslims' treasury and is disbursed by the Imam, as deemed expedient, for the interests of the Muslims like protection of borders, and construction bridges and water canals, and provided for the expenses of scholars, educated people, judges, and workers, and provided for the fighters and their servants. (Al-Masmuat Al-Feqhiyat Al- Kuwaitiyah, vol. 20, p. 19)

Abu Hanifa - may Allah have mercy upon him, said: it was the same that was narrated from the Prophet, may Allah bless him and grant him peace, that (A person has only what his/her imam has allowed for him/her, so if Imam does not give permission, he should not take this land.) And since the Mawat (barren) land is a spoil, it must be distributed with the Imam's permission, like all other spoils, because the spoils (Ghanimat) is a name for what was obtained by the Muslim soldiers due to the loss of horses and sledges, and Mawat (barren) lands are the same; because the entire land was under the hands of war infidels at war and Muslim took control of it by force and power, so all of them are spoils (Ghanimat) and, so, it is not dedicated for some of Muslims without the permission of the Imam, like all spoils (Bada'i' Al-Sana'i' Fi Tartib Al- Shara'I,' Part 6, p. 193)

⁸ - Clause 10 -... and unowned lands belonging to the state treasury, which include the following:

(1) State lands, which are the lands that were kept for the state treasury and were not distributed to anyone, as well as those that changed to the state property after the death of their owners who died while having no heirs

(2) Unowned Kharaj lands.

(3) Mawat (barren) lands.

(4) Mahmiyah (abandoned) lands, which are currently referred to as abandoned lands that, are lands left for public purposes such as public ways and markets, or allocated to the residents of a village such as pastures,

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A - State land (Huz).

B - Kharaj land (conquered lands)

C - Mawat (barren) land

D - Mahmiya Land (abandoned land)

E - Land that is registered in the Emirate (Government) land registry documents and office or has been changed to Emirate (Government) land as a result of clearance, review, and investigation. ⁹

F – The land where a person has no possession (zulyadi) of more than 36 years and does not have other ownership causes. ¹⁰

summer houses, winter houses, and firewood places. (Ahkam al Arazi. Shaker Nasser Haidar. Press: Ma'arif - Baghdad)

⁹ - Every land that is not owned by individuals is owned by the state, whether the state exercises direct ownership over it or not, and it is called Amir's lands since Amir is ruling on the state (Al Masmuat al Qazaya Al Islamia Moasira, vol. 3, p. 366) (Al- Masmuat Al- Qazaya Al- Islamia Moasira, vol. 3, pp. 367 and 368)

- The lands registered in these registry offices are lands belonging to the public and charitable institutions, and it includes the lands in possession of persons under Khaqanic deeds. (Durar Al-Hukam Fi Sharh Majallat Al-Ahkam, vol. 4, p. 481, Publisher: Dar Al-Jeel)

¹⁰ - Article (1661) The claim of the trustee and the mercenaries against the endowment itself is heard up to thirty-six years, and it is not heard after passing thirty-six years. For example, if someone possesses a property as ownership for thirty-six years, then the trustee of an endowment claims, saying: That property is one of the ruler's (Amir) properties, do not hear his/her claim. [Majalatul Ahkam Al-Adliya]

- For example, if someone possesses a land on the condition that it is his/her property, then the land officer's claim is heard that it is the ruler's (Amir) land for thirty-six years. Similarly, if the landowner claims that the land is the ruler's (Amir) land and the person in possession of the property claims that it is an endowment, then the landowner's claim is heard if thirty years have not passed, but if thirty-six years have passed, so his claim is not heard. (Durar Al-Hukam Fi Sharh Majallat Al-Ahkam, vol. 4, p. 305, Publisher: Dar Al-Jeel)

- Therefore, if someone has usurped a land and cultivated it, and another claimed that the land was his own land and that person usurped it from him, and the usurpation and ownership were proven, then the usurper is get out, and the plaintiff is the one who has the possession. But if the plaintiff does not prove usurpation and possession, then the irrigator is the one who has the possession, and the plaintiff is the outsider. It is stated in the supplementary part of Rad al-Mukhtar that If one has a property, and the other one makes possession of it, it does not become his/her property. If it is claimed against him that you made possession of it and it was in his possession, but he/she denies and swears, It is apparently understood that the new possession is not valid. (Durar Al-Hukam Fi Sharh Majallat Al-Ahkam, vol. 4, p. 332, Publisher: Dar Al-Jeel)

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G- The land that a person is its possessor (zulyad) for 36 years or more and is registered in the Emirate's land registry office and in the land registration book under the name of Emirate (Government) land and has not been given to a person's ownership by previous governments. ¹¹

H- The land that a person is its possessor (zulyad) for 36 years or more, and no natural or legal person has filed a claim against him/her during the said period. Of course, the period of 23 years is to be considered as an excuse period and should not be registered as Emirate land in the emirate documents and the land registry office, and the reason for ownership transfer is also not known. This is an exclusion from the content of clause (f). ¹²

5- State land (Huz): It is the land whose owner has died, left no heirs, and has been transferred to the Public Treasury, and all the lands owned by the infidels that were conquered by force or peace and were left for Muslims.¹³

- If a person conquers another person's property or gains control over it, he will not be deemed to have the right to possess it [Al-Fatawa Al-Bazaziya, vol. 6, p. 131, Al-Shamila Library, Al-Waqfiya, 440]

¹¹ - Article (1674) The right does not lapse with the lapse of time [Majalatul Ahkam Al-Adliya]

[Durar Al-Hukam, vol. 4, p. 290, New Sadaqat Library]

¹² - Whoever has something in his possession, and it is not known who it was transferred from, it remains in his possession, and he/she is not required to prove it. Then he said: whoever we find a location of it in his/her hand or possession, so it is possible that it was revived, or he obtained it correctly. It is not a requirement for the Imam to take anything out of anyone's hand except by a fixed and known right (Rad Al-Muhtar Ala Al-Durr Al-Mukhtar, vol. 4, p. 181, Publisher: Dar Al-Fikr, Beirut)

¹³ - The state land is a land that its owner has died without having any heir and the property is returned to the public treasury (Rad al Muhtar al "Al-Durr Al-Mukhtar: Explanation of Tanwir Al-basar", vol. 3, p. 280, Al-Rashidiyah Library, Kuwait.)

- I said: This is a third type, meaning neither Ushri nor Kharaj lands, called state lands, and this is one that its owner has died while having no heir and the property is returned to the public treasury, or it was conquered by force, and it was kept for the Muslims until the Day of Resurrection, and its condition, based on what is mentioned in the Tatarokhania, is this that it is permissible for the Imam to give to a irrigator in one of two ways: By positioning the owners in the position of an owner and paying the tax (Rad al-Muhtar `ala al-Durr al-Mukhtar, vol. 4, p. 179).

- But some of the later Muslim Jurists issued a fatwa stating that what is beyond them is a land that is neither Ushri nor Kharaj land, but rather it is called the state land, and it is known as the Land of the Rule (Amir) which is the land that was conquered by force or by peace, but was not owned by the people, but rather allocated to the state treasury [Majma al-Anhar Fi Sharh Multaqa al-Abhar, vol. 2, p. 461 AD. Written by Amir Hamza] [Islamic Jurisprudence, vol. 4, p. 4605]

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6 - Kharaj land not owned by anybody: is the land conquered by force or peace and was given by the imam to dhimmis or their owners for the use of its usufruct, and the land itself has been left for the public treasury. ¹⁴

7- Mawat (Barren) land: is a non-profitable land that is not owned by a person, does not belong to the village pasture, is not a firewood place, and is as far from the village as the loud sound cannot be heard from the last house of the village¹⁵ which is measured as one and a half miles (three thousand (3000) Gaz, each Gaz is ninety (90) centimeters) and two thousand seven hundred (2700) meters, each meter is one hundred (100) centimeters. ¹⁶

¹⁴ - Lands that were conquered by force and power and left in possession of their owners by the imam, (either as a matter of ownership or as a matter of usufruct only) after imposing a jizya on them if they did not hand over it, and a tax on their lands whether they converted to Islam or not (3), Lands whose residents (non-Muslims) were displaced or the Imam evacuated them from it, and placed other people of the Dhimmi infidels (Ahkam Al Arazi, Shaker Nasser Haider, p. 6 and 7, Press: Ma'arif - Baghdad)

¹⁵ - Article: (1270) Mawat (barren) lands are lands that do not belong to anyone and are not pastures or used for firewood of a village and are far away from the end of the city in a way that the voice of a loud speaking person cannot be heard from the farthest houses of the village (Majalatul Ahkam Al-Adliya]

(Article: 147) Mawat (barren) lands, meaning permissible lands that are not profitable and are not in anyone's possession. [Murshid al Hairan Ela Marefat Ahwal Al- Ensan, v 1, Page 401, Dar Al-Salam Library, Cairo)

- Mawat (barren) lands are those lands that are nonprofitable due to lack of water, or due to predominance of the water on it, or anything like that which prevents cultivation. So, if some of them are ordinary land and have no owner, or they were owned in Islam but no specific owner is known for them, and they are far from the village in such a way that if a person stays at the end of the village and shout out, no sound could be heard, then it is called Mawat (barren) lands. (Mukhtasar Al-Qadouri, Kitab Ehya Al- Mawat: p. 140, Dar Al-Kutub Al-Ilmiyah, Beirut)

- So, the Mawat (barren) land is the land outside the city that was not owned by anyone, nor anyone have special rights to it.(Bada'i' al-Sana'i', Ihya al-Mawat: [vol. 6, p. 194, Al-Jamali Press, Egypt, Hindi Fatwas, Ihya al-Mawat: vol. 5, p. 385.]

