

AI – Mudarafah (Islamic Business Partnership)

Abstract

In the world there are many trades and companies or factories those run by the people jointly or governmentally closed their rules and regulations. But after some problems stand to each other as well as the clashes between the parties for the development of trades and companies or factories. The Islam leads openly to progress the business and interval in companies or factories between two parties or more than others the laws of trades its benefits and loss how justify apply for partnership business and not create any big problems which can be changed into enmity due to Islamic laws the Partnership can be safe. The present work focused the easy laws of the Partnership in the companies and factories without disturbance of any clashes to each other.

Keywords: The Law of Partnership in Any Trade, Company, Factories but not Haraam (Prohibited)

Introduction

The concept of AI-Mudarafah means partnership in business for gaining profits, is not only allowed but it is encouraged in Islam, with some logical terms & conditions, Such as that Partnership must be conditional with losses & profits, if 2 or more business partners start doing business on Basis of sharing in profits & losses, they must agree on Profits & losses, and the both parties should agreed upon profit percentage, not on turnover. Because profits are not assured all the time always.

In all Islamic contracts and deals, we find that the acceptance & agreement from both the parties has been made compulsory, take the example of marriage or example of selling and buying or donations, till the opposite partner does not agree & accepts, No interaction is made allowed in Islam, plus certain other rules also be applied and followed, but like living in relationships is not allowed, even though both partners are happy or agree to act which is in their favor, according to their own will & wish is not allowed, I do mean for each & every contract, both parties on partner's agreement, acceptance & Allah's rules must be followed, Because Islam starts with believing in Allah & accepting his Prophet Muhammad s.a.w.s. as Prophet whose order should be followed without any hesitation or objection.

The agreement & acceptance does mean all type of freedom, for every partner to get out from the contract or deal, whenever he genuinely wants & has logical convincing reasons for that withdrawal. Every partnership is allowed to be closed & stopped considering the fact that No partner faces any loss or No rule of Allah is being violated.

The agreement or contract is must to be made at the beginning of any deal of Business-Partnership & for closing of any contract or deal, it should be mentioned before as well. While it is not compulsory for any Muslim to do Business-Partnership, it is only allowed and permitted on his will & wish.

The Evidence for this permission & legality is that, when Prophet Muhammad (s.a.w.s) got Prophethood & became messenger of Allah. He saw the people dealing in Business-Partnerships, he never apposed or stopped them from doing so, and rather he gave Guidelines for doing that.

Allah Says in Holy Quran (ان تكون تجارة عن راض منكم) Surah Al-Nisa the explanation is as "No Business is allowed but the business with the agreement & acceptance & will of both or all concerned Partners."

The say thing has been said at other place in Holy Quran that, "The business of the things is allowed, if taken & price s are paid on the spot." And the Prophet Muhammad (s.a.w.s) has said "Nothing is allowed for any Muslim of any other Muslim without his will/Wish & Consent."

The Law of Partnership

One of the companion of the Prophet Muhammad (s.a.w.s.) Named Abu-Hurairah, a very famous reporter of sayings of Prophet Muhammad (s.a.w.s) said: Allah the Great says that, I am the third Partner



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of every Business as long as they do not betray the other, if he betrayed I would withdraw from that Partnership (My support & assistance would not be with them) Business-Partnership is allowed, especially with Muslims & generally with some additional conditions with Non Muslims as well. The Prophet Muhammad (S.A.W.S) dealt with the People of Khaibar, most of them were Jews, for half production of Grains & fruits obtain from land.

In another Hadith: Imam Bukhari Reports, from Ayesha (R.) that the Prophet Muhammad (S.A.W.S) bought the food from a Jew & kept his Armour with him as security.

Imam Tirmidi: Reported from Ibn Abbas (R) that the Prophet Muhammad (S.A.W.S) passed away while his Armour was kept with a Jew for small quantity of grains as security. Imam Tirmidi also narrated from Aayesha (R) that the Prophet Muhammad (S.A.W.S) sent to a Jew asking him to give 2 Garments for a period (till the Prosperity).

Business-Partnership is allowed with all Non Muslims, including Jews, Christians, fire worshippers etc. with the condition that they will not sell Pork, wine & strictly prohibited things in Islam, The condition for Business-Partnership is also that the Partner should not be depending on other's decisions, the decision must be his own So it is not allowed with underage children.

Some partners & share holders getpartnerships through inheritance or gift or common properties, while some Partners are created Partners on Terms & Conditions with discussion & agreement of being share holders in a company with Percentage is declared in all Partnerships, The Devine Rules of Allah (AHKAAM) must be applied & followed.

