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Islamic System Of Human Rights And Types Of Contracts In Islamic Law

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ABSTRACT

The article deals with the application of the norms of Islamic law on obligations and contracts, particularly, principles of close to the moral values of our people, and calls on the parties to contracts to be honest and conscientious in their obligations, timely and proper execution, tolerance and generosity, at the same time some types of contacts in Islamic law such as muzaraba, musharaka and murabah are discussed in detail.

KEYWORDS

Muzaraba, musharaka, murabahha, aqd, rabbul mol, muzarib, factor, muzarabai mutlaq, muzarabai muqayyad, shirkad ul aqd, shirkat ul amval, Islamic finance.

INTRODUCTION

The main function of the state in a civilized society can and should be the protection of human interests, the protection of his rights. In the "man-state" confrontation, the priority should belong to the person. The state and its

powerful structures find justification only if their activity is subordinated to the protection, protection of the person.

THE MAIN PART

Human rights are one of the fundamental concepts of human civilization; it has played and continues to play the role of one of the guiding vectors in the development of society. The best minds have thought about the nature of human rights and their realization. A lot of valuable ideas that have enriched common human practice and the theory of human rights were also put forward by the fuqahas of the Islamic world. More than fourteen centuries ago, Islam gave humanity an ideal code of human rights.

Human rights in Islam are deeply rooted in the belief that Allah and Allah alone is the Creator of the Law and the source of all human rights. In view of their divine origin, no leader or government, no assembly or authority can limit, abolish or violate in any way the human rights given by Allah. Just like nobody can give up on them.

The purpose of human rights is to confer honor and dignity on human beings and to eliminate exploitation, oppression and injustice. Unfortunately, human rights are violated with impunity in many countries of the world, including Islamic ones. These violations are very disturbing and awaken the conscience of a growing number of people around the world.

Within the League of Arab States, the Universal Islamic Declaration and the Arab Charter of Human Rights were adopted in 1981 and 1994, respectively. The Arab Charter proclaims many fundamental human rights and freedoms. In accordance with it, a Committee of Experts was created, which is competent to consider reports of states on

the fulfillment of their obligations. In 1990, the Organization of the Islamic Conference adopted the Cairo Declaration on Human Rights in Islam. In addition to the traditional list of rights, it includes the child's right to be cared for by parents, the state and society; defines the acquisition of knowledge as a duty, and their provision by the state as a duty; prohibits colonialism; hostage-taking, etc. [4, p. 39].

The Universal Islamic Declaration of Human Rights, adopted on September 19, 1981, is the second founding document published by the Islamic Council to mark the beginning of the 15th century of the Islamic era. Adopted at the initiative of the Islamic Council of Europe and read out on September 19, 1981 in Paris, at the UNESCO headquarters by the Secretary General of the Islamic Council Salem Azzam [5. P. 58].

And the first document was the Universal Islamic Declaration, announced at the International Conference dedicated to the Prophet Muhammad (SAW) and his message, held in London from April 12 to 15, 1980.

The Universal Islamic Declaration of Human Rights is based on the Qur'an and Sunnah and was developed by prominent Islamic scholars and fuqaha, as well as representatives of Islamic movements and currents of thought.

The main, organizing principle of the Islamic community (ummah) is a clear distribution of roles and responsibilities in the system of family-related, neighborhood-communal, tribal solidarity, as well as subordination. To violate them means not only to go against the prescriptions of Sharia, but also to lose the atmosphere of everyday communication, so

important for every person, colored by the joys of joint celebrations and festivities, brightened up with empathy in the days of sorrow and, of course, to be without that social protection, which is guaranteed by the customs of mutual assistance and mutual support.

Sharia is laws and regulations that meet the aspirations of all people at all times. The Quran says about this: "Whoever is looking for something other than Islam as a religion will not be accepted, and in his last life he will be among the victims" (Quran, surah "The Imran Family", ayah 85) [1. p.55].

