

Contemporary Importance and Prospects of the Institute of Social Security

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Abstract:

The opinions expressed in the article are formulated in accordance with the requirements of the methodological principles and traditional methods of the Ḥanafī faith. Opinions on social welfare are observed on the basis of modern standards based on the book "Badā'i' al-ṣanā'i' fī tartīb al-sharā'i'" written by the jurist of Samarkand, Abū Bakr al-Kāsānī, and based on the jurisprudence rules and legal arguments introduced in Central Asia in general, in particular in our Republic.

Keywords: Badā'i', Ṣanā'i', Kāsān, marriage, mahr, farḍ, wajīb, sunnah, wakīl, witness, evidence, ijma', qiyās, aṣl, 'Uṣūl, furu', permissible, rational way of thinking, Islām, sharī'ah, nafaqa

In Muslim societies, the rules of jurisprudence that regulate the functions of the welfare institution are controlled and administered by the institution of judiciary. The judicial system, in turn, operates within the framework of jurisprudence norms formed in the form of jurisprudential norms. The preservation of the citizen's sharī'ah rights is constantly under the supervision of the judge. In order to find answers to the questions that arise in social life, Sharī'ah rulings are referred to, and fatwas are issued according to their principles.

The knowledge and intelligence, experience and skills of jurisprudents are important for the full functioning of social institutions that include the system of Sharī'ah rules. Scholars carry out scientific activities in the direction of development and improvement of norms corresponding to the standards of the legal sects started by the leading imāms of the Islāmīc religion in accordance with the period and people's conditions. In the history of jurisprudence of Islām, it is observed that such scientific activity began in the 7th century. The 10th-12th centuries are recognized as the flourishing period of jurisprudence. Sharī'ah rules established and developed in the central cities of the Arab

Caliphate during the heyday of jurisprudence began to become the living principles of the peoples of Mā Warā' al-Nahr, Khorāsān, Andalus, and Eastern European regions that became Muslim.

Mufti of the Religious Office of the Muslims of the Russian Federation, Sheikh Aynuddinov Ravil Ismailovich, in the article entitled "Ḥanafī school: history of revival, classification and presentation of the main sources", the history of Ḥanafī kalām-fiqh schools, the main methodological principles developed by Imām Abū Ḥanīfah (r.a.), Rasūl Allāh (p.b.u.h) and his companions, the contributions of later scholars of jurisprudence in continuing Ḥanafī traditions, brings a number of important information about the works they created and analyzes them based on modern religious and scientific requirements.

The mufti of the Religious Office of Muslims of the Russian Federation expresses the following opinions: " views. It was 'Abd Allāh ibn Mas'ūd (r.a.) who was the founder of the " Aṣḥāb al- Ra'y " school of jurisprudence formed in Iraq. The first jurisprudential and intellectual buds of the Ḥanafī sect appeared in the views of this scholar.

Ignorance of this historical fact (evidence) causes some Muslims to have misconceptions about the direction of " Aṣḥāb ar- Ra'y " and the Ḥanafī school in general. From this point of view, it is necessary to explain in detail the nature of the rationalist - mental observation method in the views of 'Abd Allāh ibn Mas'ūd (r.a.). It should be said that through his work, this great companion revealed the vitality and universality of the Islāmic religion in all times and places, as well as the fact that it has great potential in the process of its further development.

It is not for nothing that the second Caliph 'Umar (r.a.) appointed 'Abd Allāh ibn Mas'ūd (r.a.) as a teacher and minister in the city of Kufa due to his knowledge and religious perfection. The reason is that in contrast to the composition of the Muslims of Madinah, the ethno-confessional composition of the population living in Iraq is very complex, and on top of that, at that time, there were not many of them who strictly follow the pillars of Islām.

Therefore, because of many rational views among the people of Kufa, conflicting questions arose regarding the instructions of the Holy Qur'ān and the hadiths. The task of finding a solution to these questions based on primary sources and teaching them the rules of Sharī'ah and correcting them, was entrusted to the teacher of jurisprudence, 'Abd Allāh ibn Mas'ūd (r.a.), who has great scientific and intellectual potential. He used the Logical Rational Argument method to solve problems in Kufa. As a result of comparing the views expressed by 'Abd Allāh ibn Mas'ūd (r.a.) during his scientific activity in Kufa and his scientific activity in Madinah, it was reported that there are differences between the views expressed by the scientist in these cities. It should be noted that the reason for such changes in views is related to local customs and features of mentality.

