

The Importance and Role of Imam Al-Sarakhsi's Mabsut in Islamic Fiqh

Mirjalol Qosimov

Abstract--- *This paper is about the scientific and practical significance of “Mabsut” by Shams al-A'amma Muhammad b. Ahmad b. Abi Sahl Abu Bakr al-Sarakhsi, a representative of the 11th-century Mawarounnahr Hanafi sect, and the article also seeks to clarify the significance of “Mabsut” written by Sarakhsi. In particular, the financial issues presented in “Mabsut” are as relevant today as they were in the past, and have not lost their social relevance in modern life. Sarakhsi's work differs from the works of his contemporaries in this area, and it is distinguished by the subtlety of issues.*

Keywords--- *“Mabsut”, Hanafi, Central Asia, Imam Sarakhsi, Islam.*

I. INTRODUCTION

Nowadays, humanity is experiencing a new transformation in its history - a revolution in the 21st century. Up to our century there have been dramatic changes in human development, such as the agrarian revolution and the industrial revolution. And today is the age of the information revolution. It is proven fact. Everyone is used to the fact that information has become a source of income. The sheer variety of sources and types of information that have made it so fast has changed the way people think about the entire population. In this century, information attacks have become easier and more effective than any other nation's armed attacks. Under such circumstances, national and religious values will undergo changes. If we were just yesterday fascinated by the mass culture in the Western world, the moralism behind the curtains of personal freedom, it is no secret that today such maladies infiltrate the lives of Eastern countries. Global information, in the era of global problems, is, to be more precise, the members of an informed society are aware of everything today. Information is more dangerous than illness or atomic bombs, and it is almost impossible to restore what has been broken by it. After all, the material damage to the atomic bomb that was dropped nearly 75 years ago in Hiroshima and Nagasaki is now fully compensated (the person who went to those cities today does not claim to have suffered a bomb). But an information attack is an attack on a person's mind and heart. As a result, millions of bad people will be born.

Several argue that the problem can be prevented by tightening prohibitions, shifting the country to a closed type, increasing control and restricting freedoms. But that's not the solution. On the contrary, it causes the disease to develop secretly. So the question arises, what to do? One of the ways to balance the world is economic integration. However, the foreign investors who invest in Uzbekistan do not have the tools to check the mind, but they will continue to do so under the guise of freedom. This will certainly have a negative impact on our young generation. Therefore, the only way to protect our youth from information attacks is to parallel it with the values that our ancestors have up to now. In this regard, the life and work of Imam Sarakhsi is as important as ever.

Mirjalol Qosimov, International Islamic Academy of Uzbekistan, Doctorate Student of “ISESCO Chair for Islamic Studies and Learning Islamic Civilization”, Uzbekistan.

It is well-known that the democratic society of Uzbekistan is a product of its secular laws and regulations. Without denying it, in our country where over 90% of the members of community are Muslims, the issues that Islam set in the context of individual will and freedom are widely used by our people. This may include the issue of mahr in marriage and the issue of inheritance.

It is now common practice to conclude agreements on Islamic finance. For example, we can give examples of contracts such as mudoraba, musharaka, murabaha. It is important to implement such agreements based on a well-recognized fiction work. In this regard, Imam Sarakhsi's work "Mabsut" is an important source. Since the scientist explained every problem to the very simplest and most delicate, the conditions he cites can apply even today.

It is worth noting here that the entire work, or chapters that are of social importance, should be translated into Uzbek.

Now, as far as the work is concerned with Islamic jurisprudence, we can first prove that "Mabsut" has not yet fallen into the curriculum of prominent Islamic universities abroad. For this reason, this work of Imam Sarakhsi has been published several times in recent years in full-length discussion (Darul Ma'rifa. Beirut. 1989. Darul Fikr. Beirut. 2000; Darul Fikr. Beirut 2017).

"Mabsut" gained popularity in the age of written period. Since all of Imam Sarachi's followers taught fiqh to his disciples from this source, he had many manuscript copies. In addition, many scholars of later times referred to evidence in Mabsut in their fiqh books. The work was one of the main sources of fiqh lessons in madrassas of our country.

