



## Research Paper

# The Responsibility for Providing Costs of Unobtainable Public Interests: Comparative Study of Imāmī and Shāfi'ī Jurisprudences

Ali Farsimadan<sup>1</sup>

1- Assistant Professor, Department of Law and Islamic Jurisprudence, Faculty of Islamic Denominations, University of Religions and Denominations, Qom, Iran .



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### Abstract

In Islamic jurisprudence, public treasury has various expenditures. Using the descriptive-analytic method, this research studies Imāmī and Shāfi'ī jurisprudences on the question as to upon whom the responsibility for the costs of public interests that cannot be procured in any other way should fall. There are various cases in Imāmī jurisprudence; however, the present research examines five cases: First: alimony for the martyrs' families; according to both Imāmī and Shāfi'ī jurists, they consensually say that fighters (*mujāhidīn*) and their families should be given serious attention, especially in terms of economic and livelihood, for jihad and defense of the Islamic world are considered as the fundamental issues and great interests of Muslims. Second: marriage expenses of the needy; Imāmī jurists permit using various sources such as a share of "*fi sabīl Allah*" (for the sake of God) and public treasury to cover such expenses. Some Shāfi'īs including "Shirbīn" pays attention to this issue. Third: alimony of the abandoned (*laqīl*); According to Imāmī jurists, the responsibility for expenses and alimony of an abandoned is to the public treasury. Shāfi'īs believe that if an abandoned possesses property, *multaqit* (finder of the abandoned) could consume it with the permission of the ruler, otherwise, the public treasury is responsible for paying alimony to the abandoned. Fourth: The cost of the shroud and burial of deceased Muslims who cannot afford it; according to Imāmī jurists, if someone did not undertake it voluntarily as a most recommended deed, the State can conduct his/her burial using the public treasury and a share of "for the sake of God". Shāfi'īs also pay attention to this issue so that some order to pay the public treasury for it. Fifth: Paying debts of debtors; based on Imāmī jurisprudence, the public treasury and its sources such as almsgiving (*zakat*) and public property (*anfāl*) could be used for it, while in Shāfi'īs, if the debtor does not have financial ability, he/she is given a deadline until he/she pays his/her debt. Otherwise, his/her debt would be paid from the share of *zakat* of "*wal-ghārimīn*" (and the debtors)

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**Corresponding author:** Ali Farsimadan

**Address:** Assistant Professor, Department of Law and Islamic Jurisprudence, Faculty of Islamic Denominations, University of Religions and Denominations, Qom, Iran.

**Tell:** +989191542037

**Email:** alifarsimadan98@gmail.com



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## Extended Abstract

### 1- Introduction

One of the important philosophies of the formation of Bait al-Mal is to prepare it for consumption in the interests of Muslims (Mohaqq Karaki, 1414, 1/402), which is its guardian with the ruler of Sharia, who can spend it in the interests of Muslims in any way he sees fit. (Kiraki Researcher, 1414, 3/474). Imami jurists have mentioned various uses for Bait al-Mal. For example, Mohaghegh Khoui states in his document in *Sharh al-Arwa al-Wathqi* (Khoui, Bitā, 144), that Bait al-Mal is used to manage the affairs of Muslims, including public interests or cases that cannot be covered by other means. Mohaghek Khoei has given an example for the responsibility of expenses that cannot be procured in another way. His documentary is the biography of Imam Ali (a). Imam (a.s.) punished a person who was not married and engaged in illicit masturbation and provided him with a wife at the expense of Baitul Mal (Kalini, 1429, 257/14; Tusi, 1390, 226/4 and 1407, 10/ 63). The current research tries to investigate the responsibility of the costs of public goods that cannot be obtained by other means from the perspective of Imamiyya jurisprudence and Shafi'i jurisprudence and explain its examples with descriptive-analytical method. Although this question is raised at the beginning of the matter, if the government spends money for individuals based on expediency, is it considered part of the public interest? This has been accepted in comparative jurisprudence. From the point of view of Mohaghegh Khoi, any kind of necessity that cannot be provided and compensated from another place and source, Baitul Mal will be the caretaker of it (Khoi, Bitā, 145). Shahid Thani also has the same theory and says that the use of Bait al-Mal includes

any expedient of Islamic benefits that does not have another source, or if there is, it is not sufficient for that expedient (Shahid Thani, 1410, 3/72); Because in Imami jurisprudence, Bait al-Mal is prepared for the interests of Muslims (Allameh Halli, 1414, 14/49- Mohagheg Karki, 1414, 1/402) and in Shafi'i jurisprudence, everything whose benefit returns to Islam is considered part of the public interest (Ibn Hajar , 2008, 479/3).

