

The Reason Behind Imam Al-Shafi'i's Denial of Commendation- A Contemporary Applied Jurisprudential Study

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Abstract. This study identifies the reasons for Imam Al-Shafi'i's rejection of "Istihsan" or juristic preference. The study explains the concept of Istihsan, its components, the schools of jurisprudence, "ijma" or consensus, and the attitude of ancient and contemporary jurists towards Istihsan. Scholars' opinions regarding acceptance or rejection are also presented. Contemporary applications are examined where jurists have employed Istihsan, highlighting its legitimacy and its impact on facilitating matters for Muslims in their daily lives. Istihsan is a fundamental principle of Islamic jurisprudence aimed to facilitate Muslims' lives while adhering to the divine law. Jurists reject Istihsan based on legal evidence and serve the objectives of the Sharia, as well as being a legitimate argument in itself. Furthermore, the study explores contemporary jurisprudential issues and branches based on Istihsan, their formulation, and grounding. This enables jurists to apply fundamental jurisprudential principles to the evolving issues and circumstances of people's lives.

Keywords: Istihsan, Components of Istihsan, Schools of Jurisprudence, Consensus.

1. Introduction

Adhering to the principles and rules of Sharia law is in the interest and benefit of the taxpayer, but sometimes the general analogy becomes unfulfilling of the Sharia's intent in bringing interest and warding off harm. Therefore, fundamentalists have derived evidence of the desirability of the solution from the exaggeration of the analogy and its continuation when its purpose is achieved. By dealing with contemporary jurisprudential issues as practical applications of some jurisprudential principles, the science of jurisprudence brings the science of jurisprudence from its theoretical side to the practical applied field, and in this way, the fruits resulting from the jurisprudential rules become clear to us. It also achieves a link between two important sciences: jurisprudence and its principles, which removes the disconnect that has clouded them for many centuries. As a result of theoretical study alone in the field of assets.

The combination of fundamental rules and emerging issues develops the jurisprudential faculty, and makes the jurist proficient in the science of jurisprudence and its principles, mastering them, capable of creativity and giving in them by writing and portraying issues accurately, and enables the jurist to arrive at mature jurisprudential opinions, based on the principles of deduction and the reasons for rulings. And its sockets.

1.1. Problem Statement

1. What is istihsan in general, and what is it according to Al-Shafi'i?
2. What is the position of jurists on istihsan, and what is their evidence for accepting or rejecting it?
3. Who are the jurists who take it the most, and who take it the least, and what are their reasons?
4. Is it appropriate to apply istihsan to contemporary issues in our current time?

1.2. Objectives of the Study

1. Explaining the meaning of istihsan linguistically and idiomatically in general and according to Al-Shafi'i in particular.
2. Explaining the position of ancient and contemporary jurists on accepting Istihsan.
3. Explaining who the scholars embrace it the most, and who are the least, and explaining their reasons.
4. Presenting some contemporary applications that are well received.

1.3. Study Limitations

The study dealt with the concept of Istihsan, the opinion of jurists in accepting or rejecting it, some contemporary applications in which jurists adopted approval, and a statement of the legitimacy of adopting approval and its effect in facilitating the Muslims in whatever new developments they face in the affairs of their lives.

2. PREVIOUS STUDIES

The researcher sought help after God in several jurisprudential studies that dealt with the subject of approval, and there were many studies on the subject, including: Approval and its contemporary applications, prepared by Dr. Musleh Abdel-Hay, Al-Najjar, a study published in the yearbook of the College of Islamic and Arab Studies for Girls in Alexandria. Volume 8, Issue 33, 2017.

Elements of the methodology of legislating by approval according to fundamentalists, an analytical study, prepared by Raed Nasri Abu Mu'nis, published in the Journal of Studies, Sharia Sciences and Law, Volume 41, Supplement 1, 2014. Approval: Its reality and applications according to the Shafi'is, prepared by Mansour Mahmoud Miqdadi, a study published in Dirasat Journal, Sharia and Law Sciences, Volume 37, Issue 1, 2010. Other than the previous studies, published books and research.

It is worth mentioning that in this research, the researcher seeks to combine the opinions of the jurisprudential schools of thought regarding desirability, and focuses specifically on the Shafi'i school of thought. She also seeks to add jurisprudential opinions that rely on desirability in our contemporary time, such as the ruling on abandoning prayer in the time of the Corona virus, and the ruling on plastic surgery.