The conclusion is that, The Islamic scholars & experts have divided the Business-Partnerships into 5 Categories

1. Al – Inan (Equal)
2. Al – Abdan (Bodies)
3. Al – Mudarabah (Two or More Partners)
4. Al – Wujuh (Faces)
5. Al – Mufawadah (Negotiation)

Equal Business-Sharing (Al - Inan)

If two Partners start doing Business on Equal Amount of finance used from both sides, for the Business,& the activities are also shared, The work force shared, then of course the profit of the Business-Partnership will be Equal, divided between them. This Business-Partnership is called Al - Inan in FIQH terms, set by Islamic Scholars & Experts. This type of Business-Sharing is allowed & appreciated by the SHARIA & it is continuously in the Practice of Muslims all over the world, since the time of Prophet Muhammad (S.A.W.S) & his Companions & No need to say this kind of Business-Partnership is Beautiful & Result oriented & long lasting.

This type of Business-Partnership must be valued in Monetary Terms & Figures.

Any Business-Partnership on the basis of credit or debts not allowed, because at the time of difficulty to settle the issues between two Partners

The capital used in this type of Business-Partnership must be counted in a single country currency & as a one unit. All measures must be taken

REMARKING : VOL-1 * ISSUE-8*January-2015 in advance. Because in Business-Partnership disputes are mostly inevitable so some characteristic approach, some kind of forgiveness & some kind of not taking small mistakes of other partner as serious mistakes, to maintain this type of Business-Partnership. Both Parties need to have a Big Heart, then of course the result will be more pleasant.

And the working condition & Terms must be followed, No Partner is allowed to replace someone else in his place except by the Permission of the other Partner, it means all the activities must be done with Mutual-Understanding, consensus & in the guidelines of SHARIA.

If a Partner Thinks in different ways of doing Business & he is capable for that as well as he is trust worthy & honest, the other Partner should allow him to try the luck in that particular dealing. Both the Partners will be having Equal-Ownership, Equal-Authority & Equal-Respect & power to do the Business. No one will dictate nor will be the Boss, No one will play the Big brother Role, in selling buying, giving, taking, all sorts of Business deals will be allowed for both the Partners Equally & everyone should avoid contradiction & must respect the other Partners.

For Example a Partner sells something to someone unknowingly that the other Partner sold same thing to a Person on higher price, the first one will be given power to complete the deal & ask for execution from the other buyer. Even the Total Business-Partnership Amount is not necessary to be equal in quantity, It may be according the shares & Profits, but the right to dispose always will be Equal for both Partners.

The Profit & losses must be divided equally according the agreement & deal done before, whatever should be done, must be done before, with clear & clean understanding & explanation & transparency in the beginning or before the Business-Partnership starts.

If a partner gives more Amount & the other gives less Amount for the Business-Partnership, they can be legal Business-Partners in SHARIA, if both of them agree upon loss & profit shared according the ratio of the Amount.

According the Hadis Reported from Hazrat Ali RadiyallahAnhu: Says the Prophet Muhammad (S.A.W.S) said that the loss will go to the capital & the profit will go to the Partner, according their shares in the Business.

Business-Partnership Based on Physical Work (Al - Abdan)

In this type of Business-Partnership two or more persons work physically, they have nothing to do with Monetary funds, they use their technics, their class, their experience, their skills etc. or just physical hard work.

For example, Doctors, Engineers, Advocates, Craftsmen, Fishermen, Porters, Drivers etc. these people do use their art, their knowledge, their capabilities, their experience, their intellectuals, their skills etc.

Such kind of works & taking charges on them is allowed. There is a report from Hazrat Umar RadiyallahAnhu that he gave the property of an

orphan to one of his companion as Al-MUDARABAH/sharing one's physical hard work and other's capital, the companion did Business with that Property & gained profit through it, Hazrat Umar (RadiyallahAnhu) divided the Profit between the orphan & the physical Business working companion.

IbnQadamah Reported that HazratUthman (RadiyallahAnhu) gave him an Amount as loan on the basis of Partnership (Al - Mudarabah), Hazrat Masood & Hazrat Hakeem IbnHizam were in Business contract as Al-Mudarabah Business. Many more such cases has been Reported in standard Hadis, No one of the companions objected on such deals, which is a clear-cut indication & absolute permission for doing Al - Mudarabah Business Partnership, in which a person works & the other person finances.

All over world, Ulama/Ismaic Scholars, have Issued Fatwas/Religious Ordinances Permitting such kind of Deals, one thing always must be kept in mind that unjust is not allowed at all with anyone, let it be financier or physical hard worker, both of them have to have intentions of benefiting others not only gaining for himself, because intentions have most value in Islam, otherwise every deal will end as a disaster for both, especially for the financier.

The Business-Partnership on Basis of Reputation (Al-Wujuoh) Faces.

This a different type of Al-Mudarabah. In which many persons work together physically for Business, executing activities & the profit is divided into 3 Parts, each one gets equal or depending upon the agreement made before they start the business, Actually share distribution must be divided on the basis of profit only.

