

Disrupting the Islamic Legal Judiciary Regarding Theft and Drinking Alcohol and Its Impact on Society, a Jurisprudential Study Comparing Sharia and Law

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Abstract

The judiciary is a trust that needs to be done to the fullest. That litigation must be in accordance with what God Almighty has prescribed because preserving souls, symptoms, and money can only be by standing at the limits of the law. The Prophet, may God's prayers and peace be upon him, has begun judging himself and has not feared blame in God. The judiciary is not subject to the authority of a ruler nor to his desires, for he derives his power from the authority of God Almighty, so he does not politicize, and there is no favoritism towards anyone. Judge: He is categorical of matters that are tightly controlled by her, and he is the one who decides between people by virtue of Sharia. The judge appointed the necessity to establish the imposition: This is because the Grand Imam's monument was imposed without controversy between the people of truth. The meaning of the judiciary is to clarify the legal ruling, compel it, and separate the disputes. Elimination has multiple meanings - creation, separation, cutting, emptiness, matter. The difference between the judiciary and the fatwa, as the fatwa is a statement of judgment without binding. As for the judiciary: it is obligating the opponent to rule. The ruler on the one hand is proof, he is a witness, and on the one hand the command and the prohibition he is a mufti, and on the one hand the obligation to do so, he has authority. Whoever leads the judiciary must be: sane, adult, Muslim, free, visionary, speaking, safe from the point of slander, male, diligent, just. It is permissible for a non-Muslim to take the charge of eliminating the people of his religion only, upon tap. Theft: is the taking of a rational adult, chosen and committed to the rule of Islam, a quorum of money with the intent to steal from a score similar to him, which has no suspicion.

Keywords: judiciary, Jurisprudential Study

I. Introduction

Judgment is a matter of the utmost importance for that. God Almighty has made the judge of justice a day for the value of the reward for what he is judged with justice: those who change their judgment, their families, and loneliness (1) That is why I chose to write about disrupting the Islamic legal judiciary within the limits of theft and drinking alcohol because of this negative impact on people's lives, as the man-made laws in force in Islamic countries have not succeeded

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in stopping or reducing crime. For their non-compliance with the divine orders issued by the wise expert. I will start this research by defining the judiciary, with an explanation of the meanings taken from the term judiciary, then what is the difference between judiciary and fatwa, and what are the characteristics of a judge that qualify him for the judiciary. Then Abyan came after the ruling of the Islamic judiciary at the end of stealing and drinking alcohol in comparison to the rulings issued by the Iraqi judiciary to punish theft and drinking alcohol and its impact on society.

Definition of the judiciary

Two conditions: judgment is language, and judgment is its continuation. Because it is a judgment, except that you who came after a thousand whispers, and the judiciary and the case are one, collecting cases on the basis of the principal and the father. And he spent a judge and preacher, the people of Hijaz said, a judge in the language of meaning, categorically in the matters he rules. And so-and-so is a judge among the people, and the prince worked as a judge, as you say by the order of the Emir (2) and the judiciary in the language means: judgment, separation, and separation, and the judge is the one who separates people according to the rule of Sharia (3)

Definition of the judiciary in Islam

Ruling according to Sharia: (Ruling between people is a right, and judgment is what God Almighty has revealed (4) and the judge's position is to prove the imposition of the imposition. This is because the position of the Grand Imam is a duty and there is no disagreement among the people of truth, because of the Companions' unanimity on that, and the sense of the necessity of restricting rulings, and reparation of the oppressed from the oppressor. By cutting off the other disputes and interests that only the imam can prove, and it is known that he cannot do what he annulled, so he needs a deputy to replace him, who is the judge (5) And that he knew of Imam al-Suyuti (I write the ruler in the legal duty of governments and separate any dispute and a ruling to prove this condition or permissibility) (6) As for Imam bin Hajar al-Asqalani, he knew of his saying (and the judiciary: Statement of judgment for the opponent with an obligation) (7) This is in terms of the meaning of the judiciary in explaining the Islamic ruling, knowing that the judiciary has many meanings other than the meaning of separating disputes, and I will explain these meanings contained in the Noble Qur'an for the sake of the reader. The researcher has to distinguish between these meanings and the various aspects of the judiciary.

