

Opinions of Imami Scholars on Property of Unknown Ownership

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Abstract: The issue of funds that have no specific owner has occupied a wide area of research by Twelver Shiite scholars, because of its great importance, especially as it is closely related to the issue of the return of funds held by countries, governments and banks, as most of them said that it is what is called by the scholars of jurisprudence the term (unknown owner), and in the subject of the research here we try to shed light on their evidence on the issue and how they went to say it, indicating what is unknown owner and its difference from the initial permissibility and the snapshot, and what is the legitimate perception on which they based their statement, and how they divided the narratives contained in his ruling, and fuck that they divided it into four sections and according to the likelihood of diagnosing its owner and that he was unknown person and self, and then what was the ruling of the money that is seized in its details, noting that I mentioned the views of the most prominent former and contemporary scientists trying to indicate what they wanted from their evidence that there were thum, trying to discuss some of them, and they came up with a way.

Introduction:

Jurists have been researching everything that is new, new and of importance to the lives of taxpayers, which does not know one agreed opinion, or it is difficult to find a consensus opinion on them, especially those that fall under the door of transactions and funds in particular, so the issue in question, which is what they called the unknown owner, even a lot of confusion in the community circles of Muslims about funds that do not know a specific owner, person, institutions and countries, and the problems of research are evident in that what is the difference between money picked up from the street, for example, and the one picked up in a private place that knows an owner, but can not be reached for any reason, and the return of funds held by countries, most of which are rarely illegal countries and do not work with the Islamic controls stipulated in Islamic Sharia. The issue has been discussed in detail in the scientific circles, although the difference in the fatwa is clear to them, which is what we will try to discuss here,

The first requirement: Anonymous identification of the owner:

It was known that: ((A term used by jurists that was not mentioned in a verse or novel, but rather the money whose owner was not known, or known but inaccessible))⁽¹⁾, and on this definition, the unknown owner includes two parts, which are what was known to its owner, and what was unknown to its owner, and both of them share that it is money whose owner cannot be reached, and delivered to him, and for any reason whatsoever, and it was also defined as follows: ((It means a special term on money collected from many people illegally, such as the meeting of people's money in government banks where transactions are illegal. This financial exchange and disposal of funds does not mean the

⁽¹⁾ Al-Ta 'i, Qasim Abd, (d.1445 AH) **State Ownership and Unknown Owner**, Media Office 1429AH, p. 73.

transfer of the property from its legitimate owners, which means the survival of the ownership of funds with the title that their owners cannot be identified))⁽²⁾.

This can be discussed by saying: It is noted that:

First: It is more specific than Sheikh Al-Ta 'i's definition of it, as he limited it to the funds collected from people whose individual share is not known. It may include funds collected from the resources of the state, such as oil extracted from the ground, floating on its surface, minerals, and others, which are funds that do not belong to a specific person or several people.

Second: This definition did not refer to the possibility that the state is legitimate, but rather stated that transactions in it are illegal, perhaps because of the fact that existing governments - if not all of them - are illegal.

Based on the definition of Mr. Mohammed Al-Sadr, the funds remain the property of their legitimate owners, who are, of course, the dealers with the official authority, subject to two things:

First: The government does not own the funds under its supervision.

Second: The invalidity of the government's illegal actions with the funds in its possession.

The first is denied because of the rational consideration as well as the international custom for the people represented by the government. The second is where the signature and influence of the illegitimate actions of the government will be found, so transactions are legally valid by those who deal with them, with their transfer from their owners while they do not own them, which makes them under the title of an unknown owner⁽³⁾.

The second requirement: What is unknown to the owner and his teams about permissions and the shot:

In their statements, the scholars were exposed to the nature of the unknown owner, and Sheikh Al-Tai was exposed to discuss what they went to. This sign is the jewelry in the ticket, especially when he searched the book of the deposit saying: It must be returned intellectually to its owner, and with ignorance is a shot that he gives charity to, if he wants, except that he mixes with the money of the oppressor and returns it to him⁽⁴⁾.

I complain to him by saying: That his saying (snapshot) is incomplete, because the snapshot is a concept of losing money. If the loss is not achieved, it is not a snapshot, but it is unknown to the owner if the owner does not know⁽⁵⁾.

It appears to the researcher that his problem is correct, especially if we take into account the exact definition of the cat.

Al-Karaki stated: If the owner does not have to own it, then it is an unknown property⁽⁶⁾. As for the investigator Al-Hamdani, he was subjected to the research and stated: It is not owned by it, which is attached to it by the original permissives, the snapshot, or the unknown owner⁽⁷⁾.

⁽²⁾ Al-Sadr, Muhammad bin Muhammad Sadiq, (d. 1419 AH), **Beyond Jurisprudence**, Volume 5, p. 31, Dar Al-Adwaa, 1418AH, First Edition.

⁽³⁾ Al-Ta 'i, **State Ownership and Unknown Owner**, pp. 66-67, Media Office.

⁽⁴⁾ Al-Hilli, Al-Hasan bin Yusuf bin Ali bin Al-Mutahhar, (d. 726 AH) Tathkara **Al-Fuqaha**, C10, p. 210, Aal al-Bayt Foundation (peace be upon them) to revive the heritage/ Qom, printing year 1414AH, first edition.

⁽⁵⁾ Al-Ta 'i, **The Ownership of the State and the Unknown Owner**, p. 71.

⁽⁶⁾ Al-Karaki, Ali bin Al-Hussein, (d. 940 AH), **Jama Al-Maqassed in Explanation of Grammar**, Part 5, p. 72, Aal al-Bayt Foundation (peace be upon them) for the Revival of Heritage, in the year of printing 1408AH, first edition.

⁽⁷⁾ Al-Hamdani, Reda bin Muhammad Hadi, (d. 1320 AH) **Misbah Al-Faqih**, Part 3, p. 119, Investigation of the Jaafari Foundation for Heritage Neighborhoods, 1414AH, First Edition.

