

Impact Factor:

ISRA (India) = 6.317
ISI (Dubai, UAE) = 1.582
GIF (Australia) = 0.564
JIF = 1.500

SIS (USA) = 0.912
PIHIQ (Russia) = 3.939
ESJI (KZ) = 8.771
SJIF (Morocco) = 7.184

ICV (Poland) = 6.630
PIF (India) = 1.940
IBI (India) = 4.260
OAJI (USA) = 0.350

SOI: [1.1/TAS](#) DOI: [10.15863/TAS](#)

International Scientific Journal Theoretical & Applied Science

p-ISSN: 2308-4944 (print) e-ISSN: 2409-0085 (online)

Year: 2023 Issue: 01 Volume: 117

Published: 24.01.2023 <http://T-Science.org>

Issue

Article



Shavkatjon Khalilov

International Islamic Academy of Uzbekistan

PhD

Phone: +998909533770

Xalilovshavkatjon25@gmail.com

“KHIYORI KHULF” OR “KHIYORI VASF” IN ISLAMIC FINANCE

Abstract: *Iftikhoriddin Bukhari stated the following about the issue of discretion in trade agreements in the “Book of Trade” and “Options in Trade” sections of “Khulosatul Fatawa”: The issue of discretion in the trade agreement arises due to the right to property and the change of property. Regarding the optionality of the contract, it is stated in the “Corrupt Trade Chapter” of the book “Jomeul Kabir” that the contract is optional in the authentic trade, so it is fixed in the corrupt trade.*

Key words: *fatawa, ixtiyar, xiyar, xulf, wasf, nawazil, jurisprudence, saman, madhhab.*

Language: *English*

Citation: *Khalilov, Sh. (2023). “Khiyori khulf” or “Khiyori vaf” in islamic finance. ISJ Theoretical & Applied Science, 01 (117), 589-591.*

Soi: <http://s-o-i.org/1.1/TAS-01-117-47> **Doi:**  <https://dx.doi.org/10.15863/TAS.2023.01.117.47>

Scopus ASCC: *3300.*

Introduction

The question of discretion in a trade agreement arises because of ownership and change of ownership. Regarding the discretion of the contract, in the “Chapter of Corrupt Trade” of the book “Jomeul Kabir”, it is said that the discretion of the contract is fixed in the corrupt trade as well as in the authentic trade.

The book “Nawazil” says: If a person buys an item from another and the buyer takes possession of the item, and then the seller says to him, 'You have the choice within three days,' the buyer has the choice to take the item or not within that period. If the seller tells the buyer "You are willing", the buyer will be willing until the end of the transaction.

There are eight main types of cucumber in the market, which are divided into two parts: The first is a fixed rate. If they are not stipulated in the contract, they are fixed by themselves. That is, the parties to the agreement are entitled to these benefits as soon as they conclude the agreement. They are:

1. Khiyori royat;
2. Khyorul guilt;
3. Khiyarul Khulf or attribute;
4. Khyorul magbun;
5. Khiyori taghrir or tadtis.

The second is the fees that are fixed by means of stipulation in the transaction. That is, the parties to the agreement will have these rights if they stipulate. But they will not have it if they do not stipulate the agreement from the beginning. They are as follows: 1. Cucumber condition, 2. Cash cucumber, 3. Choice of appointment.

Khiyori xulf or wasf is a right established when a person buys an item with certain qualities and it does not have the said qualities. In this case, the buyer cancels the transaction if he wants, and if he wants, he takes the goods at the agreed price. For example, if a person buys a cow that is said to be a milk cow, but it is known that it does not give much milk, then the buyer will be prejudiced. Also, if a person buys a stone described as a red ruby at night, and it appears to be a yellow ruby during the day, the buyer is also voluntary [1, p.78].

The book “Nawazil” says: "If a person buys an item from another person and the buyer takes possession of the item, then the seller tells him: "You have a choice within three days", then the buyer has the option to receive or not receive the item during this period. If the seller says to the buyer, "You are voluntary", the buyer will be voluntary until the end of the transaction meeting.

Impact Factor:

ISRA (India) = 6.317
ISI (Dubai, UAE) = 1.582
GIF (Australia) = 0.564
JIF = 1.500

SIS (USA) = 0.912
PIIHQ (Russia) = 3.939
ESJI (KZ) = 8.771
SJIF (Morocco) = 7.184

ICV (Poland) = 6.630
PIF (India) = 1.940
IBI (India) = 4.260
OAJI (USA) = 0.350

The imams of the four madhabs agreed that this type of khiyar is fixed. Also, the jurists stipulated the following conditions for this charity to be fixed:

1. Incentive quality of goods must be stipulated in the contract. According to the Union of Citizens, an explicit stipulation of the title in the contract establishes the khirar in a strict manner.