Attributes of the judge.

The validity of the judiciary has conditions that must be met by those who assist in the judiciary, and they are: (reason, adulthood, Islam, freedom, sight, speech, safety from defamation) (8) The author of the book (Sharh al-Hidayah) stated that the Shafi'is in the Book of Al-Wajeez said that the judge has qualities, namely, to be a free, diligent, peerless male. It is not permissible to judge a woman, the blind, the boy, the evildoer, the ignorant, and the imitator) (9) Likewise, it is not suitable for legal rulings and fatwas for those who do not know good hadith, do not know hadith, and do not speak well (10) As for imitating the judiciary of a non-Muslim, it is not permissible for any of the jurists except the Hanafis. They have permitted the tradition of judging the dhimmi, which - non-Muslim - is for the dhimmi only because he is one of the people of the dhimmi testimony. They do not cuddle in his condition nor hurt (11) After defining the judiciary, explaining the meanings taken from the words of the judiciary, stating the difference between the judiciary and the fatwa, and knowing the characteristics that must be available in the one who is in charge of the judiciary, we get acquainted with a ruling issued in the context of the theft and drinking of alcohol from the legal judiciary with an explanation of the ruling issued by the law on the same subject and the impact of breaching the provisions of Sharia and this is what I will discuss. God Almighty willing. Within the fourth and fifth articles. Explaining the Sharia ruling on the

extent of theft, compared to the ruling issued by the Iraqi judiciary and the impact of disrupting Sharia rulings on society Explaining the Sharia ruling on the extent of theft - a comparative jurisprudential study between Sharia and the law The first condition: Definition of theft in the language and Sharia, theft in the language: (It is said that he stole, stole, stole and stole, so he is a thief and the stolen and the owner stole from him). (12) Al-Kenawy al-Hanafi explained theft and said: (Theft in the language: taking something from others in secret, what was) (13) Al-Nasafi defined it by saying: (SRQ): Theft and theft by breaking a man's head, and by reducing opinion is a source, and he takes what he did not underestimate, as this is his truth in the language) (14) In Sharia: Theft (taking a rational rationalist with great pain x a tarred who is committed to the rule of Islam, the quorum of money, to steal from Abjar (15) like him, there is no doubt about it) (16) Imam Al-Nasafi said in the interpretation of the meaning: The polls have increased an omitted and appreciated news, and as he recites to you - theft and theft - or the news. The approaches are their hands and that the Yemeni should be as indicated by Abdullah bin Masoud's reading. May God be pleased with him that Fa entered into addiction to them, the meaning of the condition Because the meaning: stolen and stolen, so they cut their hands, and the name is interconnected, which guarantees the meaning of the condition, and it began with the man because theft requires courage, and it is more in the man than with the women, but in the case of adultery it started with women and men's delay because adultery stems from desire, and it is more in women, and the hand Broken off because it's a machine. The theft and the tool for sexual intercourse was not cut off in order to avoid the disconnection of the habitat (17)

Handbook of the prohibition of the Prophet's Sunnah

1. On the authority of Ibn Abbas: He said: The Messenger of God, may God bless him and grant him peace, said: (A thief does not steal while he is a believer) (18)

2. Ubadahibn al-Samit. He said: We were with the Messenger. He said: (Follow me on condition that you do not associate anything with God, so do not commit adultery or steal) (19)

3. On the authority of Al-Amash, on the authority of Abu Saleh, on the authority of Abu Hurairah, he said: It was said, O Messenger of God, so-and-so prays the whole night, even if it is. He said: Your saying is forbidden (20) IbnHajar said: This prayer is definitely forbidden, and he will soon repent of stealing. Because sin is based on catharsis; It is necessary to pray for a while until he finds in his heart a condition that prevents him from doing so. (21) In the hadith is a reference to the words of God Almighty (22) ((Prayer forbids immorality, evil, and injustice, exhorting you to remember))

