

## Orientalists On Social Status Of The Messenger Muhammad (P.B.U.H)

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It has been observed that western scholar's writings are likely biased and myopic. They try their best to deny the crystal clear fact "Prophet hood of Muhammad (P.B.U.H)". In this connection they level different kinds of allegation on the Messenger. Orientalists have tried to minimize the social status of the Messenger. Among the significant popular discussions in the Orientalists literary circles is the genealogy of the Prophet of Islam. Their focus in this regard is to manifest the Prophet of Islam as a low birth among the tribes of Quraish. At the same time, they allure that there is no connection of Prophet's family to Abraham. Hence a false assumption upon the false foundation has been laid down in the works of Western scholars. In this paper, an Endeavour has made the critical review of the said assumption in the light of fundamental Islamic sources.

Orientalists have made different kinds of allegations on Sirah of the Messenger. They have tried their best to minimize the tribal grandeur and glory of the Messenger. To achieve this end, they leave no stone unturned to deform the social status of the Messenger. They have made efforts to show and prove humble birth of the Messenger and financial decline of Bani Hashim. They have created doubts about his lineage to Abraham. So, I shall try my best with the grace of Allah to analyze and eliminate doubts and allegations through historical facts.

In this materialistic age, like capitalists, Orientalists have measured the glory and prestige of the Messenger according to their own scales of materialism and wealth. They apply the materialistic values of modern age on the circumstances of the prophetic era. They deny the established fact that the Messenger has no paternal connection with Ishmael and Abraham. They have blamed that it is mere an innovation of Muhammad's mind. On the other hand, some Orientalists have acknowledged his lineage to Ishmael by saying that Ishmael was son of a maid. There is no matter of pride and gratification being the progeny of Ishmael. If it is conceded at some extent the clan of Hashim gathers no mass as compare to Banu Ummayah and Banu Makhzum. These both clans were very

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which decreases economic growth. Low female labor force participation also has a high cost on the economic well-being of a society. The Study uses simulations and shows that an increase in female labor force participation from their actual rate to what the predicted rate should be 3 per cent. It can increase household earning by 25 per cent leading to growth in income per capita and growth rates between 0.4 and 0.9 per cent higher as compared to the actual growth rates.

#### 4. Conclusion

The study establishes relationship among the teachings of Islam and growth and prosperity of human beings in the light of Quran and cited literature on the topic. Islam is a universal religious and provides the path to lead life. Therefore, Islam brings prosperity not only in the world life but also hereafter. Some studies conclude that religion have relationship with economic growth and human development. It may be true under the given circumstances because the nations are far away from the teachings of Islam. If the glorious principles of Islamic teachings are implemented then there will be peace and prosperity all over the world. Islam explains the role of state, social and economics justice, concept of brotherhood, principles of earning and spending and all other related rules and regulations for the smooth running of social and economic systems. These principles ultimately establish economic growth all over the world.

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- i. Islamic inheritance laws that disperse wealth among a number of heirs.
- ii. Large numbers of children due to prevalent polygamy practices that inhibit wealth accumulation necessary for large investment.
- iii. Absence of the concept of corporation in Islamic laws that hinders investment opportunity and also wealth accumulation, and
- iv. Existence of "waqf," charitable foundations created to protect some of the wealth from the hands of greedy rulers and arbitrary taxation as well as for tax evasion purposes.

The "waqf" organizations, although providing society with some form of public service, are proved to be bureaucratic and wasteful of vast resources that could have been invested elsewhere. The worst component of these traditional Islamic laws, Kuran argues, is the discouragement they provide to human capital investing, often thought to make an important contribution to economic growth.

Kuran (1997) offers another set of explanations and critique of why Muslim countries have been underdeveloped. This set of explanations is much broader than what he offers in Kuran (2004). The first is the use of Islam, especially extreme ideological beliefs held by a fragment of the Muslim population, to validate their own views of Western societies and to serve their own vested interests. The second is that Islam hinders the education system by limiting curiosity and innovation. The idea of the "ijtihad" is replaced by obedience and complete compliance instead. The final explanation is "communalism," the act of loyalty and commitment to the interests of one's own minority group rather than becoming individualist which many scholars believe to have stalled growth and key economic reforms. Therefore, he suggests that Islam may hinder economic growth through its effects on gender inequality, education, and investment. Gender inequality has severe consequences, not just socially or politically but economically as well.

