

Sue is a magic word...the get rich scheme that everyone is looking for every opportunity to do. No cost to them but they just stand to earn a large sum of money. Avoid contractual suicide by performing obligations under a humane agreement. It's an injustice to ask professionals to operate under draconian measures. Contracts should be mutual & show respect...and not make you a slave & the other party a master. They must be devoid of ego & embrace brotherhood. Businesses should not get carried away with unenforceable, hardcore man-made rules.

The Prophet (p): "Whoever does business legitimately (halal) & decently such a person will meet God with their face as a full moon; and whoever does it arrogantly & excessively they will meet God while He is angry at them."

A Real World Contractual Mess: A woman's trauma: "Most companies were happy to proceed on a verbal agreement setting forth certain ground rules: Individuals would control the taping, identifying names would be changed, I would show them what I wrote about their company & change or delete anything they did not approve. I also signed confidentiality agreements promising not to reveal anything I learned about the company's business. Some companies, however, referred the matter to their attorneys so a contract could be written. **In no case where attorneys became involved** – mine as well as theirs – **could we reach an agreement on working together.** Negotiations with one company stand out. Having agreed on the procedures & safeguards, we expected to have a contract signed in a matter of weeks. But six months later, after **thousands of dollars in legal fees & untold hours of everyone's time**, the negotiations reached a dead end. The company's lawyer was demanding veto power over my entire book; it meant the company could (if it chose) prevent me from publishing the book even if I used no more than a handful of examples from this one company. I could not agree to that. Meanwhile, my lawyer was demanding rights to use the tapes of conversations anyway I wanted. The company could not agree to that; it meant I could (if I chose) put video of their company on TV, make them look bad, reveal company secrets & open them up to being sued by their own employees. These extreme demands could have been easily dismissed by the principals – except they had come after months of wrangling with the language of drafts passed back & forth. Everybody's patience & goodwill had worn out. **The adversarial nature of the legal process had polarized us beyond repair.**"

Contracts must **not** be technically obscure. Many default clauses are problematic because they are **one-sided**. **Imprecise language is used making it sound pretentious.** The Quran recommends that **future contracts be evidenced in writing.** This does not, nay cannot, be construed to mean harsh conditions. **Requiring people to behave like enemies can stir up mutual enmity that remains long after a case has been settled or tried, and the lawyers have moved on.** Because our legal system is based on the model of ritual battle, the object – like the object of all fights – is to win, & that can interfere with the goal of resolving disputes.

Islam puts certain conditions and restrictions to obviate the chances of **bitterness between the employer & employees.** The Quranic verses encourages & promotes the spirit of love & brotherhood between them.

The bullying evils that are connected with business transactions are grievous & must be transcended so that economic "peace" can prevail in the world. **Don't lock yourself into the worship of the status quo as policy.** If you ever enter into this other world...you may never again be contented with what you have been accustomed to think of as "progress," "civilisation" & "standards." Professionals should try a dose of "meekness" (being straightforward) – a strength unparalleled, bringing great rewards here & after.

This question was put to Hamza Yusuf: With regards to the Shariah, why do you think that the rules regulating trade/industry/business transactions **have been abandoned by the Muslims?** "Because we've become subject **completely** to the dominant world order, which is a capitalistic, western world order. International law is now western law. Read what happened in the 19th century with the abdication of Islamic Law & the usurpation of its place by western legal systems, with some amalgamations like the Anglo-Muhammadan law, where personal matters (e.g. inheritance & marriage) were left to the scope of the Islamic Tradition, **but those matters that related to business/commerce & penal codes came under the jurisdiction of western secular law.**"

Assertions about business clauses spark claims & counter-claims that end up in a dead-end of conflicting interpretations. Contractual madness have caused havoc. The issue with Amazon, its Kindle e-reader, removal of George Orwell's books from those who own the device made a joke of their contract. It has left a bitter taste... The CEO, Amazon.com: "This is an apology for the way we previously handled illegally sold copies of 1984 on the Kindle. Our 'solution' to the problem was stupid, thoughtless & painfully out of line with our principles. With deep apology to our customers."