Another important factor in the development of the school of Iraqi jurisprudence is the fact that Caliph 'Alī ibn Abū Ṭālib (661) turned the city of Kufa into the center of the Caliphate, and in this city, debate conferences were organized and launched among scholars and representatives of wrong ideological currents such as Qadariyya and Khārijīyya. It can be said that during the time of Caliph 'Alī (r.a.), the development of Muslim thought, which formed the basis of the knowledge of the Word, and important teachings of the Sunni faith, that is, the teachings of Māturīdiyya and Ash'ariyya, were formed.

Imām Abū Ḥanīfah (r.a.) is at the head of organizing and organizing this scientific direction of 'Abd Allāh ibn Mas'ūd (r.a.h.) Imām Abū Yūsuf (798), Imām Muḥammad Ash- Shaybānī (805) and Imām Zufar (774) were the students of Abū Ḥanīfah (r.a.) to find a solution to the problems in the conditions of new and emerging realities. Imām Abū Yūsuf (r.a.) left an indelible mark on the history of Islām not only as the first disciple of Imām Abū Ḥanīfah (r.a.), but also as a person who acted as the first Qāḍī al-quḍāt (Supreme Judge of Sharī'ah). Abū Yūsuf left a jurisprudential work called " Kitāb al-Kharāj ".

Imām Muḥammad Ash- Shaybānī, the second student of Abū Ḥanīfah (r.a.), was a scholar who wrote works such as "Al- Aṣl ", "Al-Ziyādāt", "Al-Jāmi‘ al-kabīr ", which are the programming books of Ḥanafī fiqh reached.

Although the works written by Imām Azam's third disciple, Imām Zufar, are not recorded, many other fiqh scholars refer to the narrations of Imām Zufar in their works.

Imām Abū Bakr Al- Kāsānī (1911) was one of the scholars who continued the views of Abū Hanifa until the 12th century. Imām Kāsānī created an important work called "Badā'i‘ al-ṣanā'i'" ("Дивные искусства") in which he fully explained Islāmic law.”¹

The fact that the work " Badā'i‘ al-ṣanā'i‘ fī tartīb al-sharā'i'" written by Allama Abū Bakr Al- Kāsānī was recognized by the Chairman of the Office of Muslims of Russia as one of the masterpieces of the scientific heritage of the Ḥanafī sect shows its great importance in the activity of Russian religious institutes.

Abū Bakr Al- Kāsānī's work "Badā'i‘ al-ṣanā'i‘ fī tartīb al-sharā'i'" expressed several opinions about the arrangement of pension rules in Muslim Ḥanafī jurisprudence in a unique way. Based on mutual comparison, it can be said that the work "Badā'i‘ al-ṣanā'i'" is one of the masterpieces that has been a source of advanced ideas in its time and has maintained its potential and importance even to this day.

N. M. Mansurova in the article " Fakhr al-Dīn Ozgandi's views on the property rights and obligations of the spouses" states that in Fakhr al-Dīn Ozgandi's work " Fatāwá Qāḍī Khān" a separate paragraph is allocated for the topic of pension in the "Pension chapter" of the "Book of Divorce" and the following issues related to pension are described in the work :

- ✓ Season about Idda allowance;
- ✓ Chapter on child allowance;
- ✓ Section on parental and relative allowance;
- ✓ Chapter about the allowance of a slave (maid).

Fakhr al-Dīn Ozgandi's opinion on pension is as follows: "We (Ḥanafī madhhab) do not have fixed pension, but a man should provide sufficient funds for his wife.”²

In the work " Fatāwá Qāḍī khān ", the author mentions allowances related to food, clothing, housing as obligatory allowances.

Fakhr al-Dīn Uzgandi said that it is permissible for a man to provide his wife with enough bread along with something to eat, which means "in the average amount of food necessary to feed your family" in verse 89 of Surah al-Maida: "The best food a man can feed his family is bread. and meat, and the average diet is bread and butter, and the last is bread and milk. The oil should be butter, in particular. All this will be according to their traditions. According to the tradition of the Ḥanafī school, a woman's allowance is different due to the diversity of people and times. Pension is not measured in dirhams. However, the founder of the Shafi'i sect, Imām Shāfi'ī (r.h.), says: "Pension is twice for the rich, one and a half times for the poor, and once for the poor." Qāḍī Khān objected to this opinion and commented, "This is wrong, it is necessary to have a sufficient reason, which varies according to the diversity of individuals and times."

