

Timely Calculation of Wages and Islamic Law- An Analysis

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Now a days it is a common trend in the world that wages are measured on the basis of time. Wages are rated at per hour. These rates are different in countries as in accordance with their economic conditions and circumstances. In universities and colleges remunerations are also being paid per hour as per lecture. The concept of wages calculating on time doesn't apparently contradict the Islamic provisions. That's why, Ulama Islam ignore the checking of legal status of such concepts under the Islamic principles. However the concept of calculating wages on the basis of time dose have moral and economic ill effects on human labour. Employees in the public sector just kill the time and don't work. They don't utilize their working time in allotted Jobs. This behavior of the employees is due to the guaranteed wages fixing on the time basis, which certainly makes their livelihood Islamicly Unlawful (Haram). While in private sector particularly in industrial units the employers do injustice with employees. They suck each point of blood from employee's veins and pay very low wages to them which doesn't make up their daily bread. However, on both sides, on part of employer and employee, there is an economic injustice in case of fixing the wages on the basis of time. This article views this matter completely in the light of Quran and Sunnah.

Key-words: *Islamic Fiqh, The Holy Quran, The Sunnah, Labour, Wages, Wages calculated on the basis of time.*

Now a days it is a common trend in the world that wages are measured on the basis of time. Wages are rated at per hour. These rates are different in countries as in accordance with their economic conditions and circumstances. In UK about £ 5.5, is proximately rated per hour and in USA \$ 6.00, is proximately rated per hour for physical labour. In Pakistan, about Rs. 100, is given per hour for industrial and construction labour. In universities and colleges remunerations are also being paid per hour as per lecture.

In the field of construction, the laborers were paid as per day (8 hours) these labourers didn't work and they just killed the time and took their wages and prolonged the work so that they remained regularly collected their wages. This behavior of the labourers made fed up the owners of the construction work because they were surfing a huge cost of the labour. They left the way of payment of wages as per day and started to enter into construction work in accordance with wage as per feet of the constructed work.

The concept of wages calculating on time doesn't apparently contradict the Islamic provisions. That's why, Ulama Islam ignore the checking of legal status of such concepts under the Islamic principles.

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They ignore such concepts by saying “لا حرج”. However the concept of calculating wages on the basis of time dose have moral and economic ill effects on human labour. Employees in the public sector just kill the time and don't work.

They do their domestic works on their job places. Sometimes they read the newspaper and sometimes they take cup of tea and do gossiping. When time turn out 2:00 Clock they start preparing for leaving the office. They don't utilize their working time in allotted Jobs. This behavior of the employees is due to the guaranteed wages fixing on the time basis, which certainly makes their livelihood Islamicly Unlawful (Haram).

While in private sector particularly in industrial units the employers do injustice with employees. They suck each point of blood from employee's veins and pay very low wages to them which doesn't make up their daily bread. However, on both sides, on part of employer and employee, there is an economic injustice in case of fixing the wages on the basis of time. This article views this matter completely in the light of Quran and Sunnah.

When and how the trend of wages calculated on time, started in the world? the historical origins of this trend trace in the capitalism. In the very first instance, the scheduled working hours were prescribed for the labourers. In the sixteenth century, the feudalism was in power. The ownership of land gone confined in few hands and the number of poor cultivators were growing increased. In the eighteenth century, the economic trends changed and the time of commercial capitalism came again. The Britain established its colonization round about all over the world and this colonization led the British empire indulged in the commercial and economic transactions with their colonized nations. The British empire took in possession, the economic and natural resources of the small nations and by this way the British empire supported the industrial capitalism. In the industries the scheduled working time was prescribed for the labourers. The way, responsibilities of the workers were regularly notified and industrialists started to pay them as per working hour.¹

Later on, the labour disputes started gradually between the labourers and employers. In order to settle down these disputes, in 1919, A labour commission has been detailed in Paris through a peace dialogue among League of Nations and this commission proposed to establish an international labour organization, the responsibility of which is to settle down the labour disputes and issues. Therefore, on

the recommendations of the labour commission, in 1919, the ILO appeared as a world labour forum to structure internationally labour policies, conventions and recommendations.

Dr. Werner Sengenberger² writes down about the purpose of international labour organization;

The International Labour Organization (ILO) was founded in 1919 as part of the Treaty of Versailles. It is approaching its centenary. In 1946, it became the first specialised agency of the United Nations. The ILO embodies a vision of universal, humane conditions of labour to attain social justice and peace among nations. The contemporary expression of this vision is the Decent Work Agenda.³

International labour organization has a history of one hundred years. It comprises three characters; governments, employers and employees.⁴In 1946 ,ILO has become a constituent unit of united Nations. The basic function of ILO is to protect the rights of labourers and maintain international labour standards. Until now, ILO has passed 189 conventions and 202 recommendations, which have been ratified by 185 states.⁵

What are basic principles of ILO? Chandra Roy writes about these principles.