3. RESEARCH METHODOLOGY

In preparing this study, the researcher followed the appropriate scientific methods, represented by the inductive approach to the positions of scholars and their opinions regarding approval, in addition to the descriptive approach through which the researcher demonstrated the scientific positions of the fundamentalist schools as decided by their owners, and the analytical approach to indicate whether schools accepted approval or not, and in analyzing the new circumstances that Muslims need approval to handle their lives. The first requirement: approval linguistically and etymologically

3.1. First: Approval Meaning in Language

According to ibn Faris: the sec and the nun are of the same origin, so good is the opposite of ugly. It is said: a good man, a beautiful woman and a beautiful woman. The poet says: The house of the girl to whom we used to say, "O doe, you are a holidaymaker," Hassana Al-Jaid. It is the derivative of goodness, which is counting something and believing it to be good. Ibn Manzur says: "He approves a thing, that is, he considers it good." (Ibn Faris, p. 57. Al-Kulliyat, p. 108, Ibn, manthor p. 117).

Thus, the linguistic meaning of approval revolves around considering something good. You say, "I liked such and such." That is, I thought it was good, and it is said: He liked the opinion, speech, food, or drink. That is, consider it good. It is said: This is what the Muslims found good, meaning: His enemy was good. (Kelaft, Study of Islamic, p. 69)

3.2. Second: Approval as a Term

There are many definitions of approval in the term, but we will mention some of them, including: Abu Al-Hasan Al-Karkhi defined approval as: "A person's reluctance to judge a matter in the same way that his counterparts ruled to the contrary, for a stronger reason that requires the opposite of the first (Al-Bukhari, Revealing the Secrets of the Origins of Al-Bazudi (4/7). Al-Sarkhasi, Usul Al-Sarkhasi (2/200). As for Muhammad bin Khwayz Mandad, one of the Maliki jurists; He mentioned that the meaning of approval, which was taken by Malik's companions, may God have mercy on him, is: "the statement with the strongest of two pieces of evidence." (Al-Baji, Ihkam Al-Fusool (2/564). Al-Qarāfi, Sharh Taqḥih al-Fusūl (355).

Al-Shatibi defined desirability as: "Taking a partial interest in exchange for comprehensive evidence." Then he quoted Ibn al-Arabi's definition of desirability as: "Taking pride in abandoning the condition of proof by way of exception and permission, in order to oppose what contradicts it in some of its requirements." Then Ibn al-Arabi divided it into four sections: Leaving evidence to custom: rejecting faith according to custom. Leaving evidence for the benefit: such as including the joint employee. Leaving evidence for consensus: such as imposing a fine on someone who cuts the tail of a mule by a judge. Leaving evidence for the sake of ease and avoiding hardship is like permitting a small difference in the case of a lot of prevarication. (Al-Shirazi, Sharh Al-Lama' (2/969).

Al-Shirazi defined approval by saying: "The desire is to abandon analogy with what a person desires in his own opinion without evidence." Al-Tawfi defined it by saying: The best thing that has been said about it is: "It is to deviate from the ruling on an issue from its equivalents for the sake of specific legal evidence," and this is the doctrine of Ahmad. The Hanafi scholars decided that it was approved of in a wonderful, extremely beautiful and gentle manner. Among the Hanafi scholars, the ancient Hanafi scholars defined it by saying: Approval is evidence that comes to the mind of the diligent person that the phrase is difficult to mention. Then the late Imam Al-Karkhi gave the Hanafi scholars a clearer definition, where he said: "It is reversing the matter according to the ruling of his counterparts to another ruling, for a stronger reason that requires this retreat. (Al-Ghazali, Al-Mustasfa (1/137).

Imam Abu Hamid Al-Ghazali defined it - "He is a man of the Shafi'i school of thought and says: "This is what the diligent person has determined with his mind... which precedes understanding." Imam Abu Ishaq Al-Shatibi defined it on the authority of the Malikis in his book "Al-Muwafaqat fi Usul Al-Islami Legislation" by saying: "It is the introduction of a partial interest in exchange for comprehensive evidence."