¹ Гайнутдин Р.И., Баишев Р.И. Ханафитский мазхаб: история становления, классификация и обзор источников. 21.10.2022. Ислам в современном мире. 5.11.1. Теоретическая теология (ислам) УДК 297.17 DOI 10.22311/2074-1529-2022-18-4-27-42 file:///C:/Users/user/Downloads/968-2078-1-SM.pdf

² Мансурова Н. М. Фахруддин Ўзгандийнинг эр-хотиннинг мулкый ҳуқуқ ва мажбуриятлари тўғрисида қарашлари // Юрист ахборотномаси – Вестник юриста – Lawyer herald. № 4 (2022) – Б.8-13. <https://uzmarkaz.uz/uploads/2023/01/urist-ahborotnomasi2024son.pdf>

Regarding the clothing allowance, Fakhr al-Dīn Qāḍī Khān agrees with the opinion of Imām Muḥammad Shaybānī and mentions that it is to bring two shirts, a blanket and a blanket once a year. Many people disagreed about Milhafa. Some say that it is a dress that a woman wears when she goes out, while others say that it is a night cover that she covers herself at night. The above-mentioned two shirts and two veils mean winter and summer. It should be thin and suitable for hot weather. And the winter one: it is allowed to be thick and suitable for protection from cold. According to the author's opinion, in our country Mā Warā' al-Nahr, the clothing allowance should include shalwars, a jubba (the longest shirt), as well as a bed for sleeping, a blanket on top of it, woolen cloth to protect against the cold in winter, and silk cloth to protect against heat in summer.

Regarding housing allowance, Ozgandi expresses his views as follows: "It is her right for a woman to own a separate house in order to keep her belongings safe. Relatives of the husband should be modest to enter there. If a person has a mother or a sister or a wife, it is the husband's responsibility if the woman says: "Transfer me to another special address." Because the woman cannot keep her belongings safe, if the house is one, the husband's relatives should not enter her house. If there is a plot with many houses and the husband gives the woman one house that can be locked and opened, she will not have the right to demand another house from the husband, unless the victim is one of the relatives of the husband.

Talking about the modern importance of the issue of social security, it is noted that the main reason for divorces between spouses is the lack of knowledge about financial relations.

Regarding the modern importance of having knowledge about pension and its forms, Hazrat Shaykh rahimahullah answers: "Each family should determine the wife's pension based on its economic status. Husbands should not be rude, wives should not be overly demanding. Nowadays, there are many complaints that wives are being oppressed in some cases in the matter of pensions. It is a good thing that many men honor their duty to provide for their wives. But as if some of them did not provide their wives with a pension, others' wives are earning money, and they are watching TV saying, "You feed me." This is unbearable. The sentence "If the wife is in her father's house or if the husband is sick in his house", which was quoted from the jurists, deserves special attention today. In many households, if the daughter-in-law becomes ill, there are those who consider it fard or wajib to take her to her father's house. Parents, relatives or acquaintances consider it their pride to take a man whose wife is sick, take his wife to his father's house. And they do not hesitate to order the bride to be brought back on the day she recovers. Because it has become a habit. In fact, it should be an honor for every self-aware person. Even if the bride is sick at her father's house, the husband should bring her home and treat her."³

The principles of Islām do not reject the national-cultural traditions of the peoples of the Islāmic faith, but instead support their positive universal and educational aspects.

The Mā Warā' al-Nahr peoples have always had good respect for their parents. Muslim Sharī'ah also orders not to leave them without care in their old age, but to give them alms.

A rich child, regardless of his age and gender, should provide pensions to his parents, poor grandparents, regardless of whether they are Muslims or infidels (non-believers/dhimmis), whether they are capable or incapable of a profession, and a rich child is responsible for providing pensions to needy parents. he should not expect the participation of others.

A child is the closest person to a parent. Therefore, it is the child who is the most worthy to provide the parent's allowance. According to "Zāhir al-riwāyah ", parental allowance is equally obligatory for (wealthy) sons and daughters.

³ <https://www.muslima.uz/index.php/uz/sayt-boshi/islom-dini/fatvolar/1808-khotinning-nafa-asi-erga-vozhbidir>
<https://www.muslima.uz/index.php/uz/sayt-boshi/islom-dini/fatvolar/1808-khotinning-nafa-asi-erga-vozhbidir>

It is obligatory to give allowance to parents because Allah Almighty said: "Be kind to them (even if they are disbelievers) in this world" (Surah Luqman, verse 15). This verse was revealed about unbelieving parents, which means that even if the parents are unbelieving, their allowances will be borne by the Muslim child. Because if a person leaves his parents hungry while enjoying God's blessings, he will not be doing "good treatment".

