The Four Main Contracts of FIQH MUAMALAT

ABDULLAAH JALIL

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Faculty of Economics and Muamalat
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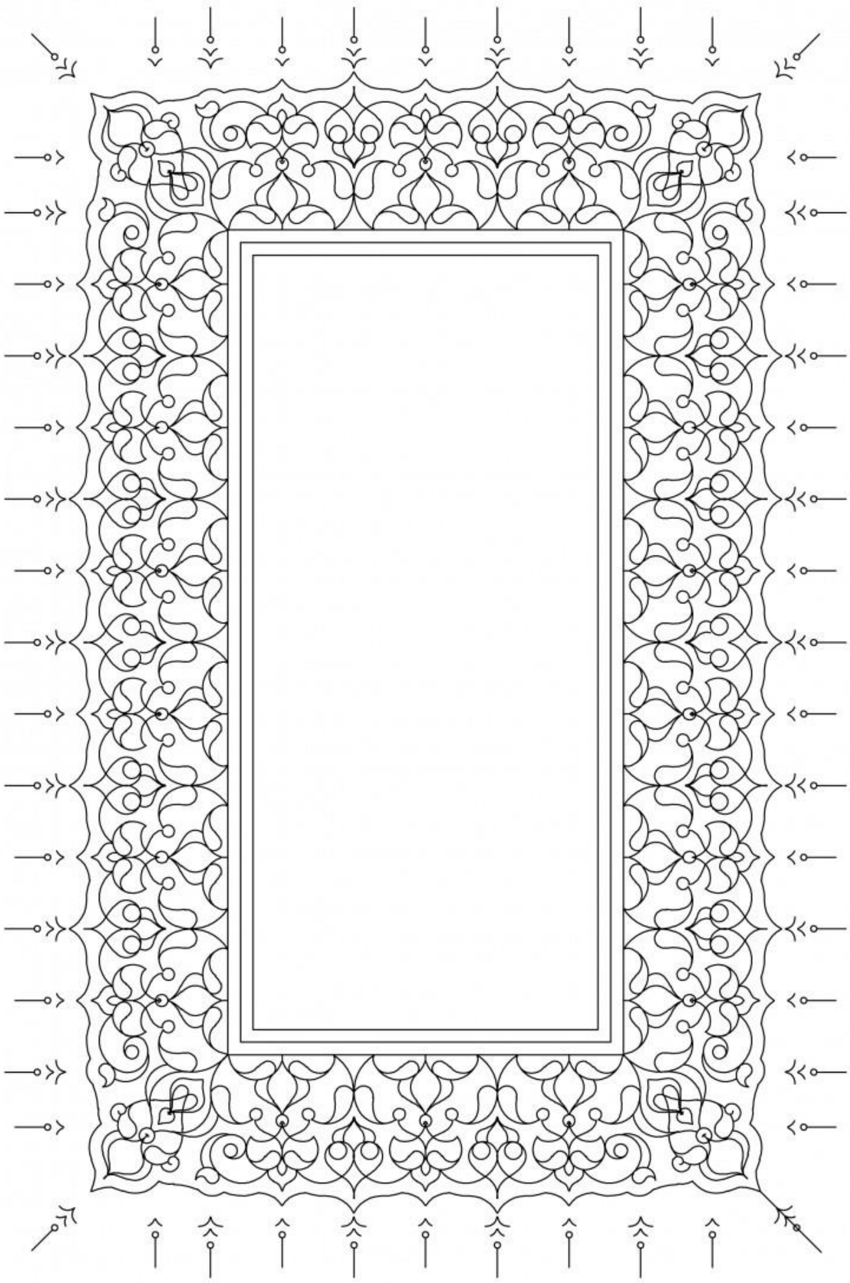

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Allah ﷿ said (al-Baqarah: 275-276):