### 2- Method

In a descriptive-analytical way, this research examines the issue of who is responsible for the costs of public benefits that cannot be obtained by other means, in Imamiyyah and Shafiyyah jurisprudence.

### 3- Result

In jurisprudence, the expenses of Baitulmal are for the administration of Muslim affairs, including public interests or cases that cannot be covered by other means. In this research, among the expenses of Bait Al-Malal, items such as "martyr's family allowance", "marriage expenses of needy people", "laqit allowance", "expenses for the funeral and burial of an unaffordable Muslim deceased", "debtor's debt" are the subject of comparative study in Imami jurisprudence and jurisprudence. Shafiyyah has put it.

### 4- Conclusion

There is a consensus in Imamiyyah and Shafi'i jurisprudence that Mujahideen and their families should be given serious attention, especially in terms of economic and livelihood; Because Jihad and the defense of the Islamic organization are considered to be one of the fundamental issues and great interests of Muslims; Therefore, one of the public goods that



cannot be procured and compensated by any other means and only the Treasury is in charge of paying its costs, is the cost and alimony of the families of the martyrs and Mujahideen.

Marriage and forming a family is one of the most important interests in Islamic society. Serious attention has been paid to this important issue in Imami jurisprudence and hadiths. Mohaghek Khooi has come to the conclusion that Bait al-Mal is not only used for the public welfare of Muslims, but also for any type of necessity that cannot be provided and compensated from other places and sources. For this purpose, the Imami jurists consider the use of conquered lands in the hands of Muslims, obligatory and recommended zakat, waqf for Muslims, bequests and vows, share "in the hair of God" (Touba/60), Bait al-Mal permissible. Some Shafi'i jurists, including "Sharbini" in Mughni al-Mahatah, have paid attention to this issue. Even if he becomes indebted for the holy matter of marriage, he can be given from the share of zakat (Wa al-Gharimin: Repentance/60).

In Imamiyyah jurisprudence, the responsibility for the expenses and maintenance of the deceased is the responsibility of Bait al-Mal; Because the Imam (a.s.) is the guardian of the laqit, and all expenses and maintenance are the responsibility of the Imam (a.s.) or the Ruler of Sharia. Shafi'i jurists believe in this issue; The first priority is that if Laqit has money, he should use it with the permission of the ruler, and if he does not have money, Bait-ul-Mal is responsible for paying Laqit's alimony.

The dead is as respectable as when he was alive; Therefore, if the deceased does not have wealth or a shroud, the Imamiyyah jurists have proposed four rules for the cost of the shroud and burial. Among the sayings of most of the jurists, they believe

that the affairs of the dead can be done from the wealth and share "for the sake of God" (Touba, 60). Therefore, if a Muslim dies and does not have enough money left to provide for the dead, or if he makes a donation out of strong affection for someone, otherwise, they will provide for him from the almshouse. Shafi'i jurists and even Shafi'i commentators have paid attention to this point, even some have explicitly stated the ruling of payment from the treasury. Of course, in the first stage, Shafi'i jurists believe that the expenses of the deceased should be taken from the original property if the deceased had nothing; Those who pay his maintenance should take care of the dead body. However, a woman who does not have a husband or property considers Bait al-Mal to be responsible for equipping the dead, and this is the case that the Shafi'i commentators in this debate believe that the dead should be takfin from the Zakat (Bait Al Mal) share.

The last item that cannot be procured and compensated except by payment from the treasury is the payment of debtors' debts. According to the Shia jurists, the share of "in the path of Allah" (Touba/60) includes all the public interests of society and Muslims and is not only limited to Jihad. Anfal and Baitalmal can also be used. Of course, Zakat and Anfal are part of Baitul Mal's resources. Even the Shia commentators have quoted under the Sharifah verse (Baqarah/280), if the [debtor] is in need, [it is your responsibility] to give him respite until he is able. Therefore, since Bait Al-Mal was formed to provide the benefits and interests of Muslims, the payment of debts is considered one of the most important social benefits. Shafi'i jurists have mentioned the place of spending zakat in the noble verse "Wa al-Gharameen" (Toba/60) to pay the debts of debtors and



debtors, of course, on the condition that his debt is not due to sin, debauchery and extravagance. Therefore, it is inferred from the words of Shafi'i jurists, if the debtor does not have the financial ability, according to the reason of the narration (Baqarah/280), the debtor and the debtor are given time to pay their debt, but if they do not find the ability to pay due to various reasons, from the share of zakat "And al-Gharamin" (Touba/60) his debt will be paid.

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ali farsimadan, the corresponding author of this article, is PH. Assistant Professor, Department of Law and Islamic Jurisprudence, Faculty of Islamic Denominations, University of Religions and Denominations, Qom, Iran .

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