

# The Bankrupt Debtor's Interdiction in Jurisprudence and Law

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## Abstract

This research dealt with the legitimacy of the Interdiction on the bankrupt debtor in Islam Sharia and its related provisions. It explains the wisdom of the interdiction legislation in Islam and its essential role in saving the soul of the debtor, preserving his rights and creditors' money from loss to ward off damage to them. His money also deals with the rich debtor who is late in payment without a legitimate reason. The end of the bankruptcy state and the lifting of the Interdiction on the bankrupt debtor explained that the system of Interdiction on the bankrupt is the Creator of the Islamic system because it was not known in the old laws. It is "one of the legal and legal topics that require the attention of researchers for its importance in the real and practical life of members of society, whether theoretically or practically. It is one of the most important and most influential research topics".

Jordanian law has defined the legitimate means of protection of execution so that each debtor's funds are a guarantor of paying his debts, and all creditors are equal in this guarantee. From clarifying the meaning of Interdiction, Interdiction linguistically means preventing a person from disposing of his money. As for the concept of Interdiction in the Jordanian Civil Code, it stipulates that the debtor is prevented from disposing of his property if his debts exceed his money, and the Interdiction is by a court decision at the request of the debtor or one of the creditors based on reasonable reasons. Preventing the bankrupt debtor who is interdicted from disposing of his property is aimed at ensuring creditors' rights. The interdiction results in the interdicted person being cut off from disposing of his property and not inflicting physical punishment on him, and a court ruling issues the Interdiction. It also disappears by a judgment, and the Interdiction is a temporary state that is not permanent and ends with the disappearance of the reasons for its existence.

**Keywords:** Interdiction, Bankrupt, Debtor, Jurisprudence, Law.

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## Introduction

This research examined the legality of the Interdiction of the bankrupt debtor in Islamic law and its accompanying provisions. He reviewed the opinions of the jurists in lifting the Interdiction on the bankrupt debtor. He said that the bankruptcy system was strictly in the interest of the bankrupt debtor whose debts exceeded their assets and the debtor who delayed in performing without adequate reason, indicated lifting of the bankruptcy and ended the Interdiction on the bankrupt debtor again suggesting that the interdiction system for the bankrupt debtor was an innovated Islamic system since there was no known precedent in previous laws before Islam as to the emergence of the very way Islamic scholars have structured the system. It is known as "one of the topics, starting from the legal and legal aspects, that merits the attention of researchers for the position of importance, whether impacted on the life and concrete reality of the members of society whether in theory and practice has indicated that it is one of the important topics of research and one of the most serious topics of research in terms of consequence."

The Jordanian law stipulated legitimate means to protect the implementation so that all the debtor's funds shall guarantee the obligations, and all creditors shall benefit from all guarantees. The Interdiction of the

bankrupt debtor before the amendment of the law, and it is necessary that we state before entering into the implied implications of this Interdiction and cases where the Interdiction has expired from the statement of the meaning of Interdiction. Interdiction is language forbidden, and in the term, it is the possession of the hand to act with his own money- a what. Interdiction in Jordanian civil law prevents the debtor from disposing of his money or from increasing his debts and money. Interdiction is by the court's decision at the debtor's request or by limiting the creditors for reasonable reasons.

## Preface

The issue arose in the study and its aspects: the problem of inquiry is to attempt to find the ruling about Interdiction on a bankrupt debtor and to explain where the introduction of the debtor is allowed. As a result, I found the problem of study can be expressed in the following principal question: What instances and conditions are permissible for the Interdiction of the bankrupt debtor? From this question, we can derive the following questions:

1. What are the views of the Sharia scholars or a legal opinion(fatwa) regarding Interdiction in the bankrupt debtor?
2. What are the views of the jurists in distributing the debtor's money against creditors?
3. What are the opinions of the scholars and jurists regarding the Interdiction of the bankrupt debtor?

## Significance of the study

This Religious Law provided this safekeeping "care and great interest and had [wise] human beings unanimous in their care and their safekeeping, and with keeping them make the right things happen." to be a fit and proper duty and to perform its function in worshipping Allah and His succession in the earth.

## Limitations of the study

This study is restricted to exploring the ruling of Interdiction on the bankrupt debtor and explaining the different conditions under which the bankrupt debtor may be interdicted; thus, in general, the conclusions of this study cannot be extrapolated beyond this context.

## Methodology

The study was based on the inductive method of research, which is based on the collection and generalization of the Islamic texts in the books of *usul- fiqh* and law history regarding the subject of the study, then analyzing them as well, and the analytical method, we were also reliant upon analysis and sorting of our collected facts and the most plausible formulation of the hope and assembling the best refined and removing the excess and sometimes settling for the third most famous. The methodology was as follows: We referred to the pronouncements of four imams in many aspects and backtracked them into modern books to search for them. We reviewed and collected the findings of the law, the conclusions of the jurisprudential groups, and mentioned issues related to Interdiction. The above research was formatted into an introduction, preface, four topics, conclusion, and bibliography.

First topic: the Interdiction of the bankrupt debtor.

## Section one: definitions

First, Interdiction: in language: Interdiction means to open the forbidden, a resource in the sense of prohibition in all things, including Interdiction by the rulers on the orphans, meaning to prevent them<sup>1</sup> Moreover, say, "This is an interdiction, like a boycott, i.e., preventing him from what he would have done; it is haram to

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<sup>1</sup> Zubeida Mohiuddin Abi Al-Fayed, T1205H, Crown of the Bride il Charity Press, 1306, C3S127.

him.<sup>2</sup>". Also, it comes in the meaning of Interdiction, penalty, interdict, Interdiction, and penalty, all of which means haram, and the better is abolition. The Interdiction also comes in the meaning of inviolateness; it is said it is a penalty upon Allah's capability, meaning his holy and distressful (PBUH) prophet of Allah said: "I have put into a small comfort of what Allah is capable of<sup>3</sup>." They said an interdiction is an interdiction ["And they will say, "Prevented and inaccessible." (Surat al-Furqan22)], and Interdiction comes in the meaning of cover.

Moreover, waits for respect and all of it and weighs the room that floods it. What bothers us about all this is that we have Interdiction with the silence of the gym. The breaking of the teeth is to imprison the Interdiction of a judge determines to Interdiction his stock without reserving him or restricting "judge on minuscule and nausea just limiting from reserving it." from an as: the jurists mentioned have made several symbols we mention:

1. Hanafi refuses to act within a parlance that is not too small and silly; the refusal is only to non-actual parlance diners.<sup>4</sup>. Because what is thought in Islam refers to talk done for its effects<sup>5</sup>.
2. Ibn Arafah of the Maliki states that "by wise that, 'the describer was required to be prostrated from the hotel of the power to be - or give it is got he said beyond the patient interdiction end wife interdiction.<sup>6</sup>".
3. Al-Sahafi and Hanbala knew him to "prevent financial actions<sup>7</sup>".
4. Jordan's Civil Code states it is a procedure designed to safeguard creditors and preserve their rights and a temporary situation that ends with removing the causes of the Interdiction.<sup>8</sup>.

