

SOCIAL JUSTICE AS AN ASSET IN ISLAMIC FINANCE SYSTEM

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Abstract. 'Social justice' is a groundbreaking concept which provides meaning and significance to life in achieving socio-economic equality and justice without any violent conflict. It is vital argument for the welfare of society as a whole, as well as the respect and loyalty to the leaders. The concept of social justice has become a crucial part of the political lexicon in recent years. Indeed, numerous problems such as lack of social security, lack of disclosure information, undesirable activities, transparency issues, and inequality resulted in injustice and financial crises across the globe and all these contributed for the search of a more consistent alternative financial system such as Islamic finance which addresses an importance of justice in the society and introduce a greater 'safe-control'. An aim of this research is to look at and examine the concept of social justice and its working mechanisms within Islamic finance system, the value that should be devoted to Shari'ah, a key contributor to the 'lively and fair' guidance in Islamic finance industry. All these induced the search for a viable and sustainable doctrine of social justice by encompassing framework of institutionalized rules and procedures under Shari'ah.

Keywords: social justice, Islamic finance, Shari'ah, zakat, need, equality, transparency.

СОЦИАЛЬНАЯ СПРАВЕДЛИВОСТЬ КАК АКТИВ ИСЛАМСКОЙ ФИНАНСОВОЙ СИСТЕМЫ

Аннотация. «Социальная справедливость» — это новаторская концепция, которая придает смысл и значение жизни в достижении социально-экономического равенства и справедливости без каких-либо насильственных конфликтов. Это жизненный аргумент для благополучия общества в целом, а также уважения и лояльности к лидерам. В последние годы понятие социальной справедливости стало важной частью политического лексикона. Действительно, многочисленные проблемы, такие как отсутствие социального обеспечения, отсутствие раскрытия информации, нежелательная деятельность, проблемы прозрачности и неравенство, привели к несправедливости и финансовым кризисам по всему миру, и все это способствовало поиску более последовательной альтернативной финансовой системы, такой как исламская. финансы, которые учитывают важность справедливости в обществе и вводят больший «контроль над безопасностью». Целью данного исследования является рассмотрение и изучение концепции социальной справедливости и ее рабочих механизмов в исламской финансовой системе, значение, которое должно быть посвящено шариату, ключевому фактору «живого и справедливого» руководства в индустрии исламских финансов. Все это побудило к поиску жизнеспособной и устойчивой доктрины социальной справедливости, охватывающей рамки институционализованных правил и процедур в соответствии с шариатом.

Ключевые слова: социальная справедливость, исламские финансы, шариат, закят, потребность, равенство, прозрачность.

INTRODUCTION

Today, each financial system is a part of the global financial system. Each nation-state is responsible for the structure and operation of its own financial system. The financial system

consists of the numerous markets and institutions, through which funds flow between lenders and borrowers. Recent financial crises have resulted in the questioning of the design, structure, principles, and other aspects of the global financial system and have been a reason for reconsidering it. Numerous problems such as lack of regulatory framework, lack of disclosure information, an absence of transparency, uncontrolled relationship of lender–borrower resulted in financial crises across the world and all these contributed for the search of a more consistent alternative to the regular financial system.

MATERIALS AND METHODS

One of the solutions is an introduction of a ‘viable financial scheme’ which addresses the above-mentioned issues through the concept of ‘social justice’. An aim of this article is to look at and analyze the concept of social justice in Islamic finance system to achieve fiduciary trust via the solid legal framework. However, the challenge for the Islamic finance industry nowadays is how to move forward to enhance its attractiveness based on its unique and distinguishing features. In this respect, the concept of social justice is a key contributor and the Sharī‘ah regulatory framework plays a vital role. Islamic finance is a form of finance based on Sharī‘ah. It is more than just a set of legal rules and is filled with moral purpose and lessons on the truth and justice and every financial transaction must be Sharī‘ah-compliant. Therefore, it is common to use the term Sharī‘ah-compliant to describe anything that is permissible under the Islamic law. In ensuring Sharī‘ah-compliance, the following principles should be considered in Islamic finance:

1. Ban on *ribā* (interest): *Ribā* is strictly prohibited and has been described as a loan with the condition that the borrower will return to the lender more than the amount borrowed which means effortless profit. The presence of *ribā* in any contract would void the contract. In addition to its religious restriction, *ribā* is considered unfair and exploitative. A borrower who pays interest means that his money is being taken without getting anything in return. Not only does this make the borrower worse off, it does not bring about mutual cooperation and goodwill between lender and borrower.

