

GENERAL CHARACTERISTICS AND ESSENCE OF SOCIAL PROTECTION INSTITUTIONS IN ISLAM

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Abstract

The unique expression of the harmony and inseparability of religion, morality, and law in Islam is determined, on the one hand, by the regulation of social relations, and on the other hand, by the relationship (worship) of Muslims with Allah. The divine application and religious-moral foundations of Sharia are reflected in the understanding of fiqh, that is, Islamic law.

Keywords: Social protection, Islam, Islamic law, economic issues, social life, social justice.

Introduction

The concepts that serve to ensure the practical implementation of social protection are of great importance and constitute institutions. In this paragraph, they are described and analyzed.

The formation of institutions and rules that activate social protection services so that all individuals in society are equal and free both before the law and in political, economic, and social life serves the manifestation of social justice. [1: 16,17] Each of them plays an important role in the development of this sphere and is interconnected.

The legal institutions of social security law regulate a group of social relations that are close to each other in terms of subject, purpose, tasks, and other aspects. Institutions of social security law allow for the regulation of social relations related to this discipline in a stratified form and simultaneously as a subject of a holistic branch of law. [2:15]

In Islamic law, economic issues and financial relations constitute the main part of social protection relations. Also, their core essence lies in the principles of worship, sincere intention, selfless help, kindness, and solidarity. Therefore, factors serving to ensure social protection are considered sources that satisfy material needs. Their occurrence is divided into two according to Sharia rulings:

1. Mandatory payments
2. Voluntary donations

In Islam, the set of norms of the right to social protection regulating social relations, close in content, constitutes its separate institution. The main institutions of Islamic social protection law are the aforementioned institutions of obligatory payments and voluntary charity, namely zakat, fitr, nafaqa, silai rahm, ushr, kharaj, sadaqa, waqf, xayr-ehson, qarzi hasan, khums, jizya, ariya, hadya, hiba, havola, nazr.

Mandatory payments refer to financial acts of worship that are considered obligatory or necessary according to Islamic law and are strictly forbidden to be performed. These include: zakat, ushr, maintenance, fitr, fidya, jizya, khums, kaffarah, sacrifice, vow, mahr, and illegal income.

Voluntary charity is charity given voluntarily, except for financial acts strictly prescribed by



Sharia. These include voluntary charity, waqf, testament, good debt, aqiqa, gift, gift, oriya, havola, and charity.

Initially, the institutions of social protection included in the part of mandatory payments: zakat, ushr, pension, fitr, fidya, jizya, khums, sacrifice, vow, mahr, expiation, debt of hasan, illegal income are described below.

Social protection is primarily interconnected with family law. The right to social protection also includes the institutions of mahr, benefits, guardianship and trusteeship that are part of it.

Pension Institute - (نفقة) the totality of rights and obligations that include issues of material support arising from family relations and kinship ties.

Regarding maintenance, the work "Hidoya" states that the head of the family is obligated to provide the husband with all necessary necessities for living, particularly food, clothing, and housing. [3:320]

The norms of the pension institution regulate the rights and obligations of husband and wife, parents and children, other family members to provide material support for each other, and relations related to the consequences of their non-compliance. [4:33]

Fitr Institute - (فطر) is a set of rules that determine the amount, procedure, and time of iftar charity given by wealthy Muslims to the poor and needy upon completion of fasting. It is defined as follows: "Fitr charity is the zakat of Fitr, which is wealth received from each responsible person for those in need before Eid al-Fitr". [5:86]

In the work "Hidaya," it is stated that the conditions for making fitr charity obligatory are that a free Muslim must possess property sufficient for the amount of nisab, except for their dwelling, clothing, household items, horses, weapons, and slaves. [3:123] This institute of fitr is included in social protection because it reflects the financial interests of those in need. It also reflects the interests of the poor in the event that the Eid holiday is intended to be celebrated in a mood of mass joy.