¹⁶ – it means that if someone stands at the end of the village and shouts out loudly, his voice will not be heard, and its measurement is estimated to be a mile and a half, i.e., half an hour. As the level of voice has been explained and estimated, it is similar to the usual voice of the muezzin (caller for prayer), and it should be at a level that would not cause hardship to the soul of the shouter (Rad Al-Muhtar, Al-Khaniya, and Al-Turi). [Durar Al-Hukam, v 3, p. 277, Article 1270, Publisher: Dar Al-Jeel]

- [Imam Abu Yusuf (may Allah have mercy upon him) the report of joint committee regarding the limit of pasture, no (1) dated 29 July 2023 (1445/1/11)

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8- Mahmiya Land (abandoned land): is land that has been set aside for public use, such as public roads, markets, or public pasture, or is allocated for the public use of a village, such as the threshing place, the firewood place, the cemetery, etc.¹⁷

9- Public pasture: is a permissible (mubah) land whose revival has been prohibited by the Amir al-Mumenin, may Allah protect him so that people can graze their livestock in it.¹⁸

10- Special pasture: the abandoned land that has been allocated as pasture for the villagers.¹⁹

11- Waqf land (endowed land): is land that ownership by others has been prohibited by the owner, and its usufruct has been dedicated to public or special charities.²⁰

¹⁷ - Article: (1271) Lands close to the residential area shall be left for the people to be used as pasture, threshing area, or firewood places, and these shall be called Abandoned lands. (Majalatul Ahkam Al-Adliya)

- Type four: Abandoned lands such as the public road, the prayer area, the public pasture, the firewood place, and the cemetery. Durr al Hukam Fi Sharh Al Majallat al-Ahkam: [v: 2, p. 582] Arab Library Quetta, Al Oqood Al Al-Durria fi Tanqih Al-Fatawa Al-Hamidiyah: Vol. 2, p. 227] Maktabatul Haramaian Al Sharafain, Quetta.

(4) Mahmiyah lands, which are nowadays called abandoned lands that, are lands left for public benefits, such as roads and markets, or allocated to the people of a village such as pastures, summer houses, winter houses, and firewood places. (Ahkam Al Arazi, Shaker Nasser Haidar, p 7, Ma'arif Press - Baghdad)

¹⁸ - Protecting the Mawat (barren) land means preventing it from being revived as ownership in order to keep it for growing grasses and grazing livestock. Al-Ahkam Al-Sultaniya p 276 and Islamic Jurisprudence, vol. 6, p. 4628)

¹⁹ - The pasture is located in the place of grazing, which is a land, and on pasture, and in a grazing source. [Al-Inaya Fi Sharh Al-Hidaya: Vol. 6, p. 418, Dar Al-Kutub Al-Ilmiyah, Beirut.]

- Article: (1271) Lands close to the residential area shall be left for the people to be used as pasture, threshing area, or firewood place, and these shall be called Abandoned lands. (Majalatul Ahkam Al-Adliya)

- Pasture is also used to refer to the place of grazing, I mean the land (An Nahr Al Faye'q Fi Sharh al Kanz al-Daq'iqat, chapter of corrupt sale: [v: 3, p. 424]

The word pasture also applies to the place of grazing, meaning the land, and to the herds, and to the source of grazing (Al Benaya sharh Al Hedaya, selling by throwing stones, striking, and touching: [v: 8, p. 158].

²⁰ – The meaning of pasture In Sharia is withholding the property as the property of the donator and giving the usufruct for charity as a loan, and this is the saying of Abu Hanifa (Al-Jawhara Al-Nira, vol. 1, p. 333, Publisher: Al-Khairiya Press)

- In Sharia: withholding a known thing in a known manner. Then, the Hanafi school of thought defined it as withholding one's property as property of Allah Almighty and distributing its usufruct to those he loves. This is

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12- Marsadah Land (waqf land): is land that has been allocated permanently to be used for public purposes such as mosques, schools, and cemeteries or some beneficiaries of public treasury (Bait Al-Mal) by the decree of Amir al-Mumenin, may Allah protect him.²¹

according to the companion. But, according to Abu Hanifa, it means keeping the property as the property of donator and giving the usufruct for charity, even in a lumpsum form [Al-Durr Al-Mukhtar Wa Aliahe Hashiyat Ibn Abidin, vol. 3, pp. 357-358]

- Abu Yusuf and Muhammad said, "It is withholding one's property as the property of Allah Almighty in such a way that the benefit reaches the people. So the title of property is changed from the donator to name of Allah. (Al-Jawhara Al-Nairah, vol. 1, p. 333, Publisher: Al-Khairiah Press)

- Shihab al-Din said: He said in Tatemmah and Moual and the fatwa on their statements. (Hashiyat Al-Shalabi Ala Tabain Al Haqayeq, vol. 3, p. 325).

²¹ - His saying: Imam observed the Land, meaning separating it from public treasury and allocated it for this case... according to his saying, it is management of land as of a Marsadah Land (Rad Al-Muhtar, vol. 4, p. 431, Publisher: Dar Al-Fikr Beirut)

That observation has the character of approval....

- Approving of this allocation and continuing to use it in a way designated by the allocator. It is not permissible for an imam who comes after him to revoke it or nullify it according to consensus of Muslim jurists (Al Masmuat Al Feqhiat Al Kuwaitiyah , vol. 3, p. 108 and 111) [Ibn Abidin, vol. 3, p. 259 and Al Mahdiah fatwas, vol. 2, p. 647]

- (His saying, "Ersad and etc.) watching of the way, I watched it, the same as Arabic word of murder (Qatl): I sit on the way for him, sit that one on the waiting place (Marsad) like Jaafar, and "al-mirsad", and also with "al-murtasid," that is, by way of anticipation and waiting, and your lord is watching over you, meaning watching you, so nothing of your actions will be hidden from him, and are not missed by him (Misbah). The same is the allocation of some villages and farms by Sultan (ruler) from the public treasury for mosques, religious schools, and etc and also for those who deserve from the public treasury, such as reciters, imams, muezzins, and etc that is allocating for them what they need to be resolved, but it was not a real endowment because the Sultan did not own it, but rather it was allocating something from the public treasury for some of those who are deserving, and it is not permissible for those after him to change it and replace it as we have explained it in detail [Rad al-Muhtar: vol. 3, p. 368, before a chapter on the Jizya h. Osmania press, Egypt.]

Al Ersad, in the literature, means provision and preparation. Meaning to prepare something for someone: prepared something. According to Muslim jurists, it is the allocation of the yield of some of the lands of the public treasury for some of its expenses. (Al-Masmuat Al-Feqhiat Al -Kuwaitiyah , [vol. 3, p. 107]

Al-Ersad: means to endow land owned by the state for a public interest such as a school or a hospital by one of the rulers. It is known that this is permissible by virtue of general guardianship of ruler (Amir), but this is called Ersad (allocation), not endowment. (The truth of Islamic jurisprudence and its evidence: vol. 10, p. (7614, Maktabat Al Rashidiya Quetta. And Al-Fatawa al-Mahdiyah, vol. 2, p. 647)

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13 – Iqta Tamlik (Allocation of Ownership): giving the ownership of a barren land or state land to someone by the Amir al-Mumenin; may Allah protect him.²²

14- Iqta Manafeh (Allocation of Usufruct): is giving only the rights of using form usufruct of a barren land or state land to someone by Amir al-Mumenin, may God protect him, without the right of ownership. ²³

15- Registry office of Emirate (Government) land: It is a book in which Emirate (Government) lands are registered with quantitative and qualitative specifications. ²⁴

²² - (His statement about the ruling on Iqta (allocations), etc.). Abu Yusuf, may Allah Almighty have mercy upon him, said in the book of Kharaj: Imam has the right to allocate all that is dead and all that is lacking ownership for anyone, and he does what he deems best and most beneficial for the Muslims. He also said: allocate every land that is not belong to anyone, nor It had traces of a building on it. This indicates that the imam has the right to give the land from the public treasury on the basis of ownership for its slave when deems expedient just as he gives the money, since there is no difference between land and money to pay for what is due, so he took advantage of this interest, for I did not see anyone to tell it. What is famous in the books is this that Iqta' (allocation) is the ownership of the kharaj while leaving the property itself for public the treasury. [Rad al Muhtar, Jihad Book, Jizya Chapter: vol. 3, p. 366). Osmania press, Egypt.]

- the Imam has the authority to allocate what is not the property of a specific person; Because the decision on what is the right of general Muslims is up to the Imam, and he has the right to allocate some of them as he sees expedient as doing with the public treasury...(Al-Mabsoot Li Sarkhmi: Part: 23, p.: 10] Beirut.

²³ - (His statement about Iqta (allotments), etc.) Abu Yusuf, may Allah Almighty have mercy upon him, said in the Book of Kharaj: Imam has the right to allocate all that is dead and all that is lacking ownership for anyone, and he does what he deems best and most beneficial for the Muslims. He also said: allocate every land that is not belong to anyone, nor It had traces of a building on it. This indicates that the imam has the right to give the land from the public treasury on the basis of ownership for its slave when deems expedient just as he gives the money, since there is no difference between land and money to pay for what is due, so he took advantage of this interest, for I did not see anyone to tell it. What is famous in the books is that Iqta' (allocation) is the ownership of the kharaj while leaving the property itself for the public treasury. [Rad al Muhtar, Jihad Book, Jizya Chapter: vol. 3, p. 366). Osmania press, Egypt.]