Suppose we are to know Interdiction in light of what we studied in the definitions. In that case, Interdiction prohibits someone from behaving exclusively in their best interests for some time."

#### Explain the definition

1. according to the prevention side, from the side of the Shari'a, like Interdiction on the minor and the insane. While the governor intends most here for the bankrupt and the sleazy debtor, should they unload their funds.
2. The person: it is meant by Interdiction, be it Interdiction from the side of the Shari'a, like Interdiction on the minor and the insane, or from the position of the judiciary, like Interdiction on a debtor and the scum.
3. "Particular conduct: which is the money conduct on which the Interdiction lies
4. "The proper interest is the interest of the engraved" on it, like the Interdiction on the minor and insane for their benefit or the Interdiction on the fawning and debtor for the benefit of others.
5. "A particular time: the time in which the interdiction is imposed" until it is lifted either by law as with a small log and its insane expectations, or by the judiciary, as with lifting the Interdiction from the debtor if they make restitution to others.

<sup>2</sup> Ibn Maser, Hamad bin Makram bin Ali bin Ahmed, T711H, San Al Arab (1999, Lebanon Beirut, Arab Heritage Revival House i3, C4S 56 "Interdictione Material."

<sup>3</sup> Al-Tarmadi, Mohammed bin Isa al-Salami, T279H (the door of what is said in the urine hits the ground) Beirut is the home of the revival of the Arab heritage.

<sup>4</sup> Qazi Zadeh, Shamsuddin Ahmed bin Mahmoud al-Rumi, known as Qazi Zadeh, t861H, the results of ideas in the disclosure of symbols and secrets, 9s253, Beirut Think Tank, Without.

<sup>5</sup> Al-Zelai, Fakhreddin Ali, T705, showing the facts explaining the treasure of the minutes, i2, The Islamic Book House, Cairo (The Book of Interdiction), c15s261.

<sup>6</sup> Al-Dismuke, Shamsuddin Mohammed Arafah, T1230H, The Footnote of Dismuke on the Great Commentary, C6S82, i1, Issa al-Babi al-Halabi Egypt.

<sup>7</sup> The son of the famous teleprompter Ibn al-Gurami, T804H, The Haste of the Needy to Guide the Curriculum, J2S786, Dar al-Book, Irbid Jordan 2001.

<sup>8</sup> The son of His Imam, Muwaffaq-uddin Abu Mohammad Abdullah bin Ahmed, T620H, singer of the needy edition of The Wordbooks, investigation: Dr. Abdullah Abdul Mohsen Al-Turki "Book of Interdictione, 6s593.

Second, Bankruptcy: Language: Arabs say: "(bankrupt) and bankrupt man became the money after he had money bankrupt bankruptcy became bankrupt as he lost all his money; that his economic condition has changed from better to worse. Arabs see this as an error in their position, and there is another meaning, which is in the sense " ofoppression."<sup>9</sup>.

Idiomatically: There are two meanings; the first interpretation is that a person whose money is insufficient to pay off his debts.<sup>10</sup>. The second meaning is a person whose debt has increased and who cannot find enough to pay it, so the ruler ruled bankrupt him.<sup>11</sup>.

1. Ibn Qudamah said: "The bankrupt, for the jurists, is someone whose belief is greater than their money, and who has left him with more than his income, and they called him bankrupt even though he has money since his money is worth directing towards his belief as though it were non-existent."<sup>12</sup>.
2. Al-Shawkani said the bankrupt is legally the person who augmented their belief over its existence; he is called bankrupt, and he is called bankrupt because it is unlawful to act, except for the insignificant like a lantern, since they were not dealing with them in dangerous things.<sup>13</sup>.
3. Al-Bejermi knew him: "He was contracted by excess debt above his means of money."<sup>14</sup>.
4. Jordanian Law defines it as: "the judgment of a merchant debtor's money which is "mediated" to cease to provide commercial debtors value. This is an allowance for creditors to intervene to list any remaining value of the debtor's goods in the hands of the judiciary for execution and the assignment of their debts."<sup>15</sup>.

Third: misfortune

Language: Adversity: Left-wing annexation

Idiomatically: The debtor's inability to pay off his outstanding debts.

Jordan's Civil Code has the following definition in (subject II) of the misfortune Law: The debtor ceases or defaults on debt" when it frequently fails to pay its debts or when the total amount of its liabilities surpasses the total amount of its money.<sup>16</sup>.

Second: The degree to which debt (indebtedness) pertains to the symptoms of eligibility of

An individual may manifest physical or mental symptoms - including death and insanity - that can impact their eligibility, totally or in part, depending on the type and form of the model. The implications of these symptoms are limited to eligibility and only applicable to the minds of persons, so they do not relate to the individual until they are discriminated against. Each symptom of eligibility has a specific effect, with each creating special provisions for the actions of persons under the exhibitor, isolated from the ambit of the applicable general legal provisions concerning other persons. Some of these symptoms exclude the eligibility for full performance, such as insanity, and some affect the eligibility where partially and not rejected, such as death, disease, madness, sugar, sorry, fatigue, falling asleep, fainting, recoil, slavery, and bankruptcy (indebtedness)." "Therefore, there is no capacity for the bankrupt to dispose of his money after the judge asked the judge to interdict it" because it protects the ungrateful money from the foolishness of corrupt people who are found guilty

<sup>9</sup> Jordan Civil Code No. 43 of 1976.

<sup>10</sup> Ibn Perspective, Tongue of the Arabs, "Fills" c6 p. 165.

<sup>11</sup> Ibn Qadamah, Mughni al-Muhtaj, Kitab al-Mufliis, vol. 6, p. 536.

<sup>12</sup> Ibn Qadamah, Mughni al-Muhtaj, Kitab al-Mufliis, vol. 6, p. 536.

<sup>13</sup> Al-Shawkani, Muhammad bin Ali bin Muhammad, d. 1250 AH, Neil Al-Awtar, Sharh Al-Muntaqa Al-Akhbar from the hadiths of the master of the good guys, Dar Al-Kutub Al-Ilmiyya, Beirut, Lebanon, vol. 5, p. 361.

<sup>14</sup> Al-Bujayrami, Suleiman bin Muhammad bin Omar, d. 1221 AH, Al-Bujayrami's footnote to Al-Khatib, Diyarbakir Islamic Library, Turkey, vol. 8, p. 68.