Klassen (1999) observes that many studies have proven that gender bias in education (and low educational level) can impede growth directly through lowering human capital and indirectly through lowering investment and increasing population growth. Low human capital entails lower productivity and lower return on investment. It also implies higher fertility and child mortality rate

the World Values Survey on beliefs and attendance of religious services to create a religiosity variable which he uses to determine whether religion has an impact on economic growth including Turkey, Bangladesh, and Pakistan in his study. He also uses presence of state religion and regulation of the religion market as indicators of religious diversity. Author finds that growth depends on the extent of believing relative to belonging. In other words, religious beliefs exemplify traits which in turn enhance economic performance and attendance of religious services, given a set of existing beliefs, hinders economic performance.

Huntington (1993) proposes a thesis about the difference between the west and the rest of the world, especially the Muslim world. He explains the meager economic performance of the Arab world compared to the increasing success of the west. He suggests in his theory that civilization "...the highest cultural grouping of people and the broadest level of cultural identity...defined both by common objective elements, such as language, history, religion, customs, institutions, and by the subjective self-identification of people," will be the primary conflict and not the nation state. He also argues that ideological and economic differences are not what divide the world into first, second, and third world countries. Rather it is this "Clash in Civilization" as defined by a set of cultural differences, and conflict between the west and the Arab world lies in their values of democracy.

Pippa Norris and Ronald Inglehart (2003) examine Huntington's theory more closely using empirical evidence from the World Values Survey from 1995 to 2001. They fail to find supporting evidence to all of Huntington's theory especially that the core difference between the west and Islamic nations is their perception of democracy. The survey find that Muslims, just like Europeans, value democracy but unlike western societies they differed greatly on gender equality and sexual liberation, which many economists might argue are important determinants of growth.

Kuran (2004) offers a number of explanation of why a millennium ago the Middle East is prosperous and highly advance in education, sciences, trade and social laws, and by the 18th century is lagging behind the western world. He mainly blames the legal infrastructure which is based solely on rigid Islamic laws which are not amiable to economic growth. These laws are:

The objective of the present study is to explain the concept of human development and economic growth in the light of Islamic teachings. The study also explains the impact of religion on economic growth and moral values in the light of related literature. The moral values provide the basic foundations to any society. The related literature to the topic is provided in the next section.

### **3. Review of Literature**

Many studies conduct empirical research on the impact of religion on economic growth and prosperity; and establish the relationship among teachings of Islam and economic growth. Noland (2003) concludes that there is no support for the argument that Islam is unfavorable to growth. It is argued that Islam promotes growth and economic development. The cross country and within country analyses is conducted in the study on Muslim populations in India, Ghana and Malaysia. The findings of the study show positive and statistically significant relationship between Islamic religion and Muslim population in these countries. Noland's research is extremely valuable to explain the impact of Islamic teaching upon growth. However, it does not examine the impact of religion on predominately Muslim countries, nor does it compare them against each other or consider cultural differences among the three countries.

Tessler (2002) argues that Islam hinders growth indirectly through elements of religion those are not amiable to egalitarianism, such as the absence of democracy in the Arab world. Tessler argues that "Islam is said to be anti-democratic because it vests sovereignty in Allah, Who is the sole source of political authority and from whose divine law must come all regulations governing the community of believers". Tessler relies on Huntington's "Third Wave" theory of democratization which swept over most nations after the cold war except the Arab world. This suggests that Muslims and Islamic cultures do not strive or work hard at attaining democracy and personal freedom, due perhaps to lack of social pluralism, tribal and ethnic disputes, close connection between religion and state institutions, and the fact that every facet of daily life in the Middle East is strictly governed by rigid seventh century Islamic laws that do not work in modern day and cannot be challenged.

Barro (2003) supports the argument that democracy influences (although not strongly) economic growth. Barro uses

implementation in their life". This statement explains the importance of Empowerment (Shura).

Equilibrium (Akl'adl wal ihsan) is desirable to achieve human development and economic prosperity in any society. Fakir (2002) says that individuals have the freedom to act, but must do so with manner from which the welfare of the present and future generation is achieved. God says "if you loan to Allah beautiful loan. He will double it in your credit, and He will grant your forgiveness".