He was exposed to the words of Sheikh Jawad Al-Tabrizi after he was asked: According to my knowledge, the money deposited in the banks is from an unknown owner, knowing that the capital paid by the bank annually exceeds the amount that the account began with, and how is the owner unknown and I can withdraw what I want from the account at any time, should there be a fifth?, and if we assume that this is from the unknown owner. Then, Sheikh Al-Tabrizi conveyed Mr. Al-Khoei's answer, which is inferred from his transfer and not commenting on it that he agrees with what he went to, and the outcome of his professor Al-Khoei's answer is that such funds that are deposited in banks in two ways: the first way: by their owners directly, and the second way: by employees after receiving their salaries and at the address of the agency, and then they are deposited in banks, but with their mingling with the funds of others, it is ruled by the unknown owner, although it did not go out of their ownership⁽⁸⁾.

In the course of Sheikh Al-Tai's discussion of this statement, we mention:

First: How does it meet the saying that the deposited money has become the owner's unknown money! Also, he is not out of the ownership of the person who deposited him in the bank! For the clarity of saying that if the money becomes unknown to the owner, his judgment becomes to approve it on behalf of its owner with his ignorance with the permission of the legitimate ruler in a precautionary manner, on the one hand, and on the other hand, if he remains their property, his judgment is to pay them when claiming.

Second: It did not originally show how it remained on their property, or not to get out of the property⁽⁹⁾.

As for Sheikh al-Muntaziri, he mentioned the following: ((And if he knows that the money he took is haram, or some of it is haram, it is not permissible to dispose of it if he cannot find its owner, he must conduct on it, with the leave of the jurist, the rulings of the unknown owner, without any difference between private and government banks))⁽¹⁰⁾.

He replied with the following: The phenomenon of saying this is that the state is the owner, as evidenced by the fact that there is no way to abolish the difference between private and government banks⁽¹¹⁾.

The researcher believes that this is not evidence, but rather a presumption, and it is necessary to note the opinion of Sheikh Al-Muntazeri on the issue of the ownership of the state or not, to live up to the presumption to be supportive of his opinion, and in the event that we did not find an opinion for him in this regard.

After this review of the well-known opinions of former and contemporary jurists, we find that they used the address of the unknown owner in:

First: An address for the unknown money owner.

Second: An address for the property known to its owner, but does not reach it to return it to its owner.

Third: An address for the known money.

Fourth: An address for money in banks and government institutions, in Islamic countries that do not operate according to the controls of Islamic law, which is the most common, but they are in this last address after they said that it is unknown to the owner, they did not show the face in being so.

Difference Between Permissible, Snapshot, and Unknown Owner:

⁽⁸⁾ See: Al-Tabrizi, Jawad, (d. 1427 AH), **The Path of Salvation in the Answers to the Referendums**, Part 2, p. 172, Dar Al-Siddiq Al-Shahida, 1426AH, First Edition.

⁽⁹⁾ See: Al-Tai, **The Ownership of the State and the Unknown Owner**, p. 75.

⁽¹⁰⁾ Al-Muntazeri, Hussein ibn Ali, (d. 1432 AH) **Sharia rulings According to the doctrine of the Ahl al-Bayt (peace be upon them)** , p. 430, Tafakkur Publishing, year of publication 1413 AH, first edition.

⁽¹¹⁾ See: Al-Tayyi, **State ownership and unknown owner** , p. 77.

Sheikh al-Ta 'i, based on the words of the advanced Hamdani, exposed the exact difference between the permissibility, the shot, and the unknown owner by saying: ((The permissibility of what is not added to the owner, the shot and the unknown owner, which added the money to the owner, and the difference between them: the shot included the concept of loss, and not the unknown owner, so the ratio between them is general and absolute, and he said: The objective difference between the shot is the title of loss, and the judgmental difference is that the judgment of the unknown owner is either absolute or the enclosure of permission from the legitimate ruler, unlike the shot, the judgment after examination and definition of money to the point of despair is restricted to stay under his hand for a year, and if despair occurs before it, then he may dispose of it))⁽¹²⁾.

The third requirement: the legitimate perceiver to say anonymously the owner:

The mayor of evidence because of which scholars have said the idea of the unknown owner are novels, which can be divided into several groups:

The first group: If it is done, it indicates that charity should be given at all, which are four narratives :

First: Muhammad ibn Muslim is correct about Abu Abdullah (peace be upon him) when he asked him: ((In a man who left a son for him in his generosity, selling him grapes or juice, so the boy went and squeezed wine and then sold it, he said: It is not worth the price, then he said: A man from Thaqif dedicated to the Messenger of Allah (peace be upon him and his family) two narrators of wine, so the Messenger of Allah (peace be upon him and his family) ordered them to heretica, and said: The one who forbade drinking them was deprived of their price, then Abu Abdullah (peace be upon him) said: The best qualities of these sold by the boy are to believe in their price))⁽¹³⁾.

The novel is true in support, but in the sense of a statement summarized by Sheikh Al-Ta 'i by saying: ((It is possible to scratch it in terms of the price that has no owner; because the buyer provided it with unpaid money at the street (considering that alcohol has no money), as if it damaged it and turned away from it, and the seller was deprived of it on the one hand because it is a price for alcohol at custom, or on the other hand because of the corruption of the transaction at the time of Sharia, so the price is not what the owner has to address with an unknown address of the owner, or the owner is known, and hence the best qualities of the price were to give charity to him, and he did not say you believe him about his owner))⁽¹⁴⁾. It is a good turn from him, and it takes the novel out of the point of inference by not indicating what is required and that it is foreign to the denominator.

The second: Ali bin Rashid's novel, he said: ((I asked Abu Al-Hassan (peace be upon him)) I said: Your ransom was made. I bought a land next to my farm for two thousand dirhams, and when I saved money, I was told that the land stood! He said: It is not permissible to buy the endowment, and the yield does not enter into your property, and I pay it to the person on whom it is placed, so I said: I do not know her Lord, he said, you believe her mule)⁽¹⁵⁾ 0.

Third: Ali Al-Sayegh's novel, which was mentioned in the media, he said: ((I asked him about the dust of the jewelers and we sell it? He said, "Sell it." I said, "With what do we sell it?" He said: With food, I said: What should I do with it? He said: Do you believe in him, either for you or for his family, I said: If he is a relative who needs his origin? He said: Yes))⁽¹⁶⁾.

