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Your Partner

Imam Zaynu '1-'Abidin (a.s.) writes,

"It is the right of your partner that you should:
● take his burden upon yourself if he is absent, and

● work equally with him when he is present.

● And do not decide anything without his consent and

● do not enforce your view without consulting him ; and

● protect his wealth for him ; and

● refrain from embezzling him, be it a large or a small [amount], because this [hadith] has reached us: 'Verily, the hand of Allah [i.e., His blessing] remains upon partners as long as they do not swindle each other.'

And there is no power but with Allah."[1]

Types of Partnership

The most common types of partnership in Islamic laws are the following:

1. Mudaraba- Limited Partnership or Silent Partnership.

(It is also known as *al-Quraz* in some Arab countries).
There are three elements in *mudaraba*:
● one provides the capital (silent partner) and the other works (active partner) on it.

● in case of profit , they share in the profit.

● in case of loss, only the silent partner will incur the loss (because the active partner has also lost the

benefit of his labor and work). Unless, of course, the active partner was negligent and violated the terms of agreement.

2. Musharaka –Full Partnership.

In this type of partnership, both or more partners provide the capital and work together. They share in the profit and the loss in proportion to their capital.

3. Muzara'a –Sharecropping.

This is a limited partnership between the landowner and the farmer (sharecropper).

In this partnership, the farmer pays an agreed upon share (e.g., 1/3. 1/2 or 1/4) of the crop to the landowner and keeps the rest. For example, after the conquest of Khaybar, the land of Khaybar became the Prophet's personal property. The Prophet, as the owner of the land, gave it to the people of Khaybar to cultivate at half of whatever they produce.[2]

Besides the share of the crop, both partners must also agree upon the time, the type of crop to be farmed, the land or parcels of land, and who will bear what and how much of the expenses for farming such as seeds, tools and equipment.

Both parties may also add any other condition they agree upon in their contract as long as it does not contradict the shari'a laws.

4. Musaqat – "Sharefruiting".

This is a limited partnership similar to sharecropping with the difference that in *musaqat*, one partner owns the land with fruit–bearing trees (i.e., orchard), and the other partner works on watering, fertilizing, etc.
The working partner pays an agreed upon share from the produce to the landowner and keeps the rest. The rules mentioned under muzara'a are also applicable here.

Importance of Written Contracts

Many times people in our communities rely on verbal agreements when close friends or relatives are involved in business. Islam has very strongly emphasized the issue of having written agreements and contracts even if you are doing business with your own brother.

The Qur'an which does not give us the details of how to pray has told us in detail about the importance of written contracts. It says:

"O you who believe!
When you deal with others in contracting a loan for a fixed time; then

(*1*) ***write it down;***
(*2*) ***or let a scribe write it down between you with justice;***
(*3*) ***the scribe should not refuse to write as Allah has taught him, so he should write;***
(*4*) ***and the debtor should dictate and he should fear Allah, his Lord, and should not diminish anything from it;***
(*5*) ***the debtor is unsound in understanding or weak, or if he is unable to dictate himself, then his guardian should dictate with justice;***
(*6*) ***call in to witness from among your men two witnesses;***
(*7*) ***but if two men are not available, then call one man and two women from among those whom you approve as witnesses–so that if any of the two errs, one of the two may remind the other;***
(*8*) ***the witnesses should not refuse when they are summoned to give evidence.***
(*9*) ***Do not disdain from writing the agreement*** [***of loan whether it is***] ***small or large*** [***amount***]***, with fixed time*** [***of payment***]***–this is more equitable with Allah and assures greater accuracy in testimony, and the nearest way that you may not entertain doubt*** [***afterwards***]***.***
(*10*) [***This law of writing is important in case of loan. But***] ***if it is a ready merchandise which you give and take among yourselves from hand to hand, then there is no sin on you in not writing it down,*** [***although it is better to do so, therefore***] ***have witnesses when you trade with one another.***
(*11*) ***Let no harm be done to the scribe or the witnesses; and if you do*** [***harm them***]***, then surely it will be a transgression in you.***

Fear Allah; and Allah teaches you and He knows all things. (2:282)

Although the verse begins with the issue of loan, its recommendations for a written agreement in all business deals is beyond any doubt.

In a hadith mentioned earlier, the Prophet said that Allah would not answer the prayer of a person who prays against the defaulter who is refusing to pay back the loan, if the creditor did not put this loan agreement into writing and did not have it witnessed.

Disputes and Arbitration

Disagreements in partnerships are part of human nature. When business is going up, everybody is happy; when it is going down, partners start having doubts about the efficiency or even integrity of co–partners. Therefore, no social system can survive without having a mechanism for resolution of disputes. That is why you have courts, judges and lawyers.

Although people have access to the legal system in their own countries, but Shi'i Muslims should realize that they are only allowed to approach a Muslim authority for resolution of their disputes. They must seek a solution within the community. Only when there are no community based tribunals or if they don't have the power to implement their judgments, can Shi'as then approach the secular courts for getting their legitimate right.

Once 'Umar ibn Hanzala, asked Imam Ja'far as-Sadiq (a.s) about the legality of two Shi'ahs seeking a verdict from an unauthorized ruler or judge in a dispute over a debt or an estate. The Imam answered that it was absolutely forbidden to do so; and then he read the following verse:

"... (Yet in a dispute) they desire to summon one another to the judgment of the taghut[3] ***though they were commanded to reject and disbelieve in him".*** (4:60)

Then 'Umar ibn Hanzala asked, "Then what should the two (Shi'ahs) do?"
Imam Ja'far as-Sadiq (a.s) replied: "They must seek out one of your own who narrates our traditions, who is well-versed in what is permissible and what is forbidden, who is well-acquainted with our laws and ordinances, and then accept him as judge and arbiter, for I appoint him as judge over you. If the ruling which he based on our laws is rejected, then this rejection will be tantamount to ignoring the order of Allah and rejecting us, and rejecting us is the same as rejecting Allah, and this is the same as polytheism." [4]

In another hadith, Abu Khadija relates that Imam Jafar as-Sadiq (a.s) sent him to his companions with the following message: "If a dispute or a difference occurs among you about a property, then take care not to seek judgment from those unauthorized (judges). Instead, you must seek a person who knows what we permit and what we forbid, for I appoint him as a judge over you. And take care that you do not seek judgment against one another with an unjust ruler."[5]

I think it is high time that Muslims in the West started working on forming arbitration boards to resolve the civil disputes among their community members. Court systems in many countries, including Canada, are so clogged up with civil cases that they cannot cope with them in a timely manner. Having community based arbitration boards will relieve the court system's burden and save the time and money of our community.

Such boards must comprise of a religious scholar, an accountant, and a lawyer or someone who has gone through the arbitration training.

1. The Charter of Rights (Risalatu'l-Huquq),p.25
2. Al-Kulayni, al-Furu'mina'l-Kafi, vol.5,p. 266-267
3. "Taghut" means anything or person who is followed without the authorization of God or his representatives. The term is used for Satan, an idol, or even a human being who misleads others.
4. Al-Kulayni, al-Usul mina 'l-Kafi, vol.1, p.67; al-Furu'mina 'l-Kafi, vol.7,p.412; also see, Wasa'ilu sh-Shi'ah, vol.18,p.99
5. At-Tusi,Tahdhibu 'l-Ahkam,vol.6,p.303 as quoted in Wasa'ilu 'sh-Shi'ah,vol.18,p.100

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