

UQOOD

TWO PARTY CONTRACT



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INTRODUCTION TO UQOOD

UQOOD (2 PARTY CONTRACTS) – These are 19 chapters of the 52 chapters of Fiqh. For example nikah, buying and selling. The contracts of sharia which do not require the niyya of Qurbatan Ilallah but are to be declared with the pronouncement of a formula in which one party states the contract and another responds by acceptance.

UQOOD (2 PARTY CONTRACTS)

19 Books

1. **Kitabul Bay'i** - The book of buying and selling. This book deals with the conditions which the buyer and seller must meet, the conditions of the commodities exchanged, the conditions of the contract and the type of transaction e.g. cash transactions, transactions where payment is delayed (nisiya), and transactions where payment is first and the commodity acquired later (Salaf).
2. **Kitabur Rahn** - The book of mortgage. The laws of mortgaging are studied in this book.
3. **Kitabul Muflis** - The book of the bankrupt. A 'muflis' is one whose assets do not meet his/her liabilities. In order to investigate the liabilities of a person the Hakim e Shari'a i.e. the mujtahid or his representatives, can prohibit him/her from the right to his/her possessions until a detailed investigation is made and as far as possible the liabilities paid.
4. **Kitabul Hajr** - The book of prohibition. The prohibition refers to that in relation to property. In many cases, use of property by

the original owner is prohibited e.g. in the case of bankruptcy (as above), the case of an immature child, the insane....

5. **Kitabudh Dhaman** - The book of liability. Dhaman is the transference of the obligation of a debt from the debtor to one who accepts the liability. It is only valid with the consent of the creditor. All the relevant rules and regulations are discussed in this book.
6. **Kitabus Sulh** - The book of peace. The 'peace' that is studied in this book is different from that which is studied in the book of jihaad. In the book of jihaad the peace means political agreements. Here it concerns that related to property and common rights. .e.g. if a debt is owed without the exact amount known, the two parties make a sulh agreement to settle on an agreed sum.
7. **Kitabush Sharikat** - The book of partnerships. The partnership in this book is that which is related to property e.g. If some children inherit their fathers property, then for as long as the property is not divided amongst them, they are partners in that property. There are 2 types of partnerships - contractual and non-

contractual. A contractual partnership is where 2 or more people by an agreement or contract form a company. These are subject to many laws. In this book the laws of profit sharing are also discussed.

8. ***Kitabul Mudharaba** - The book of partnership of capital and labour. A 'mudharaba' is a partnership of capital and labour in trading, meaning that one or more partners provide the capital for a trading business and one or more partners provide the labour of the actual trading. There must be an agreement in the sharing of profits, and a contract of 'mudharaba' at least in practise must be formed.
9. ***Kitabul Maza'ra'a wal Musaaqaa** - The book of agricultural partnerships. Similar to 'mudharaba' partnerships but 'Muzara'a deals with farming and ' Musaaqaa' with orchards. With 'muzara'a' it is where the owner of the land and water makes an agreement with someone else who does the actual farming and they agree on terms for profit sharing. Likewise, Musaaqaa is where the owner/s of an orchard concludes an agreement with

someone else who becomes responsible for all the work of tending the orchard to harvesting and they agree on the terms of profit sharing. * With all the above 3 partnerships (of capital and labour); any kind of harm or loss to the capital is born by the owner of the capital.

10. **Kitabul wadiy'a** - The book of trusts. 'Wadiy'a' means the entrusting of property with someone and making him/her the agent in keeping and safeguarding it. This in turn creates duties for the trustee and, if the property suffers any loss or is lost, and the trustee has performed his/her duties, then he/she is not liable.
11. **Kitabul 'Aariya** - The book of lending 'Aariya' is when a person receives the property of a second person in order to benefit from it's benefits. Both "Aariya' & 'Wadiya'a' are trusts, but in wadiy'a the owner entrusts his/her property to be kept and safeguarded and the trustee has no right to make use of it. In 'aariya however, the owner gives it to the other for his/her use and then return from the very beginning.

12. **Kitabul Ijara** - The book of hire. There are 2 types of hire. Either a person gives the benefit of his/her property in return for an agreed sum of money e.g. hiring out one's car, giving a house for rent.... or it is that a person hires himself (his/her skills) out for a wage or payment as in normal employment.
13. **Kitabul Wakala** - The book of representation. Sometimes there is a need to have a representative in those matters which require a contract. For instance, in the contract of marriage, the contract (aqd of nikah) must be recited verbally in correct Arabic. The person who is represented is called the muwakkil and the representative is called the wakil.
14. **Kitabul Waqf was Sadaqa** - The book of endowments & charity. An endowment is that which a person sets aside for a specific use. In defining waqf, it means safeguarding the original article of waqf making it untransferable, whilst freeing it's benefits. There are 2 types of waqf - general and special. Both these and the commands of sadaqa are discussed in this book.

15. **Kitabus Sukna wal Hubs** - The book of temporary endowments Sukna and Hubs are similar to waqf. However, the difference is that in waqf the original property is guarded forever and there is no possibility of it being someone's property whilst in sukna and hubs the owner designates the benefits of his/her property for charity for a specified period of time after which it reverts back to become his/her own personal property. Sukna is with regard to homes (dwellings) whilst hubs refers to any other property.
16. **Kitabul Hibah** - The book of gifting. One of the effects of ownership is that one has the right to give one's property to others. All the details are discussed in this book.
17. **Kitabus Samq wal Rimaaya** - The book of wagers
18. **Kitabul Wasiyya** - The book of wills. This book discusses the directives that a person wills after his/her death regarding his/her wealth and/or the guardianship of his children.
19. **Kitabun Nikah** - The book of marriage. First, the conditions of the contract (aqd) of nikah are discussed, such as the people with whom

marriage is forbidden, and so on. 2 types of marriage are discussed - permanent and temporary. Obligations of the husband and wife are also included.



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