

The Dialectical Interpretation of Sharia Law on Theft among the Ugandan Business Community

Tugume, Lubowa Hassan

Makerere University, Uganda

The article reports data from the field research concerning with dialectical interpretation of the Sharia law of theft among the Islamic business community in Uganda. The article focuses on the indirect forms of theft such as usury, gambling, refusal to pay debts, rent, forgery and corruption among others. This was baseline study that employed mixed methods to explore the dialectical interpretation of the Islamic law on theft in Uganda. The study was conducted in Kampala, the capital city of Uganda and established that Muslims in Uganda are ignorant of these forms of theft and lack sincerity as well. The study has revealed the forms of injustices in business transactions that are disguised as forms of customer care. Secondly, the Muslim business community also indulges in such dishonesty which undermines Sharia law. The study has finally recommended punitive punishment for the above.

Key Words: Sharia; law; theft; business; injustices

Introduction

This article focuses on the how the Sharia law of theft is interpreted by the business the Ugandan business community. Generally, theft undermines morality in society. Further, thieves are social stigmas in the society we live. The Islamic law is broad covering all direct and indirect aspects that lead to depriving others through actions of conspiracy and deceit including corruptionⁱ usuryⁱⁱ, bribery, taking interest extortion, forgery, *riba* (usury), burglary, even stealing from the Muslim treasury or public property, taking people's money by coercion or high pressure sales tactics, begging when one is not in need and so many others. Out of such wealth, these people buy food, clothing, pay rent for house and others. This implies that Islam does not limit theft on robbery and burglary alone but covers all aspects of unjust acquisition and accumulation of wealth. However, basing on observation that led to this baseline study of how the Moslem business community interprets the Sharia law theft, many such actions seem to be considered as the ethics of successful business in Uganda.


The concept of theft in the Ugandan penal code act

The Ugandan 1950 penal limits theft to direct actions of robbery, burglary and other forms of forceful obtaining property. This penal code act classifies other forms of business injustices as; (i) Offences allied to stealing (Ch. xxvi)ⁱⁱⁱ, (ii) Robbery and extortion (Ch. xxvii)^{iv}, (iii) Burglary, housebreaking and similar

offences (Ch. xxviii)^v, (iv) Receiving property stolen or unlawfully obtained and like offences (Ch. xxx)^{vi}, (v) Frauds by trustees and persons in a position of trust, and false accounting (Ch. xxxi)^{vii}. While all the above actions lead to accumulation of wealth unjustly and to deprivation to the victims, nonetheless, they are not regarded as theft and unusually the Ugandan law does not prescribe heavy punishments. On the other hand actions such as usury in Uganda are unpunishable and protected by the law particularly by banks as indicated by the findings of this study.^{viii} This is contrary to the Sharia law, where all such actions are unlawful actions of theft and punishable severely either while the culprits still lives or postponed to the judgement day.^{ix} Next, I briefly discuss the concept of theft in Islamic Sharia law.

Methodology

Using a baseline survey research, the study employed mixed methods.^x The study focused on the Muslim business community in Kampala and its suburbs to investigate their interpretation and application of the Islamic law (law) in the business transactions. This involved whole sale and retail traders, real estate dealers, National and local bank officers, judicial officials including court clerks and bailiffs, insurance

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officers, local money lenders, grocery dealers, hawkers and ordinary buyers. It was necessary to use interviews inured to understand what participants thought about the concept of theft in the Islamic perspective. However, it was crucial to measure the trend of business transactions in relation to the Islamic law of theft.

A number of methods were employed including self-administered interviews; close ended and semi-structured questionnaires, documentary analysis of bank and insurance records depending on the set of respondents.^{xi} Officials were selected purposively whereas ordinary buyers were selected randomly in the business centers.

Qualitative data was coded and analyzed thematically while quantitative data was tabulated and interpreted.^{xii} The study followed research ethics to keep participants' identity and information confidential and used pseudonyms in the report.^{xiii}

The study revealed that while indirect theft involves lots of injustices to the victims, nevertheless, it is taken much lightly by the law enforcers including the Muslim community in Uganda. Some Muslims displayed ignorance and lack of sincerity concerning indirect theft.

The Islamic Concept of Theft

The Meaning of Theft

As explained above, interprets theft as fraudulently and taking anything without right claim of anything that does not belong to a person. The Islamic concept of theft includes giving extra (in terms of good) beyond one has paid for. It includes among others, theft by deception, conversion, swindling, usury, and theft by service, forgery, and taking by false pretence, refusal to pay for services, faulting on rent, monopoly and cartel.

This study suggests that the Muslim business community engages in all the above actions under the guise of good business ethics and attraction of customers. Secondly, actions such as obtaining money or goods under false pretence are not regarded as a punishable crime as one business man commented in an interview that "cheating is no robbery but a tactic of getting rich".

It therefore involves unlawful possession of property that does not belong to a person. It also involves obtaining property through unfair ways. This is very common in Uganda. Theft is of many categories though many of them have been taken lightly by the Ugandan law. It is very vital therefore to explain

common forms of theft including those which are taken lightly since they lead to degeneration of morals which is the core of this research. Islam considers all the unlawful means of acquiring wealth as theft.

Forms of Theft in Islam

The study indicates that many unfair actions of accumulation of wealth by individuals, companies or the States are not considered unlawful. Consequently, not only the Ugandan Muslim business community but the government and the lay people believe that all these forms of theft are lawful.