As for the fourth: The novel of Ali bin Hamza: This novel is often circulated on the tongues of the preachers, he said: ((I had a friend from a father who told me: I asked permission of Abu Abdullah

⁽¹²⁾ Al-Ta 'i, **The Ownership of the State and the Unknown Owner**, pp. 72-73.

⁽¹³⁾ Al-Hurr Al-Ameli, Muhammad bin Al-Hassan Al-Ameli, (d. 1104 AH), **The Means of Achieving the Purposes of Sharia**, vol. 17, p. 223, Aal al-Bayt Foundation for the Revival of Ahl al-Bayt Sciences, 1409AH, First Edition.

⁽¹⁴⁾ Al-Ta 'i, **The Ownership of the State and the Unknown Owner**, p. 82.

⁽¹⁵⁾ Al-Tusi, Abu Jaafar Muhammad bin Al-Hassan, (d. 460 AH), **Tahdhib Al-Ahkam**, Part 9, pp. 115-116, Dar Al-Kutub Al-Islamiya/ Tehran, year of printing 1365AH, fourth edition.

⁽¹⁶⁾ Al-Hurr Al-Ameli, **The Shia Means of Achieving the Purposes of Sharia**, vol. 18, p. 202.

(peace be upon him), so I asked him, so he allowed him, so when he entered Salam and sat down, and then he said: I came to your redemption, I was in the diwan of these people, so I hit from their world a lot of money, and I closed his demands, and Abu Abdullah (peace be upon him) said: If not for the children of my mother, they would have found someone to write and bring them back, and fight for them, and their group testifies, when they robbed us of our right, and if people left them and what was in their hands, they would have found nothing but what fell into their hands, he said: The boy said: I have been redeemed, so do I have a way out of it? He said: If I tell you to do it? He said: I do, he said to him: Get out of all that I have earned in their diwan, whoever you know, I returned his money to him, and whoever you did not know, I guarantee you to Allah (Almighty) Paradise, so the boy knocked on him for a long time and then said to him: I did a few months and we were sick, so he said: I entered a day while he was in the market, he said: He opened his eyes and then said to me: O Ali and he was loyal to me and to your friend, he said: Then he died and we took care of him, so I went out until I entered on my father Abdullah (peace be upon him), so when he looked at me he said: O Ali and his family to you, he said: I killed him, so he said to me and his death))⁽¹⁷⁾.

After researching the last three narratives, the Sheikh decided to weaken them in terms of support:

The novel of Ali bin Rashid, weak in Muhammad bin Jaafar Al-Razzaz; being negligent, and the novel of the goldsmith weakened it in the first place; because of the weakness of Ali the goldsmith himself, - and the weakness of the support of these novels is what invited me not to mention them in detail, and only to mention the novel only; because of the uselessness of its return with the weakness of its support, and not to take its argument in advance, with mentioning the detail of the novel of Al-Bataani and sufficiency in it - and the novel of Ali bin Abu Hamza is weak on the part of Ibrahim bin Ishaq, and the opinion of Sheikh Al-Tai agrees with the famous in his weakness, and on the part of Ali bin Abu Hamza is weak on the famous ⁽¹⁸⁾, while our Sheikh Al-Tai went to document him in words that are not his place.

In any case, whether we correct the narrative of Abu Hamza's son or weaken it, the narrative is weak on the part of Ibrahim bin Ishaq, so the first is not inferred in terms of its lack of significance, and the weakness of the bond for the last three ⁽¹⁹⁾.

The second group: A set of narratives that indicate the necessity of examining the owner to the point of despair, including:

The first novel: Sahih Muawiya ibn Wahab, about Abu Abdullah (peace be upon him), ((There is a man who had a right to a man, so he lost him, and he does not know where to seek him, and he does not know whether he is alive or dead, and he does not know his heir, or kinship, or (a son), he said: Ask, he said: This is too long, do you believe him? He said ask for it)⁽²⁰⁾.

Sheikh Al-Tai discussed this novel in two ways:

First: On the Sindh side, Al-Hurr quoted from Sheikh Al-Tusi by supporting Ahmed bin Mohammed, from Hammad bin Issa, from Muawiya bin Wahab, and there is no problem in the validity of the Tusi road, and that Ahmed bin Mohammed bin Issa Al-Ash 'ari Al-Qumi, which is the Galilee trust, and the way of the Sheikh to him is correct, and Hammad bin Issa is one of the esteemed trustees, and the

⁽¹⁷⁾ Al-Kalini, Abu Jaafar Muhammad ibn Ya 'qub, (d 329 AH), **Al-Kafi**, C5, 158, Al-Fajr Publications, Printing Year 1428AH, First Edition.

⁽¹⁸⁾ See: Al-Tai, **The Ownership of the State and the Unknown Owner**, pp. 80-81.

⁽¹⁹⁾ Al-Ta'i, **State ownership and unknown owner**, p. 81.

⁽²⁰⁾ Al-Hurr Al-Ameli, **The Shia Means of Achieving the Purposes of Sharia**, vol. 18, p. 362. Al-Sadouk, Abu Jaafar Muhammad bin Ali bin Babuyah Al-Qumi, (381AH) **Whoever is not attended by the jurist**, Volume 4, p. 241, corrected and commented on by Ali Akbar Al-Ghafari, Islamic Publishing Corporation, Printing Year 1429AH, Fifth Edition. Al-Tusi, Abu Jaafar Muhammad bin Al-Hassan, (d. 460 AH), **Clairvoyance in what I disagree about from the news**, vol. 4, p. 196, Dar Al-Kutub Al-Islamiya/ Tehran, year of printing 1490AH, third edition, in which he mentioned the word (country) and not a son.

saying is no different in Muawiya bin Wahab, but it was quoted from Sheikh Al-Kulaini like this: from Ali bin Ibrahim, from Muhammad bin Issa bin Obaid, from Younis, from Abu Thabit and Ibn Awn, from Muawiya bin Wahab, which is weak, considering that both Abu Thabit and Ibn Awn are unknown, so neither Al-Najashi nor Al-Tusi mentioned them in their men, and thus the support of the narrations in which these two men or one of them were mentioned is weak, but this does not harm here; after cutting off the validity of the first road, in its sanctuary, and thus working to its effect.