The main reason why the value of Imam Sarakhsi's work is not inferior is that it is based on sources that appear in the books "Zahiri rivoya" [1]. We will now cite examples in which the work is a direct proof of our opinion.

The following arguments can be seen in the order of application of all laws in the sales department (al-buyu):

When a man hires a creature to go to a certain city; whether to enter or not go with the rented animal as far as home. This is because the tenant does not get a new one after crossing the city boundary when renting a horse or camel to a certain city. The situation, which is based on custom, does not invalidate the analogy. It is only in this situation [2]. At the same time, "What is customary is equivalent to nass", "A contract that brings additional benefits to one of the parties is based on the principle of corruption.

If the buyer finds any defect in his property, sells it, leases it or mortgages it means he is satisfied with the defect. Such a situation is dependent on the buyer's need for money and may not be able to return it to the owner later or to ask for some of the property's value due to its defect. The reason is that the property lost its value at the time of its acquisition. The act of consent is the equivalent of open consent. According to qiyas, the use of the slave by the buyer after the defect is in agreement with the slave's fault. The only reason he was able to use her was because of his ownership. The use of the current is to agree with her guilt and to prove that he is the owner. According to Ihtihsan, the use of the slave, the buyer does not mean that the customer accepts the defect and agrees with the seller. Because slave owners accept that their slaves are used by others. At the same time, people generally use the slaves of others, with or without permission. The customer may also want to test whether the slave with

defect works. In such a case, the use of slave signifies a trial, not consent for her fault. Wearing a purchased dress also means the agreement with its defect. Usually, only his own clothes are worn. We rarely wear somebody's clothes. So when a buyer wears a dress, it is a sign of owner's approval. This action clarifies his ownership. If the property purchased is an animal and it is ridden, the judgment is the same. Only I do not consider riding as a sign of pleasure to feed an animal, feed it with water and feed and return it to its owner. In some cases it is not possible to bring the creature back without riding. Riding animals for grazing and watering is also not a sign of consent. Agreeing to an animal defect, using it for their own needs, is determined by the journey [3].

Here is the principle: "An act indicating consent is a sign of open consent." The defect that was concealed in the eyes of the buyer at the time of the sale, which was not defective among the traders, does not give the buyer the right to see the defect later, nor to return the property. The only reason is deficiency of the traders and the deficiency of the property. A deficiency that does not reduce the value of the property cannot hinder the sale.

Here, "What is acceptable among traders is the power of law.

A person who receives a herd, such as a sheep or a cow, cannot return the property if he milked them and found out the animal was guilty after drinking milk. He can only claim an amount of damages. According to a fatwa issued by Imam al-Shafi'i, it is possible to return the property and pay back the entire payment.

This issue is based on the following laws:

There may be two types of surplus on the acquired property. These are surpluses that are related to property and not related to property.

Dependence on the property: it is also divided into two types: Excess of property; dyeing of cloth, oil, or honey mixing. Such changes impede the return of defective property. The scholars have a common opinion on this matter. Because the buyer's rights on the property must be protected.

Property surplus; The fatness of the animal is likely. The surplus of this type of property does not prevent the return of property according to the apparent narration. This is because no payment contract is covered. That is, excess of the property does not give rise to its value if it happens to the disposal of the property. According to Abu Hanifa and Abu Yusuf, this type of surplus could be a barrier to the return of property. According to Imam Muhammad, if there is a misunderstanding between the treaty makers, this should not prevent the return of property in comparison to the mutual promise.

An excess of property but separate from the property. It also has two types.

The excess of the property, the profits from the sale of the property, and the profits from the leased property cannot prevent the return of the property. This surplus in the property belongs to the buyer. The Prophet Muhammad (peace be upon him) said:

"Profit is a liability contribution". On the other hand, profits and rents are a payment for the profits from the property. Receipt of the property by the buyer will not prevent the return of the property for a full payment.

The surplus of the property itself but separate from it; milk, fruit, offspring, or compensation for any damage inflicted upon disposal. In the Hanafi Madhhab, this type of benefit is a barrier to returning goods due to defects. Imam al-Shafi'i said that this cannot be an obstacle.