2. No *ḥarām* investments: Investments for manufacturing products such as alcohol, tobacco, arms or pornography are avoided. Somehow it is similar to the conventional concept of socially responsible investing (SRI), where financial return and social good are kept in one direction. Other means of human exploitation such as bribery, gambling, speculative transactions, fraudulent practices, prostitution, embezzlement, etc., have also been prohibited under the Islamic finance system.

3. Risk sharing is encouraged: Equitable distribution of risk, profits and losses are considered under Islamic finance. Risk sharing contributes for enhancing transparency in order to promote mutual trust and fairness in dealings among business partners, institutions and consumers.

4. Financing is based on real assets: Financing extended through Islamic products can only expand in step with the rise of real economy, thereby helping to curb excessive speculation and credit expansion. Therefore it highly addresses the concept of social justice.

RESULTS

Examining the Role of Islamic Finance System within Social Justice

The system of Islamic finance is based on core concepts of balance, which help ensure that the motives and objectives driving the Islamic finance industry are beneficial to society which correlates with the spiritual aspects of life. In order to follow this conception, two main

ideas have to be taken into the consideration. The one is balancing material pursuits and spiritual needs. Another one is balancing individual and social needs. This leads to adhering to Islamic commercial ethics and values which are hot points because so many business organizations from small retailers to giant multinational corporations find making ethical decisions challenging. It does not discard the objective of maximizing profits; instead it requires controlling profit maximization by making sure that social welfare is not sacrificed in the process. The principles of Islamic financial system ensure that time by itself does not create any return, the time by itself does not increase value, however if any economic activity takes place, the time spent on that economic activity can create value. In Islamic financial institutions, investments are based on equity participation and the firm and the investors enter partnerships and share both risk and returns. Any returns are based on shared profits from investment in economic activities or assets rather than on predetermined interest rates which are banned. Hence, buyers and sellers are allowed to maximize their profits as long as no unethical activities are involved. Islamic finance supports a free market economy, however it insists that such economy must operate with justice and fairness, as well as managing the earth's resources wisely which is an important economic activity.

Studying Social Justice Mechanisms

Definition of Social Justice

Social justice means giving each individual what he/she deserves, the distribution of financial benefits in the society, providing equally for basic needs. It also points out on the fairness in opportunities, *i.e.*, each person has a chance to climb up the social ladder. Actually, the term social justice is recently dated meaning that it first appeared in political debate in the early 19th century. It was employed by political thinkers like John Stuart Mill and its use has since become widespread. Social justice implies that overall pattern of distribution in a society justice through embodying the notion of merit – an idea also expressed in demands for ‘careers open to talents’ and ‘equality of opportunity’. Next, the concept of social justice is going to be scrutinized under the three focal elements. They are equitable distribution of wealth, provision of social security and protection of the weak against the strong. The analyses will be provided for each of these elements.

Equitable Distribution of Wealth

If distribution of wealth in a community is unfair and inequitable, social peace in that community is always at stake and conflict between the poor and the rich is bound to result in war and class struggle. Therefore social justice establishes fraternity and brotherhood in the ranks of the members of Islamic community. Islam believes in well-being of its followers and, therefore, ensures fair and equitable distribution of income and wealth among them. For linking the gap between the rich and the poor and for ensuring just and equitable distribution of economic resources and wealth, Islamic finance has taken very effective measures. As an example, positive measures are distribution of the *zakāt* and *ṣadaqāt* (charitable giving), monetary atonements, voluntary charities. Literally *zakāt* means blessing, purification, increase, or cultivation of good deeds. The objective is to take away a part of the wealth of the well-to-do and to distribute it among the poor and needy through payment of 2.5% of certain kinds of wealth annually to one of eight categories of needy Muslims. *Zakāt* is imposed on cash, cattle, agricultural produce, minerals, capital invested in industry and business.

