

Crime of Disclosing State Secrets from an Islamic Sharia Perspective and Its Impact on Sustainable Development

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Abstract: *The research aimed to define "the crime of disclosing state secrets" from an Islamic Sharia perspective, its ruling, its punishment, and to demonstrate its effects from both the Sharia and legal perspectives. The study was based on the descriptive method and relied within that framework on the analytical approach, resulting in several findings, the most prominent of which are as follows:*

Disclosing State Secrets: Means publishing and disclosing secret matters containing information, the disclosure of which could harm the national security of the state, or its interests, policies, or rights, through what an employee - or others by virtue of their position - obtains of information that, if disclosed, would damage the state. Disclosing secrets is considered betrayal and is prohibited by Sharia. Disclosing state secrets falls under the category of corruption on earth, and the perpetrator is punishable by the penalty for brigandage; because he is a corruptor, especially with military secrets. Statutory systems are strict in disclosing secrets and information about the state, including (war, political, diplomatic, economic, and industrial information). In Saudi law: Punished by imprisonment for a period not exceeding twenty years or a fine not exceeding one million Riyals, or both. The penalty for the crime of disclosing state secrets is dismissed by: death, and pardon. The crime of disclosing state secrets affects the economy and sustainable development.

The Researchers Recommend:

- 1. Providing strong deterrence to ensure that state secrets are not disclosed.*
- 2. Instilling love of the homeland in the hearts of citizens, and preventing attraction to any influences that lead to the disclosure of state secrets.*

Keywords: *Crime - Disclosure - Secrets - State - Sharia - Islamic.*

INTRODUCTION

Islamic Sharia is suitable for all times and places, and therefore, throughout the ages, Muslim jurists have found solutions for every problem and eventuality, considering all people despite their different environments and customs. They have never been incapable of offering jurisprudential solutions in light of the rules of Sharia and its benign spirit. Those who reflect can see that Sharia, with its perfection, was established by the wise, knowledgeable, and experienced legislator who knows the interests of His creation ("Does He who created not know, while He is the Subtle, the Acquainted?") Al-Mulk: 14.

Among the matters preserved by Islamic Sharia is the secrecy of state secrets and their non-disclosure; because preserving secrets that contribute to the protection of the homeland is a duty on everyone, and it is not permissible to disclose its secrets even reassuringly, as this endangers the security of the country, and disclosing a secret is a betrayal of trust and exposes the country to danger.

RESEARCH PROBLEM

The main question of the study can be formulated as follows: What is the reality of the crime of disclosing state secrets from an Islamic jurisprudential perspective, and what are its penalties and causes for exemption?

RESEARCH OBJECTIVES

Based on the previous questions, the objectives of the study can be formulated as follows:

- To define the crime of disclosing state secrets.
- To establish the jurisprudential basis for the crime of disclosing state secrets.
- To delineate the penalties for the crime of disclosing state secrets and its causes for exemption.

Study Methodology: The study relies on the descriptive approach, where the issue subject of the research is traced from the specialized writings that have discussed it through presentation and analysis.

Study Plan: The study consists of an introduction, two topics, a conclusion, and an index:

Introduction: Addressed the study problem, its objectives, its significance, its methodology, and its plan, and includes two topics, a conclusion, and a reference index.

Topic One: Definition of the crime of disclosing state secrets.

Topic Two: The penalties for the crime of disclosing state secrets, its causes for exemption, and its impact on the economy and sustainable development.

Topic One: Definition of the crime of disclosing state secrets.

Firstly: Definition of the crime.

In linguistic terms, "crime" is derived from the Arabic term *jurm*, meaning transgression, and *jurm* also signifies sin, with its plural forms being *ajrām* and *jurūm*. [7]

Crime is defined in Islamic law as a prohibited act for which Allah has prescribed either a fixed penalty (*ḥadd*) or a discretionary penalty (*taʿzīr*). [8]

In legal terminology, a crime is defined as a voluntary act prohibited by law for which the perpetrator is subject to criminal penalty. [9]

Secondly: Definition of the term 'disclosing state secrets':

Definition of disclosing a secret: 'Disclosing' means to reveal, and a 'secret' is something kept hidden, opposite of public disclosure, and refers to what one keeps concealed within oneself (internally). [4]

The concept of the term 'state': It is a group of individuals who exercise their activities within a specified geographical territory and are subject to a particular political system agreed upon among them that manages the affairs of the state. [5]

Definition of Disclosing State Secrets in General:

It is: The publication of matters containing confidential information that, when disclosed, damages the national security of the state, its interests, policies, and rights, through certain employees and malicious individuals [1].

Forms of Disclosing Secrets: Secrets include those related to individuals or institutions, the most severe being those related to the state and governments, and those related to military affairs [6].

Topic Two: The Penalty for the Crime of Disclosing State Secrets, Its Causes for Exemption, and Its Impact on the Economy and Sustainable Development:

Firstly: The Penalty for Disclosing State Secrets in Islamic Sharia.

Al-Mawardi stated: A man revealing another's secret is uglier than revealing his own secret [11]; and Imam Al-Ghazali said: Disclosing secrets is treachery and it is forbidden [12].

