

***TIJARAH* - Trade in Islam**

BUSINESS MORAL CODES IN ISLAM

It is recommended for a business man to learn the rules of daily transactions. In fact, if due to ignorance, he may necessarily contradict the laws of *Shari'ah*, then it is obligatory upon him to learn.

Imam Ja'far Sadiq (a.s.) is reported to have said: "A person who wishes to engage in business, should learn its rules and laws, and if he makes any transaction without learning them, he may suffer because of entering into a void or doubtful transactions".

SEEKING LIVELIHOOD

Islam strongly emphasizes that you work hard to fulfill the needs of yourself, your family, and to help others. A Muslim is expected to be financially independent.

Working hard to earn your livelihood is not in any way reprehensible in Islam. The lives of our Prophet Muhammad (s.a.w.a.) and the Imams of Ahlul Bayt (a.s.) clearly encourage us to hard work for our financial independence.

TIME MANAGEMENT

Islam puts great emphasis on managing your life, time and finances so that you may have a happy and prosperous life. The timing of daily prayers itself reflects the daily management of our life. It does not say that pray all the time or at any time - it says that there is a time for prayer, and there is a time for business, and there is a time for the social and family aspects of your life.

FINANCIAL MANAGEMENT

Islam has also talked about financial management. It has done so because Islam also teaches us a comprehensive way of life and expects its followers to plan their lives in such a way that they can live within their means and resources.

One of our biggest problems in our financial management is:

- ❖ *Israf* - meaning extravagance without being wasteful; overspending and living beyond our means.
- ❖ *Tabdhir* - meaning wasting the blessings of Allah.

We should manage our lives within our resources and this cannot be done unless we control our greed. Moderation is the key in all spheres of life.

SANCTITY OF PROPERTY

Islam has put great emphasis on the sanctity of property (*maal*) and its ownership. No one has the right to take the property, money or labor of another person without his permission. We, as Muslims, in the ethical sense, is one from whose hands and tongue other Muslims are protected. This sanctity of the property (*maal*) also includes non-Muslims.

TRUTHFULNESS AND HONESTY

In the context of business ethics, great emphasis has been put on truthfulness in speech and honesty in measuring. To promote the attitude of honesty, the *Shari'ah* says that it is recommended for the sellers to measure out their merchandise slightly more than required in order to ensure that they have given what is due to their customers.

FRAUD AND CUSTOMERS' RIGHTS

Giving a false statement about the value of an item and presenting an item in an unrealistic manner is fraud and cheating. For example, presenting merchandise that is mixed with something else as pure; or presenting an imitation as the genuine article. This is known as "*ghish* and *tadlis* - fraud and deceit" in *Shari'ah*.

For example, in a box of apples, if you place the good ones on the top and the bad ones inside - this is *GHISH*. If you change the odometer in your used car to show lower mileage - this is *TADLIS*.

In order to protect the customer from fraud and deceit in a business transaction, the *Shari'a* has introduced the principle of "*Al-Khiyaar*" - the right of withdrawal which are of seven types:

- 1] *Khiyaaru 'l-Majlis*: the right of canceling the deal before leaving the business premise; unless it is specified as "final" in the deal.
- 2] *Khiyaatu 'l-Haywaan*: (applies to sale of animals) the right of returning the animal within three days unless that right is waived in the deal.
- 3] *Khiyaaru 'sh-Shart*: the right of canceling or returning the merchandise based on the condition in the Contract. For example, when the seller says that the item can be returned within one week or one month.
- 4] *Khiyaru 'l Ghabn* (Fraud): the right of returning the merchandise if it was sold for a price that was exorbitant than its actual value. (The actual value is to be defined by *'urf*, in this context, the market.)
- 5] *Khiyaatu 't-Ta'kheer*: if the customer makes a deal but delays the payment or makes a partial payment without any pre-condition for deferring - the merchant has to wait for three days and then he has the right to cancel the deal. Similarly, if the customer is required to make a non-refundable deposit and then is unable to make the full payment as per the Agreement, then the merchant can cancel the deal.
- 6] *Khiyaaru 'r-Ru'ya*: if you buy an item just based on the description of the seller it or you were shown the item, but then you find it to be of a lower quality - in such a case, you have the right to cancel the deal after actually seeing or handling the item.
- 7] *Khiyaaru 'l-'Ayb*: if you find the merchandise to be defective, then you have two choices - either cancel the deal or retain it with compensation. Unless, of course, the deal is based on "as is" condition; then in that case you cannot return the item or ask for compensation.