As for the opinion of the scholars of the Islamic nation about theft

He pointed out that they were unanimous in the prohibition of it, as well as the prohibition of eating the money of theft, and the need to limit the perpetrator of the crime of theft. (23) The third requirement: an indication of the amount of the quorum that must be cut. The jurists differed in the amount of the nisab for theft that necessitates cutting, so the tap gave up the amount by which the thief's hand was cut off. It is ten dirhams or a gold dinar or its value (24) and they cited his saying, may God's prayers and peace be upon him, (The thief will be cut off with only ten dirhams) (25) and according to what was stated in Mansour's authority over the authority of Ataa and Mujahid on the authority of Ayman bin Umm Ayman, who raises it and said (Do not cut off the hand except for a price The shield and its price at that time are dinars) (26) As for the people of Maliki, Shafi'i, and Hanbali, they saw that the currencies should be a quarter of a dinar onwards, or three dirhams. (27) They quoted as evidence what was narrated on the authority of Umrahbint Abdul Rahman on the authority of Aisha, may God be pleased with her, that the Messenger of God, may God bless him and grant him peace, said: A quarter of a dinar was cut and above. (28) According to what was reported on the authority of

Ibn Omar, may God be pleased with him (that the Messenger of God, may God bless him and grant him peace, cut a thief in a shield (29) worth three dirhams (30) The origin of the dispute over the price of the shield is that the Messenger of God, may God's prayers and peace be upon him, ordered to cut off the hand of someone who stole what is also worthy of it, and the faucet believes that the price of the shield is ten dirhams or a fire of gold. As for the leaders of the Maliki, Shafi'i, Hanbali, and Imami, they believe that the price of the Majn is a quarter of a golden dinar, or three dirhams, and each of them has an argument for what went on, which are the previous hadiths. The Hanafis have acceptable justifications in their view. As for the hadiths that they relied on, they have been compared to the hadiths of the majority doctrine in al-Sahih and the tap justifications in the following two matters.

1. These ten dirhams are subject to agreement between all sects.
2. Taking their opinion is the most careful, and that trivial things are not shortened.

And Wakee 'was narrated as a messenger about what IbnAbiShaybah entered into his work, on its basis, and in his wording, on the authority of Hisham bin Urwa on the authority of his father, he said: (He was the thief at that time). From the Prophet, may God bless him and grant him peace, the price of the shield was cut, and the insane person at that time had a price, and it was not cut into something trivial.) (31) The Majn used to stand in their time for one dinar or ten dirhams (32)what I tend to prefer is the saying of the majority of the hadiths they mentioned, and God knows best.

Fourth requirement: the position from which the thief's hand is cut off

The jurists agreed that the place where the hand of the thief was cut is at the wrist (33) and they quoted as evidence for what was narrated on the authority of Abdullah bin Amr that he said: (The Messenger of God, may God bless him and grant him peace). May God bless him and grant him peace, cut and steal from the joint) (34) And what was reported on the authority of Ali, may God be pleased with him, is that he is cut from the joint [35]. On the authority of Umar ibn al-Khattab, may God be pleased with him (that it was cut off from the joint) (36) and this is in cutting the hand. As for the severity of the thief's leg, it is part of the ankle joint: He said: Al-Hanafi, Al-Maliki, Shafi'i, Hanbali, Al-Dhahiri and Al-Imami(37) And that is when it was narrated on the authority of Umar bin Al-Khattab, may God be pleased with him (he used to cut the man from the joint) (38) and also on the authority of (Ali bin Abi). Talib, may God be pleased with him, used to cut the leg and stop the heel on him (39).

The fifth requirement: a comparison between the Sharia ruling regarding the extent of theft and the legal ruling.