Contracts, lawyers, compensation...recipe for disaster...the real axis of evil. Barbarian lawyers have a willingness to pursue frivolous lawsuits. Reason: they are the ones to profit. Many of the ills in the business society that we would condemn for moral reasons can be eliminated with real social weight & capital. If our goal is "change," to make a more just & moral business society not simply for the perpetuating of secular, capitalistic values but because that is what is most pleasing to God, then we will have to embrace the Prophet (p). **But why?**

Because in the course of his lifetime he was a businessman. His simple qualities of honesty, decency, integrity & fairness were what attracted Khadija, an older & wealthy businesswoman. His genuine business conduct brought in twice the profits. She questioned her servant Maysarah about Muhammad's deportment; he was awestruck by his wonderful demeanor. Khadija who had refused many offers for marriage & swore never to get married again, could not stop her heart from opening to such a unique man – a man who was generous & lenient in bargaining. This beautiful woman (40) proposed marriage to the younger, trustworthy businessman, Muhammad (25). Such a man is then an authoritative voice when he announces: "Have goodwill for each other." He was not harsh. He followed the words of God, "Say those words that are the **BEST.**" Business according to God (2:283) can also be conducted **WITHOUT a contract:** "**If you transact business with another merely on TRUST, then the one who is trusted should fulfil their trust & fear God.**" Where are the trustworthy business people?

Muhammad was **not** shrewd, a word coupled with the modern businessperson who is both shrewd & dogged for their own self-interest. When shrewdness becomes guile & doggedness becomes cold-heartedness, people & communities are readily sacrificed on the altar of Mammon (a source of evil & corruption).

Business standards must be rewritten using Islamic Law. We must show the intellectual gumption necessary for such an enterprise. Contract-makers have sought to hide the confusion & vacuity of their wordy agreements in the dense underbrush of jargon & jumbled prose. **Complexity & obscurity appears to have professional value.** Those who make things clear are irrational & arrogant & are viciously criticized. However, **critical thinking fused with spirituality** is crucial for proper reform.

Three-quarters of our lives are spent in business. Let us be among the FEW...the few who believe in God & conduct their business with the guiding principles of **honesty & integrity.** Success only comes when such words are translated into **action.**

BUSINESS ETHICS

...LET THERE BE TRADE BY

GOODWILL

A Serious Warning

QURAN (38:24): "MANY ARE THE PARTNERS IN BUSINESS WHO WRONG EACH OTHER; NOT THOSE WHO BELIEVE & WORK DEEDS OF RIGHTEOUSNESS; HOW FEW ARE THEY." HOW FEW INDEED!!!

THE BOTTOM LINE DOES NOT HAVE TO BE THE TOP PRIORITY

Complying with the normative & theoretical guidelines of the Quran & Hadith, it is **not** only morally but professionally **unethical**, to conduct business using **false promises, deceptive wordings & harsh conditions.** This use of **dead language**, stripped of insight, ethics & compassion, has now become commonplace. Businesses employ this rigor-mortis language – **devoid of mercy & a respect** for the other – so as to **erase** the social & all of the human bonds & conditions necessary to provide human relationships with joy, dignity, hope, justice & a measure of moral & social responsibility. Business schools churn out tens of thousands of these **deaf, dumb & blind professionals** who are endowed with sophisticated skills of management & the **incapacity** for common sense, compassion or remorse. These technocrats mistake the art of manipulation with knowledge. Islamic business, or for that matter any business, must be conducted based on **Truth, Trust & Integrity.** The enticement for business persons to conform to moral behaviour is that it is the best worship. **A spiritual contract always trumps a legal contract.** The health of one's soul is based upon the integrity of one's business transactions. When that integrity is damaged one's soul suffers, whether or not the mind yet knows it. "Profit has precedence over personal considerations" the sayings go, but **business is about much more than money – it's about relationships.**

THE PROPHET (P):

"THE TRUTHFUL & TRUSTY MERCHANT IS ASSOCIATED WITH THE PROPHETS, THE UPRIGHT, & THE MARTYRS."