Note: If the deal has been finalized but the merchandise has not yet been delivered to or received by the customer and the merchandise is destroyed, then the merchant will bear the loss and the customer will be eligible for repayment.

FIVE TYPES OF LAWS IN YOUR BUSINESS:

Islamic laws are of five types: obligatory (*Wajib*), recommended (*Mustahab*), discouraged (*Makrooh*), permissible (*Halaal*) and forbidden (*Haram*). Business, trades and professions in Islam would also fall into these five categories.

1. WAJIB / OBLIGATORY

- (a) On an individual level: it is obligatory to maintain yourself and your family so any legitimate job that fulfills that obligation for you is obligatory for you.
- (b) On a social level: any trade, business or profession which caters to the essential needs of the society is obligatory in the sense of *Wajib Kifai*. (*Wajib Kifai* means an obligation which is upon the entire community but if one fulfills it, then the obligation is lifted from others; however, if no one fulfills it, then the entire community is responsible. This is opposite of *Wajib 'Ayni* in which each person has to fulfill that obligation, e.g., Salaat.

2. MUSTAHAB / RECOMMENDED

Any profession or business that is not essential but useful for yourself and the society. For example, a food business that makes *Halaal* food more easily available to Muslims or physical fitness facilities which adhere to the Shari'a laws.

3. MAKROOH / DISLIKED

It is *Makrooh* to involve oneself exclusively in the profession of butcher, or the trade of selling shrouds (*Kafan*), statues of living things, etc..

4. ***HALAAL / PERMISSIBLE***

Any trade or profession that is permissible but not essential for the society.

5. ***HARAAM / FORBIDDEN***

Specified kinds of professions and trades disallowed by the Islamic *Shari'a*. For example intoxicating drinks.

RULES REGARDING PURCHASE AND SALE.

There are six conditions for the Sellers and Buyers:

- ❖ They should be *Baligh* (reached the age of puberty).
- ❖ They should be sane.
- ❖ They should not be impudent, that is, they should not be squandering their wealth.
- ❖ They should have a serious and genuine intention to sell and purchase a commodity.
- ❖ They have not been forced to sell and buy.
- ❖ They should be the rightful owners of the commodity which they wish to sell, or give in exchange.

The following are *Mustahab* in connection with sale and purchase.

- One should not discriminate between various buyers while charging for the commodities, except in the case of poor people.
- One should not be adamant about the prices, unless one feels that one is being duped or cheated.
- One should give a little more of the thing one sells, and should take a little less of the thing which one buys.
- If the buyer regrets having purchased something, and wishes to return it, the seller should accept it back.

The following business transactions are *Makrooh* transactions.

- To sell the land, except when one wishes to purchase another land with its proceeds.

- To be a butcher.
- To make shroud selling one's profession. (*To sell shrouds*).
- To enter into transaction with people of low character. (with bad-mannered people).
- To transact a deal between the Fajr prayers and sunrise.
- To make it one's vocation to buy or sell wheat and barley, other similar commodities.
- To interfere in a deal being carried out by a Muslim, and make one's own offer.

HARAAM BUSINESS AND TRADE

There are many *haraam* deals and business, some are mentioned below.

1. Intoxicating Drinks.

Sale and purchase of intoxicating beverages.

Note: Besides being *Haraam*, the transaction is void.