ٱلَّذِينَ يَأْكُلُونَ ٱلرِّبَوٰا۟ لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ ٱلَّذِى يَتَخَبَّطُهُ ٱلشَّيْطَٰنُ
مِنَ ٱلْمَسِّ ۚ ذَٰلِكَ بِأَنَّهُمْ قَالُوٓا۟ إِنَّمَا ٱلْبَيْعُ مِثْلُ ٱلرِّبَوٰا۟ ۗ وَأَحَلَّ ٱللَّهُ ٱلْبَيْعَ وَحَرَّمَ ٱلرِّبَوٰا۟ ۚ
فَمَن جَآءَهُۥ مَوْعِظَةٌ مِّن رَّبِّهِۦ فَٱنتَهَىٰ فَلَهُۥ مَا سَلَفَ وَأَمْرُهُۥٓ إِلَى ٱللَّهِ ۖ وَمَنْ عَادَ
فَأُو۟لَٰٓئِكَ أَصْحَٰبُ ٱلنَّارِ ۖ هُمْ فِيهَا خَٰلِدُونَ ﴿٢٧٥﴾ يَمْحَقُ ٱللَّهُ ٱلرِّبَوٰا۟ وَيُرْبِى
ٱلصَّدَقَٰتِ ۗ وَٱللَّهُ لَا يُحِبُّ كُلَّ كَفَّارٍ أَثِيمٍ ﴿٢٧٦﴾

"275. As for those who take usury, they shall not be able to stand upright but shall rise up like one whom Satan has demented by his touch, for they claimed that: Trade is like usury. Whereas Allah has permitted trading and forbidden usury. Therefore, he who receives this admonition (regarding the prohibition of usury) from his Lord, and then gives up (taking usury), may keep his previous gains (that he has taken before the prohibition of usury) and it is for Allah to judge him. But, those who revert to (taking usury), they shall be among the people of the Fire, and they shall abide in it forever.

276. Allah deprives (the accumulation of wealth through) usury of all blessings, whereas He blesses (the wealth that is spent out of it for giving out) charity and alms-tax with growth. And Allah does not love anyone who is stubbornly ingrate and persists in sinful ways."

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FOREWORD

In the name of Allah, the Most Gracious, and the Most Merciful,

Praise be to Allah ﷻ, Peace be upon the Prophet Muhammad, his family and companions, May Allah bless them with honour and graces.

Fiqh Muamalat discipline is at the core of Islamic finance education and industry. The right understanding of *Shariah* and *Fiqh Muamalat* is very crucial for the right application of the knowledge. This book offers the understanding of *Fiqh Muamalat* from the very beginning. After learning the main introductory theories of *Fiqh Muamalat*, those who are interested to understand and comprehend more the subject of Fiqh Muamalat should begin with the main four contracts of *Fiqh Muamalat*.

Therefore, this book covers the four main contracts of *Fiqh Muamalat* that should be learned before other Muamalat contracts. They are:

- al-Buyuʿ (Sales)
- al-Ijārah (Lease / Hire)
- al-Mushārakah (Profit and Loss Sharing)
- al-Mudārabah (Profit Sharing)

In addition to the four main contracts above, this book also provides insight on:

- al-Khiyārāt (Options of Contract) and
- Agricultural Partnerships

The authors sincerely hope that this book would benefit the readers, students as well as academicians in learning *Fiqh Muamalat* in a more proper way. The authors also pray that all the efforts that have been spent by everyone to make this book a success are accepted by Allah ﷻ as good deeds on "*the day whereon neither wealth nor sons will avail, but only he (will prosper) that brings to Allah a sound heart*", (Al-Shuʿarāʼ:88-89).

Thank you and Wassalamuʿalaikum.

Best Regards,
AUTHORS

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بِسْمِ ٱللَّهِ ٱلرَّحْمَٰنِ ٱلرَّحِيمِ

In the name of Allah, the Most Gracious and Most Merciful.

Peace be upon the Prophet Muhammad, his family and companions. May Allah bless them with honour and graces.

First and foremost, we thank Allah ﷾ who enabled us with *tawfiq* to complete the writing and publication of this book.

