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Public Denunciation of the Ruler: A Jurisprudential Study under the Perspective of Sharia Governance

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Public denial, ruler accountability, Shari'ah controls, maqāṣid reform

Abstract

This work investigates the legitimacy of public denial (al-inkar al-alani) towards the ruler as a shari'ah mechanism for reforming the governance in the Islamic state, derived from the generalities of the command to enjoin good and forbid evil (al-amr bil-ma'ruf wa al-nahy 'an al-munkar), where we try to pass by defining the term linguistically and terminologically, and distinguishing it from the secret advice and the hisbah, and also tracking historical models from the Companions such as 'Umar and 'Ubadah bin al-Samit, and from the Followers such as Malik and Ahmad bin Hanbal, as the study attempts to critique the contemporary discourse of prohibition which focuses on the fitnah while ignoring the objectives of the shari'ah such as preserving justice, to extract at the end its legitimacy of denial with controls from them: realization of the munkar, the public effect, eligibility of the munkar, sound intention, and fiqh al-ma'alat, and we call in the recommendations for teaching it in universities and establishing shari'ah oversight bodies.

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Introduction:

The issue of the political and social reform counts as from the most important matters that occupy the societies across the ages, for the man always strives to realize the justice, protection of the rights, and assurance of the community's interests in confronting any injustice or tyranny. And in this context, the religions and particularly the Islamic Shari'ah have concerned to set controls to ensure that the governance stands on justice and the general interest, and that individuals of the society can confront the injustice according to specified shari'ah bases.

And in the frame of these controls, appeared the concept of commanding the good and forbidding the evil as a central mechanism to achieve the general reform, and it encompasses every means that can contribute to correcting the path of the governance and protecting the people's interests. And among these means, the public denial on the ruler emerges as one of the most important appearances of the shari'ah supervision on the power, specially in cases of injustice or deviation from the shari'ah rulings. And this subject has provoked since old times a fiqh and political debate, and this debate continued till the modern age with emergence of new cases from tyrants of rulers and their constraints on freedom of the scholars and the reformers.

Research Problem:

The main problem of this research consists in the following question:

"What is the extent of legitimacy of the public denial on the ruler, and what are its controls according to the shari'ah objectives and jurisprudence of outcomes in the Islamic state?" And links with this problem a number of sub-problems, most important of them:

1. What is the concept of the public denial on the ruler and what are evidences of its legitimacy?
2. How dealt the Companions and the Followers and the scholars with the issue of the public denial on the rulers in their historical contexts?
3. What is the nature of the contemporary debate around legitimacy of the public denial, and role of the rulers and the scholars in reinforcing or restricting this shari'ah right?
4. What are the fiqh and objectives controls that ensure the public denial to be a shari'ah reformative means and not a tool of fitnah?

Importance of the Research and its Objectives

Lies the importance of this research in bringing out the public denial on the ruler as a shari'ah tool for the political reform within frame of the Islamic state, with study of the fiqh and objectives controls that preserve unity of the Ummah and achieve its general interests. And aims the research to:

1. Offer a precise definition for concept of the public denial on the ruler.
2. Root the legitimacy of the public denial on the ruler and present models from denial of the Companions and the Followers and the scholars.
3. Analyze opinions of the prohibitors of the public denial on the ruler and identify causes of the bias to this tendency.
4. Set methodological controls according to objectives of the Shari'ah and jurisprudence of outcomes for evaluating the public denial and ensuring its legitimacy.

The Followed Method in the Research

Relied the research on the analytical-inductive method, which is based on:

Study of the shari'ah texts from the Noble Qur'an and the Prophetic Sunnah.

Following sayings and actions of the Companions and the Followers and the scholars in history of the Islamic state.

Analysis of the fiqh and objectives studies related to the public denial and jurisprudence of outcomes.

The connection between the shari'ah texts, the historical experience, and the contemporary reality to realize precise scientific results and trustworthy.

Research Plan

Composes the research of an introduction and four sections and conclusion:

The First Section: Concept of the public denial and its forms and importance

The Second Section: The shari'ah rooting for the public denial on the ruler

The Third Section: Discourse of prohibition of the public denial on the ruler in the contemporary time and its criticism

The Fourth Section: The shari'ah and objectives controls for the public denial on the ruler

Conclusion: Includes most important results and recommendations

The First Section: Concept of the Public Denial on the Ruler and its Forms and its Characteristic

This section deals with clarifying the meaning of the public denial on the ruler in the language and the terminology, and distinguishing it from the secret advice, then presenting the most important forms that embody the public denial whether in the early eras or in the contemporary reality, with stating the characteristics of this style and its effect in rationalizing the rule and correcting the authority.

The First Branch: Definition of the Public Denial on the Ruler and Distinguishing it from the Secret Denial "the Advice"

First: Definition of the Public Denial on the Ruler:

01- Definition of Denial:

A- Denial linguistically:

Says Ibn Fāris: "The nūn and kāf and rā is a sound root that indicates the opposite of the known which the heart settles to. And he denied the thing and disliked it: his heart did not accept it and his tongue did not acknowledge it" (Ibn Fāris, 1979, p. 476)

And it came in Lisān al-'Arab: "And the indefinite is the opposite of the definite. And he denied the matter denial and disliked it disapproval and denied: he was ignorant of it" (Ibn Manzūr, 1414 AH, p. 233)

Based on what preceded, then denial linguistically means: showing non-acceptance of something seen contrary to the known and the familiar, with distinguishing it from the known, considering it as something not approved or disapproved or denied.