Endowment (Al-Wqaf) is also a basic element of welfare of the society. According to ISESCO (2005) Islam has endeavored to fight against poverty. This fight can either occur through a source of income for a person, or through government assistance and unique to Islam and that ensures that man is free from the shackles of poverty. Allah says in Qur'an: "Give your kinsman his due, and the needy, and the way-farer, and squander not (your wealth) in wantonness. Indeed, the squanderers are brothers of the devils, and the devil is ever an ingrate to his lord" Qur'an (17: 26-27: 285).

Zakat is one of the five basic principles of Islam. Zakat provides a vital mechanism for addressing social welfare issues. In Shariah; the word zakat refers to the determined share of wealth given by Allah to be distributed among the categories of those allowed to receive it. It is used to mean the action of payment of this share. All Muslims are required to sacrifice at least two and half per cent (2.5%) of their income to the poor people. Zakat enables to fulfill the social and moral objectives of an Islamic society. It has a moral purpose with respect to the individual. Matthews et al.(2003) analyzes that the social objective of Zakat is to eliminate poverty and to desire for personal accumulation at any cost and to encourage socially orientated behavior.

The Muslim nations continue to face important economic and social challenges. Social unrest in these countries has often been attributed to lack of economic opportunities. Unemployment remains high, with conservative estimates well over 20 percent in the region, especially among the youth and the educated. Despite the importance of the region to world economies, until recently it continued to be ignored, especially among researchers. The topic of religion, Islam in particular, as an influence on economic growth, social and institutional quality has largely been neglected by economists.

2. Empowerment (Shura),
3. Equilibrium (Al'adl wal ihsan),
4. Endowment (Al-Wqaf) and
5. Almsgiving (Zakat).

ISESCO (2005) explain the need and importance of social cohesion. It describes that Islam has called for society cohesion more than one thousand four hundred years ago. Shariah emphasizes the inspiration of cohesive society as it is the process of augmenting a society of shared values, shared challenge and equal opportunities. God says "o mankind! Verily, We have created you out of a male and female, and We have made you into nations and tribes, that you may know one another, Indeed, the noblest of you in the sight of God is the most conscious of Him. Verity, Allah is All-knowing". Qur'an (13:517). "And among His signs is the creation of the heavens and the earth, and the differences of your languages and colours, Verily in that are signs for men of sound knowledge" Qur'an (30:22,406).

Fakir (2002) in the context of responsibility (Faradh) highlights that individual and society has responsibility to use the welfare in a responsible way. Human development and economic growth in any society will only occur if the it's individual and state is responsible. Humans are responsible as they are God's vice-regents (Kalifah) for the care of the earth. Allah says in the Qur'an: It is God who has created for you all things in the earth and remember when your Lord said to the angels: Verily, I am going to place a viceroy (mankind) on earth.' They said: 'Will You place there in those who will make mischief there in and shed blood, while we glorify You with praise and sanctify You?' God said: "Verily, I know better what you do not know" Qur'an (2:29-30:5-6). Cone (2003) discusses that the stress on individual responsibility is seen to be realized in the function of understanding of mankind creation. In all circumstances there is a pressure on Muslims to act in accordance with their understanding.

Salleh (1992) observes that in Islamic perspective the empowerment means the Shuratic decision making of all levels of the Islamic society. It applies collectivity to the decision making on social matters. Such a cure of Shura is closed to its meaning in the Quran: "And who (conduct) their affairs by mutual consultation" Qur'an (42, 38:487). According to UNDP (1995) "human beings should fully participate in decision making and



number them. Surly man is very unjust, very ungrateful” Qur’an (14: 32-34,259:260)

Qur’an explains the spiritual needs of human beings as “Verily, in the creation of the heavens and the earth, and the alternation of night and day, there are indeed signs for men of understanding. Those who (always) remember God while standing, sitting and reclining, and reflect on the creation of the heavens and the earth, (saying): ‘Our Lord! You have not created all this in vain (without a purpose), glory be to You, so save us from the torment of Hell-fire’ Qur’an (3: 190-191:75).

Islam is complete code of life and stresses upon the fulfillment of all types of needs of humans in the light of guide lines provided by the last prophet of Allah. Allah has created all type of resources for the man to spend his life with decent manner. According to the teaching of Islam, Allah created each and every thing of this world and He almighty created the heaven and earth and set down water from the clouds, grew fruits as sustenance for the people.