<sup>15</sup> Jordanian Civil Law No. 43 of 1976.

<sup>16</sup> Jordanian Civil Law No. 43 of 1976.

and declare bankruptcy. It also imposes a duty to repair damage to the community, so the stupid doctor, the insane mufti, and the idiot with his money are Interdiction with their money.<sup>17</sup>.

Section one: Place the debtor under Interdiction.

First, the Legality of Interdiction on the debtor: two views were held by Muslim jurists who disagreed that the debtor might be placed under Interdiction. The first viewpoint holds that the debtor and those who expressed it, Imam Abu Hanifa and his follower Zefer, cannot be placed under Interdiction.

- The almighty Allah says: "O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. Moreover, do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful [Sura al-Nisa: 29]". According to him, the debtor's money must be removed through Interdiction and sale in order to avoid any satisfaction or goodwill<sup>18</sup>. Without a doubt, the debtor's declaration of insolvency and subsequent sale of his money for personal gain involves interdicting him without his consent and putting him inside his prohibited area. As a result, it is not acceptable to interdict him because Allah's money is lost and odorous, and Interdiction wastes his freedom, humanity, and eligibility.<sup>19</sup>.
- The words of the Prophet Muhammad, may Allah's prayers and peace be upon him, "The wealth of a Muslim man is not permissible except with the kindness of his soul.<sup>20</sup>". Indication: The Prophet forbade taking the Muslim's money without his consent, and in the judge's sale of the debtor's money, he took it without his consent.
- They also quoted what was narrated from Abu Sa'id al-Khudri (may Allah be pleased with him), who said: "A man was injured during the reign of the Messenger of Allah in dates or in the fruits he bought, so his debt increased, and the Messenger of Allah said: (Give him charity). So, the people gave him charity, but he did not achieve the fulfillment of his debt. The Holy Prophet told his criminals: "Take what you find, and you have nothing but that.<sup>21</sup>". It is said that this companion is our master Jabir bin Abdullah (may Allah be pleased with them). Indication: He did not Interdiction Jabir and did not sell his money to him, but he left it until he spent his debt himself, and if the Interdiction were legitimate, he would have been Interdiction<sup>22</sup>. More implications cannot be mentioned.

The second opinion: It is represented by Abu Yusuf and al-Shaybani from the Hanafi, as well as the Malikis, Shaafa'is, and Hanbalis, and they went to the permissibility of Interdiction on the debtor, and they inferred the following:

Almighty Allah says: "And do not give the weak-minded your property, which Allah has made a means of sustenance for you but provide for them with it and clothe them and speak to them words of appropriate kindness"[Surat al-AnNisa5]. In addition, "And test the orphans [in their abilities] until they reach marriageable age. Then if perceive in their sound judgment, release their property to them" [Surat al-Anisa 6]. This meaning is also inferred from the Almighty's saying: "But if the one who has the obligation is of limited

<sup>17</sup> Abdul Aziz Al-Bukhari Ahmed bin Muhammad, Alaa Al-Din, d. 730 AH, Kashf Al-Asrar, 1st Edition (Dar Al-Kitab Al-Arabi) 1991 AD, Chapter on Matters Objecting to Eligibility, vol. 4, p. 335, and Al-Taftazani, Saad Al-Din Masoud bin Omar Al-Shafi'i, d. 792 AH, Explanation of the Waving on the Clarification of the Text of the Revision in the Principles of Jurisprudence, Sabih Library, Egypt, vol. 2, p. 337. Al-Zuhaili, Wahba bin Mustafa, d. 1427 AH, Usul al-Fiqh, 4th Edition, Dar al-Fikr al-Muasir, Beirut 2002 AD. (1/163).

<sup>18</sup> Al-Sarkhsi, Ahmed bin Abi Sahl Al-Sarkhsi, d. 490 AH, Al-Mabsout, 1st Edition, Dar Al-Kutub Al-Ilmiyya, Beirut 2001 AD, vol. 24, p. 186.

<sup>19</sup> Al-Zailai, Fakhr Al-Din bin Ali, Clarifying the Facts - Explanation of the Treasure of Minutes, 2nd Edition, Dar Al-Kitab Al-Islami, Cairo.

<sup>20</sup> Al-Bayhaqi, Ahmed bin Al-Hussein bin Ali bin Musa, d. 458 AH, Al-Sunan Al-Kubra, Dar Al-Baz Library, Makkah Al-Mukarramah 1994 AD, vol. 6, p. 100, Kitab Al-Ghasab, and Al-Dar Qutni Al-Baghdadi, Ali bin Omar Abu Al-Hassan, Al-Sunan, Dar Al-Maarifa Beirut, 1966 AD, vol. 3, p. 26, Kitab Al-Bai'u Hadith 91.

<sup>21</sup> Muslim, Imam Muslim bin Al-Hajjaj bin Muslim Al-Qushayri Al-Nisaburi, d. 261 AH, Sahih Muslim, (Dar Al-Shaab, Cairo, d. I, 1/92, Hadith No. 89.

<sup>22</sup> Al-San'ani, Muhammad bin Ismail Al-Kahlani, d. 1182 AH, Ways of Peace on the Board of Attaining the Maram, Dar Al-Fikr. C3P57.

understanding or weak or unable to dictate himself, then let his guardian dictate in justice. Moreover, bring to witness two witnesses from among your men"[Surat al-Baqarah 282].

Indication: "These are represented by their guardians in performance, indicating that the Interdiction has been proven against them.

## Section two: Discussion of the evidence of the two groups

First, the verse of commerce indicates that it is also a subject not general and general but modern, so it brings the Senh to your Hadith: "Does not settle money for a Muslim<sup>23</sup>". This adds a special conversation to the earlier Moaz. Regarding the reasonable, the public discussed it in two aspects.

1. What the public replied to the tap and those who agreed on the Interdiction on the debtor did not take away his humanity nor impair his entitlement; the Interdiction has an issue for creditors so that they could collect debts or at least part of them, and it has an issue for the displaced because he is discharged from debt and if he died. In contrast, in the religion, there is an outright denial of the rights of his servants; rights are only forgiven by forgiveness. It has been established that he was entitled to something he does regarding his community because Islam has an aversion to harming others as he is of himself.
2. The Interdiction does not regard inflicting more grievous damage with a desire to pay less damage but simply that preventing the debtor from disposing of his funds for no damage to his creditors is the least injurious way to prevent the rights of the creditors from being lost for no reason.

