

Wage Principles in Islamic Law : An Analysis

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Abstract

Wage is one of the fundamental issues for the workers and its protection was always being spoken by them and was one normative demand that until today still left lots of problems for labour world thus give birth to several legal issues in industrial relation. Legal issues in wage area would include unfairness for labour concerning direction and wage policy in all over the world and also in Bangladesh. By accommodating shariah wage principle, it may give solution for lack of principles in wage in Bangladesh, in which most of its labourers are Muslim. In addition, shariah wage principle had several advantage which lies in fairness, appropriateness, punctuality, responsible, and humanity aspect which is framed in moral framework. This moral aspect concerning shariah wage, if being traced back, could be used as main philosophy of labor law in the world and also labor law in Bangladesh. This article examines the wages principles of Islam and tries to depict a clear picture of the legal essence of Islamic Principles of wages. This study is carried out to find out legal regulation, legal principle and legal doctrine to answer legal issues that is to find out shariah wage principle in industrial relation in Bangladesh.

Key Words: Wage Principles, Islamic Law, Shariah Wage

1. Introduction

Labour is a very important factor of production and its remuneration is called wages. The term wages may be used in a narrow or a wide sense. In the wide sense, it means payment made for the services of labour. In the narrow sense, a wage may be defined as a sum of money paid under contract by an employer to a worker for services rendered. In economics, 'wages' depend upon the demand and supply of labour. "According to pure economic theory, wages means rewards that a worker gets from the employer after interval of certain period in return to his/her service rendered to the employer." (Chowdhury, 2010)

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The battle for a living wage is a global one. While a living wage might mean different things in different parts of the world, the notion however has the potential to unite all workers in a common battle for decency, to ensure that even the worst off among us can still live decently from their work. “With the expansion of global labour markets, more countries are looking for policy tools to address growing low-wage work and working poverty.” (Luce, 2012) The problem of wages is very important as it affects the whole society. If the workers do not get fair and reasonable wages, it will not only affect their subsistence but also their daily life. Moreover, injustice to working class would lead to discontentment, frustration, agitation and strikes. “The position of Bangladesh in this regard is diversified as well as intricate, because of its being a source of cheap labour and the prevalence of unemployment in a massive scale.” (Firoze, 2000)

In globalization era with advance of knowledge and technology has pushed industrialization to become the front line of development in Bangladesh. This was meant to realize the goal of development which is to bring prosperity for all citizens; one of it would be labor prosperity. “Labor is always close with unfairness and discriminative treatment, thus they would need protection from the nation in the form of law.” (Luth and Sihabuddin, 2014)

Lack of law in wage arrangement within the law could cause unfairness in the concerning wage system. This could bring risk in life essential fulfillment of labor individual and their family. If this was left untouched, labour could become radical and conducting massive-solidarity movement as they often do and could carry significant effect toward the depressed national economy since investment climate would stall and nation’s safety and order becoming non conducive.

Islam offers a very reasonable solution of wage problem which is based on justice and fairness and protects the interests of both the employer and the employee. Wages, according to Islam, are to be determined in equitable manner, without harming the interests of any party, keeping in view the following Islamic teachings: thus the employer and the employee should treat one another as brothers and not as master and servant. They should not wrong each other and show justice and kindness in their relationship. The employer should not forget that contribution of the labour in his produce is considerable. He should, therefore, pay reasonable wages to an employee to enable him to enjoy a reasonably decent living. The minimum wage rate in an Islamic society will be determined keeping in view the basic human needs which include food, clothing and house. A worker shall be paid adequate wages so that he can meet expenses on his and his family’s food, clothing and house. He should also be provided for his children’s education and medical treatment of his own self and his family. It is reported that Prophet Muhammad (PBUH) used to prescribe minimum wages of a person engaged for job

with a view to provide him decent living. This yardstick fixed by the Prophet of Islam should be kept in view while fixing minimum wages in an Islamic state.