The founding documents of the ILO included a Charter elaborated during the peace Treaty of Versailles based on the following principles. Abolition of Child labour, Adequate wages, Equality of treatment, Equal pay, Inspection systems, Labour should not be seen merely as a commodity or an article, of commerce, Reasonable working hours, Right of association.⁶

Dr Amit Kumar Singh⁷writes about the objective and purposes of ILO in his research article.

The primary objective of action in the ILO is the creation of the international labour standards in forms of Resolutions and Recommendations. Resolutions are international treaties and instruments, which generate legally binding responsibilities on the nations that ratify those nations. Recommendations are none –binding but better set out guidelines orienting countrywide policies, procedure and help in developing actions. Labour law control matters, such as, remunerations, labour employment, and conditions of employment, trade union, industrial and labour management relations. They also include social legislations regulating such a characteristic as reimbursement for accident triggered to a worker at work place,

maternity benefits fixations of minimum wages, and distributions of company's profit for the organization's workers etc. Most of these acts regulate rights and the responsibilities of employee.⁸

ILO has specified working time hours for labourers. It also gave labourers the right of making union. This right of Labour union generated the right of protest for labourers. Micheal Sommer⁹ writes in this regard.

Many historic achievement are due to the ILO-including for example the 8 hours' workday, the right to unionisation, and as a consequence thereof, the right to strike.¹⁰

In 1997, a working time treaty enter into all European economiccommunity, in which all the labour conditions and working time prescribed. The article 136 of this treaty says.

Member states agree upon the need to promote improved working conditions and an improved standard of living for workers, so as to make possible their harmonisation whilst the improvement is being maintained.¹¹

On the basis of this treaty, the European economic community issued a working time directive.¹² This directive faced a criticism in the England and later on this directive was implemented in England as a working time law.¹³ In the light of above statements, it is being seen that ILO as well as the European community have specified 8 working hours and working time per day for labourers. These working hours silently remained basis for wage calculation.

Weather the wage can be calculated on time or is it justifiable in Islamic law ? This questionarises on the basisof the prophetic's hadith.

لا تبع ماليس عندك¹⁴

“Don't sell whatever is not in your possession and ownership”

No one can own and possesses the time. How can he sell the time, the labourer if he is paid his wages as per hour, it means he is selling his time. According to this hadith he cannot sell the time. Therefore, he will be paid the wages as per his work and his labour.

In the Quran and Hadith, the determining of the wages is attached with labour and work and not with the time.

Allah almighty says in the Quran:

قَالَتْ إِنَّ أَبِي يَدْعُوكَ لِيَجْزِيَكَ أَجْرَ مَا سَقَيْتَ لَنَا¹⁵

Then one of the two women came to him walking with shyness. She said, "Indeed, my father invites you that he may pay you for having watered for us."

Here in this ayat, the wage is attached with the labour of watering the goats of the two girls (daughters of old man in madyan) by the prophet Moses.

وَ إِنْ أَرَدْتُمْ أَنْ تَسْتَرْضِعُوا أَوْلَادَكُمْ فَلَا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا اتَّيْتُمْ بِالْمَعْرُوفِ¹⁶

“And if you wish to have your children nursed by a substitute, there is no blame upon you as long as you give payment according to what is acceptable”

Here in this ayat, the wage of feeding baby by some women other than mother is attached with the work of the nursing and feeding the baby and not with the period of two year of nursing baby as prescribed in the Quran.

Allah almighty says:

فَانظُرْ أَفَاحْتَىٰ إِذَا آتَىٰ أَهْلَ قَرْيَةٍ اسْتَطْعَمَ أَهْلُهَا فَأَبَوْا أَنْ يُضَيِّفُوهُمَا فَوَجَدَا فِيهَا جِدَارًا يُرِيدُ أَنْ يَنْقَضَ فَأَقَامَهُ¹⁷ قَالَ لَوْ شِئْتَ لَتَّخَذْتَعَلَيْهِ أَجْرًا¹⁷

So they set out, until when they came to the people of a town, they asked its people for food, but they refused to offer them hospitality. And they found therein a wall about to collapse, so al-Khidhr restored it. [Moses] said, "If you wished, you could have taken for it a payment."

Here in this ayat, the prophet Moses attached the wage with the construction of wall.

Allah almighty says:

إِلَّا الَّذِينَ آمَنُوا وَعَمِلُوا الصَّالِحَاتِ فَلَهُمْ أَجْرٌ غَيْرُ مَمْنُونٍ¹⁸

“Except for those who believed and do righteous deeds, for they will have a reward uninterrupted”

Here in this ayat, Allah almighty attached the “ajjar” in akhirah for believers with their good deeds.