It can be distributed to one poor person or several poor people, or it can be given by an entire community. For example, the place of giving Fitr charity is similar to Zakat charity. That is, fitr charity is also permissible for those who can give zakat. [6:242]

Fidya institute - (فدية) refers to spending wealth instead of performing a specific action prescribed by Sharia. For example, those who cannot fast during Ramadan due to extreme old age or incurable illness (or their relatives) pay fidya for this. Fidya is the amount of food that provides the average daily livelihood of one poor person, and its amount is determined in food or monetary units corresponding to it (based on the economic and living conditions and customs of each place). [7:103] Each day is equal to the amount of Fitr charity. Fidya also has financial benefits for people, especially the poor, and contributes to improving their social protection. Fidya is considered ma'unat (provision, financial benefit) worship. In this respect, it is considered one of the institutions of social protection.

Institute of Jizya - (جزية) is a set of rules regarding the scope of subjects paying poll tax, the amount of tax, and the procedure for its payment, which is paid by the People of the Book according to the agreement concluded between Muslims and the People of the Book. [8:16,17] In exchange for this payment, their lives, property, religion, honor were protected and their safety was ensured by Muslim states. This was a kind of security guarantee for the dhimmis.

In Burhaniddin Marginani's work "Hidaya," it is said that there are two types of jizya, which are



explained as follows. "One is jizya, which is based on the consent and agreement of both parties, and it is measured according to what (the two parties have mutually agreed upon). The second type is introduced when a Muslim ruler conquers the lands of representatives of other religions and leaves their property to them. [3:452]

The great jurist Abu Yusuf, in his work "Kitab al-Kharaj," states that the jizya tax was mandatory for Jews, Christians, pagans, Sabi'is, and Samaritans, and was collected only from men and not from women and young children. [9:180] Also, another aspect related to jizya, which demonstrates the justice of Sharia criteria, is that people who are unable to pay it, the poor who live on charity, the blind who have no profession, the person with a chronic illness - if they also live on charity, as well as the disabled, the elderly who are unable to work and have no property are exempted. In "Hidaya," rulings such as not imposing jizya on women of other religions and their young children, permanently ill people, blind people, paralyzed and elderly people, and poor people unable to work are also mentioned. [3:453-454]

Islam emphasizes that social protection should be provided not only among believers but also for representatives of other religions living in Muslim society. From this point of view, Islam provides social protection not only for Muslims, but also for representatives of other religions. In one of the hadiths, the Prophet (peace be upon him) said: "Whoever harms a dhimmi, I will argue with him. On the Day of Judgment, I will take my due from him". [10:182]

At this point, it should be noted that the introduction of today's old-age pension in Islam was also caused by dhimmis. In Imam Abu Yusuf's work "Kitab al-Kharaj," it is narrated from Umar ibn Nafi' that when the Commander of the Faithful, Umar ibn al-Khattab, saw a Jewish elderly man begging on the street and said, "If we take jizya from you in your youth and abandon it in your old age, we will not be fair to you," and established sufficient provisions from the treasury. [9:180,186] From this historical event, it becomes clear that Islamic law provides social protection not only for Muslims but also for representatives of other religions.

There are many other stories about the protection of people of other faiths. One of them, when Umar ibn al-Khattab's (r.a.) death was approaching, said: "I will instruct the caliph who will come after me to follow the covenants made by the Messenger of Allah (s.a.w.), to protect their owners, and not to impose taxes beyond their capacity." Other related sources mention that Umar ibn Abdulaziz sent a letter to Adiy ibn Artot, the governor of Basra, ordering, "If any of the people under your care become elderly, weak, or incapable of earning a living, establish a sufficient allocation from the treasury". [10:182,183]

Based on the above information, it can be seen that the social protection of dhimmis was fairly implemented. Additionally, those who were unable to pay taxes were exempted from it, privileges were granted, and benefits from the treasury were introduced for the needy class, especially the elderly. Such criteria served to ensure social justice in society and strengthen relations between people.

The Hums Institute - (خمس) is a set of rules governing relations related to the tax of one-fifth, levied on spoils of war, mines, treasures, pearls from the seabed, landed property purchased by the dhimmis from Muslims, etc.