1. "O YOU WHO BELIEVE! WHEN YOU DEAL WITH EACH OTHER IN TRANSACTIONS INVOLVING FUTURE OBLIGATIONS IN A FIXED PERIOD OF TIME, REDUCE THEM INTO WRITING." (QURAN 2:282)

2. "FULFILL YOUR CONTRACTS. CONTRACTS WILL BE ASKED ABOUT." (QURAN 17:34)

3. "LET THERE BE AMONGST YOU TRAFFIC & TRADE BY MUTUAL GOODWILL..." (QURAN 4:29)

"BUSINESS PERSONS WILL BE RAISED ON THE DAY OF RESURRECTION AS EVIL-DOERS, EXCEPT THOSE WHO FEAR GOD, ARE HONEST & SPEAK THE TRUTH."

THE PROPHET (P) ON THE FINAL OUTCOME OF PROFIT.

Islam is the only major world religion founded by a businessman. Is there a role for religion & spirituality in a global & postmodern business world? When Muhammad (p) was a young man, before he had received the call to Prophethood, he co-founded a group called the "League of Ethical Businessmen," intended to encourage the merchants of Mecca to be honest in their dealings and to share with the poor a part of their wealth. His efforts there added to his personal reputation for honesty & generosity.

Let's analyze the pertinent verses in the Quran & the sayings of Muhammad (p) in order to develop an essential ethics theory. The Islamic ethical system is balanced, fair, just & benevolent. It seeks to respect the rights of both primary & derivative stakeholders without allowing for exploitation, nepotism & other human ills.

Prosperity through business must rest upon a moral foundation. It is popularly supposed to rest upon an immoral foundation – **trickery, sharp practice, deception & greed.** One hears even an otherwise intelligent person declare that **"No one can be successful in business unless they are dishonest,"** thus regarding business prosperity – **a good thing** – as the effect of dishonesty – **a bad thing.** Such a statement is superficial & thoughtless, and reveals a lack of knowledge of moral causation, as well as a limited grasp of the facts of life.

Ethics: Moral Principles on which you stand like a rock. Einstein said: Relativity applies to physics, **not** ethics. Matter is the food of the body while ethics is the nutrition of the soul. Muslims were not the first to conceive the idea of business ethics. Plato discussed justice in **The Republic**; Aristotle explicitly discussed economic relations, trade & commerce in his **Politics**. **Aristotle condemned usury.** He gave the classic

definition of justice as giving each his due, treating equals equally & trading equals for equals.

These issues were analysed by Christian thinkers. Thomas Aquinas discussed business in the context of justice & honesty. **He condemned usury.** Luther, Calvin & Wesley & other personalities of the Reformation, discussed trade & commerce.

Shortly after the Bernard Madoff story broke, "Religion & Ethics Newsweekly" broadcast a program called "Jewish Reaction to Madoff Scandal." In the broadcast, Rabbi Yitzchok Breitowitz said Madoff's crime was an affront to the Jewish religion. "If you are not honest in business, you are not a religious Jew, because the same Bible, the same God that requires certain ritual observances — keeping kosher, observing the Shabbat — says you have to be honest in your business affairs."

As with Judaism, other faiths have teachings and principles that should serve as guidelines for conducting business ethically. Among them: •Christianity: Henry Spaulding, Christian ethics professor at Nazarene Theological Seminary, said the Christian faith should be lived out in all of life, including business. This holistic approach to morality means "the virtues of graciousness, fairness, justice, generosity and honesty should guide a Christian business scheme for ethics," he said. •Islam: Because Islam looks at itself as a way of life, not just a religion, business ethics cannot be separated from a Muslim's daily life, said professor Rafik Beekun, author of "Islamic Business Ethics" and co-director of the Center for Corporate Governance & Business Ethics at the Uni of Nevada. "In the Quran, man is described as the trustee of God on earth, so he must act in accordance with the conditions of that trust. The role model for Muslims is the Prophet & the word God uses to describe the Prophet's pattern of behavior is *khuluq*, which is a derivative of the word 'ethics.' So the role model for Muslims should be a model of behavior that is based on ethics."

Western business ethics are secular, whereas Islamic business ethics originate from the Quran & the sayings of the Prophet (p). A breach of the former never results in the violator incurring a sin. In case of the latter, a breach always causes divine displeasure. Consequently, Muslims abide by these instructions **not** only for the betterment of society, but also to secure their afterlife.

