

The Purposes of Sharia in Financial Contracts: The Istisna'a Contract as a Model

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Abstract

This study aimed to highlight the legitimate purposes in financial contracts, the jurisprudential adaptation of the istisna'a contract, its legitimate purposes, and its importance in economic transactions in light of the reality and the economic and courier challenges facing the Islamic and Arab nation.

Keywords: *Purposes of al-Sharia, Financial contracts, Istisna'a, Islamic finance.*

Introduction

Praise be to Allah, and prayers and peace be upon the best of Allah's creation, his family and companions, and those who follow him, and after...

Financial contracts have legitimate purposes, and Islamic banks are in dire need to know these purposes to preserve funds and invest them in accordance with God's law, and the istisna'a contract is a flexible contract, which dealers desperately need to achieve their interests and remove embarrassment from them, such as building construction, paving roads, manufacturing aircraft, and others.

The importance of research: The importance of research lies in the following points:

1. Sharia has purposes and objectives that it sponsors, and the Istisna'a contract is closely related to it, so its purposes must be stated.
2. The challenges of passing by in increasing the costs of projects that no one bears, and people are in dire need to establish their projects and spend their interests, so there was a legitimate solution, so it was istisna'a.

Research Objectives: The research aims to achieve the following:

1. Knowledge of the purposes of Sharia in financial contracts
2. Participation in the first Sharjah International Conference in Islamic Finance
3. Standing on the reality of the Istisna'a contract, its jurisprudential adaptation, its legal purposes, and its financing advantages

Previous studies:

1. Istisna'a contract in Islamic jurisprudence by Kaseb Al-Badran / Dar Al-Da'wa Alexandria.

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2. Istisna'a contract and its contemporary applications, Ahmed, Belkheir Master / Lakhdar University in Algeria / 2008

3. Istisna'a: its definition, its restraint, its ruling, its conditions, its impact / Dr. Saud Al-Thubaiti / Journal of the Fiqh Academy / Issue 7.

The researches presented the jurisprudential aspect of the Istisna'a contract without mentioning its legitimate purposes and its financing importance.

Research Methodology and Plan

The research is based on the analytical deductive approach through the texts of Sharia from the Qur'an, Sunnah and the sayings of scholars, and the research plan after the previous introduction includes four topics and a conclusion:

The first topic: The purposes of Sharia, its definition, and its impact on financial contracts.

The second topic: The jurisprudential adaptation of Istisna'a.

The third topic: The legitimate purposes of istisna'a.

The fourth topic: The financial advantages of the Istisna'a contract.

Conclusion includes the most important findings and recommendations.

The first topic

The purposes of the Sharia - its definition - and its impact on financial contracts

The first requirement: introducing the purposes of Sharia and its importance

First: Definition of the purposes of Sharia in language and terminology:

Purposes (Al MAQASED) language: (QASADA) plural is the purposes (MAQASED) , its origin from the triple verb (Q S D), meaning intend (YAQSED), intended (QASADA) and intentionally (QASDAN) in the matter intentionally mediated, and asked the lion, and did not exceed the limit, which is on the intention of any rationality and the way of the intention of any easy and intended any intention towards him (Fayoumi, 1994, page 504, (1st ed)) and "the intention" (Al- QASD) in the words of the Arabs means : intention, purpose ,orientation and rise and rise towards the thing, on moderation was that or unfair, this is its origin in fact, although it may concern in some places with the intention of integrity without inclination (Zubaidi, (d.t.), p. 36, c. 9, (d.

i)). And the purpose (MAQSAD) is weighed on the balance of (MAFAAL), and its plural is purposes (MAQASED) , some scholars made the word intention (QASD) plural on the weight of (QUSOOD) , which is contrary to the analogy when grammarians Al-Fayoumi, 1994, pages (505-504) and the right that the plural of the word intention (AL-QASD) is dependent on hearing, and the word purpose (AL-MAQSED) is plural on weight of (MAQASED) Fayoumi, 1994, page (505).

The linguistic meaning of Purpose is: mediation and moderation, mother and orientation, or righteousness.

Sharia is a language: the legislator of water (masharaatu al maa) is the source of the drinker (mawred al sahra) that people drink from (Al-Fayoumi 1994, p. 505).

Sharia idiomatically: what God enacted of rulings, and revealed it to one of His prophets, or what God prescribed for His servants (Ibn Manzoor, 1414 AH, page 175, part 8 (.3))

And the purposes of Sharia idiomatically: There are many definitions of contemporaries of the purposes of Sharia, the most prominent and most important of which are:

1. Definition of Tahir bin Ashour (d. 1393 AD): They are the meanings and the remarkable ruling of Sharia in all cases of legislation, or most of them, so that their observation is not concerned with the universe in a special type of Sharia provisions (Ibn Ashour 2005 AD, page 51 (d.i)).
2. Definition of Sheikh Ali Al-Fassi (d. 1394 AH): He defined it by saying: What is meant by the purpose of Sharia is its purpose and the secrets laid down by Sharia at each of its rulings << (Al-Fassi (d.t.), page 3 (d.i))
3. Dr. Ahmad Raissouni's definition defined it by saying: "The purposes of the Sharia are the goals for which the Sharia was developed for the benefit of the << servants (Raissouni 1992, page 7(2.i))
4. The definition of Dr. Muhammad Al-Youbi defined it by saying: meanings, judgment and the like that the sharia took into account in legislation in general and in particular, in order to achieve the interests of the people. (Al-Youbi, 1998, page 37 (1st ed.)
5. The definition of Dr. Wahba Al-Zuhaili are the meanings and objectives observed for Sharia in all or most of its provisions, or it is the purpose of Sharia, And the secrets that Sharia has set at each of its rulings. (Al-Zuhaili, 1986, page 1017, part 2 (1st ed.)

The truth is that these definitions have a united meaning, even if their words differ, and this is the nature of the sciences that arise..

And they develop, until they settle and their features become clear.

The chosen definition of legitimate purposes is that:

The meanings and wisdom that the legislator wanted form his legislation, achieving the interests of the people in this world and the hereafter.

Second: The importance of legitimate purposes: The legal provisions are entrusted with governing and the reasons for their purpose are to bring interests

And multiply, and prevent and reduce evils, and legitimate purposes have several benefits in the process of ijtiḥad, including :

1. Highlighting the reasons for legislation, its ruling and its purposes in all chapters of Sharia and in various areas of life.
2. Al-Maqasid is a scout that illuminates the diligent in understanding and applying the provisions of emerging issues.
3. Maqasid al-Sharia designates the weights that reduce the differences of jurists and their sectarian fanaticism.
4. The purposes of Sharia help to gain insight into the consequences of the actions of the taxpayers and to apply the Shariah rulings thereon.
5. The purposes of Sharia in their various levels are the basic and appropriate framework for human rights.
6. Adopting the purposes of Sharia removes embarrassment and hardship from people, and the right to their happiness in this world and the hereafter.
7. Implementing the purposes of Sharia in contemporary financial transactions, the right to excellence in Islamic formulas and products, and their independence from traditional formulas. This is decided by the International Islamic Fiqh Academy (Journal of the Academy 1428 AH 2007-AD), page No. 147 (18/5) session 18)

The second requirement: the divisions and ranks of the legitimate purposes:

The first division: considering the interests: the purposes are divided into three sections necessary, needy, and improvement.