Ahmed (2002) explains the concept of economics and human development in an Islamic perspective that all the parts of man are created by Allah and basically human beings have two basic needs. These needs are spiritual needs which are fulfilled through belief or faith in Allah, and physical needs which are met by making the best use of all resources created by Allah for man. Man finds all the essential needs of life such as food, water, air, light, heat, moisture on this planet; the pressure of air, the percentage of oxygen, the elements of soil, in such exact proportion that enable to man to live and practice his life steadily and orderly.

## **2. Elements of Economic Growth and Human Development**

Islam explains the principles of social and economic justice, concept of halal and haram, role of state and responsibilities of individual for the utilization and best allocation of resources to bring economic growth and prosperity in the society. The various mechanism of the natural environment serves the humanity and their best utilization brings welfare and prosperity in this world. There are some elements that are considered by shariah as a unique perspective of Islam in matters of value society and these elements are necessary for social cohesion (Ummah). These elements are the main indicators of sustainable development and growth of the individual and society. These elements are:

1. Responsibility (Faradh),

## Economic Growth and Human Development in Islam

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The concept of economic growth and human development is explained in this paper. The study analyses the impact of Islamic teachings on economic growth and human development. The concept of two basic needs of human beings is explained in the context of Quran and these human needs are spiritual needs and physical need. The both types of human needs are fulfilled under the umbrella of Islam. Islam has put down the principles of social and economic justice, brotherhood, rules of earning and spending, duties and responsibilities of individual and state for smooth running of social and economic system. Islam is universal religious. Therefore, it brings prosperity and economic growth all over the world.

**Key Words:** Economic Growth, Human Development, Quran and Islam

### 1. Introduction

Personal growth is known as human development from the perspective of Islamic point of view because Islam seeks to establish a balance between the environment, economic and social dimensions. The concept of economic growth and human needs in Islam is based on the principles that all the parts of body of man are created by Allah (SWT) and human beings have two basic needs including spiritual needs and physical need. The spiritual needs are fulfilled through belief or faith in Allah and physical needs are met by making the best use of all resources created by Allah for human beings.

Allah says in the context of physical needs of human beings that "Allah is He Who created the heavens and the earth and sent down water from the clouds, then brought forth from it fruits as a sustenance for you and He has made the ships subservient to you run their course in the sea by His command, and He has made the rivers subservient to you. And He has made subservient to you the sun and the moon, pursuing their courses; and He has made subservient to you the night and the day. And He gives you of all ask of Him, and if you count Allah's favor, you will not be able to

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Other than his share of profit as mutually agreed upon in the contract of Mudarabah a Mudarib cannot claim any remuneration, salary or fee for the work he has performed for the Mudarabah.

### NOTES & REFERENCES

\* '*Daman*' means to bear the liability for loss or to accept the accompanying risk of loss; it does not include potential loss or the loss due to the capital staying idle. Here it means loss in the original principal sum and same goes for labour, as the entire labour can be lost.

- (1) Al-Kasani, Badai al-Sanai, vol. 7, p. 3545.
- (2) Ibn Qudamah, al-Mughni, vol. 5, p.7.
- (3) Nyazee, Imran Ahsan Khan, Islamic Law of Business Organization (Partnership), pp.87
- (4) Ibn Rushd, Bidayat al-Mujtahid, vol. 2, p.253-254
- (5) Nyazee, Imran Ahsan Khan, Islamic Law of business organization partnership, p.72.
- (6) Muhammad Imran Ismail, Theories of profit and a juristic understanding of legitimate entitlement to profit, paper published by International Association for Islamic Economics, Review of Islamic economics, vol.11, No.2, 2007, p. 63.
- (7) al-Ramli, Nihayat al-Muhtaj, vol. 5, p. 245-46.
- (8) Al-Kasani, Badai al-Sanai, vol. 8, p. 3601
- (9) Sahnun, al-Mudawwanah al-Kubra, vol. 5, p. 6.
- (10) Al-Kasani, Badai al-Sanai, vol. 8, p. 3606.
- (11) Ibn Rushd, Bidayat al-Mujtahid, vol. 2, p. 239.
- (12) Ibn Qudamah, al-Mughni, vol.7, p.165.
- (13) Sarakshi, al-Mabsut, vol.22, p.105.
- (14) Sharbini, al-Mughni al-Muhtaj, vol.2, p.318. Al-Nawawi, al-Majmu, vol. 14, p.210.
- (15) Ibn Qudamah, al-Mughni, vol.7, p.164.
- (16) Al-Baji, Muntaqasharh al-Muwatta', vol.7, p.119.

