

The Rationale in the Legitimacy of Public Financial Transactions that Carry the Meaning of Exchange and Ownership in Islamic Fiqh

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INTRODUCTION

Praise be to Allah, Lord of the worlds, and prayers and peace be upon our prophet Muhammad and his family and companions:

For those who contemplate on the text of the holy Qur'an and the noble Prophet's Sunnah realize with certainty that they came to achieve the interests of people and ward off evil from them This realization takes place through secrets and governance and the purposes that the Islamic Sharia came in its rulings and legislations, whether they are in acts of worship or transactions and even in the behavior and ethics of humans.

Therefore, we want to turn the consideration of divine books, statutory constitutions, or human laws we can find a book, constitution, or law that fulfilled the interests of people and present the rationale of its legislation just like The holy Qur'an and the Sunnah of the Prophet, and to highlight something from this bright side of this law, we will discuss in this research a topic that has a link with the essence of this idea entitled (Rationale in the legitimacy of public financial transactions that carry the meaning of exchange and ownership in Islamic fiqh).

Research problem

The rationale of financial transactions legislation and its fiqh rulings cannot be limited and made static on what was diagnosed by it because the context and situations are different, and the means of laws, its methods and patterns change and develop. Thus, unless we are based on the rationale of its legislation in the first centuries, whether in the solution or the forbidden, we may have found it today in the developments of contemporary financial transactions.

Objectives of the study

To highlight the general financial transactions that bear the meaning of exchange, ownership and the rationale described in the books of fiqh.

Research Methodology

The researchers took the inductive method based on what the Al-fuqaha' mentioned in their writings, and the nature of the research required that it be in two subjects, the first of which was defining the title, and in the Second, we dealt with a number of financial transactions, which we divided according to the content and description of these transactions. As such, the research is technically and scientifically proportionate, so we made a study of the transactions that bear the meaning of exchange and ownership, and a detailed statement of this research plan comes: The first topic: the definition of the content of the research, and includes two requirements.

The first requirement: the definition of rationale

The second requirement: the definition of financial transactions.

The second topic: Financial transactions that bear the meaning of exchange and ownership, and include seven demands:

The first concept: sale.

The second concept: the loan.

The third concept: leasing.

The Fourth concept: royalty.

The Fifth concept: the company.

The sixth concept: gift.

The seventh concept: conciliation.

The first topic

Identification of the research title and the first two concepts

The first concept: defining rationale, and it includes two purposes:

The first point: rationale in language.

Rationale comes in the sense of knowledge and fiqh (العرف), but its significance in this research is: Rationale in the sense of purpose, target, or intention of financial transactions.

The second point: definition of rationale idiomatically:

It is what the legitimacy entails from bringing an interest or stopping a corruption, or it is: the interest that is the one who establish laws intends to legislate the rule to achieve or supplement it, or the corruption that the law establisher intended to legislate the ruling to stop or reduce it, such as cutting off the hand of the thief: if theft is due to it, then the rationale of legislating this law: is protecting peoples' money (2).

The second concept: the definition of financial transactions and includes:

First: Defining financial transactions in an individual way:

Transactions in language: the collection of a transaction, which is taken from the work and is a general word for every action (3).

Transactions idiomatically: are the legal provisions regulating the treatment of people in this world (4). Whether related to money or women where IbnAbdin said: And transactions five: financial compensations, intercourse, litigations, trusts and estates (5).

Financial in language: it is relative to money and it is owned by all things (6)

Financial idiomatically: Al-fuqaha' defined money with several different definitions that are all related to each other.

Their meanings include:

According to AL-Hanafya: "Whatever has value, and it can be saved for the time in need" (7)

Al-Hanabi defined it as: "What has utter benefit, or its acquisition is saved without need." And Maliki and Shafi'i defined it with definitions close to the definition of the Hanbali.

Second: Defining financial transactions on the way of formation.

Financial dealings idiomatically: Al-fuqaha' defined financial transactions with different definitions, including: Sharia provisions related to world affairs such as buying and selling, renting, mortgage, etc. (9)

1) Mukhtar As-Sahih, p. 87, article (judgment).

