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# Fiqhī and Legal Foundations of Criminal Policy Against Tax Crimes

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## ABSTRACT

One of the most effective methods for combating prevalent tax crimes is the logical and convincing explication of the foundations that legitimize criminal policy in response to these crimes, so that people become persuaded that the government, based on legal and religious principles, has the right to resort to various forms of criminal policy against perpetrators of tax crimes; thus, citizens should not imagine that the government, through the weapon of criminal policies, unjustly appropriates and seizes a portion of their assets by abusing force. In this research, the foundations that legitimize criminal policy against tax crimes are examined based on fiqhī and legal sources, and it addresses the question of which evidence obligates citizens to pay a portion of their income to the government in the form of taxes. The aim of the research is to prevent tax crimes by convincing citizens of the legitimacy and religious validity of these policies and encouraging obedience to them. The findings of the research indicate that criminal policy in combating tax crimes is founded on multiple and robust bases that effectively prove the legitimacy and righteousness of adopting this type of policy in response to tax crimes.

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## Introduction

Contemporary tax systems face a significant challenge in the rise of tax-related offenses and the proliferation of negative public perceptions regarding the legitimacy of taxation and its associated criminal policies. A primary factor contributing to such crimes is the failure to provide a logically coherent and persuasive theoretical framework that legitimizes the state's authority to levy taxes and to implement punitive measures against evasion. In religious societies, many citizens recognize their duty to pay religious taxes, such as *khums* and *zakāt*, yet perceive governmental taxation as illegitimate due to misunderstanding or misinformation. They often view state taxes as an unjust expropriation or usurpation (*ghaṣb*) of private property enforced through coercion and macro-level criminal sanctions. This misconception not only leads to widespread tax evasion through fraudulent declarations and other schemes but also diminishes the social stigma (*qabḥ*) attached to such crimes, which may even be perceived as a mark of shrewdness. To combat these offenses effectively, punitive legislation alone is insufficient. It is imperative to articulate the theoretical foundations that legitimize both the act of taxation and the state's right to criminalize (*jurm-angārī*) and penalize non-compliance. A well-reasoned explanation will persuade citizens of the state's right to tax and to employ criminal policy against offenders, thereby fostering a societal consensus that these offenses are as reprehensible as traditional crimes and helping to institutionalize a culture of tax compliance. This study addresses a notable gap in the existing literature by providing an independent analysis of this specific issue.

## Methodology

This study employs a descriptive-analytical methodology. Data was collected through a comprehensive review of library resources, with a focus on authoritative academic, legal, and Islamic jurisprudential (*fiqhī*) literature. The collected materials were then subjected to a rigorous and systematic critical analysis to identify and articulate the foundational principles underpinning criminal policy related to taxation.

## Findings

The research demonstrates that the criminal policy against tax offenses is grounded in multiple, robust legal and religious (*sharʿī*) foundations that validate both the collection of taxes and the necessity of punitive measures against evasion. The key legitimizing principles are:

1. **Upholding Social Justice (*ʿAdālat al-Ijtimāʿiyyah*):** Taxation serves as a vital instrument for the equitable redistribution of wealth, the reduction of class disparities, and the financing of public goods and services, thereby contributing to the realization of social justice.

2. **Preserving the State's Integrity and Authority (*Ḥifẓ al-Niẓām*):** Tax revenue strengthens the state's economic foundation, which is essential for maintaining its authority, stability, and sovereignty.
3. **Enabling Governmental Functions:** The state is tasked with essential duties, including ensuring national security, developing economic infrastructure, and implementing development programs, none of which are feasible without a consistent stream of tax revenue.
4. **The Government's Entitlement to a Share of Economic Profits:** The state provides the security, infrastructure, and stable environment that enable citizens to engage in profitable economic activities. It is, therefore, a stakeholder entitled to a share of the profits generated within this framework.
5. **Securing Sustainable State Revenue:** Unlike volatile income sources, taxation provides a stable and reliable revenue stream for funding administrative, public, and social expenditures, playing a crucial role in national economic stability.

The study also found a significant lack of public awareness regarding these legitimizing principles, which directly contributes to the high incidence of tax crimes. It is therefore recommended that criminal policymakers look beyond traditional penalties (e.g., fines, imprisonment, deprivation of social rights) and incorporate alternative sanctions. Specifically, educational and probationary programs for tax offenders should be implemented to acquaint them with these foundational principles and persuade them of the legitimacy of both taxation and the state's criminal policy in this domain.

## Conclusion

This research yields two primary conclusions. First, a purely coercive strategy against tax crimes, implemented without public persuasion, is neither sustainable nor effective as a long-term solution. To institutionalize a robust "culture of tax compliance" and prevent offenses, the principles that legitimize taxation and its associated criminal policy must be systematically and continuously communicated to the public via media and educational platforms. Second, in formulating criminal policy, legislators must augment traditional penalties with alternative sanctions. The integration of probationary and educational courses can serve as a more effective instrument for reforming offender attitudes. Participation in such programs can persuade individuals of the necessity of paying taxes and the legitimacy of punitive responses, thereby reducing recidivism and fostering a societal consensus that tax evasion is a morally reprehensible (*qabīḥ*) act, on par with traditional common law crimes.

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