The legal rulings issued in the case of theft are absolute in all cases and times if it is from one or more persons, as long as the thief has stolen the full quorum from a place where these stolen items are usually kept, and this is the case. It's called Hearts. God Almighty revealed in his holy book the ruling is clear and we indicate the truth about the one who stole money and other small things, God said: approaches they are, uh, on the day and here the cut is according to what the wise law indicates, because the thief must To be a sane and chosen adult: For his saying, peace and blessings be upon him: (Raise the pen within three limits, from the young until he grows up, from the sleeper until he wakes, from the insane until he rises, and from the madman who is lost) (41) And because cutting is a punishment that calls for a felony, and the actions of the boy and the madman are not described as a felony, but they guarantee theft. (42) Likewise, the impeller does not cut off the verse, then (43). The theft, when necessary, is less than the word disbelief, just as the judiciary in Islamic Sharia stipulates conditions for the stolen on the basis of their availability. The penalty is fixed for the thief who fulfills the conditions for establishing the punishment. The terms of the stolen money should be of value,

making this money feel proud and lively (44) and that the stolen property be a quorum and a quorum. And it was mentioned in the hadith of Aisha, may God be pleased with her, who said: I heard the Messenger of God say: (Do not cut off the hand of a thief except from a quarter of a dinar upward) (45) This is what the Malikis, Shafi'is, Hanbalis and imams said (46) Gold, or the value of one of them (47) And the evidence for what was reported on the authority of Abdullah bin Omar and Ibn al-Aas, that he, may God's prayers and peace be upon him, "did not stop except for the price of the shield, which on that day is equal to ten dirhams." (48) and their argument (that the hand is respected by consensus, it is not permissible except when agreed upon, and the ten agreed to cut it with everyone and stick to it. Unless there is an agreement on something below that) (49) this theft is unanimously agreed upon by the ummah scholars that it is forbidden and forbidden to eat it. They unanimously agreed that the perpetrator of the crime must be punished. (50) As for the judgments issued by the Iraqi judiciary according to the Iraqi penal code, you find that they differ, and the same crime is repeated in several articles with different rulings. If you review Article (440) paragraphs (1, 2, 3) of the Iraqi Penal Code in Chapter Three - Chapter One: The crime of theft, you will find it very close to Article (441) Paragraph (2, 3) of the same chapter and here is the text of the paragraph (1) of Article (441). (If you participate in the delayed theft of two or more persons and one of them carries a visible or hidden weapon, the penalty for life imprisonment or temporary theft, which falls on a person on the way outside of cities and towns, or railways or other trains of land or water transportation if any far away About construction (51) Then look at Paragraph (3) of Article (440) which states (that one of the perpetrators carries a visible or hidden weapon) (52) You will find that both Articles (440) paragraph (3) and Article (441) paragraph (1) They are the same ruling and the same contravention, so why this repetition if we reach Article (442) of the same law, paragraphs (1) and (2) are similar and very close to Article (440) paragraph (3) and Article (441) paragraph (1) However, the provisions differ, then the provisions of Articles (440) and (441) are fixed, which are life imprisonment or temporary imprisonment, and the ruling issued in Article (442) paragraph (First) is imprisonment for a period not exceeding (fifteen years) (53) When the judgment is issued in Article (443), which is imprisonment for a period not exceeding ten years, if it is committed in the following circumstances.

Second: If it is committed between sunset and sunrise by a person carrying a visible or hidden weapon.

Here you find the contradiction in making judgments. Is one person the most coercive and coercive of the victim, or are the two the most coercive people? The punishment should be more severe for both, while the Iraqi Penal Code reduced the penalty for the two and emphasized the one, bearing in mind that if the victim defends himself against the other, he may overcome him because they are equal. As for the two, he does not resist them because they are more unjust, and the Islamic judiciary treats the criminal gang as a single criminal. (It was narrated on the authority of Yahya bin Al-Musayyab that a man was killed in Sana'a and that Umar was killed by a group of seven who said: If they wanted to follow Sanaa, they would kill us all. Stressing, and this is what was stated in the texts of the following articles: (440 - Paragraph (1)), Article (441 - Paragraph (3)), Article (442) Paragraph (Second), Article (443) Paragraph (Second, Third, Fourth) Fifthly) and Article (447 - second paragraph)) (56) Articles (440, 441, 442, 443) stipulated in many of its paragraphs the severity of the punishment for whoever commits the crime of theft between sunset and sunrise, and here are some provisions of the law. Ten years for theft. Which occurs in one of the following conditions) (57) the second paragraph: (If it occurs between sunset and sunrise). By a person carrying a visible image or a concealed weapon) (58)

So what's the difference between stealing from sunrise to sunset, as long as it's the same theft?