The prophet ﷺ attached the wage with the labour of teaching Quran.

ان احق ماخذ تم عليه اجرأ فهو كتاب الله¹⁹

“The best wages you are taking are those which are given on the teaching of the book of Allah”

Allah almighty says:

قَالَ إِنِّي أُرِيدُ أَنْ أُنكِحَكَ إِحْدَى ابْنَتَيَّ هَاتَيْنِ عَلَىٰ أَنْ تَأْجُرَنِي ثَمَنِي حَبَّ جَبَّ فَإِنْ أَتَمَمْتَ عَشْرًا فَمِنْ عِنْدِكَ²⁰

He said, "Indeed, I wish to wed you one of these, my two daughters, on [the condition] that you serve me for eight years; but if

you complete ten, it will be [as a favor] from you. And I do not wish to put you in difficulty. You will find me, if Allah wills, from among the righteous."

Here in this ayat, the old man in madiyan prescribed the marriage of his one daughter with Moses, as a wage for his labour services in his house for eight or ten year. The wage has not been assessed in this ayat as according to the period of eight or ten year. But the service or labour has been assessed in the said period for wages.

Allah almighty says:

فَإِنْ أَرْضَعْنَ لَكُمْ فَآتُوهُنَّ أُجُورَهُنَّ.²¹

"And if they breastfeed for you, then give them their payment"

Here in this ayat, Allah almighty attached the wage with the labour and work of feeding or nursing the babies.

There are certain conditions for the determining of the wages, which are very necessary to be fulfilled in the contract of employment. Imam Burhan Uddin explains these conditions.²²

يجب ان تكون الاجرة معلومه

"It is obligatory that wage to be specified in the contract of employment"

والعمل ان وردت الاجرة على العمل

"It is also obligatory that the work must be specified"

These conditions must be satisfied before starting the work. It means as soon as the work is specified, then the wage is specified as in accordance with specifications of work. These conditions set standard for fixing the wage as per work and not as per time.

Likewise, in the contract of Ijara the period of Ijara and the use of usufruct are necessary to be specified. But the period of Ijara cannot be stand as a tool for fixing or determining the rent. The usufruct it self or prevailed market rates of rent are source for determining the rent. Likewise, the time cannot be stand as a tool for determining the wage for labourer but the service he is rendering, is a source for determining the wages. Here are certain juristic statements which make a specified period a condition for making of contract of Ijara but they don't attach the determining of wages with the time.

Imam Sharf Uddin Nawwi says:

يشترط كون المنفعة معلومة، ثم تارة تقدر بزمان كدار سنة، وتارة بعمل كدابه الى مكة، وكخياطة ذا الثوب-23

“In the contract of Ijara it is necessary condition that usufruct must be specified and it must be contracted for a specific period. As a person leases his house for one year or a person gives his animal on rent for his specific place or a person gives his cloth for tailoring to tailor”

Imam Muhammad Bin Ahmed Alkhateeb Alsharbini says:

(يشترط) في اجارة عين او ذمة فيماله منافع كدار (كون المنفعة) في كل منهما (معلومة) عينا صفة وقدر²⁴.

“In the contract of Ijara, the period of Ijara and the usufruct, its specification and quantity must be specified”

He writes more explaining the period and usufruct to be specified:

ولا تصح اجارة شهر من هذه السنة وبقيها اكثر من شهر للا بهام ولو قال له "اجرتك من هذه السنة كل شهر بدرهم" او "اجرتك كل شهر منها بدرهم" فاسد، لانه لم يعين فيها مدة، فان قال: "اجرتك هذه السنة كل شهر بدرهم صح" لانه اضاف الاجارة الى جميع السنة---- ولو قال: اجرتك هذا الشهر بدينار وما زاد فيحسابه" صح في الشهر الاول---- -- واجمعوا على جواز الاجارة شهرا مع انه قد يكون ثلاثين يوما، وقد يكون تسعة وعشرين²⁵.

“If someone says that I make a contract of Ijara for one month in the year, it is a void contract as there is an ambiguity in it. Likewise if he says to someone that I employ you this year as on one Dirham wage, it is void Ijara as the period has not been specified in it. If he says that I employ you for every month of this year, it is lawfull Ijara as the period has been specified in it”

Imam sharbeeni writes more about the specific conditions of Ijara:

ويبين في النسخة عدد الاوراق واسطر الصفحة وقدر القطع والحواشي، ويجوز التقدير فيها بالمدة، ويبين في الرعي المدة وجنس الحيوان ونوعه---- ويبين في الاستجار لضرب اللبن اذا قدر بالعمل العدد والقالب---- طولا وعرضا وسمكا²⁶.