Theft by usury or Charging Interest (Riba)

This is the involvement in any business deal that involves interest. According to Islam, whether at individual or international level, "usury" is prohibited and punishable. The Islamic traditions prohibit usury stating that,

"Oh you who believe! Be afraid of Allah and give up what remains (due to you) of *Ribaa* (from now on ward), if you are really believers. And if you do not do it, then take a message of war from Allah and his messenger"^{xiv}

This is contrary to the conduct of the Muslim business community. This study suggests that 90% of the Muslim managed financial businesses such as banks and microfinance- projects deal in money lending as a lucrative business. For instance, Muslims operate banks such as Cairo bank. However, this study found out that its lending interest rate stood at -16%.^{xv} Moreover, many Ugandans including Muslims do take loans from Ugandans banks and inevitably comply with bank conditions and terms of paying rates contrary to Islamic Sharia law.

In an interview Musa, a car washer, it was found that he did not know that usury is illegal. He explained, I am a committed Muslim, I pray five times a day. How come that no one has ever told me that bank interest is illegal? Even I the Mosque nobody has preached about bank interests. How can the banks make profits if they do not charge interests? Do you mean that banks should lend money freely or you mean that Muslims should stop taking bank loans? It means even the prophet is against development'.^{xvi}

The above statements imply that Muslims in Uganda are not aware of the Muslim teaching against usury. The study also revealed that most Muslims have accounts in the banks that offer the following respective interests.

Table: 3.1: Bank interest rates and percentage of Muslim customs

No.	Bank	Interest rate	Percentage of Muslim customers (%)
1	Stanbic Bank	15%	12
2	Cairo Bank	16%	33
3	Bank of Baroda	18%	14
4	Housing Finance Bank	18%	10
5	United Bank of Africa	18%	15
6	Tropical Bank	18%	13
7	National Bank of Commerce	18%	10
8	Kenya Commercial Bank	18%	9
9	Centenary Bank	19%	10
10	Fina Bank	19%	10
11	Dfcu Bank	19%	8
12	Standard Chartered Bank	19%	12
13	Ecobank	19.5%	10
14	Barclays Bank	19.8%	11.5
15	Citibank	20%	12.2
16	Diamond Trust Bank	20%	14
17	Orient Bank	20%	13
18	Global Trust Bank	21%	15
19	Bank of Africa	21%	13
20	Crane Bank	22%	20
21	Equity Bank	24%	12

Source: Field data

Table: 3.1 shows that Muslims not only keep money in banks that commit actions of usury but also do commit usury themselves yet all these are unlawful in Islam.

According to Islam, everyone who has something to do with Usury, whether he/she is one of the main parties involved, a middleman or facilitator, has been cursed by Prophet Muhammad, ‘the one who consumes *Ribaa* (usury), the one who gives it to others, the one who writes it down and the one who witnesses it. They are all the same’.^{xvii}

This implies that it is not permitted to take up work that involves writing interest based contracts and conditions, paying or receiving usury, supporting or guiding it. Generally it is not permissible to directly or indirectly involve in usury in any way, shape or form. The prophet was keen to explain the ugliness of this major sin. Abdullah Ibn Masood reported;

There are seventy three types of bribes, the least which is as abhorrent as a man having sexual intercourse with his own mother, and worst of which is violating Muslims honor and sanctity. Knowingly consuming a dirham of *Ribaa* (usury) is worse for a man than committing adultery thirty two times.^{xviii}

The prohibition on usury does not just apply to deals between rich and poor, as some people may feel; it is a general situation. The above is because many businessmen have gone bankrupt on confiscation of their properties resulting from usury. Further, usury destroys the blessing of God to the people in-

involved. The prohibition of usury does not only refer to the high interest only. Whether the ratio is low or high all forms of usury are unlawful.

Contrary to the Islamic teaching, interactions with some of the customers of these banks explained that the main purpose of opening accounts with these banks was for accessing loans. Aisha, who is a regular borrower from centenary bank (catholic founded bank) explained that she decided to operate an account in centenary bank because its quick to access its loans and the interests are more favourable to her and. She said,

It is easier for me get school fees loans. Every term this bank gives a schools fees loan. And there interest is manageable as compared to other banks. You know never I could not get a loan without opening an account. Sometimes I even get a loan to business my retail shop in Kiwatule.^{xix}

This study also reveals that that usury has had many far reaching effects on individuals and their wealth; bankruptcy, recession, economic stagnation, collapse of money companies and institutions as Juma complained,.....in Uganda, many citizens take loans pegged with interest but daily toil has become a never-ending struggle to pay off interest on loans and societies have become class-ridden structures in which huge wealth is concentrated in the hands of a few.^{xx}

The Muslim must not be involved in any business that involves *Ribaa* to the extent that even if

he/she puts money on an interest account in the bank because he has no choice, say the money can get lost or stolen, the interest should be taken back to the bank. If the bank deposits it and a Muslim finds out, he should get rid of the *Ribaa* in whatever way possible. The above money cannot be given for *Sadaqah* (charity), because Allah accepts only money from pure deals. Further, such money cannot be used for buying articles for household i.e. foods, drinks, clothing or fulfilling obligations in the home like payment of school fees or rent.