2. Islamic Legal Principles Relating to Wages

Islam rejects all forms of inequality because these create barbarism and despotism in the society. "Islam stresses an employer to be kind-hearted, loving, generous and honest with the employee in particular and with every member of the society in general." (Abbas, 2006) Islam manifested clear wage rules which protect interest of both employer and worker. "There is no uniform minimum wages scale for workers of all sectors in Bangladesh. Even there is no homogeneity among the minimum wages fixed for different sectors and industries." (Chowdhury, 2010)

Accommodating shariah wage principle could bring solution for the lack of principles within wage in Bangladesh. Whereas there was many advantage of shariah wage principles that agree with the need and industrial relation condition lately. Important point from shariah wage principle would lies in fairness, appropriateness, punctuality, responsibility and humanity aspect that accommodate within moral framework. This moral framework, if being traced back, was used as the main philosophy in the world labor law and also in labor law in Bangladesh.

Therefore, wage principle in Bangladesh in which there are still some void in its labor regulation, should be reflecting shariah values concerning most people in Bangladesh are Muslim thus most labourers in Bangladesh are Muslim. This would create legal opportunities to obtain solutive effort in placing shariah principle to accommodate wage area in Bangladesh. Based on this, problem that could be framed in this study would be: what are shariah wage principles in industrial relation?

3. Concept of Wages from the Quran

The Quran refers to hiring the services of Moses by Prophet Jethro (Shuayb) for a wage and also for a specified period of time, eight years (28: 26–27). In another instance, it talks about Zulqarnain when people request him to build a wall for them, and they would be paying him a tribute or wages (18: 94), but he does not accept their offer, rather telling them to provide their labour in the course of building the wall. The Quran also counsels hiring workers for collection and distribution of the Zakat (poor tax) and also commands that wages of Zakat workers are to be paid from the collected funds (09: 60). "During the life of the Prophet, there was a group of people (called *ashab e Suffah*) who lived near the mosque and worked as the Prophet's clerks and emissary. They were also the first public servants in the Islamic state." (Ahmad, 2011)

4. Wages are the Rights not Benevolence

“Islamic law takes a very strict approach to payment for services.” (Zulfiqar, 2007) The Quran says that wages are a right, not benevolence from the employer, as in the following words, “those who believe and perform honorable deeds (good work) . . . their earnings will never be withheld from them” (95: 06). “Anticipating modern notions of express or implied contracts of employment, the Prophet also forbade the hiring of a worker without the prior fixation of wages for the work.” (Baihiqi and Abdul Razzaq) The above instances from Quran and Hadith show that worker should be explicitly told about the wages that he is going to get after completion of his work. This specification of wages can either be in spoken or written form. However, if there is some customary fee or pay for some type of work, wage specification may not be necessary.

5. Sufficient Wages to Provide Basic Necessities

The second rule about wages is that they must be sufficient to provide the basic necessities of life for the workers. In this way, Islam talks not only about a minimum but also a just or “living” wage. There is a verse in Quran which says that a “family head (father) should support women (after divorcing them, through alimony for children) and clothe them properly” (02: 233). The word “ma’aruf” (proper) in the verse is interpreted as “in accordance with the norms of time and space.” “So, it can be inferred (through Qiyas) from this verse that compensation should meet at least the cost of food and clothing (the basic necessities at the time of revelation of Quran) in accordance with the norms of the time.” (Ahmad, 2011)

Different traditions from the Prophet deal specifically with these subjects. The Prophet said that “an employee (male/female) is entitled to at least moderately good food and clothing and not being burdened except what he/she can bear” (Muslim, Muwatta) and “make them satisfied in regard to their basic needs.” (MajmaUzZawaid) In another instance, the Prophet said, “Those working under you are like your brothers whom God has made your subordinates. So he who has his brother working under him let him feed what he feeds himself and clothe him what he clothes himself with.” (Al-Bukhari) “We find references in the earlier Islamic history that Umar fixed the wages for military personnel, and during his period, salaries were also revised based on several criteria such as length of service, best performance, and knowledge level (Ahmad 2011).”