The second: According to the first way, the word (and no country) came in the means, and on the second way the weak, as indicated by the mention (boy), and the first word is quoted in the sufficiency and clairvoyance, and the second word (country) is mentioned by the Saddouk in the jurisprudence, so which of the two words is correct?

Al-Shaykh al-Ta 'i responded to the question he asked himself: Either we notice the validity of the first road bond in which the word (boy) is mentioned, or we notice the word appropriate to the context, which is, of course, the word (country); considering that the word "boy" is implicitly mentioned, but in the word "heir"; the fact that the boy is an heir, but he is one of the clearest bearers of the heir, and in the word "descent", which is so, mentioning it again does not increase anything in meaning, so the correct word is the country and not the boy⁽²¹⁾. It is undoubtedly durable.

Then he was exposed to the statement that the novel is talking about the unknown owner as he is famous or known? He said in the graduation of their saying: If they wanted that after despair about the owner's knowledge if he was examined and could not be reached, then the subject of the unknown owner is achieved as they said, and if they wanted that before the examination he was anonymous, there is no point in searching for him. He said: It is true that the novel is visible in the owner's knowledge, as evidenced by the fact that the right mentioned in the novel is apparent in religion as it is understood from the novel, and on the outside, and it is still going to be that the person only gives to someone he knows; to ensure that his right is returned to him and that he can claim him if he denies it, but what he does not know does not risk giving religion, and the examination request or his obligation is only in line with the owner's information when the student and not with his anonymity⁽²²⁾, and clarification of his words will come soon.

The second: Sahih Yunus bin Abdul Rahman said: ((Abu Al-Hasan Al-Ridha (peace be upon him) was asked while I was present Until he said: We had a companion in Mecca, so he left for his house, and we went to our homes, so when we got on the road, we hit some of his belongings with us, so what should we do with it? He said: You carry him until you carry him to Kufa. He said: We do not know him, we do not know his country, and we do not know how to do it. He said: If it is so, then sell it, and believe in its price. He said to him: On whom was your ransom made? He said to the people of al-Wilayah⁽²³⁾, and al-Kulayni recounted the same story about Ali bin Ibrahim, about Muhammad bin Isa with a simple difference in words. He mentioned the word (you carry him) where the word (you follow him) came. Yunus also said: I said to him: I do not know him, and we do not know how to ask about him, so he said: Sell him, and give his price to your companions, he said: I said: You were redeemed by the people of al-Wilayah? He said yes⁽²⁴⁾.

There is room for discussion because there is no difference in the word you endure in Al-Hurr novel, and you follow them in Al-Kalini novel! Truth: The word you follow them is the most likely; because of the integrity of the context, and also the repetition of a word you carry is not rhetoric.

He commented on this novel, saying: Is the novel in the unknown owner or in the knowledge owner? He mentioned that Sayyid al-Khoei went to the fact that it is in the known owner who is difficult to reach, and because of that, he was confused about saying that it goes beyond the source of the

⁽²¹⁾ Al-Ta 'i, **The Ownership of the State and the Unknown Owner**, pp. 89-90.

⁽²²⁾ See: **Al-Taie State ownership and unknown owner**, p. 90.

⁽²³⁾ Al-Hurr Al-Amili, **Shia means of achieving the objectives of Sharia**, Vol. 25, p. 451.

⁽²⁴⁾ See: Al-Kulayni, **Al-Kafi**, Part 5, p. 441.

narrations to the unknown owner, and he said, and the words are from Sayyid al-Khoei: ((The claim of the union of owners is arbitrary; since we have no way to discover that))⁽²⁵⁾ .

Sheikh Al-Ta 'i went on to discuss the saying of Mr. Al-Khoei, and said that the path that he denied exists, by approximation: It is not inherent between companionship and the knowledge of the companion, and I quote what is currently seen, considering that many companions in travel do not know each other, and knowledge is possible and not severed by it, and the Sheikh also used this possibility with the answer of the Imam (peace be upon him) to carry him to Kufa, and the questioner replied that we do not know him, do not know his country, and do not know how to make, and from here the Imam (peace be upon him) replied: If so, that is: As you say from not knowing him, follow him and believe in his price⁽²⁶⁾.

The researcher believes that his words are correct in not being inherent, which is customary, lived and realistic, and the matter remains under consideration, as this is determined by the person's customary taste, which sometimes varies, but it does not lag behind.

This is on the one hand, and on the other hand, is the answer of Imam (peace be upon him) resulting from the despair of reaching the owner of the money, which was understood by Sayyid Al-Khoei? It seems to him that it is not, but it is the result of the mere lack of knowledge of the owner, and the seizure does not reach the examination to the point of despair, considering that there is no examination to reach the said limit.

However, he tried to find an excuse for Mr. Al-Khoei and directed his words as follows:

However, it is to be said that the despair to which he referred is the desperation of the owner of the money to reach its owner before the examination is achieved by him, and it has a face, but it is another expression of the unknown owner, as if it was known, before reaching the point of despair, it would have necessitated the examination of it, and the matter is in the unknown owner, not in his knowledge, and if what Mr. Al-Khoei said was true, the questioner would have had to answer the question of Imam (peace be upon him) that he did not find the detector of the examination to the point of despair, and with it the subject of the unknown owner requiring charity is achieved⁽²⁷⁾. Thus, it is clear that Sheikh Al-Ta 'i said that the narration is apparent in the judgment of the unknown owner, contrary to what Mr. Al-Khoei said, and the weakness of his saying: The companionship means that the owner is known, considering that the owner of the unknown owner is not an angel known to the owner to exceed his judgment to him, but that each one has an angel of his own, which, with his advanced reasoning, proved that the lawsuit of the owners association has something to prove it.

The third novel: The novel of David bin Abi Yazid, about Abu Abdullah (peace be upon him), (((He said: A man said: I have hit money, and I feared in it for myself, and if I hit his friend, I pushed him to him and got rid of him, he said: Abu Abdullah (peace be upon him) said to him: By God, if I hit him, would you push him to him? He said: By God, he said: I, by God, have no companion other than me. He said: I swear to him that he will pay him to whoever orders him. He said: He swore, and he said: So go and I will divide it among your brothers, and you have security from what you feared. He said: So you divided it among my brothers)⁽²⁸⁾)).