Regarding this, Abu Yusuf's work "Kitab al-Kharaj" states the following: "During the time of the Messenger of Allah (peace be upon him), the share was divided into five parts - one part was given to Allah and His Messenger, one part to the relatives of the Prophet, and three parts to



orphans, the poor, and travelers. Then Abu Bakr, Umar, and Uthman (r.a.) divided one-fifth of the spoils into three parts. The two parts that were allocated to his relatives by the Messenger of Allah (s.a.w.) were abolished and distributed among the remaining three categories. Ali (r.a.) distributed them just like the caliphs before him". [9:30] During the time of the Prophet (peace be upon him), a share of khums was also given to the poor, which is recognized as one of the institutions of social protection due to its historical existence.

Xiroj instituti - (خراج) is a system of rules regulating relations related to the general land tax, initially collected from representatives of other religions, and later also from Muslims in Muslim countries during the Middle Ages, the amount of which was determined by the head of state. In "Hidaya," any land seized by force and left to its inhabitants, lands obtained through peace, are also described as kharaj lands. Fair criteria have also been established for the collection of kharaj tax. In case of inability to pay it, benefits are provided. Regarding this, it is stated that if kharaj lands are flooded or (water stops flowing to those lands), or if a disaster destroys crops, kharaj is not collected. Because in such a situation, the possibility of farming is lost. For the introduction of the kharaj tax, it was required that the cultivated land grow at all times of the year. If the harvest grows repeatedly in one year, the kharaj is not collected again. Umar (r.a.) did not introduce repeated collection of kharaj from the harvest that emerged again in one year. It also states that unproductive land is not subject to kharaj tax. [3:449,451-452,454]

The institution of expiation - (كفارة) belongs to the category of social protection institutions due to its inherent financial benefit, that is, the nature of financial worship. This word is used in Arabic to "close and conceal something completely from view." This act refers to financial or physical worship performed to atone for a committed sin. In "Kifaya" the expiation for the oath is freeing a slave, feeding ten poor people, providing them with clothing, or fasting for three consecutive days if they are unable to fulfill them. [11:16,18]

Also, in "Hidoya," it is stated that if a person breaks their oath, they can give one piece of clothing and more to each of the ten poor if they wish, or feed ten poor people, or even feed one for ten days, just as they fed in expiation of zihar (meaning each poor person should be given one sa' of dates, barley, or half a sa' of wheat, flour, etc.). Also, it is stated that performance of kaffarah is obligatory even when intentionally breaking the obligatory Ramadan fast, and its repayment fasting consecutively (i.e., without breaking it) for two months, and if unable to do so, providing food to sixty poor people. [3:134-135,358] All conditions for its implementation demonstrate the desire to benefit those in need. Thus, the essence of all rulings of Sharia lies in human interests.

Institute of Sacrifice - (أضحية) According to the Hanafi school, making a sacrifice is obligatory for a free, wise, resident Muslim who possesses the nisab of zakat. [12:216] The obligation of sacrifice is mentioned in Surah "Al-Kawthar" by the command "slay the animal" (انحر). Scholars have said that the "animal" mentioned in this noble verse refers to an animal to be sacrificed. It is recommended to give 1/3 (one-third) of the sacrificial meat to those in need. [3:359] The sacrificial meat should be divided into three parts, with one portion given by his wife, another by relatives and friends, and the remaining portion as charity. If one is wealthy and gives charity to the poor, it is considered even more virtuous. If a vow has been made, he and his family should not eat from its meat but give it as charity. [12:220] It is permissible to use its hide as an item or gift it, but if sold, it should be given as charity. Although sacrifice is an act of worship, it contains



the essence of worship, and its apparent benefit reaches people. Particularly, they were included in its institutions by contributing to social protection through distribution to poor, needy people. *Nazr institute* - (نذر) includes issues related to a person taking on something that is not obligatory according to Sharia, but is not a sin, with the intention of achieving closeness to Allah. For example, they can do things like give charity in a certain amount or fast for three days. Making a vow is considered an obligatory act for those who make it obligatory upon themselves. It can also be included in social protection. Because it reflects worship that contains contentment. That is, there is an aspect behind worship that brings material benefit to people, and the donor sincerely presents their charity to those in need. Because the Messenger of Allah (s.a.w.) They said, "Whoever makes a vow and mentions it, it is obligatory upon them to fulfill it." If a person commits a vow to a condition and it occurs, they must fulfill it. For example, if someone says they will make a vow of giving a sheep if they are not sick during Ramadan, and if this is the case, they must give it to the poor. [3:359]