It is *Haraam* to deal with intoxicating drinks in any shape or form: selling, buying, using it as rent or payment for a job, etc.. It is *Haraam* to rent out a vehicle for transporting intoxicants. It is *Haraam* to work for a company that produces such drinks: as a driver, worker, accountant, guard, typist, etc. It is forbidden for a Muslim to sell or serve intoxicating drinks, or even to wash glasses used for that purpose. Wages from such work are unlawful.

Note: The above ruling applies to intoxicating drinks. Therefore, intoxicants that are not made for human consumption are not covered by prohibition or ritual impurity (*najasa*t). Similarly, the alcohol found in perfumes is pure and permissible for us as well as trade.

2. Sale and purchase of usurped property.

Note: Besides being *Haraam*, the transaction is void, and the seller should return to the buyer the money taken from him.

3. As a precaution, sale or purchase of those things which are not usually considered to be merchandize, e.g. wild beasts, if it does not involve any substantial gain.
4. Any transaction which involves interest.
5. Manufacturing or dealing in items, tools or machines that are exclusively used for *Haram* purposes. For example, gambling machine.
However, there is no problem in dealing in machines of dual or multi-purpose nature which include *haram* purposes but are not exclusively for such things, like radio, television, etc.
6. A transaction which involves fraud or adulteration, like, when one commodity is mixed with another, and it is not possible to detect the adulteration, nor does the seller informs the buyer about it.
7. Pig and its byproducts in all forms.; even selling or serving pork to those who consider it permissible in their religion is not allowed. This prohibition also applies to delivering food items which have pork in them such as pizza, etc..

However, as regards to other '*ayn najis*' items (like human or animal stool, blood) can be a legitimate business commodity provided there is a reasonable use for them. For example, the dung of farm animals can be used for the purpose of using it as manure; blood of human beings for transfusion into a patient who needs it.

***MUTANAJJIS* ITEMS**

Mutannajis means an item that becomes *najis* by coming into contact with a wet '*ayn najis*'. It means "acquired impurity" as opposed to '*ayn najis*' which means "inherent impurity".

It is permissible to deal in *mutanajjis* items if there is a permissible use for it. For example, if lamp oil becomes *najis*, it can still be used to light the lamp.

Tabularized version of rules regarding animal products.

TYPES	RITUAL PURITY	USAGE IN SALAAT	FOOD	TRADE
A. Islamic Zabeeha	Yes	Allowed	Allowed	Allowed
B. Not Islamic Zabeeha:				
A case where you know by one of three means of knowledge:				
(a) you have first hand of knowledge that the slaughter was not done Islamically; or				
(b) you have been informed by two just Muslim witnesses about it; or				
(c) by the owner of the product that it does not come from an animal slaughtered Islamically.				
1. Parts with feelings (e.g. skin)	No	Not Allowed	Not Allowed	Not Allowed According to Ayatullah Seestani, It is permissible to trade in such items with non-Muslims.
2. parts with no feeling (e.g. hair, feather, fur, bone, horn, beak, nail and teeth)	Yes	Allowed	Not Allowed	Allowed
C. Doubtful:				
Not sure either way; a case where you do not know any of the three means of knowledge mentioned in B above.				
1. from Muslim Market	Yes	Allowed	Allowed	Allowed
2. from non-Muslim:				
i. probability of Zibh	Yes	Allowed	Not Allowed	Allowed
ii. no probability of Zibh	No	Not Allowed	Not Allowed	Not Allowed According to Ayatullah Seestani, It is permissible to trade in such items with non-Muslims.
D. Pigs and its By-Products	No	Not Allowed	Not Allowed	Not Allowed

HOARDING COMMON FOOD ITEMS

"Hoarding" means storing an item that is in demand with the hope that its price will increase. It is *Haraam* to hoard the common food items that are low in supply and high in demand. Prophet Muhammad (s.a.w.w.) said, "None hoards the food items except the sinner." (*As-Suduuq, Man La Yahduruhu 'l-Faqih*, vol. 3, p. 169) Under an Islamic system, the government has the right to force such a merchant to sell the food items at the fair market value.