The novel, as Al-Tai said, is considered a support, but it scratched in its significance to the ruling of the unknown owner. He said: It is possible; because it is indicative of the snapshot, with a presumption that the questioner says: I injured money, that is: I found money, which is apparent in the loss of the money that is available from its owner, and it has advanced that the loss is the subject on which the snapshot is realized, and therefore the novel is indicative of the snapshot in particular without the unknown owner, and Sheikh Al-Tai reinforced his words and said: That is what Sheikh Al-Sadouk also

⁽²⁵⁾ Al-Khoei, Abu Al-Qasim, (d. 1413AH), **Mesbah Al-Faqaha**, Part 1, p. 518, Reports of Muhammad Ali Al-Tawhidi, Ansarian Foundation, 1417AH, Fourth Edition.

⁽²⁶⁾ See: Al-Tai, **The Ownership of the State and the Unknown Owner**, p. 92.

⁽²⁷⁾ See: Al-Tai, **The Ownership of the State and the Unknown Owner**, p. 92.

⁽²⁸⁾ Al-Hurr Al-Ameli, **The Shia Means of Achieving the Purposes of Sharia**, vol. 25, p. 450.

understood, as he said in his place: That was: He paid him to the Imam (peace be upon him) to pay him after a year's definition, and the snapshot is what the definition is a year and not the unknown owner, and he also added: What supports his claim is that the public heat included the novel in the section of Al-Laqta as provided⁽²⁹⁾.

It can be scratched in his scratching in the significance of the novel that there is no place for him; because the questioner's saying (I hit money) is more general than the fact that money is a snapshot, and as for the meaning of Ta 'i, I got it: I found no evidence for him, no witness, and a presumption that the questioner did not show this, so it is possible that the money was stolen from someone, and this possibility is supported by the words of the Imam (peace be upon him) and his saying to him: By God, if I hit him, would you pay him? The questioner swore by saying: Yes, by God. As for what he said to support that Sheikh al-Saduq also understood that, there is no evidence for it. As for his claim that al-Hurr al-Amili mentioned the narration in the chapter on lost property, it is a matter that is an argument against al-Hurr himself and not against anyone else. And with the fact that the author of al-Wasa'il, when he mentioned the narrations in their chapters, that is not done by examining their meaning for what is required. His book al-Wasa'il is not a book of evidence so that we demand precise evidence for his words. Rather, it is a book of hadith in its foundation. However, and in fairness, Sheikh al-Ta'i mentioned this statement merely for the sake of possibility and to demonstrate the jurist's craft in reviewing the legal evidence and what could be a discussion of it, which is a matter that is present among most jurists.

The third group: A few narratives that indicate that money is a trust in the hands of the Wajid and his bequest if death is present:

The first novel: Sahih Hisham bin Salim: ((He said: The one-eyed writer asked Abu Ibrahim (peace be upon him) while I was sitting. He said: My father had a wage earner working for him, so we lost him, and there was nothing left of his wage, and no heir is known to him. He said: Ask him, he said: We asked him, we did not find him. He said: Poor people - and moved his hand - he said: Repeat on him, he said: Ask and stress, so if you can do it, otherwise it is as a way of your money, until a student comes to him, so if it happens to you, I recommend him: If a student comes to him to pay him)⁽³⁰⁾.

After acknowledging the validity of the novel in support, Sheikh Al-Tai made his contribution to discuss this novel, and stated that some of them discussed the significance of this novel, but he did not mention the discussant, and after the trouble of the research, it turned out that he was Sheikh Baqir Al-Irani, as he stated: Without the need to carry the novel in the absence of despair when examining the owner, because the Imam (peace be upon him) knew that the request that was fulfilled from them was weak and little, and did not get despair, and he confirmed them with the request for this, that is: because the request was weak, and did not get despair, and this is confirmed by his saying (peace be upon him): (Poor), that is: they are poor in their claim that it is not possible to obtain the owner, as if (peace be upon him) wants to say: He did not get despair and you to be examined, and the Irani stated that he indicates the necessity of the pregnancy, which he claimed two things:

First: What indicated the necessity of charity after the examination is a presumption of this, and if the customary plural is wanted, its requirement is what was mentioned, that is: By the presumption of the foregoing, this sect that indicates the continuous examination is held to be in a state of non-realization of despair.

The second: We do not tolerate the fact that the necessity of examination is legally fixed with objectivity, but rather it is fixed with the way to find the owner. It is not possible to prove that the necessity of examination is forever, so that if death comes, a will is required even with confirmed despair, it is unlikely. The perspective in the novel must be the case of not despair.

Moreover, Al-Irawani stated that what supports his words is that the survival of the unknown owner forever with the continuous examination and the bequest of the heir may sometimes be positive to

⁽²⁹⁾ See: Al-Tai, *The Ownership of the State and the Unknown Owner*, pp.93-94.

⁽³⁰⁾ Al-Hurr Al-Ameli, *The Shia Means of Achieving the Purposes of Sharia*, vol. 26, p. 297.

expose the money to damage as if the unknown eye of its owner harms it for a long time, especially in those times when the means of preserving money were not as it is now. Therefore, the novel is intended to be examined as long as despair does not occur⁽³¹⁾.

Sheikh Al-Tai believes that the words of the Iranian have several sites for consideration, namely:

The first site: It is not accepted that the novel indicates that the owner is unknown from the ground, by the presumption of the request and repeated by the imam because his previous request was weak and incomplete, in other words: It was not at the level required to reach the owner, and it must be diligence and exertion. If the exertion is achieved and you are not able to reach the owner, it is a legitimate trust you have, you reserve it as you reserve the owner and recommend it if an event occurs, and he added that this is on Estimating that the statement of the questioner remained of his wage is apparent in leaving some of the rent at the tenant or in the workplace and found it after the departure of the tenant, and his saying (peace be upon him) as the way of the owner in terms of preserving it, and how the narration was clear in terms that the Imam (peace be upon him) had committed and found the money of the guardian after the serious search for its owner was verified, and if the narration is contained in the landlord's knowledge, he may submit that his ruling is to examine the landlord and not to approve him, except for the possibility that some of the rent remains or in the workplace and the tenant found it, and the narration denied him because it is visible in the guardianship if it occurs Death occurred, and with this explanation, it makes no sense to carry the novel on the unknown owner, and thus it is clear that the Iranian is weak in terms of clues. The first is that it is necessary to believe that the owner is in the unknown, not in his knowledge. Al-Ta 'i explained that he is foreign to the subject, because the novel is mainly in the knowledge of the owner. The second: Because the request for examination to the point of despair is a way to find the owner, and reaching the point of despair does not help the ratification, especially, but it helps not to require the continuation of the examination, and the rest is ignored, so it is possible for charity and it is possible for preservation and guardianship, and the novel is visible in the second without the first⁽³²⁾.