Mahr institution - (مهر) refers to the totality of property and related legal provisions to which a woman is entitled as a result of marital relations arising through marriage. Mahr is called by different names. In the Holy Quran, the names "sadaq," "sadaqa," "ajr," "fariyya," "nihla" (known as "mahr") are used for it. Its aspect related to social protection is that when a woman marries, when she does not yet have any funds, she ensures that she has her own property and keeps funds in reserve for her needs. That is, it can be called the beginning of the guarantee of financial needs. The norms of the institution of mahr regulate relations related to the obligation to give, the amount, the procedure for resolving the issue if it was not given during the registration of marriage, the consequences of non-fulfillment of the promise made during the registration of marriage, the wife's right to use the mahr, the right to own it, and the husband's withdrawal of it from the wife. [4:32]

Thus, in the time of the Prophet (peace be upon him) and after him, social protection was mainly formed through the following sources: zakat, charity, khums, and jizya. These collected funds were used to financially support vulnerable segments of society, ensure state security, build new mosques and madrasas, repair roads, and construct facilities that benefit people, such as bridges. Voluntary charities included in social protection institutions, such as voluntary voluntary charity, waqf, testament, good debt, aqiqa, hadya, hiba, oriya, havola, and charity, are described below. Another key institution of social protection in Islam is charity, which is voluntary financial assistance given to help those who have experienced difficult times or those who are suddenly in crisis. [13:57]

Charity Institute - (صدقة) voluntary charity and a set of rules related to it. Voluntary charity can be given at any time to any needy person. The charitable institution fully reflects the nature of social protection. In fact, its purpose is worship, which is based on noble intentions such as financial support and benefiting people.

In particular, in a hadith narrated by Imam Muslim encouraging charity, it is narrated from Abu Dharr (r.a.) that the Prophet (s.a.w) had gold the size of Uhud and did not wish to remain with any dinar for three days except for what he would keep as a loan. This hadith increases people's motivation to give charity and strengthens relationships between them.

In another hadith from the "Sahih Muslim" collection, it is mentioned that every good deed from Khuzayfa (r.a.) is charity. The same meaning is reflected in the hadiths narrated by Jabir ibn



Abdullah and Abdullah ibn Yazid Khatami in Imam Bukhari's collection. From this, it becomes clear that saying any good, beneficial word is also considered charity. At this point, it should be noted that social protection for people equally requires not only material assistance, but also moral support.

Also, chapters 9-31 of "Sahih al-Bukhari" contain a total of 35 hadiths about charity. In particular, Hadith 1417 speaks of giving charity, even if with half a date. [14:336] Additionally, hadiths about charity are mentioned in hadiths 653, 644, 649, and 656 of Imam Tirmidhi's collection "Sunan at-Tirmidhi." [15:248]

The Waqf Institute - (وقف) maintains certain property as Allah's property and gives charity for benefit, such as ariya. What is endowed leaves the owner's property and becomes Allah's property. The benefit from such things is spent on the purpose designated by the endower (for example, for students, travelers, and the poor). [16:181]

The institution of waqf has played an important role in the socio-economic life of society since the early period of Islamic history. Waqf played an important role in organizing mutual assistance and support between people. The role of waqf in social protection is of great importance. From the early Islamic period to the present day, it has been contributing to solving social problems.

Qarzi hasan institute - (قرض حسن) can also be included in mandatory payments and voluntary charity. Depending on the circumstances, it can be mandatory or voluntary. The necessity of repaying debts is emphasized so strongly in Islam that it is permissible to ask for charity or zakat to pay off debts. Because this issue is not only a financial, but also a moral obligation.

