

**Ubudiyyah
Business Model
(UBM)**

**Human Development
Services (HDS) Guidelines**

UBM-HDS-002

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Ubudiyah Business Model	Function: Human Development Services	Document Number: UBM-HDS-002
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Document Amendment Sheet

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6	-	1-6-2020	Indemnity Bonds	24	1	M Faisal	M Faisal Sh Hashim
7	-	1-6-2020	Effective Date of Min. Wage Increase	28	1	M Faisal	M Faisal Sh Hashim
8	-	1-6-2020	Changing employment terms in crisis situations	28	1	M Faisal	M Faisal Sh Hashim
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13	-	1-6-2020	Religious activities of other communities	33	1	M Faisal	M Faisal Sh Hashim
14	-	1-6-2020	Dress code for female employees (h)	34	1	M Faisal	M Faisal Sh Hashim
15	-	1-6-2020	Releasing dues on condition of exit interview	37	1	M Faisal	M Faisal Sh Hashim

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Introduction

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

The basis of **Ubudiyah Business Model (UBM)** is that Allah *Subhanahu wa Ta'aala* has created man for His Ibadah alone. At the same time He has permitted business and more over in His master plan has made business and commerce a key fundamental of our economic and social system as human beings.

How to philosophically and operationally align and establish Allah's *Ubudiyah* in business and its related activities is the subject of the *UBM*. The key component to the implementation of this model is the appropriate *development of the people* who use it, and a *culture/environment* conducive to nurturing it. This is the primary function of the Human Development Services Department.

There are a few pivotal paradigm shifts that have to take place for the UBM system to work, and the HDS Department is the pivot of the facilitation of those shifts. Some of the most important shifts are that:

- a. **Business is for Man, NOT: Man is for business!**
- b. **Resources are for Man, NOT: Man is a resource!**
- c. **Task is for developing Man, NOT: Man is for performing task!**

Man is Allah *Ta'aala*'s finest creation.

لَقَدْ خَلَقْنَا الْإِنْسَانَ فِي أَحْسَنِ تَقْوِيمٍ (سورة التين-4)

“Definitely we have created the man in the best of forms”

وَلَقَدْ كَرَّمْنَا بَنِي آدَمَ (سورة الاسراء--70)

“And indeed we have honored the children of Adam”

Therefore every individual in the organization is Allah's *Best of Creation* and has the divine right to be *respected, cared for* and *developed*. Not primarily for the benefit of the organization, as per the materialist perception of business, but because he is *a human being*, and this is his right, and the organization is responsible to ensure that this is happening!

From the employees' perspective, they are serving the organization and as such are responsible before Allah *Ta'aala* for consistently working in the best possible way for the betterment of the organization and its "*Ja'iz*" (Islamically permitted) objectives.

In summary, from the perspective of the organization towards its people, it is responsible for their *care and development* as illustrated in the following Hadiths:

خَيْرُ النَّاسِ مَنْ يَنْفَعُ النَّاسَ (كنز العمال)

“The best of Mankind are those who benefit Mankind”

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كُلُّكُمْ رَاعٍ، وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ (البخارى)

“You all are shepherds (responsible for those under you), and you are all responsible for your flocks”

From the perspective of the employee, he is responsible to do his very best for the success of the objectives of the organization. In so doing, both employer and employee will discharge their duties with consciousness that they are primarily discharging the requirements of *Ubudiyyah* toward Allah *Ta’aala*, above and beyond the material benefit or remuneration acquired in the process.¹ Their hope for Allah’s pleasure and reward far outweigh their desire for worldly gains, while the fulfilment of rights and dues of one another is perceived as an act of worship!

With the presence of such a consciousness from both the employer and employee, and the synergy that would naturally generate from this dynamic partnership, coupled with Allah’s *Barakah* and assistance, dramatic results would definitely manifest, *In sha Allah!*

The HDS department is primarily there to develop *this consciousness* and the *environment* to facilitate it.

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Human Development Services (HDS) Planning

HDS Planning is an integral part of the HDS Function and is interlinked with the Overall Business Plans of the organization.

The HDS Plan is derived from the established objectives of the organization. The department heads prepare their Personnel Requirement Plan for a financial year to achieve the goals of the department and the organization. This document helps the HDS Department to assess and anticipate the personnel needs of the organization.

Department Profile

A documented Department Profile helps in clearly defining the roles and responsibilities of each department and enables the organization to:

- i. Justify the purpose and existence of each department.
- ii. Identify non-value adding or duplicate functions.
- iii. Logically allocate functions to appropriate departments.
- iv. Reorganize and merge various functions.

Position Profiles

A documented Position Profile clearly defines the roles and responsibilities of each position that exists within every department and enables each department to:

- i. Rationalize the existence of each position.
- ii. Identify core competencies for each position.
- iii. Clearly define responsibilities and Key performance Indicators
- iv. Indicate the interfaces and relationships with other positions.

Department and Position Profiles are subject to change in accordance with changes made in the structure and functions of departments and or changes in the responsibilities and specifications in the Position Profiles. Such changes are only made after discussions between the respective Department Head(s) and the HDS, reviewed and approved by the Senior Management.

HDS Planning Policies:

In order to ensure that the integrity of the organizational structure and positions approved under the structure is maintained, the hiring of staff should be carried out **only** against the approved organizational and departmental structures and positions and the approved annual plan. Modifications in the organization structure, department and position profiles, if any are only effected after the formal approval of the senior management.

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Preparing the Annual Personnel Plan:

The HDS uses a proactive approach towards preparation of the annual personnel plan for the ensuing year, once the business plan is ready. Additional personnel may be needed due to business expansion, employee turnover, promotions and employee separation due to death or retirements.

The HDS requests each department to prepare the Annual Personnel Plan on a prescribed format in the last quarter of the financial year, which is then consolidated by the HDS at the organizational level. This plan gives a complete picture of the Positions to be hired and the timeframe for hiring. The plan is implemented after the review and approval.

Performance against the plan is reviewed on a monthly basis. Changes, if any, in the original plan are discussed and approved by the appropriate authorities.

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Recruitment & Selection

In order to hire suitable high caliber people, the process of Recruitment and Selection has become a vital activity in dynamic organizations. The HDS Department plays a vital role in recruitment and selection through a planned process to ensure that the persons hired meet the approved Position Profile so that they can perform at the expected levels.

Recruitment relates to the process of seeking and attracting a pool of talented people from which qualifying candidates can be chosen for vacancies. The **Selection** relates to the process of choosing, the individuals who are most likely to perform the job successfully from the pool.

HDS Recruitment and Selection Policies:

The HDS department usually has written Recruitment and Selection Policies and Procedures which are part of the HDS manual. The sets of policies for recruitment and selection may include but not restricted to the following:

- i. Hiring persons only against the approved HDS Plan which is normally aligned to the business plan of the organization.
- ii. Hiring is concurrent to the approved Position Profiles only so that the candidates are hired as per the job description and job specifications on merit.
- iii. Rehiring of employees who were terminated on disciplinary grounds is discouraged.
- iv. In case of considering employing females the working conditions should comply with the Shari'ah guidelines such as follow:²
 - a. If possible, the females may be allowed to work from home.
 - b. There should be separate prayer place, cafeteria and washrooms.
 - c. Females must be informed about the dress code requirement of the organization at the time of recruitment.
 - d. Arrangements must be made to ensure segregation between men and women. If job requires dealing with male customers, then there should be limited interaction to the level of necessity. They should do so while maintaining their dignity and chastity.
 - e. Shifts should be arranged in such a manner that any woman is not left alone with a non-*mahram* man.
 - f. Women employees should be hired for day jobs only. It is not appropriate to hire them for evening or night shifts. Exceptions can be allowed considering the nature of the job - for example nursing staff for female wards. [Reference: Fatwa HDS-010]
 - g. It is not permissible for Muslim women to travel without *mahram*.
 - h. In non-Muslim or secular countries non-Muslim female employees do not have to follow shariah requirements (such as dress code or travelling with *mahram*) if they are not sharing office with male Muslim coworkers. However, they will not be allowed to spend from company's account on forbidden items such as pork, alcohol etc. (in connection with meetings with customers). Further, if they are sharing office

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with male Muslim workers then certain requirements will have to be fulfilled eg. *Khalwah*, dress code etc. such measures are required to preserve the Islamic values of the organization.

But one has to be careful in these matters since local laws may not allow the employer to apply shariah guidelines.

Candidate Search

Data Bank of prospective candidates:

A proactive HDS department builds and maintains a databank of prospective candidates to use it for future hiring. The following sources help to build such data bases:

- i. Graduate directories of universities and professional institutes.
- ii. Job announcements on the web-site of the company, web based job portals and professional networks, newspapers and the intranet (web communication within the organization).
- iii. CVs from employees and other sources of referrals.
- iv. Unsolicited applications from Walk-in-candidates, through mail and visitors on the web-site.
- v. Executive search and placement service providers.
- vi. The HDS Department initiates the position specific Recruitment and Selection process, as per the organizational HDS Plan. This process is also initiated in situations where replacements may be necessary, due to employee terminations, retirements, resignations or death.

Confidentiality of Job Application

Job application is a confidential document and therefore is an *Amanah*. In particular, if the applicant is already working somewhere, he would not like his current employer to find out that he is looking for a better job.³

In this context, it is the responsibility of the HDS department to ensure that the application remains confidential and that **only** the concerned people of the organization get to know about it.

Screening & Assessment

Normally the HDS department picks up CVs from the existing database that meets the requirements of the vacancies. CVs selected from the database are evaluated against the Position Profiles through a Pre-Interview Process to ensure that the candidates who meet the job requirements are called for initial interviews. It may happen that the existing database may not have the right candidate. In such situations the HDS department may decide to adopt a suitable mode of generating the CVs or inviting the applications through

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job announcements in the print media, websites or the job portals, personal referral or using the services of the external consultants.

Job Advertisement

Organizations place job announcements on their websites, professional networks and or newspapers.

Sometimes these announcements are ‘blind ads’ as the identity of the organization is not disclosed. However, an indicative description is given to help the prospective candidates to make the decision to apply or ignore. In other cases the organizations make the job announcements with full identity and disclosures which is normally known as “Open Advertisement”. However, while placing the advertisements the following Sharia guidelines should be complied with:

- i. The job advertisements placed in newspapers, university campuses etc. should not carry pictures of living beings.⁴
- ii. All text, voice recordings, scripts, story-boards etc, meant to communicate a message through any medium in any language will have to be submitted to the Shari’ah advisor or any *Dar-ul-ifta* for approval.
- iii. Music cannot be employed in any advertisement through any medium.⁵
- iv. Advertisements in electronic media cannot have women appearing on screen.⁶
- v. Advertisements in print media can neither have pictures of living beings nor depictions violating limits set by the Shari’ah.⁷

Therefore job advertisements (and for that matter any printed communication) must be free from pictures of living beings.

(Note: It is highly recommended that use of pictures of living beings and the final draft of the advertisements is reviewed by the Shari’ah Advisor of the company or Dar-ul-Ifta before release.)

Hiring on Merit (*qawiyun ameen*)

While screening the candidates besides considering the Position Profile, two of the universal attributes to be considered are honesty and competence. Usually there is a lot of focus on assessing competence but judging honesty seldom receives the same attention. Needless to say that for a business to run in an honest and truthful manner it is absolutely essential to have honest employees. The above attributes were also considered when *Sayyidina* Musa (peace be upon him) was being hired by *Sayyidina* Shu’aib *Alaihe Salam*⁸.

إِنَّ خَيْرَ مَنْ اسْتَأْجَرْتَ الْقَوِيُّ الْأَمِينُ. [القصص: 26]

The best man you can hire is someone who is strong, trustworthy.

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Assessments:

Candidates who are shortlisted in the screening process are called for initial interviews. Such interviews are normally conducted by HDS to review the candidate's profiles and to assess their personality profiles such as their communication, grooming etc. Candidates shortlisted at this stage are then called for further evaluation, testing, or interviews.

Assessment techniques for hiring employees have evolved from crude to highly sophisticated. Large organizations have established Assessment Centers with experts who design specific psychometric tests as per the competencies required to perform a job, to assess the candidates. However, in smaller organizations the HDS department can design or buy such tests for assessment. Organizations also design simple tests to assess the knowledge of the candidates for positions in Production, Finance or Quality Assurance. Some of these tests are also available on the internet as free downloads. It is important that the test selected and administered are relevant to the job situations.

In addition to the tests, competency based or behavioral interviews are conducted by HDS, HDS and Line Managers and / or by a cross-functional panel.

Competency based interviews are normally woven around the competencies required to perform the job. Candidates' knowledge and skills are evaluated during the interviews.

Behavior based interviews are designed to ask questions on how, in the past, the person behaved or handled situations at the work place to assess his/her suitability for the job e.g. handling of an irate customer by a sales person.

Number and stages of interviews are dependent on the seniority and importance of the position. While entry level positions are normally finalized after two interviews, Senior Positions may require 3-5 stages of interviews before a hiring decision is made.

It is very important that all these interviews are conducted through structured questionnaires and written comments and assessments by the interviewers to make informed decisions. Standard formats are developed and used by HDS to facilitate the process.

Hiring with Mal-intent

Sometimes organizations hire employees of other organizations not because they need them but because they want to hurt their competitor (current employer). This is an unacceptable practice⁹.

Realistic Job Preview

A realistic job preview is the process of providing information to the job applicant about both the positive and negative aspects of the job.

It often happens that the employer in an attempt to attract talent highlights only the positive aspects of the organization and the job. No attempt is made to bring into discussion any adverse aspects. For example, an engineer hired for service of medical equipment may

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at times be exposed to radioactive environment. Or an Administration Officer hired for one of the factories may not know that after joining he will be deputed to a distant site¹⁰.

In the above examples, the candidates should be informed before making them a job offer about the job-specific working conditions. It is therefore advisable to carry out Realistic Job Preview with all short-listed candidates before making them a job offer.