Theft by deception and cheating

Cheating has been described as a polite variant of cheating and cheating and cheating is wrong if not wicked.^{xxi} In Islam, cheating is a grave offence.^{xxii} Cheating and deception are heinous sins, sources of shame to the one guilty of committing them both in this world and the next^{xxiii}. In Uganda, deception and cheating are taken very lightly to the extent that many Ugandans have a slogan that “*cheating is no robbery*.” Basing on the moral repercussions, Islam considers it as theft since the pains felt on being cheated could be greater than those felt on theft. In many cases the affected knows the party involved in cheating him/her yet with theft (as defined in Ugandan terms) he/she may not be aware. Such actions are not referred to as theft but termed as receiving money on false pretence. Cheaters are looked at with admiration and referred to as the clever people, cunning and innovative. If one is accused for cheating by a friend he will often openly admit that,

Mbadde neyiiya, mpanga bulamu nange nsobole okubaawo (meaning, I did not steal but only planning and being innovative so as I can find what to eat and find means of survival. Occasionally, even cheaters who are sometimes arrested by police and taken to courts of law come out as victors and are highly respected by society. For example, one Muslim dignitary (Amis, not real name) forged signatures of bank accounts and was arrested and charged in a foreign country. He was convicted and served a sentence of one. Upon coming to Uganda, so many people gathered to welcome him at Entebbe international airport with ululations and jublations for being so innovative.^{xxiv} Similarly, another Muslim man (Hassan- not real name) was arrested for conniving with a prostitute and cheated lots of money totaling to Uganda money 11b. This man was arrested but won the case and turned into a hero who many people still admire up to now.^{xxv}

In an interview, a man explained, Uganda *nsi yakweyiiya* (Uganda is a country which needs one to have the courage to cheat). *Abali sharp be balya* (Whoever is not sharp enough to cheat, can hardly

survive. As long as you have not pulled money one's pocket, because that's direct stealing. *Naye kasita omatiza omuntu nakuwasente, ye yaba omusiru* (as long you have spoken well and enticed one to give you money, that is his/her problem.^{xxvi}

There is even Luganda proverb that states that *Oli bwasumagira, tebabega*. This proverb implies that you are to be blamed for being cheated because you are not alert and keen enough. When someone admits like that he/she gets society applaud and cheers for being a successful cheater.

It is common for Ugandans to obtain money or property by fraudulent tricks or devices^{xxvii}. This involves a person being delivered to fewer goods than purchased. This could be conspiracy between two people to cheat an individual. Since the Ugandan law has categorized this as thefts by trickery, many Ugandan's take it very lightly this is not the case with Islam.

Forgery and counterfeit

Forging and counterfeiting are defined as producing a writing or document or producing an official or non-official persons' stamp or signature, scratching or tampering or adding or erasing or generating or crossing out or changing the date in comparison to the actual date or enclosing a writing to another writing or using someone else's stamp without their permission, and the like, with the intention of deception.^{xxviii} Forgery is a common practice in Uganda; business people forge receipts goods, commercial documents such as trade licenses and bank cheques and also involve in forgery of academic documents. While forgery and counterfeit are taken very lightly in Uganda, there are heavy punishments prescribed for such cases in Islam. For instance, in Iran which is an Islamic State, forgery however light, such as of a stamp is liable to 10 years imprisonment. “Forging a seal, a stamp or an emblem of governmental companies or organizations or departments or Islamic revolutionary bodies’.^{xxix} One Serunkuuma explained that in Uganda, “forging has turned around many lives: one earns him/herself a job or promotion, travel is granted, accountability reports are accepted and permission to conduct business is granted. Academic documents, bank statements, birth certificates, identification cards, and several other documents are constantly forged. Sometimes, a free good or service is enjoyed’.^{xxx}

In an interview with a high profile officer at Makerere University, he admitted that students get school fees receipt, academic documents printed at Nasser road in Kampala city center.

We have serious problems of forgery and counterfeit, ranging from results to tuition to academic

documents. But you some of this begin right from UNEB; I think there are officers who facilitate these things. Efforts are under, we need a collaborative effort to avert but it has given a negative image to our institution.^{xxxii}

On the issue of academic documents, it was reported that annually, university student who fail exams resort to Nasser Road and print certificates and all other documents to show that they have passed through the system and have obtained academic awards.^{xxxii} Islam as noted earlier forbids obtaining income through unfair ways. This does not mean that it is permitted when there is no aggrieved party. A number of people in Uganda are involved in forging documents like academic certificates, wills and others. Many such people get jobs they would not qualify for and end up getting big salaries. In some incidences, people who forge documents affect the welfare of the public say; a doctor who forges an academic document can perform an operation which could lead to loss of life. Unfortunately, forging rightly involves security officers who intimidate whoever comes out to oppose the forgery and counterfeit.

