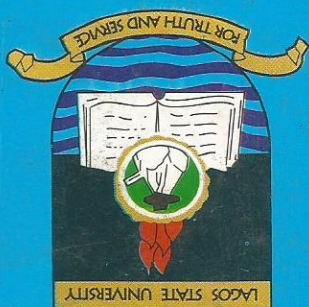


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BOOK REVIEW

TITLE: The Imperatives Of Islamic Law Of Commerce & Other General Transactions

AUTHOR: Murtadha Gbadegeeshin Haroon (Ph.D Islamic Studies))

PUBLISHER: Jiyl Qur'an(Qur'anic People) Enterprises for Book Publishing and Allied Business.

VOLUME: Two Volumes

YEAR OF PUBLICATION: 2006

PAGES: Vol. I=156 pages
Vol. II=130 pages

REVIEWER: H. O. Edu, LL.B (Hons.) LL.M
Lecturer, Department of Islamic Law
Lagos State University

Introduction

'The Imperatives Of Islamic Law Of Commerce And General Transactions' is written in two volumes. There is a few of such comprehensive work on this topic in existence and in such a simplified form. The Author has attempted to look at all kinds of monetary transactions recognized in Islam Law.

Format and Structure

Volume I has 18 preliminary pages and 156 pages while volume II has 6 preliminary pages and 130 pages. The preliminary pages feature the usual indispensable guides found in most formal texts namely table of content, glossary, preface, title page and a page dedicated to transliteration i.e. writing of Arabic Texts in Latin Alphabets, depicting the book's special nature.

The cover design of the books are the same pleasant combination of red, yellow, blue, grey and white colours. In five long chapters-3 in Volume I and 2 in Volume II- the Author covers the vital legal subjects of Islamic Commercial Transactions along the Islamic Law approach whereby topics like Islamic Ruling On Riba, Trade, Commercial Contracts, Principles of Corporation Ventures and The Imperatives of Immovables are discussed.

Volume 1

In Volume 1, which has 3 chapters, the Author started off chapter one with an exposition about Allah(SWT) as the Creator of all things. Thereafter, he commenced his discussion on Riba(Usury), which-from the author's analysis-is any form of unjustly acquired earnings. In the words of the Author, 'It is the act of increasing monetary capital, small or big, without working with the money, may it be of old type called 'Nasi'ah', how that of procastration called 'Fadl' in Islamic parlance (pg 16). The author highlighted the Islamic Law position on this type of transaction, providing justifications in Islam and logic for its prohibition and debunked all arguments of its proponents by the same methods.

The Author also devoted time in this chapter to what he termed '*The logic of classifying terms in Islamic Law*' whereby conducts of homosapien is either '*Ibadatun mahdan*' (purely dogmatic) or '*ibadatun ghayr mahdan*' (non-dogmatic). Here one should note that all conducts of a human being are 'ibadah' (worship) before The Creator. The Author also classified transactions whereby brief attention is given to 'al-Ahwalush shakhsiyyah (law of personal status or Family Law) and 'ilmul-faraid (Law of inheritance).

Chapter two dealt with commerce and commercial activities under Islamic Law with particular reference to Contract('Aqd) and all its essential factors and rules, and Sales(bay'), also with its essentials, the permissible and the impermissible ones, the void(batil) and the illicit(fasid) ones, price(thaman) and price control(tas'ir). The latter receive the author's endorsement in curbing cheating of either the buyer or the seller. The Tradition clearly stated that Prophet Muhammad(SAW) did not encourage it.

Chapter three dealt with other important commercial contracts like Advance purchase(salam/salaf), Hire/Rent(ujrah/ijarah), Stake holding(jaa'lah) and what the Author termed 'Collaborative bargain'(mudarabah and qard) along with their essentials and conditions governing each of them.