The Quran was sent down in order to guide the souls of people on the righteous path. He turns a person away from stinginess, because with it there is no place for compassion for people. Those who are fortunate enough to achieve the favor of Allah should do the right thing, that is, use the accumulated wealth for good deeds. The Qur'an warns: "Know that your wealth and your children are a test and that Allah has a great reward." (Quran, sura "Prey", ayah 28) [1. p.564].

A miser does not accept not only generosity to others, but also mutual assistance, he is indifferent to everything and everyone. Therefore, Allah expresses his hatred of stinginess. "And let not those who skimp on the favors bestowed by Allah consider that these are the best for them! No, it's worse for them! They will be surrounded by a necklace of what they have stingy on the day of resurrection (Koran, sura "Imran's family", ayah 180). [1. p.58].

It is wisely said in the Holy Book of Muslims about those "who are stingy with respect to

themselves. Indeed, Allah is rich and you are poor. (Quran, Surah "Muhammad", ayah 38). Another extreme is no less dangerous. "The truly faithful are those who, three, do not squander and do not skimp, but are equal between these" (Koran, Surah "Discrimination", ayah 67) [1. p.523].

From this we can conclude: to be on the path of Allah means not to skimp on expenses for the sake of social goals and needs, but at the same time not to sink oneself to ruin. Allah calls the unjust beneficiaries "monsters and criminals." Of course, it is not the wealth itself that is the reason, but the low spiritual, moral level of citizens who have become rich too quickly, and sometimes unjustly.

Islam is called, following the Creator, to guard against excesses of its flock: "If Allah had widened the lot of his slaves, they would have rebelled on Earth, but He brings down as much as He wishes: after all, He knows about His slaves, seeing" (Koran, surah "Council", ayah 27) [1. p.554].

The Koran reflects general human principles: the call to work hard, not to encroach on other people's property, not to steal, not to offend orphans, in no case to touch their property. Property law is drafted in sharia with amazing diligence and wit. The inheritance law, set out in a separate study - "Ilm-ul-faraiz", has been especially developed.

The Qur'an is the first most important source of Sharia: about 500 verses have the meaning of legal norms. The Qur'an says: "To Allah belongs what is in heaven and on earth! If you find out what is in your souls, or hide it, Allah will exact a calculation from you. And He will forgive whomever He wishes and punish

whoever He wishes: verily, Allah is powerful over everything! " (Quran surah "Cow", ayat 284) [1. p. 35].

Sunnah is an example of the life of the Prophet Muhammad (SAW). Compared to other virtues, Islam especially protects the honor of a person. Muhammad (SAW) called for good qualities in his hadith. For example, he said: "A Muslim is one who does not harm Muslims with his tongue and hand. And the otupnik is the one who does not avoid the prohibitions of the Almighty". (Hadith al-Bukhari).

In another hadith he said: "Do not envy each other, do not be angry with each other, do not inquire into each other's actions. Do not interfere with each other's trade, but be brothers and servants of God (Hadith Al-Muslim).

One of the hadiths collected by at-Termezi says: "Whoever defends the honor of a Muslim, Allah protects him from the flames of hell on the Day of Judgment."

The Prophet Muhammad (SAW), being himself a model of moral perfection, taught people not only not to offend others with an unjust word or assessment, not to mention direct attempts on their honor, dignity and life, but he warned that any act offensive to another would certainly humiliate and the offender himself, takes away his own dignity and honor.

In the life, deeds and words of the Prophet of Allah, every Muslim, every person of goodwill can always find wonderful examples that open for every perceiving heart, for every listening mind, simple and obvious ways to truth, to a righteous and sinless life, to the

protection and realization of rights and human freedoms [2. p. 17].

The Universal Islamic Declaration of Human Rights, based on the Qur'an and Sunnah, gives a powerful impetus to the Muslim peoples in the 21st century to stand firmly, with courage and determination to defend the rights given by Allah.

Muslims of all countries - as servants of Allah and members of the worldwide brotherhood of Islam - are eager to ensure inviolable and inalienable human rights. First of all, the right to life, for human life is sacred and inviolable, and every effort should be made to protect it.

Any person and any nation has an inalienable right to freedom in all its forms: political, economic, physical, cultural and must have the right to fight in all available ways against the violation or abolition of this right [11. P. 214].