The Hanafis saw that the thief had his right hand cut off for the first time, and if he returned, his left leg was cut off. If he returns, nothing will be cut off from him, and he guarantees the theft and is imprisoned until he repents (59)

Under the pretext of the action of the Caliph Ali bin Abi Talib, may God be pleased with him, where he narrated from Muammar al-Jaber the people said Ali, may God be pleased with him, does not cut prison except by the man's hand, and if he does slavery, then fatigue and good coordination. (I am encouraged by God so that he does not leave a hand to him to eat and be saved) (60) Knowing that there are some jurists who said that the hands and feet should be cut off if he returned to theft after each wound (61) They quoted as evidence what Abu Salamah narrated: On the authority of Abu Hurairah, may God be pleased with him, that the Prophet, may God's prayers and peace be upon him, said on the authority of the thief: (If he stole, he would cut it). Palm. (62) That is, they went to cut off the four if the theft was repeated after each cut: What I tend to recommend is the doctrine of Abu Hanifa, as it is a lesson for people that deter the thief and give him an opportunity to live in safety after he surrenders and repents and God knows best.

Explanation of the legal ruling on the limit of drinking alcohol: a comparative jurisprudential study between Islamic law and Iraqi law and its impact on society

It includes six demands

Wine is forbidden in all divine laws, and its prohibition in Islamic law is categorically prohibited, and God Almighty has emphasized the prohibition of alcohol. It is the mother of all evils and the most dangerous pest on human society. God Almighty said in a tight download: ¶ Glenn examined the mouth trap, a kilogram, like every kilometer, recorded in Bethlehem (63). So what is wine: This is what we will know by defining wine?

The first requirement: the definition of alcohol

Al-Ragheb said in his book - Vocabulary of the Qur'an: (And wine is called wine because it is raw for the mind: that is to conceal it, and some have a name for every intoxicant, and for some of it. It is taken from grapes in particular, and for some it is taken from grapes and dates, and some of it is uncooked, and it is more likely that it is A name for everything, concealment of the mind, and more than one. "The people of the language said, including al-Dinuri and al-Jawhari, (64) and the legal definition does not differ from the linguistic definition.

The second requirement: evidence forbidding alcohol

Wine is forbidden in the Qur'an, Sunnah and consensus

1. from the book

He says: ¶ Glenn, the examination, the trap of the mouth of the mouth of a kilogram of kilograms, like every kilogram recorded in Bethlehem, a summary of an act for him (65) Abu Dawud Tialisi said, Muhammad ibn Abi Hamid Abu Tawbah al-Masri told us, he said: I heard Ibn Umar said: I got the wine in Three verses were revealed. The first true thing was revealed, pumping the deaf, the ringing of sacrifice, pumping together the roofs of Uncle Jej systems (66) and it was said that wine is deprived. Im(67) and they were told, they said no, O Messenger of God, do not drink near. Silent prayer on their behalf, then came down Glenn examination, trap, mouth, pouch, loading, kaj, kh, every km, logged in, Bethlehem, summary, no. Or a narration by the Prophet, Abu Bakr and Umar, and I do not know Uthman except with him. They ended up with the man, so the Messenger of God, may God bless him and grant him peace, said: "Leave it on us." He said, O Messenger of God, should we not sell it? □ God cursed wine, cursed her with a draw, cursed her, and Amos cursed the one who drinks water, cursed her dwelling, cursed the director, cursed her legs, cursed her bearer, cursed all of her price, and cursed her pia (69). It is the auction that supplies water (70)

