

Right n. 34: The Right of the Partner

حق الشريك

وَأَمَّا حَقُّ الشَّرِيكِ، فَإِنْ غَابَ كَفَيْتَهُ، وَإِنْ حَضَرَ سَاوَيْتَهُ، وَلَا تَعَزَّمْ عَلَى حُكْمِكَ دُونَ حُكْمِهِ، وَلَا تَعْمَلْ بِرَأْيِكَ دُونَ مُنَازَرَتِهِ، وَتَحْفَظْ عَلَيْهِ مَالَهُ وَتَنْفِي عَنْهُ خِيَانَتَهُ فِيمَا عَزَّ أَوْ هَانَ فَإِنَّهُ بَلَّغَنَا أَنَّ «يَدَ اللَّهِ عَلَى الشَّرِيكَيْنِ مَا لَمْ يَتَخَاوْنَا». وَلَا قُوَّةَ إِلَّا بِاللَّهِ.

And the right of the partner is that you should take care of his affairs in his absence. And you should treat him equally when he is present. And you should not make any decisions on your own without considering his opinion. And you should not act according to your own opinion before discussing it with him. You should safeguard his property, and refuse to betray him in what is of great or little importance, since it has been transmitted to us: “God’s hand is above (the hands of) the two partners as long as they do not betray each other.” And there is no power but in God.

The concept of partnership has been mentioned in the Holy Qur’an when referring to Moses and his brother Aaron. Here Aaron is to become a partner with Moses to help him invite Pharaoh to obey God.

أَشَدُّ بِهِ أَزْرِي

وَأَشْرِكُهُ فِي أَمْرِي

“Add to my strength through him. And make him share my task.” [The Holy Qur’an, Ta-Ha 20:31-32]

A partner is one who has a share in something or some work. We read in the following verse:

وَلَمْ يَكُنْ لَهُ شَرِيكٌ فِي الْمُلْكِ

“...Nor has He a partner in His dominion...” [The Holy Qur’an, al-Furqan 25:2]

This refers to God having no partners. Of course, God has created many angels and forces to act as intermediate means to run the affairs of the universe. This also refers to ascribing partners to God.

أَمْ لَهُمْ شِرْكٌ فِي السَّمَاوَاتِ

“...Or have they a share in the heavens?” [The Holy Qur’an, al-Fatir 35:40]

An infidel is one who associates partners with God.¹

Partnership as Viewed in Jurisprudence

A partnership is not established unless it is regarding two things that are totally alike in all respects, and are mingled into each other. Then each partner allows the other one to use it.² Some jurists have also required that partnership should be verbally expressed in Arabic or another language. Partners should be adults, and they should be sound-minded. They should fully opt to engage in partnership and have the right to use their property. In Qawa'id al-Ahkam Allameh Hilli said: “There are four types of partnership:

- 1 – Partnership of property (Shirkah al-Amwal)
- 2 – Partnership by contributing effort and skill (Shirkah al-Abdan)
- 3 – Partnership based on negotiation (Shirkah al-Mufavezah)
- 4 – Partnership based on credit and reliability (Shirkah al-Wujuh)

However, no forms except the first type are right.”³ Therefore, partnership is only correct in regards to property when done subject to the conditions expressed by the jurists.

Business Etiquette

For business to be right and for any earned profits to be legitimate, there is certain trade etiquette in Islam. There is a whole chapter on “business etiquette” in Wasa`il al-Sh`ah. As partnership is part of trade, it is subject to that etiquette. Imam Sadiq quoted on the authority of the Noble Prophet :

مَنْ بَاعَ وَاشْتَرَى فَلْيَحْفَظْ خَمْسَ خِصَالٍ وَإِلَّا فَلَا يَشْتَرِينَ وَلَا يَبِيعَنَّ: الرِّبَا
وَالْحَلْفَ وَكِتْمَانَ الْعَيْبِ وَالْحَمْدَ إِذَا بَاعَ وَالذَّمَّ إِذَا اشْتَرَى.

“Whoever buys or sells should adhere to the following or not engage in trade:

- 1 – Avoid usury.
- 2 – Do not swear in trade.
- 3 – Do not cover up the flaws in his goods.
- 4 – Do not praise what he wants to sell.
- 5 – Do not put down what he wants to buy.”⁴

In another tradition in Istikharat we read that Ibn Tavoos quoted on the authority of Muhammad ibn Yahya: “A friend of mine decided to go on a business trip, but postponed it until he could go to visit Imam Sadiq and seek his advice. When he went to see Imam Sadiq and asked for advice, the Imam said: I advise you to be honest. Do not cover up the flaws of what you want to sell.

Do not cheat or fool the one who buys goods from you since it is illegitimate to do so. You should like for others what you like for yourself. Do not swear since false swearing will cause you to go to Hell. A businessman is at a loss unless what he gives and takes is right. Therefore, pray when you decide to start your trip and ask God for good. My father said that the Prophet of God recommended asking God for good when you want to go on a trip just as he taught the Qur’an.”⁵

Partnership as Viewed in Traditions

The Noble Prophet said that God the Almighty said:

أَنَا ثَالِثُ الشَّرِيكَيْنِ مَا لَمْ يَخُنْ أَحَدُهُمَا صَاحِبَهُ، فَإِذَا خَانَ خَرَجْتُ مِنْ بَيْنِهِمَا.

“I am the third party in any partnership as long as one of the partners does not cheat the other. If he cheats him, I leave the partnership.”⁶

Husayn ibn Mukhtar asked Imam Sadiq : “If one who has a partner finds out that his partner has cheated him, does he have the right to take the same amount of money from what they share?” Imam Sadiq replied:

شُوِّهَ! إِنَّمَا اشْتَرَكَا بِأَمَانَةِ اللَّهِ، وَإِنِّي لِأُحِبُّ لَهُ إِنْ رَأَى شَيْئًا مِنْ ذَلِكَ أَنْ يَسْتُرَ عَلَيْهِ وَمَا أُحِبُّ أَنْ يَأْخُذَ مِنْهُ شَيْئًا بِغَيْرِ عِلْمِهِ.

“How unseemly! They only entered into partnership in the security of God. I wish him to cover up his partner’s mistake, and do not like him to take anything without the knowledge of his partner.”⁷

Thus, we realize that partners should not cheat each other. They should not take things from their joint property in each other’s absence since this act would violate the rights of the other partner.

-
1. Qamus-i-Qur’an, v.4, p.20.
 2. Al-Khalaf, Shaykh Tusi, v.2, p. 138.
 3. Qawa’id al-Ahkam, v. 1, p.242.
 4. Wasa’il al-Shi’ah, v.2, p.284.
 5. Wasa’il al-Shi’ah, v.2, p.285.
 6. Nahjul Fasaha, Kalameh 767.
 7. Wasa’il al-Shi’ah, v. 13, p. 187.

Source URL:

<https://www.al-islam.org/divine-perspective-on-rights-a-commentary-of-imam-sajjads-treatise-of-rights/right-n-34-right>