Receiving Stolen Property

The act of receiving stolen property consists of four elements: firstly, the property must be received; secondly, it must have been previously stolen; thirdly, the person receiving the property must know it was stolen; and fourthly, the receiver must intend to deprive the owner of his or her property.^{xxxiii}

Receiving of stolen property is a sin in accordance to Islamic law. With regard to property that has been stolen or seized by illegitimate means and then sold in a proper manner, it does not become permissible for the one who bought it^{xxxiv}

In Uganda, both business and lay people aim at getting stolen goods because they are cheap. During the study, I interacted with a police officer concerning the receiving of stolen items. He explained;

People especially the youth and young people are the ones who always fall victims of buying goods such as mobile handsets, computers and tablets that have been acquire through theft. What happen is that there groups of *bayaaye* (delinquents) who snatch bags of people in transit either or *bodaboda* (*motor cyclists*) or on taxis, they ran away and usually these are the things they get from bags, mostly women's bags. Some even vandalize cars and steal such items. The *bayaaye* sell such items very cheaply attracting the youngsters who are always poor. But we as police we try our best to do our job.^{xxxv}

The ones who buy stolen property do not consider themselves as thieves because they did not snatch

or steal anybody's item and they have used their own money to pay for the stolen item. This is contrary to the Islamic teaching that, if the Muslim knows about it then he should avoid it. If I know that a person stole some property, or he betrayed a trust or usurped it and took it from someone by force and unlawfully, then it is not permissible for me to take it from him, whether as a gift or in payment when buying or as payment of wages or as payment of a debt. This wealth is the property of the one who has been wronged.^{xxxvi}

However, Islam and the laws of morality consider this as theft for majorly three reasons: (i) The property is not worth the money that the buyer pays for it, (ii) the buyer would not feel comfortable if it is his own good sold at a cheaper price, (iii) there exists a party that has been mistreated i.e. the owner of the property.

It is on the above note that Islam considers the selling or buying of any stolen property as theft and the punishment for parties involved in the fraud is the same.

Gambling and Islam

Gambling was very common during the *Jahiliyyah* (pre-Islamic days). In one of the most well-known forms of gambling, ten people would buy a camel, each paying an equal share, then they would cast arrows- a form of drawing lots. Several people would win unequal shares and three would be left empty-handed. In the years of the prophet Mohammad condemned. Consequently, Islam forbids all forms of gambling as quoted from the Quran below;

“Oh you who believe! Intoxicants (all kinds of alcoholic drinks), gambling, *maiansaah* (stone altars for sacrifice to/dots, etc), are an abomination of Satan's handiwork. So avoid that abomination in order that you may prosper”.^{xxxvii} In Uganda gambling is a legal activity authorized and regulated under The National Lotteries Act and the Gaming and Pool Betting (Control and Taxation) Act. It mainly takes the following form: lotteries, casinos and gaming and pool betting.^{xxxviii} Nowadays, there many forms of gambling, some of them are as follows;

Lotteries and raffles, in which people pay money to buy numbers, and they are drawn for the variety of prizes. This is *haram* (unlawful), even when it is supposedly done for charity. Buying a product which includes something unknown, or paying for a number for a draw which will deceive who gets what. This is very common in Uganda.

Another modern form of gambling is insurance, such as life insurance, car insurance, product insurance, insurance against fire or theft, third party insurance, comprehensive insurance, and so on. Insurances

in Uganda are so popular that some singers even ensure their voices. Islam believes all forms of commercial insurance are fraudulent transactions aimed at consuming people's wealth unjustly. All kinds of insurance are forms of uncertainty, and transactions which involve uncertainty are forbidden according to many *Saheehhaadeeth*, such as the *hadeeth*^{xxvix}.

All the above forms gambling are prohibited. Currently, there are even clubs that are devoted exclusively to gambling, in which there are so called "green tables". Out of the 100 Muslim youth who participated in the study, 75 admitted engaging in sports betting. Asked why they gamble, one explained,

It gives me quick money. Someday am extremely lucky, though many times I make losses. But I am learning the tricks to minimize losses.^{xi}

Other forms of gambling include betting football, motor rallies and other sports.

Islam forbids gambling for the following reasons; firstly, people get wealth they have not worked for at the expense of others. Secondly, the people involved in gambling businesses cheat their cashmeres which is very unfair.

Theft by concealing products' faults

The study reveals that this type of theft is common with business people who deal with fresh goods such as vegetables and expired products in supermarkets. There are many traders who conceal faults of products. This is done in many ways; putting cell tape on it, putting faulty produce in the bottom of the box, using chemicals to make a product look good, or concealing the noises in engines of vehicles that may indicate fault. When a purchaser brings a product home, it soon starts to wear out. Some traders change expiry dates, or prevent the buyer from examining or trying out a product. Many of those who sell cars or other types of equipments do not point out the product's fault. These are just few examples of concealing a product's fault but they are indefinite. During the study, UI personally toured several supermarkets to check for proper expiry dates, I discovered that so many products on the shelves were expired. The supermarket owners however did not care to remove them because National Bureau Standards (NBS) officers had just visited the supermarket and were not coming back in the near future. I also learnt that supermarket owners pay bribes to the NBS officers to conceal products' faults found on the shelves. In an interview, a supermarket attendant explained,

Having an expiry date does not really mean that these goods have gone bad. It is just because the (NBS) wants to put those marks but these things such

flour and even drinks can last for years and years without going bad.^{xli}

According to Islam, concealing products' faults is *haraam* (forbidden) since it undermines the spirit of brotherhood. On this particular issue, Prophet Muhammad said; the Muslim is the brother of his fellow Muslim. The Muslim is not permitted to sell to his brother anything which is faulty without pointing out the fault to him.^{xlii}