NOTE: According to some Shi'i scholars, it is also recommended to refrain from hoarding any non-food commodity that is considered as a necessity of life for people.

ASTROLOGY & PALMISTRY

It is *haraam* to make horoscope and predict the future of people by looking at the movement or alignment of stars. This is obviously, different from astronomy that is proven science.

It is also *haraam* to believe in astrology and palmistry. A Muslim should trust in the intelligence that Allah has given to him or her, work hard, and rely for success on Divine Grace (*tawfiq*).

It is worth making a note on *Istakhara* which means seeking God's help in making a decision by praying to God through the *Tasbeeh* (prayer bead) or the Qur'an.

Firstly, *Istakhara* is only relevant in issues which are religiously permissible where a person has a choice to do or not to do. There can be no *Istakhara* in issues which are obligatory or forbidden in Islam.

Secondly, there is a famous saying that '*al-istashara qabla al-istakhara* - seeking counsel comes before seeking *istakhara*' which means that one should use his or her own intelligence and knowledge to decide on the issue at hand; and if he or she does not know about that issue, then he or she should consult and seek counsel from those who have expertise in that field. After all the consultations, if there is still doubt and confusion, then one may do *istakhara*. Finally, even though *istakhara* is based on religious sources, one should never become "*istakhara* dependant".

TWO TYPES OF INTEREST (RIBA)

In Islamic laws, interest (*riba*) is of two types:

(a) INTEREST IN BUSINESS AND TRADE

Any business deal that has the following three conditions will be considered *riba* and, therefore, *haraam*.

- ❖ The commodity and the price are of the same kind.
- ❖ They are things that are sold by weight
- ❖ They are things that are sold by measurement.

For example, selling 100 lbs. Of wheat for 110 lbs. of wheat would be considered *riba* and *haraam* no matter whether the payment is on spot or deferred.

However, if a person were to sell 100 lbs. of wheat for 110 lbs. of raisins or to sell 100 US dollars for 125 Canadian dollars, then it would be a legitimate transaction because the items are neither the same nor weighed or measured. This transaction will be valid even if the payment is deferred.

Similarly, if a person were to sell a dozen eggs for fifteen eggs, then it would be a legitimate transaction even though the items are of the same kind because they are not sold by weight or measurement. This would be a legitimate transaction unless the payment has been deferred.

To sell gold in exchange for gold or silver in exchange for silver with increment in the price - whether on spot or in deferred form - is forbidden.

BUY NOW AND PAY LATER

A merchant is allowed to fix two different prices for the same item: lower price for cash or higher price for the payment that is deferred to a fixed date. This is valid only if the merchant had fixed the price for the deferred payment beforehand.

However, if the deferred increased price is negotiated during the deal itself, then it is *riba* and is not permissible. Moreover, this only applies to items that are not sold by weight or measurement; otherwise, it is considered *riba* and is not permissible. However, there is no problem in a transaction involving advance payment and receiving the merchandise later as long as the commodity and the price both are not in gold or silver form.

(b) INTEREST IN LOAN

It is *haraam* to charge interest from a Muslim in loan.

As far as charging interest from a non-Muslim is concerned, most contemporary Mujtahidin have allowed it including Ayatullah As-Sistani Dama Dhilluhu.

Also according to the majority of our Mujtahids, charging interest is allowed between father and children, and between husband and wife.

SOFT LOAN (*AL-QARZU 'L-HASAN*)

In the *Shari'a al-qarzu 'l-hasan* (a good loan) is giving a loan without the condition of interest. This act is considered a very good deed in Islam. Many *ahadith* say that the reward for giving charity is multiplied ten times whereas the reward for giving an interest-free loan is multiplied eighteen time.