The buyer will return the property and its value as a whole. And the profit from the property is its halal benefit. This is because he is the owner of the property. This excess will not prevent the owner from reimbursement due to a deficiency in income and rent. Part of the initial cost of the property is not deductible for such excess. This is because such surplus is not provided for in the contract and forfeiture. Obviously, the price depends only on the property itself. Only if, for some reason (with no interference), the excess is damaged, the buyer will be able to return the property and repay the payment. The judgment does not change even when the property is in the hands of the buyer or used by him or her.

From the above, it is clear that surplus will not have any impact on trade. Because the sale covers only the (straw) price of the property itself. If the surplus was to be traded, it would be priced separately. Therefore, excess is only part of the sale unless the surplus arising from the transfer of property is acquired by the buyer together with the property. On the other hand, a defect in the property will not result in a refund. If there was a piece of the basket, it could be reversed. Intellectuals can abolish original property ownership while remaining in the buyer. The same is true of the property given in the gift (Hiba), and if the gift is returned to the beneficiary, it is lawful for the recipient to return the gift.

The Hanafis' argument in this regard is as follows: The buyer is in possession of excess and in the form of commercial property. If the property is returned and the money is fully paid back, the surplus will be left to him without any payment. This is a percentage. The reason for this is that the surplus comes only from the original property. Ownership in the original real estate will move to him as well. Because ownership is determined by purchase. And what is established remains in existence until there is evidence that it can be abolished. The fact that he has the right to continue his ownership is that he has the right to terminate the contract. When property is specified in the sale of the property, the ownership also passes to the surplus. The reason is that any product assumes the characteristics of the property it originates from. An excess of property, however, is income. Because when the owner earns income, he becomes the owner for a new reason. Real ownership is not a benefit either. Once this surplus is established in sales (mobile), we can say that the payment is not profitable. Because it is natural here. And the payment is made against the supernatural. Except for the excesses that are supposed to be taken.

From the foregoing we can conclude; the surplus received before the original property is returned to the seller becomes the property of the buyer without any extra charge. Even after the original property has been returned, the judgment cannot be changed. It is only natural that the property will be redeemed before it is returned. Consequently, the surplus, which is considered natural, does not receive a separate payment for the sale of property. Return of property due to defect of the property, its sale contract is also invalid. In this case, surplus is due to naturalness. Injury is not natural, but is an interest, if it is own property and does not receive a separate payment. Therefore, the property can be returned only if there is no excess issue arising after the sale. The excessive repayment of the property was due to the fact that the buyer was left unpaid. The loss of this surplus without

interference will overcome the barrier. However, if the property is damaged, it will be covered. The fact that the indemnity is a defective buyer is the same as that of the original property. This does not change the sentence if the damage was caused by the buyer or the property was damaged. Due to the fact that the property is at the disposal of the buyer and the property is not covered, the damage is not covered. This is the same as his compensation. The benefit of repaying it for defects is not the same as the foreclosed property. The reason is that the property which is in the hands of the recipient after the repayment of the hiba is free of charge. Only the property donated here was honest to the recipient. As a gift is not rated as a percentage, it is not a percentage. Because interest can only be in bilateral contracts, donation is not a percentage.

There are the following rules: “A blessing is an expense, a cost is a blessing”, “No time is an alternative”, “No special judgment is required for a natural event”.

Each of these comments, given in “Mabsut”, is socially important. This determines the present position of the work in Islamic jurisprudence. Of course, some issues, such as those in the section on slaves, may not be as important to society today. Because a slave does not exist today as a property. However, it is understandable that the historical information presented here gives the Islamic world the exclusive rights to slavery in jurisprudence. Hence, such judgments are historically important. On the other hand, the general principle of justice in these judgments can be applied to other issues. For example, it seems that the mujtahid expressed his thoughts in a manner that does not contradict the Quran and hadith. It may, however, be an indication of the widespread use of ritual in general property.