There are two types of *zakāt* in Islamic finance: *zakāt al-fitr*, a small obligatory head-tax imposed on every Muslim who has the means and is paid once yearly at the end of Ramadan just before *Eid al-Fitr*. This is also called *zakāt al-naḥs* (poll tax). The other type is *zakāt al-māl*, the wealth tax for which Muslims must pay 2.5% of their yearly savings above a certain amount to the poor and needy Muslims. In fact, *zakāt* is compulsory on all Muslims who have saved at least the equivalent of 85g of 24-carat gold at the time when the annual *zakāt* payment is due. Given that *zakāt* is imposed on different types of wealth, there are individual terms for the *zakāt* being taxed that include:

- *zakātu l-hubūb* (of grain, corn);
- *zakātu l-madān* (of minerals);
- *zakātu r-rikāz* (of treasure, precious stones); and
- *zakātu r-ridu t-ijārah* (of the profits of merchandise).

Hence, these mechanisms used in Islamic finance serve as connecting tools between the poor and the rich and highly supports the concept of social justice in a community.

Provision of Social Security

Another focal element of social justice is a provision of social security. The Islamic finance system under the framework of Sharī'ah seeks to provide social security through providing basic necessities of life to all those poor, destitute, deprived of, disabled and unemployed citizens who themselves are not able to provide for them and their families. About holding of surplus wealth by the rich and responsibilities to provide basic necessities of life to the poor, it would be relevant to produce the views of Ibn Ḥazm, a great Muslim jurist:

It is the duty of the rich that they should meet the needs of the poor and the destitute of their village or town. And if the treasury is not sufficient to meet their needs, then the state has the right to take their surplus wealth, if necessary by force, to meet the needs of the poor in the community.

Ibn Ḥazm further says:

All the companions of the Holy Prophet are agreed upon this that if there is anyone hungry or naked or without shelter, it is obligatory upon the state to supply his needs from the surplus wealth of the rich [in case its own treasury is insufficient].

Protecting the Weak from the Strong

The third element is the protection of the weak from the strong. Elimination of economic exploitation of the weak by the strong is another element of achieving social justice in compliance with the code of ethics and contract laid out under Sharī'ah. It utilizes a range of models to avoid elements forbidden under Islamic finance system, namely *ribā* (interest) and *gharar* (uncertainty and deceit). Five reasons have been put forward by Islamic scholars for the prohibition of *ribā*: it is unjust, it corrupts society, it implies improper appropriation of other people's property, it results in negative economic growth, and it demands and diminishes human personality. Another component *gharar* alerts that transparency in contracts and disclosure of information is key contributors to the social justice under the Islamic finance system. The information should be available to all parties involved and the outcomes of a contract should be free from uncertainty in order to be just and fair. Under such measures, individuals are protected from fraud, deceit and exploitation. For example, both parties involved in certain agreement must eliminate or reduce financial speculation and undue complexity in contracts due to *gharar*. This will include disclosure of the risk involved by providing as much information as possible for

buyers or investors thus protecting both points of any individual. Because, the lack of information creates problems in the financial system on two fronts: before the transaction is entered into and after. This referred to the conception of asymmetric information, asymmetric information is a situation when one party does not know enough about other party to make accurate decisions in the transactions involved. Moreover, all these problems also create potential costs in the form of 'conflicts of interest', in which one party in a financial contract has incentives to act in its own interest rather than in the interests of the other party. Given the crucial role of information in financial markets, the conflicts of interest arise when financial firms or their employees have the opportunity to serve their own interests, rather than the interests of their customers, through misusing information, providing false information, or hiding information. Thus, the focus on individuals needs is fundamental in financial dealings and ensuring social justice. The decline in the flow of reliable information leads to the financial problems across the globe. The disclosure of information, transparency and certifying positive connection takes central position in the system of Islamic finance and the level of social justice demonstrated by Islamic financial system attracts investors who make decisions based on moral and ethical approaches. Islamic finance promotes the moral needs and balances the material needs of society in order to attain socio-economic justice and human well-being.

DISCUSSION

Promoting Social Justice

As justice is an important concept in Islamic finance it strives to promote a society in which all business stakeholders are treated fairly. Examples of ways in which Islamic financial firms promote justice include the sharing of profit and loss between an Islamic bank or investment firm and its customers. What does profit and loss sharing mean? The principle here is that the lender must share in the profits or losses arising out of the enterprise for which the money was lent. Islamic finance encourages to invest money and to become partners in order to share profits and risks in the business, instead of becoming creditors. Islamic finance evolves the notion that the provider of capital and the user of capital should equally share the risk of business ventures, whether these are manufacturing industries, service companies or trade deals. In other words, the depositor, the bank and the borrower should all share the risks and the rewards of financing business ventures.

