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Financial Contracts Between Muslims And Non-Muslims: A Jurisprudential Study Of The Partnership Contract As A Model

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Abstract: Due to the many needs and requirements of man, which he may be unable to fulfill on his own due to his physical effort and limited abilities, man thought in the past of creating a kind of cooperation with his brothers. Thus, companies appeared through which man could carry out large businesses and cover their expenses while sharing the profits and losses among the partners. When Islam came, it clarified the legitimacy of companies and encouraged them because they are based on the principle of cooperation and achieve individual and collective interests. With the expansion of Islamic countries, people expanded their ability to establish companies, which prompted diligent jurists to study them, detail their rulings, and explain their types, what is permissible among them and what is not. A partnership is considered a permissible contract, and society is in dire need of it, especially in large-scale projects that a single person cannot undertake alone. If a Muslim is the one managing the partnership, according to Islamic law, then it is a permissible partnership. If a non-Muslim is the one managing the partnership, and his dealings are not in accordance with Islamic law, then it is a forbidden partnership. However, if the non-Muslim's dealings are in accordance with Islamic law, then it is a permissible partnership, although disliked. It is more prudent to abandon it, as it is preferable. In view of the many needs and requirements of man, which he may be unable to do alone due to his physical effort and limited capabilities, man thought in the past about finding a kind of cooperation with his brothers, so companies appeared through which a person could engage in large businesses and carry out their expenses while sharing the spoils and debts among the partners.

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1. Introduction

When Islam came between the legitimacy of the company and was delegated to it because it is based on the principle of cooperation and the achievement of individual and collective interests, and with the expansion of Islamic conquests, people expanded in establishing companies, which called on the diligent imams to study it and detail its provisions and explain its types and what is permissible and what is not, and the Ottoman Empire worked after that to issue a magazine Al-Ahkam al-Adliya in 1305 AH, the tenth book of which organized companies, the company method has a distinctive feature in the Islamic economic system. The only economist in their investments and loans, while the scholars of Islamic economic thought have adopted many investment methods as an alternative to interest, including the company method[1].

It is one of the permissible contracts, and society is in dire need of it, especially in the huge projects that a person cannot undertake on his own.

If the infidel is the person in charge of this company, and his behavior is in a manner other than Islamic Sharia, then it is a forbidden company. But if the behavior of this infidel is in accordance with Islamic law, then it is a permissible partnership with dislike, and it is more prudent to leave it out of favor[2].

Islamic Sharia is a comprehensive doctrine, and from this Sharia stems a complete system, upon which a virtuous society is built, enjoying prosperity and flourishing. To achieve this, Muslims seek to earn a living and money through financial transactions that take place between them and other people who are striving for the same goal and purpose. From this standpoint, Islamic Sharia has created many ways through which Muslims can grow and invest their money, including the company that takes place between individuals, which Islam has legislated to enable people to cooperate in investing and growing their money, and establishing major industrial, commercial and agricultural projects, which are difficult for one person to carry out independently[3]. Therefore, I have chosen a topic about companies in Islamic jurisprudence, in order to demonstrate the legitimacy of companies, their types, and the Sharia rulings related to them.

The company contract is one of the most important Islamic financial contracts, which was established for development and economic development, it is the basis for integration and cooperation in the country to achieve development, and it works to integrate people's capabilities and potentials in work and investment, and it is one of financial contracts. It is recommended to work with it in Islam, because it is considered one of the reasons for blessing in people's livelihoods, and there is a group of Rules which aims to regulate joint investment contracts.

Since the infidel generally does not respect money, and since the Muslim or the Muslim country sometimes needs to partner with the infidel to achieve economic development, a question may arise about the legitimacy of this partnership. Therefore, this research aims to clarify the opinions of jurists regarding a Muslim partnering with another in [4]this regard.

Due to the many needs and requirements of man, which he may be unable to fulfill on his own due to his physical effort and limited abilities, man thought in the past of creating a kind of cooperation with his brothers. Thus, companies appeared through which man could carry out large businesses and cover their expenses while sharing the [5]profits and losses among the partners.