B- Denial terminologically:

It came in al-Qāmūs al-Fiqhī: that denial is changing the wrong, and the wrong is the ugly matter. (Abū Jīb, 1988, p. 361) And it appeared in al-Mawsū'ah al-Fiqhīyah: "Denial of the wrong is forbidding disobedience to God by hand or by tongue, or by heart. So whoever sees the limits of God violated has upon him the change" (Ministry of Awqaf and Islamic Affairs, n.d., p. 62) And upon it, denial terminologically: is legitimate expression of rejecting the wrong intending the reform and correction according to the controls of the Shari'ah.

02. Definition of Public or Publicity

It came in Lisān al-'Arab: 'Alana: the openness and the declaration and the announcement: the manifestation. He manifested the matter publicly and he declares openly and publicity in them if it spreads and appears. And publicity: opposite of secret, and it is appearance of the matter. (Ibn Manzūr, 1414 AH, p. 288)

03- Definition of "Public Denial": This term is composite additional gathers between two

complementary concepts: denial and publicity. And based on what preceded it can be defined terminologically as: showing the objection on the committer of the wrong in the public assembly or through means of publicity, by saying or writing or others, intending the legitimate reform and preventing the wrong, with considering the legitimate controls.

04- Definition of the Ruler:

A- Definition of the Ruler linguistically: It came in Maqāyīs al-Lughah: (hukm) the hā' and kāf and mīm one root, and it is the prevention. And first of that is the judgment, and it is prevention from injustice. (Ibn Fāris, 1979, p. 91) And from it came the word the ruler since his function is preventing injustice and establishing justice.

B. Definition of the Ruler terminologically: The jurists apply the word the ruler or the Imām on who took a legitimate authority on people in ruling and judging and administration. As said al-Māwardī: "The Imāmate is placed for succession of the Prophethood in guarding the religion and politics of the world, and its contract for who stands for it in the Ummah is obligatory by consensus" (Al-Māwardī, n.d., p. 15)

And in the modern meaning can define the ruler as every person in his hand the authority of public decision in the Islamic state, is entrusted to him establishing justice and executing the Shari'ah, whether his authority legislative or executive or judicial.

And upon it then the ruler in secular states is not considered a legitimate ruler in the fiqh meaning, and from it then the denial upon him subjects to the positive law and not the shari'ah politics. And consequently this research limits to the legitimate ruler or who represents him within scope of the shari'ah politics, i.e. who achieves for him general authority on Muslims according to objectives of the Shari'ah.

05- The Operational Definition for the Title: "Public Denial on the Ruler"

Through the previous definitions for components of the composite phrase: "the public denial on the ruler" it can be defined in the shari'ah terminology as: declaration of one of individuals of the Ummah or its scholars opposing a saying or action counted as shari'ah wrong issued from the ruler, or who represents him, and that in front of the people or in public pulpit or public mean, intending stating the truth and removing the wrong.

Second: Distinguishing the Public Denial from what resembles it:

01- Distinguishing the Public Denial on the Ruler from the Secret Denial "the Advice":

The advice in general is as defined it Abū 'Amr ibn al-Ṣalāḥ saying: "The advice comprehensive word includes standing of the advisor for the advised with aspects of good willing and action." (Ibn Rajab, 2007, p. 222) And as for what concerns advising the rulers it came in explanation of al-Nawawī for the famous hadith of advice his saying: "And as for the advice for imams of Muslims is helping them on the truth and obeying them in it and ordering them with it and alerting them and reminding them with gentleness and kindness and informing them of what they neglected and not reached them from rights of Muslims and leaving the revolt against them and winning hearts of people for obeying them .. and this all on that the intended by imams of Muslims the caliphs and others who stand for affairs of Muslims from holders of authorities" (Al-Nawawī, n.d., p. 38)

And no doubt that the advice is secret and not public "said al-Shāfi'ī † whoever admonishes his brother secretly has advised him and weighed him and whoever admonishes him publicly has exposed him and disgraced him" (Al-Ghazālī, n.d., p. 181)

And through what preceded its clarification then both the advice for the ruler and the public denial on him count as from tools of the shari'ah supervision in the Islamic state, except that they differ in the intent, the style, and the risk, and that shows the most important differences between them. For the advice, as extracted from the noble Prophetic hadith: "The religion is advice... for imams of Muslims" means sincerity and reform and interest of the flock, and it is recommended to present with wise style, mostly in private or moderate way, aiming directing the ruler to the truth without stirring fitnah or disturbance in the state.

But the public denial on the ruler, is direct public confrontation, aims alerting the ruler to injustice or clear deviation from rulings of Shari'ah, and its risks greater than the advice; since it requires precise appreciation for outcomes, considering interests of the Ummah, and avoiding fitnah and destroying the public order.

02- Distinguishing the Public Denial on the Ruler from the Hisbah on the Ruler:

Said al-Māwardī: "The hisbah: is commanding good if its neglect appears, and forbidding wrong if its doing appears" (Al-Māwardī, n.d., p. 349)

And this definition speaks about hisbah in general, and it special branch from principle of commanding good and forbidding wrong, but as for hisbah on the ruler or the sultan said Imām al-Ḥaramayn about the tyrannical sultan: "But if continued from him disobedience, and spread from him aggression, and appeared corruption... then must remedy this aggravated matter, and that the imamate concerns only opposite of this state... but if happened a man obeyed with followers and partisans, and stands doing hisbah commanding good forbidding wrong, and stands with sufficiency of Muslims what they pushed to him, then let him proceed in that forward, and God helps him on the condition put forward in caring interests" (Al-Juwaynī, 1401 AH, pp. 106-116)

And it came about our master Abū Bakr † when he took the caliphate his saying: "I am only follower and not innovator, so if I do good help me and if I deviate correct me" (Ibn Khallikān, n.d., p. 66) And in a narration: "so straighten me" and what the straightening and correcting except hisbah on the ruler if he transgressed and opposed rulings of Shari'ah.

