Appropriation

Its Definition

Appropriation is seizing or confiscating someone’s property by force without any right. For example, a person seizes a house owned by others and occupies it by force or seizes a riding animal of someone and rides it.

Its Ruling

Appropriation is forbidden according to Allah’s statement:

(And eat up not one another’s property unjustly.) (2:188)

The Messenger of Allah’s (SAW) said:

“Verily your blood and your wealth are forbidden (i.e., sacred) to all of you.” (Al-Bukhari)

The Messenger of Allah (SAW) said:

“Whoever wrongfully takes a piece of land the size of a hand span, his neck will be bridled by seven earths on the Day of Resurrection.” (Al-Bukhari)

The Messenger of Allah (SAW) said:

“It is not lawful to take the property of a Muslim unless he is himself is pleased with it.” [1]

Its Regulations

The regulations of appropriation are the following:

1) Taking disciplinary action against the usurper regarding the rights of Allah. For example, imprisoning him or beating him as a way of rebuking him and those who are like him.

2) It is mandatory that he return what he has usurped. If it is damaged while in his possession, he is liable for returning what is similar, if a similar thing is available, or paying its value.

3) If a person usurps something and causes damages to the extent that it becomes useless for future benefit, he should return a similar thing. However, he can keep the thing that he damaged. If it is not possible to return a similar thing, he can return the damaged thing along with the value of its damage.

4) If the usurped thing makes any yield or produce, such yield should also be returned to him (the true owner). For example, offspring of animals, or produce of the trees, or rent of the riding animal, etc.

[1] Ad-Daraqutni and it has a strong supporting narration which states, “It is not permissible for a man to take the stick of his brother without him being pleased with it.” This was reported by Ibn Hibban and Al-Hakim in their Sahihs on the authority of Abu Humayd from Anas.
5) If that which was usurped is a land and the usurper constructs building on it or plants trees, it is compulsory to demolish such buildings and uproot the trees. The land must be repaired that was damaged by such building and planting. However, if he wishes, the usurper of the property may leave what he has built or planted and take its value in compensation. This is applicable only if the owner of the property is satisfied with this. This is due to the Messenger of Allah’s statement:

“The labor of an unjust person has no dues (or rights).” (Abu Dawud and Ad-Daraqutni. Some of the people of knowledge act according to this Hadith. This was stated by At-Tirmithi.)

6) If the usurper does business with what he usurped and earns profit, he returns it to its owner along with its profit.

7) If the usurper and the owner dispute over the value or the description of the usurped thing, the statement of the usurper should be accepted by his swearing. This is if the owner of the usurped thing does not produce evidence against him.

8) If anyone damages the property of someone else without the permission of its owner, its guarantee is incumbent upon him. For example, burning the object, shredding it, opening a closed door, a cage, or a tie, thus enabling whatever was inside of the house or cage to escape.

9) If a vicious dog, whose owner is negligent in restraining him, kills and eats a person, then the owner is liable.

10) If the animal is released to wander at night and causes damages to the crops, its owner will be liable for what it has damaged. This is due to the Messenger of Allah’s statement:

“Verily, the people of the properties should guard them (i.e., field and farms, etc.) during the daytime. Whatever it (the animal) causes damages to at night, the owner of it will be liable.”

(Abu Dawud, Ahmad and Ibn Majah)

11) There is no liability for an animal without a traveler or a driver that causes damages to something. This is due to the Messenger of Allah’s statement:

“The (harm) of a (wandering) beast are without remedy.”

If it is an animal that is being ridden and it causes damage with its (rear) legs, it will be a waste. The Messenger of Allah (SAW) said:

“(The damage caused by the rear) legs of a beast is without remedy. As for damages that are caused by its mouth or front legs, then he will be liable if it is a riding animal.”

(Abu Dawud and it is a defective narration)