Parties of the contract may create a reserves provision from the profit of the business with their mutual consent.

- If Mudarabah business suffers a loss it can be compensated by the profit of the future operation of the joint business or the reserves created in the past. If at the time of the liquidation of the business the losses are in excess than profits, the balance of losses will be settled with the capital. If some transactions have loss while some have profit, the profit can be put to use to balance these losses.
- The Profit of business is shared among the partners when it accrues, but this accrual does not mean a transaction- wise calculation of the profits; it means the overall adjustment of profits and losses over a particular period of time, which will be treated as the closing of the accounts but not necessarily the winding up of the business. However, the partners can provisionally draw the profit that will be subjected to adjustment at the time of finalization of the accounts.
- The realization of profit from the operations of Mudarabah entitles the agent manager to get his share of profit but it is not an absolute entitlement, as it is subjected to retain interim profits for the protection of the Mudarabah capital. It will become an absolute right of Mudarib only when distribution of profit took place.
- For determining profit, the receivables will be taken at their cost or net realizable value, whichever is lower. But while considering their cost, any related provision for bad debt should be deducted for this cost. While determining receivables, time value of money and discount on current value (usually given due to extension in payment period) should not be taken in to account.
- To realize net profit of Mudarabah all the expenses should be deducted in accordance to the customary practice and provisions of the contract.
- The distribution of profit will be undertaken against the net profits of the Mudarabah operations. The share of Mudarib becomes secure after the liquidation of the Mudarabah and the investor recovers its capital and share of profit.

profit will be considered as invalid and 500 dirhams taken by the agent manager as profit will be returned as a part of the capital. The provision of returning of the capital is based on the prophetic saying that 'A Muslim is like a trader, just as the trader's profit is not complete until his capital is restored, so too a recommended worship of a Muslim is incomplete until he performs the obligatory worship'. (13)

Shafiis also agreed on this ruling that agent manager has to return the amount of profit that have been taken previously as an expected return, in case if loss is incurred in themudarabah business. They argue that expected profit does not belong to the ownership of the agent manager and thus he has no right to keep it if there is loss. (14)

Hanbalies did not object to the position of the absolute ownership of the amount of profit taken from the running mudarabah business as an expected return. They recognized the absolute ownership of such a profit on the basis of analogy with *musaqah* contract where worker owns his share from the day when fruit reveals to grow on trees, thus the right of ownership from the expected return of mudarabah business goes to the agent manager.(15)

Malikis are too rigid in this regard. According to them, it is prohibited to take expected profit from running mudarabah business. The presence of investor and physical possession of capital is mandatory before the profit distribution process. An agent manager cannot take his expected share from the Mudarabah business without the presence of the investor and ensuring that the capital has been physically possessed to him. If the investor was present during the allocation process of profit but the capital has not been possessed physically to the investor the distribution of profit will not be considered as valid. (16)

Our discussion regarding the methodology of profit distribution determines the following:

- The process of the distribution of the profit is based on the finality of the operations and tasks of the Mudarabah business at the time of physical or constructive liquidation of Mudarabah.
- Either of the partner of the contract have a right to donate his share of profit to the other partner. A bonus can also be awarded by the investor to the agent manager (Mudarib).

Above discussion determines the scope of proportional division of Mudarabah profit now we will discuss the second phase regarding the methodology of profit distribution.

The procedure of allocation of profit relies on the final outcome of the operations at the time of physical or constructive liquidation of the Mudarabah. Agent manager is bound to return the capital to the investor before the liquidation of the Mudarabah. Jurists are unanimously agreed that mudarabah cannot begin without relinquishing the control of the investor over his capital, thus mudarabah contract could not be liquidated unless the agent manager returns the capital to the investor. Physical possession of capital to the investor is essential in order to determine the surplus from the capital because the profit is defined as any surplus from the capital amount.