The Prophet once passed by a pile of food that was for sale. He put his hand in it and felt dampness, so he asked; "What is this, O seller of food?" The seller answered, It was rained on, oh messenger of Allah. The prophet said; Why don't you put it on top so that people may see it? Whoever deceives (the people) is not one of us.^{xliii}

Some traders think that their responsibility ends when they tell buyers at auction whatever they are selling but this is not the case. A buyer is entitled to knowing the weaknesses of items she/he is buying. Prophet Muhammad said;.....the two parties involved in a sale have the choice to end it i.e. (the sale is not final), until they part. If both have been truthful and honest about any faults, the sale will be blessed, but if they have lied and concealed any faults, the blessing of the sale will be lost.^{xliiv}

A buyer is entitled to bringing the item back and he/she is refunded the money or substituted for another item or changed for the item one intended to buy. However, most traders in Uganda do not refund money or do not substitute items in case of fault. Many traders in Uganda point it out on the receipt that "goods once sold are not returnable." This is very wrong since some goods could be faulty or damaged on way by traders. Some items like flasks can only be tested satisfactorily for a long time. Failure to accept the substitution or refund of money in a trade is automatically cheating. Cheating in Islam is part of theft.

Theft by Refusal to Pay for Hired/Rented Properties and Services

The above is a common practice among Ugandans. A number of people hire houses, cars, business premises and they intentionally refuse to pay. On the other hand, people employ others and refuse to pay upon completion of services. This is very common where the employee has no proof of his/her rights. In some cases, because of corruption, favoritism and tribalism even courts may fail to deliver rightful judgments. Consequently, the one who is being demanded money may maneuver and the court judges the case in his/her favor. Some people hire workers from remote areas and bring them to the city, such as house-maids

and samba boys with verbal agreements to pay a certain wages. Once the people are committed and have started work the bosses change the verbal agreements terms and conditions, they instead pay lower wages or no wages at all and give explanations such as providing accommodations and meals. Such employees stay since they have no choice or proof of their rights. On the other hand, some employers make the employees do extra work or put in longer hours without paying overtime or giving them any more than the basic salary.

Some employers intentionally delay payment of wage and pay only after much struggle, complaining and suing them into courts of law. The aim may be to make the employee give up his claim to his rightful wages and stop asking; or they may wait to invest his money, perhaps lending it on interest. Meanwhile, the poor employee cannot buy the daily bread or send anything home to his needy wife and children.

There are also some instances where people hire houses and they refuse to pay money to the rightful owners. At times, they hire items like machines and use them for generating money and they refuse to pay.

Islam categorizes all the above under theft. It involves earning for what one has not worked for. The prophet encouraged speedy payment of wages to people hired for labor and properties rent. The prophet said; Give the hired person his wages before his sweat dries.^{xlv}

The prophet encouraged prompt payment for debts. Unlike other forms of theft, Islam is very practical on this. On this the prophet said that; No Muslim should be prayed for on death or buried unless his/her debts have been paid out of his/her wealth or by his dependants.^{xlvi}

It is very immoral for a person to die without paying off debts. People keep on cursing not only the deceased but even the dependants. That is why Islam proclaims that all dues and debts of the deceased must be paid off before burial.

Apart from not being buried before payment of debts, Islam curses a person who does not clear debts in the *hadiths* below;

There are three people whom I will oppose on the Day of Resurrection: a man who sells free man into slavery and keeps the money, and a man who hires another and benefits from his labour, then does not pay him his wages.^{xlvii}

Failure to clear debts is not only prohibited by Islam but morally unacceptable. Debtors bring about suffering to many families. Some people fail to earn a living due to debtors. No wonder that debtors are considered very uncooperative. The Ugandan law is very lax on debtors and considers it as a civil case.^{xlviii} During the study, I attend several cases and lessened

court proceedings. Out of the 30 court session I attended, 21 of them concerned such cases where hired workers were not paid and tenants refused to pay rent to landlords.

Theft by begging

Many people in Uganda depend on begging. During the study, I observed some beggars come to the mosques and interrupt peoples' worship with their complaints; some of them lie, others bring forged papers and tell false tales; some of them distribute their family members around different mosques, then they regroup and move on to other mosques. Others beg individuals. This research has discovered that there are some beggars who are very rich and they conceded their property.

During my research, I observed the beggars particularly spread out in Kampala city, out of the 100 beggars, 60 were able to work and support themselves but had gotten so much used to begging. Only 10 beggars were extremely crippled that they could not work. However, also found out that some people with disabilities such blindness and without legs worked for their survival. This implies that not all people with disabilities depend on begging.

Begging is morally unacceptable. Some people have declined giving beggars any money that genuinely deserve them. In Uganda, people making so many tricks and pretend they are without either legs or hands and sit strategically where unsuspecting passersby will find them and beg them. Such an act deprives the opportunities to genuine people with disabilities fit to be given. Consequently, donors refuse to give all beggars as they think that they are playing the same tricks as the former. Islam discourages begging for people who are not in need. The messenger of Allah said: Whoever asks people for money when he has whatever is sufficient for him is only asking for membership in hell? They asked him, "What is sufficient so that he does not have to ask for more?" He said: Having enough to eat lunch and dinner.^{xlix}

Further, Ibn Masood reported that the messenger of Allah said: Whoever asks the people for money when he has what is sufficient for him will come on the Day of Judgment with scratches and lacerations on his face.¹

It is not morally upright to behave like a beggar when one has what is enough. Islam does not specify a punishment for such people on earthly life but this can be categorized as theft by using tricks.