2. The promoted qualification should be for valid purposes. If it is not intended for legitimate purposes, this will be void and, as a result, the sales contract will be bound without the said qualifications. That is, the quality used in the product in accordance with Sharia should be stipulated [2, p.53]. If the seller stipulates the quality used for sin and the seller does not comply with that condition, the buyer does not have good faith.

3. This attribute should not be used for fun, but for a legitimate purpose. For example, buying a long-flying pigeon, a swimming ram, or a fighting cock is all about fun and games. Therefore, they are not permissible. But the purchase of a trained dog or a fast walking dog is considered an exception. Because there is no danger in them [3, p.885].

4. There should be no ambiguity in the conditional attribute. For example, when you buy a sheep or a goat, you have to make a condition that they give you so many liters of milk a day. Because in this case, it will be unknown how much milk she will give in the future. But if it is necessary for the goat to give milk, this attribute is permissible. Also, there is uncertainty when buying watermelon-melon or other fruits that they should be sweet. But it is permissible to stipulate that it should be the fruit of such and such a country [4, p.315]. For example, like the date of Medina, the pomegranate of Taif or the orange of Egypt.

In addition, it is permissible for the seller of fruits to agree to the buyer tasting them. But it will not be good. Maybe he will consider buying after experimenting and trying.

If a person bought a cow with the condition that it would be a cow, according to an apparent narration, this condition would not be permissible in the eyes of the Hanafis. Imam Kosani, may God have mercy on him, explains the evil of this judgment and says: "What is stipulated in this image makes existence and non-existence possible. There is no way to know it for sure. Because the cow's belly is big or moving for another reason [5, p.210].

But the requirement of this tavjih is that if the presence of a fetus in the cow's stomach can be determined by means of modern devices, then such conditions will be permissible. In a narration narrated from Hasan ibn Ziyad, may God have mercy on him, Abu Hanifa, may God have mercy on him, said that this condition is permissible. Also, Ibni Humam, may God have mercy on him, mentions in the book "Fathul Qadir" that such conditions are permissible in the eyes of Imam Shafi'i, may God have mercy on him.

Accordingly, if a person sells a cow as a cow and later it turns out not to be a cow, the buyer has the right to return the cow [6, p.6].

As for the requirement of good quality, if the buyer does not find the specified qualities in the product, he has the right to return it to the seller and receive all the agreed money. But if the return of the goods is justified for certain reasons, for example, the destruction of the goods, the presence of a fault or excess in the presence of the buyer, or the goods leaving the property of the buyer, in these cases, the buyer has the right to demand the difference in value between the goods that have those qualities and those that do not. This qawl is an apparent narration in the eyes of the Hanafis, and Ibni Humam, may God have mercy on him, supported it [7, p.1062].

If the buyer agrees to keep the goods even if they do not have the specified qualities, he will not get back anything from the price. Because none of the qualities of the product can be compared to straw. All the jurists agreed on this. Citizens expressed different opinions on whether the meter in items sold by the meter is their quantity or wafs [8, p.71].

According to the Hanafis, the unit of meter in metered things is considered a quality. For example, if a person buys ten zeros of material for ten dirhams or one hundred zeros of land for ten dinars, and the price of each zero is not stated separately, for example, one zero material costs one dirham, ten zeros of land cost one dinar, and then they pay less than the stated amount. otherwise, the buyer is discretionary. If he wants, he will take the goods at the agreed price or cancel the deal. But if he says that each zira of material is worth one dirham, and every ten zira of land is worth one dinar, then the seller owes a minimum of the amount that is less. In the case of an overprinted photo, the buyer must return the excess to the seller.

The Hanafis paid attention to the issue of Taghrir in two ways: First, if the seller deceives the buyer in the sale of murabahah in stating the cost of the goods, for example, he says, "I bought it for a hundred thousand," but in reality it is known that he bought it for ninety thousand, then the buyer is voluntary in the eyes of Imam Abu Hanifa, may God have mercy on him. If he wants, he will take the goods at the agreed price or cancel the deal if he wants. In the opinion of Imam Abu Yusuf and other popular scholars, the buyer's charity is not valid. But the seller will reduce the price by the amount he betrayed.

Second, the seller deceives the buyer in stating the market value of the goods. As a result, the buyer buys a large amount at a high price. However, if the goods are falsely stated, and these qualities are not found in the goods, then the quality of the buyer will be determined.

