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Rules And Forms Of Making Oath And Debt In Islamic Law

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ABSTRACT

The article deals with the issues connected with the oath and debt in Islamic law. The oath can be admitted only by adult and sane person. The Islamic law rules on oaths, debts and suretyship are unique. It is forbidden to swear by anything other than the name of Allah. If he swears in the name of Allah, he should have to keep his oath. If he forswears, he atones for his sin named kaffarat. According to Islamic studies, no matter what hardships a person faces, Muslims should extend a helping hand to him. When a person is in a difficult financial situation, when he feels the need for money to meet his basic needs for food, shelter, treatment, etc., he should rush to help him as much as possible not intending to usury, fraud and deception.

KEYWORDS

Oath, ghamus, cancellation, munaqid, sharia, falsehood, ayman, mahlufun-alayh, covenant, wajib, mustahab, debt, debtor, expiation, usury, haram, dirham, fard, mandub, mubah, halal, guarantee.

INTRODUCTION

Islamic law is a mature phenomenon of medieval Eastern civilization. This legal system emerged within the framework of the Arab

Caliphate and gradually gained international significance. The process of its development is closely connected with the process of the

Arab statehood from a small religious community in the early VII century, in the time of Muhammad (SAV) to one of the large empires in the VIII-X centuries during the Umayyads and Abbasids. Islamic scholars have developed legal doctrines and norms that have a legal nature while maintaining the basic rules of Sharia.

“We are building an international research center named after Imam Bukhari in Samarkand, and a center of Islamic civilization in Tashkent. We are not doing these things to show off to anyone. Our goal is to inculcate in our children the true human nature of Islam, enlightened Islam. Along the way, they will come to such places and gain the knowledge and insights they need, the most important, about what great deeds our great ancestors have accomplished. Most importantly, in their hearts there is a sense of pride in our rich history and cultural heritage” [1, p. 25].

Great work is being done in our country to ensure religious tolerance, preserve and promote enlightened Islamic values. The Center for Islamic Civilization in Uzbekistan, Imam Bukhari, Abu Isa Muhammad Termizi, international research centers named after our great scholars have been established, opportunities for religious education are expanding, the rights of believers are protected and conditions are created for them.

The adoption of a special resolution on “Enlightenment and religious tolerance” at the plenary session of the UN General Assembly was a bright manifestation of the initiative of Uzbekistan on religious tolerance. This document, adopted on the initiative of President of Uzbekistan Shavkat Mirziyoyev at the 72nd session of the UN General

Assembly in 2017 and it serves to strengthen the existing culture of enlightened tolerance of religions among the peoples of the world.

This is a historical event of the Islamic religion and the reforms of the world body, while the country’s rich history and experience shows that these issues. Various studies on Islamic law are being conducted in our country. Of these, we would like to focus on the issues of oath and debt in Islam.

There is an oath in Islamic law, but an oath is taken only in the name of Allah. An oath that mentions the names of Allah, such as “vallahi”, “tallahi”, “billahi” is considered valid in the Shari’ah. Today, swearing by the Qur’an has become a tradition. But in Islam it commands not to swear as much as possible. “Do not cross the name of Allah for your good deeds, piety, and reform among the people. Allah is All-Hearing, All-Knowing” (Sura Baqara, 224) [2, p.21]. If there is a need to take an oath, take it only in the name of Allah. Muhammad (SAV): “Whoever swears, let him drink in the name of Allah or be silent (let him not swear)” (Imam al Muslim). There are three types of oaths under Islamic law: ghumus (false), lagw (vain) and munaqid (bound). Swearing falsely for what has happened is called Ghumus. For example, after doing something, it is an oath to say, “On behalf of the Lord, I did not do it”. The oath of allegiance is a great sin in Islamic law. An annulment is an oath taken with the suspicion that something is wrong. For example, a man may say to a friend, “On behalf of the Lord, I saw you in the market yesterday”, when in fact he is misleading his friend with another.