First: The necessary purposes: which are necessary in carrying out the interests of religion and the world, so that if they are lost, the interests of the world are not carried out on integrity, but on corruption, recklessness and missing life, and in the other missed salvation, bliss and return to the secret shown Shatby (1997 AD), page 18 c 2 (i.1))

The most likely among the fundamentalists is that the five necessities are religion, soul, mind, offspring and money. Al-Ghazali (d. 505 AH) said: The intention of Sharia is five, namely: to preserve their religion, their soul, their mind, their descendants, and their wealth... These five assets are preserved in the rank of necessities Al-Ghazali 1993 AD, page 174 c 1 (i.1))

The image of the necessary in financial transactions is to save money, because if there is no money, there is no living left, and I mean by money what the king falls on, and the owner tyrannizes with it from others, if he takes it from his face, and it is equal to food, drink and clothing of all kinds, and what leads to it from all the finances, if that rises, it is not survival...

All this is known and is not doubted by those who know the order of the conditions of the world, and that it has increased the hereafter (Al-Ghazali, 1993 AD) Page 174 c (1st ed.)

Second: the needed purposes follow the necessary purposes, which are « lacking in terms of expansion, and lifting the distress that often leads to embarrassment and hardship subsequent to the missed required, if the income of the taxpayers is not taken into account « on the sentence - embarrassment and hardship, but the amount of normal corruption expected in the public interests is not reached<<

(Al-Shatibi (1997), page 21, part 2, and its examples in religion, tayammum, palace and plural, and in the soul the license for the compelled to eat the dead, and in money, the license in the easy gharar, and the evil, and in the mind, lifting the embarrassment from the coercive.

Third: Improvement purposes, which are not due to necessity or need, but are located in the site of improvement, decoration and facilitation of advantages and excesses and care for the best approaches in habits and long-term transactions (d.t.), page 275 c 3 (d. (i)) . Part 3 (d. (i)) is its equivalent: In religion, adornment is taken from clothing, in the soul such as kindness and charity, and in eating and drinking, and in offspring such as holding favor, or demobilization with charity, and in money such as distribution in earning and using it.

The second division: considering the rank of the purposes: The purposes are divided according to their rank into :

1. The original purposes: are those in which there is no luck for the taxpayer or choice, such as the necessities considered in every sect, which is the preservation of religion, soul, mind, offspring and money, which is intended to be achieved and nurtured originally and initially, and some of them are necessary in kind: to preserve his religion in belief and action, and to save himself by the necessity of his life, and some of them are necessary and efficient, such as what is employed by those charged with carrying out public conditions, the quantity of necessities and public mandates by which religion is preserved, and public rights are protected from exposure to Shatby corruption (1997), page (300, part 2)

2. Subordinate purposes: It is the one in which the fortune and choice of the taxpayer were taken into account, and we know that each original purpose is not without another purpose, either it is sold to us to achieve it, or we are associated with it, or

subsequent to it. Marriage has its original purpose: reproduction and the reconstruction of the universe, and its subordinate purposes: enjoyment, humanity, and comfort. Al-Youbi, Muhammad Saad. (1998, p. 208)

The third division: considering the place of its issuance, the purposes are divided into two parts: the purposes of its issuance are divided into two parts: The purposes of the legislator and the purposes of the mandated person, the purposes of the legislator are the purposes intended by the legislator by placing the Sharia, which are

The purposes of the mandated person are the purposes intended by the mandated person, in other actions, in words and deeds, which differentiate between the validity of the act and its corruption and between worship and treatment. ((1.i) Al-Khadimi, (2001 AD), page 71, part 1) and religion and the judiciary, corresponding to the purposes and contrary to them

Fourth division considering the inclusion of Dr. Raissouni's section Maqasid into general, private, and partial Raissouni 99 AD, page (7) General purposes: It is the achievement of the interests of all creation in this world and the hereafter, and dealing with most of the chapters of the Sharia, the most famous examples of which are the five necessities of preserving the soul, religion, offspring, mind, money,

and Special purposes: are concerned with either a specific chapter, or a group of chapters within one section of the legislation, such as the purposes, worship and the purposes of financial provisions.

The partial purposes are the purposes of Sharia in each provision alone, such as the purpose of Sharia from prayer, and one partial legal ruling may have one purpose, such as documenting contracts, and may have more than one purpose, such as a period of waiting following divorce, intended to verify pregnancy, secure alimony for the divorcee, and reconciliation between spouses.

In fact, all divisions are due to three purposes: necessity, need, and improvement.

Third Requirement: The Impact of Maqasid al-Sharia on Financial Contracts

First: The purposes of Sharia in financial contracts

One of the first to write on the purposes of Sharia in the financial field, Sheikh Taher bin Ashur, may God have mercy on him, and believes that the purposes of Sharia in financial matters are five: its popularity, clarity, preservation and stability, and justice in it, while Dr. Yusuf Al-Qaradawi has decided on these purposes; Where he divided it into six types containing twenty-seven financial destinations, namely:

1. The purposes of Sharia related to the value and status of money, explaining the status and importance of money, and the obligation to preserve it, and warning against infatuation with it.
2. Linking money and economics to faith and ethics Linking money to faith; and linking money to morals
3. The purposes of Sharia related to the production of money, encouraging halal gain, prohibiting malicious gain, developing money by legitimate means, prohibiting the production of what harms, achieving the sufficiency of the individual and achieving self-sufficiency for the nation, and the need for coordination between the branches of production.
4. Purposes related to the consumption of money: permitting good deeds, rationalizing consumption, combating waste, and preserving the environment
5. Purposes related to the circulation of money: controlling financial transactions according to the provisions of Sharia, and urging the circulation of money and not hoarding it

6. Purposes related to the distribution of money Equity in the distribution of money, empowerment of the poor, reduction of disparities, respect

Private property, preference for public ownership of some sectors, social solidarity, liberation of man from poverty and addressing emergencies and disasters. (Al-Qaradawi, 2010).

Dr. Al-Qaradawi's division of the purposes related to money is the broadest and most comprehensive division

Second: The intentional impact on financial contracts for the purposes of Sharia in financial contracts has important effects, including:

1. Achieving the satisfaction of Allaah, avoiding violating Him, adhering to His Book and the words of His Prophet, in compliance with the words of the Almighty. (has come to you from Allah a light and a plain Book), (Surah Al-Ma'idah: verses 15-16) The light is Muhammad And the book is the Holy Quran.