Secondly, we would like to express our gratitude to our Islamic jurists (*fuqahā'*) and scholars (*ulamā'*) who have spent their lives in protecting, distributing and developing the Shariah knowledge and the virtues of the Prophet ﷺ to the mankind. May Allah bless them and reward them with His blessing, forgiveness and paradise.

Then, we would like to thank all the relevant parties and individuals who have directly or indirectly contributed to the completion of this book especially Red Apple Innovations, our academic colleagues at FEM for their continous supports and valuable advices and kind cooperation with us. Without their support and commitment, this book would not have materialized.

Finally, our deepest gratitude goes to our beloved families, for their understanding that inspired us along the way of this academic endeavour.

AUTHORS

DEDICATION

To my parents: Hj Jalil Omar and Hapisah Ismail, my beloved wife: Suraiya Osman, my loving sons: Abdurrahman al-Munib and Muhammad al-Habib, and my lovely daughters: Maryam al-Safiyyah, Sara al-Ameena and Ibtisam al-Nafeesa, and all my family members.

Abdullaah Jalil

To my parents: Hj Mohd Ramli Seman and Hajah Normah Said, my beloved wife: Roslizawati Mohd Ramly and my lovely son Muhammad Amirul Asharaf.

Asharaf Mohd Ramli

To my parents: Hj Shahwan Mansor and Hajah Siti Hayati Abas, my in laws: Hajah Jamilah Abdullah and the late Haji Othman Ganyah, my beloved husband: Md Fauzi Othman, my children: Amni Faatihah, Arham Mardhiyyah, Asmaa' al-Syaafiyyah and 'Ammar al-Syaafi, and all my family members, mentors and friends who continuously support my academic route.

Syahidawati Shahwan

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Abdullaah Jalil is a senior lecturer at the Faculty of Economics and Muamalat, USIM. He obtained his MBA, with major in Islamic Banking and Finance (IBF), from IIUM and was awarded the Best Student Award of MBA (Islamic Banking and Finance) in August 2004. He completed his Bachelor's Degree in Shariah (Fiqh and Islamic Studies) (Hons) within three years time from Yarmouk University, Jordan with "First Class" or "*Mumtaz*" achievement. He has taught several subjects at the undergraduate and postgraduate levels, inter alia, Qawaid Fiqh Muamalat, Halal and Haram in Islam, Application of Fiqh Muamalat, Management of Islamic Banking and Takaful Institutions, Fiqh Muamalat II and Fiqh Muamalat III. His areas of research interest are Islamic financial product development, Fiqh Muamalat application, Islamic banking and finance, Waqf and Shariah audit. Currently, he is pursuing PhD in Islamic Finance at the International Centre for Education in Islamic Finance (INCEIF). He is also a member of Shariah Committee at Bank Rakyat, Prudential BSN Takaful and Koperasi Kakitangan USIM.

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Syahidawati Shahwan is currently a senior lecturer at the Faculty of Economics and Muamalat, USIM. Prior to her service at USIM, she was lecturer at the Matriculation Centre, Islamic University of Malaysia (IIUM) or currently known as Centre of Foundation Studies, IIUM. She obtained her first degree from IIUM in Fiqh and Usul Fiqh with specialization in Usul Fiqh. Due to her deep and keen interest and passion in Islamic Banking and Muamalat, she then continued her study in Universiti Malaya (UM) under the Department of Shariah and Economics, Akademi Pengajian Islam (API). Her research interest includes, but not limited to, muamalat, Islamic banking and finance, Shariah issues, Hajj and Umrah management and issues. She is currently on study leave for PhD in Islamic Banking and Finance at IIUM Institute of Islamic Banking and Finance (IIiBF).