Mun’aqid is an oath to do or not to do something in the future. If such an oath is

broken, that is, if it is not fulfilled, atonement becomes obligatory.

Mun'aqid is an oath forgotten or lost, forced or intentional violations, expiation upon it. Even if a person takes such an oath not voluntarily, but under duress - it gives its effect. Prophet Muhammad (SAV) said: "Three things more serious: marriage, divorce, oath [3, p.4]". Words such as "Let the Qur'an strike" and "Let the bread strike" are not considered in taking oaths. But if he says, "I swear by the Qur'an", the oath is taken into account. Among the common people, "God damn it", said by some scholars to be. "I swear", "I testify", as they take place. It is also an oath to defile what is honest. For example, if he says, "I have defiled my honey", he must keep his oath, and if he breaks it, he will pay atonement.

In Islamic law, it is wrong to swear an oath for a sinful act. For example, "I swear by Allah, I will not talk to my father or I will hit someone". But he keeps swearing to Allah. Islam violates such an oath and commands atonement [4, p.18-20].

Allah will not hold you accountable for your oaths in vain. But it holds for your oaths that you have deliberately shed. So his expiation is to give food or clothing to ten poor people in the amount of the average food of his people, or to free a slave. And whoever does not find, then let him fast for three days. That, if you swear, is the expiation of your oath. Keep your oaths. Keep your oaths. Thus does Allah make clear to you His verses. Perhaps you will be grateful. (Sura Ma'ida, 89) [5, p.42].

When swearing in places permitted by the Shari'ah, it is taken only in the name of Allah. It is wrong to swear in the name of Allah.

Taking an oath has legal significance in the first place. Islamic law requires a person to take an oath voluntarily, not under duress. It is not good to swear in a hurry without thinking of the consequences. If a person swears to give his wealth to the poor and he himself goes bankrupt as a result, such an oath is considered invalid.

"Ayman" means "oath". In Arabic, "ayman" is the plural form of the word "yamin". The original meaning of the word "yamin" is "power" or "authority" as well as "right hand". The obligation of a sworn person to strengthen a covenant to perform a certain deed or to abstain from it is expressed in the language of law by the term "yamin". A person who takes an oath is called a caliph, and the object of an oath is called a mahlufun alayh.

Chapter IX of B. Marginoni's work "Hidoya" is called "On transactions in trade, marriage and other areas" [6, p. 453]. In this case, the oath of non-performance of certain works shall not be considered invalid if they were performed by a third party. For example, if a person swears not to engage in trade, not to rent or lease real property, and then appoints a representative to carry out sales and other similar transactions, he will not break his oath. In this case, he is not directly involved in the transaction, as long as he is an interested party. For him, the outcome of the deal is more important than the deal. Except in cases where the person who has vowed not to enter into the agreement wanted to enter into the agreement himself or was not accustomed to concluding the agreement himself due to the fact that he held a position. If a person who has taken an oath seems to be ordering another person to take action in his place, it is

a breach of oath. This is because it is inherent in a person holding a position to enter into sales transactions and other similar transactions through others. He therefore ordered others to enter into a sale and purchase agreement, and if that order was complied with, he would have broken the oath.

Chapter XIII of Hidoya deals with money, lending and debt repayment. Here it is necessary to determine the difference between the time of swearing and the word “fast”. If a person swears, “I will pay my debt to so-and-so quickly”, it is up to a month, and if he goes and says, “I will pay my debt to so-and-so on time”, it is more than a month. Because the time interval of up to a month is a short period, and the interval of more than a month - a long period. Therefore, when people who have not seen each other for a long time meet, one usually tells the other, “We haven’t seen each other for a month” [7, p.454]. In this case, it is important not only to pay the debt, but also to repay it on time. Debt cannot be repaid with money taken from someone.