Pre-Employment Medical Assessment

To ensure that the prospective candidates are not suffering from any chronic illness which may hamper their performance or is contagious which may be harmful for fellow employees, some organizations refer their shortlisted candidates to their authorized medical centers for a Pre-Employment Medical Examination before they are offered the jobs. The medical tests are prescribed as per the nature of the job and the report is sent directly to HDS by the medical centers to take the hiring decisions. Candidates who have cleared the medical assessment are offered the jobs. Some organizations also hire the employees provisionally subject to clearance of the medical tests.

Reference and Credential Checks

In order to validate what the candidates have shared and claimed during the interviews independent checks are carried out. Candidates are requested to provide references of two to three persons from whom the HDS can check the past performance and their level of competence.

In addition, the academic and professional credentials are also verified from issuing institutions to establish their genuineness. Candidates who perform satisfactory on both the above stages are then moved to next stage of hiring. However, reference check from the current employer of the candidate is normally taken after the candidate joins the organization.

Final Selection and Job offer

Candidates who pass through all the above stages are made the job offers. It is always easy to design a compensation package for the new employee if the organization has a formal organization structure, position profile and the compensation structure. In such situations candidates are also motivated to join the organization because of the clarity and transparency in the system. The Job offers have to be in writing and clear so that both the employer and the candidate are on the same page. It is important that the offer letter is signed by both the parties and a copy provided to the employee. The offer letter is then followed by a formal appointment letter on the day of joining. The appointment letter provides terms and conditions of the employment and is considered as a legal contract. Both the employer and employee should sign the letter and a copy should be provided to the employee for his records.

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Employment Contracts

Employment contracts are of two types:

Task-based contracts (*Al Ajeerul Aam / Al Ajeerul Mushtarak*)

A contract through which an employee is not restricted to the employment of a single employer, rather he is free to work for another person or persons as long as he fulfills his duties responsibly towards each of them, for instance a lawyer. Although, the time may be written in the contract, but the entitlement of compensation depends on task completion.

Time-based contracts (*Al Ajeerul Khaas*)

A contract through which an employee is hired for a specified term and serves only one employer. He earns his wages by making himself available for the agreed time. It does not matter whether he completes the task or not even if the task is written in the contract. For example, although an employee is given a job description, but he will be compensated for ensuring his availability during the agreed work hours. Therefore deductions can be made in case he comes late.

When Should the Organization Terminate Employment Discussion/Negotiation

It is common practice that if a candidate has a job offer from an organization, the HR department continues further discussions/negotiations with the candidate.

It is not permissible to discuss or negotiate with the candidate once he has an offer from another organization. If however he does not want to join the other organization the employment discussion may ensue.¹¹

Cheating or making False Commitments

Employees often get demotivated or leave the organization when they feel cheated. It so happens that the job offer is not acceptable to the employee since he desires a higher salary, or a car or any other benefit. He is informed that he will get the desired salary after confirmation (this is usually six months after joining). But instead of fulfilling the commitment the employee is subsequently told that the increase is not possible due to the 'current situation'. This is tantamount to cheating with the employee which is absolutely unlawful¹².

Appointment

The terms and conditions should be clearly laid down in the appointment letter. Islam lays great emphasis on transparency in dealings¹³. Therefore, the appointment letter should carry all necessary details (such as salary, benefits, working hours etc.) and should be signed by both parties – the employer and the employee¹⁴.

Employees Working for Third Party

Some organizations, especially software houses, hire employees to work for off shore companies. The organization signs a contract with the off shore company for supply of work force on hourly rate basis (i.e. time based contracts). Time sheets (containing hours worked) and invoices are sent to the client at the end of month. It is the responsibility of the service

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providing organization to ensure that they are charging accurately. Accordingly, there should be a time recording mechanism to record hours worked regardless of whether the employees work at office or at home (which is common in IT industry).

Further, employees should also be educated on their responsibilities as time-based workers (*Ajeer Khas*).

New company asking the employee to bring his clientele with him

If the employer or the concerned manager asks a new employee to have his customers shifted to his new company, it is not permissible under the following conditions:

The previous employer has stipulated that he may not do so.

- a. Products / services of this company are not up to mark.
- b. The intent is to harm the competitor.

[Reference: Fatwa HDS-015]

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Joining and Orientation

Employee Orientation

Employee Orientation is the first step that every new employee has to go through upon joining of new job, to get familiarized to the culture, values, systems, products, services, and most importantly, the HDS of the organization.

Employee Orientation is the process of introducing new employees to the organization and its work units. The orientation process facilitates new hires in:

- I Obtaining information about the organization;
- II Getting familiarized with various Departments and their respective functions;
- III Creating awareness about the job procedures;
- IV Building relationships with colleagues;
- V Instilling a sense of belonging.

The orientation program is designed in a manner to provide the key information to the new employees.

The person responsible for conducting the orientation program is carefully selected and appropriately trained to facilitate this process in a professional manner.

The HDS coordinates the employee orientation program jointly with relevant Department Heads or their assigned departmental representative. The complete orientation program consists of two stages:

Day-One Orientation

This session is conducted by the HDS to provide an overview of the various aspects related to operational philosophies, methodologies, structures and functions of the organization and its departments, to the new employees.

Upon arrival at office on day one, the new employees sign their Employee Joining Report and are handed over an Orientation Kit, which has normally the following items:

- I. Letter of Appointment
- II. Employee Handbook
- III. Employment ID Card
- IV. Orientation Plan

Employees are also provided an On-Job Orientation Checklist & Evaluation that lists all areas to be covered during the complete Orientation Program and is used for reference and comments by the new employees during the orientation sessions and is returned to the HDS for review and record at the end of the orientation program.

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In addition, the new employees are provided a copy of the Employee Handbook that is used as learning material during the Orientation Sessions and as a reference guide during their stay at the organization.

The Day-One Orientation session introduces and familiarizes new employees to the following areas:

- I. Organizational mission, vision, goals and future plans;
- II. Organization profile, locations, departments and number of employees;
- III. Products and/ or Services offered and types of customers served;
- IV. Organization ethics, norms and acceptable behavior;
- V. Business Conduct Guidelines. These are meant for all employees but specifically for those dealing with external parties, customers, vendors etc. In this document among other things, shariah requirements such as prohibition of shaking hands with opposite gender; expense on unlawful items (liquor, pork etc.); unlawful entertainment programs, are mentioned. A sample copy can be obtained from UBM Advisory Services.
- VI. Salient HDS Policies;
- VII. Employee Rights and Responsibilities;
- VIII. Housekeeping Rules;
- IX. Dress Code;
- X. Safety and Security rules.

During the Day-One session, new employees are informed about necessary administrative processes and documents and are given a tour of all relevant departments, introduced to internal customers and familiarized with the facilities.

The HDS ensures that this session covers all related activities in a comprehensive manner to provide clarity and to promote a professional image of the organization. At the end of this session, employees are provided an Evaluation Form for their comments and feedback.

On-Job Orientation

The On-Job Orientation is initiated after the completion of the Day-One Orientation and familiarizes newly hired individuals to their assigned workplace. This session is customized in content and duration by the relevant Department in consultation with HDS, to correspond to the specific needs and requirements of the grade and level to which the new employees are inducted.

The relevant Department prepares a schedule of activities using the Orientation Plan one-week prior to the event, in consultation with the HDS, and communicates the details to all concerned staff members.

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The Department Head or the immediate supervisor of the employee carries out the goal setting activity and new employee goals, for the duration of probation, and for the performance year. These goals are identified and established for mid-year and year-end evaluations.

Post Orientation Process

Upon successful completion of the Orientation Program, the HDS conducts a Feedback Session with the new employees to obtain an understanding of their experience and learning. Based on the feedback the HDS keeps on improving the future orientation programs.

The orientation program also ensures transparency in dealings by communicating the rights and duties of the employee¹⁵.

Probation & Confirmation

The term **Probation** relates to the initial period of employment, (normally first 90-days period) prior to confirmation, for newly inducted employees. The term **Confirmation** relates to the employees' formal acceptance as permanent employees in the organization after successful completion of the probation period.

The purpose of probation period is to assess in the first few months, whether the employee selected is performing as per expectation. Sometimes when due to any reason, the employer is not able to assess the performance the probation period may be extended. It is recommended that the maximum time of probation period should not be more than 6 months. Some organizations however extend the probation period with mal-intent. Their purpose is to save on employee costs since in many organizations employee is entitled to benefits (such as leave, health care) after confirmation. This is tantamount to cheating and is therefore haraam. According to quran¹⁶

{إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا} [النساء: 58]

“Surely, Allah commands you to deliver trusts to those entitled to them, and that, when you judge between people, judge with justice. Surely, excellent is the exhortation Allah gives you. Surely, Allah is All-Hearing, All-Seeing.” (58)

Further, not honoring commitments is a serious issue; it is forbidden and not expected from a UBM complaint organization.¹⁷

During the probation period, the new employee's standards of performance, in terms of the duties undertaken and conduct is assessed to determine whether the employee should have his or her appointment confirmed or terminated. All new employees are informed of the outcome of their probation at the completion of the probation period.

New employees who successfully complete their probation period are offered confirmed employment through a Confirmation Letter.

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The HDS Department ensures that the process of probation evaluation remains objective and fair and provides a clear understanding about the candidate’s ability to execute his or her job responsibilities in a professional manner.

Probation Evaluation:

The HDS Department views the process of Probation Evaluation as the initial step for the newly inducted employees’ performance management. The probation process is based on constructive feedback, support and regular information sharing that is provided by the immediate supervisors and the Department Heads so that the individual’s goals and the goals and expectations of the workplace are aligned.

The HDS Department provides assistance and guidance to the supervisors and reviewers, in case of need, so that the process of probation and evaluation is completed smoothly. The activity is started before the end of the probation period of 90 days.

It is always advisable that the immediate supervisor of the new employee, after the completion of orientation should sit and share with him the Position Profile and set the goals for first 90 days of the probation period. The goal setting activity should be in writing and signed by both the persons as an indicator of the agreement between the two. This will help both the persons to evaluate the performance at the end of the probation period objectively and make decision on the confirmation of employment.

A week before the completion of the probation period the Supervisor should carry out the evaluation of the employee on the prescribed format against the agreed goals. His evaluations and recommendations are reviewed by the Head of the department. In case of successful completion of probation, the Evaluator and Reviewer recommend the HDS department to issue the Confirmation Letter to the new employee.

In case of unsatisfactory performance during the probation term of the new employee, the supervisor informs the HDS department either to extend the probation period or terminate the services of the employee. The HDS reviews the evaluation and ensures that the decision made by the supervisor is fair.

In case of extension of probation or termination of employment, the HDS department issues the appropriate letter to the employee.

The process of evaluation is repeated again at the completion of extended probation period.

In case of terminations, the HDS Department should review the entire Recruitment and Selection process of the respective employee to identify the causes for a failed selection.

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Performance Management

Performance Management (PM) includes activities which ***ensure that goals are consistently being met in an effective and efficient manner***. Performance Management focuses on the performance of an organization, a department, employee, or even the processes to build a product or service, as well as many other areas.

PM is also known as a process by which organizations align their resources, systems and employees to strategic objectives and priorities.

This system is based on the importance of managing each individual's work and continuous communication between employees and their supervisors. It ensures that employees are:

- a. Aware of what is expected of them;
- b. Provided with feedback about their performance;
- c. Provided with opportunities for training and development for effectively carrying out current and future roles.

Following steps are followed:

- I. Corporate objectives are developed in consultation with senior management.
- II. After approval from the board the corporate objectives are forwarded to senior management for developing their own and team objectives.
- III. At each step, following have to agree with the objectives and sign the document which in some organizations is called 'Target Agreement': Employee, immediate supervisor and the next higher ranking manager.
- IV. The objectives are then cascaded down to the lowest level which ensures alignment of objectives from top to bottom.
- V. Periodical performance reviews are carried out. These can be quarterly or half yearly. Periodical reviews help ensure that timely remedial actions are taken in case performance is not meeting the requirement.
- VI. Annual appraisal is carried out.

The ***effectiveness of Performance Management system*** is the ***key to success of any organization***. Therefore, it is absolutely critical that the top management do their best to make the system successful, while HDS must ensure that all managers are properly trained for effective implementation of each step.

Appraising Performance of Prayers

It is recommended that while conducting performance appraisal, the manager should also give a certain value to performance of prayers. If the employee does perform prayers he should get a positive rating thereby improving his salary increment.¹⁸

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It is important to note that from Shari’ah perspective, if the contract of employment is time-based i.e. employee has to work certain number of hours in a day then the employer has the right to enforce performance of prayers during work hours.¹⁹

However, before considering the above, HDS and management must first assess the organization’s readiness for implementing such initiatives.

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Training & Development

The primary objective of the UBM perspective of Training & Development (T&D) is the **care and development of the individual** both **Islamically** and **professionally**, as articulated in the Introduction.

Secondly, the development of people's performance in the workplace is critical to the **success of an organization**. The latter is usually the primary focus of material based businesses, whereas in the UBM system the former needs to be constantly emphasized as the primary concern so that it remains in mind and sight of all levels of management.

The T&D process has the potential to make a strong positive impact on the performance of individuals, teams and the business as a whole.

Ensuring good performance of individuals and teams **both professionally and Islamically** is central to the work of the T&D function. In order to do this a planned approach is necessary. The activities of the T&D function must be closely linked to the overall **Islamic development the organization wants to see in its personnel**, as well as **the business plan**. To be successful, T&D activities must be supported by wider T&D Policies and Procedures.

Following steps are required for effective management of the T&D function:

Training Needs Assessment

During the performance appraisal process the manager and the employee jointly discuss areas of improvement and the remedial actions required. If the gaps are due to lack of knowledge and/or skills then certain training needs are identified. The process is known as Training Needs Assessment (TNA). Similarly the future plans regarding the employee may also lead to identification of certain development needs. For example, if an employee is planned to be promoted as a Supervisor then he may require training on supervisory skills.