{ } .. قد جاءكم من الله نور وكتاب مبين

2. Achieving goodness, blessing and growth in livelihood, believing in the saying of the Almighty: « If the people of the villages believed and feared, we would have opened blessings from heaven and earth on them» (Surah La'araf verse 96) and goodness and blessing are achieved by work that conforms to the law of God. ولو أن { } أهل القرى آمنوا واتقوا لفتحنا عليهم بركات من السماء والأرض

3. Investigate the request for halal for saying, "Eat of what Allah has provided you with halal and good." (Surah Al-A'raf verse (144); And it is an obligation upon us. فكلوا مما { } رزقكم الله حلالا طيبا

4. Avoid suspicions that fall between halal and haram, saying: "That which is lawful is clear and that which is unlawful is clear, and between the two of them are doubtful matters about which many people do not know. Thus he who avoids doubtful matters clears himself in regard to his religion and his honor " (Al-Bukhari Muhammad bin Ismail, 1997 AD, page 20, vol. 1, hadith no. 52, numbering Fath al-Bari (1st ed.)

إن الحلال بين، وإن الحرام بين، وبينهما أمور مشتبهات لا يعلمهن كثير من الناس، فمن اتقى الشبهات استبرأ لدينه « { } »

5. Avoid doubt and suspicion in transactions, by achieving justice between people in transactions, and this is one of the most important purposes of Islamic law, the Messenger of Allah said: «Leave what doubts you to what does not doubt you» Tirmidhi (d.t)) from the hadith of Abu al-Hawraa al-Saadi 38 Book of the Description of Resurrection, chips and piety on the authority of the Messenger of Allah, chapter 60, vol. 4, p. 668, hadith no. 2518, and said the hadith of Hassan Sahih, investigated by Ahmad Muhammad Shakir and others. (dt). «دع ما يريبك إلى ما لا يريبك» { }

6. Confirming the universality of Islam to religion and the world, the Almighty said: "And the Book was revealed to you to explain everything" (Surah Al-Nahl: verse 89) and said: "I left in you what you will not go astray after if you hold fast to the Book of Allah, when you are asked about me" (Al-Qushayri, (d.t.), page 39, part 4: Hadith no. 3009

{ } و نزلنا عليك الكتاب تبيانا لكل شيء

«تركت فيكم ما لن تضلوا بعده إن اعتصمتم به كتاب الله، وأنتم تسألون عني» { }

7- Calling to God with insight and knowledge, by linking words to actions; Whoever enjoins good and forbids evil must adhere to the legal controls in his life, especially in transactions, otherwise trust in him will be lost.

8- Providing a distinguished model for the Muslim businessman in the arena of practical life; To ensure the comprehensiveness of Islam for all aspects of life, in different eras. ...

9- Providing practical models and systems in Islamic finance to save humanity and lead the global economy

The second topic

Jurisprudential adaptation of the Istisna contract

The first requirement: Definition of Istisna' and its ruling

Istisna' is a language: Istisna' is the use of "manufacture", so the alif, sīn, and taā' are for request, and "sana'" with ḍamma is the source of your saying, "He did a favor to him, and he did an ugly deed with it." That is: Al-Razi's verb, 1995 AD, page (371), and craftsmanship is the craftsman's craft, and he created it, he took it. The Almighty said: "And I created you for myself." (Surat Taha, verse (41)) It is said that so-and-so made a ring if he asked a man to make a ring for him (Ibn Manzur, 1414 AH, page 209, vol. 8), and he made something: he called for it to be made; Istisna' is the language of requesting the verb Al-Razi 1995 AD, page (371) .

That is, Istisna' is: requesting work from a manufacturer that is specific to his craft and skill.

Istisna' is a term defined by Hanafi jurists with several definitions, including:

1-. Al-Kasani's definition: "For a person to say to a maker of sandals, yogurts, or other things, 'Make me a shoe, or a vessel made of sand, or copper from you, for such and such a price,' and he explains the type of what he makes, its value, and its description, and the maker says, 'Yes.'" (Al-Kasani, 1986, page 2) , Part 5 (2nd edition)), and this definition mentioned the conditions and descriptions, but it did not indicate that it was a contract; It was not a comprehensive definition. Al-Kasani also said: It is a contract for a sale that is subject to obligation and stipulates that work should be done." (Al-Kasani, 1986 AD, page 2, vol. 5 (2nd ed.))

Here, it was made clear that it was a contract and not a promise, but the condition of specifying the price was not mentioned, so it was not comprehensive.

2- Definition of Al-Samarqandi: It is a contract for a sold item that is under obligation and the condition of its work is on the manufacturer" (Al-Samarqandi 1994 'AD, page 362, vol. 2 (2nd ed.).

It is a good short definition, but it is noted that the price is not mentioned and required.

3- Definition of the Code of Judicial Judgments: «Contracting with the people of craftsmanship to do something» Group of scholars and jurists, (d.t.), page 31 (Article No. (124), but it is also noted that the price is not mentioned and stipulated, as well as it is not an impediment where the lease is included.

4- The definition of the Malikis, Shafi'is and Hanbalis They attached it to the peace, so its definition and provisions are taken from the peace, where it is useful from their words that istisna'a is selling a commodity that he does not have other than the peace, so he returns in all this to them to the sale and its conditions when talking about selling by workmanship Ibn Rushd 1988, page 32 c 2 (i. 1)), as well as (Shafi'i, 1990, pp. 133-134, C 3 (d.i))

5- AAO defined that the Istisna'a contract is a contract for the sale of an asset described in the disclosure required to be manufactured by the Accounting and Auditing Organization for Islamic Financial Institutions 2010, page 158, Sharia Standard No. (11)).

And may be on of the best definitions mentioned previously but he didn't mention the price.

Selected definition: A contract on a sale in the liability, provided that it works in a special manner at a known price

Explanation of the definition

A contract that comes out as what is a promise, which is correct, contrary to some Hanafi jurists

Where work is a requirement: putting peace aside ; where a the perceived work is not required to be manufactured.

In particular: the collector of the conditions of Istisna'a by indicating gender, fate, and others. At a known price: that is: its amount and type, and it is not necessary to receive it in the contract council.

Ruling on the Istisna'a contract The audience of the Malikis, Al-Hattab, 1992 AD, page 539, vol. 4 (3rd ed.), the Shafi'is al-Nawawi, (d.t.), page 109, c. 13, (dt)), and the Hanbalis (al-Mardawi, (d.t.), p. 300, vol. 4, (i.2)) and with them Zafr believe that istisna'a is attached to the salam, in which what is required in the salam, while the Hanafis, except for Zafar, see that istisna'a is an independent contract in its own right (al-Kasani, 1986, p. 2, c. 5).

The most correct view is that the Istisna'a contract is permissible and independent, which is the view of the International Islamic Fiqh Academy (Majmaah Magazine, 1992, page of resolution no. 7/3/66 of the seventh session).