A person who swears to pay a debt can do so by paying off the debt. If the person who took the oath sells his slave to the lender in exchange for the debt he owes, and the lender agrees to it, then he has fulfilled his oath, because the termination of the debt, i.e. one of the parties fulfilling the debt obligation of the other party, is one way of paying the debt.

In “Hidoya” is the oath to repay the debt is not fulfilled when the lender waives the debt. For example, if the lender waives the debt on the day of the oath, it will not cause the oath to be fulfilled, because in that case the debt

will not be repaid in practice. However, even if the oath-taking promise is not fulfilled, in this case the oath will not exist, but the oath taken will lose its force. This is because the oath taken is limited to the day on which it is mentioned. As long as the lender waives the debt during that day, the person who took the oath will be deprived of the opportunity to fulfill his oath before the expiration of this period. As a result, the oath loses its legal force. This training occupies that months after learning that the declarant academic training clarified on the lining of the Son of Asami, that all the q procedures training see the curriculum, is not considered has broken.

It should also be noted at this point that an oath taken to pay a debt in installments is not considered invalid unless the entire debt is paid in full in this way.

Burhaniddin Marghinony explains the situation as follows: If a borrower swears to pay his debt to the lender in installments, the lender will say to him, “I will take the loan in full, not in installments”, and then in installments unless the whole debt is repaid in this way, the oath shall not be deemed to have been broken, because in this case the oath shall be broken until the debt is paid in full, but in installments.

If the lender asks the debtor to pay a portion of the debt, for example, two hundred dirhams, the debtor replies, “If I have more than a hundred dirhams, let my wife be divorced”, and if he has fifty dirhams in cash at that time, the oath is not broken. Already, at the same time, the debtor wanted to express in his above-mentioned words that he did not have more than a hundred dirhams. One hundred dirhams can cover any part of the face. The oath is not considered invalid

because fifty is one of these parts. The above rule also applies when the debtor says “I have more money than a hundred dirhams” or “I have more than a hundred dirhams” instead of “more than a hundred dirhams” [8, p. 463-65].

As for family members, not everyone has the right to take an oath in the family under Islamic law. Wives and children are not entitled to swear without the consent of their husbands and fathers. If they took an oath without the permission of their husband and father, such an oath is not considered valid. A son who assumes his father's oath without the consent of his father must fulfill this oath, unless the father objects.

According to Islamic law, only an adult and a sane person can take an oath. Oaths made by children, mentally retarded people, as well as oaths taken while intoxicated and under pressure, will not be valid. It is forbidden to swear under strong excitement. Oaths related to doing things that are forbidden or forbidden in Islam are also not considered valid. From the Islamic point of view, it is forbidden to take an oath that is obligatory and mustahab, that is, an obligation that is obligatory (for example, it is not permissible to swear to perform the five obligatory prayers that are obligatory for every Muslim).

Since the name of Allah must be mentioned in the oath, it is forbidden to swear orally or to write the oath on paper. Dumb people are more than that, they can swear by gestures.

In Arabic, the word “kaffarah” means to cover something up nicely and invisibly. In the Shari'ah, however, the financial or physical prayer performed to atone for a sin committed is called “kaffarah”. The

atonement to be paid by a person who swears and fails to do so is, first of all, to feed the stomachs of the ten poor. If he does not want to feed, he will give ten poor people a headdress. If a person who violates the oath does not have the financial means to fulfill these conditions, he must fast for at least three days [9, p. 348-350].

Islam strictly regulates trade and economic relations and debt obligations between Muslims. Lending is considered a good deed in Islamic teaching. It is obligatory for every Muslim to provide material support to the poor, orphans and widows, to help them live a decent life.

It is mentioned a lot in the Qur'an and the hadiths. Muhammad (SAV) said: “Whoever relieves a Muslim of one of the sorrows of this world, Allah will alleviate one of his sorrows on the Day of Resurrection. Whoever alleviates the burden of a tormented Muslim in the world, Allah will alleviate his burden on the Day of Resurrection. Whoever conceals the guilt of a Muslim in this world, Allah will conceal his guilt in this world and in the hereafter. As long as one slave helps another slave, Allah will help him as well” [10, p.314-315].