We will consider similar issues. Any perfect contract will make the property innocent. This is evidenced by the following narration: The Prophet (peace be upon him) bought a slave from Ata bin Kholid. The treaty states: This is the slave of the Messenger of Allah, the Prophet Muhammad (peace be upon him) purchased from Ata bin Khalid bin Al-Khavdo. There is no sickness, no evil, no badness with him. This is the trade of a Muslim with a Muslim”. This hadith is a clear indication that the property and the contract should be free from any defects. “المرض” in the text of the hadeeth means sickness. According to al-Hasan ibn Ziyad from Abu Hanifa, it means abdominal and liver disease. The word “maraz” is used for illness in other parts of the body. The word “da” is used for abdominal, liver and lung disease. According to a report from Abu Yusuf, the word “da” is the common name of all kinds of diseases. “Ghoila”, which also means evil, is also bad verbs, such as fleeing and stealing. Hubs (evil) mean someone has a right. Some also say that hubs mean mental illness.

It is permissible to pay attention to the custom of the merchants concerning the deficiency of any goods. In each property, a property specialist will be contacted. The blame for defecting or causing the return of the property is flawed. Because the purpose of the trade agreement is income. It depends directly on the value of the property. Anything that reduces the value of the property cancels the purpose of the contract. This is also a defect that can be returned to the seller [4].

Here are the general rules “What is acceptable among traders is legally binding” and “Ask the people if you do not know” [5].

The conditions of fair trade are the most important in Islamic law. The scientist who understands this is also able to present the subtle details in this regard, using the facts and examples, to make clear his point. We can see this clearly in the following areas:

If you buy 50 packs of fabric in a pack and buy 1000 dirams for a Zut (local unit) or a travel bag (local unit of measurement) and 49 or 51 pieces come out of the bag, it is a commercial mischief. Even if given more than one, the situation will not change. Because the trade was wise. The number of fabrics is clear. 50 pieces. The customer must return more than specified. It is not clear which one is returned because of the fabric wholesale. Even if the surplus is returned, the remainder remains unclear. Trading in uncertainty is not permissible. It is clear that such a trade is not permissible even if there are fifty of the fabrics. The quality of the fabrics is different. In this case the buyer will have to return the sack. Any uncertainty that led to the dispute violates the contract [6].

In doing so, the principle “All the uncertainties leading to the conflict are the reasons for breach of contract”.

Conditional trading is divided into several types. Transfer of property to the buyer, transfer of money to the seller or transfer of the property (property) to the buyer, if such conditions are required by the contract - these types of conditions are permissible. This is because they are the ones that are absolutely contractual. The conditions here are not excessive.

It is also permissible if a condition is established and a custom is established. For example, it is permissible for a person to obtain a rack and ribbon for a wooden shoe, provided that the ribbon and strap are fixed. It has the power of being established by customary Shari'ah evidence. In addition, people avoiding open habits can be uncomfortable [7].

Attention is drawn to the fact that the scientist focuses on tradition. This is certainly not news, as was the case with the religious leaders of the sect. We see that Imam Sarakhsi continues their tradition consistently and expresses his opinion on simpler grounds.

The following laws apply: “By custom is established by the text (the rule of law)”, “The difficulty arises” and “The custom is protected”.

When a person buys a property from the seller to the point of sale, to grind wheat or to sew clothes, all these cases are corrupt. This is because the terms of the vendor do not meet the necessary conditions and give additional benefits to one of the parties. Any contract that brings additional benefit to one of the parties is corrupt. When someone buys a home on the condition that they reside inside the seller, it violates the sales contract because it is a temporary tenancy agreement. Or, this property cannot be transferred for a fixed payment [8].

Here is the principle: “A contract that brings additional benefits to one of the parties is a corruption”.

If a human being buys something on a condition that it will be returned to the next day or into the evening, this period will include the end of the next day, the evening and the end of the day. The above opinion is in the opinion of Abu Hanifa. According to Imomain, the repayment period is the next day until sunrise and sunset. In their view, the “idea” (purpose) in return is not important. The idea is boundary. The border itself does not belong to the limited item. Just as the area from one wall to the other is sold to someone else, the two walls will not be included, as long

as they are not. The border is an idea. It means that the judgment of the idea begins after it and ends before it. This applies to situations where one part is connected to another, which are time and surface measurements. This is an issue that we are interested in.