Second, the public evidence discussion by Abu Hanifa

Abu Hanifa responded to Moaz's speech, though he was pleased with Moaz because he was a person who did not have any loyalty to his debt, so he asked the Messenger of God to sell his wealth in order to possess his wealth to be pious in his debt so that he would not need to think if would refuse to order the messenger of God to sell his wealth so that he could protest by selling it without his consent.<sup>24</sup>

According to Abu Hanifa's direct quotes:

1. the chances would not have been completed with Moaz only distantly because the majority of the narratives indicated that the Prophet sold Moaz, and the Prophet's sale to him did not show satisfaction or obtaining permission, which indicates that Moaz is delaying the payment, and the Messenger of God sold him his wealth<sup>25</sup>.
2. Since Abu Hanifa authorized the Interdiction of the bankrupt if Abu Hanifa authorized the Interdiction of the bankrupt, why did he not cut the Interdiction of those who took the people's wealth? Instead, he even installed the debts and did not pay them off<sup>26</sup>.

Evaluating the evidence:

Having reviewed the evidence available to both panels and the responses of both panels to each other, I share the opinion of the panel that ordered the Interdiction of the debtor, especially since the evidence establishing the basis for the Interdiction was first to establish the following:

<sup>23</sup> Abdel Rahman, Dr. Muhammad Hussein, Means of Forcing the Debtor to Pay His Debt, 1997, Dar Al-Nahda Al-Arabiya, Cairo, p. 29.

<sup>24</sup> Al-Sarkhsi, Al-Mabsout, vol. 24, p. 186.

<sup>25</sup> Ibn Qadamah, al-Mughni, vol. 4, p. 489

<sup>26</sup> Al-Tahawi, Ahmed Al-Tahawy Al-Hanafi, 321 AH, Al-Tahawi's footnote on Al-Durr Al-Mukhtar, Dar Al-Maarifa Beirut, illustrated edition, from the Bulaq edition, vol. 4, p. 84.

1. The evidence of the panel whose Interdiction authorized the debtor was stronger in significance and guidance.
2. The spirit of justice requires the support of the wealthy debtor who circumvents paying rights of people, and that the debtor would be introduced to benefit both the debtor and creditors since any left interdictionless debtor will have the capacity to spend that money in a manner harmful to creditors.
3. The evidence of the panel that only supervised the debtor has weaker significance and guidance evidence, so doing no more than canceling the evidence became too weak to evidence the evidence of the panel ordered the Interdiction.
4. The Interdiction of the debtor is consistent with the purposes of Islamic law, which is to relieve embarrassment, distress, and harm for people dealing with one another and reinforce justice established under the purposes of Islamic law to allow people to receive their rights.

### Section three: the wisdom of interdiction legislation

The legislator government appointed the east government to interdict those who are mentally defective, sane, or mad to preserve the finances from the hands that unjustifiably steal people's finances through deceit and fraud and to protect them from the actions of the owner. Interdiction decisions also included those that consume particularly immoral, immoral and immoral and waste their government's finances in the right, and others waste their lives out of the pure intention to preserve their finance and protect their children's lives, where they are also dependent out there. Their servants will also be at stake, and keeping valuable livelihoods safe in the future is also good. The Interdiction also included going on to be immoral and unethical under the side of the unaware who do not know the religious ruling of the matter, therefore straying mislead so that they will become affliction against the Muslims behind their late-evening youth, and also the unaware doctor, whom the nation of medical personnel relies on, who is not aware of the art of medical practice, so humanity will move towards him unaware, thereby polluting pure souls through unawareness and resulting in large public misery and serious speeches like issuing engagement fatwas like in its pre and today. It included bankruptcy because that corrupts the people's finances unjustifiably. The Jordanian legislator introduced a system of Interdiction for bankrupt debtors before the amendment. The bankrupt debtor was Interdiction, and Islamic jurisprudence, specifically Maliki, deliberately influenced this.

### Section Four: Reasons for Interdiction

The jurists agreed that smallness, madness, and slavery are reasons for Interdiction. The public argued that foolishness and death-related illness were also reasons. They differed in the Interdiction on the wife in more than a third and in the Interdiction on the apostate for the benefit of the Muslims, and other details," "There is no room for mentioning it here. The introduction is divided according to the interest into two parts.<sup>27</sup>:

A - section legislated for the benefit of the interdicted (often), such as the Interdiction of the person, the boy, the fool, the waster, and others. The Interdiction in this section was legislated for the benefit of these to save their money from loss.

B - section legislated for the benefit of others (often), such as the current introduction for the mortgagee's right in the mortgaged property, and as the Interdiction of the sick disease of death for the right of the heirs over one-third of the estate where there is no debt, and the introduction of enslaved people for the right of his master" and the introduction of the bankrupt debtor for the right of creditors and this is what we are dealing with now.

### Topic three: Interdiction conditions

#### Section one: Conditions of Interdiction for the bankrupt debtor in Islamic jurisprudence.

<sup>27</sup> Ibn Abdeen, Zain al-Din Ibn Najim al-Hanafi, d. (1252). AH, the clear sea, the clear sea, the explanation of the treasure of minutes and its margin in the grant of the CreatorCreator, i Dar al-Kutub al-Arabiya, vol. 8, p. 88, Abu al-Barakat Ahmed bin Muhammad bin Ahmed al-Dardeer al-Adawi, the small explanation on the closest paths to the doctrine of Imam Malik, investigated, Mustafa Kamal Wasfi, i Dar al-Maaref in Egypt, vol. 3, p. 381 and beyond, and Mughni al-Muhtaj, vol. 2, p. 165, al-Bahooti, Mansour bin Yunus bin Idris, d. 1051 AH, Sharh al-Muntaha al-Iradat, 3rd edition, World of Books, Beirut 1996 AD, vol. 2, p. 273/274.



Islamic jurisprudence and the Maliki school of thought have carefully regulated the debtor's adversity to preserve creditors' rights and achieve social justice between the Creditor and the debtor. Islamic jurisprudence excelled in that direction to surpass all manufactured systems by its flexibility. In Islamic jurisprudence, there are five conditions for the Interdiction of bankruptcy.

First, the bankrupt shall be subject to the obligation of Interdiction upon any person who permits him to request the debtors or their representatives or successors to interdict him. They will not be interdicted if they claim their debts and do not ask for Interdiction. It is not required that all the opponents ask for it, but if one of them asks for it, it is obligatory, even if the rest of the opponents refuse to do so or are silent or ask to leave it to seek. If he goes bankrupt at the request of some of them, the rest shall have the quota. If the debtor requests bankruptcy and Interdiction, the ruler shall not oblige him to do so without the debtor's request. This is according to the Malikis and the Hanbalis.<sup>28</sup>, and it is more right according to the Shafi'is. It is more right for them to interdict the debtor by asking him or his agent; it was obligatory and permissible. They said that because he has an apparent purpose: to spend money on debts. The first face that the interdiction is contrary to freedom and rationality, but an interdiction is at the request of the debtors for necessity, and that they are not able to collect their intention except by interdiction, for fear of loss, unlike the debtor, his purpose is fulfillment. He can sell his money and divide it among his opponents. Some were made of Interdiction at the debtor's request, the Prophet's Interdiction on Muadh. They said, "It is more right that it was by asking Mu'adh himself."<sup>29</sup>.