Theft by seeking a Loan with No Intention of Repaying

One of the wide spread problems in Uganda is this casual approach to loans. Some people take out loans, not for some urgent need; but because they want to expand their business or keep up with others by leading luxuriant life i.e. buying cars, renting magnificent houses, and other temporary luxuries of this life. Often these people let themselves in the confusion of installment plans, which are dubious. On the other hand, people present fake security which could not be worthy the amount. This is done on bribing bank employees. This casual approach to taking loans leads people to delay repayments, which in turn lead to loss and financial ruin of others. Prophet warned against this as below; Whoever takes people's money with the intention of paying them back, Allah will pay it back for him, but whoever takes people's wealth with intention of not paying it back, Allah will destroy him.ⁱⁱ

People take this matter very lightly, but in the sight of Allah it is a serious matter. Many institutions have collapsed due to people with bad intentions. In 1999, a number of banks closed down because debtors could not pay off debts^{lii}. During the study, I discovered that there are many institutions that were willing to give loans, some of them are registered others are not. In an interview, on lady explained, Failure to pay loan made my friend Maama Mark to committee suicide. Another one ran away and disappeared to unknown place.^{liii}

Many cases have been registered of people who have taken loans and later look for death certificates to announce themselves dead.^{liv}

Theft by Corruption

This is manipulation of one's position or office to acquire wealth or position. The forms of corruption include; embezzlement, bribery, tribalism, nepotism, prejudice, discrimination and sectarianism. The study further reveals that the abovementioned immoral acts are perpetuated by existent situations in society such as: lack of effective legal system, favoritism, incompetence, poverty, greed (lack of satisfaction), unemployment, low salaries and incompetence.^{lv}

However, research reveals that the commonest form of corruption is bribery. Bribery is a taboo in *Sharia* law. Bribery is a grave criminal offense and a great sin.^{lvi} Bribe is wealth earned by accomplishing a task for a party that should have been done without any compensation (whether to bring benefit to the party or to avoid harm). Bribery can be in form of tips or rewards. However, bribery has been defended by and instead referred to as a reward^{lvii}. This has led to bribery being misinterpreted, disguised and tolerated in Uganda as a healthy practice irrespective of the fact that it is illegal in Islam.^{lviii}

Forms of bribery

In Uganda, a bribe is requested, given and received by any person or agent as a motivator or reward to permit or omit the proper transaction.^{lix} The study reveals that the commonest forms of bribery in Uganda include; Money, donation, free gift, property (movable or immovable); Promotion in jobs, titles, designations; Contracts or services; Exemptions from hard work and interdiction; Writing off debts or responsibilities; Protection from penalties i.e. disciplinary evil or criminal charges; Offers without conditions.

Bribery is so widely spread in Uganda and outside. To some people, it is more of a source of income than the regular salary for some workers. Some companies and institutions include bribes as a factor in their budgets, under variety of headings and commonly under miscellaneous. Some deals cannot begin or end without the payment of a bribe. Almost all institutions in Uganda are affected by bribes. Even courts of law where justice is supposed to prevail, justice is affected by bribes. Offering a bribe to a judge in order to make him turn a blind eye to the truth is common. On the other hand, people bribe the judge in order to facilitate them win false claims. A number of murders have bribed judges and they have been proved innocent. Islam disassociates itself from bribery since it leads to oppression and injustice for the person who is in the right, and it spreads corruption.

Allah says; And eat up not another's property unjustly, nor give bribery to the rulers that you may knowingly eat up.....^{lx}

Bribery is a cause of corruption in that employees act against their employers, and one can only get good service if one pays a bribe, one who fails to pay will get shoddy or late service, while as those who are willing to pay will be served before, even if they were to come later than them. Because of bribery, a great deal of money which is due to employers ends up in the pockets of sales representatives and those responsible for making company purchases. This research revealed that in Uganda, corruption has eaten up society to the extent that almost everybody is familiar with it. The researcher visited institutions like schools where he did not expect it but was shocked to learn that it existed in all sectors. A student commented on the prevalence of corruption in his school as below;

when a student wants to go home before time, he bribes the gate keeper with 500/= (two hundred); the cooks at kitchen are bribed such that some students get more food than others; in class, the class teacher sells the front seats at 10,000/= (ten thousand) per term; when a student performs poorly in end of term

exams, the teacher writes for him/her a good report at 50000/= (fifty thousand shillings), while the headmaster needs a bribe to admit a student in school/after official selection.^{lxvi}

Further, making a fake claim; any person who gives to an agent or an agent who gives his principal, employer, and a document that he/she knows contains forged information, which is important to the principal/employer with the intension of deceiving his/her principal.

Misusing a title/a position is also another form that may take place in any public sector executives that use their title and position to receive bribery for any decisions as actions related to him, where the executive or his cronies have an interest directly or indirectly.

Islam disassociates itself with all forms of bribes. To give a bribe as noted earlier would be to disassociate oneself with Islam. The messenger of Allah said; The curse of Allah is upon the one who gives a bribe and the one who accepts it.^{lxvii}

From the above analysis, bribery brings about injustice. In many cases people get what is not due to them at the expense of others. All in all, it involves acquisition of property, titles and services through unfair ways which is not far from direct theft. However, Islam has not come out with a clear legislation and punishment in daily life. The punishment for bribery is postponed to the Day of Judgment. The act of bribery is immoral, that is why it is never taken or given openly.