As for the agreement of the Hanbali scholars, Imam Ibn Qudamah al-Maqdisi mentioned what was reported by the scholars of the schools of thought regarding the concept of approval, where he made its concept not deviate from three meanings, and he invalidated two of them and chose one of these definitions, and said that the chosen meaning is the doctrine of Ahmad ibn Hanbal. "Judge Yaqoub said: "The claim that it is an approval of Ahmad's belief, may God have mercy on him, which is to abandon a ruling for a ruling that is its beginning, and this cannot be denied, even if there is a difference in naming it, there is no benefit in differing terms while agreeing on the meaning.

In light of what was reported by the scholars of the schools of thought regarding their definition of approval, it is possible to comment on each of them as follows:

What was mentioned by the ancient Hanafi scholars in their definition of ishsan does not seem clear enough to reassure souls about it, which made the Shafi'is in particular express it as not being based on reason, in reference to what Muhammad ibn Idris al-Shafi'i argued before them when he made ishsan a term of lust and following one's desires. Because legal rulings cannot be based on evidence that the scholars cannot show. Therefore, we find Imam Al-Karkhi, one of the later Hanafi scholars, who corrected this defect from the ancient Hanafi scholars in an attempt

to formulate a more precise and clear definition. Perhaps what Al-Karkhi said in explaining the concept of agreement is better than what was said in his surah. Where we find what was said about the various schools of thought, even those that invalidated approval of the old Hanafi phrase, formulating definitions that do not deviate in reality from what Imam Al-Karkhi said.

As for what Imam Al-Shatibi said, it expresses the truth of the approval given by the late Hanafi, but he made it specific to a type of it, which is approval for the interest, which highlights the influence of the Malikis in considering the interest, and although this consideration seems incomplete in its place, (Al-Shatibi, Al-Muwafaqat (4/205).

As it seems, but in reality it expresses regarding the nature of approval, because in reality it does not deviate from consideration of interest. This problem is explained by the fact that the philosophy of approval attempts to reconcile two dialectics: the logic of judgments based on interest on the one hand, and the behavior of rules in general on the other hand. (Al-Maqdisi According to Al-Shatibi's definition, it is necessary to abandon the circulation of rules if it becomes clear that the benefit is achieved by working with other partial evidence. It seems to me that this is one of the best things that have been said in explaining the concept of istihsan, in addition to the definition of Imam Al-Karkhi on the authority of (Al-Hanaf).

If it is said that it is specific to the interest and not general to other evidence, then we would say that it has been decided that the rulings are not devoid of consideration of the interest in any way, otherwise the basis of the reasoning will be completely extinguished.

If it is said, if you say that the rulings are not devoid of interest, and you stated in the above that the general rules are based on the meaning of interest, then how do you explain the abandonment of the intended interest indicated by the general rules?

We said: It is true that general rules are based on meanings and reasons that are not devoid of consideration of the intended interest of the legislation, but the interest may lag behind in its application in a matter, and this does not prejudice the rule, and it has been decided in the legislation that. Also, providing partial evidence over the overall evidence may be a matter of weighing between interests rather than a total lack of interest in the overall evidence. The second requirement: the pillars and components of approval (Nasri, Raed, The Elements of the Approval Legislation Methodology among Fundamentalists, An Analytical Study (454-455)

The fundamentalists used to explain the pillars of analogy, its conditions, and the paths of reasoning, but they did not do so with approval. Rather, they were busy researching its validity and the extent of its connection to pure opinion and whims. However, approval has components, which are:

First: The issue of desirability: This is the issue that the diligent scholar considers.

Second: The rule of analogy and the exception to the rule of the general rule in the matter that is considered without whims and with clear evidence.

Third: The reason for approval: It is the hidden meaning that requires the diligent person to contemplate to reach it.

Fourth: The evidence of desirability: It is the evidence that the diligent person relies on when excluding the issue of desirability from the rule of analogy based on his assessment of the existence of an appropriate meaning, and so that this exception is a controlled legislation and not pure opinion.

3.3. The Third Requirement: The fundamental truth of approval in legislation:

First: The origin of the legislation:

The principle of legislation is to apply rules and evidence in stating rulings, but generalizing the implementation of comprehensive evidence and general rules to all parts may lead to failure to achieve interest in any form. This contradicts the philosophy of legislation in its intention to obtain interest and prevent corruption, and in order to obtain this Intention: The diligent person had to abandon the general rule in the matter in which the interest is achieved, and rely on other evidence that leads to the interest.