(2) Ijtihad fi al-hukm al-shariah, a genuine, applied, and original study, p. 552

(3) 68, Article (Work). / (See: Lisan Al-Arab, 3

(4) The Dictionary of the Language of the Jurists, p. 437

(5.87 /) The confused response to al-Durr al-Mukhtar, 1

(6) 635, Article (Mall). / (Lisan Al-Arab, 11

(7) ,288 / (the fragrant sea, 5

(8) / (Ultimate wills, 2

(9) The Contemporary Financial Transactions of the Shaykh Dr. Khalid bin Ali Al-Mushaqeh, p.

The second topic

Financial transactions that carry the meaning of exchange and ownership

It includes seven demands:

The first requirement: the sale.

Trade is a useful intermediary between industry and consumer. It then promotes and markets the goods. Then, improve and facilitate access to them together, which is a service to both parties. It is also a benefit through on the skill and effort and at the same time is exposed to profit and loss.

It includes sections:

The first section: the definition of selling in linguistically and idiomatically:

Selling idiomatically: the meaning of selling has many different terminologies such as exchange.

Idiomatically according to Al-Fuqaga':

Al-Hanafya defined it as "Swapping purified money with purified money, thus, it is swapping money for benefits."

Al-Malikiyah defined as: "a contract of exchange for no benefit or no pleasure)"

Al-Shafi'iyah said: "money for money in particular."

And Hanbali define it: it is "exchange of money - even if it is in respect of expense - or an permissible benefit like the house pass, for example, one of them on perpetuation is riba and a loan. "Some of them defined it as:" exchanging money for money for property ownership

The second concept: Evidence of the legality of the sale.

The fuqaha 'agreed that the sale is legal as for the permissibility of the Qur'an and Sunnah and consensus and reasonable, which is (the rationale of it).

First: The Holy Qur'an:

The holy Qur'an mentioned that it is expressly permissible to sell all kinds of things, unless the evidence indicates that it is forbidden. In another verse of the holy Qur'an: Do not use the forbidden reasons for earning money. However, use the legitimate resources for earning money that is between a seller and the buyer, do so to collect the money"

Second: The Sunnah:

The saying of the Prophet # 8: (Moasher merchants, Satan and unrighteousness attend the sale, so they forbid you to sell by charity)

Significance:

Given the fact that many traders fall into swearing, and lying, the Prophet instructed the merchants to believe that they include charity to their sale, as it stops the wrath of the Lord Almighty.

Third: The consensus: The Muslims agreed on the permissibility and legitimacy of the sale without disagreement.

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- (1).11 / (Characteristics of the method of God in the shadows of the Qur'an, 1
- (2) .188 / (Definitions, p. 47), and that the text of the jurists, p. 82, Dustur al-Ulama, 1
- (3).3 / See: the choice for the reason of the chosen, 2
- (4) .225 / The talents of a generation, a brief explanation of a defect, 4
- (5) .2 / The best demands in explaining the student's kindergarten, 2
- (6). 56/474, and Scouts of the Mask, 2 / (Al-Mughn, 3)
- (7) (Surat Al-Baqara: The Verse) 285
- (8) (An-Nisa ': The verse) 27
- (9) 185/235, and the interpretation of the generous, the most gracious, the interpretation of the words of Manan, by Al-Saadi, 1 / (See: the interpretation of IbnKathir, 21656 / And the flower of tassels, 3
- (10) It was included by Al-Tirmidhi in his Sunnah, Chapters on Sales, chapter on what came in the merchants, and the name of the Prophet 546 بر with the number / who is, 31247), from the hadith of QasibnAbGhazah, and Al-Tirmidhi said: A good and true hadith.

The third concept: The rationale of selling.

There are many phrases among the Fuqaha' about the rationale of selling all of which flow into the reason that is needed for where it has great interests. The lives of people are based only on it, because the peoples' needs are different. Thus peoples' needs are related to what other people where they do not pay it only for something in return. Thus, its legitimacy was for peoples' interests through legitimate sale that is the legitimate way to earn it. So that people leave illegitimate ways of earning money that are contrary to Islamic law, such as looting, theft, hateful tricks and fighting.