Theft by Embezzlement and Causing Financial Loss

Embezzlement involves misuse of public funds for personal use.^{lxviii} In Uganda, it is disguised as simply failing to account which term does not connote theft. In this case, an employee, servant or officer of the government or public body, director or an employee uses public money for personal use.

Yet failing to account may mean that the institution or public servant may not necessarily have used income for personal benefits but he could cause financial loss resulting from neglect. In this case, an employee is paid to perform a particular work and she/he fails to deliver and this is theft. This categorically means that the employee gets free salary without doing work.

On the other hand, it is possible that the employee is aware of the repercussions but neglects duty. In this case, a person employed by the government, a bank, a credit institution, and an insurance company as public body does any act or omits to do anything knowing or having reason to believe that such an act or omission will cause financial loss to an organiza-

tion. The above is unlawful in Islam since Islam demands an employee to do the work honestly and diligently.

Theft by Fraudulent Disposition

Defraud or conceal any testimony instrument^{lxix}, whether the testator is living or dead commits a great offence in Islam.^{lxx} This is because it leads to fraud led to the rights of recipients being denied, wastage, inefficiency and rampant white collar crime if left unchecked.^{lxxi} Theft by Fraudulent Disposition is very common in Uganda, for instance, traders sell mortgaged goods, remove or dispose of the goods without the consent of the mortgage, and with intent to defraud. The study indicates that two types of goods have almost been legitimized on Uganda's market, "duplicate" and "original". For example, list of Counterfeit Cases and Products on Uganda's Market include, Kanta hair dye Vs Kanta dye; Kiwi shoe polish Vs Kiwi polish; Super glue Vs Super Glue; Vim scouring powder Vs Vim; Jik stain remover Vs Jik; Fair & Lovely Vs Fair & Fairy; Sleeping Baby Vs Sleeping Baby, Nice toothbrushes Vs Nice toothbrushes; Close Up Toothpaste Vs Fresh Up Toothpaste; Jolly Jus Vs Jolly Jus flavored drink among others.^{lxxii} In Islamic law, all these are conceived as theft since it involves selling of an item at a price a trader is not meant to sell it. On the other hand, a consumer buys an item which is not of his/her wish.^{lxxiii}

Theft by Seizing Property by Force (Ghasb) in Islam

The seizing of property by force (*Ghasb*) or evictions are a common occurrence in Uganda. For instance, the human rights brief observed that Forced eviction is both an urban and a rural problem in Uganda.^{lxxiv} For instance, the government decides that there needs to be a new road or some other public structure in the same place as privately owned real estate. The homeowners would then be forced to sell their land to the government in a power that is known as "eminent domain." Sometimes, the government can take away private real estate even without paying the homeowner.

On other occasion, individuals grab land and evict other, through manipulation of the Ugandan laws; the evictors make false agreements using the Ugandan land commission, hire court brokers and go ahead to evict rightful owners.^{lxxv} Since the evictor is rich, he goes ahead to bribe offices and later streamlines the documents as lawful. Islam condemns the above. It is a mean of oppression of the weak. In most cases, it is land that is evicted; many Ugandans

have felt victims of such circumstances. The eviction of property includes the changing of land marks and boundaries in order to make one's own land bigger at the expense of neighbors. Islam is very clear on prohibition of this since prophet Muhammad said; Allah has cursed the one who changes the boundary markers of the land.^{lxxi}

Further, Islam according to Islam Seizing Property by Force is *haraam* according to the consensus of the Muslims, because Allah says: "And eat up not one another's property unjustly (in any illegal way, e.g. stealing, robbing, and deceiving)".^{lxxii}

Islam however, does not specify a punishment for such a person during life time. The punishment is postponed to the Day of Judgment as the prophet pronounced

Whoever seizes a hand span of land, Allah will tell him to dig it to the seventh depth of the earth. He will be placed around his neck on the day of resurrection until Allah has finished judging all humans.^{lxxiii}

The grabbing of land manifests poor neighborhood and it is morally unacceptable in African societies. No doubt Islam condemns injustice of any nature.

Punishment for Theft

Direct theft in Islam is punished by amputation of a hand to all thieves no matter whether a Muslim or non-Muslim or one who has left Islam. As long as one possesses a legal capacity and acting voluntarily, steals variables above the value of 1.05 grams of gold at the market prices current at the time of theft, provided that there is no confusion as to whether he/she took away the valuables in question with the intention of theft or for some other reason.

It is a condition that the valuables stolen were kept or deposited in a place meeting the normal security requirements in a given locality and time for their safety.

If a person steals the second time, his left hand is amputated, then for the third time his left foot and for the fourth time his right foot. If he steals the fifth time, he is disciplined according to discretion of the judge (*tazir*). After amputation, the limb is cauterized with hot oil, which in the early days was the means to stop the bleeding and save the criminal's life.

