

LABOUR AND NATURE OF SETTLING INDUSTRIAL DISPUTE IN ISLAM

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Abstract

Disputes are unavoidable in human interactions. Judicial settlement of disputes is costly and time consuming. Nevertheless, Islamic law provides for settlement of disputes by many ways. The aim of this paper is to examine the nature of settling industrial disputes laid down in the Qur'an and the Sunnah of the prophet (SAW), which are both primary sources of Islamic law. There are many lessons that can be learned from the exemplary conduct of the prophet (SAW) who was a politically righteous leader with highest moral and ethical values. It has been observed that there should be a total exploitation mostly in private organizations which lead to distrust and mismanagement. The methods used in conducting the research is qualitative and observatory. The research found that generally lack of following the guide of Qur'an and Sunnah lead to these problems and specifically greedy and material gains respectively. It is also found that all types of mediation applied by the mediators to end a dispute is welcome as long as it does not go against Islamic principles. The research ended with recommending employers and employees to fear Allah and to see one another as brother and sisters.

Keywords: *Labour, Industrial Disputes, Settelement, Islam.*

Introduction

Islam has given high regard for work, therefore, the workers right is a very important issue for discussion under shari'ah which supposed to be treated extensively by Muslim scholars. Islam introduced the role of law to solve disputes and ensure the smooth running of worldly affairs. There are basic values and principles related to workers right, let me say the following "Justice and fair dealings are basic values of Islam". They must be always emphasized. No peace and harmony in the society a can be realized without justice. Justice should

be done, maintained and ensured between employers and employees in the la our industries and all people as well.

What is Justice?

There are two words used for justice in the Glorious Qur'an: *al-Adl* and *al-Qist*. *Adl* is to follow the balanced way, neither going to one extreme Nor to another, neither extravagance nor negligence.¹ *Qist* means to recognize that every person and everything in this world has some rights.² To give everyone his/her or its dues is justice.

Injustice is to deprive others their dues. Allah (SWT) Says:

“O you who believe! Stand out firmly for justice, as witness to Allah, even though it be against yourselves, or your parents, or your kin, be he rich or poor, Allah is a protector to both (Than you). So, follow not the lusts of (your hearts), lest you a void justice; and if you distort your witness or refuse to give it, verily, Allah is ever well acquainted with what you do (An-Nisaa 4:135)

All people are equal. It does not make any difference to what race they belong, what colour they have, what country they come from, what their gender is or what their occupation is. Young and old, rich and poor, white and black, citizens or foreigners with legal work and residence permits are all equal; and they all should be respected, honoured and treated equally. Allah (SWT) says:

“O mankind! We created you from a single (pair) of a male and a female, and made you into nations and tribes, that you may know each other. Verily, the most honoured of you in the sight of Allah is (he who is) the most righteous of you. And Allah has full knowledge and is well acquainted (with all things). (al-Hujurat) 49:13).

Prophet Muhammad (saw) said the following words in his last sermon:

O people indeed your lord is one and your father is one. Behold, there is no superiority for an Arab over a non-Arab, nor for a white persons over a

black person, nor for a black person over a white person, except through piety.³

Those who work and earn living by their own labour must be respected of course, the work has to be lawful and it should be done in an honest and sincere manner. All anti-social works, irresponsible behavior and work done with cheating and deception are forbidden in Islam. Employers and employees all must be honest and must deal with each other justly.

Definition of Labour

Labour refers to the relationship that exist between employer and employee which in Arabic called Ijara. It means a situation where one will enter into an agreement to work for another and at the end be paid as agreed⁴.

The term labour in economic is used in every wide sense. Any work whether manual or mental which is undertaken for a monetary consideration is called labour. Labour may includes the highest professional skill of all kinds as well as the labour of mass of unskilled workers.⁵ Thus, it include labour of highly educated professionals like scientists, engineers, doctors, teachers, economists, professors, lawyers, judges, accountants, diplomats, administrators as well as that of ordinary workers in factories, agricultural farms, government departments and private sectors, among others.

In Islam labour has a significant role in the production of wealth. It is because of this, Islam has laid great

emphasis on human labour. Allah (SWT) says:

“there is nothing for man but what he strives for”. (Al-Najm; 53: 39)

According to the above verse; the only way to progress and success in the world is through struggle and effort. The harder a man or a people work, the higher reward they are likely to get. Both physical and intellectual labours have been emphasized. In Islam. The Qur’an refers to manual labour when it talks of construction of boat by prophet Nuhu(AS) and intellectual labour when it relates the story of prophet Yusuf (AS) who was appointed in charge of treasures of Egypt by its king⁶.

