



Research Paper

The Fundamentals of Merchandise (Ebzae) from the Perspective of Islamic Jurisprudence Schools

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Abstract

Islamic jurisprudential schools have presented various reasons to justify merchandise (Ebzae) and its permissibility while offering diverse definitions and interpretations of its essence. Given the significant influence of jurisprudential principles on the nature of Ebzae, it becomes imperative to assess these jurisprudential fundamentals critically. This research addresses the central question: "What are the reasons supporting the permissibility of Ebzae according to Islamic jurisprudential schools?" The research hypothesis posits that some of the reasons put forth to establish the permissibility of Ebzae lack sufficient justification. The present study employs a descriptive-analytical approach and relies on desk studies of both Imamiyyah jurisprudence and Sunni jurisprudence schools. Furthermore, the research findings indicate that variations in the interpretation of Ebzae have led to disputes regarding the fundamental requirement of "voluntariness or freedom" in Ebzae and the entitlement to fair and equitable compensation. Simultaneously, this divergence has resulted in some individuals regarding Ebzae as an independent contract, while others perceive it as a subsidiary of unilateral contracts or advocacy agreements. In some instances, due to factors such as the capital owner's lack of familiarity with business practices, Ebzae is viewed as benevolent and assistance in fulfilling needs, consistent with religious recommendations. It is emphasized that a broker has the right to receive remuneration, reflecting the dignity of the Muslim transaction unless otherwise specified that the service is pro bono.

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Extended Abstract

1- Introduction

Islamic jurisprudential schools differ in their interpretations of the nature and definition of *Ebzae*, leading to its discussion within the contexts of partnership (*sharika*), agency (*wakala*), and *mudharabah* contracts. If *Ebzae* is considered within the scope of a partnership, agency, or *mudharabah*, it is regarded as a contract. For example, Sheikh Tusi, a prominent jurist from the Imamiyyah school, discusses *Ebzae* within the framework of *mudharabah* and defines it as "a contract where the entire profit belongs to the capital owner." However, if *Ebzae* is categorized under *ju'alah* (a reward-based contract), Imamiyyah jurists are divided on whether *ju'alah* is a contract or a unilateral obligation (*iqaa*). Some, like Muhaqqiq Hilli, consider *ju'alah* a unilateral obligation that does not require acceptance, as it is essentially a commitment to provide compensation in exchange for work without specifying the agent. Conversely, jurists like Ibn Idris Hilli and Shahid Awwal believe that the agent's practical acceptance is sufficient, thus classifying *ju'alah* as a contract.

Reconciling these views, it can be stated that if *ju'alah* is general—meaning it does not specify a particular agent and allows anyone to perform the work and receive the reward—it is considered a unilateral obligation. However, if *ju'alah* is established between two specific parties (the promisor and a specific agent), it is considered a contract. Therefore, since *Ebzae* involves two parties, it can be considered a contract.

In Sunni jurisprudence, *Ebzae* is discussed within the context of *mudharabah* contracts. Since *mudharabah* is considered a contract among Sunni jurists, *Ebzae* is also regarded as a contract. Additionally, in some jurisprudential encyclopedias, *Ebzae* is described as a contract without detailing the differences among the various Islamic schools, indicating a consensus among the four Sunni jurisprudential schools.

From a jurisprudential perspective, a contract (*aqd*) is defined as two interdependent declarations where one is initiated and the other follows, binding them together such that neither is effective without the other. In

contrast, a unilateral obligation (*iqaa*) is an independent declaration that does not require acceptance from another party for its validity. In Imamiyyah jurisprudence, *Ebzae* is sometimes referred to as "Baza'at" and sometimes as "Ebzae." However, the term "Baza'at" is not used in linguistic sources in the same sense; rather, "Baza'at" is used as a verbal noun.

Similarly, in Sunni jurisprudence, the terms "Ebzae" and "Baza'at" are used interchangeably. However, the use of "Baza'at" in the sense of *Ebzae* is metaphorical because "Baza'at" literally refers to capital that someone trades without sharing in the profit. This research, based on library resources from the five jurisprudential schools and using a descriptive and analytical method, examines the concept of *Ebzae* from various perspectives, including its classification as a contract or unilateral obligation, its permissibility, and its binding nature.

2- Method

The present study employs a descriptive-analytical approach and relies on desk studies of both Imamiyyah jurisprudence and Sunni jurisprudence schools.

3- Result

The present research aims to investigate the nature of merchandise (*Ebzae*) and its jurisprudence principles in the jurisprudence of Islamic schools. The research results were as follows. From the perspective of five Islamic schools, merchandise (*Ebzae*) is a legitimate contract under which a property is given to another party to trade with it, but its profit belongs to property owner. The need to be free is the disputed agent because being free is a pillar of *Ebzae* according to the point of view in Shia jurisprudence, as well as the views of Shafi'i, Hanafi, and Hanbali jurists. Based on the view of Imamiyyah jurisprudence and Maliki jurisprudence, being free is not a pillar of *Ebzae*; hence, the agent can ask for wages. Considering the agent's free action has caused some Islamic school jurists to consider the agent as the owner's advocate.

Imamiyyah jurists argue that if *Ebzae* is considered among the permissive contracts, its



validity and continuation depend on the existence and continuity of permission (*idhin*), which can be nullified, for instance, by the death of one of the parties. Sunni jurisprudence does not extensively discuss the validity and binding nature of this contract. However, since they sometimes consider *Ebzae* a subset of *mudharabah* or agency contracts—which are generally considered revocable contracts in Sunni jurisprudence—it can be inferred that all four Sunni jurisprudential schools regard *Ebzae* as a revocable contract.

4- Conclusion

The debate over the necessity of the voluntary nature of *Ebzae* has led to different views on the entitlement to remuneration (*ujrat al-mithl*) for the agent. According to the principle of respecting the actions of a Muslim, the agent has the right to receive fair compensation unless it is explicitly stipulated in the *Ebzae* contract that the work is voluntary or the agent agrees to work voluntarily. In cases where a wage is stipulated, or there is evidence indicating non-voluntary work, or in cases of doubt regarding the intention of voluntary work, the agent is entitled to receive compensation.

There is no doubt about the contractual nature of *Ebzae*, although some have questioned it.

Arguments such as the general command to "fulfill your contracts" and similar principles confirm the legitimacy of *Ebzae*. Moreover, considering the freedom of contracts, the *Ebzae* contract and similar ones are to be respected.

In the sources of both schools (Imamiyyah and Sunni), *Ebzae* is sporadically mentioned in the context of *mudharabah*, partnership, etc. Independent studies on *Ebzae* are rare, often brief, and do not thoroughly address the views of Sunni jurisprudential schools. The innovation of this research lies in its examination of *Ebzae* from the perspectives of the five jurisprudential schools, including its conceptualization, classification as a contract or unilateral obligation, and its binding or revocable nature.

5- Funding

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6- Authors' contribution

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7- Conflict of Interest

Authors declared no conflict of interest.