The second concept: the loan.

The loan is a section of social solidarity that Allah Almighty has legitimized and urged in many texts in his book; To establish the principle of cooperation and solidarity among all Muslims; And strengthening relationships and the links between them. So, to rid societies of the phenomenon of usury prevalent countries and seeking remuneration and reward From Allah Almighty to whoever assists and expands his brother.

It includes three sections:

The first section: Definition of the loan in language and terminology.

The loan in language: from the story of Al-Kisr Ibn Al-Skait, Al-Jawhari and others

On the story of Kassani, it was called a loan because it is a piece of money from the lender.

And idiomatically: the Hanafya define it: "What you give from what you receive." In other words: "Contract for paying a similar money to someone else to return it".

According to the Malikis who define it by saying: "Giving something such as an animal or a counterpart offer to be returned by the person in need without benefits to the giver.

According to the Shafi'i: "It is the giving of something to be returned."

Al-Hanbali said: "it is giving money to someone who benefits from it and repay it.

The second section: Evidence of the legality of the loan.

There is no disagreement among the Fuqaha' that the principal in the loan is the right of the lender because it delivers the benefit to the borrower and eliminates his need and freeing his distress. The legitimacy of the loan in the Qur'an, Sunnah, and the consensus of Al-Fuqaha' and the rationale.

First: the book.

The holy Qur'an verses mentioned the term loan and its derived meanings in relation to peoples' benefits. The meaning of the verses: These verses used the term loan and what was derived from it in the meanings of others benefit, righteousness and benevolence towards people. Especially, kindness to those in need. Allah Almighty has recommended giving loans to the poor with, and urged for charity; Allah Almighty - Glorified and Exalted be He – said that the reasons for being in the public interest, including relieving the agony of the poor which is weak in the hearts of many people. Thus, Allah wants to stimulate souls with this analogy and called it a loan."

Second: The Sunnah:

Abu Rafeh narrated that the Messenger of Allah had borrowed from a man a camel, and when he received camels upon charity, he ordered Abu Rafeh to return the camel to the lender Abu Rafeh returned to him and said: I could not find a similar camel. However, the prophet said: ((Give it to him; the best people those who returns their loans))

Significance of the hadith: In this hadith is an indication that it is permissible to borrow and loan but rather the Prophet needed when he needed to.

The prophet said: ((No Muslim lends a Muslim a loan twice, it is like a one-time charity)).

Significance of the hadith: It indicates the permissibility and legitimacy of the loan; and it contains evidence that the believer is rewarded for doing the righteousness and goodness.

Third: Consensus: Muslims are unanimous in their permissibility of the loan.

The third section: The rationale of the loan.

Sharia allowed borrowing because people needed it; Because of its great rationale and benefits; the most benefit, habituation of human being to give and lend; And to remove the seeds of evil, stinginess and miserliness from people. It also highlights a principle of brotherhood which should prevail in the Muslim community and requires the necessity of cooperation between Muslims to solve their problems. It also fulfills the principle of solidarity and cooperation that should arise between believers and the borrowers; Because of the kindness of people to console the needy and also facilitating people's affairs, to relieve their anguish. A Muslim loaner removes destitution and need from his brother Muslim. At the same time, his money will be returned to him and he will receive the reward of the Hereafter, and has the satisfaction of Allah Almighty which leads to the cultivation of love and intimacy in the hearts. "

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- (1) Jurisprudence of the Muslim Merchant, p. 226
- (2) Al-Mughn, 6/3, and Mughn Al-Muhtaj, 2/ (See: Al-Banna, explaining the gift,
- (3) 114, Talabat al-Jalil, - / 334, and al-Bab fi Sharh al-Kitab, 1/328 (See: al-Banna, Explaining the Gift, 773/8, the ranks of consensus, 1/228/4, and the singer, 6
- (4) Liberation of the expression al-Tambah, p. 173
- (5) 161 /) Response of the confused to Al-Durr Al-Mukhtar, 5
- (6) 27/144, and Maghn al-Muhtaj, 3 / (Asna al-Muttalib, 2).
- (7) 146 /) Persuasion the Jurisprudence of Imam Ahmad, 2
- (8) (Surat Al-Baqara: from the verse) 245

The third concept: leasing

The lease contract is one of the most important contracts in Islamic law that was dealt with in the ancient books of Fuqaha' and recently, which has received great attention and through which members of society can invest their money and satisfy their desires.