In our country, much is being done to strengthen the legal status of the individual, to protect his rights and freedoms. In the minds of every citizen of Uzbekistan, the idea is gradually being laid that the rights and freedoms of every individual, the honor and dignity of every person are a universal human value, which must be guaranteed, developed and cherished.

In Uzbekistan, as in other Islamic countries, the desire to comprehend the fundamental values of Islam in the spirit of universal moral ideals is growing; in the spirit of openness of the Muslim world, constructive dialogue with non-Muslims. And in these conditions, in our opinion, we are obliged to uphold in every possible way the idea of civilized unity and spirituality, as well as religious tolerance, the desire to overcome religious isolation and

alienation, the prevention of persecution, discrimination, or infringement of national dignity and civil rights [7. P. 302].

Today Islamic law continues to play an important role in the legal development, politics and ideology of the East. Freedom of private enterprise in Islamic society as an important economic freedom.

Islamic law considers it necessary to support contractual obligations and to disclose information. This task is designed to reduce the risk of ignorance and deception. Islam places great emphasis on the protection of property rights, ensures equality between the rights of the state, society, and citizens, and strictly prohibits encroachment on the right to property. The original purpose of the agreements is to satisfy the legitimate needs of the people in unity. In Arabic, the contract is expressed by the word «aqd» and translated to Uzbek as «bind».

There are several types of contracts in Islamic law, and they are unique. It is noteworthy that Islam is distinguished by its reliance on divine sources, despite its coexistence with world legal systems such as the anglo-saxon or romano-german legal systems. In this sense, the treaties in islam are also governed by immutable rules. Here are some of them [12. P.142].

Muzaraba is an agreement between two people, according to which the owner of the money gives his cash to the other party to convert this money, the labor of the other party, the amount of this money due to the movement distributed over. The person who gives his money in the contract of contract is the rabbul mol (owner of the money) and the

other party who takes the money is called the profit made as a result of the labor of the muzarib or factor. The factor carries out the following three stages - when the property or money passes into the hand of the factor, it becomes a deposit, - the factor becomes a representative from the beginning of the process- becomes a partner when it benefits. According to Islamic law, muzaraba is a variable obligation and can be canceled at the request of one of the parties. As soon as the contract of terminations is terminated, the parties to the contract shall settle accounts with each other [4. P.520].

Mushoraka - is a partnership agreement. A contractual partnership between two or more parties under Islamic law. Each participant contributes a certain amount of money to the partnership, which allows each of them to dispose of the partnerships assets. One of the most common partnership agreements in Islamic law is the company [4. P.384].

According to the contract, two or more individuals combine their deposits into a common project and form a company based on the equity participation rule.

Under Islamic law, a partnership contract can be terminal contract and open-end contract. An open-end contract may be terminated at any time by any of the partners providing partners notified. In Muslim countries, partnership contracts are used to replenish a company's working capital or to engage in joint investment activities, such as real estate or agriculture.

Murobaha is when a bank or other investor buys an item or item needed by the customer from the seller and sells it to the customer by

extending the payment period. This contract represents the sale by placing a certain agreed premium on the price of the purchased goods. The main difference of Murabaha from traditional lending is that the investor is required to be its sole owner with all the risks arising from the resold property [7.p.455].

Murobaha in its original Islamic content is a simple sale. The Murabaha contract differs in the followings:

- Relatively short-term, that is the capital is not so large returning by time as a rule;
- Reduction of risks due to ensuring guarantee of return of capital;
- Low costs for the bank;
- A wide basket of tangible assets that can be the subject of the contract, which, in turn, provides great opportunities for expanding the customer base;
- The relative similarity of this method of Islamic financing with consumer loans in traditional commercial financing.

CONCLUSION

In conclusion one can say that improvement of civil law in Uzbekistan is a continuous process, which should seek to use the norms of Islamic law on obligations and treaties, especially the principles that are close to the spiritual values of our people.

These principles and ideas help to encourage the parties to the contracts to be honest and conscientious in their obligations, to fulfill them in a timely manner, and if necessary, to be tolerant and generous.

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