The company in this sense was known to very ancient civilizations, including the Babylonians, about two thousand years before Christ, where the Code of Hammurabi included provisions related to companies in articles 100 to 107, and stipulated that the company is a contract by which two or more people agree to carry out one or more [6]works with the intention of making a profit.

The Arabs in pre-Islamic times knew the partnership, although their economy was based on customs and traditions. People would contribute to the money carried by trade caravans. If it was sold, each shareholder would take his share of the profit according to his capital after deducting expenses. They called these people partners or companions.

2. Materials and Methods

First: The company in language means mixing.; The mixing of partners, or rather: mixing the properties of multiple people.

The mixture here is among those who interpret it as partners.; i.e. mixing two things without distinguishing between them. From the above, it becomes clear to us that the company in its linguistic meaning is entering into a partnership with one or more others on the basis of common ownership, and it can also meet the needs of the local community and help in achieving social and economic balance. The Noble Messenger (may God bless him and his family and grant them peace) singled it out in many hadiths, including his saying: "God Almighty says: I am the third of the two partners as long as one of them

does not betray his partner. If he betrays him, I will leave .[7]between them and Satan will enter

Second: The company as a term

The joint-stock company is considered the ideal method for financing collective [8]investment operations in industrial, commercial, real estate, and other projects

The company has two meanings:

The first meaning: one thing being for two or more.

The second meaning: The contract between two or more people to share in the profit and benefit they obtain from trade, acquisition, or other things, and it is called (contractual partnership).

The partnership is achieved in the first sense by the entitlement of two or more persons to a property, a debt, a benefit, or a right, and its cause may be an inheritance, a transfer contract, or revival, as if they dug a well, or possession, as if they hunted game, or a mixture, as if the vinegar of one person was mixed with the vinegar of another person.

The subject of discussion is actually in the second meaning, which is the contractual .partnership

From the above, it becomes clear to us that partnership is when two or more people share in the money of a partnership between them in economic activities, whether agricultural, industrial, or commercial, and the partners obtain profits or losses, each according to the percentage of each partner. This is the content of the second meaning that we are discussing, which is what is expressed in jurisprudence as (contractual .partnership

The second requirement: its legitimacy

As for its legitimacy, it is a matter that is taken for granted due to the consensus of Muslim jurists on its legitimacy, because there is no disagreement among them regarding the permissibility of the company contract, even if they differed regarding some of its branches and detail

3. Results

The Islamic tradition allows partnerships through the Qur'an and Sunnah because these religious sources directly support collective ventures between people to achieve common economic goals. According to the Holy Qur'an Allah has established a complete system for inheritance wherein men receive half of their widows' assets if their spouses carry no offspring[9]. The estate of a woman with children becomes divided between four parts after any earlier bequests or debts. However, being one of her children makes you eligible to receive this fourth part. Women who do not have children inherit one-quarter of the total inheritance left behind by their spouses. Those who have children will receive an eighth of what remains from your property after any bequest or debt payments[10]. A man who receives from deceased ascendants will receive one sixth of the inheritance alongside his siblings when he has brothers or sisters living. Multiple heirs receive a third of an estate after any bequest they made as well as debts that do not create harm — Allah has granted this inheritance. Allah possesses complete Knowledge together with Forbearing nature. According to this verse God sets the foundational principles concerning shared ownership and joint inheritance that Islam offers to its believers[11].

Many Sunnah narrations show the Sunnah validates the worthiness of business partnerships. According to a report from the Prophet Muhammad (peace be upon him) Allah declares: "I serve as the third partner between two committed parties unless betrayal occurs[12]. I will depart the partnership immediately upon their betrayal of each other. According to this Hadith all partnerships benefit from divine backing as long as partners demonstrate honesty and trust between themselves. This divine protection through Allah exists in partnerships until betrayal takes place and leads to the withdrawal of spiritual

support. A parallel narration uses equivalent language to deliver the identical idea by stating that partners consecutively maintain both ethical duties of honesty and mutual respect[13].