Second: Conclusion:

The bottom line is that the philosophy of approval is based on exceptionalism that is, excluding some parts of the general rule, and is based on special evidence that achieves the interest. Hence, we find that approval does not deviate from the meaning of exception, abandonment, specification, or adoption, all of which express the truth intended by the Hanafi.

3.4. The Fourth Requirement: the validity of approval:

First: From the Qur'an: Those who advocate approval have cited verses from the Qur'an, The meaning of the verse is that Muslims follow the best deeds and the Law does not command them to do anything unless it is good.

Second: From the Sunnah of the Prophet: He, may God's prayers and peace be upon him, said: "What the Muslims saw as good is good in the sight of God, and what the Muslims saw as ugly is ugly in the sight of God. The meaning of the hadith is that Muslims do not meet to agree on anything unless what they agree upon is good and legitimate, and they do not gather to avoid something unless it is reprehensible and ugly.

It is noteworthy that this narration is based on what was said about it among the people of industry in the hadith of Al-Gharib and the narration on the authority of Ibn Masoud, may God be pleased with him.

Third: Consensus: Scholars have agreed on several issues based on desirability, including that it is advisable to enter the bathroom without estimating the duration of the shower or the cost of the water used, because that was not possible, although the principle in such transactions is to be known.

The Fifth Requirement: The doctrines of jurists in work: by approval.

First: the tap: The Hanafi are considered the pioneers of istihsan, as they: considered it an argument and evidence: valid in Sharia as a basis for rulings; On the authority of Imam Abu Hanifa, his companions used to argue about analogy, and if he said it was desirable, no one would follow him. That is, Abu Hanifa used to make analogy when he did not criticize analogy, and if he criticized analogy, he resorted to desirability.

This is what Imam Abu Zahra reported in his book Abu Hanifa, where he said: "Abu Hanifa was more desirable and there was no equal to him, and this is what his students reported..."; Perhaps the definitions quoted from them for approval are the strongest evidence of their interest and expansion in inferring them. Which makes their imamate an indisputable merit, as is the case for the Malikis with regard to the mursalah.

Second: Maliki:

Although the Malikis do not expand on approval like the Hanafi, they consider it a legal argument, which is what was indicated by Imam Al-Shatibi, who said: Satisfaction is an important argument in Malik's rulings; On the authority of Malik, that agreement is nine-tenths of knowledge in what Asbagh quoted on the authority of Ibn al-Qasim, on the authority of Malik: It may be most of the analogy, and it came from Malik: Those who indulge in analogy almost abandon the Sunnah.

Based on Imam Al-Shatibi's opinion on the concept of reformation, it can be said that the Malikis in fact rely on the reformist point of view, and since this type of consideration is partly consistent with the Hanafi agreement, the consensus of the statement is considered desirable by both the Hanafi and Maliki schools.

This is what Sheikh Abu Zahra pointed out in his book *Malik*; Where he said: The sources that prove that Malik was obtaining approval, which were mentioned by Imam Al-Qarfi; Where he said: Malik sometimes missed the necessity of approval Malik said in many cases, such as the issue of including the makers; Ibn al-Arabi al-Maliki said: "As for Malik's companions, there was no strong thought among them, and there was no strong opposition indicating its existence. We followed it in our doctrine and also divided it into sections, some of which left evidence for the benefit, some of which left evidence for custom, and some of which left evidence for the consensus of the people of Medina." Among them is leaving evidence to facilitate the removal of hardship and pride in expanding upon creation. The second example is the inclusion of the joint employee, and the evidence requires that he be a believer. The third example is confirming the general value of the one who cuts off the judge's guilt. The fourth example is the easy permission to make a trade-off in the case of great procrastination and the permission to sell the description in the easy way.

Third: Shafi'i:

Imam Al-Shafi'i stated that approval is not suitable as legal evidence and an important argument in Sharia, and this is what he stated in his book *Al-Risalah*, where he said: "And everything that I described as what I mentioned, and I remained silent about, it is sufficient for what I mentioned of it regarding what I did not mention; of the ruling of God and then the ruling of His Messenger, may God bless him and grant him peace. Then the ruling of the Muslims is evidence that it is not permissible for someone who deserves to be a ruler or a mufti to rule or issue a fatwa except from the point of view of necessary information, and this book, then the Sunnah, or what the scholars have said, do not differ about it, or measure some of this, and it is not permissible He may rule by approval, and approval is not obligatory, not in any of these meanings."