From here we know the ruling on Iqta (allocation) of the lands of the public treasury, as their result is this that the property itself is for the public treasury and the usufruct is for the one it is allocated for. (Al Bahr al Rayeq, section of rules on Murtaddin (vol. 5, p. 119) Dar al Arabia al Kubra, Egypt.)

- the Imam has the authority to allocate what is not the property of a specific person; Because what is the right of general Muslims, then the decision on it is up to the Imam, and he has the right to allocate some of them as he sees expedient as doing with the public treasury...(Al-Mabsoot Li Sarkhmi: Part: 23, p.: 10] Beirut.

²⁴ - Chapter 18: is about setting up the Diwan and mentioning its rulings. The Diwan is a place for preserving what is related to the Sultanate's rights, works and funds. And whoever carries out it from among the armies and

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16- Registry office of Mawat (barren) lands: is a book in which barren lands are registered with quantitative and qualitative specifications.²⁵

17- Registry office of Waqf (endowed) lands: is a book in which the Waqf (endowed) lands are registered with quantitative and qualitative specifications.²⁶

18- Non-Sharia-Based Possessor (Zulyad): a person who is a usurper or the possession has been transferred to him from a usurper.²⁷

19- Verification of land documents: is determining the correctness of sharia documents in terms of land ownership.²⁸

workers... and the first one to compile the Diwan in Islam was Omar bin Al-Khattab, may Allah be pleased with him. (Al-Ahkam Al-Sultaniyah, p.: 297)

Jubayr ibn al-Huraith said: Omar ibn al-Khattab consulted the Muslims regarding the preparation of the Diwan, Ali, may Allah be pleased with him, said: divide the wealth that you have accumulated every year, and not take any of it. Osman (may Allah be pleased with him) said: I see a lot of wealth that can accommodate the people, even if they do not count it, and it is known who took and who did not take. I was afraid that the matter would get confused, etc. (Al-Faruq, Behawalehi Futuh al-Buldan, p. 449, and the History of the Caliphs by al-Suyuti, Chapter on the Priorities of Omar (May Allah be pleased with him), p. 115)

²⁵ - (Al-Ahkam Al-Sultaniyah, p. (297) (Al-Faruq, Behawalehi Futuh Al-Buldan, p. 449, and History of the Caliphs, by Al-Suyuti, Chapter on the Priorities of Omar (may Allah be pleased with him), p. (115))

(26) - (Al-Ahkam Al-Sultaniyah, p. (297) (Al-Faruq, Behawalehi Futuh Al-Buldan, p. 449, and History of the Caliphs, by Al-Suyuti, Chapter on the Priorities of Omar (may Allah be pleased with him), p. (115))

²⁶ - (Al-Ahkam Al-Sultaniyah, p. (297) (Al-Faruq, Behawalehi Futuh Al-Buldan, p. 449, and History of the Caliphs, by Al-Suyuti, Chapter on the Priorities of Omar (may Allah be pleased with him), p. (115))

²⁷ - Its interpretation in Sharia, it means to take valuable and respected property without the owner's permission in a way that removes the owner's possession if it is in his possession or prevent his possession if not in his possession. (Al hendi, vol. 5, p. 199, Al-Haqaniyah Library)

²⁸ - The judge shall keep a book of records in the court and record and write in that book the notifications and documents that he issues on a regular basis. He is avoiding from trickery and corruption, and takes care of accuracy by keeping that record. If he is dismissed, he hands over the aforementioned records to his successor, either by himself or by an honest representative. (Majalat al Ahkam Al Adliya, Article 1814)

It is permissible to judge and act without evidence based on the contents of the information and the document that were given by the judge of court if they are free from suspicion of trickery and forgery and observing the principles. (Majalat al Ahkam Al Adliya,, Article 1821)

(Al-Ahkam Al-Sultaniyah, p. (297) (Al-Faruq, Behawalehi Futuh Al-Buldan, p. 449, and History of the Caliphs, by Al-Suyuti, Chapter on the Priorities of Omar (may Allah be pleased with him), p. (115))

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20 – Land related to Public treasury (Bait Al-Mal): is a land mentioned in part 4 of this article regarding public treasury lands. ²⁹

21- Document: is a written document that is considered valid in proving the rights before the judge and at the time of issuing a ruling. ³⁰

22- Official document: is a written document that is stated in articles (151) to (153) of the administrative procedures of the judicial courts. ³¹

23- Intended for Exploitation: Anything that is ready and determined for the rent only. ³²

²⁹ - but - 1 – Iqta (allocation) of Sultan’s family , 2 - the endowments of the fire temples, 3 - the properties of those who have no heirs , and the fugitives, 5 - the rebels, 6 - the lands allocated for building and repairing roads, and the lands allocated for postal expenses, 7- rivers, 8- forests all of these lands were regulated by Omar, may Allah Almighty be pleased from him, only for the government, and their annual income amounts to seven million, which were allocated to works for the public goodness. Sometimes a iqta (allocations) was deducted from those lands for a person in exchange for his/her Islamic services, but these iqta (allocations) were not excluded from the tax or Ushr in any way and the remaining lands were given to their previous owners after the clearance of the tax. (Al-Farouq Lashibli Al-Numani, p. 192)

³⁰ - Asnad (document), plural of sanad (document): means a valid document and refuge, and calling the proof because the document has this meaning. (Durar Al-Hukam Fi Sharh Majalat Al-Ahkam (vol. 4, p. 644)

Al Hujjat (proof): is what that has the mark of the judge on it and the handwriting of the two witnesses below that is given to the opposite party. (Rad al Muhtar, the book of judgment, subject: Abu Hanifa (may Allah have mercy on him) called for the judiciary three times: [vol. 4, p. 428] Osmania Press, Egypt.)

Hujat (proof) has two kinds of use in custom: first: the written proof by which rights are documented. It is considered valid in proving rights in judgment and judiciary... and if the document meets the applicable conditions, it is considered as written confession – Al-Masmuat Al-Feqhiyat Al-Kuwaitiyah: [v 25, p. 262].

Reviving the Dead land [vol. 5, p. 382] Osmania Press, Egypt. Durar al-Hukam [vol. 3, p. 281] An Kuwaitiya Arabic library, Sharh Al- Atasi: Article: 1272]

³¹ - Article: (1737) Sultani’s patents and Khaganate book entries, because they are safe from usual forgery. (Majalatul Al-Ahkam)

Article (1738) – it is also applied on the courts records if they have been found free of trickery and corruption in the manner mentioned in the court book.(Majalatul Al-Ahkam Al Adliya)

Article (1738) – it is also applied on the courts records if they have been found free of trickery and corruption in the manner mentioned in the book of Judgement (Durar Al Hukam sharh Majalatul Ahkam) (4/482).

³² - (Article 417): A thing prepared for exploitation (al Moedo Lel Istaghlal) is a thing that has been prepared and designated to be given on rent, such as a house, a bathroom, or a shop that are related to constructed buildings and bought on the condition that they be rented, as well as rental carriages and the animals, and renting

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24- Zawayed Mutaselah (connected growth): are the increases and growth that are incidental to the origin and cannot be separated from their place and cannot be sold separately, such as growing or fattening of the animal.

25- Zawayed Munfaselah (disconnected growth): are the increases and growth that are incidental to the origin, but it is possible to separate it from its place, and can be sold separately, such as milk, fruit, and eggs. ³³

something for three consecutive years is evidence that it is prepared for exploitation and use. What someone created for himself becomes prepared for exploitation by informing people that it is prepared for exploitation. [Majalatul Al-Ahkam Al Adliya and Durar Al Hukum Fi Sharh Majalat Al- Ahkam, vol. 1, p. 379, Publisher: Darar Al- Kutub Al-Ilmiyah, Lebanon / Beirut]

It is understood that the things prepared for exploitation are not limited to real estate only, as was mentioned, but also include animals and movables that are prepared for exploitation, and the magazine is saying the same thing (see Article 596). According to this article, the same applies also to animals and Real estate (Durar Al Hukum sharh Majalatul Ahkam, v 1, p. 379, Publisher: Dar Al-Kutub Al-Ilmiyah Lebanon / Beirut]

³³ - The criterion for Zawayed Mutaselah (inseparable growth) is this that they cannot be separated from its place and sold separately. This is as if he bought an animal and it became fat after it was lean, or it grew bigger after it was small. Fatness and oldness are connected to the animal and a part of it that cannot be separated from it. Likewise, if he buys a small tree and it grows. But, Zawayed Munfaselah (Detached growth) is that that can be separated from its place and sold separately, such as the fruit of the tree, milk, and eggs [Jurisprudence on the Four religions, vol. 2, p. 185, publisher: Dar Al-Kutub Al-Ilmiya, Beirut - Lebanon]

The Hanafi school of thought divided the zawayd (growth) into the following types:

1 - Zawayed Mutaselah (inseparable growth) that is generated from the origin such as fatness in the animal and its increase in weight, recovery from a disease that it was suffering from, maturity in the fruit, and pregnancy that occurs at the time of option (kheyar). But what is present at the time of signing contract, it is contracted for, like the mother, and it is compensated with a portion of the price, according to what the Shafi' said.

2 - Zawayed Mutaselah (inseparable growth) that is not generated from the origin such as dyeing, sewing, building house on the land, and planting in it, and increase of ghee in the market.

3- Zawayed Mutaselah (inseparable growth) that is generated from the origin such as child, fruits, milk, eggs, and wool.