The consent of scholars exists regarding permissible partnerships while they disagree about specific conditions and types of permitted partnerships. Partnerships are essential for achieving human interests because they enable economic growth and foster social collaboration. Islam endorses and stimulates partnerships since these arrangements generate substantial advantages that benefit people individually and collectively[14].

In order to validate a partnership under Islamic law a set of conditions needs to be present. First of all the partners need to agree together. When the genuine free agreement from all parties concerned in a deal fails to appear the contract becomes invalid. The legal basis of all valid contracts rests on consent according to classical Islamic law. All partnerships under Islamic law require two parties to express their mutual acceptance through any kind of shared signal which ranges from verbal to written communications. A brief agreement declaration along with an acceptance will create a valid partnership contract.

Every member of a partnership needs to demonstrate legal competence. The legal requirements for a partner include maturity together with sound mental condition and freedom from coercion coupled with the ability to manage property and wealth. Legal capacity provides equality for all partners because it ensures that they understand their responsibilities fully throughout the partnership. A partnership requires capital consisting of lawful and permissible assets for its establishment. The capital of a partnership must exclude every item that originates from theft or usurpation and is unlawfully obtained or impure since it includes gambling instruments and alcohol production equipment.

Furthermore the purpose behind creating a partnership must abide by the principles of Islamic law. Business activities related to forbidden goods either alcohol or pork or gambling or media distributions make the entire partnership invalid under Islamic Law. The Islamic determination of commercial transactions requires the validity of both the methods used to create wealth and the outcome produced through legal and moral means.

The fair distribution of business profits and losses between partners depends on the ratio of contributed capital each investor owns. When partners contribute their resources equally to the business they will both split profits as well as any losses with equal shares. The procedure must follow a proportional share alignment with the incoming investor capital investments. When partners make different contributions to the business through work or expertise then it is possible to award them more shares. The sole dissension around profit distribution arises when partners without valid reasons get different profit shares after contributing equal capital and labor.

According to Islamic jurisprudence there exist multiple partnership formats. An economic project established through the partnership of assets requires multiple partners to provide sets of capital entries either as cash or assets or both. The partners divide all partnership profits and losses through the arrangements detailed in their initial contract.

The Islamic faith places great worth on business partnerships because they create mutual support systems and economic advancements. Partnerships remain permissible only when conducted with honesty using legal capital for lawful business followed by fair distribution of profits and losses. A partnership that executes properly transforms into more than an economic deal because Allah grants blessings to such arrangements.

The globalized economy witnesses substantial growth of trade through size expansion as well as product variety. The increasing trade volume has produced numerous international and regional businesses through joint ventures among members who practice Islam along with Jewish and Christian faiths as well as others. Current economic realities have made it essential to determine whether Muslims may establish commercial partnerships with non-Muslims. The dispute among Islamic jurists regarding

this question leads to conflicting opinions which stem from the diverse Hanafi and Maliki legal schools. Different Islamic schools maintain prohibition against non-Muslim partnerships yet some accept them conditionally and others feel indifferent (*karaha*) towards this practice.

The Hanafi and Maliki schools establish a policy restricting partnerships through conditions which must be fulfilled in order to permit them. The eminent Hanafi scholars including Abu Hanifa and Muhammad ibn al-Hasan maintain that Muslim partnership with non-Muslims constitutes a prohibited matter. The scholars base their prohibition on their belief that non-Muslims may commit Islamic violations like selling wine or pork or engaging in prohibited interest which would introduce unlawful profits into the business relationship. As a Hanafi jurist Abu Yusuf approved restricted Muslim-Non-Muslim business combinations although he classified them as unpreferred because of their underlying moral problems. According to Hanafi scholars the true equality in managing partnership deals remains theoretical because Muslim partners cannot accept non-Muslim partner's actions that Islamic law considers prohibited such as wine purchases which would result in irreconcilable ethical and legal standards.