IbnQudamah states: (12)

“And there is no profit for the agent manager until he restores the capital. This means the agent manager is not entitled to anything from the business until he returns the capital to the investor, and when there is loss and profit, the former will absorb the latter irrespective of whether they occur at the same or different times. This is because profit means any surplus from the capital and anything which has no excess has no profit.”

It is recognized that the investor and the agent manager may take the probable return of the mudarabah business yet the contract is not dissolved. The partners can provisionally draw the profit without returning the capital; such a case will be treated as closing of the accounts but not the winding up of the business and original mudarabah will be continuing in force. However such a provisional draw of profit will be subject to adjustment at the time of finalization of the accounts. Explaining the position of HanafisSarakshi illustrate a case regarding this matter.

To regulate a mudarabah an investor handovers a 1000 dirhams to an agent manager. The agent manager earns a profit of 1000 dirhams from mudarabah capital. This accrual is shared by the parties of the contract on equal basis and each of them took 500 dirhams whereas the capital remains with the agent manager to carry on the mudarabah business. Unfortunately, after that business turned to losses. According to Sarakshi the former distribution of

“Malik, al-Shafi‘i, and Abu Hanifah permitted this, while Ashhab, from among the disciples of Mālik, said that it is not.”(11)

Our discussion regarding the proportional division of Mudarabah profit determines the following:

- Both parties of the Mudarabah have freedom of agreement on the division of the profit with mutual consent. They may come on equal division or to allocate different proportions however this ratio should be decided at the time the contract is concluded. For example they can agree on that 30, 50 or 60% profit will be for Rabbul-mal and the remaining 70, 50 or 40% will be for Mudarib but a lump sum of profit or return on investment cannot be allowed or agreed upon for either side of the parties of the contract. They may agree on equal sharing or destined to get different proportions.
- For different situations different proportions of profit can be agreed upon by the parties of the contract. For example a Rabbul Mall can offer a Mudarib that if he deals in Sugar he will be entitled to get 40% of the profit and if he deals in cloth he will get 50% of the profit.
- Parties of the contract have a right to change the ratio of profit at any time, but it will remain effective for the period for which it has been mutually fixed. If the ratio of the profit has not been predetermined in the contract the profit will be shared on equal basis or the customary practice of traders will be followed to determine the share of profit. In case there is no customary practice the contract will be regarded *void abintio* and the Mudarib will get remuneration for the services he has rendered.
- The parties of the contract may agree on the condition with mutual consent that if the profit of the Mudarabah will be over than a particular ceiling, a certain nominated partner will get a greater share of the profit and if the Mudarabah could not attain the particular ceiling as it remains below or stays to the predetermined boundary, allocation of profit will be done according to the stipulated ratio.

The creation of inequitable situation in case of fixed amount of profit can be stated in an example. Let's see if Rabbul Mall agrees to pay a fixed amount of Rs. 1000 to the agent manager at the beginning of the contract but unfortunately Mudarib fails to earn any profit during the period of the contract or he earns a profit equal to the guaranteed amount only, all the profit will go to the Mudarib and there will be nothing for the investor. And in case if the profit amount will be less than the guaranteed income Rs. 1000 to Mudarib it will be worse situation as compared to the previous one. Here the investor has to pay Rs. 1000 to Mudarib from his own money in order to keep up his word. Furthermore, knowing the guaranteed amount of profit will affect the efficiency of Mudarib and he will have no interest to maximize the amount of profit as there will be no incentive for him towards this maximization of profit as it will be for the sake of the investor only.

A similar position has been discussed by Malikis in al-Mudawwanah: (9)

[Sahnun]: What do you think if I take a palm grove on the condition that the entire produce that Allah may grant will belong to me? [Ibn al-Qasim]: There is no harm in this according to Malik. [Sahnun]: Did Malik permit this? [Ibn al-Qasim]: The reason is that it is the same as a bida'ah given to you on the condition that the entire profit is for you. Further, as it is permitted that he leaves half the produce for your labor; he can also leave the entire produce to you."