The literal meaning of the word "debt" is "to cut." Since the lender cuts off a portion of their property, it is defined as "funds given for someone to use and return." "Qarzi hasan" means "good loan" and is given for a certain period seeking Allah's pleasure with the condition of repayment. However, regarding the better of forgiving it, Surah Al-Baqarah states: "If (the debtor) is in difficulty, one should wait until he becomes wealthy. If you had known, it would have been better for you to give it in charity" (Verse 280). This phrase is mentioned several times in the Quran, including in verse 11 of Surah Al-Hadid: "Is there anyone who gives a good loan to Allah?! So He will return it many times over, and there is a generous reward for it." This institution also plays an important role in social protection. Because debt is usually taken out of necessity, due to urgent need. Of course, this is also one of the problems related to social protection. Islam has also provided such a debt-giving good measure for its solution, promoting leniency for debtors and its reward.

The reference institution (حوالة) is the transfer of an obligation or debt from one person to another. [16:167] That is, the debtor transfers their debt to someone else. Here, it can be seen that qarzi hasan and havola are very close to each other and their main purpose is to serve its repayment. Such an agreement is permissible in Sharia, as it includes the characteristics of mutual support and mutual assistance among society members.

The Gift Institute - (هدية) has the financial characteristic of giving a person without any compensation, forming a set of rules related to it. This serves to improve social relations between people and strengthen kindness and compassion.

Giving gifts is also called "hiba," "atiyya," "maniha" and other words. In a hadith narrated by Aisha (r.a.), it is said that "The Prophet (s.a.w.) would accept gifts and give corresponding



rewards." (Narrated by Bukhari, Abu Dawud, Tirmidhi). In another hadith, it is narrated from Abu Hurayra (r.a.): "Give gifts to each other, for gifts remove anxiety from the heart. A neighboring woman should not consider her female neighbor as insignificant as a piece of a sheep's hoof." (Narrated by Bukhari and Tirmidhi). In another hadith from the same narrator, the Messenger of Allah (s.a.w.) "Give gifts to one another, and you will be loving," *he said*, (Narrated by Imam Bukhari and Imam Nasai . [17:267,269] These hadiths encourage giving gifts. Although it is small in size, it is emphasized that it should be done with sincere intentions, which will serve to strengthen sincere relationships.

Hiba - (هبة) is the gratuitous transfer of property. If one person says "I gift this to you," and another person replies "I accept," the gift is fulfilled. In it, it is not necessary to pronounce the proposal and acceptance. Perhaps there are enough signs indicating this. For example, if someone gives something as a gift to a poor person without saying anything, and that person takes it silently, it is considered a gift. If a gift is given to a poor person or relative with sincere intention, it will be among the most virtuous deeds. [6:392]

The above-mentioned gift, hiba means giving for almost the same purpose, that is, without compensation. They can be included in a group. Charity and gifts differ in two rulings:

1. When charity enters someone's hands, it cannot be withdrawn. Unlike gifts, it is permissible to give ten dirhams as charity to two people. Because he has no return.
2. The Hiba can be reclaimed. You can't throw a gift between two people. It should be divided and given to him. Charity given to the wealthy is considered a gift or gift. Conversely, if given to the poor, it is considered charity. [6:397-398]

Ariya (عارية) (gratuitous consumption) is a set of norms that stipulate that one person gives their animal, clothing, or container, or similar items to another person for temporary use and returns them to their owner after a specified period. Its social protection aspect is that it fulfills the needs of those in need by providing them for impartial use.

"Ariya" is understood as the gratuitous transfer of something beneficial for ownership and consumption. It is formed by saying "I made it for you," "I gave it for use". [16:157] It can be seen from the characteristics of theoria that its aspect of social protection is satisfied through the impartial provision of their needs to the needy class without any rent. Raising this practice to the level of value, as in history, and spreading it on a wider scale today, allowing people to use a portion beyond their necessary needs with the intention of such a good deed, will significantly contribute to ensuring social protection.

During the study, it was established that the implementation of social protection institutions reflects the following priority principles: human rights and interests, doing good (parents, relatives, neighbors, etc.), taking care of poor relatives, mutual solidarity, generosity, brotherhood, and good treatment.

Nations should strive to understand each other within the framework of mutual respect and, based on the principle of fraternity, be able to mediate the cultural resolution of issues on which they cannot agree, in order to ensure social protection throughout the world. Thus, global peace and brotherhood can be created on an international scale. According to Islamic law, the implementation of the principle of brotherhood serves the social protection of all humanity.