If the seller tells a lie about the price of the goods to the buyer in the musawam sale, according to the Hanafis [9, p.62], Malikis and Shafi'is, the buyer will not be considered as a buyer. And the Hanbalis say

Impact Factor:

ISRA (India) = 6.317
ISI (Dubai, UAE) = 1.582
GIF (Australia) = 0.564
JIF = 1.500

SIS (USA) = 0.912
ПИИИ (Russia) = 3.939
ESJI (KZ) = 8.771
SJIF (Morocco) = 7.184

ICV (Poland) = 6.630
PIF (India) = 1.940
IBI (India) = 4.260
OAJI (USA) = 0.350

that the khyar is fixed even in Musawama trade. For example, if a seller tells a buyer: "I will give you this product for this much" and the buyer trusts him and buys the product, then it turns out that he lied, the bay is authentic, but the buyer is voluntary. According to Ibni Qudoma, may God have mercy on him, in this case there is the meaning of impurity (artificial increase in price).

Tadlis is used by jurists in two different meanings: The first is to hide an existing fault in the product. In this way, the buyer's good will is considered a fault, and the terms of the good will will apply to him. Second, the seller tries to improve the quality of the product, but it turns out that those qualities are not present in the product. For this reason, the verdict of guilty will apply to him.

References:

1. (2004). *Iftikhoruddin Bukhari. In conclusion, fatawa.* - Devband: Maktabatul Ashrafiya, – J. 3. 478 p.
2. Usmani, M. T, (2020). *Fiqhul buyu' ala madhabil arba'a.* (p.268). Damascus: Darul Qalam.
3. Samatkhonovich, G. S. (2021). Comments on fakhrol islam al-pazdavi's" usul". *ACADEMICIA: An International Multidisciplinary Research Journal*, 11(12), 883-887.
<https://www.indianjournals.com/ijor.aspx?target=ijor:aca&volume=11&issue=12&article=143>
4. Ganiyev, A. (2020). Taxation policy and land reforms in colonial malaya. *The Light of Islam*, 2020(4), 56-62.
https://www.researchgate.net/publication/348072022_TAXATION_POLICY_AND_LAND_REFORMS_IN_COLONIAL_MALAYA
5. (2020). *Dr. Salah Muhammad Abul Haj. Badiul furu fi ahkamul buyu.* (p.510). Oman: Markazu Anwarul Ulama.
6. Oybekovich, G. A. (2022). *The role of central asian scholars in islamic civilization.*
[https://www.researchgate.net/profile/Avazbek-Ganiyev/publication/366466411_THE_ROLE_OF_CENTRAL_ASIAN_SCHOLARS_IN_ISLAMIC_CIVILIZATION_Tarih_va_civilizacia_The_Light_of_Islam_3-son_2022_jil_GANIYEV_AVAZBEK_OYBEKOVICH.pdf](https://www.researchgate.net/profile/Avazbek-Ganiyev/publication/366466411_THE_ROLE_OF_CENTRAL_ASIAN_SCHOLARS_IN_ISLAMIC_CIVILIZATION_Tarih_va_civilizacia_The_Light_of_Islam_3-son_2022_jil_GANIYEV_AVAZBEK_OYBEKOVICH/pdf)
7. Gaybullaev, S. (2022). Historiography of the study of Fakhrol-Islam Pazdavi's scientific legacy. *ISJTheoretical & Applied Science*, 12 (116), 1060-1063.
https://www.researchgate.net/publication/366817747_HISTORIOGRAPHY_OF_THE_STUDY_OF_FAKHRUL-ISLAM_PAZDAVI'S_SCIENTIFIC_LEGACY
8. Gaybullayev, S. S. (2021). The beginning and development of the science "USUL AL-FIQH" in mawarannah. *The Light of Islam*, 2021(2), 68-75.
https://www.researchgate.net/publication/357034214_THE_BEGINNING_AND_DEVELOPMENT_OF_THE_SCIENCE_USUL_AL-FIQH_IN_MAWARANNAHR
9. Ganiyev, A. (2021). Islamic studies institutions in the sultanate of brunei-darussalam. *Theoretical & applied science* (12), 560-563.
https://www.researchgate.net/publication/357521257_ISLAMIC_STUDIES_INSTITUTIONS_IN_THE_SULTANATE_OF_BRUNEL-DARUSSALAM

Impact Factor:	ISRA (India) = 6.317	SIS (USA) = 0.912	ICV (Poland) = 6.630
	ISI (Dubai, UAE) = 1.582	ПИИИ (Russia) = 3.939	PIF (India) = 1.940
	GIF (Australia) = 0.564	ESJI (KZ) = 8.771	IBI (India) = 4.260
	JIF = 1.500	SJIF (Morocco) = 7.184	OAJI (USA) = 0.350