It was mentioned in another place in his book *Al-Risala* that approval is a result of desire and following pains... and that whoever is desired has legislated that; "God has permitted and forbidden it. He is the first to not say about them arbitrariness and approval, but rather that approval is a pleasure."

In light of what was mentioned about Imam Al-Shafi'i in the text of his statement in which he mentioned that agreement is not considered a legitimate argument, we find that it agrees with what Imam Al-Ghazali argued, which made it merely an intellectual view from the mujtahid. This explains that what Imam Al-Shatibi intended by approval is not consistent with the agreement that The Hanafi intended it, because Al-Shafi'i's approval is an abstract view and is not based on one of the meanings of Sharia, which contradicts what the Hanafis and Malikis hold, who consider approval to be based on Sharia evidence. Based on what he quoted from Imam Al-Shafi'i, especially in his book "The Mother Book of Shafi'i Jurisprudence," it can be said: Al-Shafi'i invalidates approval that is not based on evidence from Sharia law, such that it is merely following a whim, and he does not invalidate approval that is based on evidence from Sharia law.

Fourth: Hanbalis:

The saying of "approval" was attributed to Imam Ahmad ibn Hanbal in what Ibn Qudamah said, who based this attribution on a detail in what is meant by "approval," where he took three meanings, and made one meaning that is the chosen one according to the Hanbalis and that it is the doctrine of their imam, and the other meanings are not valid and are not considered.

Judge Yacoub said: "To say that it is approval is the doctrine of Ahmad, may God have mercy on him, and it is to leave the ruling to a ruling that is his first, and this cannot be denied, and if there is a difference in calling it, then there is no benefit in disagreeing in terminology while agreeing on the meaning." Based on what was mentioned above, the

concept of istihsan, which is based on the philosophy of reversing general rules and making exceptions from them, which the Hanafi expresses as an enemy by virtue of the issue to his counterparts, in a stronger way, requires this retreat expressed by the Malikis. As for Imam Al-Shafi'i's arguments in invalidating it as a legal argument, it was found that what is meant by approval according to Al-Shafi'i is not what is meant by approval according to other Hanafi and Maliki scholars, which makes the disagreement regarding considering approval as a legal argument merely a verbal disagreement and not a disagreement in the reality of approval.

Based on what the scholars have decided that what matters is the meanings and not the buildings, it can be said that the disagreement between the schools of thought regarding the validity of agreement is merely a disagreement in the construction and not a difference in the meaning, and since the disagreement in construction is not considered by the sages, it can be said that the disagreement contained in the agreement is not. In fact, it is considered nothing more than a verbal disagreement. Based on what was mentioned in the jurisprudential jurisprudence of the various branches of schools of thought, which came out in the name of approval or what is in its meaning, it can be said that approval of the meaning mentioned by the late Hanafi is subject to a practical agreement between scholars, which makes it a legal argument and an important piece of evidence in legislation.

3.5. Sixth requirement: Contemporary applications on approval

First: The fatwa of scientific bodies suspending: Prayer in mosques: the time of the Corona epidemic. Scholarly bodies in various governments, Islamic countries, and even non-Muslims have issued fatwas prohibiting prayer in mosques and places of worship due to the outbreak of the Corona epidemic. Many Muslims considered this fatwa to be a valid fatwa, while some considered it to be a fatwa contrary to Sharia law.

As for the evidence of those who said that it is not permissible to abandon prayer in mosques under any circumstances, their evidence is that prayer is performed at the times and methods specified by legislation; We have been commanded to perform prayers as prescribed, and there is no law that indicates violation of this principle and failure to implement it. As for the evidence of those who say that it is necessary to suspend gatherings and groups, their evidence is desirable, because although the principle is not to arrest gatherings and groups in mosques, except to continue applying this principle in the time of the epidemic, it may lead to great corruption, which is the destruction of souls and the spread of infection.

Second: The man's treatment of the woman.

Among the rules established by Sharia law is the prohibition of looking at a foreign woman, but an exception is made from that to look for the purpose of medical treatment out of necessity. Concerning this, Abu Zahra says in his principles: "A woman is naked from the top of her head to her feet, then it is permissible to look at some places out of necessity, such as seeing a doctor, and in this An opposition between two measurements:

1- What the rules stipulate about women being private; because looking at it leads to temptation.

