

large sum of money. Avoid contractual suicide.

You could have spent that time performing your obligations under a humane agreement. It's an injustice to ask professionals to operate under draconian measures. The Prophet (p) said: "Whosoever does business legitimately (halal) and **decently** such a person will meet Allah with their face as a full moon; and whosoever does it arrogantly and excessively they will meet Allah while He is angry at them."

Contracts should be mutual & show respect...and not make you a slave/subordinate and the other party a master. They must be devoid of ego & embrace brotherhood. Organizations should not get carried away with unenforceable, hardcore man-made rules. Deal justly for every atom's weight will be enquired into.

A Real World Contractual Mess: A woman's trauma: Most companies were happy to proceed on a **verbal agreement** setting forth certain ground rules: Individuals would control the taping, identifying names would be changed, I would show them what I wrote about their company & change or delete anything they did not approve. I also signed confidentiality agreements promising not to reveal anything I learned about the company's business. Some companies, however, referred the matter to their attorneys so a contract could be written. **In no case** where attorneys became involved – mine as well as theirs – **could we reach an agreement on working together.**

Negotiations with one company stand out. Having agreed on the procedures and safeguards, we expected to have a contract signed in a matter of weeks. But six months later, after thousands of dollars in legal fees and untold hours of everyone's time, the negotiations reached a dead end. The company's lawyer was demanding veto power over my entire book; it meant the company could (if it chose) prevent me from publishing the book even if I used no more than a handful of examples from this one company. I could not agree to that. Meanwhile, my lawyer was demanding for me rights to use the videotapes of conversations anyway I wanted. The company could not agree to that; it meant I could (if I chose) put video of their company on national television, make them look bad, reveal company secrets and open them up to being sued by their own employees.

The people I was working with at the company had no desire to pass judgment on any part of my book that did not involve them & I had no intention of using the video except for analysis. These extreme demands could have been easily dismissed by the principals – except they had come after months of wrangling with the language of drafts passed back & forth. **Everybody's patience & goodwill had worn out. The adversarial nature of the legal process had polarized us beyond repair.**

Requiring people to behave like enemies can stir up mutual enmity that remains long after a case has been settled or tried, and the lawyers have moved on. Because our legal system is based on the model of ritual battle, the object – like the object of all fights – is to win, & that can interfere with the goal of resolving disputes.

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

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

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

is wholly self-inflicted, and we deserve the criticism we've received. We will use the scar tissue from this painful mistake to help make better decisions, ones that match our mission. With deep apology to our customers."

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

Because in the course of his lifetime he was a businessman. His simple qualities of honesty, decency and fairness were what attracted Khadija, an older and wealthy businesswoman. His genuine business conduct brought in twice the profits. She questioned her servant Maysarah about Muhammad's deportment; he was awestruck by his wonderful demeanor. Khadija who had refused many offers for marriage, and swore never to get married again, could not stop her heart from opening to such a unique man. This rich, beautiful, older woman (40) then proposed marriage to the younger, trustworthy businessman, Muhammad (25). Such a man is then an authoritative voice when he announces: "Have goodwill for each other." He was not oppressive, harsh. He followed the words of God, "Say those words that are the **BEST.**"

Business standards must be rewritten using Islamic Law. We must show the intellectual/spiritual gumption necessary for such an enterprise. Contract-makers have sought to hide the confusion & vacuity of their wordy agreements in the dense underbrush of jargon & jumbled prose. Complexity & obscurity appears to have professional value. Those who make things clear are scabs (contemptible, irrational & arrogant) & are viciously criticized for their clarity. However, **critical thinking** is crucial for reform. Such thinking always rocks the boat. Are we comfortable with un-Islamic "standards?" The Prophet (p) was **not** so he rocked the Meccan boat. Three-quarters of our lives are spent in business. It's that important. **Obey the Prophet (p). Reminder: Let there be trade by GOODWILL. 4:29**

[42:38] "...and those who do their work through **mutual consultation.**"

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Business Ethics

...Let there be trade by **GOODWILL**

Complying with the normative & theoretical guidelines of the Quran & Hadith, it is **not** only morally but professionally **unethical**, to conduct business using **false promises, deceptive wordings & harsh conditions.** This use of **dead language**, stripped of insight, ethics & compassion, has now become commonplace. Businesses employ this rigor-mortis language – devoid of **mercy** & a respect for the other – so as to **erase** the social & all of the human bonds & conditions necessary to provide human relationships with joy, dignity, hope, justice & a measure of moral & social responsibility. Don't be numb. Don't drain the last drop of profit from people until there is nothing left. Business schools/universities churn out tens of thousands of these **deaf, dumb & blind professionals** who are endowed with sophisticated skills of management & the **incapacity** for common sense, compassion or remorse. These technocrats mistake the art of manipulation with knowledge. Islamic business, or for that matter any business, must be conducted based on **Truth, Trust & Integrity.** The enticement for business persons to conform to moral behaviour is that it is the best worship. **A spiritual contract always trumps a legal contract.**

"Business persons will be raised on the day of resurrection as **evil-doers**, except those who fear God, are honest & speak the truth." The Prophet (p).

