

Abstract

Al-ḍamān (guarantee) is one of the legitimate means used to protect ownership and other financial rights. It is one of the means of security upon which people have been dependent for a long time. As people use it, it develops with the development of their economic and commercial dealings. *Al-ḍamān* has, as such become an important means which plays a vital and basic role in the development of modern economies. Its role is so vital that it is not an exaggeration to say that *al-ḍamān* has become the basic pillar of the modern economies and all commercial dealings for banks, companies and individuals.

People are in a dire need of guarantee in protection of their civil rights and property. Compensation may be made in return for harm inflicted. *Al-ḍamān* may result from either contracts or harm afflicted as a result of negligence. It takes a number of forms in modern Islamic law. Among its forms are surety, mortgage and compensating what perishes. Among its forms are also all forms of insurance and negligence responsibilities pertaining to public and private workmen. The Sharī'ah protects all those rights in legal maxims like *al-ghurm bi al-ghurm* (he who endures the pain enjoys the gain). All forms of modern guarantees and insurance are means of social cooperation designed to repel harm and to promote economic and commercial boom. When risks are removed or lessened, the movement of people, ships, cars and other means of transport are possible.

These questions and some other critical issues were treated by Islamic law. The focus in Islamic law to explain the nature of *al-ḍamān*, its causes and some other fundamental issues that proved to be the major characteristics of this concept.

Thus this research is devoted to an essential concept in modern economic theory that is the concept of guarantee which inculcates the sense of confidence and safe in many commercial transactions. Indeed this concept is far more developed in Islamic law compared with any other legal systems as it was put in practice for many years.