Training Plan

Once TNA of all the employees is carried out, the data is compiled in the form of a training plan. The training plan enlists the names of employees, their respective trainings and target dates. The plan is then approved by the concerned authorities.

Implementation

After approval the plan is implemented. In good organizations, a database of approved trainers and training institutes is already available with HDS. Employees are accordingly nominated for their respective trainings.

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Evaluation

After the training, the employee and his supervisor are asked to assess the effectiveness of the training. The feedback helps in assessing whether the objectives of the training were achieved or not. Accordingly future actions are decided.

Indemnity Bonds

It is common practice that an employer sponsors employee's education (or any other development activity) and puts a condition through indemnity bond that the employee will not leave the organization for x number of years. Since this is a case of adding a *muamalah* (i.e. indemnity bond) upon a *muamalah* (i.e. employment terms) it is not permissible (صفقه فى (صفقه)).

[Reference: Fatwa HDS-011]

If an employee is given paid leave for studies (or any other purpose) with the agreement that the salary paid will be returned in installments after he resumes service, it is considered by *Shariah* to be a **loan**. If the employer puts a condition that this favor is being given on the condition that the employee will not leave the organization for x number of years, that IS unlawful. Usually, it is also required through an indemnity bond that if the employee leaves earlier than the agreed time, then he will pay a certain amount to the employer higher than the loan amount. Whatever justification the employer might have, this is *riba* and *haram*. The employer can only claim the actual loan amount. Such policies should be immediately revoked.

[Reference: Fatwa HDS-013]

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Career & Succession Management

By identifying successors to key positions and developing career plans for employees, good organizations ensure a steady flow of internal talent to fill important openings. Career & Succession planning encourage hiring from within and ***create an environment*** in which ***employees have careers and not merely jobs***. It also identifies personnel shortages and skill deficiencies before openings occur. Consequently the organization benefits in the following ways:

- i. Greater continuity of operations;
- ii. Strengthened and diversified pool of employees;
- iii. Strengths and gaps in talent and skills are identified;
- iv. Actions required to develop future managers are determined.

Career Management

Following steps are followed:

- i. During the appraisal process, employee's short and long term potential is assessed. This helps in determining the next steps required towards realization of the potential.
- ii. The next steps are incorporated in the overall development plan of the department.
- iii. After approval of the development plan the same is forwarded to HDS for implementation.
- iv. At the end of the year the implementation of the plan is reviewed and corrective actions, if required, are taken.

Succession Management

Succession management however requires a top down approach. Usually it is foreseen that the said position may become vacant in due course as a result of promotion, job rotation or retirement of the current incumbent. Following steps are followed:

- i. Firstly, the key positions are identified for which successors have to be planned. It is advisable to identify at least two successors for each identified position;
- ii. An assessment of development needs is carried out leading to a Development Plan;
- iii. After approval of the development plan the same is forwarded to HDS for implementation;
- iv. At the end of the year the implementation of the plan is reviewed and corrective actions, if required, are taken.

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Compensation & Benefits

Compensation and benefits refers to the compensation/salary and other monetary and non-monetary benefits passed on by a firm to its employees. This can include various components:

- i. **Fixed pay:** This is the basic salary paid to the employee irrespective of any other factor. This is stated clearly in the employment contract
- ii. **Variable Pay:** This is the additional compensation paid to employee based on employee's performance, company's performance etc.
- iii. **Equity Pay:** Employees are awarded shares of the company, often at a discounted price. Employees are expected to earn from them by the appreciation of the stock price and the growth of the company. In such cases the *Sharee* guidelines and requirements for the trade in stocks of a company must be followed.²⁰
- iv. **Other benefits:** Other benefits may include medical support, company owned car, cell phone etc.

Internal & External Equity

In order to offer an attractive and fair pay package to employees it is important that the organization maintains internal and external equity. Internal equity means that employees within an organization are paid according to the worth of their jobs. External equity means that the organization's pay practices are aligned with the market (other similar companies). The tools used for ensuring internal and external equity are job evaluation and salary surveys respectively. It is advisable to use third party consultant for carrying out job evaluations and salary surveys.

Paying Wages on Time

Wages should be paid on time. If a worker is employed on a daily wages basis then he should be paid the same day at the completion of his work or at the latest, the next day. Similarly workers employed on weekly or monthly basis should be paid their wages on the day following the end of week or month respectively.²¹

Payment of Additional Wages if the JD is Upgraded

During the course of employment, it often happens that the responsibility and/or the complexity of the job are enhanced. In the case of promotion the salary of the person automatically increases. However, if it is not the case of promotion rather just an enhancement of JD, than the compensation of the incumbent needs to increase according to the increase in workload.²²

This is sometimes a tricky matter as ascertaining the percentage increase in workload (and the consequent increase in salary) is not easy. But Job Analysis is a tool which can be used to resolve this issue. Position Description Questionnaires can be used for carrying out Job Analysis

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Compensation for Extra Hours of Work

Usually a ‘worker’, covered by the labor law, has to be paid for overtime rate as per the stipulated per hour rate. In some countries, however, that is not the case with management employees - whose working conditions are unfortunately not governed by any law. Consequently, in many companies, they work up to 11 or 12 hours per day without any compensation for the overtime work. Islam does not put a restriction on work hours. However, if due to quantum of work the employee has to put in extra work hours then he should be appropriately compensated.²³

Compensation in case of Hardship

In cases where the employee faces a hardship due to an act of employer, the employer should compensate for the hardship e.g. if the salary is delayed by 5 to 6 days and it is a regular practice then it is preferable for the employer to compensate the employee.²⁴

Monetary Incentives

If the incentive is based on achievement of certain agreed targets, then once the employee achieves those targets, the incentive becomes his right. In some organizations the incentive is withheld in case the employee leaves before the pay-out date. This is not permissible and is a violation of *Huqooq-ul-Ebad*.²⁵

Compliance with the Law of the Land

In principle all laws of the land ***that are not in conflict with Shari’ah*** must be complied with. In the context of workforce, different labor laws, acts and ordinances exist in different countries. These define the rights of the employees, the maximum daily/weekly working hours, their wages, benefits etc. Since this is a matter of *Huqooq-ul-Ebad*, compliance is mandatory.²⁶

It is strongly recommended that a company pursuing compliance in this area should hire a qualified and experienced Industrial Relations Officer.

Shari’ah Compliant Benefits

To make the remuneration package attractive companies offer fringe benefits to their employees. These may include company car, cell phone, house maintenance, furniture, club membership etc. Further, in some countries labor law also entitles to the labor class certain benefits. These may include:

- i. Insurance, such as group insurance, health insurance or vehicle insurance.²⁷
- ii. Terminal benefit such as gratuity or provident fund.
- iii. Pension fund etc.

It may be noted that the conventional form of insurance is *haraam* while investment of provident fund in interest-based ventures is also not permissible.²⁸

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A few years back companies did not have any option in this area. But now *Alhamdulillah* with the introduction of Takaful and Shari’ah compliant investment options, companies can bring the employee benefits in accordance with Shari’ah.

Effective date of Minimum Wage Increase and Arrears

Any increase in minimum wage decided by the government shall be applicable from the effective date announced by the government. If the increase notification issued after a few months, the employer will have to pay arrears to the concerned employees.

Further, those who left the organization after the effective date but before incorporation in payroll will have to be paid their arrears.

[Reference: Fatwa HDS-001]

Changing Employment Terms & Conditions in Crisis Situations

Many companies went out of business or faced a crisis situation during COVID 19 Pandemic. In such situations employer is faced with some difficult choices including lay-offs, reducing salaries (with a good intent of retaining employees), withdrawing other benefits. All these actions are permissible, if there is no mal-intent. Reducing salaries and withdrawing benefits will be considered new terms of employment. Employee will have the choice to either accept or terminate the contract from his side.

Use of Fuel Card by Employees

Some employees or managers are entitled to a certain amount of fuel eg. 150 liters, and a fuel card is given to them. The employer should specify in policy and communicate to the employee how this allowance can be used - whether it is for official use only or also personal use. ‘Personal use’ should also be defined.

[Reference: Fatwa HDS-003]

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Employee Discipline

Punishments & Penalties

In some cases the procedure of disciplining the employees is laid down in the law. Disciplinary actions such as verbal warning, written warning, dismissal etc. should therefore be carried out in accordance with the law.

It must however be ensured that the punishments or penalties are awarded in a fair and just manner.²⁹

Secondly any penalty which is in conflict with the principles of Shari'ah must be revoked. For example, in some companies it is a practice that if an employee comes late to work for 3 days in a week, his one day's salary or one day's leave is deducted. Now if the total time lost in 3 days of late coming was 20 minutes, a whole day's pay is deducted. According to the teachings of Shari'ah the penalty may not be higher than the value of the offense, in this case 20 minutes.³⁰

But if punctuality is a critical requirement of the job and other permissible disciplinary actions fail to bring the desired result, then one solution is to get an undertaking from the employee that he allows the company to deduct the said (higher) amount from his salary and donate as charity. The organization will have to ensure that the amount goes to charity and that the organization does not benefit from it by any means (for example brand building through CSR).

[Reference: Fatwa HDS-014]

Harassment at Workplace

It is the responsibility of the employer to safeguard the honor of its employees. And if any offense or act of harassment is carried out, redress procedures must be in place.³¹

It is therefore strongly recommended that organizations have 'Grievance Handling Procedure' in place. One of the key members of grievance resolution team should be an *Aalim*. This is to ensure that Islamic principles of equity and justice are complied with.

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Grievance Handling

Grievance may be any genuine or imaginary feeling of dissatisfaction or injustice which an employee experiences about his job and its nature, or about the management policies and procedures. Grievances take the form of collective disputes when they are not resolved. Also they will then lower the morale and efficiency of the employees. Unattended grievances result in frustration, dissatisfaction, low productivity, lack of interest in work, absenteeism, etc. In short, grievance arises when employees' expectations are not fulfilled from the organization as a result of which a feeling of discontentment and dissatisfaction arises.

Grievance may result from the following factors:

- a. **Improper working conditions** such as strict production standards, unsafe workplace, bad relation with managers, etc.;
- b. **Irrational management policies** such as overtime, transfers, demotions, inappropriate salary structure, etc.;
- c. **Violation of organizational rules and practices.**

Effective grievance management is an essential part of personnel management. HDS should adopt the following approach to **manage grievance effectively**:

- a. **Informal resolution:** The parties involved should be encouraged to resolve the issue informally at their level.
- b. **Quick action:** As soon as the grievance arises, it should be identified and resolved. Training must be given to the managers to effectively and timely manage grievances. This will lower the detrimental effects of grievance on the employees and their performance.
- c. **Acknowledging grievance:** HDS must acknowledge the grievance put forward by the employee as a manifestation of the true and real feelings of the employees. Acknowledgement by HDS implies that the management is eager to look into the complaint impartially and without any bias. This will create a conducive work environment with instances of grievance reduced.
- d. **Gathering facts:** HDS should gather appropriate and sufficient facts explaining the grievance's nature. A record of such facts must be maintained so that these can be used in a later stage of grievance address.
- e. **Examining the causes of grievance:** The actual cause of grievance should be identified. Accordingly remedial actions should be taken to prevent repetition of the grievance.
- f. **Decision making:** After identifying the causes of grievance, alternative course of actions should be thought of to manage the grievance. The effect of each course of

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action on the existing and future management policies and procedure should be analyzed and accordingly decision should be taken by the manager.

- g. **Execution and review:** The decision should be executed quickly, even though it may or may not hurt the employees concerned. After implementing the decision, a follow-up must be undertaken to ensure that the grievance has been resolved completely and adequately.

An effective grievance procedure ensures an amiable work environment because it redresses the grievance to the mutual satisfaction of both the employees and the managers. It also helps the management to frame policies and procedures acceptable to the employees. It becomes an effective medium for the employees to express their feelings, discontent and dissatisfaction openly and formally.

From an Islamic point of view it is the responsibility of the employer to ensure that in such cases issues are resolved in a fair, equitable and Shari'ah compliant manner.³²

It is recommended that the grievance handling committee should comprise of one *Aalim* so that Islamic principles of equity and justice are ensured regardless of the position or status of either party.³³

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Working Conditions & Environment

Treating Employees with Dignity and Respect

Islam attaches great importance to *Tayyab* and *Halal Rizq*. As such the one who strives for *Halal Rizq* ought to be treated with dignity and respect.³⁴

Fulfilling Commitments of the Contract

It is binding upon the employer and the employee to fulfill the terms and conditions laid down in the appointment letter (the contract of employment). These include agreed wages/salary and benefits such as car, fuel, leave entitlement, gratuity etc.³⁵

Prohibition to engage in any other Business or Occupation

Generally companies do not allow their employees to engage in any other business or occupation and this prohibition is mentioned in the appointment letter. There is nothing wrong with this clause as long as its validity is during working hours only. However, generally the appointment letter stipulates that the prohibition is valid even after official working hours. This is not permissible³⁶. However, if the company feels, based on substantial grounds, that the employee's performance is being adversely affected by the additional external engagement, or that it may be a cause of detriment to the company, or that it is affecting the employee's life/work balance, the HDS department should address the issue appropriately in finding a solution and rectifying the situation with consultation from Shari'ah advisor or *Dar-ul-Ifta* if needed.

Furthermore, some jobs require that the worker be alert, having taken sufficient rest – for example those working in hospitals in operation theaters. In such cases it is permissible to put this restriction.

[Reference: Fatwa HDS-010]

Workload

It is not permissible for the employer to put excessive workload on the employee.³⁷

Due to the complex nature and size of businesses it is therefore necessary that:

- i. Each employee has a job description with clearly defined authorities and responsibilities.
- ii. Employees are provided with necessary tools/training/resources to perform their jobs.