The basis of mutual assistance in society is based on ideological foundations, which are a system of strict religious rules and ethics. Caring for each other implies responsibility in various material



and moral aspects of human life. From the point of view of Islam, people do not live individually, but care for each other with other members of society, providing for mutual support and management in the affairs and life of society. [1:80]

The concepts of social cooperation and social solidarity constitute the basic principles of social protection in Islamic law. With social solidarity, a sense of obligations and duties arises for each individual in society to themselves and society. Understanding duty, a sense of responsibility, formed in individuals within the framework of the value of faith, is the most effective way to ensure these rights.

Also, Professor Yusuf Karzavi in his work "Mushkilatul faqri va kayfa i'lajuhul islam" cites the following as measures of Islamic law in solving the problem of poverty and social protection: amal (working with a profession), taking care of poor relatives, zakat, state support, the obligation of rights other than zakat, voluntary charity and personal donations.

Based on the above analysis, it can be noted that social protection in Islam is a strict system that, in accordance with the principles and norms of Islamic law, provides both material and spiritual protection to vulnerable segments of the population.

In conclusion, the issue of social protection is of great importance in Islamic law and is reflected in almost all aspects of Sharia. Compulsory payments and voluntary charity institutions, reflecting social protection, serve as a key factor in ensuring social equality in society, improving well-being, and strengthening relationships between people. After all, all these criteria introduced in Islamic law are aimed at the interests of the individual.

References

1. Erol A. Social protection in Islamic law. Theoretical perspective. – Berlin: Peterlang, 2018. – P. 16-17.
2. Турсунов Й. Ўзбекистон Республикасининг ижтимоий таъминот ҳуқуқи. – Тошкент: Тошкент давлат юридик институти, 2011. – 279 б.
3. ص 488 برهان الدين المرغلاني. الهداية بداية المبتدي. ج. 1-2. بيروت: دار الكتب العلمية. 1990.
4. Юсупова Н. Мовароуннахр ҳанафий фақиҳлари асарларида оилавий муносабатларни мустаҳкамлашга оид қарашларнинг моҳияти. – Тошкент: ТИУ, 2018. – Б. 33.
5. عبد الغني الدمشقي. تيسر اللباب في شرح اللباب في الفقه الحنفي. ج. 2. 86 ص.
6. أشرف علي التهانوي. مختصر الفقه الحنفي. – كراچی: مكتبة البشري. 2013. – 437 ص.
7. Aytaç Aydın. İslam hukukunun 200'ü. – Ankara: İlahiyat, 2019. – 307 s.
8. Тошқулов Ж. Исломда солиқ ҳуқуқи. – Тошкент: “ТИУ” нашриёти, 2017. – 320 б.
9. Абу Юсуф. Китоб ал-Хароҷ. Тарж. А.Маннапова. – Тошкент: Ўз ХИА. 2021. – 240 б.
10. Ишматбеков Х. Ислом – маърифат дини. – Тошкент: Қамар-медиа, 2022. – 400 б.
11. Муҳаммад Содик Муҳаммад Юсуф. Кифоя. Ж. 2. – Тошкент: Hilol-Nashr, 2022. – 584 б.
12. شفيق الرحمن الندوي. الفقه الميسر. – زاهدان: دار الفارق الأعظم. 2011. – 272 ص.
13. T.Boz., W.Smith. Social Protection In Turkish Communities In Germany and Australia: The Role Of Islam Within The Secular State. // Journal of Islamic research. Islamic university Europa, 2011. – P. 57.
14. Олтин силсила. Имом Бухорий. Саҳиҳул Бухорий. Ж. 2. – Тошкент: Hilol-Nashr, 2013 – 448 б.



15. Имом Термизий. Сунан Термизий. Ж. 1. – Тошкент: Адолат, 1999. – 528 б.
16. عبيد الله ابن مسعود. متن النقاية مختصر الوقاية في المسائل الهداية. – اسطنبول: دار السلطان. 2022. 256. ص.
17. Мухаммад Содик Мухаммад Юсуф. Ҳадис ва ҳаёт. Савдо, зироат ва вақф. Ж. 11. – Тошкент: Шарқ, 2011. – 312 б.