These ahadith shows that Islam has referred both to the minimum and ideal/just wage but it specifies the minimum wage so that the basic needs of a worker are met. Corresponding to the Universal Declaration of Human Rights’ call for “just and favorable remuneration,” Islam is of the view that workers’ wages should be set in a way that these satisfy all their and their families’ needs in a humane manner. In another hadith, it is mentioned that “whoever takes a

public job and has no house (of his own), should have one (i.e., government should provide housing). If he is not married, he should get married, and if he does not have something to ride, he should have one (provisioned by the government)". (Abu Dawud) By combining the provisions in all above ahadith, it appears that Islam requires the employers to provide the workers with housing, medical facilities, job education or training, transportation, and meals. "By focusing more on the necessities and minimum level of living conditions (which can be different from time to time and place to place, making it easier to define them), it seems that Islam cares more about the real wages which need to be maintained or increased in comparison with the nominal or monetary wages." (Ahmad, 2011) In conclusion, setting a minimum wage at a "fair," "just," or "living wage" level is quite in line with Islamic principles.

6. Fixation of Wages Viewing Prevailing Conditions

The third principle in fixation of wages is that wages should be set keeping in view the prevailing conditions such as inflation, regional price differences, and needs. It is related that Umar used to determine wages according to the conditions prevalent in the city and the employees' personal needs. "This is also evident in a tradition where the Prophet gave double the share in ghanimah (war spoils) to the persons with families compared to unmarried persons." (Ahmad, 2011)

The fourth principle is the punctual and timely payment of wages. It is narrated in a hadith that the Prophet said, "Give employee his/her wages before the sweat is dry on him." (IbnMajah) In another hadith, it is related, "The rich, despite his riches, cannot delay of payment to the worker, for it is a crime." (IbnMajah) These Ahadith show the general principle that wages need to be paid promptly and an employer cannot unduly withhold the wages of an employee. However, workers and employers can negotiate the payment of wages on daily, weekly, fortnightly, or monthly terms.

7. Full Payment

The fifth principle regarding wages is their full payment. Quran says that "Never will I suffer to be lost the work of any of you, be he male or female" (03: 195), and the Prophet said that "Allah would be enemy of three persons on the day of Resurrection and one of them would be the one who hired somebody for some stipulated wage, took full advantage of his labor and then did not give him his due." (Al-Bukhari) The third person is compared in hadith to the one who made a free person a slave and sold him for money. This hadith shows that not only a worker should receive full wages for his/her work, but also it prohibits forced labor. "Withholding of somebody's remuneration is considered one of the gravest sins. This hadith also sheds some light on the issue of wage theft." (Bobo, 2008)

The Prophet once said “man has no right in the share in which God has no right. God’s share is his command to give everyone his/her due and not to encroach on what belongs to another,” and it is narrated about the Prophet that he never gave a worker less than what was due. (Al-Bukhari)

The Quran has different verses that deal with this subject quite lucidly. It says in one place “And O my people! Give just measure and weight, nor withhold from the people the things that are their due: commit not evil in the land with intent to do mischief” (11: 85 and also 26: 182) and in another place, “So establish weight with justice and fall not short in the balance” (55: 07). These verses show that Allah does not like a person to pay another less than what is his or her due, and it is considered wrong that a person should ask for a full measure of work but in return give less than full pay, or the converse of asking for full pay but giving less than full work.

The Quran also deals with the issue of wage theft in the following words “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” (83: 1–3). The word *tatfif* in this verse refers to an employer who takes full work from an employee (as expressed in above hadith) but when the time of payment comes, the employee is deprived of full wages. In the same vein, we can see the hadith by the Prophet that “to cheat the easy going customer (which can also be interpreted as worker or even employer) constitutes *riba*, or illicit gain.” (Ahmad, 2011) It is important to note, however, that this verse also refers to a laborer who receives full wages but does not work or rather shirks his work as agreed upon in the contract.