The topic of leasing has three sections:

The first section: definition of leasing linguistically and idiomatically:

Learning in language means: "The name of the rent is renting the employee"

And idiomatically: There are several definitions by fuqaha' for leasing; all were similar in purpose and goals. Thus, Al-Hanfya as a contract on benefits with something in return.

Al-Malikiyah said: "Owning the benefits of something is permissible for a period of known with amendment"

Likewise said Hanbala.

And Shafi'i defined it as: "A contract for a known intended benefit that can be made and permitted by amendment.

The second section: Evidence of the legality of the lease.

The basic principle is that it is legal as a basis for evidence, and the evidence for that is the Qur'an, Sunnah and consensus among Muslim religious scholars

First: the Qur'an.

In the holy Qur'an verse, there is evidence of the legality of leasing where Allah Almighty commanded to give the wife the reward for breastfeeding; the Almighty authorized the lease on breastfeeding, and if it is permitted, it is permissible for the like in meaning.

Second: the Sunnah.

According to Abdullah bin Omar, he said: The Messenger of Allah said: ((Give the employee his rights before his sweat dries)

Significance of the hadiths: It contains evidence that the order to give remuneration because they have to give the employee his wages and inform him of his amount.

Third: Consensus.

The nation has unanimously agreed to work on leasing since the era of the Companions until now.

The third section: The rationale of leasing.

Leasing has created a way to make it easier for people to get the benefits they want that they do of have. Thus, the need for benefits is the same as the need for notables. The poor need the rich's money and the rich needs the poor work and taking into account the need of people which is a basic principle of contracts. It is then prescribed when the need arises; and it corresponds to the origin of Sharia!

(1) (Surat Al-Ma'idah: from verse 12)

(2) (Surat Al-Taghaban: The Verse) 18

(3) /26, Tafsir / 242, interpretation of Fateh al-Qadr, for Shakan, 2 / (See: Al-Jami 'for the provisions of the Qur'an, for al-Jassas, 3211 / El Marag, 2

(4) Collected by Muslim (No. 1224/1644) 117 / district, 3

(5) (712 No.

(6) Al-Bass Rai: "An chain of transmission is weak." See: The Bottle Lamp FaïdZaidIbnMajah, 3

(7) 212 / (See: SharhSahih Al-Bukhari, by IbnBattal, 6

(8) 224, the singer / 36, and Nihayat al-Muhtaj and Haashiyat al-Shibraml on it, 4 / (Tuhfat al-Muhtaj) and Haashiyat al-Sharwan, 5312/235, and the mask of the mask 3 / and the singer by IbnQudamah 4

(9) 312 / 1754, Kashshaaf al-Maska 3/427, and later, and the creator 4 / (Al-Mughan, 6

Fourth concept: payment (wage) .

It is considered one of the permissible contracts that one of the contracting parties may break it and may be on a known such as wall construction or unknown as drilling a water well and the like. It is permissible in a known period or unknown. It is characterized by being applicable in various eras and places within the rules and controls that Islam has established it for dealing based on the purposes of Islamic Sharia. Among these contracts is the contract of payment. It is considered one of the legitimate contracts by the majority of scholars, except the Hanafis.

This topic includes three sections:

The first section is the definition of payment (wage) in language and idiomatically:

Payment in language: it is the payment given for someone does something and which is more general than the fare in meaning.

Al-Malikiyah defined is as: "The man made the man a known reward and does not criticize him for working for him In a known or unknown time, which is of benefit to the person making the offer regarding this, and has to finish the assigned work, or if it is not completed, has nothing for it, which is of no use to the one who makes it, except after its completion.

Al-Shafi'iya said: "a compensation commitment that is known to a specific or unknown job, which is difficult to work.