According to Imām Quduri, may Allah be pleased with him, who is one of the Ḥanafī jurists of Baghdad, it is necessary for a child to be poor to provide alimony to his parents and grandparents (if not the father). Because if they are rich, it is better to provide them with their own wealth than to provide them with another's wealth.

At the same time, as mentioned above, even if the parents are able to work, the child must provide them with alimony. So, if the parents are rich, it is not obligatory for the children to provide them with alimony, but if they are not rich, even if they are able to work, it is obligatory for the children to provide them with alimony. Because parents are busy because of their work. The child was ordered to pay back the damage.”⁴

M. Ataev (candidate of historical sciences) in his article entitled "Complex of children's rights in Islām " dwells on the coverage of children's rights in Jizzakh jurist Mājid al-Dīn al-Ustrushani's work " Jāmi‘ al-aḥkām al-ṣighār" (completed on July 28, 625/1228) and says: " Jāmi‘ al-aḥkām al-ṣighār ", which is the first legal source, collects, systematizes and summarizes the shari'i fatwas related to children that were scattered in more than one hundred books on fiqh.”⁵

The author of the article cites from this jurisprudential work the fatwas regarding children's pension rights:

"It is the father's duty to provide children with food, clothing, and shelter. The allowance of a poor young child is obligatory on the father. The proof of this ruling is taken from the Holy Qur'ān. Allah Almighty says: "It is the responsibility of the father to feed and clothe them properly" (Baqara, 233). There is no doubt that it is obligatory to give allowance to the mother because of the child. The child's allowance is obligatory only for the father, the parents' allowance only for the son, and the wife's allowance only for the husband. No one will share this benefit with him. Feeding a child is a benefit. The allowance is obligatory for the father.

In " Jāmi‘ al-rumūz " it is said: The allowance of a young child is obligatory for his father until he earns a living.

If a girl who has reached puberty does not have a husband, her allowance is obligatory for her father. If the sons who are sick or who seek knowledge are poor, their allowance is also obligatory on the father. The father also has to pay alimony for the girl whose marriage breaks up and returns.

If a person has young children, some are nursing, some are weaned, and their mother is a wife, and the children do not have personal funds, if the mother sues for their maintenance, if the children are young, the judge will assign their maintenance to the father. If the mother complains about the oppression and stinginess of the husband in providing for her children, the judge must hear her complaint and give a part of the material support of the children to the mother.

A father can be arrested for alimony given to his child. If the father is unable to work due to old age or is sedentary, he begs and gives alimony to his children.

If the children make a living by begging from people, the father is freed from the obligation of maintenance.

⁴ Имамназаров Ж. Ислом иқтисодиёти йўналиши бўйича фалсафа доктори. Мақола. Ота-онанинг нафақаси. 03.05.2023. Манба: <https://islom.uz/maqola/14126> ва Бурҳониддин Марғинонийнинг “Ҳидоя шарҳ бидоятил мубтади” асари.

⁵Атаев М. Исломда болалар ҳуқуқлари мажмуаси. muslim.uz. 2017. <http://old.muslim.uz/index.php/maqolalar/item/3445-islomda-bolalar-u-u-lari-mazhmuasi>.

After the father is charged with providing for the children, if the wife does not borrow money, but the children live by begging, the father is not obliged to give anything. If the father is poor, the grandfather gives allowance. If the child's father is poor, and the grandfather (father's father) is rich, and the child has no means, then the grandfather must give allowance. If the father is poor, the mother and grandmother are responsible for the allowance.

If the child has a rich mother or grandmother, and the father is poor, then the mother and grandmother are ordered to give allowance to the child. If the father is unfit for work, the debt will be borne by the father. If he is unfit for work, no obligation is imposed on him. All this is mentioned in Qāḍī Fakhr al-Dīn's "Fatāwā".

The child's allowance (even if he is an illegitimate child) is the responsibility of the father.

In "Quduri" it is said: The child's allowance is an obligation of the father, even if he is of a different religion. The wife's pension is the same, even if she is of a different religion, it is the responsibility of the husband.

A poor person is obliged to pay the allowance of only four people.

In Qāḍī Khān's "Fatāwā" it is said: A poor person is obliged to give allowance only to the following four people: a young child, unmarried or divorced adult girls, a wife and a slave."⁶

In the Muslim society, these laws are formed on the basis of Sharī'ah rules and jurisprudence, while in the modern state system, the laws on the provision of social benefits are regulated on the basis of the Constitution and related codes, which are formed according to universal principles.