The concept of regulating workers right is already known with many laws. But only in the last few years labour unions were founded to fight for workers. Islam already laid down comprehensive set of guidelines in this regard.

i. Compensation

This is the first basic right of a worker is the right to compensation in return for the effort exerted and time spent on the Job. The hadith of the prophet (SAW) said:

*Allah will be an opponent on the day of judgement of one who employs a worker and takes full work from him, but does not pay his labour.*⁷

Workers should not be overburdened with work. They have the right to physical and mental rest. The prophet (SAW) spoke about giving the body its share of rest by saying:

*“your body and your family have a right on you”*⁸

He also recommended that workers should be treated kindly in order not to be made or feel inferior. He used to sit on the floor and eat with his servant Anasbn Malik⁹.

ii. Subsidies

The prophet (SAW) said; your servants are your brothers upon whom Allah has given you authority s, so if you eat feed them with what you ate and cloth them with the like of what you weared. You should not overburden them with what they cannot bear and if you do so, help them in their hard job.¹⁰

Industrial Disputes

An industrial dispute can be described as a conflict of opinion between employer and employee in terms of employment. It is a disagreement between them or their representatives usually a trade union over payment and other working conditions and can result in industrial actions. When an industrial dispute occurred the workers may resort to strike¹¹.

Some of the Causes of Industrial Disputes¹²

- a. An Industrial Factor this has to do with unforeseen circumstances that may occur in any given time of disagreement between employer and employee.
- b. Management Attitude to Labour: Some management do not show good concern to their labourers. They do not give recognition and dignity to the labour. While recognition of labour is due in the Glorious Qu’an and Sunnah of the

prophet (SAW) Abu Hurairah narrated the Hadith from the prophet (SAW) said:
*Allah did not raise up any prophet who did not graze goats. His companion asked: You too? Yes, he said, I used to tend goats for the inhabitants of Makkah for some qirats*¹³

- c. **Inter/Intra Union Rivalry:** This is the conflict between employee and the union or even among the union itself.
- d. **Charter of Demands:** This is a situation whereby an employees issued their list of demands to the management, while the management is not ready to entertain such demands, then disagreement occurred¹⁴.
- e. **Condition Measures:** This can be described as lack of fulfilling the condition of agreement by one of the parties. That is to say the employer did not fulfill the label condition or the employee did not fulfill his/her part, and sometimes it may be lack of good condition of service bring about chaos between employer and employee¹⁵.
- f. **Work Load:** This is a situation whereby an employer overburdened employee with heavy task which is very difficult for an employee to accomplish the task.
- g. **None implementation of agreement and award:** This is a situation hereby an employer failed to implement the agreement made with his/her employees, later the disagreement occur¹⁶.

Nature of Settling Industrial Dispute in Islam:

In Islamic law, peaceful conflict settlement has to be achieved in one of the three ways:

1. **Conciliation (Sulh):** al-Jurlani in his book "*Ta'rifat*" defines *Sulh* as an accord to end a dispute. *Sulh* can be defined as a contact removing a dispute by consent of each party. It is also concluded by offer and accpetabnce. *Sulh* can be described as an accord between two parties or more to resolve a specific dispute by enduring its causes¹⁷.
2. **Arbitration (Tahkim):** The appointment of a judge or judges by the disputing parties to adjudicate a certain dispute or issue.
3. **Mediation (Wasaat):** It is a benevolent and non-binding procedure to end a dispute. It is characterized by one or more person intervening in a dispute either of their own initiative or at the request of one of the parties. The independent mediator must then seek to achieve an amicable settlement by proposing solutions for the parties.¹⁸

Legality of Settling Dispute

There are two categories of proof: The first is the Shari'ah evidence commending assistance, Allah *(SWT) says:

"Help you one another in righteous and piety but help you not one another in sin and rancor (al-maidah; 5:2)

The second category consists of Shari'ah evidences recommending peaceful settlement of conflict in

general. There are many numerous verses of glorious Qur'an and *ahaadith* mentioned below:

Allah (SWT) says:

“there is no good in most of their secret talks save (in) him who orders sadaqah (Charity) or ma'ruf (Islamic monotheism) or conciliation between mankind...” (Al-Nisai, 4:114)

If you fear breach between them twain, appoint (two) arbitrator, one from his family and the other from her's, if they both wish for peace. All will casue their reconciliation. (Al-Nisai; 4:35)

And if a woman fears cruelty or desertion on her husband's part, there is no sin on them both if they make terms of replace between themselves; and making peace is better”. (Al-Nisai; 4:128).

“and if two parties among the believers fall into a quarrel, make ye peace between them; but if one of them transgress beyond bounds against the other then fight ye (all) against the one that transgresses.