Al-Shaafa'i said if the debt is for a minor, and his guardian does not ask for Interdiction, the ruler must Interdiction without question because he is looking for his interest. Similarly, they have a debt to a mosque or a public entity, such as the poor.<sup>30</sup>. Also, if some creditors ask for the Interdiction but not others, it is required that the Creditor be more than the debtor's money. Otherwise, there is no interdiction because his debt can be paid. This is what is approved by them, and in saying: It is considered that everyone's debt exceeds his money, not only the debt of the interdiction seeker."

Second, It is stipulated that the debt for which the debtor has requested an interdiction must be a current debt, whether it is currently due or dissolved by the expiry of its term, so there is no interdiction in the deferred debt, because it is not claimed immediately, and even if it is demanded, he is not obliged to pay<sup>31</sup>.

Third, it is stipulated that the debtor owes more than his money.<sup>32</sup>. Based on this, a person should not go bankrupt with a debt equal to his money, which is the saying of the Malikis. It is also understood from the words of the Hanbalis, and the Malikis said that even if his current debt does not exceed his money. However, there is still money left of the debtor's money that is not enough for the deferred, and he will also go bankrupt as if he owes two hundred. One hundred immediately and one hundred deferred, with him only one hundred and fifty, and he goes bankrupt unless it is hoped that the one who develops the waste, which is fifty in our example, will pay the deferred. The Shaafa'is said if his debts are as much as his money, then if it is a gain to be spent from his earnings, there is no interdiction for lack of need. If it is not a gain, and his expense is from his money, then he is confined to it so that his money is not wasted in his alimony. What is more right for them is that there is no interdiction in this case so that the opponents can claim immediately.<sup>33</sup>.

Fourth, the debt with which he is interdicted is the debt of human beings. As for the debt of Allah, it may be exalted; it is not forbidden by it. The Shafi'is stipulated this. They said, even if immediately, as a vow, even if those who deserve it are confined, and like Zakah, if there is a squint, those who deserve it come.<sup>34</sup>.

<sup>28</sup> Al-Desouki, Shams Al-Din Muhammad Arafa, d. (1230). AH, Al-Desouki's footnote to the great explanation, 1st edition, Issa Al-Babi Al-Halabi, Egypt, Dar Al-Fikr Edition, Beirut, Bidoun. 3/164, and al-Qalyubi, Shihab al-Din Ahmed bin Salama, d. 1069 AH, al-Qalyubi's footnote on the curriculum, Dar al-Fikr Beirut, without 2/285, and Sharh al-Muntaha 2/7.

<sup>29</sup> Al-Ramli, Shams al-Din Muhammad ibn Abi al-Abbas, d. 1004 AH, The End of the Needy to Explain the Curriculum, Dar al-Fikr Beirut, last edition 1984 AD, 4/300, 301, 305, edited.

<sup>30</sup> Nehayet Almutaaj 4/303, 304.

<sup>31</sup> Al-Desouki's footnote 3/264, and the end of the needy 4/301, 304, 305.

<sup>32</sup> Nehayet Almutaaj 4/303, 304.

<sup>33</sup> The Great Explanation and the Footnote of Al-Desouki 3/264

<sup>34</sup> Explanation of the curriculum, the footnote of Qalyubi 2/285, the end of people in need, and its footnotes 4/301.



Fifth, If the debt is proved by its acknowledgment or evidence based on it before the judge, the required person is absent before the judgment and refrains from attending. Abu Yusuf said the judge should appoint an agent and sentence him with money if the opponent asks for that, and if the opponent asks to be Interdiction, then Abu Hanifa and Muhammad shall not be judged or Interdiction until the absent person is present. He shall be sentenced and then interdicted with Muhammad because he shall be interdicted after the judgment and not before it.<sup>35</sup> In the anecdotes narrated by Muhammad: If they have proven their debts, he will be Interdiction." It is also valid to interdict the absent person, according to the Malikis<sup>36</sup>, if his absence is medium, such as ten days, or long, such as a month, for example, but the absent person who is absent near is in the present ruling. They stipulated for the Interdiction that the absent person should not advance the knowledge of his solvency before his departure. If he knew his solvency before his travel, he accompanied that and did not go bankrupt, and when Ibn Rushd went bankrupt in his long absence, and if he knew his solvency as soon as he left.<sup>37</sup> I did not find the Shaafa'is and the Hanbalis talking about this issue in what I have seen.

#### Section tow: Interdiction strips on the bankrupt in the Jordanian Civil Code

The Jordanian Civil Code deals with the issue of Interdiction of the debtor in Articles (375-386)<sup>38</sup>. Article 375 states: "The debtor may be interdicted if his debts exceed his property." If a person is a debtor and it is time to pay his debts and he does not have the funds to pay these debts and the matter is referred to the competent court to issue a decision to interdict the bankrupt debtor, this Interdiction is considered a restriction of the freedom of a person to dispose of his property and until the interdiction decision is issued, certain conditions must be met that the court cannot issue its decision if these conditions are not met, and by extrapolating the provisions of the Jordanian Civil Code, especially Articles (375-377)<sup>39</sup>, it is necessary. The availability of two basic conditions: increasing the debtor's debts on his property. Also, filing a lawsuit or submitting an application for Interdiction against the debtor, whether the debtor submits this request or one of the creditors, and the competent court shall consider this request or lawsuit, the court of the debtor's domicile, and the judge has a discretionary power granted to him by law. Article 959 of the Code of Judicial Judgments stipulates that "the ruler may seize the debtor at the request of the debtor."<sup>40</sup>

#### Third topic: Interdiction provisions

The Interdiction of debt, according to the jurists who have permitted the Interdiction, entails rulings.

First, he was prevented from disposing of his property because the debtors' debts were attached to it.

Second, the judge sells his money to meet the creditors.

Third, whoever finds his property with the debtor has the right to take it if certain conditions are met.

#### First section: Preventing the debtor from disposing of his property

The jurists unanimously agreed that the ruling on preventing the debtor from disposing of his money includes all actions harmful to the debtors because the Interdiction is in their interest. Hanafi jurists say if the bankrupt asks for an interdiction e on him, the judge should interdict him and prevent him from selling,

<sup>35</sup> Al-Qarafi, Shihab Al-Din Ahmed bin Idris, d. 684 AH, ammunition, investigated by Muhammad Hajji, publisher Dar Al-Gharb, 1994 AD Beirut, 8/162.

<sup>36</sup> Indian fat was 5/62.