4 - Zawayed Munfaselah (separable growth) that is not generated from the origin such as the earning of the wage-earner, compensation for a crime on an animal organ, and compensation which is considered a dowry for having intercourse with a sheep. This is the division of Hanafi of the Zawayed (growths), and they are the Muslim jurists who are most careful about diversifying them, due to the differences in their rulings according to these types [Al- Masmuat Al-Feqhiyat Al-Kuwaitiyah, vol. 20, p. 100, publisher: Dar Al-Kutub Al-Ilmiyah, Beirut - Lebanon]

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Implementing and Cooperating Authorities and their short names

Article 4:

(1) The Ministries of Justice, Agriculture, Irrigation and Livestock, Urban Development, Labor, and Social Affairs shall be the implementing authorities of this law. ³⁴

(2) The Ministries of Finance, Interior, Hajj and Religious Affairs, relevant municipalities, and other entities shall be obliged to cooperate with the above authorities. ³⁵

(3) The Special Court for Dealing with the Cases of Usurped Sultani (Emirate) Land, Public Pasture, and Waqf (Endowed) Lands shall be referred to as the Special Court, hereafter, in this law.

³⁴ - The Caliph or the Great Imam (Imam Aazam) cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and he may appoint for each the work that he can do. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is his responsibility to supervise them, considering. (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut - Lebanon)

Since the Sultan cannot carry out all of these works by himself, he must have assistants for every need, and one of the conditions for the assistants is: honesty and the ability to carry out what they were ordered to do (Hujjatullah al-Balaghah, vol. 1, p. 98, Publisher: Dar Ihya al-Ulum - Beirut (Lebanon)

Details of the duties of workers according to what was stated in the orders of Omar (may Allah be pleased with him): everyone who appointed as a worker would receive a written order that included his appointment, powers, and duties, and this matter was confirmed by the testimony of many immigrants and Ansar (Al-Farouq, Lashibli Al-Numani, p. 224).

³⁵ - The Caliph or the Great Imam (Imam Aazam) cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and he may appoint for each the work that he can do. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is his responsibility to supervise them, considering. (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut – Lebanon). Omar (may Allah be pleased with him) addressed the Companions, saying: If you do not assist me, who will assist me? Abu Hurairah said, “We will assist you.” Al-Farouq, p. 223.)

(Al-Ahkam Al-Sultaniyah, p. 297 (Al-Faruq be Hawalehi Futuh Al-Buldan, p. 449, and History of the Caliphs by Al-Suyuti, Chapter of the Priorities of Omar (may Allah be pleased with him), p. 115)

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(4) The Commission for Prevention of Land Usurpation and Restitution of Usurped Lands shall be referred to as “Commission” hereafter in this law. ³⁶

Verification and Identification

Article 5:

(1) The verification and identification of usurped Emirate (Government) and endowment lands in the center and provinces is done by the technical teams. ³⁷

(2) The structure, duties, and competencies of the teams mentioned in paragraph (1) of this article are regulated in a bill. ³⁸

³⁶ - They stated that every speaker interprets his word according to his own background, so if the speaker of the word is the lawmaker (shareh), then it is interpreted according to the legal reality. If the speaker is professional in the literatures, then his words are interpreted according to his profession, and the words of the people involved with contracts and transactions are interpreted according to their practice. Addressing them The obligations resulting from this are according to what the word indicates according to their practice. (Al Masmuat Al Feqhiyat Al- Kuwaitiyah), vol. 30, p. 55]

In practice: is the agreement of a group on a specific thing, and every kinds of knowledge has its own terminology. [Al-Mujam al Wasit]

(Article 45): Designation by custom is the same as designation by writing. [Majalatul Ahkam Al-Adliya]

³⁷ - The assistants and deputies must have the legal qualities that must be taken into account in choosing the people who will assume doing affairs related to the nation, with the search for the best person who fulfills the necessary conditions, provides justice, and preserves the public interests. Allah Almighty said: {Indeed, the best is he whom I hire, the Strong and Trustworthy (2)}. This verse includes the requirement of honesty and strength, that is, the ability to carry out the official work entrusted to him. (Al Masmuat Al Feqhiyat Al Kuwaitiyah), vol. 43, p. 131, Maktabat Al-Miya Abdul Hakim Sahib, Kandahar.]

- She decided to order those two lands to be removed from the hands of the judges who were devouring and entrusting them, and to choose for her a trustworthy, reliable and just man, and to order that trustworthy women be chosen for her, and they would take charge of her dowry, and to order that her crops be transferred to the treasury of the Muslims [Al-Kharaj by Imam Abu Yusuf, may Allah have mercy be upon him, p. 298, printed by a Maktabatul Nashar al Qur'an and Sunnah, Peshawar)

³⁸ - Omar bin Al-Khattab, may Allah be pleased with him, was not convinced of the good selection of the governors. Rather, he was specifying for them the method of work and the rules that they would follow to be a basis for holding them accountable later. These rules were determined either in a specific form, during the era of the Welayat, or in a general form, and that was in conferences of the governors that Omar, may Allah be pleased with him, held, the most famous of which was the Hajj conference, (Omar bin Al-Khattab and the Fundamentals of Politics and Modern Administration by Suleiman Al-Tamawi, p. 275, Dar Al-Fikr, Cairo).

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Chapter Two:

Settlement of Usurped Lands

Cases of Dealings

Article 6:

The authorities mentioned in paragraph (1) of article (4) of this law shall be dealing with the issues of lands that have been usurped by individuals, considering the following cases:³⁹

- 1- Lands that have been registered as emirate (government) and Waqf (endowed) lands.
- 2 - Lands that have been verified as emirate (government) and waqf lands as the result of the clearance and identification process.
- 3- Lands that have been verified as emirate (government) and Waqf (endowed lands based on the final decision of the court.
- 4- Lands that have not been registered in the relevant land registry office in the name of natural or legal persons.
- 5- Lands that have been registered in the Emirate (Government) land registry offices under the name of the missed owner, the unknown owner, no heirs or mawat (barren), or called by the mentioned names in the custom of the residences of that area.
- 6- The land that its measure is more than the area stated in the clearance document and the document is issued in the name of that person after 1357 (1978 AD), even if excess of the land measure is also registered in cadaster in the name of that person.⁴⁰

³⁹ - Omar bin Al-Khattab, may Allah be pleased with him, was not convinced of the good selection of the governors. Rather, he was specifying for them the method of work and the rules that they would follow to be a basis for holding them accountable later. These rules were determined either in a specific form, during the era of the Welayat, or in a general form, and that was in conferences of the governors that Omar, may Allah be pleased with him, held, the most famous of which was the Hajj conference, (Omar bin Al-Khattab and the Fundamentals of Politics and Modern Administration by Suleiman Al-Tamawi, p. 275, Dar Al-Fikr, Cairo).

⁴⁰ - The handwriting and the ring alone should not be used, but if it is free from suspicion of forgery or trickery, then it can be subject of the judgment and does not need to be proven in another way. (Majalatul Ahkam Al-Adliya, Article (1736))

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7- Lands that have been definitively sold by municipalities and emirate entities under different titles to natural persons or legal entities in the center and provinces, if contrary to the Sharia rules. ⁴¹

8- Lands that the public benefit projects have been built on them by past governments and administrations, even if their expropriation (istemlak) documents are not available. ⁴²

9 – Lands that have been confiscated by past governments and administrations, and the documents of their alternative land acquisition have been lost by the relevant administration unless witnesses are provided for granting the replacement, and the Emirate has not taken ownership-based action in such properties. ⁴³

10- Water canals (Kariz), streams, land plots, and their axillaries, in which the ownership of individuals has not been proven. ⁴⁴

Al-Faruq, Behawalehi Futuh Al-Buldan, p. 449, and History of the Caliphs, by Al-Suyuti, Chapter on the Priorities of Omar (may Allah be pleased with him), p. (115)) (Al Ahkam al Sultaniah, p. (297), the eighteenth chapter on establishing the Diwan, and mentioning its rulings, a place for preserving what is related to the Sultan rights of works and funds and whoever related to him as armies and workers.

⁴¹ - The handwriting and the ring alone should not be used, but if it is free from suspicion of forgery or trickery, then it can be subject of the judgment and does not need to be proven in another way. (Majalatul Ahkam Al-Adliya, Article (1736))

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⁴² - (Article (68)) The evidence of a matter in hidden affairs takes its place. This means that the decision is issued based on the appearance of matters that their realities are difficult to be discovered. (Majalatul Ahkam Al-Adliya)

Article (1740) Definite circumstantial evidence (Qarinah) is also one of the reasons for issuing a ruling. (Majalatul Ahkam Al-Adliya)

⁴³ - Amr bin Shuaib narrated from his his grandfather through his father: The Prophet, may Allah's mercy and peace be upon him, said: "The proof is upon the plaintiff and the oath is upon the defendant" (Narrated by Abu Dawud No.: (4311))

(Article 76): Evidence is upon the plaintiff and the oath is for the one who denies. This rule is taken from the Noble Hadith (Majalatul Ahkam Al-Adliya, Article (76))

⁴⁴ – It means, not owned by a Muslim or a dhimmi infidel, and its owner is not known, either it has no owner in Islam, which is the reality of dead land, or it has an owner but he/she is not known. This is not the reality of dead land and it is considered a deed land, and the imam makes its exploitation as exploitation of deed land. (Fathul Bab Al Enayah Be Sharhi Al Enayah), vol. 2, p. 557, Publisher: Dar Arqam, Beirut)

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Land Clearance and Marking

Article 7:

(1) The Ministry of Agriculture, Irrigation and Livestock is obliged to identify and clear the lands adjacent to the rivers and verify and mark the non-owned hills and foothills and public pasture lands.⁴⁵

(2) The authorities listed in paragraph (1) of the fourth article of this law should supervise the activities listed in paragraph (1) of this article.⁴⁶

Clause 10 -...and the unowned lands belonging to the public treasury and include the following:

1) State lands, which are the lands that were kept for the state treasury and were not distributed to anyone, as well as those that were later transferred to the state treasury after death of the possessors who have no heir.