Forced Overtime Work

In principle forced overtime work is not allowed.³⁸

However, if the condition of occasional overtime work has been discussed and agreed upon at the time of appointment, then the employer can ask the employee to do so provided that is in requested only occasionally and does not become a regular occurrence.³⁹

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Ambiguity in Terms of Employment

The employment contract should be made in such a way that it leaves no room for dispute in matters such as wages, allowances, working hours etc. Islam forbids all types of *gharar* based dealings.⁴⁰

Rights of Non-Muslims

If an organization employs non-Muslims, their rights must be safeguarded. These may include the right to observe or practice religious activities and duties, besides the other rights that Muslims generally have. Shariah Advisor or *Dar-ul-Ifta* should be consulted to ensure the fulfillment of these requirements.⁴¹

Religious Activities of other Communities

Other communities or *ahlul bid'ah* (people of innovation) should not be allowed to perform any of their religious activities or celebrate their religious festivals at workplace. Participating in such events is also not permissible.

[Reference: Fatwa HDS-007]

Functions, Parties, Entertainment Programs

Functions, parties and entertainment programs must also be Shari'ah compliant. It should therefore be ensured that prayer breaks are observed, appropriate dress is observed (*satr* of both men and women is not exposed), men and women are completely segregated, and there is neither any music, movies nor any other non *Ja'iz* activity.

Dress Code

Men and women should follow the Islamic dress code and this should be a part of HDS policies.⁴²

Islam has given general and moderate guidelines regarding dress code which can accommodate diverse conditions, climates and customs. However, some basic principles are required by Shari'a has follows:

- a. Men should not let trouser, etc go below ankle.⁴³
- b. Dress must be loose and must conceal the *satr* i.e. those parts of the body which must be hidden.⁴⁴
- c. It is not permissible to imitate non-Muslims or sinners in dressing.⁴⁵
- d. Neither men should wear women's dress nor should women wear men's dress.⁴⁶
- e. Dress should not be worn for the sake of ostentation.⁴⁷
- f. Wearing of silk is forbidden for men.⁴⁸
- g. Men ought to avoid pure red color. However, if combined with other colors then it could be used.⁴⁹

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For Female Employees:

Allah Most High has stated in the Quran that women must appear modest.

"Say to the believing women that they should lower their gaze and guard their modesty; that they should not display their beauty and ornaments except what must ordinarily appear thereof."⁵⁰(Surah Noor, Ayat 31)

"O Prophet! Tell your wives and daughters, and the believing women, that they should cast their outer garments over their persons (when abroad): that is most convenient, that they should be known (as such) and not molested. And Allah is Oft-Forgiving, Most Merciful."⁵¹(Surah Ahzab, Ayat 59)

In the light of above Quranic injunctions and the explanations given by the Holy Prophet ﷺ and his companions (may Allah be pleased with them) female staff must comply with the following:

- a. Cover their hair and wear formal dress (preferably with Abaya).
- b. The material of their clothing must not be so thin that one can see through it.
- c. Their clothing must hang loose so that the shape of the body is not apparent. The outfit must have full sleeves, and must cover the ankles.
- d. Their clothing must not resemble men's clothing.
- e. Bold designs, bright colors and tinkling ornaments (which attract attention) must be avoided.
- f. Observing Hijaab/Niqaab is encouraged.
- g. Women ought to avoid nail polish and growing their nails beyond the fleshy tip of their fingers.
- h. Non-Muslim female employees shall follow a dress code which doesn't promote indecency or immorality

Segregation of Men and Women

Appropriate arrangements should be made to ensure that men and women are properly segregated. Therefore, all venues of interaction such as work place, canteen, meeting rooms, training rooms etc. should be designed accordingly.⁵²

It must also be noted that *Khalwah* (a lone woman with a lone man who is not her Husband or *Mahram* in solitude) is not permissible.⁵³

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Employee Safety & Health

Some jobs, particularly technical ones, carry health and safety related risks. For example, people working on an oil rig or in a chemicals company regularly get exposed to inflammable material. They are required to take all the necessary safety precautions. It is the responsibility of the employer to maintain and provide:⁵⁴

- i. A safe working environment;
- ii. Safety systems of work;
- iii. Facilities for the welfare of all workers;
- iv. Ensure that the relevant local laws are complied with;
- v. Any information, instruction, training or supervision needed to ensure workers safety;

This is highlighted in the following Hadith:

عَنِ ابْنِ عُمَرَ عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ- أَنَّهُ قَالَ « أَلَا كَلُّكُمْ رَاعٍ وَكُلُّكُمْ مَسْئُولٌ عَنْ رَعِيَّتِهِ
فَالْأَمِيرُ الَّذِي عَلَى النَّاسِ رَاعٍ وَهُوَ مَسْئُولٌ عَنْ رَعِيَّتِهِ (صحيح مسلم)

“Verily you are all shepherds, and responsible for your flocks!
Therefore the *Ameer* who is in charge of a group of people is a shepherd (of them) and he is accountable for his flock!” (Muslim)

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Employee Separation

Outgoing employee should be treated with Dignity and Respect

Whether an employee resigns or the company decides to terminate his services, the separation process should be carried out with dignity and respect. Particularly in the case of termination it is advisable to allow employee to use company time and equipment (such as PC or printer) to search for a job. To such employees, it is also recommended that HDS provides counseling assistance to the extent possible.

Exit Interview

Further, in order to get feedback about the organization and management a formal Exit Interview should be conducted. The employee is asked to fill Exit Feedback Form, after which the concerned HDS officer carries out an interview to gather as many facts as possible. The information is then shared with the management. The feedback usually provides information about company's work environment, pay structure, management practices, development opportunities etc.

The interview process sometimes also helps clear misperceptions about the company.

Notice Pay Deduction

One clause that can be found in almost every appointment letter is that of notice period, according to which termination of employment requires (usually) one month's notice. And if the notice is not given by the employee, one month's salary is deducted from his dues in lieu of notice. This again is not allowed as financial penalties are not permissible.⁵⁵

Timely Settlement of Employee's Final Dues

It is the responsibility of the employer to pay the final dues of a separated employee as early as possible.⁵⁶

Sometimes internal procedures are so time-consuming that the employee suffers due to late payments. The employer must ensure that the procedures are made in such a manner that employees' dues are paid in the minimum possible time.

Details of Employee's Final Dues

It is the responsibility of the employer to provide details of final dues to the separated employee. Further, if the employee needs any clarification, for example if there is any deduction from his dues, the employer must provide full details of why the deduction was made. According to a Hadith Qudsi:

عَنْ أَبِي هُرَيْرَةَ رَضِيَ اللَّهُ عَنْهُ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ، قَالَ: " قَالَ اللَّهُ: ثَلَاثَةٌ أَنَا خَصْمُهُمْ يَوْمَ الْقِيَامَةِ: رَجُلٌ أُعْطِيَ بِي نُمْ غَدْرٍ، وَرَجُلٌ بَاعَ حُرًّا فَأَكَلَ ثَمَنَهُ، وَرَجُلٌ اسْتَأْجَرَ أَجِيرًا فَاسْتَوْفَى مِنْهُ وَلَمْ يُعْطِ أَجْرَهُ" (صحيح البخاري 3 / 83)

Narrated Abu Huraira رضي الله عنه:

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The Prophet said, "Allah says, 'I will be an opponent against three persons on the Day of Resurrection: One who makes a covenant in My name, and thereafter betrays (that very covenant)! And one who sells a free person (as a slave) and then eats from the proceeds of the sale! And one who employs a laborer and has him to complete the work yet he does not pay him his wages!'"

False Recommendation or Feedback

HR departments are often asked to give feedback or recommendation about any of their organization's ex-employee. In order to be kind to the ex-employee, HR department provides positive feedback or recommendation even if that employee was asked to leave due to misconduct or malpractice. In doing so, the employee is sometimes recommended as 'honest and hardworking'. In the same way HR departments issue employment certificates which carry only positive (but false) information about the employee. This constitutes a breach of *Amanah* (trust). The truth should be communicated as such a breach may translate into detriment for the new would be employer.⁵⁷ In Hadith: "The person who is asked for advice is entrusted (with an *Amanah* to give the best advice known to him)"

Lawsuits

Sometimes an ex-employee files a false case against the employer for monetary gains. The employer, in order to teach the employee a lesson, files a larger false case against the employee. From the employer's distorted perspective, it is the only way to protect the rights of the employer. This is clear *I'tida'* (transgression) and is totally Haram.⁵⁸ We are only permitted to defend ourselves and make claims based on truth and facts.

Releasing Dues on Condition of Exit Interview

It is not permissible to withhold the final dues of an employee just because he has not given an exit interview.

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Appendix

1

Introduction:

{وَتَعَاوَنُوا عَلَى الْبِرِّ وَالتَّقْوَىٰ وَلَا تَعَاوَنُوا عَلَى الْإِثْمِ وَالْعُدْوَانِ} [المائدة: 2]
 قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: " مَثَلُ الَّذِينَ يَغْرُونَ مِنْ أُمَّتِي وَيَأْخُذُونَ الْجُعَلَ يَنْقَوُونَ عَلَى عُدُوهِمْ مَثَلُ أُمِّ مُوسَىٰ تُرْضِعُ وَلَدَهَا وَتَأْخُذُ أَجْرَهَا ": (السنن الكبرى للبيهقي 48 / 9)

2

Recruitment & Selection:

Islam gives complete guidelines for all walks of life. Allah establishes the pristine position of women honoring them with great respect. Allah Ta'ala says,

{وَقَرْنَ فِي بُيُوتِكُنَّ وَلَا تَبَرَّجْنَ تَبَرُّجَ الْجَاهِلِيَّةِ الْأُولَىٰ} [الأحزاب: 33]

And remain in your homes and do not emerge like those of *Jāhiliyyah* (Pre-islamic era)...Qur'ān 33:33

The above verse is the basic injunction for women to secure them from all the vice and malice that may come their way.

Earning ones livelihood is an integral part of life. Poverty is one of the vital tools of *Shaytān* to dissuade servants of Allah from the right path. In this regard Islam presented a balanced approach to earning livelihood. However, Allah levied this duty of catering to the needs of the family upon men. This is one of the reasons Allah has given males a degree above women, so that they may be able to look after their subordinates. Allah says:

{لِلرِّجَالِ عَلَىٰ نِسَائِهِمْ دَرَجَةٌ} [البقرة: 228]

...for men is a degree above women...Qur'ān 2:228

Allah *Ta'ala* expounds on this higher degree in another verse,

{الرِّجَالُ قَوَّامُونَ عَلَى النِّسَاءِ بِمَا فَضَّلَ اللَّهُ بَعْضَهُمْ عَلَىٰ بَعْضٍ وَبِمَا أَنْفَقُوا مِنْ أَمْوَالِهِمْ} [النساء: 34]

Men are the overseer upon women with all that which Allah has bestowed some of them over the others ,

All this goes to secure a woman's needs and requirements of daily living. This is the principle of *Sharī'ah* that if the fathers, husbands or brothers fulfill their duty upon their women then there would be no need for women to seek employment on their own.

We also keep in mind that Islam does not prohibit a woman from earning her livelihood. This is also a misconception which

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has become prevalent in our time and age. There is complete disregard for women's ability to earn for themselves. As long as her endeavor does not violate Sharia'h laws, there is no barrier for her from taking up an employment.

It should be ensured that female's emergence from home is necessary in the sight of Sharia'h. For example her husband has died and did not leave inheritance for her and there is not any other source of income.

In some cases a female must earn income for disabled members of her family.

In the event where family member's earning is not sufficient to support the whole family, then she can also do some job.

However Females are recommended to select a job which does not require them not to leave the comfort of their home. Therefore it is suggested that they look into the industry of home-based employments. There is a very good emerging market for typists, transcribers, virtual assistants and researchers.

If it is not possible for them to make use of such opportunities, and the need to earn a livelihood forces them to search for employment outside, then they are advised to take the utmost care of their Shari'ah duties as set out in the above text.