And from it: gathers the public denial and the hisbah on the ruler in general origin is obliging the ruler with good and deterring him from wrong, and their sharing in being from duties of the Ummah for preserving religion and justice, as they share in basing their action on evidences of commanding good and forbidding wrong and responsibility of authority before Shari'ah.

But between them essential differences; first of them from nature, since the public denial action appears in front of people without official capacity, while hisbah shari'ah institutional supervision runs mostly in private councils. And second from the performing side; the denial practiced by individuals and scholars from outside authority, while hisbah practiced by judges or people of scientific authority authorized. And third from the means; the public denial relies on confrontation and publication, and hisbah relies on secret review and official correspondences. And fourth from the intent; the denial aims breaking despotism and limiting public injustice, but hisbah its intent correcting authority from inside it with preserving stability of rule. And fifth from the effects; the public denial more dangerous in its political outcomes, while hisbah lighter because it runs within shari'ah control frames.

The Second Branch: Forms of the Public Denial and its Means Anciently and Modernly

First: The Ancient Forms: Multiplied means of public denial in history of Islamic state, and from most prominent:

01- Denial in the Mosque in front of People: And that as did Abū Sa'īd al-Khudrī with Marwān when advanced for prayer before sermon of Eid, so said to him in front of people: "You changed by God!" (Al-Bukhārī, 1422 AH, p. 17) And this from clearest evidences on public denial on the ruler.

02- Denial in Private Councils of Rulers: Were the scholars deny on rulers in their private councils and people hear. And narrated al-Dhahabī about Sa'īd ibn Jubayr his saying to al-Hajjāj in front of people: "I wonder at your boldness on God, and His forbearance from you" (Al-Dhahabī, n.d., p. 331)

Second: The Contemporary Forms: In modern age, diversified means of public denial, from them:

Public sermons in grand mosques

Scientific statements for groups of scholars

Open seminars

Publications and messages directed to rulers

Media means if controlled by shari'ah controls.

The Third Branch: Characteristics of the Public Denial and its Effect in Rationalizing the Rule

After presenting the concept of denial and its forms, becomes clear the need to determine the characteristics that make the public denial a legitimate effective tool in correcting the authority, with stating the effect resulting from it in reforming the rule and preventing its deviation. And these characteristics not pure ijtihad, but extracted from rules of Shari'ah and its objectives, and from following practices of Salaf and Khalaf in their dealing with rulers.

First: Characteristics of the Public Denial: Through definitions of public denial on the ruler, and stating its forms, and distinguishing it from what resembles it, become clear to us the following characteristics:

1. That it directed denial to wali al-amr considering him responsible for the Ummah: The ruler in Islamic political mentality not individual above accountability, but he charged with justice. So public denial stands on considering the ruler responsible before Ummah not mere individual owner of absolute power.
2. Its intent protecting religion and rights: For al-Shātibī clarified that general intent of commanding good and forbidding wrong is preserving welfare of Ummah and straightening its conditions, so said: "That the shari'ah intent in legislation is taking out the mukallaf from caller of his whim until he becomes servant for God" (Al-Shātibī, 1997, p. 322) And public denial on ruler part from this intent; since aims preventing manipulation of authority with religion or rights.

3. Its connection with generality of Ummah and its feeling of justice: Public denial makes people feel that Shari'ah present, and there who defends it, so public denial form from forms of "public declaration" that preserves awareness of Ummah and prevents misleading it.

4. Not separating from shari'ah morals: Confirmed scholars that denial not by shouting nor by reviling, but stands on wisdom, and patience and good saying and morals.

Second: Effect of Public Denial in Rationalizing the Rule

1. Forming moral and political deterrent for the ruler: When knows the ruler that scholars and faces of Ummah will declare their opposition to injustice, becomes for that effect in curbing his tyranny.

2. Preventing normalization with shari'ah violations: If silent people and their scholars about violations of ruler, turns with time to political customs. And public denial in early eras was means to keep Shari'ah fixed standard not changes with change of rulers.

3. Protecting prestige of Shari'ah: When show scholars their public objection to violation of ruler, then they give Shari'ah its status above authority. Said 'Abd al-Rahmān al-Ḥanbālī: "And the intent that it was habit of Salaf denying on princes and sultans and proclaiming truth and little care with their might preferring establishing right of God Almighty on their staying and choosing them for honoring Shari'ah on preserving their lives and submitting to testimony if happened to them" ('Abd al-Rahmān ibn Abī Bakr, 1996, p. 201)

4. Strengthening collective supervision: Public denial awakens sense of shari'ah supervision in Ummah, and prevents monopolizing authority for religious discourse. And pointed 'Umar ibn al-Khaṭṭāb to role of Ummah with his famous saying: "No good in you if you not say it, and no good in us if we not hear it"

The Second Section: The Shari'ah Foundation for Public Denial on the Ruler

After stating concept of public denial on ruler and its forms and characteristics, becomes necessary standing on foundation of this denial from shari'ah texts, then transferring models of practical application from Companions and Followers, and finally presenting sayings of great scholars in legitimacy of public denial on ruler and its controls.

