Contemporary Financial Transactions

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In the Name of Allah, Most Merciful, Most Gracious In the Name of Allah, Most Merciful, Most Gracious

The concept of Contemporary Financial Transactions

Term Analysis

The term includes the transactions, finance, and Contemporary /modernity.

Transactions

The lawful rules which regulate the financial dealing that carried out between people.

These comprise:

Bargains: sale and leasing.

Donations: grants, will and endowment (waqf).

Dropping: such as abolishing/ending a debt.

Documentation: mortgage, bail (warranty) and draft (transfer debt).

Finance comes from money.

Anything has material value among people, and its use is allowed in case of facilitation and choice.

Modernity/contemporary

The recent or modern age.

Definition of the Current Financial Transactions

They are financial cases, which emerged in the contemporary age, the cases that changed in their rules because of progress or changed in the circumstances, and the cases that bear new names, or some cases that consist of many old forms.

Identifying the Definition

- Cases which people dealt with in the modern age and were unknown in the legalization era or in the ages of the jurisprudence (Sharia’a ruling) assiduousness(ijtihad), such as the corporate companies, banknotes and whatever issues which need a legal ruling.

- The financial transactions which have updated their rules due to progress or changes in the current circumstances and customs. For example, jurisprudents decided that the key to the property should be delivered in order to transfer the ownership of property, after its sale. Nowadays, this provision is not needed anymore after setting up the Property Registry Offices.

- The new financial cases that bear new names: originally they are reflections of old financial transactions that were already addressed by the jurisprudents, regarding their rules, such as: banks' interests are considered illegitimate usury(Riba). **Changing the names does not comprise any change in the rule or provision.** The Prophet [SAW] said: "People among my Ummah will drink Khamr, calling it by another name."

- The financial transactions, which are formulated by a number of forms (many forms of selling and buying) such as murabaha and leasing which consist of contract that merges between selling and renting

Relevant Terms

Jurisprudents nominated many terms to the issues that emerged in their ages which are: the **emerged cases**, **occurrences**, **incidences** and **(Fatwa).**

Characteristics of Transactions in Islamic Jurisprudence

Firstly: The transactions' jurisprudence is based on general bases and principles.

The transactions jurisprudence accords with the branches of the Islamic jurisprudence of rituals and so on, in the aspect of its divine resource, represented in the Holy Quran and the Prophetic Tradition (Sunna) .

Though it differentiates in the aspect of its legalization, the transactions jurisprudence is based on the general principles and the integrity rules but did not dig into the details.

The signification beyond this issue is to leave a room for jurisprudents' assiduousness(ijtihad, is your own effort to give the rule) to securitize forms which are newly introduced by people.

Some of these principles are:

- **a- Allah says "**O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful.”**." Surah *Al-Nisaa* (Women) – Verse No. 29**

- **b- Allah says "**Allah has permitted trade and has forbidden interest.” **Surah *Al-Baqrah* (The Cow)-Verse No. 275**

- c- Ibn Omar (May Peace be Upon Them) narrated that Allah’s Prophet (peace be upon him) “Prohibited the Gharar (uncertainty) sale”. where Gharar usually is the transaction that has hidden end result.

It is a transaction in which there is no guarantee that the seller can deliver the goods for which he receives payment. It could include such items as selling a runaway slave, or fish in a sea, pregnant camel’ fetus, etc.

Secondly: The original rule in transactions is permissibility.

In Islamic jurisprudence, acts of worship are based on restriction unless there is a text in the Quran or Sunnah that states otherwise, for fear of creating an irrelevant practice in the religion. This is because of the saying of Messenger of Allah (ﷺ) **"If anyone introduces in our matter something which does not belong to it, will be rejected".** On the other hand, the original ruling of any transactions, contracts or terms, is allowed, unless it is prohibited by a truthful and clear text. If there's no evidence for prohibition, then **the general ruling is permissibility.**

The scholars base this rule on the following verse: "It is Allah who subjected to you the sea so that ships may sail upon it by His command and that you may seek of His bounty; and perhaps you will be grateful. And He has subjected to you whatever is in the heavens and whatever is on the earth - all from Him. Indeed, in that are signs for a people who give thought."

{ الله الذي سـخر لكم البحر لتجري الفلك فيه بأمره ولتبتغوا من فضـله ولعلكم تشـكرون , وسـخر لكم ما في السموات وما في الأرض جميعاً منه أن في ذلك لآيات لقوم يتفكرون}الجاثية

The Messenger of Allah (ﷺ) said:

" Muslims must keep to the conditions they have made, except for a condition which makes unlawful something which is lawful or makes lawful something which is unlawful."

These two texts are the evidences Islamic scholars used to determine that the original ruling for all financial transactions is permissibility.

Thirdly: The jurisprudence of transactions is based on reasons and benefits.

All Islamic rulings regarding transactions are based on the benefits and the common good of community, in legalizing transactions Islamic jurisprudence(Fiqh) considers the necessities, needs and the overall improvement of society.

Regarding reasoning, Qur'anic text can be seen mentioning the reasoning behind the prohibition of cases related to finances and money, E.g. wine and gambling, Allah said **"**Satan only wants to cause between you animosity and hatred through intoxicants and gambling and to avert you from the remembrance of Allah and from prayer" the reasoning behind the prohibition is clearly mentioned.

Another example of reasoning in the hadith the prophet said "Do not sell gold for gold except like for like, and do not increase one part over another part. Do not sell silver for silver except like for like, and do not increase one part over another part. Do not sell silver for gold, one of them at hand and the other to be given later. If someone seeks to delay paying you until he has been to his house, do not leave him. I fear rema for you." Rema is usury.

The goal of transactions lies in conserving money and wealth, as it is one of the five necessities in Islam, thus Islam forbids gaining money by prohibited means or by theft and encourages instead to increase by investing it.

Islam also legalizes contracts and agreements of sale, leasing, dealing, and bargaining to fulfill the peoples' needs and facilitate their dealings without complications and hardships. Islam did not consider the necessity or need only while legalizing the transactions, but it goes beyond to improving matters, so it enhances the people lives standards and their habits, whereas it allows glamorizing and beautifying, but forbids extravagance, and wasting,

What are the five necessities that Islam conserve?

Fourthly: The jurisprudence of transactions is characterized by both flexibility and constancy (unchangeable).

Transactions in Islam are both flexible and constant. They are constant because the basis and reasoning of all rulings regarding transactions are general guidelines concluded from unchanging Islamic texts, for example, consent and agreement between the two parties in a contract is a must in all transactions, all injustice is forbidden in transactions, preserving money is a goal in all transactions etc.., all of these guidelines and rules are unchanging and constant.

At the same time it is flexible in the rulings related to the methods that could change by time, for instance, money is a mean to value commodities, it was made of gold or silver, then it changed into teals and paper, so money is legitimate even if it is made of another material rather than gold or silver.