3

Confidentiality of Job Application:

وكذا في قوله سبحانه و تعالى:سورة المؤمنون

وَالَّذِينَ هُمْ لِأَمَانَاتِهِمْ وَعَهْدِهِمْ رَاعُونَ ﴿٨﴾

وكذا في قوله سبحانه و تعالى:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ ۗ (البقرة: ١٩٤) إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا ﴿٥٨﴾ اللَّهُ نِعَمًا يُعْظَمُ بِهِ ۗ

ومن الآيات الجامعة في السياسة قوله تعالى: ﴿إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعَمًا يُعْظَمُ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا﴾، [النساء: 58] ، والآية التي بعدها. فالأمانات يدخل فيها أشياء كثيرة، من أجلها: الولايات الكبيرة والصغيرة والمتوسطة، الدينية والدنيوية. فقد أمر الله أن تؤدى الأمانات إلى أهلها بأن يجعل فيها الأمانة لها، وكل ولاية لها أكفاء مخصوصون. فهذا الطريق الذي أمر الله به في الولايات من أصلح الطرق لصلاح جميع الأحوال، فإن صلاح الأمور بصلاح المتولين والرؤساء فيها والمديرين لها والعاملين عليها، فيجب تولية الأمانة للأهل (القواعد الحسان لتفسير القرآن (ص: 107) [مكتبة الرشد، الرياض])

4

Job Advertisement:

عَنْ سَعِيدِ بْنِ أَبِي الْحَسَنِ، قَالَ: كُنْتُ عِنْدَ ابْنِ عَبَّاسٍ رَضِيَ اللَّهُ عَنْهُمَا، إِذْ أَتَاهُ رَجُلٌ فَقَالَ: يَا أَبَا عَبَّاسٍ، إِنِّي إِنْسَانٌ إِنَّمَا مَعِيشَتِي مِنْ صَنْعَةِ يَدَيَّ، وَإِنِّي أَصْنَعُ هَذِهِ التِّصَاوِيرَ، فَقَالَ ابْنُ عَبَّاسٍ: لَا

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أُحَدِّثُكَ إِلَّا مَا سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ: سَمِعْتُهُ يَقُولُ: «مَنْ صَوَّرَ صُورَةً، فَإِنَّ اللَّهَ مُعَذِّبُهُ حَتَّى يَنْفُخَ فِيهَا الرُّوحَ، وَلَيْسَ يَنْفُخُ فِيهَا أَبَدًا» قَرَّبَا الرَّجُلُ رُبُوعًا شَدِيدَةً، وَاصْفَرَ وَجْهَهُ، فَقَالَ: وَيْحَكَ، إِنْ أُبَيِّتَ إِلَّا أَنْ تَصْنَعَ، فَعَلَيْكَ بِهَذَا الشَّجَرِ، كُلُّ شَيْءٍ لَيْسَ فِيهِ رُوحٌ (صحيح البخاري (3 / 82))

عن ابن عباس، عن أبي طلحة، رضي الله عنهم قال: قال النبي صلى الله عليه وسلم: «لا تدخل الملائكة بيتا فيه كلب ولا تصاوير» (صحيح البخاري (167 / 7)) [دار طوق النجاة]

5

Job Advertisement:

{وَمِنَ النَّاسِ مَنْ يَشْتَرِي لَهْوَ الْحَدِيثِ لِيُضِلَّ عَن سَبِيلِ اللَّهِ بِغَيْرِ عِلْمٍ وَيَتَّخِذَهَا هُزُوًا أُولَئِكَ لَهُمْ عَذَابٌ مُهِينٌ} [لقمان: 6]

عن سعيد بن جبیر , عن أبي الصهباء , عن ابن مسعود , قال: {ومن الناس من يشتري لهو الحديث ليضل عن سبيل الله} [لقمان: 6] قال: " هو والله الغناء "

(السنن الكبرى للبيهقي (377 / 10) [دار الكتب العلمية، بيروت – لبنان]

حدثني أبو عامر أو أبو مالك الأشعري، والله ما كذبتني: سمع النبي صلى الله عليه وسلم يقول: " ليكون من أمتي أقوام، يستحلون الحر والحرير، والخمر والمعازف، ولينزلن أقوام إلى جنب علم، يروح عليهم بسارحة لهم، يأتيهم - يعني الفقير - لحاجة فيقولون: ارجع إلينا غدا، فيبيتهم الله، ويضع العلم، ويمسخ آخرين قردة وخنازير إلى يوم القيامة " (صحيح البخاري (7 / 106)) [دار طوق النجاة]

عن أبي مالك الأشعري، قال: قال رسول الله صلى الله عليه وسلم: «لبيشرين ناس من أمتي الخمر، يسمونها بغير اسمها، يعزف على رءوسهم بالمعازف، والمغنيات، يخسف الله بهم الأرض، ويجعل منهم القردة والخنازير» (سنن ابن ماجه (2 / 1333)) [دار إحياء الكتب العربية]

6

Job Advertisement:

{قُلْ لِلْمُؤْمِنِينَ بَعْضُوا مِنْ أَبْصَارِهِمْ وَيَحْفَظُوا فُرُوجَهُمْ ذَلِكَ أَزْكَى لَهُمْ إِنَّ اللَّهَ خَبِيرٌ بِمَا يَصْنَعُونَ (30) وَقُلْ لِلْمُؤْمِنَاتِ بَعْضُنَّ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلْيَضْرِبْنَ بِخُمُرِهِنَّ عَلَى جُجُوبِهِنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ آبَائِهِنَّ أَوْ آبَاءِ بُعُولَتِهِنَّ أَوْ أَبْنَائِهِنَّ أَوْ أَبْنَاءِ بُعُولَتِهِنَّ أَوْ إِخْوَانِهِنَّ أَوْ بَنِي إِخْوَانِهِنَّ أَوْ نِسَائِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَانُهُنَّ أَوْ التَّابِعِينَ غَيْرَ أُولِي الْإِرْبَةِ مِنَ الرِّجَالِ أَوِ الطِّفْلِ الَّذِينَ لَمْ يَظْهَرُوا عَلَى عَوَاتِرِ النِّسَاءِ وَلَا يَضْرِبْنَ بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ مِنْ زِينَتِهِنَّ وَتُوبُوا إِلَى اللَّهِ جَمِيعًا أَيُّهُ الْمُؤْمِنُونَ لَعَلَّكُمْ تُفْلِحُونَ} [النور: 30، 31]

وقال: {ولا يبدین زینتھن إلا ما ظهر منها} أي: لا یظهرن شیئا من الزینة للأجانب، إلا ما لا یمکن إخفاؤه. وقال ابن مسعود: كالرداء والثیاب. یعنی: علی ما كان یتعاناه نساء العرب، من المقنعة التي تجلل ثیابها، وما یمیدو من أسافل الثیاب فلا حرج علیها فیہ؛ لأن هذا لا یمکن إخفاؤه. ونظیره فی زی النساء ما یظهر من إزارها، وما لا یمکن إخفاؤه. وقال بقول ابن مسعود: الحسن، وابن سیرین، وأبو الجوزاء، وإبراهیم النخعی، وغیرهم... (تفسیر ابن کثیر ت سلامة (6 / 45)) [دار طيبة للنشر والتوزيع]

عن أبي الأحوص، عن عبد الله، عن النبي صلى الله عليه وسلم، قال: المرأة عورة، فإذا خرجت استشرفها الشيطان. (سنن الترمذي ت بشار (2 / 467)) [دار الغرب الإسلامي – بيروت]

(عنه) أي عن ابن مسعود (عن النبي صلى الله عليه وسلم قال: المرأة عورة فإذا خرجت) أي من خدرها (استشرفها الشيطان) أي زينها في نظر الرجال وقيل: أي نظر إليها ليعيوبها ويغوي بها والأصل في الاستشراف رفع البصر للنظر إلى الشيء وبسط الكف فوق الحاجب والعورة السوءة وكل ما يستحى منه إذا ظهر، وقيل أنها ذات عورة والمعنى أن المرأة غيرها بها فيوقعها أو أحدهما في الفتنة أو يريد بالشيطان شيطان الإنس من أهل الفسق أي إذا رآها

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بارزة استشر فوها بما بثه الشيطان في نفوسهم من الشر ومحتمل أنه رآها الشيطان فصارته من الخبيثات بعد أن كانت من الطيبات. (رواه الترمذي). (مرقاة المفاتيح شرح مشكاة المصابيح (5/ 2054)] دار الفكر، بيروت – لبنان]

7

Job Advertisement:

عن أبي طلحة، رضي الله عنهم قال: قال النبي صلى الله عليه وسلم: «لا تدخل الملائكة بيوتا فيه كلب ولا تصاوير» (صحيح البخاري (7/ 167)] دار طوق النجاة]

...وأما اتخاذ المصور بحيوان، فإن كان معلقا على حائط سواء كان له ظل أم لا، أو ثوبا ملبوسا أو عمامة أو نحو ذلك، فهو حرام... (مرقاة المفاتيح شرح مشكاة المصابيح (7/ 2848)] دار الفكر، بيروت – لبنان]

قال في البحر وفي الخلاصة وتكره التصاوير على الثوب صلى فيه أو لا انتهى وهذه الكراهة تحريمية. وظاهر كلام النووي في شرح مسلم الإجماع على تحريم تصوير الحيوان وقال وسواء صنعه لما يمتن أو لغيره فصنعه حرام بكل حال لأن فيه مضاهاة لخلق الله تعالى وسواء كان في ثوب أو بساط أو درهم وإناء وحائط وغيرها. فينبغي أن يكون حراما لا مكروها إن ثبت الإجماع أو قطعية الدليل بتواتره اه كلام البحر ملخصا (حاشية ابن عابدين - (1 / 647)

هذا أي تصوير ذي روح على أي شيء كان كبيرة هو صريح الأحاديث الصحيحة ولا ينافيه قول الفقهاء: يجوز ما على الأرض وبساط ونحوهما من كل ممتن لأن المراد أنه يجوز بقاؤه ولا يجب إتلافه وأما جعل التصوير لذي روح فهو حرام مطلقا ثم رأيت في " شرح مسلم " ما يصرح بما ذكرته حيث قال ما حاصله: تصوير صورة الحيوان حرام من الكبائر سواء صنعه لما يمتن أو لغيره سواء كان ببساط أو درهم أو ثوب وأما تصوير صورة الشجر ونحوها فليس بحرام وأما المصور بصورة الحيوان فإن كان معلقا على حائط أو ملبوسا كثوب أو عمامة مما لا يمتن فحرام أو ممتنا كبساط بداس ووسادة فلا يحرم. لكن هل يمنع دخول ملائكة الرحمة ذلك البيت؟ الأظهر أنه عام في كل صورة. هذا تلخيص مذهب جمهور علماء الصحابة والتابعين ومن بعدهم كالشافعي ومالك والثوري وأبي حنيفة وغيرهم... (موطأ محمد مع تعليق الممجد - (3 / 379)

8

Hiring on Merit (qawiyunameen):

وقولها إِنَّ خَيْرَ مَنْ اسْتَأْجَرْتَ الْقَوِيُّ الْأَمِينُ كلام حكيم جامع لا يزداد عليه، لأنه إذا اجتمعت هاتان الخصلتان، أعنى الكفاية والأمانة في القائم بأمرك فقد فرغ بالك وتم مرادك. كذا في تفسير الألوسي أيضاً. (الكشاف عن حقائق غوامض التنزيل (3/ 403)] دار الكتاب العربي – بيروت]

وكذا في قوله سبحانه: إِنَّ خَيْرَ مَنْ اسْتَأْجَرْتَ الْقَوِيُّ الْأَمِينُ وهو تعليل جار مجرى الدليل على أنه عليه السلام حقيق بالاستئجار المفهوم من طلب استئجاره، وبعضهم رتب من الآية قياسا من الشكل الأول هكذا هو قوي أمين وكل قوي أمين لائق بالاستئجار ينتج هو لائق بالاستئجار... (تفسير الألوسي: (روح المعاني) (10/ 274)] دار الكتب العلمية – بيروت]

9

Hiring with mal-intent:

حدثنا محمد بن يحيى حدثنا عبد الرزاق أنبأنا معمر عن جابر الجعفي عن عكرمة عن ابن عباس قال قال رسول الله صلى الله عليه وسلم لا ضرر ولا ضرار (سنن ابن ماجه (497/ 497)

ويكفي الإنسان لدينه من ذلك أربعة أحاديث الأعمال بالنيات والحلال بين والحرام بين ومن حسن إسلام المرء تركه ما لا يعنيه ولا يكون المؤمن مؤمنا حتى يرضى لأخيه ما يرضى لنفسه وقال القاضي عياض ذكر الأئمة أن هذا الحديث ثلث الإسلام وقيل ربه... (عمدة القاري شرح صحيح البخاري (1/ 22)] دار إحياء التراث العربي – بيروت]

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وقال الخطابي قوله إنما الأعمال بالنيات لم يرد به أعيان الأعمال لأنها حاصلة حسا وعيانا بغير نية وإنما معناه أن صحة أحكام الأعمال في حق الدين إنما تقع بالنية وأن النية هي الفاصلة بين ما يصح وما لا يصح.... (عمدة القاري شرح صحيح البخاري (1/30) [دار إحياء التراث العربي - بيروت]

(المادة ٢): الأمور بمقاصدها. يعني أن الحكم الذي يترتب على أمر يكون على مقتضى ما هو المقصود من ذلك الأمر. ويقرب من هذه القاعدة أنما الأعمال بالنيات. والله تعالى أعلم بالصواب (شرح المجلة لسليم رستم باز (ص: ١٧)

10

Realistic job preview :

باب ما ذكر عن رسول الله صلى الله عليه وسلم في الصلح بين الناس.

قال: حدثنا كثير بن عبد الله بن عمرو بن عوف المزني، عن أبيه، عن جده، أن رسول الله صلى الله عليه وسلم قال: «الصلح جائز بين المسلمين، إلا صلحا حرم حلالا، أو أحل حراما، والمسلمون على شروطهم، إلا شرطا حرم حلالا، أو أحل حراما»: هذا حديث حسن صحيح. (سنن الترمذي ت شاكر (3/626) [شركة مكتبة ومطبعة مصطفى البابي الحلبي - مصر]

11

When should the organization terminate employment discussion/negotiation:

عن أبي هريرة، عن رسول الله صلى الله عليه وسلم، أنه قال: " لا يسوم الرجل على سوم أخيه المسلم، ولا يخطب على خطبته " (مسند أحمد ط الرسالة (15/193) [مؤسسة الرسالة]

12

Cheating or making false commitments:

حدثنا عبد الله بن يوسف أخبرنا مالك عن عبد الله بن دينار عن عبد الله بن عمر رضي الله عنهما أن رجلا ذكر للنبي صلى الله عليه وسلم أنه يخدع في البيوع فقال إذا بايعت فقل لا خلابة (صحيح بخارى: جلد اول: حديث نمبر 1988)

حدثنا محمد بن يحيى حدثنا عبد الرزاق أنبأنا معمر عن جابر الجعفي عن عكرمة عن ابن عباس قال قال رسول الله صلى الله عليه وسلم لا ضرر ولا ضرار (سنن ابن ماجه (497/4) وَأَوْفُوا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا [الإسراء/34]

عن أنس قال (ما خطبنا رسول الله صلى الله عليه وسلم إلا قال لا إيمان لمن لا أمانة له ولاديين لمن لا عهد له) (المعجم الأوسط للطبراني)

13

Appointment:

باب ما ذكر عن رسول الله صلى الله عليه وسلم في الصلح بين الناس.