Imam al-Bukhari and Imam Muslim quoted the Prophet (SAV) as saying: “Muslims should advise one another and be compassionate to one another. For example, if one of the limbs in the body is in pain, the other limbs will be sympathetically awake until the pain goes away”.

According to Islamic teachings, there are difficulties in life. Consequently, there will also be difficulties and worries in the life of a Muslim, such as financial hardship. In such

cases, he will have to ask someone for a loan. “And whoever owes a debt to Allah, he will repay it to him several times” [Sura Baqara, 245].

Muhammad (SAV) said: “A muslim is the brother of a muslim, he does not betray him, he does not lie, he does not deceive” (Imam al-Bukhari, Imam Muslim). “Whoever lends a dirham twice to a believer, one of them will go to charity” (Imam al-Bukhari) [11, p.326].

In Islam, the reward of lending may be superior to the reward of charity. It depends on who, to what person, the charity is given and the condition of the person who is lent. At the same time, it should be noted that if a debt repayment period is set, the debtor must repay it on time, and the lender must not claim the debt before that date. Delaying the repayment of a debt without a reason is a sin in Islam. However, if the debtor has nothing but the house in which he lives and the necessary household items, the lender should not demand repayment of the debt and wait for its return. If a debtor who is unable to repay his debt is able to work, he must repay the debt with his own labor [12, p.314-315].

Islamic law prohibits interest on loans. If the lender stipulates repayment with interest at the time of giving the loan, it is usury, that is, usury, and it is haram. Usury (interest) on money usury is one of the major sins in Islam. It is strictly forbidden in the verses of the Qur'an. Profiting from money further increases the wealth of the rich, leaving the poor more helpless and subjecting them to debt obligations.

“Those who devour usury will not be able to defeat the devil except as a madman. This is because they say that trade is like usury.

However, Allah has made trade lawful and usury unlawful. Whoever stops when a sermon comes from his Lord, the past is for himself and his work is for Allah. Whoever returns to usury is the owner of Hell. They will abide therein forever (Sura Baqara, 275).

“Allah always reduces usury and increases charity. And Allah does not like every disbeliever and sinner (Sura Baqara, 276).

“You who believe! Fear Allah, and give up usury, if you are true believers”. (That is, do not take advantage of what you give to people). (Sura Baqara, 278) [13, p.59-61].

Usury is also condemned in the hadiths. The Prophet (SAV) said: “Allah curses the usurer, the usurer, the witnesses and the scribes.” (Imam Abu Dawud) [14, p.153].

Riba (Arabic usury) means to make money. Before Islam, usury was common among the arabs. While trade and profit-making were widely encouraged in early Islam, it was strictly forbidden to profit from money, and this prohibition was also reflected in the Qur'an. The surahs and verses mentioned above are examples of this. This ban is still applied to banking and finance in Muslim countries.

So, making money is strictly forbidden in Islam. But the borrower can satisfy the lender in a certain way. For example, without using the word ‘usury’, it is permissible to invite a lender as a guest, to give him a gift, to thank him with kind words, and so on. Islam approves of such behavior.

Halal (Arabic free, unbound) - to allow; permissible behaviors that fall within the concepts of fard, mandub, and mubah; is the opposite of forbidden behavior (haram).

Issues of halal are studied by the ruling section of fiqh.

Haram (Arabic forbidden) - consists of things that are clearly forbidden in the Shari'ah, no doubt. According to Islamic teachings, it is haram for a parent to be white, fornication, usury, theft, robbery, bribery, espionage, slander, lying, murder, unjust bloodshed, betrayal, trade fraud, gossip, and slander. These actions are prohibited by Islamic sources and are punishable.