The First Branch: Evidences from Qur'an and Sunnah

First: From Holy Qur'an: Indeed came verses general in obligation of mutual advising among Muslims with good, and forbidding from wrong, without differentiating between Muslims in that, not considering positions, nor status and rank, and we mention from them:

01- His saying exalted: "You are the best nation produced for mankind. You enjoin what is right and forbid what is wrong and believe in Allah" (Āl 'Imrān 110) Comments Sayyid Quṭb on describing Ummah with commanding good and forbidding wrong saying: "So described her God Almighty that this her quality. To indicate to her that she not exists true existence except that gathers in her this basic trait, which known by in human society. So either stands with call to good and commanding good and forbidding wrong- with faith in God- then she existing and she Muslimah. And either not stands with anything from this then she non-existing, and not realized in her quality of Islam." (Sayyid Quṭb, 1412 AH, p. 448)

His saying exalted: "And the believing men and believing women are allies of one another. They enjoin what is right and forbid what is wrong and establish prayer and give zakah and obey Allah and His Messenger. Those - Allah will surely remove from them their misdeed and indeed, He will give them a great reward" [At-Tawbah 71] Says Muḥammad Rashīd Ridā about the two qualities of commanding good and forbidding wrong: "And these two qualities from most special qualities of believers which they distinguish with on hypocrites and on others from disbelievers, they fence preserving virtues, and preventing spread of vices" (Rashīd Ridā, 1990, p. 467)

Second: The Prophetic Hadiths: We start with general hadiths urging denial of wrong in general then texts coming in issue of public denial on ruler

01- Hadith: "Whoever among you sees a wrong, let him change it with his hand; if he is not able, then with his tongue; if he is not able, then with his heart - and that is the weakest of faith" (Nasiruddin al-Khattab, Muslim, n.d., p. 69)

"And as for his saying let him change it then it command affirmative by consensus of Ummah and agreed upon obligation of commanding good and forbidding wrong the Book and Sunnah and consensus of Ummah and it also from advice which is religion and not opposed in that except some Rafidah and not considered with their opposition" (Al-Nawawī, n.d., p. 22)

02- Hadith: "There will be rulers so you recognize and deny, so whoever recognizes is free, and whoever denies is safe, but whoever approves and follows" They said: Shall we not fight them? He said: "No, as long as they pray" (Nasiruddin al-Khattab, Muslim, n.d., p. 1480) And this hadith came in "Chapter obligation of denial on rulers in what opposes Shari'ah, and leaving fighting them as long as they pray, and like that" (Muslim, n.d., p. 1480) in Sahih Muslim. And clarifies al-Nawawī that saying: "And its meaning whoever dislikes that wrong then free from its sin and punishment and this in right of who not able denying it with hand nor tongue so let him dislike with heart and free" (Al-Nawawī, n.d., p. 243)

03- Hadith: "Beware, let not fear of people prevent a man from speaking truth when he knows it, beware indeed best jihad word of truth at tyrannical sultan" (Ahmad ibn Hanbal, 2001, p. 227) Said al-Khattābī: And that became best jihad; because who fights enemy and fluctuating between hope and fear, not knows if overcomes or overcome? And owner of sultan coerced in his hand, so if says truth and commands good, exposed to destruction, so became that most destructive types of jihad; for dominance of fear and said al-Mazhar: And it was best; because injustice of sultan spreads in all under his policy, and he great crowd, so if forbade him from injustice reached benefit to many creation, unlike killing disbeliever" (Al-Harawī, 2002, p. 2412)

The Second Branch: Applications of Salaf from Companions and Followers

First: Models of Companions: Indeed preceded and presented some examples from denial of Companions publicly on ruler and you at talking about forms of public denial ancient, and no harm add here two different examples for more evidence.

01- Denial of our master 'Umar on Hudaybiyyah peace: The viewer of Hudaybiyyah peace appears to him that in its clauses injustice rights of Muslims on polytheists, and that saw then our master 'Umar, so not accepted acceptance of Prophet r for these conditions, and denied that on Prophet r, where came in sīrah of Ibn Kathīr: "So said 'Umar may God pleased with him: So came to Messenger of Allah peace upon him and blessings so said: Are you not Prophet of Allah truly? Said: Yes. Said: Are we not on truth and our enemy on falsehood? Said: Yes. Said: So why give humiliation in our religion then? Said: Indeed I Messenger of Allah and not disobey Him and He helper me. Said: Or were you not telling us that we come House so circumambulate it? Said: Yes, so informed you that we come it this year? Said: Said: No. Said: Then you come it and circumambulator by it." (Ibn Kathīr, 1976, p. 334). **02- Denial of 'Ubādah ibn al-Ṣāmit on Mu'āwiyah may God pleased with them:** Indeed denied 'Ubādah ibn al-Ṣāmit † on Mu'āwiyah † in ribā al-saḍl, and mentioned 'Ubādah Mu'āwiyah explicitly so said: "Surely we narrate what heard from Messenger of Allah peace upon him and blessings, and if dislikes Mu'āwiyah - or said: and if begrudges - not care that not accompany him in his army black night" (Nasiruddin al-Khattab, Muslim, n.d., p. 1210) So 'Ubādah † here showed denial in front of people on what saw apparent from wrong, and not secluded with Mu'āwiyah † for his advice secretly.