Hanbali defined it as: "naming a known money to someone who works for the person making the work and is permissible, or whoever works for him for a period, even if unknown.

As for the Hanafis: they went against the illegality of payment for work. Some see it as a bad employing. Some see it as a false rental. Except in one case in which Al-Hanifiya considered it favorable which is (making the servant a slave).

The second section: Evidence of the legitimacy of payment for work.

It is known that is not permissible, but rather not correct, because of the deceit that is included in its contract. However, it has become permissible because of the following evidence in Qur'an, Sunnah and (what is reasonable).

First: The Qur'an:

Some holy verses in Qur'an talked about the renting a camel for carrying luggage in return for some money. Thus, paying for some services is narrated in the holy Qur'an.

Second: The Sunnah:

According to Abu Saeed Al-Khudri: that some of the companions of the Messenger of Allah, all of them came into an Arab neighborhood, while they are there, when the master of these people stung, they said: Are there any does Ruqayya among you? They said: why, we do it only with payment. Thus, they offered them a herd of cattle so a man read from the Qur'an and so they offered them a cattle but they said: We do not take it until we ask the prophet. When they did, the prophet smiled and said take it.

The meaning of the hadith: It indicates the permissibility of payment and its termination, and it indicated a stipulation

The third section: The rationale of payment.

The rationale of its legitimacy is that there is a need to obtain this from someone who does it to make it obligate. It is embarked on a realization of this interest and in response to that need. Refund of lost money; or business that does the person who makes it is able to do it and cannot find someone to volunteer to work on it.

(1) (Al-Maghrib in the Arab League, p. 24

(2) 257/234, Al-Jawhara Al-Nara, 2/ (See: The Gift, 3

(3) 2 / (The Great Commentary, 4

(4) 546 / (See: The Mask Scout, 3

(5) 437 / (Mughn al-Muhtaj, 3

(6) (Al-Talaq Surah: verse) 6

(7) 564/43, and Mafat Hah al-Ghab, by al-Razi, 34 / (al-Umm, al-Shafi, 5

(8) 718 No. (2443), and Albuhaq F / (Collected by IbnMajah in his Sunnah, Book of mortgages, chapter on the wages of wages, 2)

(9) 177 / Al-Sunan Al-Kubra, Book of Rent, chapter It is not permissible to rent until it is known, and the fee is known, 6No. (11654) from an early accident □ .

(10) 886 No. (2114 /), compiled by Al-Bukhari, in the authenticity of the book, the book of sales, chapter on the sin of the one who sold free, 2(1773/14) The Mishkat Al-Musabat Al-Musabah Al-Musabh Al-Musabh Al-Musabh explained, 5

(11) 5/3, Al-Maghn, 7/5, Al-Majmoo 'Sharh Al-Muhadhdhab, 15/183, Bidaya Al-Mujtahid, 4 / (Al-Badaa'.

Fifth requirement: Partnership

The legitimate partnership exists with the presence of mutual consent between two or more that each of them pays known amount of money. The, they receive profits and earnings on the percent of the money that each one has participated in. If there is a mutual consent about equality in profit, then it is permissible and justified, even if the money of one of them is little and that of others is a lot, and there is no such thing as wrong in Islamic Law. It is a trade of tolerance and forgiveness of kindness.

It includes three sections:

The first section: Definition of the partnership in language and idiom:

Partnership in language: is partnership, whether: mixing with the two partners.

And idiomatically: The terms of the fuqaha' differed in the definition of the partnership idiomatically:

The Hanafi said: "a contract between the participants about the money they give and in the profit.

Al-Malikiyah defined it as: so it is for them to act with themselves.

Al-Shafi'i said: It is: "The right to something in two and more which is proven on the side of clarity.

As for the Hanbalis, they said: "partnership is the meeting in merit or disposition.

The most appropriate definition is given by Hanifis, because it is a contract that is based on the money the partnership use and the profit which is the result of operating that money.