Interrelation between Sharī'ah and the Concept of Social Justice

Sharī'ah represents the idea that all human beings and governments are subject to justice under the law and principles of Sharī'ah derived from the primary sources of Islam, the Qur'ān and Sunnah. Justice is a crucial value expected from individuals, families and society in general. According to the Qur'ān and Sunnah, a completely just society was established during the time of the Prophet Muhammad (PBUH) and his companions. Every member of society was treated equally. There was no difference existed between poor and rich, Muslim and non-Muslim, ruler and citizens. The Holy Qur'ān requires justice at all times, the sacred book of Islam, encourages Muslims to engage in trade and invest in their efforts for Allah to ensure abundant returns:

مَنْ ذَا الَّذِي يُقرضُ اللَّهَ قَرْضًا حَسَنًا فَيُضَاعِفَهُ لَهُ أَضْعَافًا كَثِيرَةً وَاللَّهُ يَقْبِضُ وَيَبْسُطُ وَإِلَيْهِ تُرْجَعُونَ

Who will lend to Allah a delightful loan, so Allah will double and multiply it for him many times over. And Allah withholds and grants abundance, and to Him you will be returned [Surah al-Baqarah, Q2:245].

The Holy Qur'an also warns Muslims 'not to eat up your property' but to let there be trade by mutual goodwill:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

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 an-Nisā'*, Q4:29].

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

Do not use your property among yourselves in illegal ways and then deliberately bribe the rulers with your property so that you may sinfully acquire the property of others [*Surah al-Baqarah*, Q2:188].

Furthermore, the Messenger of Allah, Prophet Muhammad (PBUH) said:

No one's faith amongst you is reliable until he likes for his brother [in Islam] what he likes for himself [*Aḥādīth Bukharī, Muslim*].

All these verses from Holy Qur'an and Ḥadīth highly emphasizes on the concept of social justice.

CONCLUSIONS

To encapsulate, the concept of social justice in Islamic finance system plays a crucial role and its mechanisms as provision of social security, an equitable distribution of wealth, transparency, risk-sharing, interest-free financing, asset-based transactions, and the avoidance of undesirable activities are underlying assets of Islamic finance industry with the strong adherence to unchanging, codified set of laws called Sharī'ah. Every instrument, every product and every contract has to go through an examination of Sharī'ah that determines Sharī'ah compliance is being satisfied. Sharī'ah represents the idea that all human beings and governments are subject to justice under the law and principles of Sharī'ah derived from the primary sources of Islam, the Qur'an and Sunnah.

Furthermore, according to it the dominant notion of risk-sharing and interest prohibition in Islamic finance can be positive for the entire international community in order to avoid financial instability and to achieve social welfare. This has been highlighted by Hossein Askari in his article:

If policymakers want to eliminate recurring financial crises, they must discourage excessive borrowing, leveraging, and risk-shifting and instead encourage risk-sharing and equity finance. While Islam offers a system that prohibits all debt, a significant reduction in debt financing in favor of risk-sharing is the essential ingredient to reduce and eliminate financial crises and economy downturns. Otherwise, if policymakers do not adopt fundamental reforms to reduce debt financing and leveraging, international contentions will grow.

Moreover, the Holy Qur'an highlights:

أَوْفُوا الْكَيْلَ وَلَا تَكُونُوا مِنَ الْمُخْسِرِينَ , وَزِنُوا بِالْقِسْطِاسِ الْمُسْتَقِيمِ. وَلَا تَبْخَسُوا النَّاسَ أَشْيَاءَهُمْ وَلَا تَعْنُوا فِي الْأَرْضِ مُفْسِدِينَ

Maintain just measure in your business and do not cheat. Weigh your goods with proper balance and do not defraud people in their property or spread evil in the land [*Surah al-Shu'arā'*, Q26:181-183].

Finally, the drive of Islamic financial system is to create business environment that propose a fair and equitable profit from transactions that are backed by real assets. This method of financing avoids usury, uncertainty, short selling and excessive credit creation at the same time as enabling a greater 'safe-control' for crisis management procedures through accelerating the level of social justice in the community. Well-functioning financial systems are a key factor in producing high economic stability and growth. Hence the concept of social justice in Islamic finance can effectively contribute to the development of a stronger and more comprehensive Islamic architecture, the success of which will ensure balanced growth in the global economy through its solid regulatory framework.

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