In any case, if the lender uses the interest on the loan for his own needs, including even for religious purposes, it is considered an interest rate and is prohibited. For example, Islamic law prohibits the purchase of clothing and prayers for borrowed money. The lender may instruct its representative to collect the loan amount from the debtor. When a representative receives a loan from a debtor, he becomes a debtor before that lender, and the lender loses the right to demand a loan from the first borrower. If the debtor has pledged part of his property to the creditor, in the event of non-repayment of the loan, the lender has the right under Islamic law to use the collateral on the loan account or deduct the amount of the loan from it.

From the point of view of Islamic law, items or property that can be sold, bought and used can be pledged. The debtor is obliged to pledge a part of his property or a part of the property belonging to another person to the lender with the consent of the owner. The lender and the debtor have no right to sell or gift the pledged property without the consent of the owner. If the lender sells the mortgaged property with the consent of the debtor, the proceeds are also considered collateral. If the borrower does not repay the

loan after the deadline, the lender can use the collateral left with him. But Islamic law advises resolving this issue only in court so that there is no dispute between the lender and the debtor.

Guarantee - (Arabic guarantee) - a type of contract, according to which the guarantor is liable to the lender for the full or partial performance of its obligations [15, p. 118].

If someone wants to be a guarantor and tells the lender that he is willing to take on the obligation to repay the debt in lieu of the debtor, the consent of the debtor is not required if the lender agrees.

The similarity of this phenomenon in Islamic jurisprudence does not exist in the system of western jurisprudence. It is noteworthy that a person who wishes to provide a guarantee and recover a debt from a debtor may or may not inform the debtor, depending on the situation. The debtor, as a rule, may guess who saved himself from the debt or may not know it for the rest of his life. In practice, this is done as follows: any self-satisfied person finds out that one of his acquaintances is unable to repay the debt. In order not to embarrass the debtor, this man secretly comes to the lender from him and extends his debt. This is one of the forms of charitable activity.

A person can assume a guarantee only if the lender is the debtor, the type and amount of the loan is clear. If the lender has gifted the debt to the guarantor, he is not entitled to claim the debt from the debtor.

If a certain person has guaranteed the repayment of a particular debtor's debt, he should not waive his guarantee.

If a person defaults on his debt without the debtor's permission, he has no right to demand anything from the debtor.

If a person decides to repay his debt with the consent of the debtor, he can assume part of that debt. However, if the guarantor has agreed with the lender to repay the debtor's debt with other goods or items, he has no right to demand exactly the same goods or items from the debtor. For example, if the debtor has borrowed flour and the guarantor has repaid the debt with rice, the guarantor has no right to demand rice from the debtor, except in cases where the debtor himself has decided to give him rice.

In Islamic law, giving a guarantee to a lender to repay a debt at any time at his request is called a "guarantee". A person who assumes the obligation under a guarantee is called a "guarantor".

The warranty is void in the following five cases:

- 1) When the guarantor returns the guarantee to the claim;
- 2) Lender - when the debt is repaid to the claimant;
- 3) When the claimant waives his claim;
- 4) In case of death of the debtor;
- 5) When the claimant voluntarily released the guarantor from the guarantor [16, p. 90-92].

Islamic law prohibits hiding a debtor from a lender. The person who commits such a case must hand over the debtor to the lender.

CONCLUSION

In conclusion, the system of rules of Islamic law on oaths, debts and sureties is characterized by the complexity of economic

relations. It is forbidden to swear by anything other than the name of Allah. If he swears in the name of Allah, he will have to do it. If fails to fulfill this oath, he will atone. Islam forbids swearing. As long as a Muslim feels that he will answer every word that comes out of his mouth on the Day of Judgment, he will not lie and will not need to swear. If there is a need to swear, the oath should be taken only in the name of Allah and fulfilled. According to Islamic teachings, when a person is in a difficult financial situation and feels the need for money to meet his basic needs, muslims should rush to his aid and help him as much as possible without usury, fraud and deception. We believe that it is important to study the Islamic norms that are preserved in our country today as a norm, and to convey to our people the true state.

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