The current business world engenders myriad social ills. It all begins with contracts which appear as a war of words which has stagnated into an intellectual & discursive cul-de-sac of claim & counter-claim about what does & does not qualify as a breach. There exist many questions as to why the global economy appears so

unjust. Huge income & wealth disparities & exploitation are all too apparent. Rewards in business are too often unrelated to effort but rather the result of **sharp & unethical** practices.

There are six components needed to be understood by business leaders: Fulfillment of promises, exactness in weights and measures, truthfulness & clarity, efficiency, selection of merit & investigation and verification. In the context of the employee-employer relationship, Islam clearly declares that both enjoy the same dignity, socially & legally. Muslims are instructed to choose for others what they choose for themselves.

In an Islamic system, **ethics & business are not only compatible but they are also inseparable. In the modern West, economic activity has been divorced from religion just as politics has been separated from religion.**

"God will bless the transaction in which the buyer & the seller are unambiguous & frank & have goodwill for each other." According to the Islamic principles of openness & accountability, a business operating without following the Islamic ways of conducting business, knowledge, and fair practice has no right to operate. From packaging to marketing; from service delivery to information sharing the whole process **must be based on truth, trust & integrity.**

The Ummah became fascinated with Capitalism after witnessing its "successes" & not through knowing the validity of its thoughts; and from its submission to its rules, and not from comprehending how these solutions emanate from the Capitalist viewpoint of life. Therefore, the Ummah is devoid of the Capitalist thoughts intellectually, although it lives according to the Capitalist way of life. The Ummah has become devoid of Islamic thoughts in practice, although it conducts some of its rituals & studies its thoughts. We have drifted far from this divine writ: **"Whoever believes in God have grasped the most trustworthy handhold that never breaks."** (2:256)

Moral needs such as pride & honour, or spiritual needs such as the sanctification of the Creator, are not recognised economically & are therefore disregarded. We must implement policies & procedures that are conducive to the society's good. As a general guide to Muslims in business: Adopt the following overriding principles: **1/Love God's commands more than your business; 2/Deal justly; 3/Be honest & truthful; 4/Keep your word; 5/Be humble; 6/ Do not deal in fraud & bribery.**

Two US court rulings suggest that judges are developing a more sophisticated sense of how corporations conduct online & tech transactions with their customers. "The EULAs or terms-of-service agreements

are long & legalistic, the deals are offered on a take-it-or-leave-it basis & the terms are often **oppressive & one-sided.** As a result, the legal hegemony of the EULA is cracking. This is a good development for consumers, who are saddled by terms they have neither the legal sophistication to understand nor the bargaining power to avoid."

One American economist, Paul Samuelson, eschews discussions of method in economics/business as basically satanic, an oddly theological statement for a secularist. "It is more correct, albeit not very informative, to say that soft sciences spend time in talking about method because Satan finds tasks for idle hands to do." Contracts should be made easy & clear.

10 Reasons to Avoid Restrictive Contracts

- 10. Business reputation.** You could damage your reputation in the business community.
- 9. Business Relationships.** You could **sever** your business relationship, friendship, goodwill with the other party.
- 8. Lawsuits.** You could be sued. Courts do **not** enforce one-sided agreements but you will have to fight.
- 7. Time Away From Business.** If sued, you could be forced to spend time away from your business in order to respond to requests, attend depositions, and litigate the matter in court.
- 6. Significant legal fees** will be incurred.
- 5. Specific Performance.** Depending on the nature of the contract, you could be ordered by the court to perform your obligations under the contract.
- 4. Contempt.** If you don't obey the court's order: Could be fined, and/or imprisoned.
- 3. Compensatory, Consequential Damages.** Forced to pay money damages to the non-breaching party, in an amount that puts that party in as good a position as it would have been in were it not for the breach.
- 2. Punitive Damages.** Ordered to pay damages, not limited by the amount of the other party's losses; very significant.
- 1. Lose All The Way Around.** You could end up spending much more time, money, and energy resolving the breach.

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