2- What might lead to hardship in some circumstances, such as treatment, so I used the reason for facilitation here in this situation?"

If there is no illness or need for treatment; It is certainly not permissible, such as someone who is seen by a doctor to improve her health, lose weight, beautify her body, or have an illusion that she imagines, as these are not permissible to be revealed in front of the doctor.

Dr. Musleh Al-Najjar Divides Plastic Surgery into Two Sections

1- Shape surgeries: such as beautification of the nose, abdomen, breasts, and others.

2- Rejuvenation surgeries: such as facial beautification with injections and lifts, hand beautification, eyebrow beautification, and others.

The principle is that if a specialized Muslim doctor is available, she must examine the patient. If the Muslim doctor is not available, then the trustworthy non-Muslim doctor does that. If that is not available, then the Muslim doctor does that. If that is not available, a non-Muslim doctor takes his place. Provided that he is informed about the woman's body to the extent necessary to diagnose and treat the disease, and no more than that, and that he turns a blind eye as much as he can, and the doctor should treat this woman in the presence of a mahram, husband, or a confident woman for fear of being alone.

Third: Human organ transplantation and transplantation in Islamic jurisprudence

The task of transplanting and transporting organs is one of the modern surgical tasks that has emerged in the present era, and doing it before was considered impossible and a fantasy. Considering the ruling on a person benefiting from the body parts of another person, whether living or dead, in Islamic law, is part of the issues of modern jurisprudential jurisprudence, and perhaps it is one of the most important of them and one of the most in need of comprehensive, original study, so that it is based on evidence that those with sound jurisprudential ability are convinced of. Those with sincere Islamic insight can be reassured by it.

There is no doubt that this demand is directly and closely related to a set of comprehensive jurisprudential rules that will clearly illuminate the path to realizing the rule of Islamic Sharia.

Musleh al-Najjar believes that this issue is closely related to the principle of deliberation, as maintaining the general legislative provisions and rules in all cases without exceptions may lead to the consequences and consequences of a clash of interests that the wise legislator intended to achieve in existence, so the wise legislator's approach was to make an exception to the general rules. This is in the event that the continuation and perpetuation of the general rule or rule may often lead to harming the interests of those legally responsible, in order to pay the price of embarrassment and anguish, which indicates that all the rules of exceptions in Islamic law, from approval and other things, are rules. A practical methodology that controls the course of applied diligence, to prevent falling into extremism and violating justice and interest during application.

Such as if he commits a crime that requires a punishment, such as killing, cutting, or wounding, then the Sharia judge assesses against him what he deserves. Also, the principle is equality among Muslims in The infallibility of blood and organs, as in the hadith narrated by Al-Nasa'i in his Sunan that the Prophet, may God's prayers and peace be upon him, said: (The believers will be rewarded for their blood, and they will be a hand against everyone else. The lowest of them will pursue their responsibility. No, a believer will not be killed for an infidel, nor will a covenant be killed during his covenant). Therefore, it is necessary to preserve their sanctity, as the sanctity of the servants of God is among the most sacred, and their dignity is established by the Qur'an, the Sunnah, and consensus.

However, the permissibility of transferring human organs and transplanting them is seen as a desirability and an exception to the general principle that precedes the need to prevent embarrassment and hardship. We can infer this with a set of jurisprudential rules deduced from the texts of Sharia. Evidence of the permissibility of removing harm from the body, including: (harm is removed), (necessities permit prohibited things), and (if the matter becomes narrow, it expands). The first rule indicates, as the second rule indicates, that if the taxpayer reaches a state of coercion, then he is authorized to commit prohibited things. The third rule indicates that the taxpayer reaching a state of hardship that he cannot bear must be expanded in the ruling, and that this law is based on the fact that if things are narrow, they are expanded. Contemporary scholars have differed regarding the issue of transferring human organs from a dead or living person and transplanting them into a living person, based on two opinions: The statement that transmission is forbidden: This is the statement of Muhammad Metwally Al-Shaarawi, Sheikh Abdullah bin Al-Siddiq Al-Ghumari, Sheikh Muhammad Burhan Al-Din Al-Sanbuhli, Sheikh Hassan bin Ali Al-Saqqaf Al-Husseini, Dr. Abdul Salam Abdul Rahim Al-Sukkari, and Dr. Hassan Ali Al-Shazly. The opinion that transfer is permissible: This is the