The Islamic ethical system is balanced, fair, just and benevolent, and seeks to respect the rights of both primary and derivative stakeholders without allowing for exploitation, nepotism and other human ills. Ethics: Moral Principles. Matter is the food of the body while ethics is the nutrition of the soul. Muslims were not the first to conceive the idea of business ethics. Plato discussed justice in [The Republic](#); Aristotle explicitly discussed economic relations, trade & commerce in his [Politics](#). Many Muslims are unaware that Aristotle condemned usury. Also, he gave the classic definition of justice as giving each his due, treating equals equally and trading equals for equals.

These issues were also analysed by Christian thinkers. Thomas Aquinas discussed business in the context of justice and honesty, and condemned usury. Luther, Calvin and John Wesley, among other personalities of the Reformation, discussed trade and commerce, and led the way in the development of the Protestant work ethic.

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

The current business world engenders myriad social ills. And it all begins with contracts which appear as a war of words which has stagnated into an intellectual and discursive cul-de-sac of claim and counter-claim about what does and does not qualify as a breach. Currently, there exist many questions of why the global economy appears so unjust, with huge income and wealth disparities and exploitation all too apparent. Rewards in business are too often unrelated to effort but rather the result of **sharp & unethical** practices. There are six components needed to be understood by Muslim business leaders: Fulfillment of promises, exactness in weights and measures, truthfulness & clarity, efficiency, selection of merit and investigation and verification. In the context of the employee-employer relationship, Islam very clearly declares

that both enjoy the same dignity, socially and legally. Muslims are instructed to choose for their fellowmen what they choose for themselves.

Let's analyze and synthesize the pertinent verses in the Quran & the sayings of Muhammad (p) in order to develop the essential ethics theories.

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

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

Contracts that are structured in a way that is prohibited may be rectified by removal of the objectionable clause(s), or may result in the entire contract being annulled. Many default clauses are problematic because they are one sided. In the world of business imprecise language is used making it sound pretentious and arrogant.

It is recommended that future contracts be evidenced in writing. “O you who believe! When you deal with each other in transactions involving future obligations in a fixed period of time, reduce them into writing.” (Quran 2:282) This does not, nay cannot, be construed to mean harsh conditions. Allah clarifies: “Let there be amongst you traffic and trade by mutual **goodwill...**” (4:29)

The Ummah is lacking in original thought, so it is naturally deprived of the productive way of thinking. It became fascinated with Capitalism after witnessing its successes, and not through comprehending the validity of its thoughts; and from its submission to its rules, and not from comprehending how these solutions emanate from the Capitalist viewpoint of life. Therefore, the Ummah is devoid of the Capitalist thoughts intellectually, although it lives according to the Capitalist way of life. The Ummah also became devoid of the Islamic thoughts in practice, although it conducts some of its rituals & studies its thoughts. Muslims have drifted far from this divine writ: “Whoever believes in God have grasped the most

trustworthy handhold that never breaks.” (2:256)

As for the moral needs such as pride and honour, or spiritual needs such as the sanctification of the Creator, they are not recognised economically, and are therefore disregarded and have no place in economic studies. We must implement policies and procedures that are conducive to the society's good. As a general guide to Muslims in business: Adopt the following overriding principles: **1/Love God's commands more than your business; 2/Deal justly; 3/Be honest & truthful; 4/Keep your word; 5/Be humble; 6/Do not deal in fraud & bribery**

[17:34] “Allah says, ‘Fulfill your contracts. Contracts will be asked about.’” However, contracts must not be technically obscure.

Two US court rulings suggest that judges are developing a more sophisticated sense of how corporations conduct online & technology transactions with their customers. “The EULAs or terms-of-service agreements are long and legalistic, the deals are offered on a take-it-or-leave-it basis and the terms are often **oppressive & one-sided**. As a result, the legal hegemony of the EULA is cracking. This is a good development for consumers, who would otherwise be saddled by oppressive terms they have neither the legal sophistication to understand nor the bargaining power to avoid.” Take heed from the Quran (38:24): “Many are the partners in business who wrong each other: Not those who believe & work deeds of righteousness; **how few are they.**” How **FEW** indeed!!!

One influential American economist of the 20th century, Paul Samuelson, eschews discussions of method in economics/business as basically satanic, an oddly theological statement for a secularist. “It is more correct, albeit not very informative, to say that soft sciences spend time in talking about method because Satan finds tasks for idle hands to do.”

Peruse these **dense words** in a contract... “Storage Capacity Under Management” is defined as the following: (A) the sum of: 1) the total cumulative amount of formatted storage capacity (in terabytes (TB)) managed by the Software (where “managed” means that the Software collects any data or meta-data with respect to any file stored on such capacity) and 2) the total amount of formatted storage capacity (in terabytes) on all volumes (if such storage capacity is not organized in volumes) selected and subsequently used by a user of the Software as Target Volumes for any policy actions of the Software as such storage capacities are reported on Annual Reports

generated using the Software...such Annual Reports do not report with reasonable accuracy the storage capacity as described above in this subparagraph (A), due to issues involving new technologies by the current version of the Software, such other reports reasonably requested by ABC ...**are you still breathing?** Sadistic! This criticism is not meant to insult but a call to make contracts easy and clear.

10 Reasons to Avoid Restrictive Contracts

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

Sue is a magic word...the get rich scheme that everyone is looking for every opportunity to do. No cost to them but they just stand to earn a

God **blesses** the transaction

where there is

Goodwill

Prophet Muhammad (peace)