Under the Maliki school particular restrictions govern Muslim and non-Muslim relationships through partnerships. According to Malik along with other Maliki jurists these partnerships are acceptable when a Muslim obtains complete oversight over every buying and selling procedure. The partnership becomes unlawful when non-Muslims gain freedom to operate sales independently. Maliki scholars maintain a difference of opinion regarding partnerships between Muslims and non-Muslims by permitting them although they classify this arrangement as unacceptable while emphasizing Muslim oversight of all trade activities. Among the Malikis it is recommended for Muslims to conduct business with divinely-fearing and morally upright partners who avoid unethical practices including interest-based loans and deceitful dealings. In accordance with Maliki tradition Ibn Habib showed his support for devout Muslims who should steer clear of potential partners who lead to confusion or fraud or take part in unlicensed business activities.

Various supporting evidence emerged from those who advocated strict regulations in Islamic business law. The Prophet Muhammad (peace be upon him) said in a reported narration that Muslim business supervision is required before engaging in partnerships with Jews or Christians. The exact authenticity of this particular narration remains uncertain even though several early scholars including Al Hasan and Ata' made related statements that back this interpretation. The main reason supporting this position stems from the apprehension Muslim partners might receive forbidden income from non-Muslims through their involvement in interest or alcohol or pork-based transactions.

Within Shi'a and Shafi'i and Hanbali schools non-Muslim partnerships are generally accepted however they remain undesirable (*makruh*) under circumspect conditions. Imami scholars recognize that religious differences between Muslims and non-Muslims cannot affect their commercial contracts or financial dealings. According to their guidance it is best to abstain from business relationships where non-Muslims could perform activities that violate religious law without supervision. Imam Ja'far al-Sadiq states that entering partnerships with Jews Christians and Zoroastrians remains disliked although not unlawful provided that Muslim supervision of the partnership remains present. According to Al-Allamah al-Hilli the dislike against this partnership disappears when the Muslim party guarantees that his non-Muslim business partner will remain within permissible boundaries. The prohibition rule about non-Muslim partnerships extends its scope to agricultural partnerships.

The Shafi'i jurists hold a negative view toward Muslim-non-Muslim partnerships irrespective of transaction oversight conditions. Non-Muslim partners create problems for the Shafi'i jurists because they fear these partners would violate usury laws and any other rules prohibiting certain business transactions. Although they do not label such

partnerships as forbidden they consider them to be distasteful. Leading scholars Al-Nawawi and Al-Shirazi together with other Shafi'i school scholars state that these partnerships remain undesirable because of both religious and ethical concerns. Muslims should form business partnerships with individuals who stay away from unlawful dealings and finance schemes according to this belief system.

The Hanbali legal scholars maintain two primary positions regarding the topic. The majority and most other scholars in the Hanbali school permit business partnerships between Muslims provided that Muslims maintain authority in managing transactions since they deem this precaution sufficient to prevent forbidden practices. Some Islamic scholars held a negative opinion about such partnerships particularly when conducting deals with Zoroastrians because they permit forbidden Islamic practices. Totally different opinions exist regarding business partnerships with Muslims in control of sales transactions. Ibn Qudamah, Ibn Muflih, and Al-Mardawi held the correct view which deems these transactions permissible without any dislike. Ahmad ibn Hanbal together with others agreed that such partnerships remain less desirable yet permitted as a means to avoid the mixing of pure funds with profits gained from alcohol sales along with pork trades or interest-based business activities.

These scholars support such business co-operations based on their perception that Prophet Muhammad (peace be upon him) conducted financial transactions with non-Muslims. During his lifetime Muhammad used his weapons as collateral with a Jewish trader and additionally sought help from non-Muslims. Non-Muslim partners using company funds for impermissible transactions do not cause legal responsibility for Muslim partners because Muslims do not officially acquire prohibited goods from these transactions. According to their argument only partnerships involving certain unlawful conduct should be ruled impermissible.