opinion of Sheikh Abdul Rahman bin Saadi Al-Tamimi, Sheikh Ibrahim Al-Yaqoubi, Sheikh Jad Al-Haqq Ali Jad Al-Haqq, Dr. Ahmed Sharaf Al-Din, Dr. Raouf Shalabi, Dr. Abdul-Jalil Shalabi, Dr. Mahmoud Al-Sartawi, Dr. Hashem Jamil Abdullah, and Dr. Muhammad bin Muhammad Al-Mukhtar Al-Shanqeeti, and Dr. Muhammad Naeem Yassin.

The permissibility of the transfer is necessarily subject to conditions, which are:

Organ donation is the only way to save the donor from what he is in. If there is another way, the donation is not lawful. Likewise, it is not permissible to donate an organ from a living person if a substitute for it is available from a dead person. Because the harms of taking from a dead person are much less than the harms of taking from a living person.

That the donation should not be a reason for forfeiting another right to God other than His right over the donated organ, as if the donation leads to social or moral evils that conflict with one of the purposes of Sharia law, such as donating sperm, testicles, or ovaries; Because this leads to mixing of lineages, which is corrupt and forbidden by Sharia law. - The donor must be among those whose blood is protected by Sharia law, namely: Muslims, people of the Dhimmah, and covenant infidels. It is not permissible to donate to a belligerent infidel or apostate, nor to a chaste adulterer, who is required to have the legal punishment, nor to a murderous bandit, nor to an intentional murderer who deserves retaliation and has not been forfeited due to any of the causes of forfeiture. The donation should not be a definite cause for harming human dignity, such as if the donation is to an entity that trades in human organs for the purpose of profit, because the permissibility of donation does not mean the permissibility of selling. The donor must be fully qualified when donating and when starting to implement the donation and carry out the process of taking from it. Donations are not accepted from the young, the insane, or the mentally ill. The donation must be implemented under the supervision of official, scientifically and morally qualified institutions only. The matter should not be left to private institutions and individuals; For fear of intentional transgression or negligence.

Fourth: Salam contract in Islamic banks Salam is considered a form of sale, distinguished from others by expediting the fulfillment of this contract for the price and delaying the appraiser. People dealt with it before Islam, and the Messenger, may God bless him and grant him peace, approved it for them after setting controls and conditions for it to keep it away from unfairness and unfairness and keep it in the circle of justice and fairness. To achieve the meaning of the contract, which is easement, where the seller agrees to accelerate the price, and the buyer agrees to the concession of the appraiser, thus achieving the interest of both parties. Since peace is a legitimate way for the seller to agree to obtain the money he needs when the means of a good loan are closed before him, whereby he can sell the price as specified in his obligation, hastening its price to meet his needs, and then guarantee it to the buyer when the deadlines come, attention has turned to the extent of the possibility of benefiting from this transaction to be permissible. Place of usurious lending operatio For all of the above, it is necessary to know the meaning of the Salam contract, and its contemporary applications in Islamic banks as a practical application of approval. Ladder in language:

Ibn Manzur says: "And Salam - with the literal meaning - means the advance, and he delivered in something, and he delivered and he gave in one sense... It is said: he delivered and delivered if he made an advance, which is to give gold and silver for a known commodity for a known period, as if you had delivered the price to the owner of the commodity and handed it over to him." ". This is confirmed by the meaning of Al-Kufawi in Al-Kulliyat, when he says: "And peace is a motive: the predecessors and it is a quickening of something with a later time." The ladder in terms: As for the jurisprudential terminology, it is: "a contract based on what is described in the obligation for an amount that will be given immediately."

The jurists differed in its definition depending on their differences in its conditions. The Hanafis and Hanbalis, who stipulated for its validity that the capital be received in the meeting and the Muslim's postponement of it in order to avoid immediate peace, defined it as a deferred sale for an expedited one. The Shafi'is, who stipulated for its validity that the capital be received in the meeting and allowed the peace to be immediate and deferred, defined it as a contract for a specified obligation in exchange for an amount given immediately. As for the Malikis, they prohibited

immediate peace, but they did not stipulate that the capital be delivered in the contract session, and they permitted postponing it for two or three days due to lightness. The matter, they defined it as a sale known in the debt, limited to the description of a present asset or what is its ruling for a known period.