03- Denial of Ka'b ibn 'Ujrah publicly on 'Abd al-Rahmān ibn Umm al-Ḥakam: Indeed denied Ka'b ibn 'Ujrah, publicly on 'Abd al-Rahmān ibn Umm al-Ḥakam, when entered mosque and 'Abd al-Rahmān ibn Umm al-Ḥakam preaching sitting, so said: "Look at this wicked preaching sitting, and said God exalted: {And when they see some merchandise or amusement, they rush to it and leave you standing.}" (Nasiruddin al-Khattab, Muslim, n.d., p. 591) [Al-Jumu'ah: 11]

Said al-Nawawī commenting on this hadith: "This speech includes denial of wrong and denial on authorities of affairs if they oppose Sunnah" (Al-Nawawī, n.d., p. 152)

And we conclude with saying of Ibn al-Qayyim when went enumerating denial of Companions on authorities of affairs where said: "And we witness [by God] that they fulfilled this pledge, and said truth, and proclaimed it, and not took them in God blame of blamer, and not concealed anything from it fearing whip nor stick nor emir nor governor as known for who contemplates their guidance and conduct, indeed denied Abū Sa'īd on Marwān and he emir on Medina, and denied 'Ubādah ibn al-Ṣāmit on Mu'āwiyah and he caliph, and denied Ibn 'Umar on al-Hajjāj with his might and severity, and denied on 'Amr ibn Sa'īd and he emir on Medina, and this very much from their denial on princes and governors if went out from justice not feared their whip nor punishment, and who after them not had this status, but left much from truth fearing governors of injustice and princes of tyranny, so impossible that guided these to right and deprived Companions of Messenger of Allah r" (Ibn al-Qayyim, 1991, p. 110)

Second: Models from Followers and Righteous Salaf

01- Denial of Imām Mālik on pledge by coercion in time of Bani Abbas: Where fatwa-ed Imām Mālik that who coerced on pledge his pledge not binding. And this fatwa had direct political effect because considered encouragement for people on not committing to pledge of Abū Ja'far al-Manṣūr. And came in book al-Muntaẓam fī Tārīkh al-Umam: "So when took Jā'far ibn Sulaymān Medina sought him to him, and said: He not sees oaths of your pledge anything, and he takes with hadith narrated from Ṣābit from al-Āhnaf, in divorce of coerced that not permissible, so angered Jā'far ibn Sulaymān, called Mālik, argued him with what reached him, then stripped him and stretched him and beat with whips, and stretched his hand till dislocated his shoulders, and committed against him great matter, by God not ceased Mālik after that from elevation among people, and as if [were] those whips ornaments adorned with them" (Ibn al-Jawzī, 1992, p. 44)

02- Trial of Imām Ahmad and his denial on governors: Witnessed Abbasid state in time of al-Ma'mūn then al-Mu'taṣim and al-Wāthiq what known as trial of creation of Qur'an when adopted authority saying with creation of Qur'an, and forced judges and scholars on it by force. So abstained Imām Ahmad ibn Ḥanbal from answering, and counted that from false saying opposing consensus of Salaf, so arrested and imprisoned, then led to council of caliph for disputation, established proof publicly with steadfastness and frankness. And not yielded to threat nor beating that reached him in council of al-Mu'taṣim while repeating: "Give me something from book of God or Sunnah of his Messenger". And continued his firmness years till died al-Wāthiq, and came al-Mutawakkil abolished saying with creation of Qur'an and lifted trial, so showed God truth with his steadfastness and patience, and became his position model for public denial on ruler at appearance of innovation and generality of trial. (Ibn Abī Ya'lā, n.d., pp. 63-95)

The Third Section: Discourse of Prohibition of Public Denial on Ruler in Contemporary Time and its Critique

In modern age, emerged intellectual phenomenon consists in contemporary fiqh discourse prohibits public denial on rulers absolutely. This discourse prevails political character sometimes, and relies on care for unity of Ummah and preventing fitnah, but in same time may ignores higher objectives of Shari'ah, like protecting religion and property and life and honor, and supporting oppressed. Hence became necessary studying roots of this discourse, its causes, and analyzing its discourse structure, then refuting it from shari'ah and maqāṣid perspective.

The First Branch: Roots of Discourse of Prohibition of Public Denial and its Contemporary Causes

Aims this section to analyze roots of discourse prohibiting public denial on rulers, through studying historical causes that produced this discourse, and contemporary factors that helped its spread, then presenting discourse structure of scholars of sultan, with documenting sayings and analyzing them from maqāṣid perspective.

First: Historical Origin of Justificatory Tendency for Authority

Heritage of Sultanate State: Sees some researchers that Islamic state after Rightly Guided era took incline gradually to self-justification for authority, what helped emergence of directions prevent criticizing ruler publicly.

Transformation of Obedience Concept to Political Tool: Obedience for wali al-amr in known obligatory, and not permissible exploited for justifying false, and this indicates that some scholars turned obedience to argument for preventing any public criticism.

Effect of Isolated Sufism and Loyal Political Fiqh: Appeared some fiqh schools linked advice with secrecy, and took focus on preserving public order as utmost goal.

Second: Causes of Spread of Discourse Prohibiting Public Denial in Modern Age

Support of Tyrannical Regimes: Contemporary rulers encourage discourse of prohibition for protecting their authority.

Official Iftaa Institutions: Some official religious bodies issue fatwas prohibit public denial, like fatwas section: "Advice for authorities of affairs secret and not permissible public denial" (Fatwas of Saudi Scholars, n.d.)