The second site: What he mentioned in terms of damage to money if it stays forever, but straightens in the outer eye without the total right to dhimmah, as he is not in the process of damage to fear for his survival, with the presumption that the questioner says and he has something left.

The third position: The silence of the narration indicating the examination of what comes after it, and it has been mentioned that there are two possibilities in it, which are: giving charity, and the necessity of preservation as a trust, so the narration could be evidence of that, that is: the necessity of examination, taking into consideration that the two narrations are apparent in the general right without the personal eye, in addition to that this combination is what the principle requires of the owner's ownership remaining and the impermissibility of disposing of it in any way. ⁽³³⁾ .

The researcher believes that this depends on the fact that the novel, as he understood its Iranian connotation, is contained in the unknown owner, and not as Al-Ta 'i argued that its connotation leads to saying that it is in the knowledge of the owner, as discussed in detail, so the dispute between the jurists is more like a building.

The second novel: About Al-Haytham bin Abi Ruh of the Khan: He said: ((I wrote to the righteous slave (peace be upon him) that I accept hotels, so the man comes down to me, so he dies suddenly, and I do not know him and I do not know his country, nor his heirs, so the money remains with me, how do I do with it? Oh... that money! He said: Leave him alone))⁽³⁴⁾.

⁽³¹⁾) See: Al-Ayrawani, Muhammad Baqir, **Banking jurisprudence** , pp. 31-32. Report of Sheikh Yousef Ahmed Al-Ahsa 'i, Dar Al-Huda, 1381AH, first edition.

⁽³²⁾ See: Al-Tai, **The Ownership of the State and the Unknown Owner**, pp. 96-97.

⁽³³⁾ See: Al-Tai, **The Ownership of the State and the Unknown Owner**, p. 97.

⁽³⁴⁾ Al-Hurr Al-Ameli, **The Shia Means of Achieving the Purposes of Sharia**, vol. 26, p. 298.

Note that this novel was mentioned in the polite and clairvoyant pronunciation of the word (he wrote) and not (he said), which is true: As it is a writing and not a direct question from Al-Haytham, but it is frequently mentioned in novels.

The novel is weak due to the ignorance of its narrator, Al-Haytham, the owner of the Khan, so we refrain from going into its significance from the ground up.

The third novel: It is also by Hisham bin Salim, ((Hafs Al-Awwar asked Abu Abdullah (peace be upon him) when I was present. He said: My father had an employee, and he had something, so the employee perished, so he did not leave an heir or a relative, and I was tired of that, how can I do it? He said: Your poor opinion is your poor opinion, so I said: I am fed up with this. He said: It is like the way of your money, and if a student comes, I give him)⁽³⁵⁾ 0, and the novel gives the same significance as the previous novel.

The fourth group: They are narratives that indicate that the rule of the unknown owner is the same as the rule of the shot or what is in its status:

The first novel: which is the novel of Hafs bin Ghiyath: He said: ((I asked Abu Abdullah (peace be upon him) about a Muslim man, who was deposited by a man of thieves with dirhams or belongings, and the thief is a Muslim, does he respond to him? He said: He does not reply to it, if he can return it to his companions, he did, otherwise he would have in his hand the status of the shot, he hits it, so he defines it around, if the owner hits it, he returns it to him, otherwise she believes in it, if the applicant then comes to his choice between the wage and the fine, then he chooses the wage, and if he chooses the fine, he is fined, and the wage was for him⁽³⁶⁾ 0, and the novel is mentioned in its text in Al-Istibar, Al-Faqih, and Al-Kafi, but with different supports, in which a common narrator was mentioned in all of it, which is Al-Qasim bin Muhammad Al-Isfahani, and his document is disputed, as he did not mention in his right to document in the men's books, and also from the side of Hafs bin Ghayath, except that Sheikh Al-Tusi was quoted in Al-Addah according to what Al-Hur Al-Ameli mentioned in the seventh benefit: The sect worked with what Hafs bin Ghayath and Ghayath bin Klub said.... and other members of the public from our imams (peace be upon him) in what they did not deny and did not have a caliphate⁽³⁷⁾. Therefore, some jurists have worked on the novels of Hafs based on the statement of the advanced Tusi, from whom it may be deduced to document it as well, adding that the suspicion obtained from the work of his novels is stronger than the suspicion obtained from the news of trust or at least equal to it, so the significance of the work is stronger than the significance of the news, then he added that the three sheikhs' novel of the novel in their books as presented may give some confidence in the authenticity of the novel's publication, regardless of the weakness of the road in Qasim bin Muhammad⁽³⁸⁾.

In this regard, he considered that the validity of the novel may have room in terms of Hafs, but it is not in Muhammad ibn al-Qasim. To say that the novel is true simply because it appears in the books of the sheikhs, we must generalize this matter to each novel contained in all their books, even if its narrator is unknown, which needs to be provided, so that it is a general masculine rule, and it is missing in the clear.

The fifth group: It states that the unknown owner is quintupled, and the rest after quintupling is owned by the Wajid, of which two narrations are available:

First: It is a long novel that we are trying to summarize in the place of the witness, and it is a novel by Ali bin Mahziar. He said: ((I wrote to Abu Jaafar (peace be upon him) - and I read in his book to him on the road to Mecca – he said: The one who gave birth in this year, and this is the year of twenty and

⁽³⁵⁾ Al-Hurr Al-Ameli, **The Shia Means of Achieving the Purposes of Sharia**, vol. 26, p. 301.