An accepted standard ratio of Mudarabah profit for the parties of the contract has not been determined by the classical jurists, they entirely let it on the discretion of the parties of the contract at the time when contract is being agreed upon. Jurists are unanimously agreed on the point that the profit of Mudarabah should be allocated in ratio or percentage. In sharing the amount of profit the general rule is "equality" (10) so in case if the ratio or the proportion of the profit has not been mentioned in the contract the profit will be shared on equal basis among the parties of the contract.

It will not be permissible for either side of the contractual parties to stipulate an amount of profit for the third party. It is only permitted for the slave of the rabb al-mal. IbnRushd states in this regard:



Mudarabah where work in itself becomes a source of profit as there is absence of capital by the Mudarib.(5)

It is further to be noted that Sharikat al-wujuh is impermissible according to Malikis on the basis that partnership is firmly linked to wealth or work and both of these segments are absent in the case of Sharikat al-wujuh.(6)

According to Shafis entrepreneurial activities are permissible only on the basis of wealth thus all other organizations which are devoid of wealth are not seen as the legal basis for the entitlement of profit. *Sharikat al-wujuh* as it is based on *daman* and the *sharikatal-abdan* as it is based upon labour are impermissible because of the absence of the involvement of the wealth in their view. So far it is concerned to the question of the entitlement of the Mudarabah business where profit is shared by the entrepreneur without sharing his capital and he entitles to profit due to his work and management; they treated Mudarabah on the basis of analogy of muzaraah not as a form of partnership. (7)

#### **Entitlement of profit in Mudarabah contract**

The acquisition of profit is the basic goal of a Mudarabah contract and this has always been a privileged sign for Rabbul Mall and Mudarib to gain more profit. Profit earned by Mudarabah is shared among them as per the provisions of the contract. The profit of Mudarabah cannot be stipulated only for the investor or only for the worker.

Regarding the conditions of the Mudarbah profit, the discussion of the classical jurists can be allocated in two phases. The first phase relates to the proportional division of the Mudarabah Profit whereas the second phase relates with the method for the distribution of the profit. It is unanimously accepted by the jurists that the profit of Mudarabah must be expressed as a ratio or as a part of the total profit. The fraction or the proportion of profit must be expressed at the start of the contract at appropriate time when Mudarabah is being negotiated among the partners. The profit cannot be expressed as a percentage of Mudarabah capital or in form of fixed amount, if it happens it will invalidate the contract. The reason for the invalidity in form of fixed amount of profit is the creation of inequitable situation or uncertainty for sharing the proceeds of the business. Thus any condition that leads to uncertainty or inequitable situation will render the contract unenforceable. (8)

and continuous retention of ownership. The principle of 'al-Kharaj bi-daman' is more general in its meanings thus it not only covers profit but includes rewards/revenues being its validity in the general law of contract and thus it is applied to other factors of production other than the wealth i.e. land and labour.

The Hanbalis opines are quite similar to those of the Hanafis, especially with respect to wealth.

IbnQudamah states:(2)

“In our view, daman is a basis for entitlement to profit on the argument of sharikat al-abdan. The acceptance of work involves daman for the person accepting work (as an independent contractor) and provides a basis for entitlement to profit. It is, therefore, similar to the acceptance of wealth in mudarabah. The worker through his work is entitled to profit; it is thus like a mudarabah.”

An analysis of IbnQudamah statement reveals that the concept of *daman* as stated by the Hanafisis also being acknowledged by the Hanbalies, although there is a difference in employing the reasoning as it was employed by the Hanafies. It is clear from the above passages that wealth, work and liability for bearing the loss are at least three reasons for the entitlement of profit. (3)

According to Malikis for entitlement to profit work is accommodated as a subservient to wealth. A partner is entitled to the profit on the basis of wealth; he has contributed in a venture whereas if he contributes work along with his wealth it will be considered subservient to wealth. Seemingly Malikis consider work not an independent variable for the entitlement of profit but it is not as. The analysis of Malikis jurists demonstrates that the legal source for the entitlement to profit is the contribution of either work or capital.

IbnRushd of Malikis states: (4)

“The third element is work which is subservient according to Malik, as we said, to wealth and is not treated as an independent basis. According to Abu Hanifah, it is treated as an independent basis with wealth.”

No doubt IbnRushd hails work as a source of profit subservient to wealth in the contracts where wealth accompanies labour and when work is not dependent on wealth it is a valid source for entitlement of profit. As we find that Malikis allow shirkat al-abdan and