

Way of taking back unjustly taken money

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Question: A man engaged employees to perform a work for him but he did not remunerate them. Is it permissible for them to take their rights by force if they can or take them secretly if they are weak?

There are among our brothers who have founded such act on the hadeeth of Hind when she claimed her husband to the Prophet (*May the peace and blessings of Allaah be upon him*). They have also attributed this opinion to Ibn Hazm (*May Allaah have mercy on him*). Thank you!

Shaykh Aboo `Abd-al-Mu`iz `Alee Farkous al-Qoobee (*May Allaah the Most High preserve him*): All praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon whom Allaah sent as a mercy to the Worlds, upon his Family, his Companions and his Brothers till the Day of Resurrection.

What is included in the content of the question is known as the issue of “obtention”. The scholars have different opinions regarding this issue. The majority of them consider that it is recommendable to not reward a person for wrongdoing by another wrongdoing, in accordance with the hadeeth of Aboo Hurairah according to the Prophet (*May the peace and blessings of Allaah be upon him*):

“Pay the deposit to him who deposited it with you, and do not betray him who betrayed you.”¹

What makes us say that it is recommendable are the verses which indicate the permissibility, as Allaah’s (*Mighty and Majestic is He*) saying:

(وَجَزَاءُ سَيِّئَةٍ سَيِّئَةٌ مِثْلُهَا)

The recompense for an evil is an evil like thereof²

¹ Reported by Aboo Daawood in his “Sunan”, chapter of “Wages”, concerning a man who takes his property from the person who holds it. (hadeeth 3535), At-Tirmidhee in his “Sunan”, chapter of “Sellings” (hadeeth 1264), Ad-Daarimee in his “Sunan” (hadeeth 2499) and Al-Haakim in “Al-Mustadrak” (hadeeth 2296) from the hadeeth of Aboo Hurairah (*May Allaah the Most High be pleased with him*). As-Sakhaawee said in “Al-Maqaassid al-Hassana” (51): “Ibn Maajah said: it is narrated from six ways of narration, but they are all weak, I said: but the hadeeth becomes strong by gathering its different ways”. This hadeeth is judged authentic by Al-Albaanee, by considering its different ways of narration, in “As-Silsilah as-Saheehah” (hadeeth 423).

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and the verse:

(وَإِنْ عَاقَبْتُمْ فَعَاقِبُوا بِمِثْلِ مَا عُوقِبْتُمْ بِهِ)

[And if you punish (your enemy, O you believers in the Oneness of Allaah), then punish them with the like of that with which you were afflicted.]³

The considered opinion in this question is the saying that it is obligatory to take money according to his right from the unjust person whether it is of the same kind of what was taken from him or not, but without being unjust to the oppressor, and this by taking only one's due right after the selling, and if it exceeds his right, he should give him the excess or to his inheritors. If it does not attain the due right, then the unjust person is required to give it to him, and there is no exception only when he is forgiven the fees he owes to him.

What is considered as argument in this question is Allaah's (*Mighty and Majestic is He*) saying:

(وَلَمَنْ انْتَصَرَ بَعْدَ ظُلْمِهِ فَأُولَئِكَ مَا عَلَيْهِمْ مِنْ سَبِيلٍ)

[And indeed whosoever takes revenge after he has suffered wrong, for such there is no way (of blame) against them.]⁴

And Allaah's (*Mighty and Majestic is He*) saying:

(وَالَّذِينَ إِذَا أَصَابَهُمُ الْبَغْيُ هُمْ يَنْتَصِرُونَ)

[And those who, when an oppressive wrong is done to them, they take revenge.]⁵

And the verse:

(وَالْحُرْمَاتُ قِصَاصٌ)

[And for the prohibited things, there is the Law of Equality (Qisaas).]⁶

And the verse:

(فَمَنْ اعْتَدَى عَلَيْكُمْ فَاعْتَدُوا عَلَيْهِ بِمِثْلِ مَا اعْتَدَى عَلَيْكُمْ)

[Then whoever transgresses the prohibition against you, you transgress likewise against him]⁷

And among the hadeeths that support this opinion, the hadeeth of the Prophet (*May the peace and blessings of Allaah be upon him*) who told Hind, the wife of Aboo Sufyyaan,

“Take what is sufficient for you and your children, and the amount should be fair and reasonable”⁸

² Soorah ash-Shooraa (The Consultation): [42:40]

³ An-Nahl (The Bee): [16:126] and other verses.