(2) Unowned Kharaj lands.

(3) Mawat (barren) lands.

(4) Mahmiyah lands which are nowadays called abandoned lands that are lands left for public benefits such as roads and markets, or allocated to the people of a village such as pastures, summer houses, winter houses, and firewood places. (Ahkam Al Arazi, Shaker Nasser Haidar, p 7, Ma'arif Press - Baghdad)

Every land that is not owned by individuals is owned by the state, whether the state exercises direct ownership over it or not, and it is called princely Amir lands in reference to ruling represented by the state (Al-Masmuat Al-Feqhiyat Al- Kuwaitiyah Al- Qazaiya, Al-Islamia Moasira, vol. 3, p. 366)

⁴⁵ - The Caliph or the Great Imam (Imam Aazam) cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and he may appoint for each the work that he can do. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is his responsibility to supervise them, considering. (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut – Lebanon). Details of the duties of workers according to what was stated in the orders of Omar (may Allah be pleased with him): everyone who was appointed as a worker would receive a written order that included his appointment, powers, and duties, and this matter was confirmed by the testimony of many immigrants and Ansar (Al-Farouq, Lashibli Al-Numani, p. 224).

⁴⁶ - The Caliph or the Great Imam (Imam Aazam) cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and he may appoint for each the work that he can do. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is his responsibility to supervise them, considering. (Islam and our political

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Chapter Three

Proceedings Regarding Settlement of Usurped Lands

Lands usurped for the purpose of agricultural use

Article 8:

If a person has usurped emirate (government) or Waqf (endowed) lands and turned them into agricultural lands, actions will be taken in this regard according to the Islamic Sharia rules.⁴⁷

Lands Usurped for the purpose of industrial or commercial facilities

situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut – Lebanon). Details of the duties of workers according to what was stated in the orders of Omar (may Allah be pleased with him): everyone who appointed as a worker would receive a written order that included his appointment, powers, and duties, and this matter was confirmed by the testimony of many immigrants and Ansar (Al-Farouq, Lashibli Al-Numani, p. 224).

⁴⁷ - And to judge between them according to what Allah has revealed, and do not follow their desires. (Al-Ma'idah: 49)

(And to judge between them according to what Allah has revealed, and do not follow their desires. (Al-Walajiyah). Every prophet has been commanded to do that, and Allah has sent messengers for that purpose, and the instructing Caliphs and the practicing Muslim jurists have done that. (Durar al-Hukam, Fi Majallat al-Ahkam by Lali Haider, v 4, p. 525. Publisher: Dar Al-Kutub Al-Ilmiyah)

A person from the residents of Hemsah, from the companions of Muadh bin Jabal said: that the Messenger of Allah, may Allah bless him and grant him peace, when intended to send Muadh to Yaman, he said, "How will you judge if a judgement is offered to you?" He said: I will judge according to the Book of Allah. He said, "If you do not find it in the Book of Allah." He said, "According to the Sunnah of the Messenger of Allah, may Allah bless him and grant him peace." He said, "If you do not find it in the Sunnah of the Messenger of Allah, may Allah bless him and grant him peace, nor in the Book of Allah..." He said: I will try my best to extract it from my own opinion (Ijtihad) and I will not change it. The Messenger of Allah, may Allah's prayers and peace be upon him, touched his chest with his hand and said, "Praise be to Allah who successes the Messenger of the Messenger of Allah for what the Messenger of Allah is satisfied. (Sunan Abe Dawood, Chapter of extraction of opinion (Ijtihad) in the judgement, Hadith No. 3594)

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Article 9:

(1) If a person has usurped emirate (government) land and built industrial or commercial facilities on it, the following actions will be taken:⁴⁸

1- Obtaining the price of the land from the usurper or illegal possessor (Non-Sharia Zulyad) at the daily rate if the land is built on urban, industrial, or commercial plans and is not under an emirate project. ⁴⁹

2- Leasing land at a daily rate to a usurper or illegal possessor (Non-Sharia Zulyad) without an auction if the land is outside of the urban, industrial, or commercial plans and is not under the Emirate project. ⁵⁰

⁴⁸ - Its purchase is restricted to be against the similar value with a slight loss, and this is what is evaluated by an expert evaluator. Durar al-Hukam, Sharh Gharar al-Ahkam, vol. 2, p. 289. Publisher: Dar Ihya al-Kutub al-Arabiyyah).

The Muslim jurists have agreed that it is permissible to make a judgement based on the opinion of expert people regarding what they are professional and skilled about. (Al -asmuat Al-Feqhiat Al-Kuwaitiyah, vol. 1, p. 248)

⁴⁹ - And according to what is mentioned in Zaighali, the imam has a general mandate, and he has the right to act in the interests of the Muslims, and it is permissible for the imam to take the replacement of a public property. For this reason, if he sold something from the public treasury, his sale is valid, so his saying "something " is indefinite in the context of the condition that applies to the real estate and others whether for a need or for something else (Rad Al-Muhtar Al Al-Durr Al-Mukhtar, vol. 4, p. 182, Publisher: Dar Al-Fikr, Beirut)

If the usurper sells it and hands over it, the owner has the option, if he wishes, he can guarantee the usurper and may sell it, and the price is for his own, but if the buyer guarantees it, he will return to the usurper and the sale is void and he does not return what he guaranteed, and if he sells and does not hands over it, he does not guarantee such and such in Al-Wajeez by Al-Kardari (Al-Hindiya, vol. 6, p. 168, published by Maktab al Majidiya Kuitiah)

(Al-Ahkam Al-Sultaniyah, p. (297) (Al-Faruq, Behawalehi Futuh Al-Buldan, p. 449, and History of the Caliphs, by Al-Suyuti, Chapter on the Priorities of Omar (may Allah be pleased with him), p. (115))

⁵⁰ - It was stated in the fatwas of (Al-Kazorouniyah) as following: But the general opinion of the Muslim Jurists regarding leasing the lands of the public treasury indicates that it is absolutely permissible whether the term of the lease is long or short, and no restriction in their views regarding the possession of it by the Imam through sales and allocation support this idea. (Al-Zaighali, Al-Tanqih, Rad Al-Mukhtar, Al-Anqervia , Al-Hindiya, Al-Qabziyah, Al-Bahr, Taliqat Ibn Abidin on Al-Bahr (Durar Al-Hukam Fi Sharh Majallat Al-Ahkam: Vol. 1, p. 561).

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3- The daily rate for the cases mentioned in parts 1 and 2 of this paragraph is determined by the experts with the presence of the usurper or illegal possessor (Non-Sharia Zulyad) and the committee appointed by the special court. ⁵¹

(2) If the usurper or illegal possessor (Non-Sharia Zulyad) is not ready to pay the price of the land or sign the lease contract, the land will be returned according to the rules of Sharia, and it will be sold or leased to other persons through a competent authority. ⁵²

(3) The rent specified in part 2 of paragraph (1) of this article shall be calculated and will be payable after the date of the lease contract. ⁵³

(4) If the building or facilities are built on the usurped land of the emirate (government) contrary to the urban plan for the purpose of industrial and

⁵¹ - And the knowledge of everything goes back to the one who has insight in that matter, the same as insight on the price, and the origin of this is the Allah Almighty's saying {So ask the those who know you do not know.} (Al-Mabsut Le Sarkhasi, vol. 16, p. 35)

It means, everyone is not able to give expertly testimony, but rather it is limited to those with expertness, knowledge, and specialization in every techniques and industry (Nudvat al Qaza _e-Al Shar'i Fi al Asr al Hazir, v 46, p. 21)

In old times, when merchants were traveling, they would take with them a jurist (Mujtaheed) to whom they would refer. According to the imams of Khwarezm, the merchant must have an honest jurist. (Al-Bahr Al-Raiq Sharh Kanz al-Daqa'iq wa Mihnat al-Khaliq wa Takmila al-Tawri, vol. 5, p. 282. Printed by: Dar al-Kitab al-Islami)

⁵² - The imam has a general mandate, and he has the right to act in the interests of the Muslims, and it is permissible for the imam to take the replacement of a public property. For this reason, if he sold something from the public treasury, his sale is valid, so his saying "something" is indefinite in the context of the condition that applies to the real estate and others whether for a need or for something else (Rad Al-Muhtar Al Al-Durr Al-Mukhtar, vol. 4, p. 182, Publisher: Dar Al-Fikr, Beirut)

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Article 58 of the Majalat Al Ahkam Al Adliya: Possessing of the properties is related to the public interest. Because the Imam of the Muslims has general oversight over all people in public affairs... Because the Sultan was given authority only by Allah Almighty in order to protect the blood of his servants and protect their honor and property (Sharh Al Majallat Salim Bazej 1, p. 43)

⁵³ - (Article 407): The completed lease is a lease being effective from the time of the contract. (Majalat Al Ahkam Al Adliya)

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commercial activity, its retention or destruction shall proposed to a special court after the joint decision of the authorities listed in paragraph (1) of the fourth article of this law. ⁵⁴

(5) When the price of the land is collected from a usurper or an illegal possessor (Non-Sharia Zulyad), the land deed is given to him/her through a competent authority. ⁵⁵

Lands usurped for the purpose of making a Town

Article 10:

(1) If a town was constructed on the usurped Emirate (government) land and the land is under the residential or semi-residential urban plan and is not under the Emirati

⁵⁴ - Details of the duties of workers according to what was stated in the orders of Omar (may Allah be pleased with him): everyone who appointed as a worker would receive a written order that included his appointment, powers, and duties, and this matter was confirmed by the testimony of many immigrants and Ansar (Al-Farouq, Lashibli Al-Numani, p. 224).