<sup>37</sup> Al-Zarqani Ali Khalil 5/265 and Al-Desouki 3/264.

<sup>38</sup> Jordanian Civil Code No. 43 of 1976

<sup>39</sup> The Jordanian legislator provides for the insolvency regime in Article (375) under the title (Interdiction on the debtor) and in Articles 375-386 of the Jordanian Civil Code.

<sup>40</sup> Jordanian Civil Code No. 43 of 1976

disposing, and acknowledging so as not to harm the criminal.<sup>41</sup> The following are some of the types of behavior on which the jurists differed and concerning the debtor, namely:

Type one is the action between benefit and harm.

Such as sale and lease, and it also includes barter, exchange, loan, guarantee, transfer by order of the debtor, composition on acknowledgment and exit, and also includes the company Al-Anan and the bargaining company, as well as rent, leasing, etc., the jurists in this matter have three sayings:

- The first argument is that the sale and purchase of the debtor is incorrect. The proponents of this school of thought are the Malikis, the Hanbalis, and the most correct view of the Shaafa'is. They reasoned that the ruler's ruling interdicted the interdicted debtor, and the Interdiction means preventing him from disposing, so it is not valid for the debtor to dispose of his property. The right of the debtor has been attached to the objects of the debtor's property, and when the debtor's property is attached to the right of another person, he may not dispose of this property alone.<sup>42</sup>
- The second argument is the validity of selling the debtor if he sells at the same value, and this is the view of the tap. They reasoned that the disposal does not invalidate the debtors' rights and does not harm them if the sale is of the same value, and the prohibition is only permitted to preserve their rights, so the debtor is not prevented from selling at one or more prices.<sup>43</sup>
- The third argument is that the debtor's actions in the objects of his money, whether buying or selling, depend on the consideration of his money, and if this is in fulfillment of his debt, the disposition shall be carried out. Otherwise, it will be forbidden, which is a likely saying, according to the Shafi'is.<sup>44</sup> They inferred by analogy the validity of the purchase and the loan in debt, so it becomes from him. It is considered suspended because the Interdiction was only done for the benefit of the debtors.

After reviewing the arguments and evidence of the jurists, I tend to believe that the debtor's disposal of his property is not effective after Interdiction unless it is in the interest of the debtors to preserve the creditors' rights from manipulation and tampering. Saying that the debtor's actions, such as buying, buying, gifting, etc., are not enforceable in preserving the rights of creditors from loss is in complete harmony with the purposes of Sharia in respecting the rights of others and enabling them to obtain them. On the other hand, the ineffectiveness of the debtor's actions significantly reduces disputes and disputes between creditors and their debtors.

Type tow: Forfeiture

Forfeiture is a contract in which those interested can unilaterally forfeit their right or part of it. There are two types: pure forfeiture, such as divorce, manumission, delivery of pre-emption, and abandonment of the option. Moreover, the jurists in this have two sayings:

The public says the jurists are unanimous in saying that it is permissible to interdict the debtor on his right to marry, divorce, and on money without being objected to by his opponents, as long as this right does not harm their interest. This means that the Interdiction of the debtor does not affect his rights related to his person, which may encounter money, but it is other than the money in which he was confiscated, and this provision can be achieved in two cases: first,

Obligation to pay it during the Interdiction is due to him because he is not obligated to pay it except for the money he will have after the release of the Interdiction from him. For example, the interdicted debtor marries

<sup>41</sup> Al-Marghinani, Burhan al-Din Abu al-Hasan ibn Abd al-Jalil, d. 593 AH, al-Hidaya 3, Dar al-Kutub al-Ilmiyya, 2000 AD, p. 208.

<sup>42</sup> Al-Mutai'i, Muhammad Bakhit, d. 1935 AD, Supplement of Al-Majmoo, 1st Edition, Dar Ihya Al-Turath, Beirut, 13/282, and Ibn Qudamah, Al-Mughni 4/489.

<sup>43</sup> Al-Marghinani, Al-Hidaya 3/285, and Al-Mawsili, Abdullah bin Mahmoud bin Mawdud, d. 683 AH, Al-Ikhtiyar, edited by: Abdullah Al-Minshawi, Dar Al-Hadith, Cairo, 2/155.

<sup>44</sup> Al-Mutai'i, Supplement to Al-Majmoo' 13/282, and Mahmoud, Ahmed Muhammad Al-Hajj Hassan, Rulings of Interdiction e in Islamic Jurisprudence, Master's Thesis, An-Najah University, pp. 136-137.

a woman on an accelerated dowry called in the contract. The wife agrees in advance that her dowry is a debt owed by the husband that she does not demand until after the end of the interdiction ruling or that his divorcee agrees not to share the back of her friendship with the debtors for whom he was interdicted and considers it a debt owed to him.<sup>45</sup> The second case is that his behavior against him is a rich act for him, and then he is not prevented from doing so because there is no harm to him or his opponents. For example, if he has intercourse with his wife for a sum of money that he takes from her and uses to pay his debt<sup>46</sup>. In summary, it is not permissible for the debtor to marry the property for which he was withheld, even if he needs such marriage, and he may not pay the delay of his wife's friendship from that money because of divorce, even if divorce is inevitable.<sup>47</sup>.

Second, say for Hanafi jurists who authorize Interdiction because of debt.

These jurists disagree with the public regarding the issue of divorce and marriage of the interdicted debtor, as they believe that the origin of the two companions is "permissible to interdict them in actions that are not valid with humor and coercion, such as sale, leasing, gift, charity and what is likely to be annulled. Any act that cannot be annulled, such as divorce, manumission, and marriage, may not be withheld unanimously.<sup>48</sup>. Accordingly, a person who is interdicted on the grounds of debt is permitted to marry and divorce and a woman who is interdicted has the right to divorce herself from her husband in return for a sum of money paid to him, even if this amount is part of the property in which he or she was interdicted.

Prevailing opinion:

By reviewing the statements of the jurists on this issue, I stand in the middle ground between the two groups, which is: if the husband has to divorce and there is no escape from it, he may divorce, even if the dowry of his divorced wife coincides with the money that is interdicted from him. Similarly, suppose the marriage is obligatory for him. He may marry and pardon himself in that case, provided she is one wife, even if her dowry coincides with the money he confiscated.

Forfeiture in which the meaning of donation: the jurists are unanimous in preventing the debtor from being interdicted because of debt, such as discharge and endowment. As for the discharge, because it is an apparent loss of the right that harms the interest of the debtors, it is governed by the ruling of donation. About the endowment, the interdicted debtor is prohibited from any disposal of the property in which he is confiscated, regardless of the form of such disposition. Also, because the judge confines the one who owes the debt to his money, lest any of his wealth be taken away from his property, so if it is permissible to endow his land, the Interdiction would not have meaning.<sup>49</sup>.