Second Requirement: Legality and Wisdom of Istisna'a Contract

Evidence of the legitimacy of the Istisna'a contract The Hanafis permitted the Istisna'a contract separately from the salam (peace), but Muhammad ibn al-Hasan al-Shaibani (d. (189 AH) said: "Istisna'a is permissible by the consensus of Muslims" (al-Shaibani (1406 AH), page 325, vol. 5 (i.1)), and he means that all Muslims deal with it, even if they do not call it by this jurisprudential name by which the Hanafi called it, and the evidence of its legitimacy

. From the Holy Qur'an, the Almighty says: « نَحْنُ قَسَمْنَا بَيْنَهُمْ مَعِيشَتَهُمْ فِي الْحَيَاةِ الدُّنْيَا وَرَفَعْنَا بَعْضَهُمْ فَوْقَ بَعْضٍ دَرَجَاتٍ لِيَتَّخِذَ بَعْضُهُمْ بَعْضًا سَخِرِيًّا وَرَحْمَةً رَبِّكَ خَيْرٌ مِمَّا يَجْمَعُونَ » ("We divided among them their living in this worldly life and exalted each other above each other so that they may take each other as a mockery, and the mercy of your Lord is better than what they gather") (Surah Al-Zukhrif: Verse 32) Meaning: Let them mock each other in deeds because this needs this, and this to this, said by Al-Sudi and others Ibn Kathir, 1999 AD, page 226, vol. 7 (i.2))

- From the Sunnah: A- What al-Bukhaari and Muslim narrated from Sahl ibn Sa'd that the Prophet (peace and blessings of Allaah be upon him) sent to a woman from the Ansar named 'Aisha al-Ansariyya, that Mary Ghulamak al-Najjar makes sticks for me to sit on if I speak to people, so I ordered him to do it from the tamarisk of the forest, and then he brought it, and I sent it to the Messenger of Allaah with it, and he ordered it, and it was laid and he sat on it (al-Bukhari, 1997, page 80, vol. 3, hadith no. (2094) and (al-Qushayri, (d.t.), page 149, vol. 1, hadith no. 5594). A good wood tamarisk, the forest.

(b) The hadeeth of Ibn 'Umar Allah, which is agreed upon that the Messenger of Allah (peace and blessings of Allaah be upon him) said: "He made a ring out of gold, and he used to wear it and put it in the inside of his palm, so the people made rings, and then he sat on the pulpit and took it off, and he said: I used to wear this ring, and I made its lobe from within, and he threw it away, and then he said: By Allah, I never wear it, so people rejected their rings (Bukhari, 1997, p. 165, vol. 8, hadith no. 6651) and al-Qushayri (d.t.), p. 149, vol. 6, hadith no. (5594)

The significance in the two hadiths is that it is for the pulpit and the ring, which is the greatest evidence of the permissibility of istisna'a, and the Prophet permitted their istisna'a because he needed them

3- The desirability of consensus, which is to leave the work according to the analogy to the evidence of consensus, as the analogy refuses the permissibility of istisna'a, because it is the sale of the non-existent, and it is permissible to work with istisna'a, because people dealt with it during the era of the Prophet and the rest of the hurricane after him without denying, so this was a practical consensus, and consensus is an argument.

4- Reasonable man needs to Istisna'a needs types, amounts and special recipes, which may not exist in the market and he wants to make them, so it is permissible for him to make a Istisna'a contract , that if it was forbidden; oeioko would ve been in discomfort . Although Islam permitted the Istisna'a contract, it stipulated conditions for it and specified pillars for it to close the door of dispute.

The wisdom of legislating the Istisna'a contract Istisna'a is permitted, which is the sale of something non-existent - to facilitate people, achieve their interests, invest their money, and provide their needs, such as making electronics and building airports

Third Requirement: Elements and Conditions of the Istisna'a Contract

Elements of the contract The elements of the Istisna'a contract are similar to the pillars of the rest of the financial contracts, which are three:

1- The two contractors: i.e. the buyer who demanded the commodity, and the manufacturer, the seller who provided the commodity.

2- The shop, i.e. the manufactured commodity, and the price paid for it

3- Formula: It is the offer and acceptance. As for the conditions of the Istisna'a contract, the most prominent of which are the following:

1 – Identifying what is made in terms of gender, type, ability, and descriptions, al-Kasani (may Allah have mercy on him) said: With regard to the strips of his permissibility, the gender of the manufactured, its type, its capacity and its character, because it does not become known without it" (Al-Kasani, 1986, p. 3, vol. 5).

2- The fact that what is made of what is made by man, such as cars, is not valid in pulses, grains and fruits

3- The fact that the materials used in the manufacture of the manufacturer, if they are from the manufacturer, it is a lease contract.

4- Determining the term: Imam al-Kasani said because the custom is to multiply the term in istisna'a, but it is intended to expedite the work and not delay the claim, so it does not depart from being istisna'a (al-Kasani, 1986, p. 3, c. 5).

5- Knowledge of the price when contracting, but postponing and accelerating the price is due to the agreement between the two parties, so it is valid expeditedly, deferred and installments. The text of the decision of the International Islamic Fiqh Academy (7/3/67): "The Istisna'a contract requires a statement of the gender, type, amount and required descriptions of the manufacturer, and that the term is specified in it, and it is permissible in the Istisna'a contract to postpone the entire price, or to divide it into installments known for specific terms." (Majma' Magazine, 1992, p. 223, vol. 2, issue (7).

Fourth Requirement: Effects and Termination of Istisna'a Contract

The effects of the Istisna'a contract, i.e. anything that proves to the contracting parties, the manufacturer proves to him the ownership of the price, and he deserves it in full if he provides the manufactured item as requested of him, and the manufacturer proves his ownership of the sale if he makes it for a manufacturer as requested of him.

In. End of Istisna'a contract : Istisna'a contract ends with the following :

1- Each of the contracting parties fulfills the obligations imposed by the contract, so the manufacturer manufactures the required and delivers it to the manufacturer, and the

manufacturer receives the required manufacture as requested, and pays the price to the manufacturer.

2- Dismissal of one of the contracting parties to the other, as dismissal terminates the Istisna'a contract.

3- The death of one of the contracting parties, and they said so because Istisna'a is likened to Ijarah, as Istisna'a is a lease as long as the manufacturer works in it, and if he delivers it, it is a sale, and it is more likely that Istisna'a is sold from its beginning to its end, so the Istisna'a contract is not terminated by the death of one of the contracting parties, and the heirs of the manufacturer are obliged to deliver the sale and the heirs of the manufacturer are obliged to accept it.

However, the dissolution of the lease upon the death of one of the contracting parties is disputed, and it is more likely that it will not be dissolved by that. Ibn Qudamah 'Abdullah ibn Ahmad, 1968, p. 347, vol. 2 (d. i)).

The third topic

The legal purposes of the Istisna'a contract

The wise legislator authorized the Istisna'a contract because of its many and varied legitimate purposes, the most important of which are the following:

The first legal purpose: to achieve justice and equality between the manufacturer and the manufacturer.