Evidence of prohibition of alcohol in the year

1. Imam Ahmad said: Ali told us, and Muhammad bin Ishaq told us on the authority of al-Qaqaibn Hakim that Abd al-Rahman ibnWallaah said (I asked bin Abbas about selling wine and he said: The Messenger of God was a reliable friend, or he trampled Vlikaya on the day of the conquest with an old-fashioned resource to guide him, the Messenger of God said. Such-and-such did not know that God forbade him, then the man came to his servant and said: Go sell it, then the Messenger of God, may God's prayers and peace be upon him, said: O so-and-so: I did not order him, so he said I ordered him to sell it, so he said: He forbade it. Peat) (71)

2. On the authority of Abdullah bin Omar, may God be pleased with him, that the Messenger of God, may God's prayers and peace be upon him, said: "Whoever drinks alcohol in this world but does not repent of it is forbidden in the hereafter." (72)

3. The revolutionary bid from his father for graduation, the Negus beat the heirs of the poet by drinking wine in Ramadan, and he smacked him eighty, then imprisoned, and brought him twenty tomorrow and smacked him and then said to him (But you will have this twenty on your jar against God, and at Ramadan breakfast) (73)

4. From what was reported on the authority of Ibn Abbas, may God be pleased with him, that he said: (It is forbidden to drink all alcohol a little and much, and drunkenness for every drink) (74) In drinking wine, it was mentioned in the Holy Qur'an and it is the first source of legislation, just as the hadiths of the Messenger confirmed that, and the hadiths of the Companions, may God be pleased with them, and in the story of Ibn Abbas, may God be pleased with him, is clear evidence of the prohibition of alcohol himself and himself.

And in terms of the nation's consensus on its sanctity

And the scholars have stated: The scholars have agreed that alcohol is a permissible penance when its sanctity is proven by the definitive evidence (contained in the Qur'an and Sunnah) and the nation's consensus on its prohibition and repetition of evidence for that. It is unclean and excessively unclean, and has no value in the Muslim's right, so it is not permissible to sell it, nor guarantee its usurper, nor destroy it. Because that is evidence of her showing, and as for insulting her: her prohibition (75) on the authority of the Prophet He said: (He forbade drinking it, he forbade selling it) (76) and he also denied the use of impurity, and because the use of al-Taqbir, God Almighty says about alcohol as every kilometer of entry. Bethlehem sums up no (77) The scholars ruled that it is not permissible to sell alcohol abroad to non-Muslims in their country (78) and the Messenger of God, peace and blessings of God be upon him, stressed the warning of an addict against drinking alcohol. On the authority of Abdullah bin Amr, may God be pleased with him, he said: The Messenger of God may God's prayers and peace is upon him, said: He who drinks alcohol - and in the narration - is like an alcoholic. The worshiper of the idol and the drinker of wine as well as the worshipers of Al-Lat and Al-Uzza) (79) that God Almighty combines drinking wine with the worshiper of the deity in the verse FumQah loading a KJ (80) that is, idols are erected around the Kaaba and they are equal in not accepting the prayer, because if the unbeliever prays, they are not accepted His prayers, as well as drinking alcohol. (81) - Al-Shawkani said: This is a strong feast. Because the worshiper of a pagan is the most disbelievers, so likening the perpetrator of this sin to worshipping an idol is one of the greatest exaggerations and reprimands. He who has a heart or a hearing while he is a martyr (82)

The third requirement: Evidence proving the limit of drinking

The evidence for determining the limit of drinking is based on two things: The first: the evidence: which is the acknowledgment of drinking alcohol, and confession and recognition are sufficient even once, and this is the view of the majority. The fuqaha 'did not stipulate the presence of the smell of wine, because it is acceptable after the smell has disappeared, so it is not necessary (83)the second: the evidence: It is the testimony of two. The mere Muslim who testifies that each of them drinks alcohol and the testimony is an independent argument that does not require the presence of the smell, or that he is still drunk, or that he vomits alcohol (84)

Fourth requirement: the ruling on intoxicants other than alcohol

He is the one who causes joy, ecstasy, and pleasure like wine and this is difficult to wean from. Al-San`ani said about him: (It is forbidden to drink any intoxicating drink even if it is not a drink like hashish, and whoever says that it is not drunk but narcotic is arrogance and you speak. From ecstasy and ecstasy. Who bursts into wine?) Remembrance of God and prayer, and they enter into the forbidden God and His Messenger of wine and schnapps. . Rude and meaning (86) Al-Iraqi and IbnTaymiyyah narrated the consensus on the prohibition of hashish (87)

The sixth requirement: a comparison between the legal ruling regarding the drinking limit and the legal ruling.