Until it complies with command of Allah; but if it complies then make peace between them with justice, and be equitable. Verily Allah loves those who are the equitable (al-Hijarat, 49:9).

Beside these verses, Hadith of the prophet (SAW) are loud in supporting peaceful settlement; the prophet (SAW) says:

Conciliation between Muslims is permissible, except a situation whereby a conciliation that makes lawful unlawful and unlawful lawful.¹⁹

Based on the above evidences, Muslim jurist state that all mans of peaceful conflict settlement including the industrial disputes are recommended in Islamic law. They further stress that the fundamentals of settling disputes in Islam may be derived from these texts and from the general principles of Islamic law.

On the treatment of workers there are general and specific teachings in Islam. The following five-point need to be considered:

iii. Clear and Proper Agreements:

All agreements, whether oral or written must be clear and transparent. The agreement must be just and lawful. Employees should understand their duties and responsibilities and they should be told their rights in terms of vacations, leaves, compensations, etc. In view of this the following quotation was supported; Allah (SWT) says:

“Oyou who believe, fulfill your contracts” (al-Ma'idah 5:1)

The prophet (SAW) reported to have said:

“Muslims must abide by their agreement unless there is an agreement that makes halal what is haram or makes haram what is halal”²⁰.

This means that illegal terms and conditions are not valid under Islamic law. It is the duty of both the

employers and the employees to fulfill their agreements to the best of their capacities.

iv. The Dignity of Workers

Islamic law allows all human beings the right to enter upon any lawful profession or occupation and to conduct any lawful trade or business. The workers should be treated with dignity and honour. No work is a menial or degrading. The prophet (SAW) emphasized. Those who labour over against those who sit idle or go and beg people²¹ Islam teaches that workers should be treated with kindness. Allah (SWT) says:

Worship Allah and join none with Him (in worship); and do good to parents, kinsfolk, orphans, al-masakin (the poor), the neighbor who is near of kin, the neighbour who is a stranger, the companion by your side, the wayfarer (you meet), and those (slaves) whom your right hands possess. Verily, Allah does not like such as are proud and boastful. (al-Nisai 4:36)

v. Kindness to workers:

Workers are our brothers and sisters. They are our helpers, we need them, we depend on them for many things that we cannot do for ourselves. Workers should not be given work beyond their capacity. They should have a humane and safe environment for work. They should have time for work and time for themselves and their families. Children or minors should not be used for labour²².

Women should have proper environment for hijab without jeopardizing the rules of Khalwah (privacy). They should not be

employed in vocations that are unsuitable to their genders, and they must be ensured maternity benefits in their employment. The prophet (SAW) said:

Your brothers are your responsibility. Allah has made them under yours hands. So, whosoever has a brother under his hand, let him give him food as he eats and dress as he dresses. Do not give them work that will over burden them and if you give them such task them provide them assistance.

vi. Proper and timely wages:

Workers should be given proper and just wages. Exploitation of any person is not allowed in Islam. Allah (SWT) says:

And to (the people of) madyan, we sent their brother shu'aib. He said O my people worship Allah, you have no other Ilah (God) but him/ verily, a clear proof from your lord has come unto you; so give full measure and full weight and wrong not men in their things and do not do mischief on the earth after it as been set in order, that will be better for you, if you are believers (A'raf 7:85).

Allah warns those who take full measure but give less to others. The Qur'an says:

“Woe to those that deal in fraud. Those who, when they have to receive by measure from men, exact full measure. But when they have to give by measure or weight to men, give less than due. Do they think that

*they will be called to account
(Al-mutaffifin 83:1-5).*

vii. Freedom to form unions:

Based on the above principles, we can infer that workers in Islam have a right to exercise the freedom of association and their right to form unions. Special trade unions and association help workers in their work and socialization. They can also help workers to seek justice for their rights and bargaining power to receive proper compensation. However, employers and employees all must fear Allah in the exercise of their right and duties.²³

Contemporary Application of Settling of Dispute

Islam as an everlasting religion applicable for all mankind and suitable to all times and places has two important characteristics absorbing and solving all incident that may encounter Muslim Ummah. The first is comprehensiveness, and the second is flexibility²⁴. However, it is not a literal application of mediation in prophet's era. But all types of mediation and all procedures applied by the mediators to end a dispute and reach fair settlement of conflict are welcomed as long they do not contravene Islamic principles and fundamentals.