⁽³⁶⁾ Al-Hurr Al-Ameli, **The Shia Means of Achieving the Purposes of Sharia**, vol. 25, p. 449.

⁽³⁷⁾ Al-Tusi, Abu Jaafar Muhammad bin Al-Hassan, (d. 460AH), **Al-Udah fi Usul Al-Fiqh**, Part 1, p. 150, Investigation: Muhammad Reda Al-Ansari, Published: Muhammad Taqi Alaqabandan, Year of Printing 1414AH, First Edition.

⁽³⁸⁾ See: Al-Tayyi, **State ownership and unknown owner**, p. 102.

two hundred only for a sense of meaning, I hate to interpret the whole meaning for fear of spreading and I will explain to you some of it, God willing, that Mawali - I ask God for their goodness - or some of them failed in what they should do, so I knew that I loved to purify them and purify them with what I did of the five things in this year..... Until (peace be upon him) and the spoils and benefits, may God have mercy on you, it is the booty that one enriches and the benefit it benefits, and the prize from man to man that has a danger, and the inheritance that is not counted without a father or son, and like an enemy that darkens his money, and like money taken that is not known to his owner, and what has become to a loyalist from the money of the debauchery, I learned that great money has become to a people of my loyalist, so whoever has it, let him reach my agent, and whoever was far away from the apartment, let him be approved to deliver it even after a while, the intention of the believer is better than his work, but the one who obliges from loss and yields every year is half a sixth of those whose waste was providing for him, and whoever his waste is not providing for him does not have half a sixth or otherwise⁽³⁹⁾ ⁽⁴⁰⁾, and the novel was mentioned in the novels with a slight difference in some of its words, we offer to delve into it for futility.

Sheikh Al-Ta 'i mentioned the words of the Iranian investigator in his footnote on the gains of Al-Ansari and his saying: (The saying of the Imam (peace be upon him): (Like money taken and no owner is known to him) is explicit in the permissibility of owning an unknown owner after the removal of five))⁽⁴⁰⁾, and also mentioned Mr. Al-Khoei's comment on the words of the Iranian by two things:

First: The narrative is contained in the statement of the resources of the five in the manner of the real issue, that is: whenever something is achieved from those resources, the five must be in them, there is no indication that the unknown owner may own it in order to adhere to its release, while recognizing its indication that the fifth must be taken out, while it is permissible for the unknown owner to own it as the door of the shot.

The second: If it is accepted that the novel is in the position of the statement from this side as well, we do not accept that it is explicit in the permissibility of the unknown owner after the removal of five, but it benefits the launch⁽⁴¹⁾.

After reviewing the words of Al-Alamein, he commented:

((The origin of the invocation and commentary on it is a saying: If we scrutinize his saying (peace be upon him): (A companion is not known to him) by denying the companion and making it in the context of negation makes it visible in the general negation, that is: This money has no owner at all, to the effect that it has no owner, so it is one of the public permissible, with the ruling that the five must be in it as an interest of five at each New Year, and such money is not entitled to the address of the unknown owner; to clarify that this name is the branch of the owner's existence to add money to it, even if it is unknown, it is said: Money is unknown owner; Enclosure: If the money had an owner, he would have said (peace be upon him): Its owner is not known, but he did not say that, but he said: The owner is not known for the total negation of the absolute owner, and the owner of the language is: the owner of the money, or the owner to dispose of it, he is also told the language of the owner of the money, and if he did not accept that, and if we admit that this memorial was not intended by the novel, it is possible at least; for the possibility that the unknown money is the owner as claimed by them, so the novel becomes a whole in this regard and is not suitable for opposing others, falling for the aforementioned improbability, but the novel is a beholder To the unowned money that is not added to a person as I mentioned earlier, in addition to that, the denial of money and not adding it even to the conscience, if the addition is correct, as he added in the previous paragraph of the words of the infallible (peace be upon him) by saying: (An enemy who is silent and his money is taken) confirms the aforementioned benefit, and he added (peace be upon him): (And his owner is not known to him) to pay the probability

⁽³⁹⁾ Al-Hurr Al-Ameli, *The Shia Means of Achieving the Purposes of Sharia*, Part 8, p. 240.

⁽⁴⁰⁾ Al-Ayrawani, Mirza Ali, (d. 1354 AH), *Marginalia on Al-Makasib* p. 62, edited by Baqir al-Fakhar al-Isfahani, Dar Dhi al-Qurba, year of publication 1621 AH, first edition.

⁽⁴¹⁾ See: Al-Khoei, Abu Al-Qasim, (d. 1413AH), *Lectures in Jaafari Jurisprudence*, Part 1, p. 635, Report of Ali Al-Husseini Al-Shahrudi, Scientific Press, Year of Printing 1373AH.

of the proportion of money to a owner, so the novel is a phenomenon in money that has no owner, and he does not look at it anonymously as the Iranian investigator benefited from it, and from it you know the point of view in Mr. Al-Khoei's comment on the words of the Ayrani, the first thing: The novel is foreign to the maqam, so do not talk about the unknown owner, in order to discuss the permissibility of owning it or not, and the second thing: Belief is the branch of money being anonymous, which is not))⁽⁴²⁾.

The second novel: documented Ammar, about Abu Abdullah (peace be upon him): ((He was asked about the actions of the Sultan in which the man goes out? He said: No, except that he is not able to do anything that he eats, does not drink, and does not have a trick. If he does, he has something in his hand, let him send his five to the people of the house)⁽⁴³⁾).

Where it was discussed in the testimony of the significance of the novel in owning money after quintupling it; for the possibility that the fifth is out of profit, or because it is of money mixed with haram, even if it is a possibility, and therefore it was said that it is desirable to take out the fifth and not obligatory.

This novel made the investigator al-Hamdani say by analyzing the unknown owner of the five, taking advantage of the presumption of the resource of the novel, which is the zakat, the shares, and the abscess that were on private property previously, that is, before the Sultan took control of it and took it, because the liquid comes out in the work of the Sultan as a storekeeper, for example, or an administrative governor and others. It was discussed in this benefit by saying: that the novel is not explicit in owning money after quintupling; because of the possibility that the fifth is out of profit, or because it is money mixed with the haram, even if it is a possibility and not because it is money unknown to the owner, but he refused to accept such a possibility; because there is no witness to it from the novel itself or from abroad, but what indicated that the fifth is after the supply⁽⁴⁴⁾.