Wine is not permissible in all monotheistic religions, and it is forbidden definitively in Islamic law, and that the text of the Holy Bible says: loading a kilogram x as every kilogram recorded in Bethlehem 97 (97). On the authority of the Prophet, may God bless him and grant him peace, he said: (Whoever forbids drinking it is forbidden to sell it). (98) Then the scholars unanimously agreed that it is forbidden with conclusive evidence, and the agreed on that (99) If the drinker is a sane adult Muslim, registered with a specified limit, whether in a public place or anywhere, as soon as this is proven (100) As for the Iraqi Penal Code, it is punished with a simple fine not exceeding ten dinars if it is on a public road or a place that is allowed for everyone and is drunk. By losing his mind and causing riots, and if he returns to that matter again within a year from the date of the ruling. The punishment is more severe for him with imprisonment for a period not exceeding one month or a fine not exceeding twenty dinars if it is proven to the court that he is addicted to alcohol, the court shall order to deposit it. In one of the clinics or hospitals specialized for this purpose (101) The Iraqi judiciary did not forbid drinking alcohol, but rather allocated a reduced penalty if drinking it in public places, so that the severity of its poisoning would not affect others. A big difference between the rulings issued by the Islamic legal judiciary and the rulings of the Iraqi judiciary. The Islamic legal judiciary has categorically prohibited drinking alcohol except for those in need if it is in conflict. (102)and extreme thirst. Prohibition: that a person loses his mind without justification: perhaps he acted in the actions of the insane. Instead of God's bounty in disbelief, and reason to the grace of God, because God Almighty speaks to His servants as much as He has given them reason and discernment. God Almighty said: A man who knows the truth and forbids falsehood. (104)the exit of the mind is accepted. After all this, there remains room for comparison between the judgment issued by the Islamic legal judiciary and the positive judiciary of Islamic law. It is the supreme in its rulings, and far-sighted in what comes out of it, and it has precedence, and the sublime thing, so it is the most correct because it is issued by the command of God, the All-Knowing, and the Expert who manages matters. Parishes are in his wisdom, and God knows best. Their benefit is the effect of it, then God (105) and God knows best. Iraqi law stipulates that a penalty of imprisonment for a period not exceeding ten days or a fine not exceeding twenty dinars shall be imposed on anyone who incites a juvenile under the age of eighteen to drink sugar or provides an intoxicating drink otherwise. (106) As for Islamic law, alcohol is forbidden for young and old, but the young are not accused of forbidding alcohol to him, and the elderly are subject to a special punishment each time he commits it,

which is flogging and imprisonment. As for the young man, the imam greets him so that he will not return to him, according to what was narrated on the authority of Ibn Abbas, may God be pleased with him. He said: "Wine in particular has prohibited little and much, and sugar is forbidden in every drink." (107) And whoever incites to drink alcohol, the texts of Sharia law are explicit and responsible for sins, as mentioned in a long hadith on the authority of the Messenger of God. v He said: God cursed alcohol, cursed her mustache, cursed her mustache, cursed her bride, cursed her agent, cursed her owner, cursed her legs, cursed her bearer, cursed the one who eats its price, and cursed her loyalty. . (108) Wise Street did not permit the drinking of alcohol in any form or at any time except in the event of a potentially fatal emergency. Upon reviewing Article (388) of the Iraqi Penal Code, you find that the owners of liquor stores have been allowed to supply people with it and facilitate it for them, with the exception of the case that did not reach the age of eighteen. That is, the Iraqi judiciary, according to what was stipulated in the articles of its law, does not prohibit the sale of alcohol and it is not forbidden to drink it except in certain places, and this is what Article (388) stipulated of the penalty. The law that states (Every owner of a bar or other public place and every employee in it who provides intoxicants to a juvenile who has not reached the age of eighteen in full, shall be punished with imprisonment for a period not exceeding six months and a fine not exceeding fifty dinars) (109) So what if he delivers it to someone over the age of eighteen is not punished, and if he did not precede it?