Conclusion

Islam sees the relationship between employers and employees as a brotherhood. It is not a paternalistic relationship nor a patron client relationship, but one of equals where each has responsibilities to the other. The prophet (SAW) reportedly said:

“your employees are your brother upon whom Allah has given you authority, so, if a muslim has another person under his control, he / she should be feed them with like of what one eats and clothe them with the like one wears and you should not overburden them with what they cannot bear and if you do so, help them in their jobs.”²⁵

In return, employees must provide employers with hard work, diligence and honesty. The prophet (SAW) made it very clear that workers must be paid wages on time and the wages must be fair, therefore, employees must reciprocate the gesture with dedication to their duties.

Recommendations

From the foregoing the followings are recommended

1. Fear Allah, both employers and employee should fear Allah (SWT). This is enable them to discharged responsibilities perfectly.
2. Both employer and employees should stick to their conditions agreement, i.e. employee should come on time and close within the stipulated closing time and ensured efficiency in their place
3. They should both be in a high sense of maturity and exercise patience when any disagreements occur.

References

- Al-Quranil Kareem, (1996);
Translation by Mushin Khan,
M. & Al-Hilali, M. T.
Interpretation of the meaning

of the Noble Qur'an from Arabic to English Language, Riyad: Darus-Salam Publishers & Distributors

Al-Jaza'iri, A. J. (2002) *Minhaj al-Muslim*, Beirut: Darur-fikr,

Ibn Juzi, M. A. J. (n.d); *Al-Qawanin al-Fiqhiyyah*, al-Qahira: Dar-el-Hadith

Al-Bukhari, M. I. (2005), *Sahih al-Bukhari*, Misra: Dar-el Bayan Arabi

Al-Jurlani, A. (n.d); *Ta'arif*, Maktabah Ansarriyah, Beirut Lebanon.

Ibn Majah, M. Y. (2004); *Al-Sunan*, Beirut: Dar-el-Kutub ilmiyyah.

Ibn Hanbal, A. (n.d) *Musnad Ahmad bn Hanbal*, Beirut: Maktabah al-Islami

At-tirmidhi, M. I. (2006) *Al-Sunan*, Beirut: Darel-Kutub Ilmiyyah.

¹³ www.insideislam.wisi.edu/islamandlabour,

accessed on 12th July, 2019, 4:30pm

¹⁴ Al- Jurlani, A. (n. d.); *Ta'arif*, Maktabah Ansariyyah, P. 174

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Abi Daud, S. A. (2005) *Al-Sunan*, Beirut: Dar-el-Kutub Ilmiyyah, Kitab al-Aqdiyah, Hadith no: 3596 P.114

¹⁸ Ibid

¹⁹ Abi Daud, S. A. Hadith no. 3596: P. 114

²⁰ Al-Bukhari, M. I. Kitab al-Zakah, Hadith no: 1402 p. 92

²¹ Al- Bukhari, M. I. Kitab al-Ilqi, Hadith No.: 2407 p. 377

²² Al-Bukhari M. I. Kitab al-itqi, Hadith No. 2407

²³ www.Inisedislam.wisi/edu/islamandlabour,

accessed on 12th July, 2019 4:30pm

²⁴ Q 16: 89

²⁵ Al-Bukhari, M. I. Kitab al-Ilqi, Hadith No: 2407 p. 377

Internet sources

www.insideislam.wisi.edu/IslamandLabour,

accessed on 12th July, 2019, 4:30pm

Endnotes

¹ Ibn Kathir, I. (2007); *Tafsir al-Qur'an al-Azim*, chapter 4 verse, 135 Vol. 2, Riyadh: Darus-salam publisher, p. 606

² Ibid., pp. 606-607

³ Ibn Hanbal, A. (n.d); *Musnad Ahmad bn Hanbal*, Beirut: Maktabah al-islamic, Hadith no. 23489. P. 617.

⁴ Refer to the Glorious Qur'an (Al-Kahf; 18:77) and (Al-Qasas; 28:26).

⁵ Hud; 11:38

⁶ Yusuf; 12:55

⁷ Al-Bukhari, M. I. (2005); *Sahih al-Bukhari*, Misra: Dar-el-Bayan Arabi, Kitab al-Buyu, Bab ismu man ba-a hurran, Hadith no: 2114. P. 323

⁸ Al- Bukhari, M. I. Kitab al-Aadab, hadith No. 5788 p. 201

⁹ Ibi. Hadith No. 5790

¹⁰ Al-Bukhari, M. I. Kitab al-itqi, Hadith No.: 2407 P. 377

¹¹ www.insideislam.wis/edu/islamandlabour.acces
[sedon12July,2019,4:30pm](http://www.insideislam.wis/edu/islamandlabour.acces)

¹² Al- Bukhari, M. I. Kitab al-Ijarah, Hadith No. 2143 p. 281