It is seen that the real purpose of the arrangement of pension issues in the Muslim society and the relations of the modern state legislation is common in the fact that their directed object is human interests. In both systems, protecting stability in society, guaranteeing social security, improving the situation of measures aimed at getting rid of poverty, and raising it to the level of the requirements of the time emerges as the first urgent task.

The legal aspect of this approach has a decisive force in the establishment of an attitude to the problems and issues related to the social life of the society. The basis on which legal entities are established is important in the stabilization of legal and regulatory principles in the minds of members of society. Rulings in solving social and civil issues in Muslim society are based on jurisprudential laws and requirements of Muslim Sharī'ah.

The terms Muslim Sharī'ah and Muslim jurisprudence are closely related and are actually synonymous. The legal practical parts of all religions are called sharī'ah. The rulings of Islāmīc sharī'ah are derived from the Qur'ān, Sunnah, Ijmā' and Qiyās.

"The general purpose of the rulings of the sharī'ah is to reveal all the things that are necessary for the life and happiness of people in this world," say 'uṣūl fiqh scholars."⁷

All activities aimed at the implementation of the goals of Muslim sharī'ah are directly related to the norms of social law. In all social societies there are issues that deserve the most attention. The issue of social security is one of these important issues. In achieving these five goals, special attention is paid to the issue of social security, including the issue of benefits. Due to the importance of the institution of pension, the topic of pension is collected in fiqh works in the form of a separate book and special attention is paid to the fiqh rules in it.

⁶ Атаев М. Исломда болалар ҳуқуқлари мажмуаси. muslim.uz. Мақола. 2017. <http://old.muslim.uz/index.php/maqolalar/item/3445-islomda-bolalar-u-u-lari-mazhmuasi>

⁷Шайх Муҳаммад Содиқ Муҳаммад Юсуф. ИСЛОМ ШАРИАТИ. Islam Online. Мақола. 14. 08. 2022й. <https://www.islamonline.uz/site/item?id=7402#>

The pension institution of the Muslim society is one of the first institutions that came into being with the emergence of Islām. In the introduction of Islāmic religious norms, Muḥammad (pbuh) is recognized as the founder of the juridical and legal structure of the Muslim society.

In the works of Muslim scholars, it is emphasized that the solutions to the issues of the construction of this building and the laws of living in it, how to establish and maintain the marriage of Muslims, have been established by Allah Almighty in the Holy Qur'ān.

The map of the main and most basic actions of the Muslim social system is primarily focused on protecting human interests and ensuring that the Muslim person achieves two worlds of happiness.

In this sense, the social institutions of the Muslim society are formed not for the interests of one person, but as a source of creating opportunities for the entire Islāmic community to live a fulfilling life. The system of Sharī'ah laws is considered to have the qualities of stability and durability in terms of periodicity due to the fact that it is built on the foundation of fair and consequential decrees and judgments of God.

The way of life of Muslim people, their rights, interests and perspectives are implemented within the framework of fiqh laws.

According to pension books, there are types of pension, such as wife's pension, parents' pension, relative's pension, offspring's pension, slave's pension and even pet's pension.

The word pension has several meanings in modern times. The pension institution of the Muslim society represents the duties and obligations of a Muslim man based on the requirements established in the Sharī'ah, and as a modern term, it is understood as one of the instruments of the mechanism of the state's protection of the lives of its citizens.

Pension, both in the first sense and in the second sense, represents the content of the financial support given by the members of the rich and self-sufficient class to the representatives of the poor, elderly and needy class.

This practice, which is accepted as a set of tasks for which a man is responsible according to the sharī'ah rulings of the Muslim society, is considered as a social pension protection tool of the state in the secular state system. In this respect, the concepts of Islāmic pension and state pension are close in essence. If the institution of pension in Muslim society arises in connection with the soul and spiritual perfection of a believer, the state pension system is based on the nature of the mandatory provision of pension in certain situations and conditions based on civil laws.

An important aspect related to social welfare should be taken into consideration in the scientific researches on the study of the legacy of Muslim scholars and in finding solutions to modern issues.

This important aspect of the matter is the principles arising from the religious-national mentality of the people.

These principles are reflected in the features formed on the basis of the traditions and religious beliefs of the ancestors, the manners of following moral standards in relation to the issue of supply, the sanctity aspects of the criteria of honesty and impurity.

For future generations to reach maturity and make the right decisions, it is very important for them to know and respect and follow the examples of kindness, kindness and generosity of their ancestors in their social relations.