Volume II

This volume, which is divided into two chapters, started where the Author left off in the preceding volume. Chapter one was devoted to The Principle of Joint Venture(Sharikah/Shirakah) which the author termed 'Corporation'. Here a rich analysis, touching the principles, the rules, and the elements of joint venture in Islamic law were rendered analytically and in a way that touched all types of company(sharikaat) in pari-pasu with what obtains in other systems. The chapter also touched other corporate financial transactions such as Insurance (ta'min) Banking(bunuq), Agency(wakalah), suretyship (kafalah), mortgage(rahn) and deposits(wadi'ah) with concise to-the-point write-up on each of them.

Chapter two, being the final chapter of the sequels, dealt sweepingly with private estate which the Author termed 'The Immovable(al-'aqaraat)'. He touched those that can be exploited jointly e.g. the use of common water basin for irrigation(musaaqaa), rotation of land for joint farming (muzara'a); and those that can be exploited individually e.g. land resuscitation(ihyau al-ardh), land/forest reservation(himaa), private reservation(hartim) etc were cursorily looked into. The chapter also touched other private arrangements of basic importance in Islam like attestation(wasiyyah) termed 'Islamic will' in the book, endowment(waqf), lifetime subscription(umra), debt swapping(hawalah) as distinct from guarantee arrangement (damaan), bankruptcy(iftlas/tallis), usurpation of others' wealth(ghasbu). He ended the sequel with a discussion on pre-emption(shu'fa'h), thus bringing this vivid exposition on Commercial Transactions in Islam to a very logical end.

Overview: I must observe that the issue of Transactions(Mu'amalat) in Islam had been flagged by Scholars over the ages, but it can never be over-logged because it is a legal aspect of Islamic Faith i.e. matters of jurisprudence(Fiqh) or Law. It has been variously classified by Scholars; some into five classes, others more. All of these can be classified into three broad groups vide: Monetary Transactions(Mu'amalat al-Maliyyat), Personal Status(Ahwal ash-Shakhssiyyat) and Social Transactions(Mu'amalat al-Ijtima'iyat). Ustaz Abdur-Rahman Sanhuri, an erudite Egyptian Scholar of Hanafi school put Transactions into Five classes and titled them '*Sources Of Right*' the title he gave to his voluminous book on the subject(Masadir al-Haq). One of these classifications had always been 'Monetary Transactions' which happened to be the main focus of the books presently under review. The respected Author should have limited the title of the books to '*Islamic Law Of Commercial Transactions*' as the Arabic title translates(Mu'amalat al-Maliyyat). The second segment of the title "...and General Transactions" is in this respect an unjustified addition.

The normal explanatory role of an Introductory Chapter was missing in both volumes of this work, if only to highlight the Author's line of thinking, in choosing his title when he knew the book is not all-encompassing in the area of coverage.

The author, with this work had however, again set another pace which is worthy of emulation by younger ones like us, May Allah(SWT) accept it as an act of goodness to Islam and Muslims (amin).

The following points should also be noted in putting together the next edition of the book:

- there are considerable number of printing mistakes in the two volumes, some affecting the understanding of some passages.
- Bracket should be used when giving a transliteration of an Islamic terminology e.g. transactions(mu'amalaat) instead of the use of colon.
- The work can be made useful to the non-muslims who may be interested in Islamic Law, and the non-arabist Muslims by de-emphasizing the use of Arabic alphabets. The use of Latin alphabets can help the pronunciations of these groups of users e.g. contract('aqd), corporation(sharikah) etc instead of their Arabic form.
- Readers should note that the English words use to interpret Islamic terms in the work are not conclusive as other writers may use other words to mean the same thing e.g. corporation is used for 'sharikah' whereas others may use 'company' likewise the 'guarantee/warranty' is use for 'khiyaraat,' whereas other works may use 'options' etc.
- The style of footnoting used in the work is no longer in vogue i.e. End-page footnoting. Page by page footnoting is the universally accepted norm presently.
- On page 57 of volume I item (d) the phrase 'period of pay' should read 'period of payment'.
- On page 74 of volume I the sub-heading 'Ground of Argumentation' should read 'Ground of Argument', I recommend a careful proof-reading of future edition of this book.