8. Equal Pay for Equal Work

Lastly, there is also the issue of equal pay for equal work. Islam provides for equal pay for equal work (note, however, not for work of equal value). Islam is of the view that every work (whether right or wrong) is rewarded or punished and in paying for the work, it does not differentiate between male and female, white and black, and does not allow any discrimination on racial, religious, origin, and language or ethnicity backgrounds. Allah says that “I never cause loss to the labor of a worker, be that male or female” (03: 195), and in another place, He says that “to them, we shall pay the price of their works and they will not be paid diminishingly” (11: 15). This principle of nondiscrimination is also substantiated by the last sermon of the Prophet, “No Arab has superiority over any non- Arab and no non-Arab has any superiority over an Arab; no dark person has superiority over a white person and no white person has any superiority over a dark person. The criterion of honor in the sight of Allah is righteousness and honest living.” (Al-Bukhari and Muslim) In some other verses, Quran tells

that whoever has done good work and bad work will see it placed before him (99: 07–08, 18: 49). All the above verses show that Islam wants a worker to be paid for his work without any over or under valuation. It does not discriminate on the basis of sex, religion, race, ethnicity, region or origin, etc.

A question related to equal pay is whether Islam allows for difference in wages. Wage differences occur due to variety of reasons, such as the difference in nonmonetary benefits, difference in the cost of training, mobility of workers, as well as the knowledge of the market. It is relevant to mention that Quran recognizes these differences in wages and allows for these when these are based on competence (28: 26). Islam does not require strict pay equality. In fact, it approves of earning diversity (04: 32) when it is based on competence, thus justifying incentive pay systems.

9. State Role in the Fixation of Wages

Hisbah (ombudsman/market inspector) in Islamic law is the state institution which is established for enforcing what is ordained by Islam (ma'aruf) and forbidding or preventing what is unlawful or improper (munkar). "The Quran considers it the obligation of every Muslim to play his or her role in hisbah, and it requires that some section of the society must remain engaged in that practice." (Quran; 03: 110, 09: 71) The Islamic Government appointed inspector not only to controls prices but also ensure fair wages for workers and state responsibility in the provision of collective or public goods— a prototypical labor standards, inspection, and enforcement system.

The market supervisor must ensure that workers are not exploited by employers by overburdening them with work or giving less than due wages. At the same time, he also has to protect the employer from workers' demands for higher than usual pay. If any of the two parties lodges a complaint with the inspector, it is his duty to provide justice to both of them. Islam usually does not allow market intervention by the Government in price or wage fixation. This view is based on a hadith where "one person came to the Prophet and requested him to fix prices in the market but he refused. Another man came and made the same request; the Prophet said it is Allah who pushes prices up or down, I do not want to face Him with a burden of injustice." (Ahmad, 2011)

"However, if market imperfections are causing erosion of workers' wages and equilibrium in the market is set at a very low level, the state can require employers to provide Ujra mithl (intrinsic wage or wage accepted by others for similar work) to the workers— a form of what is now often called "prevailing wage." (Ahmad, 2011) The office of market inspection can set a minimum wage for the workers so that workers are not exploited at the hands of employers.

Considering the provision of public utilities, Government has an obligation to fix a fair rate of remuneration for workers.

10. Conclusion

In the light of the above discussions, we can conclude that every person in industrial relation specially the employer can create a congenial labour atmosphere by following shariah wage principles in Bangladesh. Shariah wage policy was designed almost 1400 hundred year ago before the creation of International Labour Organization and National Laws of the countries and this policy is compatible in now a day and also in future. The policy maker should know the shariah wage principles to solve the wages problems. Islam does not differentiate between formal and informal labour but in all over the world including Bangladesh there are different wage laws or policies for different kind workers. This kind of discrepancies must be abolished. It is not very tough to accommodate shariah wage principles in Bangladesh's national law. Inspection by the state authority regarding wage fixation and payment prescribed in Islam should be included in labor laws. Paying less attention to the wellbeing of industrial workers has to be changed particularly in determination and paying of wages. Accommodating shariah wage principle could bring solution for the lack of principles within wage in Bangladesh.

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