The numbers are not appropriate. The idea is appropriate because the time is connected. Allaah says, "Then complete your fast in the evening" If anyone sells goods to Ramadan or rent a house, even if he decides not to talk to anyone until Ramadan. In this example, there is no limit, but Allah also revealed the limit in the word "wash your hands up to the elbows": As we all know, when the Prophet (peace and blessings of Allah be upon him) performed ablution, he would carry water up to his elbows. By this action it appears that the letter came in the sense of jar. There is figurativeness here. Words cannot be put on fig. Words can only be built on evidence [9].

Here is the law: "No judgment shall be imposed on the majoz".

If a person buys a piece of cloth for ten bucks or a gallon of wheat, two servicemen for a certain fee, and if a defect or defect is known to him before he can seize the property, the client must withdraw or refuse all of the property. The reason for the defect that has arisen before it is in the hands of the buyer is the same as the defect in the contract. The property is under the guarantee of the seller [10].

Here: the defect arising before the transfer of property is equivalent to any defect in the contract.

When a person buys a certain property for debt, he cannot sell the property through murabaha unless he says it has been taken. This is because selling it through murabaha is a sale of a deposit. There should be no mystery, slander, defect, no lie. The buying for debt is not uncommon for cash.

If the confiscated product is sold through murabaha and has kept it secret, it is considered as a payer when the buyer finds out about it.

When someone buys a property with a starting payment that is common among traders, there are two differences in access to cash.

1. Some of the scholars say that the property obtained with the initial payment can be sold without having to say that it has been acquired this way. The money is (in fact) cash, but the seller has a hard time giving it up for a down payment.
2. Some scholars say that the customary thing is like a nass (Law), but that the buyer cannot sell it without giving it, even if it is a fixed term [11].

Here is the principle: "relying on custom-based text (law)".

There is no obstacle to the sale of the surplus property with the sale of an animal (the large animal in the pasture) after the purchase of the animal and the palm fruiting. Because, he did not hide the property. Even if the damage was caused to the property because of giving a birth, it was not the fault of anyone, it happened itself.

An owner who wishes to sell the property through murabaha is not allowed to sell it, even if he consumed the excess. The main reason for this is that the property consumed comes from the original property. Even if this deficiency occurred in the property itself, the judgment would be the same. If there is a deficiency in the meat, milk and manure of the animal, it should not be sold by murabaha.

II. CONCLUSION

The above mentioned discussions shows that the scientist had extensive experience in trade. Imam also used a clear and understandable way while using Imam Sarakhsi's words. This makes the study easier. From what we have learned in the article, we can come to the following conclusions:

1. Recently, it has become a tradition to conclude agreements on Islamic finance. It is important to implement such contracts based on the solution of the well-known juristical works. In this regard, Imam Sarakhsi's work "Mabsut" is an important source.
2. Until now "Mabsut" has not fallen off the curriculum of prestigious Islamic universities abroad. For this reason, this work of Imam Sarakhsi has been published several times in the full volume.
3. "Mabsut" gained popularity in the age of its written period. Since all of Imam Sarakhsi's followers taught fiqh to his disciples from this source, he had many manuscript copies. In addition, many scholars of later times referred to evidence in "Mabsut" in their fiqh books. The work was one of the main sources of jurisprudence in the madrassahs of our country.
4. One of the main reasons why the value of Imam Sarakhsi's work is not diminished is that it is based on sources included in the "Zahiri rivaya" books.
5. Examining the laws in the sales section of the work (al-Buyu'i), we can see that each of them is socially important.
6. The judgments contained in the work are historically significant in the Islamic world. Consequently, although the mujtahid does not express his ideas in a manner consistent with the text of the Qur'an and hadith, it does not mean that the tradition is widely used in the matter of common property.
7. As trade issues are highlighted in Imam Sarakhsi's work in Mabsut, it can be seen that in most cases, transactions that are not in the Qur'an and Hadith are regulated by custom. This is contrary to the radical idea that the solution to all problems in society should be the Qur'an without having a thorough knowledge of Islam.