Justice is a general purpose, commanded by Allah (peace and blessings of Allaah be upon him) and he said: «إِنَّ اللَّهَ يَأْمُرُ بِالْعَدْلِ وَالْإِحْسَانِ، وَإِيتَاءِ ذِي الْقُرْبَى» and to impose fairness and search for the messages of god «أَفْذُرْ أَرْسَلْنَا رُسُلَنَا بِالْبَيِّنَاتِ، وَأَنْزَلْنَا مَعَهُمُ الْكِتَابَ وَالْمِيزَانَ لِيَقُومَ النَّاسُ» «بِالْقِسْطِ» "Allah commands justice and charity, and the delivery of kinship" (Surat Al-Nahl: Verse 90), and to establish justice I sent messengers and revealed books, the Almighty said: "We sent our messengers with evidence, and we sent with them the book and the balance so that people could do the installment" (Surat Al-Hadid: Verse (25), and the Prophet established it in financial contracts when he said: "Al-Kharaj by guarantee" (Al-Qazwini 2009, page 352, vol. 2, Hadith No. (2242) and the hadith is attributed to Hassan, and what is meant by the Al-Kharaj is income and the benefit, and the abscess by guarantee, belongs to the abscess by the guarantee of the original, and it is from the mosques of the word.

The origin of all contracts is justice and the prevention of injustice Ibn Taymiyyah, 1995, page 510, c 20 (d.i), and the means of Sharia to achieve this purpose is the permissibility of sale and the prohibition of usury, the Almighty said....

«وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا»

And Allah permitted selling and forbade usury» (Surah Al-Baqarah, verse 275) At the end of the verse prohibiting usury, God warned of the legitimate purpose of permitting sale and prohibiting usury, which is to achieve justice and deny the shadow, and he said: «وَإِنْ «تُبْتُمْ فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ» " If you repent, you have the heads of your wealth, you will not be wronged or wronged" (Surat Al-Baqarah: verse (279), and this meaning is confirmed by Imam Ibn al-Qayyim (may Allah have mercy on him), who says: "The origin of all contracts is justice (Ibn al-Qayyim al-Jawziyya, 1991, page 292c 1 (i. 1)).

Justice in the Istisna'a contract is reflected in the following seven things:

First: the binding of this contract, its terms and guarantees are binding on both parties, and its legal effects entail on them, the manufacturer spent money, and came to work according to the agreed terms, and if the manufacturer refrained from the manufactured to harm the manufacturer, it is fair to oblige the manufacturer to take it, unless there is an acceptable impediment, and also if the manufacturer violates the descriptions, it is unfair to pay the manufacturer the full price without taking the full descriptions.

Second: The institution must bear as a result of concluding an Istisna'a contract as a manufacturer the owner's liabilities, maintenance expenses, and insurance, before delivery to the manufacturer (the customer), and it is not entitled to transfer its obligations to the customer in the parallel Istisna'a contract is the conclusion of two separate contracts, one of which is the customer, in which the financial institution is a maker, and the other with manufacturers or contractors in which the institution is a manufacturer, and profit is achieved by the difference in price in the two contracts, and most often one of them is immediate and he is one of the manufacturers or contractors) and the second is deferred, which is which is from the customer). (Accounting and Auditing Organization(for Islamic Financial Institutions 2010, pp. 150, 158, Standard 11, (7/3), and this is the purpose of justice that protects the customer from the injustice of the institution.

Third: It is permissible to deliver the manufactured by the method of judgmental arrest by enabling the manufacturer to receive the manufactured after its completion, and thus the manufacturer's warranty ends and the manufactured for warranty begins, even if the manufactured is damaged after being able to infringe or default by the manufacturer, the manufacturer for bears it, and thus the two guarantees are separated; Manufacturer's guarantee and manufactured for guarantee .Accounting and Auditing Organization for Islamic Financial Institutions, 2010, page 149, Standard 11, (4/6) This is fair between the manufacturer and the manufacturer.

Fourth: If the owner of the contract od istisna'a abstained to receive the manufactured item without right after enabling it to be handed to the other , it shall be a trust in the hands of the manufacturer and shall not guarantee it except by infringement or default, and the manufacturer shall bear the cost of preserving it Accounting and Auditing Organization for Islamic Financial Institutions, 2010, page 149, standard 11, 6/4), and this is the pinnacle of justice.

Fifth: The manufacturer must bear responsibility for the risk of a defect in the manufactured for a certain period agreed upon, so that the manufacturer can benefit from the manufactured goods safely from defects, and this is the requirement of justice that encourages the Islamic industry.

Sixth: It is permissible to stipulate in the Istisna'a contract that the manufacturer authorizes the manufacturer to sell the manufactured item if the manufacturer delays receiving it for a certain period, so he sells it at the expense of the manufacturer, and the increase is returned to him, if any, and the decrease is due to him, if any, and the cost of the sale shall be on the manufacturer Accounting and Auditing Organization for Islamic Financial Institutions 2010, page 149, (6/6), and this is the eye of justice for both parties.

Seventh: The manufacturer should not reduce the price if the actual cost spent by the institution decreases, or if the institution obtains a discount from the entity that made the manufacture because of "the independence of the Istisna'a and Istisna'a parallel contracts, and their non-linkage, as each of them is independent and has its effects separately from the other" Kuwait Finance House, 1986, page of fatwa 289 and fatwa no. 447. This is the utmost justice that our true religion commands us to do, and it prevents us from eating people's money in falsehood.

The second legitimate purpose is honesty and statement to pay the damage

The meaning of this purpose is that financial contracts must be conducted clearly and truthfully , whether the clarity in the same contract and its nature, or in its effects, that is, by raising the ignorance leading to disagreement, so that deceit and injustice do not rise, and justice is not achieved, except by removing all ignorance in contracts or exchanges of objects and benefits, hence the order to document, write, testify and publicize it , To be aware of one's own matter, and leave no room for misunderstanding and mistrust, all to achieve the divine wisdom: that is the most excellent with God, and I rise for martyrdom,

and the lowest that you should not be suspicious" (Surat Al-Baqarah: Verse (282), and ignorance that must be lifted that is what leads to disagreement and quarrel customary, as commercial custom is what determines the acceptable ignorance in every type of exchanges and transactions, and not raising every ignorance, no matter how small, leads to the disruption of interests, and harm to people; As commodities cannot be traded, it is necessary to refer to customs, laws, and contract texts, to know the acceptable margin of ignorance, documentation in writing and other important reasons for raising the dispute, and reducing the causes of dispute, especially in contracts, and the corrupt contract that requires sin and blame for its owner, is the contract that does not collect the strips of clarity and statement, leading to disagreement, and spoiling the dispute between people is more severe and kept harmful than the loss of some benefits and interests, and one of the common mistakes among people is to consider control, documentation and testimony as a presumption of doubt and mistrust, no doubt this is ignorance of the purposes of religion.