Islam further describes circumstances of punishments, for instance, a person's hand is not cut off in the following cases; when he/she steals less than the equivalent of 1.058 grams of gold; when there is possible confusion as to why she/he took it, as when it was taken from the Muslim common fund (*Bayt al mal*) provided the person is a Muslim, since he might have intended to use it to build mosques, bridges or when it belongs to his/her parent. A place that meets

normal security requirements for safeguarding similar articles means a place appropriate for keeping the article. Suitable place for safeguarding fine clothes, money, jewels, for example is a locked box; the place for trade goods is a locked warehouse with guards, the place for livestock is stable, the place for pallets and bedding a shelf in the house. If two persons jointly steal the equivalent of 1.058 grams of gold, then neither's hand is cut off. A free man's hand may not be cut off by anyone else beside a caliph or his representative who is either a *kadhior* judge.

On the contrary, the punishment for the indirect aspects of theft such as discussed in this article is in most cases suspended to the Day of Judgment. Nonetheless, this does not mean that aspects of theft should be taken lightly, rather, they should be taken as gross offences since there is much injustices involved. However, the Ugandan law takes them very lightly but there are many offended and suffering as a result of such forms of theft. This research therefore recommends that strict measures and punitive punishments be taken for such grave offences if justice is to prevail.

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Notes

- ⁱ<http://www.islamweb.net/emainpage/articles/136791/The-ruling-of-theft-in-Islam>
- ⁱⁱ The Quran, Surat Baqarah 2:275
- ⁱⁱⁱ Penal Code Act 1950
- ^{iv} Penal Code Act 1950
- ^v Penal Code Act 1950
- ^{vi} Penal Code Act 1950
- ^{vii} Penal Code Act 1950
- ^{viii} Mbanga, J. (2009)
- ^{ix} Peters, R. (2005); Forte, D. F. (1985); Tehquran, Surat Al- Baqarah, 2:275-276
- ^x Creswell, J. W., & Plano Clark, V. L. (2011)
- ^{xi} O’Cathain, A.O., Murphy, E., & Nicholl, J. (2010)
- ^{xii} Bryman, A. (2006)
- ^{xiii} Miller, T., Birch, M., Mauthner, M., & Jessop, J. (Eds.). (2012); Marx, G. (2001)
- ^{xiv} Narrated by Muslim, 3/1219
- ^{xv} Mbanga, J. (2009)
- ^{xvi} Musa, A Muslim who operates a washing bay
- ^{xvii} Narrated by Muslim 3/1219
- ^{xviii} Ibid
- ^{xix} Aisha, A centenary bank customer who runs a retail shop in Kiwattule township
- ^{xx} Sheikh Muhammad (A lecturer at Makerere University
- ^{xxi} Bell, J. B., & Whaley, B. (1991)
- ^{xxii} Saheeh Al-Bukhari
- ^{xxiii} Saheeh Al-Bukhari
- ^{xxiv} BBC news (2000)
- ^{xxv} New vision reporter
- ^{xxvi} Majid, respondent
- ^{xxvii} There is increased forging of land titles in Uganda. As a result, many genuine owners of land have been evicted.
- ^{xxviii} Islamic Penal Code of the Islamic Republic of Iran – Book Five
- ^{xxix} Ibid Ch. 5, Article 525, <http://iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html#5>
- ^{xxx} Serunkuuma (2015)
- ^{xxxi} Andy, Associate Prof at Makerere university, respondent
- ^{xxxii} Serunkuuma (2015)
- ^{xxxiii} Legal Disctionary
- ^{xxxiv} Shaykh al-Islam Ibn Taymiyah, *Majmoo’ al-Fataawa* (29/323).
- ^{xxxv} Kaweesa, a police constable
- ^{xxxvi} Ibid
- ^{xxxvii} Quran, 5:93
- ^{xxxviii} AbusheddeAngella (undated)
- ^{xxxix} Narrated by Abu Hurayrah and Muslim
- ^{xl} Salim Abdallah (hotel attendant)
- ^{xli} Mariam, (supermarket attendant)
- ^{xlii} Ibn Majah, 2/754
- ^{xliii} Narrated by Muslim, 1/99
- ^{xliv} Ibid
- ^{xlv} Narrated by Tabaraani in Kabeer, 22/270
- ^{xlvi} Narrated by Ibn Maajah, 2/187
- ^{xlvii} Narrated by Muslim, 1/100-101
- ^{xlviii} Debts (summary recovery) act 1937, cap: 74 (ch. 74, the debts (summary recovery) act).
- ^{xlix} Ibn Majaajah, 2/190
- ^l Narrated by Ibn Dawud, 2/281
- ^{li} Narrated by Al-Bukhari, 5/54
- ^{lii} Among the closed bank were Greenland and Cooperative Banks
- ^{liii} Nalongo Sandra (Sells in a market)
- ^{liv} Buteera, P. (2015)
- ^{lv} Quinones, E. (2000); Otáhal, T. (2007).
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- ^{lviii} Arafa, M. A. (2012).
- ^{lix} Jagger, P., & Shively, G. (2015)
- ^{lx} Quran, 2:188

^{lxi} Farooq (S. 2 student)

^{lxii} Reported by Ibn Maajah 1/231/4

^{lxiii} Nettler, G. (1974)

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^{lxvii} Atuhaire, A. (2011)

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^{lxix} Justin Shore(2009)

^{lxx} Ugandan news (2013); Ssenoga, B (2013)

^{lxxi} Reported by Muslim, with commentary by Al-Nawawi, 13/40

^{lxxii} Quran, 2:188]

^{lxxiii} Reported by Tabaraani in Kabeer, 22/270