Al-Bukhari narrated on the authority of Ibn Abbas on the authority of the Messenger of God, may God bless him and grant him peace, that he came to Medina and they were paying two or three years in advance for fruits, and he said: "Whoever advances for anything, let him advance for a specified amount and a specified weight, for a specified period." As for consensus; Ibn Qudamah reported on the authority of Ibn al-Mundhir that he said: "All the scholars from whom we have learned are unanimously agreed that peace is permissible." As for what is reasonable, because the appraiser in the sale is one of the two substitutes for the contract, it is permissible for it to be recorded in the liability, like the price, and because people have a need for it. Because the owners of crops, fruits, and businesses need to provide for themselves and for them, in order to complete them, and they may lack the expense, so it is permissible for them to make peace; To be lenient, and the Muslim to be lenient by being relaxed. Thus, it becomes clear to us that the Salam contract was permitted out of approval and as an exception to the impermissibility of selling an existing thing, and that it was legislated because of the great need for it, and to prevent hardship and embarrassment on the part of the seller and the buyer.

As for how to benefit from the Salam contract in banks in financing, the Islamic bank or other investors can use the Salam contract formula to finance agricultural, industrial, and commercial activities on the individual scale and the scope of large projects. The interest of the Islamic bank is to obtain future materials at a relatively cheap immediate price, and then after receiving them, it markets them at the present price or at a deferred price. In this manner, most of the bank's work should be carried out in the Salam method. The Council of the Islamic Jurisprudence Academy, held during its ninth conference session in Abu Dhabi in the United Arab Emirates from 1-6 Dhul-Qi'dah 1415 AH, corresponding to April 1-6 1995 AD, set several conditions for concluding peace, which are: - The goods for which the Salam contract is concluded include everything that may be sold, whether they are raw materials, crops, or manufactures. The contract of peace must be set for a specified period, on a specific date, or by linking it to something certain to happen, such as the harvest season. The principle is to expedite the receipt of the Salam capital in the contract session, and it is permissible to delay it for two or three days, even if there is a condition, provided that the period of delay is not equal to or exceeding the period specified for the Salam. There is no legal objection to the Muslim (buyer) taking a mortgage or guarantor from the Muslim (the seller). It is permissible for the buyer to exchange the cash amount (the price) for something other than cash, after the due date, whether the exchange is of its kind or a different kind, on the condition that the exchange is valid for him to make a cash value in it with the Salam capital.

If the person to whom it is delivered (the buyer) is unable to deliver the money to him (the price) when the deadline comes, then the buyer has the choice between waiting until (the person to whom it is delivered) is found and canceling the contract and taking his capital, and if his inability is due to insolvency, he will look to Maysarah. It is not permissible to stipulate a penalty for delaying the delivery of a Muslim, because it is a debt, and it is not permissible to stipulate an increase in debt upon delay. It is not permissible to make debt as Salam capital because it is a sale of debt for debt.

Fifth: Time to pay Zakat al-Fitr

Al-Shafi'i - may God have mercy on him - stipulated that it is permissible to pay it two or three days before Eid al-Fitr, and this was recommended based on the fact that the Prophet, peace and blessings be upon him, credited al-Abbas's charity before it was due, and Ibn Omar - may God be pleased with him did that. Al-Shafi'i says: Malik told us on the authority of Nafi' on the authority of Ibn Umar that he used to send Zakat al-Fitr to the one with whom it was collected two or three days before the break.

It seems that the purpose of desiring paying Zakat al-Fitr before its due time is to make it easier for those who deserve it. So that he can buy his needs on the day of Eid, and so that the group he has can deliver them to those who deserve them before the time expires. ResultsApproval is one of the principles of Islamic jurisprudence, which

means making things easier for Muslims in the affairs of their lives while adhering to God's law. Whoever rejects the approval of the jurists as legal evidence rejects it in order to achieve the objectives of Sharia, and whoever accepts it as a legal argument, accepts it in order to achieve the objectives of Sharia. Considering contemporary jurisprudential issues and branches based on approval, editing and consolidating them, to enable jurists to try jurisprudential principles on people's issues and emerging facts.

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