Giving such a loan is considered like giving a loan to Almighty Allah who is going to pay it back with compound interest: "*Who will give a good loan to Allah so that He will multiply it for him manifold?, and to Him you shall return.*" (2:245)

There is a misconception in our Communities that "*al-qarzu 'l-hasan*" means that the debtor does not have to pay it back, and that the creditor should consider it as "a bad debt". This is absolutely a wrong notion. What a debtor does not have to pay back is known as charity, not a loan. In fact, in *al-qarzu 'l-hasan* it is recommended for the debtor to pay something more to the creditor who has given the interest-free loan to him.

BANKING

The rules governing Muslim Banks are different from those governing non Muslim Banks.

It is permissible to deposit money in a non-Muslim bank with the condition of interest because it is permissible to earn interest from non-Muslims.

GETTING LOAN FROM BANKS

According to most *Mujtahidin*, it is *haraam* to get loan from a non-Muslim bank with the condition of paying interest.

However, according to Ayatullah Sistani as well as the late Ayatullah Khoei, one can technically get out of the prohibition by taking the money from non-Muslim bank with the intention of *ISTINQADH* - that is, using the wealth of non-Muslims which is available to you from them willingly, according to their own laws. In this case, use of that money will be permissible even if one will be forced to pay interest.

BANK SERVICES

Using other services of the Bank, i.e. transferring money and opening Letters of Credit to import good is permissible. and the Banks are allowed to charge commission for their part of the job.

WORKING IN THE BANKS OR FINANCIAL INSTITUTIONS

The activities of a Bank are divided into two: *Halaal* and *Haraam*. Working in sections where interest is involved is *haraam*. The earnings received from such work is *haraam*. Working in sections where interest is not involved is *halaal*. This ruling is relevant to Muslim Banks and Muslim customers.

Therefore, if the Bank in which you are working is a non-Muslim Bank and/or the customers are non-Muslims, then dealing in interest with them as a Bank employee is permissible; and the earning received from this work is *halaal*.

USE OF CREDIT CARDS

Using Credit Cards as a convenient way of shopping is permissible. However, it is *haraam* to delay the payment because that entails paying of interest. (Using the concept of *istinqadh* mentioned earlier, it would be permissible to use Credit Cards as means of getting a loan.

INVESTMENTS IN MUTUAL FUNDS AND STOCK MARKET

In light what was explained earlier, investing in Mutual Funds and the Stock Market in which the returns are not guaranteed would be permissible.

Such investments, however, could become *haram* because of secondary reasons, i.e. if one invests in a company that deals in a *haram* commodity, such as brewery.

PARTNERSHIP IN BUSINESS

The most common types of partnership in Islamic Laws applicable to us are the following:

1] **MUDAARABA** - Limited Partnership or Silent Partnership.

There are three elements in limited or silent partnership:

- 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, 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 violate the terms of agreement.

2] **MUSHAARAKA** - 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.

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. Please, refer to the Holy Qur'an, Chapter 2, Verse 282.

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

DISPUTES AND ARBITRATION

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'i then approach the Secular Courts for getting their legitimate right.

MISCELLANEOUS RULINGS

- ❖ It is forbidden to make a complete statue or sculpture of a living being. However, there is no problem in buying or selling pictures of such statues or sculptures, even though it is makruh. Making a sculpture of a limb by itself is permissible. Making statues or sculptures of non-living things like flowers or trees is permissible.
- ❖ Drawing, painting or carving a living being is permissible.
- ❖ Sculpting, painting or drawing of living or non-living things or symbols that are used as objects of worship by other religions is not allowed. So making, buying or selling idols or religious symbols such as "cross" would not be allowed.
- ❖ Is a Muslim allowed to become and work as a lawyer? As long as Muslim lawyers do not get involved in *haram* activities in pursuing their careers, then it is permissible for them to work as lawyers.

CAUTION

Any trade, business or profession that involved *I'anatu 'z-Zalama* - helping the oppressors is forbidden and considered as one of the major sins in Islam. The Holy Qur'an says: "*Do not be inclined towards those who are unjust otherwise the Fire will get you.*" (11:13)