Inflation of Imaginary Balances Fiqh: Uses some scholars concept of balance between interests and harms for justifying absolute prohibition, ignoring higher objectives of Shari'ah. Ideologized Religious Media: Plays role in spreading discourse prohibiting public denial on rulers and kings among public, and mostly without critical analysis. And without giving opportunity for opposing opinion.

Third: Analysis of Discourse Structure of Scholars of Sultan

Characteristics of Absolute Prohibition Discourse: Relies on general prohibition for all forms of public denial, and considers it fitnah requires prevention.

Employing Texts outside their Context: Many sayings, like "Listen and obey", used for justifying prohibition, with ignoring texts of denial at injustice.

The Second Branch: Review of Models from Sayings of those Saying Prohibition of Public Denial and Responding to them

No sooner increased debate in modern age around legitimacy of criticizing rulers publicly, till appeared group of scholars and writers and muftis prohibit public denial on ruler absolutely or in most cases. Claim that secret duty or forbidden preserving unity of Ummah and preventing fitnah. But at scrutiny find that much of their justifications based on narrow understanding of texts, and ignoring what came in sīrah and Salaf, and neglecting objectives of Shari'ah. Hence requires our research presenting some of these sayings, then critiquing and analyzing them, then presenting alternative – controlled public denial – with its controls.

First: Selected Texts for Contemporary Scholars and Authors Prohibiting Public Denial:

Says Sheikh Ibn Bāz: "Not from methodology of Salaf publicizing defects of governors, and mentioning that on pulpits; because that leads to chaos and lack of hearing and obedience in known, and leads to discussion that harms and not benefits, but the followed way at Salaf: advice between them and sultan, and writing to him, or contacting scholars who connect with him till directs to good." (Ibn Bāz, n.d., p. 210)

Says Aḥmad 'Umar Bāzmūl: "Advice for wali al-amr secretly origin from origins of Salafi methodology which opposed it people of whims and innovations like Khawarij" (Bāzmūl, n.d., p. 9). Says Ḥamad ibn Muḥammad al-Hājirī: "So obligatory to deny on authorities of affairs with shari'ah way, and that denying on them gently secretly not publicly in front of people." (Al-Hājirī, n.d.) These texts represent contemporary opinion prohibits public denial, and it new phenomenon in present age, attributes to one of Salafi currents, and it called current of "al-Madkhalī" (Wikipedia, n.d.) named after Sheikh Rabī' ibn Hādī al-Madkhalī

Second: Most Important Evidences they Relyed on and Discussing them:

01- His saying r to Ḥudhayfah "You listen to greatest emir even if beats your back and takes your money" (Al-Hākim, 1990, p. 547)

They say that hadith indicates prohibition of verbal revolt (public denial) because leads to breaking stick of obedience.

02- His saying r "Whoever wants to advise sultan with matter, let not show it publicly to him, but let take his hand, and seclude with him, if accepts from him then that, and if not then done what upon him for him" (Aḥmad ibn Ḥanbal, n.d., p. 49). Consider it prohibitors evidence on prohibiting public denial on ruler, and that advice secretly only.

03- His saying r to Anas: "Hear and obey even if appointed Abyssinian as if his head raisin" (Al-Bukhārī, 1422 AH, p. 140). They say here: obedience absolute, and public opposition weakens sultan and causes fitnah. **Discussion:** All these evidences and others they rely on, not indicate prohibiting public denial

absolutely, but indicate:

Prohibiting armed revolt.

Prohibiting cursing ruler and reviling him.

Legitimacy of secret advice when able, not its absolute obligation.

Non-permissibility of denial causing predominant harm.

While remained public denial with controls legitimate at majority of Companions and Salaf as preceded and saw in shari'ah foundation for public denial on ruler.

Third: Opinions of Reformer Scholars Supporters of Public Denial (with Controls)

In what follows some positions from scholars of "moderation and balance" in permissibility of public denial with shari'ah controls:

In book *Fiqh al-Jihād* for Sheikh Yūsuf al-Qaradāwī states that denial on rulers permissible publicly if injustice or corruption public... and denied Companions on rulers on pulpits, and not counted them anyone from people of fitnah... and silence on injustice claiming advice secretly nullifying for obligation of commanding good. (Al-Qaradāwī, 2009, pp. 217-218)

In fatwa for Sheikh Husām al-Dīn 'Afatah says: "And what I choose is public denial for wrongs of rulers and others, because their wrongs public, rather they who spread it and declare about it through different media means. Then say to Salafis of Jāmiyyah and Madkhaliyyah: passed time of direct communication with rulers, not from scholars nor others, for palaces and guards intervened between them and flock, and entrenched with bad entourage?" ('Afatah, n.d.)

In famous and bold fatwa for Sheikh of Salafism in Algeria and he Sheikh 'Alī Farkūs permitted in it public denial with shari'ah and maqāṣid controls where said: "So denial on authorities of affairs only on all mistakes and oppositions and wrongs they fell in or permitted or ordered with — even with their ijtihad and interpretation — after verifying it wrong opposing Shari'ah... And if not possible admonishing them secretly in removing wrong they fell in publicly, and preponderates suspicion achieving good with public denial without entailing any harm, then permissible — in this state — advising them and denying on them publicly without violation nor reproach" (Farkūs, n.d.) I conclude these moderate fatwas with valuable study for Sheikh Fayṣal ibn Qazār al-Jāsim, says in end of it: "And in conclusion say summary for what preceded:

Indeed wrong issued from sultan or in his authority types by way of summary: First type: That issued in his authority, not from him directly, as in state institutions and bodies. Second type: That issued from ruler himself, limited to him, and it from sins and disobediences, like drinking wine, and gambling and like that.