Type three: Declarations

It means the debtor's acknowledgment after the Interdiction of a debt to non-debtors. The majority of jurists have agreed that the acknowledgment binds the debtor to the debtor, but they differed in the participation of the declarant to the debtors on two points:

The first saying is that the public does not accept the debtor's acknowledgment of the right of the debtor, and therefore, the headquarters does not share the debtors in the money. Their point of view is that the debtor is accused of acknowledging the possibility of collusion with the debtor's headquarters.

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<sup>45</sup> Al-Asbahi, Malik bin Anas, d. 179 AH, Al-Mudawana Al-Kubra, Dar Sader Beirut, without, 4/122, and Muntaha Al-Iradat 2/142

<sup>46</sup> Al-Kharshi, Abu Abdullah Muhammad, Sharh Al-Kharshi on Mukhtasar Khalil, Dar Sader Beirut, Bidoun, 5/306, Al-Shabramli, Ali bin Ali, d. 1078 AH, Al-Shabramli's footnote on the end of Al-Muhtaj 3/312 and Al-Mughni 4/489.

<sup>47</sup> Al-Desouki's footnote is on the excellent explanation of Al-Dardeer 3/265, and the footnote of Al-Bajrami is on the explanation of the curriculum 2/students 376.

<sup>48</sup> Indian fatwas 5/55.

<sup>49</sup> Al-Khatib, Interdiction on the debtor for the right of the debtor, p. 514.

The second one says that according to the Shafi'is, it is accepted that the debtor's acknowledgment after the Interdiction is against the debtors. Accordingly, the headquarters shall share the debtor's property with the debtor. Their point of view is that it is a right proven because of a reason attributed to the Interdiction, and acknowledgment is a means of proving rights, so it is shared with the rivals. As well as by analogy with the acceptance of evidence in proving debt.

Prevailing opinion:

Its observance is one of the accepted guidelines of scientise. As well as the strength of the evidence of the first team, on the other hand, what the Shafi'is inferred from their second statement is not considered, as it is an analogy with the difference, since the evidence is further to the accusation and complicity than the confession, because the descriptions required for witnesses that strengthen the likelihood of their truthfulness are required, and there is no such thing in the headquarters.

Section two: Whoever finds his right to his money with the debtor

There is no dispute between the jurists in the eligibility of the right holder if he finds it in any hand, whether this hand is the hand of a usurper or others. However, in the dispute that occurred between the jurists in the recovery of the Creditor's money that he found in the case of bankruptcy, the jurists differed on two sayings:

The first saying is the opinion of the Hanafi, where they said, who went bankrupt "and has the money of a man sold from him, the owner of the money is like the rival, meaning that he has no right to it from other opponents, but if he went bankrupt before receiving the money or after receiving it without the permission of the seller, he had to recover it, and imprisoned at a price in the case of before arrest, and the Hanafi inferred their saying several evidence, including:

The Messenger of Allah said: Any man who goes bankrupt and finds a man with his possessions is the same as those who are in love with him. It was also narrated that the Messenger of Allah sold Muadh his money and divided it among the rivals in shares until there was nothing left for Muadh, and peace be upon him, did not inquire whether the seller had an existing commodity.<sup>50</sup>.

The second says, for the majority of jurists, which is that if the ruler bankrupts a man and finds one of the debtors appointed his money, he has the right to rescind the contract of sale and take his property because the buyer was unable to "pay the price, so this requires the right of annulment as the seller's inability to deliver the sale. They cited the following:

1. It was narrated from the Messenger of Allah that he said: Whatever man goes bankrupt, and a man realizes his wealth or his possessions with a man who has gone bankrupt, he is more entitled to it. Indication: The operative part of the Hadith indicates the Creditor's right to recover his property if he finds it at the time of the crime.
2. It was narrated that 'Uthmaan (may Allah be pleased with him) used to do so. Ali ibn Abi Talib also narrated it like that. Moreover, there was no contrary to the Companions of the Prophet who knew of them.<sup>51</sup>.

Prevailing opinion:

After reviewing the opinions of the two parties and the evidence of each of them, I find that the fatal opinion that the Creditor has the right to take his money if he finds it with the debtor is the opinion closest to the right and instead accepted and followed, for the following:

1. The Hadith on which the audience relied is a hadith that indicates its meaning, as it was narrated by many companions of the Sunan, including Imam Muslims (may Allah have mercy on him).

<sup>50</sup> Agreed, narrated by Muslim in Kitab al-Musaqat Hadith no. 1559, and al-Bukhari Kitab al-Istiqr Hadith no. 2412.

<sup>51</sup> Al-Shawkani, Neil al-Awtaar, 5/245.

2. What was narrated from Imam 'Ali (may Allah be pleased with him), despite his weakness, is suspended and is carried as a saying of a companion, and the saying of the companion is an argument for some scholars.
3. The Hanafis respond to their reasoning with the Hadith: Whatever man goes bankrupt and finds a man who has his belongings, he is like the stranger in it" is a hadith sent.
4. The Hanafis contradict themselves, so how can they work with the Hadith sent in one place and not work in another situation? Ibn Najim said, "The sender, we have an argument, and Al-Khasaf and Al-Razi invoked it."
5. He responds to their protest with the Hadith of selling Muadh's money and not asking him whether there is anyone among them who has a commodity that he sold to Muadh before the Interdiction on him and did not receive its price, so they will be told: What do you realize that the Prophet did not do that? He is keen to achieve the truth and investigate the right.

### Section three: Interdiction way in law

The above Article 367/a of the debtor's law mentioned an interdiction method, which provided: "The Interdiction shall be by a court ruling by the debtor's home at the request of either the debtor himself or a creditor, and the case shall be heard quickly. The debtor's law gave authority to Interdiction at the request of creditors and did not require that all creditors apply; merely enough creditors made a request, some of which were the same. It is provided to Interdiction at the debtor's request because he may see some interest realized.<sup>52</sup> The debtor's law looked at the debtor's position and the amount of blame he has for the reasons for Interdiction; Article 377 mentioned: "In all cases before the debtor should be interdiction d, the court should take into consideration in its decision all circumstances of the case, the amount of blame the debtor has for the reasons leading to the interdiction application, and legitimate interests of its creditors, and every other circumstance that affects its position materially.