I think that the narration aims to clarify the validity of working with unjust sultans and the ruling on the money taken in exchange for work, and it did not focus on the ownership of this money and clarifying its true and legitimate owner, as it is a matter that is taken for granted, namely that it belongs to the infallible one (peace be upon him), and thus the narration is about the known owner, not the unknown one.

Attempting to combine the connotations of the five sects and their narratives:

After completing the statement of the five sects and the narrations mentioned in them, in light of which the idea of the unknown owner was born, and it is clear that it was greatly disturbed in its meaning of it, it was necessary to combine their meanings to arrive at the desired result, after a simple review of the meaning of each sect separately, and the extent of the validity of reasoning with it, the Sheikh mentioned several points in this regard:

The first point:

1-The novels of the first group are weakly supported, and they are indicative of the necessity of charity with money through the work of the Sultan, which is unknown money in the advanced fourth sense, as in the money that exists in government institutions now.

2-The narratives of the second group were divided in their connotation of the unknown owner in the first sense: (the unknown owner), and his ruling on the ratification with the lack of knowledge of the owner, and some of them in the second sense: (the title of the property whose owner is known, but does not reach it to return it to its owner), and his ruling on the request for examination, and kept silent afterwards.

(1) See: Al-Tai, **State Ownership and Unknown Owner**, pp. 104-105.

(43) Al-Hurr Al-Ameli, **The Shia Means of Collecting Murad Al-Sharia**, vol. 9, p. 240.

(44) See: Al-Tai, **State Ownership and Unknown Owner**, p. 106.

3- As for the novels of the third group, they are contained in the owner's information on the second meaning: (A title for the property whose owner is known, but does not reach it to return it to its owner), and his ruling to save the money after the request, effort and guardianship if the signs of death are present, but in the same sect, a novel that was silent about guardianship as the first, but with a documented presumption, which was mentioned earlier, gives the meaning of the first novel, which is that the money must be saved.

4-The narratives of the fourth group in the unknown owner came to the first meaning: (The unknown money is its owner, and the house is the status of the shot). Its judgment was either restitution or charity after the definition, but it is competent in its resource with the prohibition of its infringement to the unknown owner, with the fact that the narratives of these sects are weak support for the famous.

5- Moreover, these groups of novels were supplied not by the unknown owner as understood by some, but by money that has no owner with the title of permissible money included in the benefits in which the five must be, and some novels were indicative of the possession of money after quintupling and the fourth meaning of the unknown owner: (an address for money in banks and government institutions), but the statement is made that they are conditional on the circumstance of necessity.

The second point: The blessing of the advanced news presentation showed that the ruling of the unknown owner and his supplier is not the ruling of the known owner, who cannot be reached after the examination, as Mr. Al-Khoei said to him that the ruling of the unknown owner is to approve the money to his owner, and the ruling of the second, that is: the owner's knowledge is the examination and effort in the owner's request to return the money to him.

The third point: The despair about the owner after the examination is in the knowledge of the owner in particular, contrary to the famous saying that: It is in despair that the subject of the unknown owner is realized; because the money becomes after the examination and despair as the unknown owner, but it is likely unclear.

The fourth point: It is possible to distinguish between the judgment of the unknown owner on the fourth meaning: (a title for the money found in banks and government institutions), and his judgment on the first meaning: (the unknown money is its owner), if we take the famous article of the necessity of examination to the point of despair and then believe in it, other than its meaning on the fourth meaning, it should not be examined, but it is necessary to give charity with money without the need for examination, while acknowledging that the money must be returned to its owner if the taker knows it (45).

It is very clear that there is a conflict between these groups and the narratives contained in them. It was necessary to try to combine them to come up with a useful result, and there have been several attempts in this regard, including what was reported by Sheikh Al-Tai: Some of them are contained in the unknown owner, and some of them are contained in the owner's knowledge, and some of them are contained in other resources that are not linked to the research subject, i.e.: the unknown owner, and even his knowledge, which is true Ali bin Mehziar of the fifth group, and that the narratives of the fourth group came with regard to its resource with no possibility of infringement to the unknown owner, such as the narrative of Hafs bin Ghayath contained in the fourth group - although it was close to the meaning of the required while being compatible with the narrative of Abu Hamza of the first group, so it comes out of the news of Al-Bab, so we work the narratives of the unknown owner in its resource, and the narratives of the owner in its resource as well, which testifies to him the advanced narrative of Abu Hamza's son - this after canceling the difference between the unknown owner of the first and fourth sections mentioned at the beginning of the research - and if it is not possible to cancel the difference between the two sections in the question: What is the unknown owner of the fourth section? While acknowledging that his judgment in the first section is that he must give charity to his owner, and also it has not yet been clear to us the judgment of the unknown owner of the

(45) See: Al-Tai, **State Ownership and Unknown Owner**, pp. 108-109-110.

aforementioned third section, which has no effect on all the novels that have been reviewed⁽⁴⁶⁾, which leaves the coming days and the efforts of researchers to clarify this.

Findings

Hence, it becomes clear that the ruling on an unknown owner in its four categories is:

First: The owner is unknown and his rule is to give charity for the owner, for the guardianship of the one who has the money on him, with the permission of the legitimate ruler.

Second: It is the information of the owner, and his ruling on examining the owner to the extent of despair of finding him, while keeping the money in trust and bequeathing it if signs of death are present, or delivering it to the legitimate ruler.

Third: If the owner is known but is prevented from accessing his owner; because the money is immovable, and his judgment is like the second section, but without an examination; because of the inability to access the owner with his information, the examination is null and void.

Fourth: It is the famous saying of the jurists, which means: The money found in the institutions of countries that do not adopt Islamic Sharia as a constitution and law governing those countries is subject to the title of "unknown owner." They said that the ruling on this money is to give all of it in charity, except in the case of necessity in work, in which case the ruling is to pay one-fifth and own the remainder, which is what is often done by those who follow the Sharia.⁽⁴⁷⁾

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