The Istisna'a contract has elements and conditions binding on the two parties, in clear written clauses, and signed by the manufacturer and the manufacturer (bank), as well as in parallel Istisna'a signed by the manufacturer (bank) and the contractor manufacturer or the executing company, and each contract is independent of the other, and a clear penalty clause may be written for each of them, this statement and clarification in the contracts pays the damage from the parties, and the blessing is solved in the sale, believing his saying from Hakim bin Hizam "The two sales by option unless they are separated - or he said: until they are separated, then they are honest and clear and blessed for them in selling them, and if they are silent and false, the blessing of selling them is right" (Bukhari, 1997, p. 76, vol. 3, hadith no. 2079). « أَوْ قَالَ: حَتَّى يَتَفَرَّقَا - أَوْ قَالَ: حَتَّى يَتَفَرَّقَا فَإِنْ «
«صَدَقَا وَبَيْنَا بُورِكَ لَهُمَا فِي بَيْعِهِمَا، وَإِنْ كَتَمَا وَكَذَبَا مُحِقَّتْ بَرَكَةُ بَيْعِهِمَا»

Al-Qushiri (d.t.), page, 10, vol. 5, hadith no. 3937 and the two sales, the seller and the buyer Option: Asking for the best of the two things from signing the sale or returning it, rightly gone and eliminated, as the truth and the statement have their legitimate purpose is to bring blessing in the sale, and to pay the damage for the contracting parties.

The third legitimate purpose: meeting the needs of people and achieving their interests

Istisna'a meets the needs of people and achieves their interests away from usury and its pretexts, which is an important legitimate goal, which financial institutions seek to achieve, and this is evident if the customers of the Islamic Bank need to own huge machines and devices with a high cost that they cannot afford to buy, so the Islamic Bank provides them through the Istisna'a contract with them, and parallel Istisna'a with manufacturers, without these customers resorting to forbidden usurious borrowing, or waiting long to obtain their requirements; Whether they paid the price before or during manufacturing, or after delivery, Istisna'a meets the needs of society and provides comfort to individuals and groups.

The fourth legitimate purpose: facilitation and removal of burden or difficulty.

This purpose is one of the most important purposes of the general Sharia, because religion is easy, and the tolerance of Islam requires facilitation and lifting the difficulty off of its servants, and the evidence for the purpose of facilitation is many, including the Almighty's saying: « يُرِيدُ اللَّهُ بِكُمُ الْيُسْرَ وَلَا يُرِيدُ بِكُمُ الْعُسْرَ : (Allah intends for you ease and does not intend for you hardship," Surah Al-Baqarah: Verse (185), And the Almighty says: « مَا يُرِيدُ اللَّهُ لِيَجْعَلَ عَلَيْكُم مِّنْ حَرَجٍ، وَلَكِنْ يُرِيدُ لِيُطَهِّرَكُمْ وَلِيُنِيمَ نِعْمَتَهُ عَلَيْكُمْ لَعَلَّكُمْ تَشْكُرُونَ ("Allah does not intend to make difficulty for you, but He intends to purify you and complete His favor upon you that you may be grateful." And the (Surah Al-Ma'idah : Verse (6) , and Almighty says: « لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا» (Allah burdens not anyone beyond his or her capacity.') (Al-Baqarah: Verse 286).

These verses refer to facilitation and licensing of people's need, and to remove burden and difficulty, and to pay hardship from them, and the Istisna'a contract is included in the generality of these verses, because people need it very much, and one of the evidence of facilitation is the saying of the Prophet (peace and blessings of Allah be upon him) to Abu Musa al-Ash'ari and Muadh bin Jabal Allah: "Show leniency (to the people); don't be hard upon them; give them glad tidings (of Divine favours in this world and the Hereafter); and do not create aversion. Work in collaboration and don't be divide" (Al-Bukhari, 1997, page 79, vol. 4, hadith no. 3038), al-Shaatibi (may Allah have mercy on him) said: "The evidence for the removal of difficulty in this nation has reached its peak" (Shatby, (1997), p. 520, c. 1

The applications of this purpose in the section on financial contracts are many and varied in rooting and branching, as the principle of financial contracts is that they are based on permissibility and permission, not prohibition and prevention, which is a great asset in which facilitation and removal of difficulty or burden are manifested. Also," the Messenger of Allah does not choose in two matters except to choose the easier, unless it is a sin" (Abu Dawood 2009, p. 164, c. 4, Hadith no. 4785 (i. (1); In the branches and practical rulings, Islam permits leasing, salam, istisna'a, licenses the sales, and condones easy ignorance and easy injustice customarily.

Islam has prescribed the Istisna'a contract to facilitate people and remove difficulty from them, and we have in the Messenger of Allah (peace and blessings of Allah be upon him) a good example, as he made the ring and the pulpit because he needed them Previously graduated hadiths p. 13 of this research, the manufacturer with any amount he has can get an expensive product, or a high-priced apartment, provided that he pays the rest in installments or upon delivery, this is easier for people, and facilitation is more evident in mega projects that no one can finance, so the bank finances these projects By flexible istisna'a in payment, in order to facilitate people, meet their needs, and take into account their circumstances, and in order to remove difficulty or left the burden from and off of them, the Shariah standards state: It is permissible to postpone the price of istisna'a, or to pay it in installments known for specific terms, or to accelerate a down payment, and pay the rest of the price in installments compatible with the delivery dates for parts of the workmanship, and it is permissible to link the installments to the stages of completion, if those stages are disciplined in custom and do not give rise to a dispute (Accounting and Auditing Organization for Islamic Financial Institutions, 2010, page 147, standard, 11, 3/2/2). Thus, it appears to us that istisna'a makes it easier for people to meet their needs, facilitate their affairs, keep them away from usury, and lifts burden and difficulty off of them, And so the Islamic jurisprudence competes strongly in the arena of economics.

The fifth legitimate purpose: preserving rights and property that raise the dispute

One of the most important purposes of Islamic law is to preserve rights and property, and not to damage or endanger them, because it leads to the stability of society, and its familiarity, and this is achieved accurately by contracts, and detailing the rights and duties for all.

Witnessing, documenting, and taking guarantees, in a way that prevents disputes. The more clear, tight, and precise the terms of the agreement are, the further away we will be from conflict. If the pillars and conditions of the contract are valid, and it is free of legal impediments, the contract is valid, its effects are generated, rights are preserved, and disagreement is eliminated. Evidence of the purpose of preserving rights and property is abundant in the Qur'an and Sunnah. From the Qur'an, God Almighty says: : «*وَاسْتَشْهِدُوا*» «شَهِيدَيْنِ مِنْ رِجَالِكُمْ فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ وَامْرَأَتَانِ

“And call for two witnesses from among your own men; and if there are not two men, then a man and two women.” (Surat Al-Baqarah, verse (82); the testimony here is to preserve money and rights and reject disputes between contracting parties, and God Almighty says: : «*يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ*» “ O you who have believed, fulfill

contracts.” (Surat Al-Ma'idah, verse (1); fulfillment of contracts preserves rights and prevents disputes. From the Sunnah: On the authority of Aisha May God be pleased with her. She said: The Messenger of God, peace and blessings of God be upon him, died while his armor was mortgaged to a Jew for thirty saa's of barley (Al-Bukhari, 1997 AD, page 49, vol. 4, Hadith No. (2916). The Prophet only agreed on mortgage in order to preserve rights, even if it was this right belongs to a Jew, Islam has legislated the taking of guarantees in contracts, such as taking a mortgage, guarantee, agency, deposit, and penalty clause.