REFERENCES

- [1] "Zahir al-rivoya" is sometimes referred to as the "Masail al-usul". Narrated by Imam Azam and his two disciples, Imam Abu Yusuf and Imam Muhammad. These three imams are also called three scholars. *Sometimes Imam Zufar and Imam Hassan also join them.*
- [2] Imam Sarakhsi. (2017). Mabsut, Bayrut, *Dar-al-kutub al-ilmiya publ.*, vol.12, p. 160
- [3] Imam Sarakhsi. (2017). Mabsut, Bayrut, *Dar-al-kutub al-ilmiya publ.*, vol.18, p.98-99
- [4] Imam Sarakhsi. (2017). Mabsut, Bayrut, *Dar-al-kutub al-ilmiya publ.*, vol.18, p. 1
- [5] Nahl, 16/43
- [6] Imam Sarakhsi. (2017). Mabsut, Bayrut, *Dar-al-kutub al-ilmiya publ.*, vol.13, p.2. Different application of the same rule vol. 13., pp.6, 9
- [7] Imam Sarakhsi. (2017). Mabsut, Bayrut, *Dar-al-kutub al-ilmiya publ.*, vol.13, p.14
- [8] Imam Sarakhsi. (2017). Mabsut, Bayrut, *Dar-al-kutub al-ilmiya publ.*, vol.12, p.18
- [9] Imam Sarakhsi. (2017). Mabsut, Bayrut, *Dar-al-kutub al-ilmiya publ.*, vol.13, p.52
- [10] Imam Sarakhsi. (2017). Mabsut, Bayrut, *Dar-al-kutub al-ilmiya publ.*, vol.13, p.75
- [11] Imam Sarakhsi. (2017). Mabsut, Bayrut, *Dar-al-kutub al-ilmiya publ.*, vol.13, pp.79-80
- [12] Kutlu Sönmes. *Turklerin Islamlaşma Suresinde Murçie ve tesirleri.* – Ankara: 2000.
- [13] Kutlu Sönmes. *Mâtürîdîlîgin Tarihi Arka Planı.* – Ankara: 2003.
- [14] Mehmet Akif Koç. *Tefsirde Bir Kaynak İncelemesi.* – Ankara: 2005.

- [15] Yazici. "Belh", DİA, İstanbul: 1992.
- [16] Topaloğlu B. Nûreddin es-Sâbûnî. Mâtürîdiyye Akâidi. Dr. Bekir Topaloğlu tercime ve neşri. – Ankara: 1998. – 215 6.
- [17] Özen Şükrü. Ebû Mansûr el-Mâtürîdî'nin Fikih Usûlünü Yeniden İnşası, İSAM, İstanbul, 2001 (Doçentlik Tezi).
- [18] Özervarlı M.S. Alâeddin el-Üsmendî ve Lübâbü' 1-Kelâm Adli Eseri. – İstanbul: 1999. – 237 6.
- [19] Özervarlı M.S. Mâtürîdî kelâm ekolü ve başlıca temsilcileri // Üsküdar. – İstanbul: 2000. – B. 1-10.
- [20] Özervarlı M.S. Ebu'l-Muîn en-Nesefî'ye ait Tebsiretü'l-edille'nin kaynakları. (Yüksek lisans tezi). – İstanbul: 1988. – 74 6.
- [21] Yazicioğlu M.S. Mâtürîdî ve Nesefîye göre insane hürriyeti kavramı. M.E.B. Yayınları. – İstanbul: 1992. – 144 6.
- [22] Yazicioğlu M. S. Mâtürîdî kelâm ekolu'nun iki büyük siması: Ebu Mansûr Mâtürîdî ve Ebu'l-Mu'in Nesefî // Ankara universitesi basimevi. – Ankara: 1985.
- [23] Kehhale, Mu'cemü'l-Müellifin, I-XV, Beyrut ty, c. V, s. 243; Leknevî, p.121
- [24] Karimov N. Conflicting Views Regarding the Hadiths, *IJITEE*, ISSN: 2278-3075, Volume-8 Issue-12, October 2019, pp. 2090-2094 [27]
- [25] Is'haqov M., Alimova R., Karimov N. Contribution of Abu Isa Tirmidhi to the Science of Hadith, *IJITEE*, ISSN: 2278-3075, Volume-9 Issue-12, October 2019, pp. 593-599.