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APPENDIX

Appendix I: Transliterations Table

A. Table 1: Consonants

ʼ	ء
b	ب
t	ت
th	ث
j	ج
ḥ	ح
kh	خ
d	د
dh	ذ
r	ر

z	ز
s	س
sh	ش
ṣ	ص
ḍ	ض
ṭ	ط
ẓ	ظ
ʻ	ع
gh	غ
f	ف

q	ق
k	ك
l	ل
m	م
n	ن
h	هـ
h	ة
w	و
y	ي

B. Table 2: Vocalisation Signs (Representing Arabic Vowels)

Ā,ā	ـَــ	Ī,ī	ــِـ	Ū,ū	ـُــ

i. Short vowels illustrated with consonant "d" / "د"

da	دَ	di	دِ	du	دُ

ii. Long vowels illustrated with consonant "d" / "د"

dā	دَا	dī	دِي	dū	دُو

C. Table 3: Diphthongs

aw	ـَو	ay	ـَي
ū	ـُوّ	ī	ـِيّ

Examples:

ḥawl	حَوْلٌ	dayn	دَيْنٌ
ʿulū	عُلُوٌّ	mithlī	مِثْلِيٌّ

D. Words Containing Shaddah (ّ)

i. *Shaddah* involving consonants other than و and ي : Double the letter

Examples:

murakkab	مُرَكَّبٌ	ḥaqq	حَقٌّ

ii. *Shaddah* involving consonants و and ي :

a. Double the letter when the *shaddah* is in the middle.

Examples:

mufawwaḍah	مُفَوَّضَةٌ	ahliyyah	أَهْلِيَّةٌ

b. If the letter is in the end:

i. Double the letter if the letter before the *shaddah* is assigned *fathah* (ـَوّ / ـَيّ).

Examples:	jaww	جَوٌّ		ṭayy	طَيٌّ

ii. Represent (و) as "ū" and (ي) as "ī"when the letter before each is assigned dammah *dammah* (ُ) and *kasrah* (ِ) respectively.

Examples:	matlū	مَتلُوٌّ		nabī	نَبِيٌّ

E. Words Containing the Prefix "ال"

The prefix "ال" is always transliterated "*al*" regardless of whether it is *shamsiyyah* or *qamariyyah* and a hyphen is used after "*al*" to indicate that it is a prefix.

Examples:	al-khayr	الخَيرُ		al-sharr	الشَّرُّ

E. Words Containing *Hamzah* "ء"

Hamzah "ء" in the initial position, whether it is preceded by the prefix "ال" or not, is not represented in transliteration but how it is vocalized is indicated. This rule applies to both *hamzat al-qat*[c] and *hamzat al-wasl.*

Examples:	al-insān	الإِنسَان		idrāk	إِدرَاك
	al-umm	الأُمّ			

F. Words Containing *Ta' Marbutah* "ة"

Ta' Marbutah "ة" at the end of nouns is transliterated "h".

Examples:	madrasah	مَدرَسَةٌ		al-ḥasanah	الحَسَنَة

Notwithstanding the above rule, *Ta' Marbutah* "ة" is transliterated "*t*" when it is present in the first word of a construct pair (*idafah*).

Examples:

Kulliyyat al-Iqtiṣād	كُلِّيَةُ الاقتِصَاد

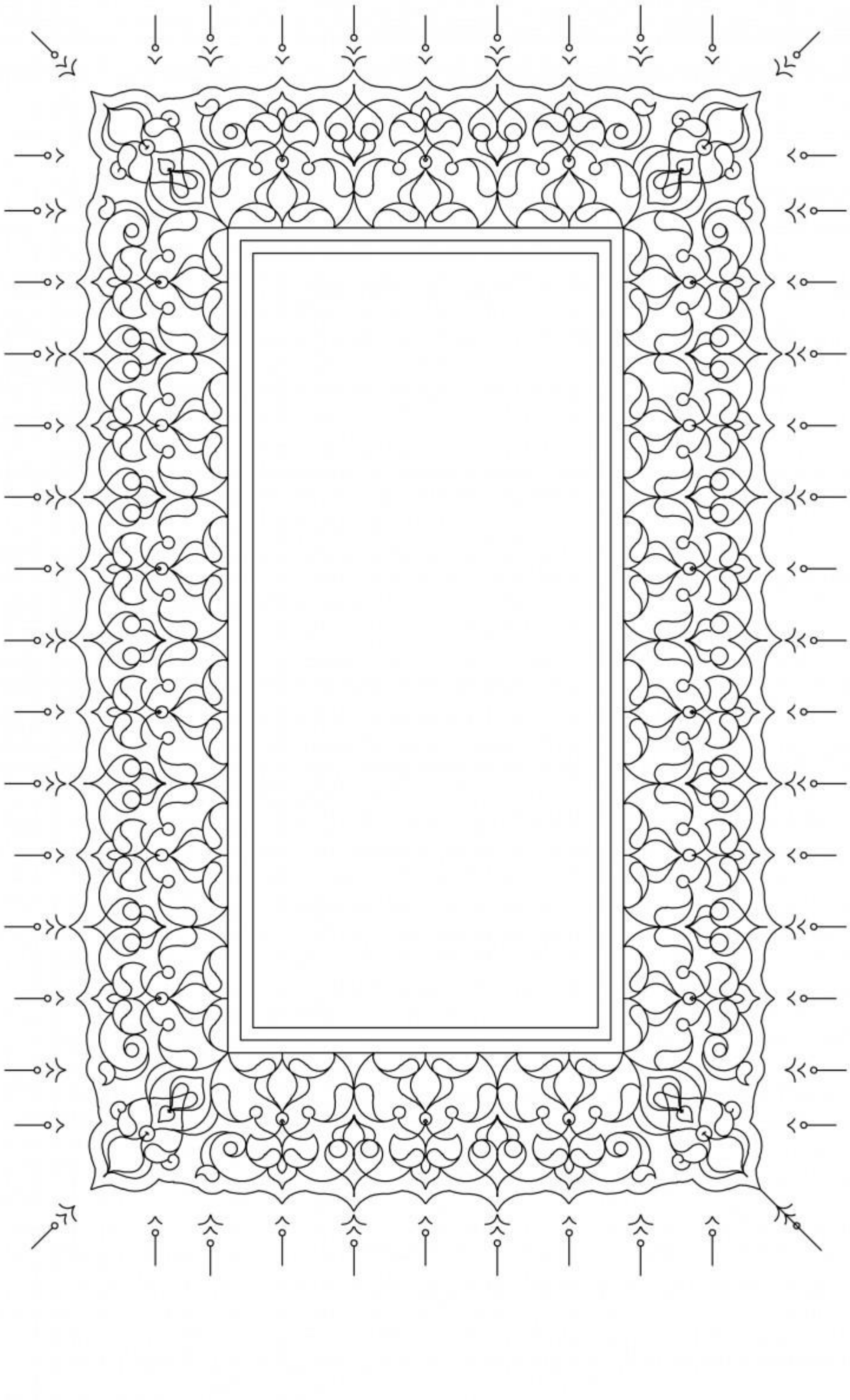
Majallat al-Islām	مَجَلَّةُ الإِسلاَم

Ta' Marbutah "ة" is transliterated as "*h*" if it is present in a word with the prefix "ال" or it is present in the end of a construct pair.

Examples:

al-maktabah al-ahliyyah	المَكْتبَة الأَهْلِيَّة

dar wahbah	دَارُ وَهْبَة



The Four Main Contracts of Fiqh Muamalat

After learning the four main introductory theories of Fiqh Muamalat, those who are interested to understand and comprehend more on the subject of Fiqh Muamalat should begin with the main contracts of Fiqh Muamalat. Therefore, this book covers the four main contracts of Fiqh Muamalat that should be learned before other Muamalat contracts. They are (i) al-Buyu' (Sales), (ii) al-Ijārah (Lease / Hire), (iii) al-Mushārakah (Profit and Loss Sharing), (iv) al-Mudārabah (Profit Sharing).

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