(1) 66 / (Rulings of the Qur'an, by Ibn al-Arab, 3

(2) 2166 No. (5444 /) Collected by al-Bukhari in Sahih Haih, Kitab al-Tibb, chapter on the promotion of the opening of the book, 5

(3) 377/141, Irshad Al-Sari to explain Sahih Al-Bukhari, 7 / (See: Milestones of Sunan, for Al-Khattab, 3

(4) 221/57, Haashiyat al-Bujrim on the line, 3/281 onwards, and granting al-Jalil, 7 / (See: al-Muhadhdhab, 2

(5) Al-WajzFiqh Al-SunnahFiqh and Al-Kitab Al-Izz, p

(6) 447, Article (Shirk). / (Lisan al-Arab, 14

(7) 347 /) The great commentary with a retinue of Desouq, 3

(8) 221/251, and Maghn al-Muhtaj, 3 / (Asna al-Muttalib, 2(14.3) Al-Mughn, 5

(9) 167) (See: Evidence-Based Ammunition, for this purpose,

The second section: the evidence of legitimacy of partnership in Sharia'

The holy Qur'an:

Some holy verses in Qur'an talked about establishing or working as partners; The partnership here requires equality; But this is to ownership of partnership that is the lowest; Then David's saying of his law

that no continuation is required, unlike the rule of the Hanafi in the law of those before us: perhaps he was lenient in it, because it is a premium in the response.

Second: The Sunnah:

There are many hadiths talked about partnerships including:

- What was narrated by Abu Hurairah? On the authority of the Prophet, said: ((Allah Almighty says: I am the third of the two partners. None of them betrays his partner, so if he does, he would leave them.
- What Al-Baraa Bin Azib narrated: He and Zaid bin Arqam, may God be pleased with him, were partners. "So they bought silver that was criticized and bad. So the Messenger of God 1, pbuh, told them: ((If what was in criticism, give it back; what was

Significance of the two hadeeths: The two hadeeth indicate that legitimate types of companies that are agreed upon are permissible the two participants, may Allah bless them with their wealth and trade, as long as they are truthful and honest averted from honesty and fairness for honesty, the blessing is removed from their trade and the subsidy withheld from them is Conflict, strife, failure and loss!

Third: Consensus: There was dealings between Muslims in all ages over this contract without denial from anyone, that was unanimous. "

The third section: The rationale of partnership.

Enabling people to cooperate in investing and developing their money and setting up major industrial projects and the commercial and agricultural one that is impossible for one to make independence and to be one of the advantages of Islam and a reason for the blessing and growth if it is based on honesty and trust.

(1) (Surat An-Nisa ': verse 12)

(2) (Surah Sad: Verse) 25

(3) 152/85, and commentary on Fath al-Qadr, 6 / (See: Ikhlas al-Naawi in Irshad al-Ghawi, 2

(4) 256 No. (3373), and Al-Hakim F / (Collected by Abu Dawud in his Sunan, Book of Sales, Chapter: F-Company, 364 No. (2322), and he said on his authority: "This is a hadith, the chain of transmission is valid and did not exclude it." Al Dhahab agreed with him.

(5) 64 No. (17348), according to Ibn al-Malqin: This is a true chain of transmission, / (Imam Ahmad provided it in his Musnad, 32).826 / WS is a messenger, "Al-Badr Al-Munir, 6

(6) 112/71, and the joy of the hearts of the righteous and the grace of the last in the explanation of the collections of news, 1 / (See: Pathways to Peace, 2112/1

(7) /381, and Al-Singer, 5 / (Al-Banna, 8)

(8) 252/62, Asna al-Muttalib, 2/152, and Al-Majmoo ', 14 / (See: Explanation of the Opening of Destiny, 6

The Sixth concept: gift:

The gift includes the gift and charity; The convergence of its meanings, so it was intended to request closeness to Allah Almighty by giving the poor. It is charity; If it is meant to woo others, it is a gift.

It includes three sections:

The first section: Definition of the gift in language and idiom:

The gift in language: "the gift free of money and purposes"

And idiomatically: The terms of the Fuqaha' differed in the meaning of the gift:

The Hanafi defined it as: "Ownership of the eye without compensation." And perfection increased bin Hammam (for the case) In order to remove the will, "it is noted that this definition includes ownership by giving charity, endowment and gift.