The evidence for this is found in the Quran, the Sunnah, and reason:

The Quran: Allah the Almighty says, *"When the Prophet confided a fact to one of his wives, and when she divulged it and Allah made it known to him, he made known part of it and turned aside from part. And when he informed her of it, she said, 'Who told you this?' He said, 'The All-Knowing, the All-Aware told me'"* (At-Tahrim / 3).

This verse demonstrates that the Prophet reproached the mothers of the believers who disclosed a secret that ought to have been kept.

Allah the Almighty also says, "Indeed, Allah commands you to render trusts to whom they are due" (An-Nisa / 58).

This verse indicates that keeping secrets is among the trusts that must be preserved.

From the Sunnah: Abdullah bin Amr reported that the Prophet, peace be upon him, said, "There are four characteristics that, if possessed by a person, make him a pure hypocrite, and if he possesses one of them, he has a characteristic of hypocrisy until he leaves it: when he is entrusted, he betrays; when he speaks, he lies; when he makes a covenant, he acts treacherously; and when he disputes, he behaves in a very imprudent, evil, and insulting manner" [3].

This hadith highlights the prohibition of betraying a trust, including keeping secrets.

Disclosing state secrets falls under the penalty of Hirabah (brigandage) because it constitutes corruption on Earth; by doing so, especially with military secrets and under any temptations or reasons, they declare war on the security of Muslims and their community. In doing so, they wage war against Allah's law and the Islamic society that Islam came to protect [2].

Secondly: The Penalty for Disclosing State Secrets in Statutory Laws:

Statutory laws strictly regulate the disclosure of state secrets, referring to information including military, political, diplomatic, economic, and industrial data:

In Saudi law: Punishment includes imprisonment for a term not exceeding twenty years or a fine not exceeding one million Riyals, or both, for anyone who publishes or discloses secret documents or information, or enters or attempts to enter any place or site unauthorized for entry with the intention of obtaining secret documents or information, or unlawfully acquires secret documents or information by any means, or possesses or knows—by virtue of their position—official secret documents or information and discloses or communicates or publishes it without a legitimate reason legally authorized, or deliberately destroys secret documents or misuses them knowing they relate to state security or any public interest, with the intent to damage the military, political, diplomatic, economic, or social position of the state, or breaches the maintenance of confidentiality of the information and documents [1].

In Egyptian Penal Law: The crime of violating military defense secrets in the Egyptian Penal Code, Law No. 58 of 1937 as amended, states in the first chapter of the second book titled "Felonies and Misdemeanors Harmful to Government Security from External Threats," Article (80) provides: Punishment by death for anyone who delivers to a foreign state or to anyone acting on its behalf, or discloses to them in any form or manner and by any means, a secret of the country's defense, or by any means obtains a secret of this kind with the intention of delivering or disclosing it to a foreign state or to someone working for its benefit, and likewise anyone who for the benefit of a foreign state destroys something considered a secret of defense or renders it unfit for use [13].

It may be appropriate in the coming periods to expand the use of technology to support this field (Ahmed, Alharbi, & Elfeky, 2022; Elbyaly & Elfeky, 2023a, 2023c, 2023e, 2023f, 2023g, 2023h, 2023i; A. Elfeky, 2017; A. I. M. Elfeky & Elbyaly, 2016, 2019, 2023a, 2023b, 2023c, 2023e, 2023f, 2023g; A. I. M. Elfeky, Najmi, & Elbyaly, 2023, 2024a, 2024b; Elfekyand, 2016; Masada, 2017; Masadeh & Elfeky, 2016).

Causes for Exemption from the Penalty for Publishing State Secrets: Death, and Pardon [9].

The Impact of the Crime of Publishing State Secrets on the Economy and Sustainable Development:

Nations strive for sustainable development and ensure it is not affected by any disturbances, including the lack of deterrence to ensure state secrets are not disclosed, especially as some economic matters are sensitive and thus not disclosed by the state; therefore, national stability encourages tourism and economic growth [10].

CONCLUSION

The study has reached several key findings;

1. Publishing state secrets means the disclosure of secret documents containing information that, if revealed, would harm the national security, interests, policies, and rights of the state.
2. Secret information is defined as information obtained by an employee or others, the disclosure of which would harm the national security, interests, policies, or rights of the state.
3. Disclosing secrets is betrayal and is prohibited by religious law.
4. Disclosing state secrets is considered, in some aspects, as corruption on Earth and punishable by the penalty for brigandage.
5. Statutory laws strictly regulate the disclosure of state secrets, punishable by imprisonment for a term not exceeding twenty years or a fine not exceeding one million Saudi Riyals, or both.
7. The penalty for the crime of publishing state secrets is dropped in the event of death or pardon.
8. The crime of publishing state secrets impacts the economy and sustainable development.

RECOMMENDATIONS

The researchers recommend the following:

1. Providing strong deterrence to ensure state secrets are not disclosed.
2. Instilling love of the homeland in the hearts of citizens, and avoiding any influences that lead to the disclosure of state secrets.

ACKNOWLEDGMENT

The authors are thankful to the Deanship of Graduate Studies and Scientific Research at Najran University for funding this work under the Growth Funding Program grant code (NU/GP/SEHRC/13/72-6).

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