حدثنا الحسن بن علي الخلال قال: حدثنا أبو عامر العقدي [ص: 627] قال: حدثنا كثير بن عبد الله بن عمرو بن عوف المزني، عن أبيه، عن جده، أن رسول الله صلى الله عليه وسلم قال: «الصلح جائز بين المسلمين، إلا صلحا حرم حلالا، أو أحل حراما، والمسلمون على شروطهم، إلا شرطا حرم حلالا، أو أحل حراما»: هذا حديث حسن صحيح. (سنن الترمذي ت شاكر (3/626) [شركة مكتبة ومطبعة مصطفى البابي الحلبي - مصر]

كتاب البيوع - باب شروطه وما نهى عنه: لقد حرص الإسلام على إرساء المحبة والألفة بين المسلمين، وسد كل باب يفضي إلى النزاع والفرقة، ولذلك نهى عن بيوع ومعاملات تفضي إلى الفرقة والنزاع، وتفسد المحبة والألفة بين المسلمين.... (شرح بلوغ المرام لعطية سالم (1/192)، بترقيم الشاملة آليا)

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Appointment:

كتاب البيوع - باب شروطه وما نهى عنه: لقد حرص الإسلام على إرساء المحبة والألفة بين المسلمين، وسد كل باب يقضي إلى النزاع والفرقة، ولذلك نهى عن بيوع ومعاملات تفضي إلى الفرقة والنزاع، وتفسد المحبة والألفة بين المسلمين... (شرح بلوغ المرام لعطية سالم (1/192)، بترقيم الشاملة آليا)

15

Post Orientation Process:

... ليس أداء الامانة منحصرًا في مال الوديعة ونحو ذلك بل كل حق لاحد على أحد امانة يجب أدائه لاهله كما يدل عليه سبب نزول هذه الآية... (التفسير المظهرى (2 ق 2 / 148)

عن قتادة، عن أنس، قال: قلما خطبنا رسول الله صلى الله عليه وسلم إلا قال: " لا إيمان لمن لا أمانة له، ولا دين لمن لا عهد له " (شرح مشكل الآثار - (10 / 42)

عن أبي صالح، عن أبي هريرة، قال: قال رسول الله صلى الله عليه وسلم: «أد الأمانة إلى من ائتمنك، ولا تخن من خانك». (سنن أبي داود (3 / 290)

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَخُونُوا اللَّهَ وَالرَّسُولَ بِتَعْطِيلِ الْفَرَائِضِ وَالسِّنَنِ، أَوْ بِأَنْ تَضْمُرُوا خِلَافَ مَا تَظْهَرُونَ، أَوْ بِالْغُلُولِ فِي الْمَغَانِمِ. (تفسير البيضاوي = أنوار التنزيل وأسرار التأويل (3 / 56)

[وَالَّذِينَ يُؤَدُّونَ الْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ بَعِيرٍ مَا كُتِبَ عَلَيْهِمْ أَنْ يَخُونُوا أُولِي الْقُرْبَىٰ وَمَنْ هُوَ بَيْنَهُمْ فَأُولَٰئِكَ كَانُوا فِي الْاِحْزَابِ: [58]

قلت اللفظ عام في كل من يؤدى مؤمنا او مؤمنة بائ وجه كان وان كان المورد خاصا عن ابى هريرة قال قال رسول الله صلى الله عليه وسلم المسلم من سلم المسلمون من لسانه ويده والمؤمن من امنه الناس على دمانهم وأموالهم- رواه الترمذي والنسائي... (التفسير المظهرى (7 / 382)

[وَأَعْبُدُوا اللَّهَ وَلَا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدِينَ إِحْسَانًا وَبِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينِ وَالْجَارِ ذِي الْقُرْبَىٰ وَالْجَارِ الْجُنُبِ وَالصَّاحِبِ بِالْجَنبِ وَابْنِ السَّبِيلِ وَمَا مَلَكَتْ أَيْمَانُكُمْ إِنَّ اللَّهَ لَا يُحِبُّ مَنْ كَانَ مُخْتَالًا فَخُورًا] [النساء: 36]

16

Probation & Confirmation:

... ليس أداء الامانة منحصرًا في مال الوديعة ونحو ذلك بل كل حق لاحد على أحد امانة يجب أدائه لاهله كما يدل عليه سبب نزول هذه الآية... (التفسير المظهرى (2 ق 2 / 148)

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عن جابر بن عبد الله، أن رسول الله صلى الله عليه وسلم، قال: «اتقوا الظلم، فإن الظلم ظلمات يوم القيامة... (صحيح مسلم (4 / 1996)

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَخُونُوا اللَّهَ وَالرَّسُولَ وَتَخُونُوا أَمَانَاتِكُمْ وَأَنْتُمْ تَعْلَمُونَ} [الأنفال: 27]

وأصل الخون النقص كما أن أصل الوفاء التمام، واستعماله في ضد الأمانة لتضمنه إياه. وَتَخُونُوا أَمَانَاتِكُمْ فيما بينكم وهو مجزوم بالعطف على الأول أو منصوب على الجواب بالواو. وَأَنْتُمْ تَعْلَمُونَ أنكم تخونون، أو وأنتم علماء تميزون الحسن من القبيح. (تفسير البيضاوي = أنوار التنزيل وأسرار التأويل (3 / 56)

عن أبي صالح، عن أبي هريرة، قال: قال رسول الله صلى الله عليه وسلم: «أد الأمانة إلى من ائتمنك، ولا تخن من خانك». (سنن أبي داود (3 / 290)

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{وَالَّذِينَ يُؤَدُّونَ الْمُؤْمِنِينَ وَالْمُؤْمِنَاتِ بَعَثَ مَا كُنْتُمْ تُؤَدُّونَ فَحَدِّثُوا بِالْحَقِّ وَالْحَقَّ كُنْتُمْ تُبَيِّنُونَ} [الأحزاب: 58] (تفسير البيضاوي = أنوار التنزيل وأسرار التأويل (3/ 56)

قلت اللفظ عام في كل من يؤدى مؤمنا او مؤمنة بائ وجه كان وان كان المورد خاصا عن ابي هريرة قال قال رسول الله صلى الله عليه وسلم المسلم من سلم المسلمون من لسانه ويده والمؤمن من امنه الناس على دمائهم وأموالهم- رواه الترمذي والنسائي... (التفسير المظهرى (382 /7)

{وَأَعْبُدُوا اللَّهَ وَلَا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَبِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينِ وَالْأَجَارِ ذِي الْقُرْبَىٰ وَالْأَجَارِ الْجُنُبِ وَالصَّاحِبِ بِالْجَنبِ وَابْنِ السَّبِيلِ وَمَا مَلَكَتْ أَيْمَانُكُمْ إِنَّ اللَّهَ لَا يُحِبُّ مَنْ كَانَ مُخْتَالًا فَخُورًا} [النساء: 36]

17

Probation & Confirmation:

{وَأَوْفُوا بِالْعَهْدِ إِنَّ الْعَهْدَ كَانَ مَسْئُولًا} [الإسراء/34]

عن أنس قال (ما خطبنا رسول الله صلى الله عليه وسلم إلا قال لا إيمان لمن لا أمانة له ولادين لمن لا عهد له)(المعجم الأوسط للطبراني)

18

Appraising performance of prayers:

{ الَّذِينَ إِذْ مَكَانَهُمْ فِي الْأَرْضِ وَقَامُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَأَمَرُوا بِالْمَعْرُوفِ وَنَهَوْا عَنِ الْمُنْكَرِ } [سورة الحج] وَبِهِ عَاقِبَةُ الْأُمُورِ

عَنْ أَبِي هُرَيْرَةَ.... فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ (لأبي الهيثم بن التيهان): هَلْ لَكَ خَادِمٌ؟ قَالَ: لَا، قَالَ: فَإِذَا آتَانَا سَبِيٌّ فَأْتِنَا فَأَتَيْ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِرَأْسَيْنِ لَيْسَ مَعَهُمَا تَالِثٌ فَأَتَاهُ أَبُو الْهَيْثَمِ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: اخْتَرْنَا مِنْهُمَا، فَقَالَ: يَا نَبِيَّ اللَّهِ اخْتَرْ لِي، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: إِنَّ الْمُسْتَشَارَ مُؤْتَمَنٌ، خُذْ هَذَا فَأْتِي رَأْيَهُ يُصَلِّيْ وَاسْتَوْصِ بِهِ مَعْرُوفًا. (سنن الترمذي)

19

Appraising performance of prayers:

قوله: (كلكم راع) أصل: راع راعي فاعل، إعلال قاض، من رعى رعاية، وهو حفظ الشيء وحسن التعهد له، والراعي: هو الحافظ المؤمن الملتزم صلاح ما قام عليه وما هو تحت نظره، فكل من كان تحت نظره شيء فهو مطلوب بالعدل فيه والقيام بمصالحه في دينه ودنياه ومتعلقاته، فإن وفى ما عليه من الرعاية حصل له الحظ الأوفر والجزاء الأكبر، وإن كان غير ذلك طالبه كل أحد من رعيته بحقه.

(عمدة القاري شرح صحيح البخاري (6/ 190)

عن قيس بن مسلم، عن طارق بن شهاب - وهذا حديث أبي بكر - قال: أول من بدأ بالخطبة يوم العيد قبل الصلاة مروان. فقام إليه رجل، فقال: الصلاة قبل الخطبة، فقال: قد ترك ما هنالك، فقال أبو سعيد: أما هذا فقد قضى ما عليه سمعت رسول الله صلى الله عليه وسلم يقول: «من رأى منكم منكرا فليغيره بيده، فإن لم يستطع فبلسانه، فإن لم يستطع فبقلبه، وذلك أضعف الإيمان». (صحيح مسلم (1/ 69)

{ الَّذِينَ إِذْ مَكَانَهُمْ فِي الْأَرْضِ وَقَامُوا الصَّلَاةَ وَآتُوا الزَّكَاةَ وَأَمَرُوا بِالْمَعْرُوفِ وَنَهَوْا عَنِ الْمُنْكَرِ } [سورة الحج] وَبِهِ عَاقِبَةُ الْأُمُورِ

لو استأجر احد أجيرا علي أن يعمل يوما، يعمل من طلوع الشمس إلي العصر أو إلي الغروب علي وفق عرف البلدة في شأن العمل راجع المادة: ٣٦، وإن كان العرف مشتركا فيعمل من طلوع الشمس إلي غروبها اعتبار الذكر اليوم (خانية) ولكن إذا اتفق العاقدان علي تعيين الوقت

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لابتداء العمل وللفراغ منه فيعمل بحسب اتفاقهما. (شرح المجلة لسليم رستم باز: (1/ 280،
المادة: ٤٩٥)

{ يَا أَيُّهَا النَّاسُ إِنَّا خَلَقْنَاكُمْ مِنْ ذَكَرٍ وَأُنْثَىٰ وَجَعَلْنَاكُمْ شُعُوبًا وَقَبَائِلَ لِتَعَارَفُوا إِنَّ أَكْرَمَكُمْ عِنْدَ اللَّهِ
تُتَّقَاكُمْ إِنَّ اللَّهَ عَلِيمٌ خَبِيرٌ } [الحجرات: 13]

البحث الأول: فإن قيل هذا مبني على عدم اعتبار النسب، وليس كذلك فإن للنسب اعتبارا عرفا
وشرعا، حتى لا يجوز تزويج الشريفة بالنبطي، فنقول إذا جاء الأمر العظيم لا يبقى الأمر
الحقير معتبرا، وذلك في الحس والشرع والعرف، أما الحسن فلأن الكواكب لا ترى عند طلوع
الشمس، ولجناح الذباب دوي ولا يسمع عند ما يكون رعد قوي، وأما في العرف، فلأن من
جاء مع الملك لا يبقى له اعتبار ولا إليه التفات، إذا علمت هذا فيهما ففي الشرع كذلك، إذا جاء
الشرف الديني الإلهي، لا يبقى الأمر هناك اعتبار، لا لنسب ولا لنسب، ألا ترى أن الكافر وإن
كان من أعلى الناس نسبا، والمؤمن وإن كان من أدونهم نسبا، لا يقاس أحدهما بالآخر، وكذلك
ما هو من الدين مع غيره، ولهذا يصلح للمناصب الدينية كالقضاء والشهادة كل شريف وضيع
إذا كان ديننا عالما صالحا، ولا يصلح لشيء منها فاسق، وإن كان قرشي النسب، وقاروني
النسب... (التفسير الرازي: (112 / 28)

قال قتادة في هذه الآية ان أكرم الكرم التقوى وآلام اللوم الفجور عن سمرة قال قال رسول الله
- صلى الله عليه وسلم - الحسب المال الكرم التقوى رواه احمد وترمذى وصححه وابن ماجه
والحاكم... (التفسير المظهري: (57 / 9)

20

Compensation & Benefits:

“As mentioned in Finance module”.