The Caliph or the Great Imam (Imam Aazam) cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and he may appoint for each the work that he can do. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is his responsibility to supervise them, considering. (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut – Lebanon)

(Article) 1800) The judge is an agent on behalf of the Sultan to conduct the trial and judgement. (Majalat Al Ahkam Al Adliya, Part 1, p. 367)

⁵⁵ - Al-Adda bin Khalid said: The Prophet, may Allah’s prayers and peace be upon him, wrote to me: “This is what Muhammad, the Messenger of Allah, may Allah’s prayers and peace be upon him, bought from Al-Adda bin Khalid, a purchase of Muslim to a Muslim, neither there is disease nor malice, nor for gain.”(Sahih Al-Bukhari, vol. 3, p. 58)

Article (1736) The handwriting and the ring alone should not be used, but if it is free from suspicion of forgery or trickery, then it can be subject of the judgment and does not need to be proven in another way. (Majalatul Ahkam Al-Adliya, Article (1736))

Article 1737: Sultani patents and Khaganate book entries, because they are safe from forgery that is common in them (Majalatul Ahkam Al-Adliya).

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project, the price of the land will be obtained from the usurper or the illegal possessor (Non-Sharia Zulyad) at the daily rate. ⁵⁶

(2) Those who have purchased land, apartments, or commercial areas in the towns will be issued a deed by the competent authority in accordance with Sharia rules. ⁵⁷

(3) In order to complete the infrastructure of the town according to the relevant bill, those listed in paragraph (2) of this article are required to pay five percent (5%) of the original price of the land, in addition to paying the deed price. If the town's infrastructure has already been completed by the usurper, they are not obliged to pay five percent (5%) of the original price. ⁵⁸

⁵⁶ - Article 58 of the Majalat Al Ahkam Al Adliya: Possessing of the properties is related to the public interest. Because the Imam of the Muslims has general oversight over all people in public affairs... Because the Sultan was given authority only by Allah Almighty in order to protect the blood of his servants and protect their honor and property (Sharh Al Majallat Salim Bazej 1, p. 43)

And according to what is mentioned in Zaighali, the imam has a general mandate, and he has the right to act in the interests of the Muslims, and it is permissible for the imam to take the replacement of a public property. For this reason, if he sold something from the public treasury, his sale is valid, so his saying "something" is indefinite in the context of the condition that applies to the real estate and others whether for a need or for something else (Rad Al-Muhtar Al Al-Durr Al-Mukhtar, vol. 4, p. 182, Publisher: Dar Al-Fikr, Beirut)

⁵⁷ - Al-Adda bin Khalid said: The Prophet, may Allah's prayers and peace be upon him, wrote to me: "This is what Muhammad, the Messenger of Allah, may Allah's prayers and peace be upon him, bought from Al-Adda bin Khalid, a purchase of Muslim to a Muslim, neither there is disease nor malice, nor for gain." (Sahih Al-Bukhari, vol. 3, p. 58)

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Article (58) of the Majalat Al Ahkam Al Adliya: Interfering in the affair should be based on the public interest.. Because the Imam of the Muslims has general oversight over all people in public affairs... Because the Sultan was given authority only by Allah Almighty in order to protect the blood of his servants and protect their honor and property (Sharh Al Majallat Salim Bazej 1, p. 43)

⁵⁸ – (Article 87): Whoever benefits from something must bear its harm.(Majalatul Ahkam Al-Adliya, v 1, p 26)

(Article 87): The blessing is equal to the pain, and the pain is equal to the blessing(Majalatul Ahkam Al-Adliya, v 1, p 26)

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(4) If a town is built on the usurped Emirate (Government) lands contrary to the urban plan, its retention or destruction will be proposed to a special court after the joint decision of the authorities listed in paragraph (1) of Article (4) of this law. ⁵⁹

Lands Usurped for Housing

Article 11:

(1) If the house has been built in the Usurped Emirate (government) lands that are located in the unofficial urban area, actions will be taken in this regard as per the Sharia rules. ⁶⁰

(2) If a house has been built in the usurped Emirate (government) land contrary to the urban plan, its retention or destruction will be proposed to a special court after the joint decision of the authorities listed in paragraph (1) of Article 4 of this law. ⁶¹

⁵⁹ - The Caliph or the Great Imam cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and appoint each for the duty that is assigned to them. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is his responsibility to supervise them (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut. - Lebanon)

Details of the duties of workers according to what was stated in the orders of Omar (may Allah be pleased with him): everyone who appointed as a worker would receive a written order that included his appointment, powers, and duties, and this matter was confirmed by the testimony of many immigrants and Ansar (Al-Farouq, Lashibli Al-Numani, p. 224).

Article (1800) Article (1800) The judge is an agent on behalf of the Sultan to conduct the trial and judgment. (Majalatul Ahkam Al-Adliya, Part 1, p. 367)

⁶⁰ - And to judge between them according to what Allah has revealed, and do not follow their desires. (Al-Ma'idah: 49)

(And to judge between them according to what Allah has revealed, and do not follow their desires. (Al-Walajiyah). Every prophet has been commanded to do that, and Allah has sent messengers for that purpose, and the rightly guided Caliphs and the practicing Muslim jurists have done that. (Durar al-Hukam Fi Sharh Majallat Al-Ahkam by Lali Haider, v 4, p. 525. Publisher: Dar Al-Kutub Al-Ilmiyah)

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Lands Usurped for public facilities.

Article 12:

(1) Whenever there is a mosque, school, or other sacred places, a park, a hospital, a clinic, an orphanage shelter, nursery school, an educational institution, or other public facilities built for the purpose of public use and are under the facilities construction plan, and this land is used by the public, its retention or destruction will be proposed to a special court after the joint decision of the authorities listed in paragraph (1) of Article 4 of this law. ⁶²

(2) If the land referred to in paragraph (1) of this article is under the urban plan and the nature of its use is not specified in the detailed plan, it will be registered in the relevant land registry office and becomes available for public use in accordance with the provisions of Sharia. ⁶³

his responsibility to supervise them (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut. - Lebanon)

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Protection and supervision of public pasture

Article 13:

(1) Violation of public pasture lands and turning them into agricultural lands, construction of houses, industrial or commercial facilities, and any kind of dealing therein is prohibited. ⁶⁴

(2) If a person has changed public grazing land into agricultural land, or has built a house, industrial or commercial facility on it, or has made other kinds of dealings in it, in this case, other dealings in it are suspended until the issuance of the ruling of

indefinite in the context of the condition that applies to the real estate and others, whether for a need or for something else (Rad Al-Muhtar Al Al-Durr Al-Mukhtar, vol. 4, p. 182, Publisher: Dar Al-Fikr, Beirut)

Article 58 of the Majalat Al Ahkam Al Adliya: Possessing the properties depends on the public interest. Because the Imam of the Muslims has general oversight over all people in public affairs... Because the Sultan was given authority only by Allah Almighty in order to protect the blood of his servants and protect their honor and property (Sharh Al Majallat Salim Bazej 1, p. 43)

⁶⁴ - Protecting the dead land is preventing it from being revived by possession; To maintain the permissibility for growing pasture and grazing livestock. The Messenger of Allah - may Allah bless him and grant him peace - protected Medina and climbed a mountain in Al-Baqi'. Al-Ahkam Al-Sultaniya, p. 275, Publisher: Dar Al-Hadith - Cairo)

Protecting the dead land means preventing it from being revived as ownership, in order to keep it for growing grasses and grazing livestock.

The Messenger of Allah - May Allah bless him and grant him peace - protected Medina and climbed a mountain in Baqi (Al-Ahkam Al-Sultaniya, p. 275, Publisher: Dar Al-Hadith - Cairo)

Al-Ahkam Al-Sultaniya p 276 and Islamic Jurisprudence, vol. 6, p. 4628)

Amr bin Yahya Al-Mazni narrated from his father and his father from Abu Saeed Al-Khudri, may Allah be pleased with him: The Messenger of Allah, may Allah bless him and grant him peace, said: no one should accept the harm nor harms others. Al-Mustadrak Al Two Sahihas, Hadith No.: 2345)

It is not permissible for anyone to possess another person's property without his permission (Majallat Al-Ahkam Al-Adliyah, Article 96, p. 61)

It is not permissible for anyone to take anyone's property without a legitimate reason (Majallatul Al-Ahkam Al-Adliya, Article 97, p 62)

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the special court after the joint decision of the authorities mentioned in paragraph (1) Article 4 of this law. ⁶⁵

(3) If a person has converted a public grazing land into agricultural land or has built a house, industrial, or commercial facility on it, its retention or destruction will be proposed to a special court after the joint decision of the authorities listed in paragraph (1) of Article 4 of this law. ⁶⁶

(4) Amir al-Mumenin, may Allah protect him, can invalidate the allocation of the Mahmiya land secured for public grazing and use it for other purposes according to the best Sharia interest. ⁶⁷

(5) Public pasture lands are returned to the Ministry of Agriculture, Irrigation and Livestock and are registered in the relevant land registry office after the verification by the technical team and the joint decision of the authorities listed in paragraph (1) of the article (4) of this law. ⁶⁸

⁶⁵ - Article (58) Majallat Al-Ahkam Al-Adliyah: Interfering in the affair should be based on the public interest.