The establishment of business partnerships with non-Muslims requires careful caution according to Islamic scholar consensus yet their verdicts vary. The Hanafi and Maliki schools maintain a prohibition stance unless the Muslim maintains complete control over the enterprise yet the Imami and Hanbali and Shafi'i schools allow business partnerships although they discourage Muslims from entering them because forbidden financial dealings remain possible.

4. Discussion

The findings of this study demonstrate that the partnership contract holds a significant and foundational place within Islamic jurisprudence, particularly in facilitating collective economic endeavors. The permissibility of such contracts is firmly established in both the Qur'an and Sunnah, where cooperation and mutual benefit are emphasized as key values. While there is a general consensus among Islamic scholars regarding the legitimacy of partnership contracts, differences arise when such contracts involve non-Muslim partners. These differences are largely rooted in concerns about the potential for engaging in transactions prohibited by Islamic law, such as usury, alcohol, or pork-related trade.

The variation in juristic opinions—ranging from outright prohibition to conditional permissibility and mere dislike (*karaha*)—reflects the diversity of interpretations among the major schools of Islamic law. The Hanafi and Maliki schools, for instance, impose strict conditions on such partnerships, emphasizing the need for Muslim control over the operations. In contrast, the Imami and Hanbali traditions show greater leniency, provided that ethical and legal standards are upheld throughout the business dealings. These perspectives underscore the balance that Islamic jurisprudence seeks between engaging in economic development and safeguarding religious values.

Furthermore, the practical relevance of these discussions becomes increasingly critical in today's globalized economy, where cross-religious partnerships are not uncommon. The jurisprudential approach adopted in this study provides valuable guidance for

Muslim entrepreneurs and investors, offering clear ethical frameworks within which interfaith economic cooperation can occur. By adhering to the conditions set forth in Islamic law—such as transparency, mutual consent, lawful capital, and Sharia-compliant objectives—Muslims can participate in global business ventures without compromising their religious commitments.

In essence, the study affirms the enduring adaptability of Islamic legal principles in addressing modern financial challenges. It emphasizes that while caution is warranted, Islamic law does not outright reject cooperation with non-Muslims in economic matters, as long as such partnerships are conducted within the moral and legal boundaries of Sharia.

5. Conclusion

Conclude the study connecting back to the aim of the study.

1. The company is permissible according to the Book of God and the consensus of Muslims.
2. The company is generally divided into two parts: a property company and a contract company. These are of various types: a company of reins, speculation, faces, bodies, and negotiation.
3. Scholars differed on the ruling on a Muslim partnering with a non-Muslim, with the following opinions:
 - a. The prohibition of partnership between a Muslim and an infidel, which is what Abu Hanifa and Muhammad ibn al-Hasan held.
 - b. It is permissible for both to share a place with each other, although it is disliked. This is what Abu Yusuf held, as well as what the Shafi'is and some Hanbalis held. Some Hanbalis restricted dislike to sharing a place with a Zoroastrian.
 - c. Permissibility, if the Muslim takes charge of the transaction. This is the Maliki school of thought, and it is the correct view in the Hanbali school of thought. Some Malikis and some Hanbalis have restricted this ruling to non-Muslims.
4. Those who argue for the permissibility of this partnership if a Muslim is in charge of the transactions cite traditions attributed to the Successors, with the exception of one hadith attributed to the Messenger of God (peace and blessings be upon him) on the authority of Ata', which is mursal. They also cite rational evidence, which states that a non-Muslim is not permitted to engage in usury if a Muslim is in charge of the .transactions
5. Those who said that this partnership is reprehensible also cited narrations attributed to Ibn Abbas, Ata', Ibn Sirin, Al-Dahhak, and Al-Hasan. They also cited two rational proofs: that the unbeliever does not abstain from usury, and that there is no guarantee that the money with which this partnership was concluded was obtained through an unlawful means.

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