The purpose of preserving rights and property in the Istisna contract is evident in its obligation for both parties, with its specific conditions and agreed-upon guarantees. It has been stated in the Sharia standards that in an Istisna' contract, whether it is a manufacturer or a Mustansani' (the manufactured for), the institution may take the guarantees that it deems sufficient to fulfill its rights with the Mustisna' or the Manufacturer. It is also permissible for it, if it is an Istisna'a, to give the guarantees requested by the manufacturer, whether the guarantee is a mortgage or not. A guarantee, a transfer of rights, a current account, or a suspension of withdrawals on balances” (Accounting and Auditing Organization for Islamic Financial Institutions 2010 AD, page 148, 3/3/2); In order to achieve the goal of preserving rights and property that raises the spark of conflict

The sixth legal purpose: circulation of money and its popularity in society

The circulation and circulation of money is one of the general purposes of our noble Sharia. What is meant by this purpose is the movement and circulation of money in society, so that it flows without confinement or hoarding, so that people benefit from it. Islam has legislated for this two great laws.

The first: a command, which is zakat for someone whose wealth reaches the quorum, and one year has passed in search of growth, blessing, and prosperity. The second is a prohibition, which is the prohibition of usury, which is one of the greatest sins. Because it is exploiting the needs of the needy and trading in it, and usury is hoarding that hinders development in society, and it is contrary to the Shari'a's intention of spreading money, its flow and movement. Islam has legislated means to help enforce the obligation of zakat, and prohibits usury, including charity, spending, good loans, and charity, and not hoarding money. Islam has also permitted forced pricing. It is the appreciation of the Sultan or his representative for the people and forcing them to pledge allegiance to it, Ministry of Endowments in Kuwait (1986 AD), page 301, vol. 11). And the prohibition of hoarding, which is the gathering of food and other things that are eaten, and keeping it while waiting for the time of rising prices, was stated by Ibn Manzur, 1414 AH, page 208, part 4. And also legislated the division of inheritance and spoils, all of these means; So that money can be circulated among people, and not kept with a specific group, in compliance with the Almighty's saying: “So that it does not become a burden among the rich among you” (Surat Al-Hashr: Verse (7). : «كَيْ لَا يَكُونَ دُولَةً بَيْنَ الْأَغْنِيَاءِ مِنْكُمْ»

Islamic legislation's consideration of the Sharia objectives in the Istisna contract brings benefits and increases them and averts and reduces harms, and is a reason for preferring a fatwa that eases the conscience. It also brings the pioneering Islamic banking experience out of the narrow vision of Western capitalism to the vision of broad Islamic objectives.

The fourth section

Financing advantages of the Istisna contract

The Istisna contract has many financing advantages that are convenient for the manufacturer and the manufacturer, the most important of which are ten advantages:

The first advantage: combining the properties of more than one contract

The Istisna' contract combined the characteristic of the contract of leasing work and installments of the rent, and the characteristic of the Salam contract in excluding the impermissibility of selling the non-existent property at the time of the contract. Because it will be manufactured later, and the characteristic of the absolute sale contract is that the price in it may be considered a credit that must not be accelerated, but rather it can be paid in installments, or postponed until after manufacture or upon delivery. To meet the need for dealing in large and advanced projects, and therefore it closes the doors of forbidden speculation that depends on the price difference, which is merely price speculation, and does not depend on real production that combines the two elements of real production (capital and labor), and then the importance of the broad and unlimited Istisna contract becomes clear. Abu Qanunah (2006 AD), page 449, Master's thesis).

The second advantage: flexibility in payment and repayment

The possibility of conducting an Istisna' contract parallel to the first Istisna' contract, so that the process includes three parties: the Istisna'a buyer as the first party), the manufacturer as a second party, and the middleman as a third party (the Islamic Bank), who is a seller in the first contract and a buyer in the second contract. The justification for the presence of the third party comes from the special experience required by the buyer. , or financing need by the buyer, seller, or both; The financing activity in Istisna occurs through the buyer paying the price in advance to the manufacturer (financing for the manufacturer), or by the buyer requesting to purchase the goods at a deferred price (financing for the buyer), and financing may be double for both of them. In other words, the Istisna' and Parallel Istisna' contracts are characterized by flexibility in the method of paying the price; Which provides financing opportunities for the seller (the manufacturer), as in the Salam contract, and for the buyer, as in the Murabaha contract, to order the purchase.

The third advantage: The price may be a specific benefit

One of the financing advantages of the Istisna contract is that the price may be a specific benefit. The Accounting and Auditing Authority said: It is required that the price of istisna' be known when concluding the contract, and it may be in money, in kind, or a benefit for a specific period, whether it is the benefit of another property or the benefit of the manufacture itself. This last form is suitable for application in the event that official authorities grant concession contracts in return for the benefit. With the project for a certain period (Build Operate Transfer) (Accounting and Auditing Organization for Islamic Financial Institutions, 2010 AD, page 147, (1/2/3). It is considered one of the most important means of financing huge infrastructure projects nowadays, due to the economic and financial advantages it provides to the project. Al-Mustasna': It allows the establishment of projects that do not have a sufficient budget, and through it the burden of providing the necessary financing is transferred from the project owner to the manufacturer, who is committed to providing capital from his own sources, or in agreement with other financing parties, or by offering investment instruments for this purpose. In this type of project, a private company is usually established for this purpose that includes the manufacturer, the financier, and the investment manager, which is responsible for the implementation, management, and operation of the project for the agreed upon period, after which the project is transferred to the manufacturer.

Fourth advantage: The possibility of granting financing in the form of liquid cash

The Istisna contract provides the manufacturer with an important financing channel. Financing is granted in the form of liquid cash, which enables the manufacturer to purchase the materials necessary to implement the contract. It gives him flexibility in use and gives him an important advantage, which is reducing the operating cost. It also gives him complete freedom to use this financing, in a way that suits his own requirements, as long as he is committed to delivering the manufactured product. According to the agreed

specifications, and within the specified period, and this is what other contracts do not provide.