Al-Malikiyah said: It is "titling without compensation, and the reward of the Hereafter is charity!"

Definition explanation:

First: The possession by gift includes the same thing. That is, the same; It also includes its benefits.

Second: In life or the case: the will is issued, because ownership will prove to the testator after death of the testator.

Third: Without compensation: Contracts for compensation come out "like selling" and leasing.

Fourth: The basic principle of the gift is that it is donated without compensation, in exchange for it, because the donor desires the satisfaction of Allah.

In this case, it is considered a donation starting and ending.

The second section: Evidence of the legality of the gift:

The gift is lawful, and a representative attested by Qur'an. Sunnah, consensus and reason.

First: the Qur'an.

The holy Qur'an in some verses indicated that if husbands endowed something of a dowry and it was souls are satisfied with that gift; gaining good is permissible. There is nothing wrong with eating it and taking it. It is not permissible for the husband. Likewise, to dispose of any of his assets unless she has given permission to do so as well as the permissibility of giving to the needy and others, giving the needy a handout and give others a gift.

(1) 743, Article (Wahb). / (Lisan al-Arab, 1

(2) 47 /) Jalal Talents, 6

(3) 557 /) Mughn al-Muhtaj, 3

(4) 41 /) Al-Mughn, 6

(5) 537/36, and Maghn al-Muhtaj, 2 / (See: in the language of the tracts of al-Sawi, 4

(6) (Surat An-Nisa ': verse) 4

(7) (Surat Al-Baqara: The Verse) 188

(8) 134/1578, Waf Shadows of the Qur'an, 1/25, and Zahrat al-Tafasir, 3/3) (See: Tafsir al-Qurtub,

Second: The Sunnah:

The hadiths regarding the legality of the gift are many; some of them come during the search; Such as:

- What Al-Bukhari and Muslim narrated from Aisha, May Allah be pleased with her, she said: there were neighbors to the prophet had cattle and were giving poultry to him.

- Abu Hurairah said that the Prophet, peace be upon him, said: ((Muslim women, do not despise a neighbor even if they hurt a cattle))

The meaning of the hadiths indicate the desirability and legitimacy of the gift. It is more desirable for relatives better rewarded. It tightens love and kindness, righteousness and cooperation among people. Urging closer bonds of love and everything that strengthens the bonds of closeness between individuals and achieve encouragement and intimacy between people! ")

Third: Consensus.

The Muslim Fuqaha' of all ages are unanimously in favor of the gift of all kinds because it is part of cooperation.

The third section: The rationale of the gift.

Gift was legitimized because it brings hearts together and filter the vices and document the bonds of love that strengthens the bonds of closeness between individuals. It achieves friendship and intimacy between people.

The seventh concept: conciliation.

The peace contract is one of the most important contracts in Islamic fiqh. It occupies the top place among all contracts because it is not only separates opponents and resolves disputes; It even eliminates all causes of hatred. Besides, it blocks the way for anyone who tries to seek corruption between people.

It includes three sections:

The first section: Definition of conciliation in language and terminology.

In language: from reconciliation; In other words, pacifism, which is not in dispute.

And idiomatically: The Fuqaha' have defined peace with definitions that share their meaning. All are aimed at overcoming disagreement and eliminating disputes and that reconciling the two opponents; And the rule for "Intention is in contracts for purposes and meanings, not for words and constructions.

The Hanafis said: "A contract was held to lift the dispute and cut the dispute by mutual consent"

Ibn Arafa said from Al-Malikiyah: "Reconciliation is a transfer of a right or compensation lawsuit to file a dispute or the fear of making it.

And according to the Shafi'i: a contract through which stops disputes.

In other words, in the Hanbali: "A contract that leads to reform between the two different groups.

By definition, it is clear to us that reconciliation is one of the legitimate contracts and the effective way to decipher conflicts and disputes that may occur between the two parties.