Type Four: Abandoned lands such as the public road, the prayer area, the public pasture, the firewood place, and the cemetery. Since this type of the lands has no specific owner it is not possible to build and plant with the owner's permission, and it is forbidden to allow one of the public people, or all of them to build or plant on them and grant the right to possess in a manner other than The that is defined. (Durar Al-Hikam Fi Sharh Majallat Al-Ahkam, vol. 2, p. 582, Publisher: Dar Al-Jeel

⁶⁶ - The Caliph or the Great Imam cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and appoint each for the duty that is assigned to them. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is his responsibility to supervise them (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut. - Lebanon)

Article (1800) Article (1800) The judge is an agent on behalf of the Sultan to conduct the trial and judgment. (Majalatul Ahkam Al-Adliya, Part 1, p. 367)

⁶⁷ - The thirteenth type: Taking text from the lands shared among the public Muslims on which charity camels and other animals are grazing, as Omar ibn al-Khattab, may Allah be pleased with him, did is not allowed and others after him have the right to nullify it and do in those lands what is required by the sharia interest (Moen Al Hukam [p. 40]. Al Maktab Al- Arabia, Quetta)

⁶⁸ - The Caliph or the Great Imam cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and appoint each for the duty that is assigned to them. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is

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(6) The Ministry of Agriculture, Irrigation, and Livestock, along with the cooperation with the relevant entities of the emirate, is obliged to protect and take care of public pastures and monitor their usage in accordance with Sharia rules.⁶⁹

Preventing Waqf (endowed) lands Violations

Article 14:

(1) Violation of waqf lands (turning them into agricultural land, building houses, and industrial or commercial facilities) and any activity contrary to Sharia principles is prohibited.⁷⁰

(2) If a person has built a house, industrial or commercial facility on the Waqf (endowed) lands, the case will be referred to a special court for Sharia-based decision after the joint decision of the authorities referred to in paragraph (1) of Article 4 of this law.⁷¹

his responsibility to supervise them (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut. - Lebanon)

⁶⁹ - Because the Imam of the Muslims has general oversight over all the subjects in public matters... because the Sultan was given authority by Allah Almighty only for the sake of protecting the blood of His servants and protecting their honor and their wealth (Sharh Majalah Salim Bazej 1, p. 35)

The Caliph or the Great Imam cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and appoint each for the duty that is assigned to them. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is his responsibility to supervise them (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut. - Lebanon)

⁷⁰ – The practice of Muslim jurists is this that when the endowment is obligatory, it is not allowed to refer to it. Therefore, it should not be sold, leased, endowed and inherited (Al-Masmuat Al-Feqhiat Al-Kuwaitiyah, v 44, p 121)

Irsad is similar to endowment (Rad al Muhtar, endowment book, Frou Al-Mohemmah Hadasat Lil Fetwa, v 3, p 474, press of Osmania, Egypt)

A part of this is watching of Sultan of some village... so, no one, after him, is allowed to alter and change it as I said it before in detail (Rad al Muhtar al Dorr al Mukhtar, v 4, p 195, publisher: Dar al Fekr, Berout)

⁷¹ - The Caliph or the Great Imam cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and appoint each for the duty that is assigned to them. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is

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(3) Waqf (endowed) lands are returned to the Ministry of Hajj and Religious Affairs after being verified and determined by the technical team and the joint decision of the authorities listed in paragraph (1) of article (4) of this law and are registered in the relevant land registry office. ⁷²

(4) The Ministry of Hajj and Religious Affairs, in cooperation with the relevant emirate authorities, is obliged to protect and take care of Waqf (endowed) lands and supervise how they are used as per the Sharia rules. ⁷³

Marsadah Land

Article 15:

Marsadah land has the status of Waqf (endowed) land. ⁷⁴

his responsibility to supervise them (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut. - Lebanon)

Article (1800) the judge is an agent on behalf of the Sultan to conduct the trial and judgment. (Majalatul Ahkam Al-Adliya, Part 1, p. 367)

⁷² - The Caliph or the Great Imam cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and appoint each for the duty that is assigned to them. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is his responsibility to supervise them (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut. - Lebanon)

⁷³ - Because the Imam of the Muslims has general oversight over all the subjects in public matters... because the Sultan was given authority by Allah Almighty only for the sake of protecting the blood of His servants and protecting their honor and their wealth (Sharh Majalah Salim Bazej 1, p. 35)

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⁷⁴ - Irsad is similar to endowment (Rad al Muhtar, endowment book, Furoo al Moheemah Hadasat Lil Fetwa, v 3, p 474, press of Osmania, Egypt)

A part of this is watching of Sultan of some village... so, no one, after him, is allowed to alter and change it as I said it before in detail (Rad al Muhtar al Dorr al Mukhtar, v 4, p 195, publisher: Dar al Fekr, Beirut)

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Chapter Fourth

Final Provisions

Prohibition of sale, division, transfer, and other ownerships of emirate (government) lands.

Article 16:

(1) No one can take possession of the lands of the Emirate as an owner without the decree of Amir al-Mumenin; may Allah protect him. ⁷⁵

(2) If a person arbitrarily takes possession of the lands mentioned in paragraph (1) of this article, it is not considered his/her property. ⁷⁶

⁷⁵ - (His statement about the ruling on Iqta (allocations), etc.) Abu Yusuf, may Allah Almighty have mercy upon him, said in the book of Kharaj: Imam has the right to allocate all that is dead and all that is lacking ownership for anyone, and he does what he deems best and most beneficial for the Muslims. He also said: allocate every land that is not belong to anyone, nor It had traces of a building on it. This indicates that the imam has the right to give the land from the public treasury on the basis of ownership for its slave when deems expedient just as he gives the money, since there is no difference between land and money to pay for what is due, so he took advantage of this interest, for I did not see anyone to tell it. What is famous in the books is this that Iqta' (allocation) is the ownership of the kharaj while leaving the property itself for public the treasury. [Rad al Muhtar, Jihad Book, Jizya Chapter: vol. 3, p. 366]. Osmania press, Egypt.]

The authority to possess the Muslims' treasury rests with the Caliph alone or his representative. This is because the imam is the representative of the Muslims in matters where the person in charge is not appointed among them. And everyone who possesses of any of the rights (Al-Masmuat Al-Feqhiyat Al-Kuwaitiyah , vol 8, p. 244)

The Imam has the authority to allocate what is not the property of a specific person; Because what is the right of general Muslims, then the decision on it is up to the Imam, and he has the right to allocate some of them as he sees expedient as doing with the public treasury...(Al-Mabsoot Li Sarkhmi: Part: 23, p.: 10] Beirut.

The Imam has a general mandate, and he has the right to act in the interests of the Muslims, and it is permissible for the Imam to dispense with the general obligation. For this reason, if he sold something from the treasury, it is valid to sell it, so saying something is indefinite in the context of a condition that applies to real estate and other things for a need or other. (Rad Al-Muhtar Ala Al-Durr Al-Mukhtar: Vol.: p. 182, Publisher: Dar Al-Fikr - Beirut), The Creator's Grant on the Clear Sea: Vol.: 5, p. 114), Explanation of the Truths on Kanz Al-Daqa'iqat: [Vol.: 5, p. 37] .

⁷⁶ - (His statement about the ruling on Iqta (allocations), etc.) Abu Yusuf, may Allah Almighty have mercy upon him, said in the book of Kharaj: Imam has the right to allocate all that is dead and all that is lacking ownership for anyone, and he does what he deems best and most beneficial for the Muslims. He also said: allocate every land that is not belong to anyone, nor It had traces of a building on it. This indicates that the imam has the right to give the land from the public treasury on the basis of ownership for its slave when deems expedient just as he gives the money, since there is no difference between land and money to pay for what is due, so he took advantage of this interest, for I did not see anyone to tell it. What is famous in the books is this that Iqta'

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(3) No individual or Emirate entity can sell Emirate (Government) lands or transfer their possession or usufruct or ownership without the decree of Amir al-Mumenin; may Allah protect them. ⁷⁷

(allocation) is the ownership of the kharaj while leaving the property itself for public the treasury. [Rad al Muhtar, Jihad Book, Jizya Chapter: vol. 3, p. 366]. Osmania press, Egypt.]

The authority to possess the Muslims' treasury rests with the Caliph alone or his representative. This is because the imam is the representative of the Muslims in matters where the person in charge is not appointed among them. And everyone who possesses of any of the rights (Al-Masmuat Al-Feqhiyat Al-Kuwaitiyah , vol 8, p. 244)

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(4) Whenever a person or an emirate's entity violates the provisions of paragraph (3) of this article, he/she will be introduced to a special court. ⁷⁸

Referring the case to a special court

Article 17:

Whenever the authorities mentioned in paragraph (1) of article (4) of this law cannot decide about the documents related to the disputed lands, ⁷⁹ If the matter requires the issuance of a Shariah decision, the commission will refer the case to the special court established for dealing with the cases of usurped Sultani (Emirate) and Waqf (endowed) lands, and a lawsuit will be filed in this regard. ⁸⁰

Beirut), The Creator's Grant on the Clear Sea: Vol.: 5, p. 114), Explanation of the Truths on Kanz Al-Daqa'iq: [Vol.: 5, p. 37].

⁷⁸ - Omar bin Al-Khattab, may Allah be pleased with him, was not convinced of the good selection of the governors. Rather, he was specifying for them the method of work and the rules that they would follow to be a basis for holding them accountable later. These rules were determined either in a specific form, during the era of the Welayat, or in a general form, and that was in conferences of the governors that Omar, may Allah be pleased with him, held, the most famous of which was the Hajj conference, (Omar bin Al-Khattab and the Fundamentals of Politics and Modern Administration by Suleiman Al-Tamawi, p. 275, Dar Al-Fikr, Cairo).