Fifth advantage: financing working capital

The possibility of financing working capital for companies and projects, especially small and medium-sized ones, is an important financing advantage for this contract. Net working capital represents the difference between current assets and current liabilities in the institution's financial position statement. Financing working capital in Islam is subject to Sharia controls related to methods. And financing tools, in addition to special controls for the process of exchanging working capital components and trading them in the wise market, Dr. Munir Suleiman, 2011, April 2, pages <http://www.ecorim.net/index.php/2011-04-02>

Sixth advantage: The pricing method makes a profit for the broker

The price of the product is affected by the payment method that is agreed upon; The immediate price must be less than the cash or deferred price, and the price is usually decided in the market. However, in the absence of organized markets, the matter is subject to the agreement of the two parties according to experts' estimates, and one of the researchers suggests Yahya, (2009 AD), pages - 80-87. (PhD thesis), the formula for estimating the discount or increase percentage is based on three

Elements are: cash sale profit margin, merchandise turnover rate, and the duration of postponement or acceleration.

The proposed ratio is the cash sale profit margin x the merchandise turnover rate x the period of postponement or acceleration / 360 profit margin times the turnover rate times the postponement period, and everything is divided by the number of days in the year. If the sale is made at a deferred price, the mentioned percentage is considered a premium (increase) over the cash price. If The sale was made at an advance price, and the percentage is then considered a discount from the cash price.

Seventh advantage: shortening the duration of the product's operational cycle

Istisna financing shortens the operating cycle of the producing institution, which is represented by the transformation of cash into stored products prepared for sale. And then into receivables, after which they return to their cash form again (Haddad 2010 AD, p. 329 (2nd ed.)). The Istisna' contract reduces production and marketing costs and credit risks. Because the manufactured product was previously sold, it is subject to expedited sale; Until the financing character of the contract is achieved, otherwise the contract loses its financing character for the manufacturer, and it is not required here that the bank pay the full price in advance for the financing character to be achieved. If it is arranged in installments that include an advance payment, and other successive payments according to the percentage of completion, then that is considered sufficient.

Eighth advantage: Supporting long-term financing in Islamic banks

The Istisna contract can support long-term financing in Islamic banks, leading to an improvement in the proportion of this financing compared to other financing methods that these banks resort to to a greater extent. If the financing bank issues Istisna instruments for specific projects that require large amounts of money, it participates more in mobilizing financial resources.

The ninth advantage holds the manufacturer responsible for the appearance of a defect in the product

The manufacturer bears responsibility for the appearance of a defect in the workmanship, even if he uses a subcontractor to implement the contract. One of the legal requirements for the Istisna' contract is tolerating the appearance of defects in the manufactured product, and this is one of the fundamental differences between usurious financing based

on a loan, and Islamic investment based on the rule: “Grim for sheep” and “gharam”: what a person is obligated to exchange for a thing or a person, and sheep are what he obtains of what he desires. That thing, and what is meant is that the costs and losses incurred from the thing are borne by those who benefit from it according to Islamic law. Al-Zuhayli, Dr. Muhammad (2006 AD), page 543, vol. 1 (ed. (1)) It is stated in the Sharia standards: “It is permissible to specify a period to guarantee manufacturing defects, or to commit to maintenance for a specific period, agreed upon by both parties, or according to custom” (The Accounting and Auditing Authority for Financial Institutions Al-Islamiya, 2010 AD, page 147, 3/1/7, to prevent harm to the Mustisna'a, which is an important legal purpose.

Tenth advantage: Participation in moving the wheel of the national economy

One of the most important advantages of the Istisna contract is that Istisna operations contribute to moving the wheel of the national economy. Because they involve real projects that generate income, increase effective demand, and also contribute to achieving the goals of the Islamic bank by investing its money to serve society and obtain regular cash flow (Rayhan, 2002 AD. (9/5-5), page (46) in addition to Contributing to creating new job opportunities that reduce unemployment and its social effects, and contribute to economic and social development (Muhaisen (2002), (9/5-7), page 1700, Book of Facts, Part 1). This instills confidence in the Islamic industry, develops it, and increases its value. .

The Istisna contract is based on the principle of participation, which is an authentic Islamic principle in achieving prosperity, and it is not based on the generation approach. Because it violates the legal objectives; Istisna is the movement of community funds

Islamic investment in legitimate ways in beneficial civil and commercial projects, and the exchange of benefits internally and externally. To reduce financial burdens on countries, especially poor countries, and participate effectively in employing community resources and energies, Istisna also participates in establishing huge projects without waiting to obtain the necessary financing, thus avoiding inflation and high equipment prices. It also provides national projects with the opportunity to benefit from modern equipment. If the state wants to buy huge equipment, or establish giant projects that require huge sums of money, instead of resorting to usurious borrowing, it resorts to istisna contracts in Islamic financial institutions. To purchase equipment, or establish projects. It is a pioneering experience in Islamic economics. It protects the state from usurious interest, and addresses the problem of unemployment and depression in society, thus demonstrating the power of istisna in moving money and pioneering the global economy.

Conclusion

First: Results:

1- Objectives are the goals and provisions of God's will in His legislation, to achieve the interests of His servants in this world and the hereafter.

2- The three legitimate objectives are necessary, necessary, and improving, and their effects in financial contracts include: God's satisfaction and blessing of livelihood, seeking what is permissible and avoiding suspicion by achieving justice, confirming the comprehensiveness of Islam, presenting a distinct model for the Muslim businessman, and presenting a unique application in Islamic finance, which is istisna'.

3- Istisna': A contract for a sale that is due under obligation, in which there is a condition for work to be done in a specific way, for a known price.

4- The Hanafi school of thought was concerned with Istisna' apart from Islam, contrary to the majority, and independent of parallel Istisna' - the purposes of Sharia in Istisna' are to

achieve interests and ward off harms, the most important of which are: achieving justice between the maker and the one who produces it, honesty and clarification that prevent harm, meeting people's needs and realizing their interests, facilitating and removing hardship, and preserving rights. Property is the cause of controversy, and the circulation and popularity of money.

5- The jurisprudence of the objectives of istisna transforms Islamic banking from the injustice of Western capitalism to the justice of Islam.

6- The Istisna' contract has financing advantages. It has the characteristics of three contracts: leasing (rent in installments), salam (sale of what is lost), selling by delaying the price, flexibility in payment and repayment, the permissibility of the price being a benefit, financing working capital and giving it liquid cash, and the pricing method achieves a profit for the intermediary, and is short. The operating cycle of the product, the manufacturer bearing the defect in the product, and stimulating the national economy.

7- Diversified term Islamic financing for various development projects, addresses unemployment and recession, confirms payment flexibility, strengthens the identity of the economy, and makes it, through Istisna, the leader of the global economy.

Second: Recommendations

1. It is necessary to take into account the objectives of Sharia law before giving a fatwa permitting or prohibiting the Istisna contract for peace of mind
2. The commitment of Islamic financial institutions to the Sharia standards for istisna', and the imposition of Sharia supervision over them
3. Review the Istisna contract financing formulas periodically to ensure that they achieve the Sharia objectives.

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