21

Paying wages on time:

والاجرة تستحق باستيفاء المعقود عليه او باشتراط التعجيل او تعجيلها] لان الاجرة لا تجب
بنفس العقد لقوله عليه الصلوة والسلام: اعطوا الاجير اجره قبل ان يجف عرقه (الاختيار 66/2
....إخوانكم خولكم، جعلهم الله تحت أيديكم، فمن كان أخوه تحت يده، فليطعمه مما يأكل،
وليلبسه مما يلبس، ولا تكلفوهم ما يغلبهم، فإن كلفتموهم فأعينوهم. (صحیح البخاري (1/ 15)]
دار طوق النجاة]

22

Payment of additional wages If the JD is upgraded:

{قَالَ إِبْنِي أَرِيدُ أَنْ أُكْحِكَ إِحْدَى ابْنَتَيْ هَاتَيْنِ عَلَى أَنْ تَأْجِرَنِي ثَمَانِي حَجَجٍ فَإِنْ أْتَمَمْتَ عَشْرًا
فَمِنْ عِنْدِكَ وَمَا أَرِيدُ أَنْ أَشُقَّ عَلَيْكَ سَتَجِدُنِي إِنْ شَاءَ اللَّهُ مِنَ الصَّالِحِينَ} (القصص: 27)

23

Compensation for extra hours of work:

لو استأجر احد أجيرا علي أن يعمل يوما، يعمل من طلوع الشمس إلي العصر أو إلي الغروب
علي وفق عرف البلدة في شأن العمل راجع المادة: ٣٦، وإن كان العرف مشتركا فيعمل من
طلوع الشمس إلي غروبها اعتبار الذكر اليوم (خانية) ولكن إذا اتفق العاقدان علي تعيين الوقت
لابتداء العمل وللفراغ منه فيعمل بحسب اتفاقهما. (شرح المجلة لسليم رستم باز: (1/ 280،
المادة: ٤٩٥)

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“ومنه مالواستعان برجل في سوق لبيع متاعه فبعد البيع طالبه الرجل بأجرته فينظر إلى تعامل أهل السوق، فإن كانت العادة أن يعمل مثل هذا العمل بالأجرة فله أجر مثله وإلا فلا.” (شرح المجلة: (٣٥/١)، المادة: ٣٨)

“يشترط في صحة الإجارة رضي العاقدين.” (شرح المجلة: (٣٥/١)، المادة: ٨)

“لايعتبر البيع الذي وقع بالإكراه المعتبر ولا الشراء والإيجار. ملجئاً كان الإكراه أو غير ملجئ.” (شرح المجلة (٥٥٩/١)، المادة:)

24

Compensation in case of hardship:

عن أبي هريرة رضي الله عنه، قال: كان لرجل على النبي صلى الله عليه وسلم سن من الإبل، فجاءه يتقاضاه، فقال صلى الله عليه وسلم: «أعطوه»، فطلبوا سنه، فلم يجدوا له إلا سناً فوقها، فقال: «أعطوه»، فقال: أوفيتني وفي الله بك، قال النبي صلى الله عليه وسلم: «إن خياركم أحسنكم قضاء» (صحيح البخاري (117 /3))

عن جابر بن عبد الله رضي الله عنهما، قال: أتيت النبي صلى الله عليه وسلم وهو في المسجد - قال مسعر: أراه قال: ضحى - فقال: «صل ركعتين»، وكان لي عليه دين، فقضاني وزادني. (صحيح البخاري (117 /3))

عن همام بن منبه، أخي وهب بن منبه، أنه سمع أبا هريرة رضي الله عنه، يقول: قال رسول الله صلى الله عليه وسلم: «مطل الغني ظلم» (صحيح البخاري (118 /3))

25

Monetary incentives:

{إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا} (سورة النساء: (الآية: ٥٨))

قال رسول الله صلى الله عليه وسلم: ... كل المسلم على المسلم حرام، دمه، وماله، وعرضه. (صحيح مسلم (1986 /4))

26

Compliance with the law of the land:

“المسلمون علي شروطهم إلا شرطاً حرم حلالاً أو أحل حراماً” (سنن الترمذى: (باب ما ذكر في الصلح بين الناس، رقم: ١٣٥٢))

سمعت جدتي تحدث أنها سمعت النبي صلى الله عليه وسلم يخطب في حجة الوداع وهو يقول: “ولو استعمل عليكم عبد يقودكم بكتاب الله، اسمعوا ليه واطيعوا.” (صحيح مسلم: (باب و جوب طاعة الأمراء في غير معصية: حديث (٤٧٥٨) طبع دار السلام.

27

Shari’ah compliant Benefits:

{قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا} [البقرة: 275]

28

Shari’ah compliant Benefits:

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الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا
الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ
وَأْمُرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ ﴿البقرة: ٢٧٥﴾

29

Punishments and penalties:

وعن أبي حرة الرقاشي عن عمه قال: قال رسول الله صلى الله عليه وسلم: «ألا تظلموا إلا لا يحل مال امرئ إلا بطيب نفس منه». رواه البيهقي في شعب الإيمان والدارقطني في المجتبى- (مشكاة المصابيح (2/ 889)

وأفاد في البزازية أن معنى التعزير بأخذ المال على القول به إمساك شيء من ماله عنه مدة لينزجر ثم يعيده الحاكم إليه لا أن يأخذه الحاكم لنفسه أو لبيت المال كما يتوهمه الظلمة إذ لا يجوز لأحد من المسلمين أخذ مال أحد بغير سبب شرعي..... (البحر الرائق شرح كنز الدقائق ومنحة الخالق وتكملة الطوري (5/ 44)

30

Punishments and penalties:

﴿إِنَّ اللَّهَ بِأَمْرِكُمْ أُنْ تُؤْتُوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا﴾ (سورة النساء: (٥٨)

قوله تعالى: (وإذا حكمتم بين الناس أن تحكموا بالعدل) قال الضحاك: بالبيينة على المدعي واليمين على من أنكر. وهذا خطاب للولاة والأمراء والحكام، ويدخل في ذلك بالمعنى جميع الخلق كما ذكرنا في أداء الأمانات. قال صلى الله عليه وسلم: (إن المقسطين يوم القيامة على منابر من نور عن يمين الرحمن وكلتا يديه يمين الذين يعدلون في حكمهم وأهليهم وما ولوا). (وقال:): كلكم راع وكلكم مسئول عن رعيته فالإمام راع وهو مسئول عن رعيته والرجل راع على أهله وهو مسئول عنهم والمرأة راعية على بيت زوجها وهي مسئولة عنه والعبد راع على مال سيده وهو مسئول عنه ألا فكلكم راع وكلكم مسئول عن رعيته. (فجعل في هذه الأحاديث الصحيحة كل هؤلاء رعاة وحكاما على مراتبهم، وكذلك العالم الحاكم، لأنه إذا أفتى حكم وقضى وفصل بين الحلال والحرام، والفرض والندب، والصحة والفساد، فجميع ذلك أمانة تودى وحكم يقضى... (تفسير القرطبي (5/ 258)

﴿فَمَنْ اعْتَدَىٰ عَلَيْكُمْ فَاعْتَدُوا عَلَيْهِ بِمِثْلِ مَا اعْتَدَىٰ عَلَيْكُمْ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ مَعَ الْمُتَّقِينَ﴾ سورة البقرة: (الآية: ١٩٤)

أما قوله تعالى: فمن اعتدى عليكم فاعتدوا عليه بمثل ما اعتدى عليكم فالمراد منه: الأمر بما يقابل الاعتداء من الجزاء والتقدير: فمن اعتدى عليكم فقابلوه... (تفسير الرازي: (5/ 293)

31

Harassment at workplace:

أن عبد الله بن عمر، يقول: سمعت رسول الله صلى الله عليه وسلم يقول: «كلكم راع، وكلكم مسئول عن رعيته، الإمام راع ومسئول عن رعيته، والرجل راع في أهله وهو مسئول عن رعيته، والمرأة راعية في بيت زوجها ومسئولة عن رعيته، والخادم راع في مال سيده ومسئول عن رعيته» قال: - وحسبت أن قد قال - «والرجل راع في مال أبيه ومسئول عن رعيته، وكلكم راع ومسئول عن رعيته» (صحيح البخاري: (باب الجمعة في القرى: (الجزء: (٥/٢ ط: شاملة

قال رسول الله صلى الله عليه وسلم: ... كل المسلم على المسلم حرام، دمه، وماله، وعرضه. (صحيح مسلم (4/ 1986)

عن علي قال: قال لي رسول الله صلى الله عليه وسلم: إذا تقاضى إليك رجلان، فلا تقض لأول حتى تسمع كلام الآخر... (سنن الترمذي ت بشار (3/ 11) (ابواب الاحكام)

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Grievance Handling:

أن عبد الله بن عمر، يقول: سمعت رسول الله صلى الله عليه وسلم يقول: «كلكم راع، وكلكم مسئول عن رعيته، الإمام راع ومسئول عن رعيته، والرجل راع في أهله وهو مسئول عن رعيته، والمرأة راعية في بيت زوجها ومسئولة عن رعيته، والخادم راع في مال سيده ومسئول عن رعيته» قال: - وحسبت أن قد قال - «والرجل راع في مال أبيه ومسئول عن رعيته، وكلكم راع ومسئول عن رعيته»

(صحيح البخاري: (باب الجمعة في القرى: (الجزء: ٥/٢) ط: شاملة.

عن أبي ذر، قال: قلت: يا رسول الله، ألا تستعملني؟ قال: فضررب بيده على منكبي، ثم قال: «يا أبا ذر، إنك ضعيف، وإنها أمانة، وإنها يوم القيامة خزي وندامة، إلا من أخذها بحقها، وأدى الذي عليه فيها» (صحيح مسلم (٧٤٣ /٩)

وفي حديث زهير: قال: قال رسول الله صلى الله عليه وسلم: «إن المقسطين عند الله على منابر من نور، عن يمين الرحمن عز وجل، وكلتا يديه يمين، الذين يعدلون في حكمهم وأهليهم وما ولوا» (صحيح مسلم (350 /٩)

33

Grievance Handling:

{فَاسْأَلُوا أَهْلَ الذِّكْرِ إِنْ كُنْتُمْ لَا تَعْلَمُونَ} (سورة النحل: (الآية: ٤٣)

34

Treating employees with dignity and respect:

يَا أَيُّهَا الرُّسُلُ كُلُوا مِنَ الطَّيِّبَاتِ وَاعْمَلُوا صَالِحًا ۗ إِنِّي بِمَا تَعْمَلُونَ عَلِيمٌ ﴿٥١﴾ (المؤمنون: ٥١)

35

Fulfilling commitments of the contract:

قال الله تعالى في سورة الفرقان:

وَالَّذِينَ هُمْ لِأَمَانَاتِهِمْ وَعَهْدِهِمْ رَاعُونَ ﴿٨﴾

وَعَهْدِهِمْ رَاعُونَ (8) أي لما يؤتمنون عليه ويعاهدون من جهة الحق كالصلوة والصوم وغيرهما من العبادات التي أوجبها الله تعالى- أو من جهة الخلق كالودائع والبيضائع وما واعد الناس وعاهدتهم فعلى العبد الوفاء بجميعها... (التفسير المظهرى (6/ 365) [مكتبة الرشدية - الباكستان]

36

Prohibition to engage in any other business or occupation:

(تفقد الإجارة بالشروط المخالفة لمقتضى العقد فكل ما أفسد البيع) مما مر (يفسدها) كجهالة ماجور أو أجرة... (الدر المختار (6/ 46)

ومنها الخلو عن الشرط الفاسد وهو أنواع منها شرط في وجوده غرر كما إذا اشترى ناقة على أنها حامل وأن يكون المشروط محظورا وشرط ما لا يقتضيه العقد وفيه منفعة للبائع وللمشتري أو للمبيع إن كان من بني آدم وليس بملائم للعقد ولا مما جرى به التعامل بين الناس وشرط الأجل في المبيع العين والثمن العين ويجوز في المبيع الدين والثمن الدين وشرط خيار مؤبد وشرط خيار مؤقت بوقت مجهول جهالة متفاحشة كهبوب الريح ومجيء المطر وقدم

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فلان أو متقاربة كالحصاد والدياس وقدم الحاج وشرط خيار غير مؤقت أصلاً وشرط خيار مؤقت بالزائد على ثلاثة أيام هكذا في البدائع (الفتاوى الهندية (3/3))
وليس للخاص أن يعمل لغيره، ولو عمل نقص من أجرته بقدر ما عمل فتاوى النوازل.(الدر المختار: (70/6))

(قوله ولو عمل نقص من أجرته إلخ) قال في التتارخانية: نجار استؤجر إلى الليل فعمل لأخر دواة بدرهم وهو يعلم فهو آثم، وإن لم يعلم فلا شيء عليه وينقص من أجر النجار بقدر ما عمل في الدواة. الدر المختار وحاشية ابن عابدين (رد المحتار) (70/6)
فتاوي عثمانى: (ج:3، ص:374)

37

Workload:

(فصل التكليف بما لا يطاق غير جائز خلافاً للأشعري؛ لأنه لا يليق من الحكيم ولقوله تعالى {لا يكلف الله نفساً إلا وسعها} [البقرة: 286] إلى غير ذلك من الآيات... (شرح التلويح على التوضيح(1/378)) [مكتبة صبيح بمصر]

...«اللهم، من ولي من أمر أمتي شئنا فشق عليهم، فاشقق عليه، ومن ولي من أمر أمتي شئنا فرفق بهم، فارفق به» (صحيح مسلم (كتاب الإمارة: 3/1458)) [دار إحياء التراث العربي – بيروت]

....إخوانكم خولكم، جعلهم الله تحت أيديكم، فمن كان أخوه تحت يده، فليطعمه مما يأكل، وليلبسه مما يلبس، ولا تكلفوهم ما يغلبهم، فإن كلفتموهم فأعينوهم. (صحيح البخاري (1/285)) [15] دار طوق النجاة]

38

Forced overtime work:

لو استأجر احد أجيرا علي أن يعمل يوماً، يعمل من طلوع الشمس إلي العصر أو إلي الغروب علي وفق عرف البلدة في شأن العمل راجع المادة: 36، وإن كان العرف مشتركاً فيعمل من طلوع الشمس إلي غروبها اعتبار الذكر اليوم (خاتية) ولكن إذا اتفق العاقدان علي تعيين الوقت لايتداء العمل وللفراغ منه فيعمل بحسب اتفاقهما. (شرح المجلة لسليم رستم باز: (1/285)، المادة: 495)

“ ومنه مالواستعان برجل في سوق لبيع متاعه فيبعد البيع طالبه الرجل بأجرته فينظر إلي تعامل اهل السوق، فإن كانت العادة أن يعمل مثل هذا العمل بالأجرة فله أجر مثله وإلا فلا.” (شرح المجلة: (35/1)، المادة: 38)

“يشترط في صحة الإجارة رضي العاقدين.” (شرح المجلة: (35/1)، المادة: 448)

“لايعتبرالبيع الذي وقع بالإكراه المعتبر ولا الشراء والإيجار. ملجئاً كان الإكراه أو غير ملجئ.” (شرح المجلة: (559/1)، المادة: 1006)

39

Forced overtime work:

قال النبي صلي الله عليه وسلم المسلمون علي شروطهم الا شرطاً حرم حلالاً أو أحل حراماً. (سنن الترمذى: (رقم الحديث 1352، باب ماذكر في الصلح بين الناس))

40

Ambiguity in terms of employment:

وَلَا تَأْكُلُوا أَمْوَالَكُم بَيْنَكُم بِالْبَاطِلِ... (سورة البقرة (الآية: 188))

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يتحقق العلم في إجازة الأجير الخاص ببيان مدة الإجازة، ونوعية العمل المكلف به إجمالاً. أما في الإجازة الواردة على الأجير المشترك فيتحقق العلم ببيان العمل، ونوعه، وصفته، ويجوز إضافة المدة إليه وحينئذ يلزم الأجير إكمال العمل فيها، وفي حال عدم ذكر المدة في الإجازة على العمل يرجع إلى العرف. (المعايير الشرعية: ص: ٤٥٨)

يجب ان تكون الاجرة معلومة علماً ينتفي معه التنازع سواء كانت نقداً، ام سلعة، ام منفعة (خدمة)، ويجوز ان تكون بمبلغ ثابت، او متغير قائم على طريقة معلومة للطرفين. (المعايير الشرعية: ص: ٤٦٠)

...والحكم عام يشتمل العقود التي عقدها الله تعالى على عباده... وما يعقد الناس بينهم من عقود الأمانات والمعاملات ونحوها مما يجب الوفاء به وقد ذكر رسول الله صلى الله عليه وسلم من آيات المنافق إذا عاهد غدر متفق عليه... (التفسير المظهري (3/ 13))

المنافع ليست بمال على أصلنا حتى لا تضمن بالغصوب وإنما تصير مالا بالعقد للضرورة إذا احتيج إليها وأمكن تسليمها... (تبيين الحقائق شرح كنز الدقائق وحاشية الشلبي (2/ 146))

فمن شرائط الصحة: خلوه عن شرط فاسد، وهو الشرط المخالف لمقتضى العقد الداخل في صلب العقد من البديل فإن لم يخالف مقتضى العقد جاز الشرط والعقد، وإن خالف مقتضى العقد لكنه لم يدخل في صلبه يبطل الشرط، ويبقى العقد صحيحاً هكذا في البدائع. (الفتاوى الهندية (3/ 5))

{ يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ } (سورة المائدة: الآية: ١)

41

Rights of non-muslims

ويضمن المسلم قيمة خمره خنزيره اذا اتلفه.

ويجب كف الأذى عنه وتحريم غيبته كالمسلم. (الدرالمختار ٢: ٢٢٣ و ردالمحتار شامى- ٤٣: ٣، ٤٣: ٢٤٣)

42

Dress code:

يَا بَنِي آدَمَ قَدْ أَنْزَلْنَا عَلَيْكُمْ لِبَاسًا يُؤَارِي سُوَاتِكُمْ وَرِيشًا وَلِبَاسُ التَّقْوَىٰ ذَٰلِكَ خَيْرٌ ذَٰلِكَ مِنْ آيَاتِ اللَّهِ لَعَلَّهُمْ يَذَّكَّرُونَ ﴿الأعراف: ٢٦﴾

43

Dress code:

عن العلاء بن عبد الرحمن، عن أبيه، قال: سألت أبا سعيد الخدري عن الأزار، قال: على الخبير سقطت قال رسول الله صلى الله عليه وسلم: (إزرة المسلم إلى نصف الساق ولا حرج، أو لا جناح، فيما بينه وبين الكعبين، ما كان أسفل من الكعبين فهو في النار، من جر إزاره بطراً لم ينظر الله إليه. سنن أبي داود - (ج 4 / ص 41))

44

Dress code:

يَا بَنِي آدَمَ قَدْ أَنْزَلْنَا عَلَيْكُمْ لِبَاسًا يُؤَارِي سُوَاتِكُمْ وَرِيشًا [الأعراف/26]
عَنْ أَبِي هُرَيْرَةَ قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ- « صِنْفَانِ مِنْ أَهْلِ النَّارِ لَمْ أَرَهُمَا قَوْمٌ مَعَهُمْ سِيَاطٌ كَأَدْنَابِ الْبَقَرِ يَضْرِبُونَ بِهَا النَّاسَ وَنِسَاءٌ كَأَسْيَاطِ عَارِيَاتٍ مُمِيلَاتٍ مَائِلَاتٍ رُءُوسُهُنَّ كَأَسْنِمَةِ الْبُخْتِ الْمَائِلَةِ لَا يَدْخُلْنَ الْجَنَّةَ وَلَا يَجِدْنَ رِيحَهَا وَإِنْ رِيحَهَا لَتُوجَدُ مِنْ مَسِيرَةِ كَذَا وَكَذَا » صحيح مسلم للنيسابوري - (ج 8 / ص 155)

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Dress code:

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عن ابن عمر ، قال : قال رسول الله صلى الله عليه وسلم : (من تشبه بقوم فهو منهم) سنن أبي داود - (ج 4 / ص 16)

46

Dress code:

عن ابن عباس قال : " لعن رسول الله صلى الله عليه وسلم المتشبهات بالرجال من النساء والمتشبهين بالنساء من الرجال " . هذا حديث حسن صحيح. سنن الترمذي - (ج 4 / ص 194)

47

Dress code:

{وَلَا تَمْشِ فِي الْأَرْضِ مَرَحًا إِنَّكَ لَأَنْ تَحْرَقَ الْأَرْضَ وَلَنْ تَبْلُغَ الْجِبَالَ طُولًا} [الإسراء: 37]
عن ابن عمر قال في حديث شريك يرفعه قال " من لبس ثوب شهرة ألبسه الله يوم القيامة ثوبا مثله " زاد عن أبي عوانة " ثم تلهب فيه النار " . سنن أبي داود - (ج 2 / ص 441)

48

Dress code:

علي بن أبي طالب [رضي الله عنه] يقولان نبي الله صلى الله عليه وسلم أخذ حريرا فجعله في يمينه وأخذ ذهبا فجعله في شماله ثم قال " إن هذين حرام على ذكور أمتي " . سنن أبي داود - (ج 2 / ص 448)
عن سالم بن عبد الله عن أبيه بهذه القصة قال حلة إستبرق (ماغلظ من الحرير) وقال فيه ثم أرسل إليه بجبة ديباج (ما رق من الحرير) وقال " تتبعها وتصيب بها حاجتك " (سنن أبي داود - (ج 2 / ص 444)

49

Dress code:

عن علي بن أبي طالب رضي الله عنه أن رسول الله صلى الله عليه وسلم نهى عن لبس القسي (القسي ثياب يوتى بها من مصر فيها حرير تنسب إلى بلاد يقال لها القسي يفتح القاف . هامش د) وعن لبس المعصفر وعن تختم الذهب وعن القراءة في الركوع. سنن أبي داود - (ج 2 / ص 445)

50 {وَقُلْ لِلْمُؤْمِنَاتِ بَعْضُضْنَ مِنْ أَبْصَارِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا وَلْيَضْرِبْنَ بِخُمُرِهِنَّ عَلَى جُيُوبِهِنَّ} [النور: 31]

51 {يَا أَيُّهَا النَّبِيُّ قُلْ لِأَزْوَاجِكَ وَبَنَاتِكَ وَنِسَاءِ الْمُؤْمِنِينَ يُدْنِينَ عَلَيْهِنَّ مِنْ جَلَابِيبِهِنَّ ذَلِكَ أَدْنَى أَنْ يُعْرَفْنَ فَلَا يُؤْذَيْنَ وَكَانَ اللَّهُ غَفُورًا رَحِيمًا} [الأحزاب: 59]

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Segregation of men and women:

وروي عن أبي أمامة رضي الله عنه عن رسول الله صلى الله عليه وسلم قال إياك والخلوة بالنساء والذي نفسي بيده ما خلا رجل بامرأة إلا ودخل الشيطان بينهما ولأن يزحم رجل خنزيرا ملتظا بطين أو حمأة خير له من أن يزحم منكب منكب امرأة لا تحل له. (الترغيب والترهيب - (ج 3 / ص 39)

وفي الأشباه والخلوة بالأجنبية حرام إلا لملازمة مديونة هربت ودخلت خربة أو كانت عجوزا شوهاء أو بحائل والخلوة بالمحرمة مباحة إلا الأخت رضاعا والصهرة الشابة وفي الشرنبلالية معزيا للجوهره ولا يكلم الأجنبية إلا عجوزا عطست أو سلمت فيشمتها لا يرد السلام عليها وإلا لا انتهى-

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Segregation of men and women:

وروي عن أبي أمامة رضي الله عنه عن رسول الله صلى الله عليه وسلم قال إياك والخلوة بالنساء والذي نفسي بيده ما خلا رجل بامرأة إلا ودخل الشيطان بينهما ولأن يزحم رجل خنزيرا متلطا بطين أو حمأة خير له من أن يزحم منكبه منكب امرأة لا تحل له. (الترغيب والترهيب - (ج 3 / ص 39)

54

Employee Safety & Health:

عن المعرور بن سويد قال رأيت أبا ذر وعليه حلة وعلى غلامه مثلها فسألته عن ذلك؟ قال فذكر أنه ساء رجلا على عهد رسول الله صلى الله عليه وسلم فغيره بأمه قال فأتى الرجل النبي صلى الله عليه وسلم فذكر ذلك له فقال النبي صلى الله عليه وسلم (إنك امرؤ فيك جاهلية إخوانكم وخولكم جعلهم الله تحت أيديكم فمن كان أخوه تحت يديه فليطعمه مما يأكل وليلبسه مما يلبس ولا تكلفوهم ما يغلبهم فإن كلفتموهم فأعينوهم عليه) صحيح مسلم - (ج 3 / ص 1282)

55

Notice pay deduction:

وعن أبي حرة الرقاشي عن عمه قال: قال رسول الله صلى الله عليه وسلم: «ألا تظلموا ألا لا يحل مال امرئ إلا بطيب نفس منه». رواه البيهقي في شعب الإيمان والدارقطني في المجتبى. (مشكاة المصابيح (2/ 889)

وفي شرح الآثار: التعزير بالمال كان في ابتداء الإسلام ثم نسخ. اهـ. والحاصل أن المذهب عدم التعزير بأخذ المال... (الدر المختار وحاشية ابن عابدين (رد المحتار) (4/ 61)

وأفاد في البزازية أن معنى التعزير بأخذ المال على القول به إمساك شيء من ماله عنه مدة لينزجر ثم يعيده الحاكم إليه لا أن يأخذه الحاكم لنفسه أو لبيت المال كما يتوهمه الظلمة إذ لا يجوز لأحد من المسلمين أخذ مال أحد بغير سبب شرعي..... (البحر الرائق شرح كنز الدقائق ومنحة الخالق وتكملة الطوري (5/ 44)

56

Timely settlement of Employee's final dues:

وعنه قال: قال رسول الله صلى الله عليه وسلم: " قال الله تعالى: ثلاثة أنا خصمهم يوم القيامة: رجل أعطى بي ثم غدر ورجل باع حرا فأكل ثمنه ورجل استأجر أجيرا فاستوفى منه ولم يعطه أجره". رواه البخاري. (مشكاة المصابيح (2/ 899)

وعن عبد الله بن عمر قال: قال رسول الله صلى الله عليه وسلم: «أعطوا الأجير أجره قبل أن يجف عرقه». رواه ابن ماجه. (مشكاة المصابيح (2/ 900)

57

False recommendation or feedback:

عن أبي هريرة، قال: قال رسول الله صلى الله عليه وسلم: «المستشار مؤتمن» (سنن أبي داود (333 /4)

عن أبي صالح، عن أبي هريرة، قال: قال رسول الله صلى الله عليه وسلم: «أد الأمانة إلى من ائتمنك، ولا تخن من خانك». (سنن أبي داود (3/ 290)

عَنْ أَبِي هُرَيْرَةَ... فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ (لأبي الهيثم بن التيهان): هَلْ لَكَ خَادِمٌ؟ قَالَ: لَا، قَالَ: فَإِذَا أَتَانَا سُبِّي فَأْتِنَا فَأْتِي النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ بِرَأْسَيْنِ لَيْسَ مَعَهُمَا ثَالِثٌ فَأْتَاهُ أَبُو الْهَيْثَمِ، فَقَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: اخْتَرْتُ مِنْهُمَا، فَقَالَ: يَا نَبِيَّ اللَّهِ اخْتَرْ لِي، فَقَالَ النَّبِيُّ

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سنن الترمذي ت بشار (163 /4)

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Lawsuits:

قال تبارك و تعالی:

فمن اعتدي عليكم فاعتدوا عليه بمثل ما اعتدي عليكم.

يجوز فسخ عقد الاجارة باتفاق الطرفين، ولا يحق لاحدهما فسخه الا لعذر طارئ او لظروف قاهرة، ويحق للمستأجر الفسخ بسبب العيب الحادث في المنفعة (الخدمة) المخل بالانتفاع، وكذلك يحق الفسخ بخيار الشرط لمن اشترطه خلال المدة المحددة. (المعايير الشرعية: ص:٤٦٢)

قال العلامة الألوسى تحت هذه الآية:

فالمراد منه: الأمر بمايقابل الاعتداء من الجزاء والتقدير فمن اعتدي عليكم فقابلوه.

(روح المعاني: (٣/١٥٠) طبع شاملة

ذكر الامام القرطبي تحت هذه الآية:

فقال رسول الله صلى الله عليه وسلم : خذي مايكفيك و يكفي ولدك بالمعروف) فأباح لها الأخذ لاتخاذ الاقدر الذي يجب لها و هذا كله ثابت في الصحيح، و قوله تعالى: فمن اعتدي عليكم فاعتدوا عليه بمثل ما اعتدي عليكم.(جامع الاحكام للقرطبي (٢/٣٥٥) طبع شاملة