(1) (748 No. (2427 /)), compiled by Al-Bukhari, in the authenticity of the book, the gift book, chapter: Its merits and the incitement to it, 2

(2) 782/2273 No. (27 / Muslim) Correctly, The Book of Zuhd and Al-Raqa ', 4(1434/814 No. (3) 74 /) and Muslim in the authenticity of it, The Book of Zakat, Chapter: Encouraging Charity, even if by little, 2

- (4) 747 No. (2427 /) Collected by Al-Bukhari in Sahih Haih, The Gift Book, Chapter: Less than Grant, 2
- (5) 5. 113 /) Al-Ijmaa, by Ibn al-Mundhir, 1
- (6) .353/557, Majma 'Al-Anhar, 2/48, and later, and Maghn Al-Muhtaj, 3 / (See: Al-Masbat, for ferns, 12
- (7) See: The Students' Students, 144
- (8) See: Explanation of the Rules of Jurisprudence, by Zarqa, p. 55
- (9) See: Al-Banna, Explaining the Gift, 14
- (10) 87 /) Jalal Talents, 5
- (11) 161/214, and Maghn al-Muhtaj, 3 / (See: Asna al-Muttalib, 2

The second section: Evidence of the legality of reconciliation:

Reconciliation between people is referred to it through its legitimacy was proven by the Qur'an, Sunnah and consensus and reason.

First: from The Qur'an.

The significance of reconciliation in the holy Qur'an: It is mentioned by verse to confirm that believers must take care of their unity and their unification by adhering to the religion of Allah Almighty who commands them about the factors of unity of love, familiarity, and cooperation and forbid them for reasons disagreements, disputes and dispersion of backbiting, gossip, envy and perseverance.

There is an indication that Allah Almighty commanded the rulers and their representatives, governors, judges, and husbands and qualified judgments to search for the cause of the dispute and the dispute between them, and then judge what they see suitable for reconciliation between them.

Second: From the Sunnah.

What was narrated by Kathir bin Abdullah bin Amr bin Auf al-Muzni; From his father; From his grandfather; That the prophet said: "Muslims are subject to different situation except one to forbid by law what is legitimate or legitimate what is forbidden").

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- (1) (Surat Al-Imran: from the verse) 143
- (2) 537 /) Surat An-Nisa ': verse, 1
- (3) (An-Nisa ': The verse) 114
- (4) .313 / (See: Ahkam Al-Qur'an, for Al-Jisas, 2
- (5) 248 and after. / (See: Bada'a Al-Sanea ', 6
- (6) /214, Al-Mughn, 4/381, Asna al-Muttalib 2/418, and Nihat al-Muhtaj 4/) (See: Tuhfat al-Fuqaha ', 3
- (7) 264/287, Explanation of the End of Wills 2/528, and the Creator, 4

The meaning of the hadith:

This hadith clearly indicates the legality of the conciliation and the necessity of meeting the reconciliation between Muslims to reject division and differences.

Third: Consensus:

The Fuqaha'all agreed on the legality of the conciliation and even if there was a difference between them in the permissibility of its laws.

The third section: The rationale of reconciliation.

A peace contract is an effective method for removing the emerging dispute between people and driving conflict, controversies and discounts spreading familiarity, affection, and brotherhood; cooperation and solidarity, discard discrimination and its causes and what leads to it among Muslims to purify souls, all grudges disappear and hearts come together urging people to give rights to those who have them because anything against that will lead to rising disputes and controversies.

Conclusion

After this tour in our research this entitled (The Rationale in the legitimacy of public financial transactions that carry the meaning of exchange and ownership in Islamic Fiqh) we summarize the most important results that we reached and are as follows:

First: Islamic law has not neglected any financial transaction that brings benefits to people and avoid the embarrassment and harm to them.

Second: Highlighting the rationale of the legitimacy of financial transactions is the purposes of Sharia, which has become known today.

Third: This helps to place confidence in the judge of the legality of financial transactions as well as the recognition of their application, as the Sharia has ordered after learning them.

Fourth: We find Fuqaha' , after mentioning the definition, evidence of transmission, and consensus mentioning the rationale to establish the above mentioned concepts that are very important.

Fifth: the financial transactions are developing enormously. Thus, Muslim scholars rely on them in their judgment to reach what helps to achieve benefits to people and avoid embarrassment.

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