Third type: That issued from ruler himself, but general, like ordering prohibited, as if legislated usury law, or permitted drinking wine and selling it, or forbade obligatory, as if prevented announcing adhan absolutely, or in some prayers like dawn.

Fourth type: That issued from ruler, and includes distorting religion, and changing legislations, as if legalized prohibited, or prohibited permissible, or called to innovation and misguidance. So as for first and third type then preferable in it advice and reminding and admonishing, and that between advisor and ruler, and as for wrong denied generally, without specifying ruler, like denial of Sheikh Ibn Bāz -may God mercy him- usury with advising rulers between him and them, this origin, and went some scholars to legitimacy of explicit denial in absence of ruler in third type if required interest that.

And as for second type then in it advice and reminding and admonishing, if not witnessed by advisor, so if witnessed and saw him in presence of ruler obligatory in it denial according to ability."

And as for fourth type then permissible in it denial on ruler publicly, as did Sheikh Ibn Bāz -may God mercy him- with al-Qaddhāfī and Bū Ruqaybah, preserving religion from distortion and alteration and change, and advising servants, with gentleness in denial, and preserving prestige and status of ruler, and putting him his worth and rank.

And least what said in third and fourth types, that they from ijtihad issues, not from consensus and text issues. (Al-Jāsim, n.d.)

The Fourth Section: Shari'ah and Maqāṣid Controls for Public Denial on Ruler

With escalation of wrongs that may issue from ruler—from injustice, and despotism, and nullifying Shari'ah, and taking moneys without right, or wasting trusts—emerges essential question: Is public denial legislated?

And answer: Shari'ah not suffices with general ruling, but puts precise conditions ensure that reformative act controlled and achieving objectives of Shari'ah, far from chaos and fitnah. And indicated Holy Qur'an and Prophetic Sunnah, and action of Companions and Followers, and decisions of jurists, that denial—especially on owner of authority—not act permissible absolutely, nor prohibited absolutely, but weighed with scale of knowledge and interest and intent and outcomes.

The First Branch: Shari'ah Controls for Public Denial on Ruler

First: Verifying the Wrong and Establishing its Shari'ah Ruling: Not permissible denying wrong doubted in or differed in its ruling, and public denial not directed except on what verified its shari'ah description as wrong prohibited by consensus or decisive text. Said Imām al-Nawawī: "Then scholars deny only what consensus on it as for differed in not denial in it" (Al-Nawawī, n.d., p. 23)

So if issued from ruler clear injustice, or transgression on bloods, or leaving decisive obligation, or nullifying limits of Shari'ah, permissible denying that without hesitation.

And strike scholars strong historical example: trial of creation of Qur'an, since not counted matter fiqh ijtihad; but became creed saying false imposed by force, so denial of Imām Aḥmad and Ibn Nūḥ and others publicly and legitimate.

Second: Specificity of Wrong to Public Affair: Public denial not directed on personal matters of ruler; but on what has general effect in Ummah. But if act related to public affair—like oppressions, or nullifying Shari'ah, or plundering money of Ummah—then denial then enters door of forbidding wrong related to public interests.

Third: Eligibility of Denier and his Ability: Said God exalted: {Say, "This is my way; I invite to Allah with insight} [Yūsuf: 108].

So not permissible denial without knowledge nor awareness of consequences of matters, else turns reform corruption. Says al-Nawawī: "Then he commands and forbids who knowledgeable with what commands with and forbids from and that differs with difference of thing so if from apparent obligations and famous prohibitions like prayer and fasting and zina and wine and like them then all Muslims scholars by them and if from subtleties of actions and sayings and what related to ijtihad not for commoners entry in it nor denying it but that for scholars" (Al-Nawawī, n.d., p. 23)

Fourth: Soundness of Intent and its Freedom from Whim: Said exalted: {And they were not commanded except to worship Allah, devoting themselves to Him in sincerity} [Al-Bayyinah: 5]. And denial on ruler worship, not valid mixed with worldly or partisan intent. Said al-Nawawī: "So befits seeker of Hereafter and striver in achieving pleasure of God mighty and majestic to care this door for its benefit great especially gone most of it and purifies his intent and not fears who denies on him for elevation of his rank for God exalted said: {And Allah will surely support those who support Him} and said exalted and who holds fast to Allah then guided to straight path and said exalted {And those who strive for Us - We will surely guide them to Our ways}" (Al-Nawawī, n.d., p. 24). And in denial on sultan specially must intent: establishing truth, and lifting injustice, and supporting oppressed, not publicizing nor seeking popularity.

The Second Branch: Maqāṣid Controls according to Jurisprudence of Outcomes

First: Considering Outcomes of Political Act in Denial: From great rules of Shari'ah: said al-Shāṭibī: "Considering outcomes of actions considered intended shari'ah whether actions agreeing or opposing" (Al-Shāṭibī, n.d., p. 177)

And indicated Qur'an on that clearly:

{And do not insult those they invoke other than Allah, lest they insult Allah in enmity without knowledge} [Al-An'ām: 108].