⁴ Soorah ash-Shooraa (The Consultation): [42:41]

⁵ Soorah ash-Shooraa (The Consultation): [42:39]

⁶ Soorah al-Baqarah (The Cow): [2:194]

⁷ Soorah al-Baqarah (The Cow): [2:194]

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as she deserves the expenses. Al-Bukhaaree has also reported the hadeeth

“If you stay with some people and they entertain you as they should for a guest, accept their hospitality, but if they don’t do, take the right of the guest from them”.⁹

This been said, if we assume that the aforesaid hadeeth of Aboo Hurairah: “... and do not betray him who betrayed you” is authentic, it cannot be taken as an argument in such question, as taking one’s right back is not a betrayal, on the contrary, it is a right and a duty. A betrayal is however, to betray, by using injustice and falsehood, a person who owes you no right, as Ibn Hazm ad-Daahiree declared, then As-San’aanee who agreed with him by saying: “Among the arguments that support this, the hadeeth:

“Help your brother, whether he is an oppressor or he is an oppressed one”¹⁰

as the mentioned hadeeth indicates clearly the obligation, and helping the oppressor consists in taking him away from injustice by taking back the money he has unjustly taken from people”¹¹.

I say: all this if there is no evil that will result from taking back their rights by such a way that is equal to the wanted interest or stronger than it. If there will be an evil as a result of their action, then it is not permissible in accordance with the rule that stipulates that: “Repelling harm takes precedence over procuring benefits”.

The perfect knowledge belongs to Allaah. Our last prayer is all praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon our Prophet (*May the peace and blessings of Allaah be upon him*), his Family, his Companions and Brothers till the Day of Resurrection.

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⁸ Reported by Al-Bukhaaree, chapter of “Expenses” concerning if the man does not spend on his family, then the wife would take from his property without his knowledge (hadeeth 5364), Muslim, chapter of “Judgments” (hadeeth 5474), Aboo Daawood, chapter of “Wages” concerning a man who takes his property from the person who holds it (hadeeth 3534), An-Nasaa’ee, chapter of “The manners of judges” concerning a ruler who passes sentence of an absent person when he (the ruler) knows him (hadeeth 5437), Ibn Maajah, chapter of “Trades”, concerning what a woman has the right to take of her husband’s money (hadeeth 2381) and Ahmad (7/60) (hadeeth 23597) from the hadeeth of `Aa’ishah (*May Allaah the Most High be pleased with her*).

⁹ Reported by Al-Bukhaaree, chapter of “Injustices” concerning the retaliation of the oppressed one when he finds his oppressor’s money (hadeeth 2461), Muslim, chapter of “The fallen thing which is picked up” (hadeeth 4613), Aboo Daawood, chapter of “Food”, concerning hospitality (hadeeth 3754), Ibn Maajah, chapter of “Good manners”, concerning the guest’s right (hadeeth 3807) and Ahmad (5/145) (hadeeth 16894), from the hadeeth of `Uqba Ibn `Aamir (*May Allaah the Most High be pleased with him*).

¹⁰ Reported by Al-Bukhaaree, chapter of “Injustices” concerning [the saying of the Prophet (*May the peace and blessings of Allaah be upon him*)]: help your brother, whether he is an oppressor or he is an oppressed one (hadeeth 2443), At-Tirmidhee, chapter of “Trials” (hadeeth 2421) and Ahmad (hadeeth 13421), from the hadeeth of Anas Ibn Maalik (*May Allaah the Most High be pleased with him*). This hadeeth is reported also by Muslim, chapter of “Virtue, keeping good relations with one’s kith and kin and good manners”, concerning helping one’s brother, whether he is an oppressor or he is an oppressed one (hadeeth 6582), from the hadeeth of Jaabir (*May Allaah the Most High be pleased with him*).

¹¹ “Subul As-Salaam” of As-San’aanee (3/69).