(And every non-Muslim perpetuator or harmful Muslim by word or deed is punished. (Rad Al-Muhtar Ala "Al-Durr Al-Mukhtar, v 15, p. 224, and Majma' Al-Anhar Fi Sharh Multaqa Al-Abhar, v 4, p. 216. So result is this that everyone who commits a sin for which there is no defined Sharia punishment (Had) and is proven guilty before the judge, then he/she must undergo a discretionary punishment (Tazir) (Al-Bahr Al-Ra'iq Sharh Kanz Al-Daqa'iq', vol. 5, p. 71, Rashidiya Library and Fatwas of Mahmoudiya, vol. 22, p. 565)

⁷⁹ - The principles, laws and rules that Omar, may Allah be pleased with him, established were simple and easy to the extent that the justice seeker did not make any effort and did not face any problem in obtaining his/her rights, and Omar, may Allah be pleased with him, was always taking this matter into consideration (Al-Farouq Shibli Al-Numani, p. 259)

Article 58 of the Majalat Al Ahkam Al Adliya: Possessing of the properties is depending on the public interest. Because the Imam of the Muslims has general oversight over all people in public affairs... Because the Sultan was given authority only by Allah Almighty in order to protect the blood of his servants and protect their honor and property (Sharh Al Majallat Salim Bazej 1, p. 43)

⁸⁰ - The Caliph or the Great Imam cannot, of course, undertake the affairs of the nation alone as long as the nation has delegated to him the responsibility of carrying out all its affairs. He may seek the assistance of others in what he cannot undertake himself. He may seek the assistance of ministers, directors, judges, and employees of every kind, and appoint each for the duty that is assigned to them. If they are considered representatives of the Caliph, then they are also considered representatives of the nation once they are appointed to their positions, and it is his responsibility to supervise them (Islam and our political situation. Author: Abdul Qadir Odeh, p. 175. Publisher: Al-Resala Foundation for Printing, Publishing and Distribution, Beirut. - Lebanon)

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Referring to the seller or usurper

Article 18:

If the price of the land is taken from an illegal possessor (Non-Sharia Zulyad), he/she can refer to the seller or usurper to receive the paid amount. ⁸¹

Transfer of money to the uniform/single Emirate account

Article 19:

(1) The Ministries of Agriculture, Irrigation and Livestock, Urban Development and Housing and Finance in the relevant area are obliged to prepare a tariff and give it to the usurper or illegal possessor (Non-Sharia Zulyad) in order to transfer the money received for the price or rent of the usurped Emirate (government) lands to the uniform Emirate account. ⁸²

The verbal ruling requires a lawsuit (Rad Al-Muhtar Ala Al-Durr Al-Mukhtar: Vol.: p. 182, Publisher: Dar Al-Fikr - Beirut, vol. 4, p. 383, Rashidiyya Library, Quetta)

Judge between them according to what Allah has revealed, and do not follow their desires. (Al-Ma'idah: verse 49)

(And to judge between them according to what Allah has revealed, and do not follow their desires. (Al-Walajiyah). Every prophet has been commanded to do that, and Allah has sent messengers for that purpose, and the instructing Caliphs and the practicing Muslim jurists have done that. (Durar al-Hukam, Fi Sharh Majallat al-Ahkam by Lali Haider, v 4, p. 525. Publisher: Dar Al-Kutub Al-Ilmiyah)

⁸¹ - If the usurper sells it and hands over it, the owner has the option, if he wishes, he can guarantee the usurper and may sell it, and the price is for his own, but if the buyer guarantees it, he will return to the usurper and the sale is void and he does not return what he guaranteed, and if he sells and does not hands over it, he does not guarantee such and such in Al-Wajeez by Al-Kardari (Al-Hindiya, vol. 6, p. 168, published by Maktab al Majidiya Kuitiah)

If it appears that someone's property in in the possession of another one who has bought it, and the entitled person claims that thing, and upon trial, other person says: This property is related to that one, and he sold it to me, but the entitled person proved his claim and the judge issue the rule for him, then buyer has the right to recourse to the seller and recovers the price of the sold property from him (Durar Al-Hukam Fi Sharh Majallat Al-Ahkam, vol. 4, p. 116, publisher: Dar Al-Jeel)

⁸² - Omar bin Al-Khattab, may Allah be pleased with him, was not convinced of the good selection of the governors. Rather, he was specifying for them the method of work and the rules that they would follow to be a basis for holding them accountable later. These rules were determined either in a specific form, during the era of the Welayat, or in a general form, and that was in conferences of the governors that Omar, may Allah be pleased with him, held, the most famous of which was the Hajj conference, (Omar bin Al-Khattab and the Fundamentals of Politics and Modern Administration by Suleiman Al-Tamawi, p. 275, Dar Al-Fikr, Cairo).

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(2) In order to transfer the money received for the price or rent of the respective usurped lands, the municipalities shall be obliged to prepare the tariff and give it to the illegal possessor (Non-Sharia Zulyad).⁸³

(3) The usurper or illegal possessor (Non-Sharia Zulyad) is obliged to hand over the money mentioned in paragraphs (1) and (2) of this article to the bank and submit it to the relevant authority.⁸⁴

Requesting Guidance

Article 20:

(1) If there is no ruling on the usurpation of emirate (government) and Waqf (endowed) lands in this law, guidance should be sought from Amir al-Mumenin, may Allah protect him.⁸⁵

(2) When a special court issues an order on the retention of an industrial or commercial building or a town or issues an order to obtain a similar price in accordance with the special court procedure for dealing with the cases of usurped

There was a system followed in the treasuries of the regions that a sufficient amount of money was being kept for all types of expenses, and remaining money was transferred to the main treasury at the end of the year, i.e. the treasury in Medina (Al-Farouq, Lashibli Al-Numani, p. 265)

Omar (may Allah be pleased with him) laid down great rules and principles so that workers would remain faithful and truthful (Al-Farouq, Lashibli Al-Numani, p. 231)

⁸³ - There was a system followed in the treasuries of the regions that a sufficient amount of money was being kept for all types of expenses, and remaining money was transferred to the main treasury at the end of the year, i.e. the treasury in Medina (Al-Farouq, Lashibli Al-Numani, p. 265)

⁸⁴ - There was a system followed in the treasuries of the regions that a sufficient amount of money was being kept for all types of expenses, and remaining money was transferred to the main treasury at the end of the year, i.e. the treasury in Medina (Al-Farouq, Lashibli Al-Numani, p. 265)

⁸⁵ - When Omar Ibn Al-Khattab sent officials and workers, he stipulated for them that: "You shall not sit on rags, nor eat good bread, nor wear thin clothes, nor be unjust. "don't close your doors at the needs of the people, for if you do any of that, then you will be deserving to be punished. Then they will accompany them." So, if he wanted to return, he would say: "I have not given you authority over the blood of the Muslims, nor over their skins, nor over their honor, nor over their property, but I have sent to perform prayer among them, and resolve their dispute among them, and judge among them justly. If anything is difficult for you, refer it to me, and do not strike with the enemy. Be aware that you should not beat Arabs, then you will humiliate them, do not praise them, then will make them fool, and do not accept, then you will be sanctioned, so they reject the Qur'an "(Shoab al Aaiman Lel Baihaqi, v 9, p 493, No of Hadith 7009, publisher: Library for development of publishment, and distribution in Reyaz in cooperation with Dar al Salafiah Bombay, India)

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lands (public pasture and Waqf lands), the commission is obliged to request guidance from the Supreme Leader of the Islamic Emirate of Afghanistan regarding the sale or lease of the land in accordance with the provisions of paragraph (1) of article (16) of this law.

Haq al-Abdi (rights of people) lawsuit

Article 21:

The implementation of the provisions of this law shall not prevent the affected persons from filing a Haq al Abdi (rights of people) lawsuit against the usurper. ⁸⁶

Date of Enforcement

Article 22:

This law shall enter into force from the date of endorsement and should be published in the official gazette, and the decree on the prevention of usurpation of land and the restitution of usurped land published in gazette number (1424) dated 4 November 2022 (1445/4/10) and other provisions of legal documents contrary to this law shall be nullified. ⁸⁷

⁸⁶ - If it appears that someone's property is in the possession of another one who has bought it, and the entitled person claims that thing, and upon trial, other person says: This property is related to that one, and he sold it to me, but the entitled person proved his claim and the judge issue the rule for him, then buyer has the right to recourse to the seller and recovers the price of the sold property from him (Durar Al-Hukam Fi Sharh Majallat Al-Ahkam, vol. 4, p. 116, publisher: Dar Al-Jeel)

⁸⁷ - He said in Al-Miraj: because obedience to the imam in what is not disobedience is obligatory (Hashiat Rad Muhtar Ala Al-Durr Al-Mukhtar, vol. 2, p. 172. Publisher: Dar Al-Fikr for Printing and Publishing. Beirut)

The obedience to the Imam is obligatory) His saying: The command of the Sultan is enforceable (means it should be followed and it is not permissible to violate it (Rad Al-Muhtar Ala Al-Dar al Mukhtar, v 5, p. 422, Publisher: Dar Al-Fikr - Beirut)

The imams agreed that The perfect Imam must be obeyed in everything he commands, unless it is disobedience and that the rulings of the Imam, his deputy, and those who follow him, are effective (Jurisprudence on the Four religions, Kitab al-Hudud, vol. 4, p. 1364, Al-Haqqaniya Library, Mahalla Jangi).