

Acts, Rights and obligations

Topic: Rights

Various kinds of Rights under Islamic Jurisprudence

1. INTRODUCTION

Islam is a complete code of life. It has prescribed rules for the regulation of individual as well as collective life. These rules are regarding rights of different men in different walks of life. These rights reveal what is beneficial and useful and it also corresponds to a duty on some person.

2. CLASSIFICATION OF RIGHTS

Rights having regard to the person of inherence, are principally classified by Muslim jurists into following kinds.

- (i) Rights of Allah or public rights- **حقوق الله**
- (ii) Rights of men or private rights- **حقوق العباد**

3. PUBLIC RIGHTS

Public rights are those rights, which involve benefit to the community at large and not merely a particular individual. These are referred to as rights of Allah, because of the magnitude of the risks involved in their violation and of the comprehensive benefits which would result from their fulfillment.

(I) Types of public rights

Public rights may be discussed under the following heads.

(i) Pure right of Allah

There are certain matters which are purely the rights of Allah. Involving benefit to men generally.

Example:

The infliction of the punishment of hadd for theft.

(ii) Mixed right of Allah and men

There are certain matters in which the right of Allah and men are combined, But the rights of Allah is dominant or supersedes.

Example:

The right to punish a Slander who imputes unchastity to another person because it infringed the right of both the community and an Individual.

(II) Classification of public rights

According to Muslim jurists public rights are classified into the following categories.

- (i) Acts of devotion viz, faith of Iman and the consequential duties that is prayers, Zakat, Hajj, Fasting.
- (ii) Punishment of perfect nature such as Hadd for theft, adultery etc.
- (iii) Punishment of imperfect nature such as depriving a man who has killed another, of his right of inheritance.
- (iv) Matters which have elements of both devotion and punishment, such as atonements for the non- discharge of certain obligations.
- (iv) Acts of devotion involving an impost consisting in a obligation to make payments out of one's possession. Such as the giving of certain appointed alms at Eid-ul-fitr.
- (v) Imposts having the sense of worship, such as Ushr by a Muslim owner of lands certain description.
- (vi) Imposts having sense of punishment such as Khiraj and land tax, originally leviable from non-Muslim
- (vii) Acts or rights which exists by themselves. These are the rights in respect of which there are the rights In respect of which there are no active duties imposed on any particular individual for example con fifth of

the Booty obtained in religious wars which are reserved by law for distribution among the poor.

4. PRIVATE RIGHTS

Private rights are those rights which involve benefit of an individual.

(I) Types of private rights

Private rights may be discussed under the following heads.

(i) Pure rights of individual

There are certain matters which are entirely the right of individual men.

Example:

Right to the enforcement of contract. The enforcement of this right is entirely at the option of the individual whose right is infringed.

(ii) Mixed rights of Allah and men

There are certain matters in which rights of Allah and men are combined but the right of men, that is, private right is dominant or supersede,

Example:

Qisas, which is a punishment for murder or voluntary hurt comes into this category, and the person Injured may pardon the offender.

(iii) Classification of private rights

- (i) Rights to safety of person
- (ii) Right to reputation
- (iii) Rights of ownership
- (iv) Family right-including
 - (a) Marital rights
 - (b) Rights of guardianship
 - © Right of children and poor relatives
- (d) Right to succession and inheritance
- (v) Right to do lawful acts

(vi) Right to contract

5. DIFFERENCE BETWEEN PUBLIC AND PRIVATE RIGHTS

The main difference between public and private rights are as under.

(I) As to enforcement

Public right is enforced by the state while the private right is enforced at the option of the party whose private right is infringed.

(II) Pardon or condonation

Public right cannot be waived or pardon or condoned while in private right, whether to pardon the wrong-doer or to insist upon redress.

6. GENERAL DIVISIONS OF PUBLIC AND PRIVATE RIGHTS

Public and private rights, generally divided into Following classes.

(i) Independent and dependent rights

(ii) Original and substitutory rights

Independent rights are those which imposes no corresponding obligation on any particular individual, though it is a duty of all alike not to infringe it. In English jurisprudence, it is called right in rem. Dependent rights are those, that exist against a particular person who is under towards the possessor of the right. In English jurisprudence it is called right in personum.

(III) Original and substitutory rights

The jurists further classified rights into original and substitutory rights. For instance, the right of God to require the performance of ablution with water before he says prayer is an original right, but in case of sickness, ablution by rubbing one's hands and face with earth is allowed as substitute. In English jurisprudence, this is called antecedent and remedial right.

7. CONCLUSION

To conclude, I can say, that the rights are useful and necessary for the individual, for the society and for the state. Islamic law provides certain rights which are described as public and private, and these are based on Haqooq Allah and Haqooq-ul-Abed. Haqooq Allah are rights of Allah corresponds to public rights because it is welfare of the society at large.