

# ISLAMIC BANKING & FINANCE

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## PRINCIPLES, INSTRUMENTS & OPERATIONS

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Hanifah Haydar Ali Tajuddin*



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## CHAPTER ISLAMIC CONTRACTS FOR 4 FINANCING (PART 1)

by Muhammad Yusuf Saleem\*

### 4.1 Partnership (*Sharikah*)

*Sharikah* literally means the mixing of two properties, so that they cannot be distinguished from each other. It also means sharing and participation. It refers to a property that belongs to several owners or co-proprietors in common, in such a way that each one had ownership of every smallest part of it in proportion to the shares allotted to them. In a *hadith*, it is stated that Allah (s.w.t.) is the third of two partners, as long as they do not betray each other. If they betray each other, Allah (s.w.t.) withdraws His blessings from the partnership.<sup>1</sup>

#### 4.1.1 Division of *Sharikah*

Generally, *sharikah* can be divided into two main types, *sharikatul amlak* and *sharikatul 'uqud*.

#### 4.1.2 Co-ownership (*Sharikatul al-Amlak*)

It is a type of *sharikah* where two or more persons become joint owners of a property, without entering into a partnership contract. This joint ownership could be established either by operation of law such as through inheritance or through other contracts such as *wasiyyah* (a will) or a *hibah* (a gift). The partners have to share the property or its income, based on their respective shares until they decide to divide it, if it is a divisible property such as land or to sell it, if it is indivisible property such as a house or a car.

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1 Abu Dawud, *Sunan Abu Dawud*, Kitab al-Buyu', hadith no. 3385.