

The Operation of the Rule of Ilzam and Generic Set-off in Iran's Financial and Legal Interactions

Yaser Takfallah¹ 

1. Assistant Professor, Department of Islamic Jurisprudence and Principles of Islamic Law, Allameh Tabataba'i University, Tehran, Iran. Email: y.takfallah@atu.ac.ir

Article Info	ABSTRACT
<p>Article type: Research Article</p> <p>Article history: Received 05 December 2023 Received in revised form 06 February 2024 Accepted 18 February 2024 Available online 22 December 2025</p> <p>Keywords: ilzam, personal status, legal interaction, prohibited transaction, generic set-off</p>	<p>The rule of ilzam is one of the important fiqhi maxims governing the financial and legal relations of Shi'is with followers of other religions and schools. Weaknesses in the chain of transmission and indication of some proofs have led certain contemporary jurists to deny the existence of the rule in the transmitted evidence and to interpret the relevant rulings through an alternative rule, namely generic set-off. Although jurists have most often invoked these two maxims in matters of personal status, both have broader functions in securing the interests of followers of Imami fiqh in legal and financial interaction with other Islamic and non-Islamic communities. By examining their operation in these interactions, the study shows that the two rules may create new capacities for resolving fiqhi challenges faced by the legislator. Using a descriptive-analytical method, it compares the operation of each rule in unlawful benefits arising from Iran's financial and legal relations and establishes the permissibility of benefiting from such interests, as well as the right of generic set-off against harms caused by international legal regimes.</p>

Cite this article: Takfallah, Y. (1404). The Operation of the Rule of Ilzam and Generic Set-off in Iran's Financial and Legal Interactions. *Studies of Islamic Jurisprudence and Basis of Law*, 20(2), 53-74. <https://doi.org/10.22034/fvh.2024.17298.1876>



© Author(s) retain the copyright. Publisher: Al-Mustafa International University.
DOI: <https://doi.org/10.22034/fvh.2024.17298.1876>

Introduction

Commercial transactions and financial relations are among the most common forms of human interaction. Followers of all religions and schools must engage economically with one another, while each community remains committed to its own legal and religious norms. Imami fiqh contains a distinctive doctrine, the rule of *ilzam*, under which Twelver Shi'is may, in cases of conflicting interests, hold followers of other schools and religions to the legal consequences recognized by their own beliefs in non-devotional matters such as sale, lease, loan, agency, guarantee, banking, currency exchange, and conversion of money. The rule has therefore been understood as both a privilege for Shi'is and a mechanism for peaceful legal coexistence.

Methodology

The study uses a descriptive-analytical method based on library research. It examines Imami jurisprudential and *usuli* sources together with primary Islamic texts, including the Qur'an and authoritative reports.

Literature Review

Many jurists have discussed the rule of *ilzam*, while some have argued that the evidence cited for it does not establish the rule. They instead connect the relevant narrations to the rule of generic set-off, whose operation is said to depend on conditions such as legal domination or governance by non-Shi'i or non-Muslim authorities. What previous studies have not explored is the application of these rules to prohibited transactions with non-Shi'i states from the broader perspective of governmental fiqh. International financial and legal transactions that would otherwise be impermissible under Imami fiqh may acquire different rulings when *ilzam* or generic set-off applies.

Findings

The rule of *ilzam* represents a form of divine leniency toward the Imami community in dealings with other schools and religions. It permits Twelver Shi'is, in cases of conflicting interests, to benefit by holding others to the requirements of their own legal and religious systems. The rule is better understood as a permission for the Shi'i party, not as a validation of otherwise invalid acts. Generic set-off, while not explicitly developed in the classical sources under that name, has roots in the fiqhi treatment of recovering public rights from unjust rulers. Some discussions in the law of prohibited gains show that where rights cannot be recovered through ordinary channels, the ruler or, in some cases, the community of believers may exercise a form of set-off on behalf of the general type rather than a particular individual.

Discussion

Both maxims can assist the state in managing financial and legal interactions with international actors. If international institutions or states impose unlawful harms on Iran through sanctions, restrictions, or legal arrangements inconsistent with Islamic principles, the doctrine of generic set-off can justify reciprocal recovery of losses. Likewise, the rule of ilzam may allow Iran to use the legal institutions of non-Muslim or non-Imami states and benefit from judgments issued by their courts, even where the resulting benefit would otherwise raise fiqh concerns.

Conclusion

The study concludes that ilzam and generic set-off are capable of addressing contemporary financial and legal challenges. Generic set-off can justify reciprocal measures against losses caused by international systems, including measures connected with sanctions on medicine, food, or banking. Ilzam can justify recourse to non-Imami courts and legal systems in order to obtain financial and legal benefits from judgments rendered under those systems. Properly understood, these maxims can help legislators and jurists respond to modern international transactions while remaining within the logic of Imami fiqh.

Declarations

Author Contributions: The article is single-authored.

Data Availability Statement: Not applicable.

Acknowledgements: No acknowledgement was declared.

Ethical Considerations: The author observed the ethical principles governing the conduct and publication of scientific research.

Funding: This research received no specific grant from public, commercial, or not-for-profit funding bodies.

Conflict of Interest: The author declared no conflict of interest.

Declaration on Generative AI and AI-assisted Technologies: The author declared that no artificial intelligence was used in the writing process.