In this type of Business-Partnership all the members have equal rights for disposal of the Contract, and each & every thing must be taken in consideration, which may cause dispute afterwards. And it is but natural that till the Partner will not take care of others to continue in Partnership-Contract is quite difficult.

That's why the cancellation & disposal right & power is always given to them, that is a exit point, before bigger damage accurs, that's the beauty of Islamic law or someone may say it, beauty of Natural laws given by the Almighty Allah, explained by Islamic Scholars and extracted from the study of holy Quran & Hadis.

One thing we must understand, for example in Saudi Arabia or Kuwait or in any other country, if there's a rule that Particular Business is not allowed to do in that country, by any foreigner. Only the physical or technical work is allowed, no license can be given to any foreigner, in such cases what people do is that, they make a country-man as their partner, while that partner has nothing to do with the Business, he is just license holder, only the Nationality holder Person, he becomes a Partner & gets the profit share in Business, even the profit for him is less or more in most of the cases it is always more, more profit than the other Partners, who have financed or who have skills or those who are working physically, in such cases it is not allowed by SHARIA to do Business with them at all.

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Because this is an exploitation of his Nationality. The Government of that particular country may allow him to be a sleeper partner & gain but the Islam, that is mercy for mankind cannot allow such kind of deals in Business-Partnership.

Islam says do not do Business there, Agitate against the unnatural & cruel laws, appose such laws, fight for justice & get your due rights & do the Business in Islamic framework.

If in such case the Partner who has the Nationality and does nothing is ready to give the licenses free of the cost to the other partners, then its allowed to make him a partner on Respect Basis, or giving him some amount willingly, without pre-condition & fixation, otherwise his being Partner is illegal in sight of SHARIA & to do Business in Partnership with him is not allowed at all.

Partnership of Negotiation (Al - Mufawadah)

In this kind of Business-Partnership a Person plays a role which is more profit giving role, he has contracts, he has trust, he has Relations & he involves himself in activities & does the Business in Bigger scale in transparent way, More sophisticated ways, he does not try to give or take bribes, in such cases the role of such man is considered & his usefulness would be awarded, he can be legal Partner in all 4 types of Partnerships, which are mentioned before in details.

The Islamic approach is: "Hal JazaaulEhsaanIllalEhsaan"(Surah Al - Rahman) means The reply of goodness cannot be but the goodness.

This type of Partner is always conditional & his due is according his efforts, he can not sleep & demand for Profit share & start black mailing & start softly cheating.

So all things are conditional, everyone, Every Business Partner should be aware of every activity of other partner, Nothing should be kept hidden from anyone, if the trust worthy man gets his award is also conditionally allowed, otherwise No one is allowed to sell his faith or his goodness or his trust.

But seeing the other angle, the other aspect, he is worthy to be given something for his goodness, trustworthiness, not as it's price, but as prize & gift, no matter it's all members are agree to make him as one of their Partners.

While the other type of Negotiation-Partnership is not allowed at all and that is the Partnership in which he just uses his Power, his status, his degree, his designation, his signature & demands for huge Amount, that kind of Negotiation-Partner is not allowed in Islam. There's saying of a companion of Prophet Mohammad (S.A.W.S). "Izahaaka fi Nafsika Shaiun fa-dahu" it means if something disturbs you & you are not satisfied by legality of that act you must stop doing that.

And there's a saying from the Prophet Muhammad (S.A.W.S) that "IstaffiQalbakafainnahukhairul mufti" it means, Ask your soul, your soul is the best judge. So of course our souls guide us to certain things, & to the broader light & to the highways where we can see everything very clearly and understand well what is actually wrong or right and what is the density of it, except someone is utterly ignorant or himself doesn't want to know or learn.

Breaking the Business-Partnership

Dissolving the business Partnership is compulsory part of the legal contract & legal Deal, without this prior condition No contract of any type of Business-Partnership is allowed, so dissolving is allowed with certain conditions, which are already mentioned at the time of contract begins the most essential condition is that, both the partners or all the partners, must not have major objections & No one be crushed & done unjust with him, No one should get hurt by any means.

If a new partner comes in the business, he is not allowed in replacement of a particular person, but only all members of the Business-Partnership accept him as a partner.

If one of the many Partners wants to quit, the whole Partnership will be dissolved & closed & after paying his due Share, his right& totally removed from the company, after taking no objection letter from him, the company could be restarted with new agreement, with new terms & conditions, made by remaining

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Partners, after discussion & understanding, each one again can be the member of Business-Partnership, & that is allowed, as it was before

If the workers in the case of dispute demand the sale of company and the financier wants to divide the company. The demand of the workers would be accepted, not the demand of the financier, because that is in favour of equal distribution. And if the both financiers are in dispute, one of the financier want to sale the company, while the other partner wants to divide the company, the company would be divided rather than the company s sold, because selling the company will hurt them, so Islam always takes care of our benefits.

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