### Topic four: The effect of Interdiction on the law

The interdiction sentence in civil law has implications, namely:

1. The resolutions about a debtor's deferred debts:

Article 380 of the Jordanian Civil Code states that the interdiction sentence resolves the debtor's deferred debts. Therefore, following the civil code and explanatory notes, deferred debt is resolved through private bankruptcy. Maliki said that in private bankruptcy if it was conditional on debt not being dissolved by bankruptcy, the debt was not dissolved and was imposed on the condition. This may be because Interdiction requires a debt appended to money, and the term falls just as death does. While he may have argued in their most likely statement, and the Hanbali's were a famous statement, he would have stated that deferred debts are not solved but remain for them because the term is a benefit of the engraved and does not go to waste.<sup>53</sup>

However, the law stipulates that a judge may rule, at the debtor's request and about relevant creditors, to maintain a period for deferred debt. At the same time, concerning the Creditor in the given case, the debtor may not be granted a deferral for the debt if he/she wishes to contend that this proceeding, which came into play under extreme and demonstrative circumstances, and that there are no alternative means of ensuring the interests of the debtor and the interests of all the creditors.

1. Payment of the debtor's deferred debts: Article 380 of the Jordanian Civil Code refers to this, stipulating that the judgment of Interdiction shall dissolve the debtor's deferred debts. Accordingly, commentators of the Civil Code, including explanatory notes, argue that deferred debts are dissolved by private bankruptcy. This is the main difference between private bankruptcy and the other two cases: the case of merely surrounding the debt with the debtor and the case of general bankruptcy, as in these two cases, deferred debts are not resolved.

<sup>52</sup> Explanatory notes to the draft Jordanian Civil Law, issued by the Jordanian Bar Association, vol. 1, p. 437, and the magazine's explanation, Ali Haidar, Article 100.

<sup>53</sup> Explanatory Notes: Part 1, p. 441 and beyond.

2. The debtor is not to be executed against all its creditors, which would be due to its treatment of his disposed of existing and still existing money and its acknowledgment of another debt since the registration of the proceedings gives this right of execution. The public of jurists agreed with the law, which stated that "when a debtor is Interdiction, he can no longer act in his money, neither in a donation nor with relief, and any conduct issued after the Interdiction shall be ineffective against the creditors.
3. The debtor is not allowed to satisfy a debt by debt, such as a loan, nor can he or she satisfy any part of his or her obligations without satisfying all of them, and if he or she does so, the remaining obligation has a debit of the amount he or she paid to this obligation.
4. Also permissible from the time of Interdiction is the acceptance of a debt, and its avowal is not valid against creditors. If evidence is grounded in the relation of debt in the congregation before Interdiction is established, it is established of record, even if evidence becomes established after Interdiction.

First section: End of Interdiction on the bankrupt debtor in jurisprudence and law.

- The end of the Interdiction in jurisprudence

Jurists on this topic have different views, which we will characterize as follows:

First view: The Interdiction shall rise on the one trapped in it only by the ruling of the ruler and those who expressed this view to the Hanafi and Al-Shaafa'i communities.

Second view: Interdiction on the bankrupt debtor ceases upon distribution of property as soon as he has sworn that he did not mute something that needed to be a judicial ruling and those who expressed this view from Maliki up to it.

Third view: Al-Shaafa'i believes that if the bankrupt debtor has debts, Interdiction shall continue until removed, and if the InviolabilityInviolability agrees to remove it, not even by exonerating him, the judge shall rule it is dismantled because "Interdiction can only be proved with the judge's proof, and will only be dismantled. I favor the first opinion because their inferences and guidance to their opinions are stronger. After all, Interdiction is only performed by the ruling of the ruler; it can only be broken by a ruler, and another opponent may arise who has taken him out of my debt. If we say that he will be removed without the ruling of the ruler, he may lose the ruler's right; the ruling intersects the removal.

- The end of Interdiction in law

The Jordanian Civil Code Article 384<sup>54</sup> refers to occasions when the Interdiction terminates by decree of the home court of the debtor based upon a significant request as follows:

1. The assets of the interdiction property have been divided into Inviolability and Inviolability.
  2. It is determined that the debtor's debts do not exceed their assets.
  3. The debtor performed its obligations that had been settled independently of the interdiction decrees.
  4. To be clear, obligations that were settled prior to the interdiction decrees are revived to where they were before the Interdiction, so long as the debtor has made the outstanding installments at the time of the Interdiction
  5. if three years have passed by the time of the interdiction decree.
- Comparison between Islamic law and jurisprudence:
    1. In civil law, if the debtor owes more money than what he possesses, the creditors can ask the court to declare his insolvency, and the court declares the debtor insolvency by a judicial decision. This is the core of Islamic law: the debtor is interdicted d by a court ruling in case his debt increases on his money, and the Interdiction is at the request of his Creditor, and it may also be at the request of the debtor

<sup>54</sup> Jordanian Civil Code No. 43 of 1976

himself, as he said in kindergarten: "The ruler must Interdiction if these conditions exist, meaning whether the request is for fine or the bankrupt.<sup>55</sup>. Furthermore, they said: "The request for the bankruptcy is also interdicted by his agent in the right because he has an apparent intention, which is to cash out his debt to the liabilities."

2. If a judgment declares the debtor bankrupt, he is barred from dealing with his money. Any actions derived post-registration of the proceedings will be adverse to the creditors without the requirement of establishing the debtor's insolvency, as this is established by the said judgment, and without needing to establish the known complicity of the debtor with any subsequent party claiming upon the money.

In Sharia, if the ruling of the judge binds the debtor, then the debtor's written actions and statements that come from any money against him are not easy to execute. He will go to prison wherever he has money and conceals it or if he is in plain sight and claims that he cannot do what he needs to do. In law, the equality of creditors is achieved when the debtor's funds are distributed to the agreed-upon creditors and the deferred creditors resolved, and a claimant cannot take jurisdiction of the debtor's property. Otherwise, the jurisdiction will not operate against the other claimants. In Islamic law, equality is also achieved among creditors, dividing up the bankrupt's money among the creditors and their shares, receiving the deferred debt, and presenting a creditor to a creditor only on legal grounds. However, Islamic law does not stop there and is not satisfied with the creditors legally. The inequalities achieved by law are settled through legitimate creditors mainly through collective problems of execution on the bona fide assets of the debtor when it seems before the debtor's property was divided. There were claims on the Inviolability. They saw fine, offering to return the money to those with them as far as he could, per debt principles.

The bottom line:

The prohibition against bankrupt debtors fraudulently disposing of their equitable money is meant to protect creditors' rights. The incarceration with Interdiction of the inequitable is meant to do no more than deprive the inequitable of disposing of their money, not to punish them physically, and the Interdiction should be ordered as part of a court ruling. Interdiction can also be lifted upon a temporary circumstance that dissipates when the reasons for Interdiction are eliminated.

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<sup>55</sup> El-Sherbiny, Shams al-Din Muhammad ibn Ahmed, Mughni who needs to know the words of the curriculum, Dar al-Nafais Riyadh, illustrated edition 1958 AD, vol. 2, p. 146.



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