“If Ijara is made on printing or writing some material. The pages, lines and foot notes must be specified in the contract and the period must also be specified. The period of grazing of the animals and all their kinds must be specified. In the contract of making bricks the number, structure, the length and the width of bricks must be specified in the contract”

Imam Al Qadduri writes that the period and place in the contract of employment must be specified

فيصح العقد على مدة معلومة اى مدة كانت وتارة تصير معلومة بالعمل والتسمية كمن استاجر رجلا على صبغ ثوب او خياطة ثوب وتارة تصير معلومة بالتعيين والاشارة كمن استاجر رجلا لنقل هذا الطعام الى موضع معلوم²⁷

“The contact of Ijara must be made for a specific period and the work must be specified as a person gives a cloth for stitching or a person employs someone for shifting specific food stuff to a specific place”

In the light of the above statements of jurists, two things are ascertained:

- 1) The period and work in Ijara must be specified.
- 2) The period and work must be specified as for determining the wages.

When employee is deserved for payment of wages? weather the wages are payable immediately after making the contract of the Ijara or after the finishing of the work. The prophet ﷺ said:

اعط الاجير اجره قبل ان يجف عرقه²⁸

“Pay the employee his wages before his perspiration is wet”

This Hadith gives two meaning;

- 1) Whenever an employee finish his work, he must be paid his wages.
- 2) The wages must be calculated as per his perspiration (physical labour)

According to Fiqh Hanafi, the wages are to be paid after finishing the work. Their opinion depicts an economic justice that if the wages are paid after the finishing the work. They can be assessed rightly. As the Imam Marghinani says:

الاجرة لا تجب بالعقد وتستحق باحدى معانى ثلاثه: اما بشرط التعجيل او بالتعجيل من غير شرط او باستيقاء المعقود عليه.²⁹

“The wages are not to be payable immediately after making the contract. The wages will be paid by three modes: in advance if it is stipulated in the contract or without any stipulation, if the employer willingly pays the wages or after finishing the complete work”

The muslim historian Iban-e-Khuldun says that the labour is a standard for determining and measuring the wages.

The wage is the price for labour and the people are different in labouring by nature. Labour is different by needs of people. If people have intensive need for labour, the price for the labour would be too high as it is a need of every one.³⁰

As it has been alluded in the beginning that the concept and practice of the measuring wages with the time, has moral and economic ill effects on human labour and trade. The time can never be adopted as a tool for measuring the wages as it is not a physical object. The labour cannot be rightly measured and weighed by the time. As it necessarily results in economic injustice. If the wages are paid with the measurement of the labour, it will be more than the wages paid with the measurement of time. That's why the industrialists choose the time for measuring the wages. They assess

how much a labourer does a work in one hour, then by this assessment they set out a wage rate as per hour. They don't keep in view the basic needs of the life of the labourer in determining the wages. They get out the blood and perspiration of the labourer from his body in giving him 8-hours working and then they make the labourer pleasant by giving him an over time of 4-hour work. By this over time they get an additional labour for which actually, they have paid for 8-hour work. Would have the wage of these 4-hour included in the wage of 8-hour, it would have counted as the wage of 8-hour. These are the additional 4-hour (over time) have been taken by the employer free out of paying the price of labour. By measuring the labour with time, the employer not only does the economic injustice with the labourer but also he inflicts him with social injustice. In these 4-hour he can have a healthy life indulging in physical exercises. He can be a partner in happiness or grieves of a friend or relative. He can purify his spirit through worshipping to Allah almighty. He can serve his parents. He can have a recreational time with his family. The industrialists snatch his precious 4-hour of his life and deprive him of social happiness.

On other side, the concept and practice of the measuring wage with time makes the labourer dishonest in his work and makes him work thief. Instead, he works hard, he just kill the time. By this way the disease of dishonesty in work, prevail in the society. The measuring labour with time makes a person sluggish, as he has no keen interest in production. Producing ability doesn't exist in him as he thinks that he is not receiving the actual wage for his labour.

Conclusion

Now a days it is a common trend in the world that wages are measured on the basis of time. Wages are rated at per hour. These rates are different in countries as in accordance with their economic conditions and circumstances. In universities and colleges remunerations are also being paid per hour as per lecture. The concept of wages calculating on time doesn't apparently contradict the Islamic provisions. That's why, Ulama Islam ignore the checking of legal status of such concepts under the Islamic principles. However the concept of calculating wages on the basis of time does have moral and economic ill effects on human labour. Employees in the public sector just kill the time and don't work. They don't utilize their

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