So prohibited cursing idols—which wrong—for leads to greater harm. And this exact jurisprudence of balance in denial on rulers, so if public denial leads to killing, civil war, sectarian fitnah, security disturbance, then harm greater than wrong itself. But if leads to correcting course of rule, or lifting injustice, or preventing public corruption without shedding bloods, then legitimate rather obligatory.

Second: Scale of Interests and Harms on Methodology of Salaf Said Ibn Taymiyyah: "In what if conflicted interests and harms and good deeds and bad deeds or crowded, then obligatory preferring predominant from them in what crowded interests and harms, and conflicted interests and harms. So command and forbid even containing achieving interest and repelling harm then look in opposing it; so if what misses from interests or happens from harms more not commanded by it, rather prohibited if its harm more than its interest; but considering quantities of interests and harms with scale of Shari'ah, so when able person on following texts not deviates from them, else strives with his opinion for knowing similars and likes, and rare lacks texts who expert by them and their indication on rulings." (Ibn Taymiyyah, 1418 AH, pp. 12-13)

So balance required, but not turns to tool for justifying permanent silence as does some later ones.

Third: Limits of Risking Self for Word of Truth: Came in sound hadith: "Master of martyrs Ḥamzah ibn 'Abd al-Muṭṭalib, and man said to tyrannical imam so commanded him and forbade him so killed him" (Al-Ḥākim, n.d., p. 215)

And indicates that risking self may be legitimate if results from it great benefit for Ummah.

Fourth: Combining Jurisprudence of Resistance and Jurisprudence of Social Peace: Public denial not legitimate if leads to chaos, and reform not true if used for legitimizing despotism. Said 'Umar ibn al-Khaṭṭāb may God pleased with him: "No good in you if not say it, and no good in us if not hear it"

And this great origin: Ummah responsible for advising its rulers, and ruler responsible to listen.

Conclusion

After this analytical presentation for concept of public denial on ruler and its shari'ah foundation, and following its models in different Islamic eras, and what revolved around it from fiqh debate in modern age, became clear that this door from doors of shari'ah politics represents authentic mechanism from mechanisms of reforming rule and correcting authority, provided practiced according to controls discipline it with objectives of Shari'ah and make it reform tool not stirring fitnah. And appeared that practicing public denial not strange from first Islamic experience, rather practiced great Companions and Followers and scholars in different centuries, with considering jurisprudence of outcomes and preserving unity of Ummah. As revealed study that contemporary debate around issue not arose from difference evidences as much as arose from difference in understanding reality, and appreciating interest, and level of deviation in ruling systems. And concluded research to importance of distinguishing between secret advice and public denial, and highlighting that each has its context and field without clashing nor softening. And through induction of texts and objectives, can say that public denial legitimate in general if well appreciated its necessity, and not results from it greater evil, with being obligatory in cases of clear injustice touching religion and public rights. And aims this conclusion to highlight most important results reached by research, and presenting recommendations assist on controlling subject and ensuring its practice shari'ah rational practice.

First: Results

01- Public denial on ruler authentic shari'ah origin evidenced by generalities of Qur'anic and hadith texts in commanding good and forbidding wrong, and Shari'ah not specified it to class over another, what indicates its encompassing ruler and others.

02- Islamic historical model proves practicing public denial; indeed denied Companions and Followers on rulers in mosque, and in public councils, and in sermons, and in public correspondences, without denial from other scholars, what proves its legitimacy from origin.

03- Secret advice and public denial not opposing models but two reformative mechanisms complement each other, and chosen each one according to ability and interest and outcome, not according to absolute preference.

04- Most prominent prohibitors in modern age built their position on jurisprudence of outcomes and fear from political fitnahs not on texted prohibition or consensus on it, what makes prohibition ijtihad not absolute shari'ah rule.

05- Uncontrolled public denial may turn to tool of political disturbance if issued from non-people of knowledge or non-qualified, or used for partisan purposes, or caused harms multiples of interests.

06- Objectives of Shari'ah confirm that public denial obligatory at necessity specially at ruler's injustice flagrant or causing general wrong, with absence of effective secret means, even if leads to confrontation or political pressures.

07- Shari'ah and maqāṣid controls separator between reformative denial and chaotic denial, and on head them: knowledge, and ability, and appreciating outcomes, and intent of reform, and wrong apparent, and denial not leads to greater harm than harm wanted removing.

Second: Recommendations

01- Necessity teaching subject of public denial within courses of shari'ah politics in universities and shari'ah colleges, with practical models from Islamic history.

02- Establishing independent scientific bodies for shari'ah supervision on authority participates in it great scholars for controlling mechanisms of advice and denial and appreciating interest and harm far from politicization.

03- Reviving role of scholars in resisting political injustice through adopting sound reformative discourse not submits to intimidation nor involves in uncalculated clash.

04- Rationalizing Islamic media to be shari'ah controlled pulpit in declaring political wrongs without incitement or emotional charging leads to chaos.

05- Striving of scholars in putting "fiqh charter" defines conditions of public denial, and its ways, and its controls, and responsibility of performers by it, what lifts ambiguity in issue and prevents exploiting it.

Ethical Considerations

This study is based on qualitative analysis of classical and contemporary Islamic jurisprudential sources, including Qur'anic texts, Prophetic traditions, and scholarly legal opinions. It does not involve human participants, interviews, surveys, or experimental procedures. Therefore, ethical approval from an institutional review board was not required. The research was conducted with academic integrity, respecting principles of scholarly objectivity, intellectual honesty, and faithful representation of juristic positions across different schools of Islamic law.

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