II. Conclusion and most important results

With the help of God Almighty Book of search is marked by (disable the legitimate judiciary of the Islamic theft, drinking alcohol and its impact on society/ doctrinal comparative study between Sharia Islamic Iraqi law models) and after research and investigation reached the following results:

1. Judgment is a trust that must be performed to the fullest extent.
2. Litigation must be in accordance with the law of God Almighty, because preserving souls, honor, and wealth can only be done by standing at the limits of Sharia.
3. That the Prophet may God's prayers and peace be upon him, initiated the judgment himself and did not fear in God the blame of the blame.
4. The judiciary is not subject to the authority of a ruler or to his desires, as it derives its power from the authority of God Almighty, it is not politicized and there is no favoritism for anyone.
5. Al-Qadhi: He is the decisive judge of matters concerning them, and he is the one who decides among people by virtue of Sharia.
6. The position of the judge is a necessity to establish the imposition: This is because the position of the greatest imam is an obligation without disagreement among the people of truth.
7. The meaning of the judiciary: is t b j yen judgment and the legitimate obligation and the separation of its discounts.
8. Judgment has multiple meanings: creation, separation, cutting, emptiness, command.
9. The difference between a judgment and a fatwa, as a fatwa is a statement of judgment without obligation .As for the judiciary: it is the obligation of the opponent to rule.

10. The ruler from the point of view of proof is a witness, and on the one hand the command and the prohibition he is a mufti, and from the point of the obligation to do so, he has authority.

11. Whoever takes the lead in the judiciary must be: sane, adult, Muslim, free, insightful, spoken, free from defamation, male, diligent, just.

12. It is permissible for a non-Muslim to take over the judiciary of the people of his religion only, and this is according to the Hanafis.

13. Theft: It is the taking of a rational, chosen adult who is committed to the rule of Islam as a set point of money with the intention of stealing from a possession like him without any suspicion.

14. The hand that is cut in the first theft is the right.

15. The nation is unanimously agreed that it is forbidden to eat the money of theft, and that the punishment for the perpetrator of the crime of theft is obligatory.

16. To engage in prayer so long to not Wonsan o find a case in his heart ,prevent him from sin.

17. The hand of the thief is cut into a quarter of a gold dinar or three dirhams, and this is the saying of the majority.

18. The position of a thief's hand is cut off from the wrist consensus of scholars on this, but m Kdar man cut it from the detailed heels.

19. Islamic ruling treats the criminal sentence issued in the right of the crime ,whether alone or with a group in the same sentence, while the provisions of the of the law of varying and different and sometimes gets where what looks like a contradiction in the judgment of the crime contained in similar legal materials in the act and different provisions.

20. The preponderant opinion regarding cutting is for the thief to cut off his right hand and left leg only, and after that, if he stole, he is imprisoned until he repents to God Almighty.

21. Drinking wine is forbidden in all divine laws, and Islam is at the forefront.

22. Wine is what conceals and obscures the mind, and it is a name for everything that conceals the mind.

23. The ummah is unanimously agreed that alcohol expiates its permissible, as it is proven inviolable with conclusive evidence.

24. It is not permissible to sell wine, nor is the usurper of the wine guaranteed, and the person who spoils it is not fined, because it is very unclean.

25. Humans and the jinn are creatures distinguished by reason from all other creatures, so the prohibition on drinking wine included them.

26. The limit of drinking wine during the reign of Omar bin Al-Khattab ,may God be pleased with him) eighty), according to the consensus of the Companions.

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