 CHAPTER VI

IBN TAIMIYAH'S VIEWS ON PARTNERSHIP
AND OTHER FORMS OF ECONOMIC ORGANIZATIONS

A. ECONOMIC ACTIVITIES IN ISLAM

Islam is perhaps the only religion that gives great value to the lawful economic activities. The gain from economic activities is considered 'bounty' from God. The following verses of the Quran are a few examples:

"So they returned with grace and bounty from Allah, and no harm touched them. They followed the good pleasure of Allah, and Allah is of infinite bounty."\(^1\)

"And let not those who possess bounty and ease among you swear not to give to the near of kin and to the needy and to fugitives for the cause of Allah."\(^2\)

"And when the prayer is ended, then disperse in the land and seek of Allah's bounty, and remember Allah much, that ye may be successful."\(^3\)

"He knows that there are sickfolk among you, while others travel in the land in search of Allah's bounty......"\(^4\)

Along with the overwhelming majority of Muslim jurists Ibn

\(^1\)The Qur'an III:174.
\(^2\)The Qur'an XXIV:22.
\(^3\)The Qur'an LXIL:10.
\(^4\)The Qur'an LXXIII:20.
Taimiyah regarded all economic activities to be permissible except those explicitly prohibited by the Sharī'ah.

It should be noted that trade was considered as a sin in scholastic philosophy until the 12th century. Compared to this, the above stand is very revolutionary and provides a vast arena for economic activities.

Ibn Taimiyah classified human conduct in words and deeds in two categories - "worship through which their religion is maintained and customs to which they turn in mundane affairs." He says further, "From a survey of the principles of Sharī'ah we infer that the worships made obligatory by Allah or those like by Him, cannot be so established except by the Sharī'ah. As far as customs are concerned, they are behaviour patterns adopted by people in their mundane affairs according to their needs. They are essentially permissible except those forbidden by Allah......"\(^1\)

1. DIVINE GUIDANCE ABOUT ECONOMIC ACTIVITIES

As an explanation of the above he says, "People stand in need of trade, gift, hire and other practices in their economic life in the same way as they need food, drink and clothing. The Sharī'ah has laid down proper guidelines for these practices. Thus it has forbidden such practices as are corrupt (fasād) and enjoined those that are desirable. It disapproves of the undesirable ones and prefers those in which there are great benefits......"

"From this it follows that people may engage in trade or hire in whatever manner they like, so long as the Sharī'ah does not forbid it. And even if some of these are desirable while some others

\(^1\)Ibn Taimiyah. MFS. Vol. XXIX, pp. 16-17.
might be undesirable, they would adhere to these on the basis of essential permissibility unless specifically forbidden by Shawhah."\(^1\)

There might arise a question - why Ibn Taimiyah considers the Divine guidance as a decisive factor in desirability and undesirability of transactions and whether it is based on reason? The answer is 'yes, it is based on reason.' The significance of values like honesty, justice, truth, sacrifice, cooperation etc. are recognized by reason in the economic life of people. Whereas, jealousy, fraud, dubious and vague transaction, usurious practices, dishonesty, cut-throat competition etc. are disapproved by all right thinking men. The Shawhah gives effect to this universal approval or disapproval. He says, "The Shawhah has never forbidden a thing that might create hindrance in economic life. It is against the spirit of Shawhah."\(^2\) And nothing which the people need in their economic life, unless it does not involve sin, like repudiation of an obligatory act or engaging in a prohibited act, has been prohibited."\(^3\)

The Shawhah has provided different norms and values and criteria for the validity or invalidity of business and economic organizations. In the light of those norms and criteria doctors of Islamic jurisprudence have discussed different types of economic activities and their limits. It should be borne in mind that Islam has not come to introduce or invent new forms of economic activities. It has been left to customs, man's inventive capacity, experiences etc. It is in that context the prophet said to his followers, "You know better about your mundane affairs, but as far as your religion matters are concerned they are to be

\(^1\)ibid. p. 18.
\(^3\)ibid. p. 143.
referred to me."1 The pre-Islamic methods and techniques of trades and other transactions were retained by Islam if they were not in contradiction to Islamic principles. For example, Ibn Taimiyah refers to Muḍārabah (partnership) that was practised by people in pre-Islamic period (Jāhilīyah). He says, "...... Muḍārabah was common among them especially in Quraish.2 Trade was their main occupation. Capital owners used to hand it over to workers (to trade with it). The apostle of Allah has undertaken trade expeditions with the capital of others before his prophethood, and also with the capital of Khadījah.3 The carvan headed by Abū Sufyān4 (on the eve of al Badr battle) consisted largely of capital in partnership with Abū Sufyān or others. When Islam came, it retained this form of transaction. The prophet's companions used to undertake trade expeditions with the capital of others on the basis of partnership and he never forbade it. The prophet's teachings include his saying, his action and his approval. And since he approved of it, it is valid by his teaching (al sunnah)."5

It is interesting to note here that in the medieval Europe too partnership was the main form of capital investment. Let us shed a little light on this aspect before we examine Ibn Taimiyah's views on partnership and other forms of business organizations.

B. PARTNERSHIP IN THE MEDIEVAL WESTERN COUNTRIES

In the Middle Ages the stay at home merchant could entrust his

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1 Ibid. p. 127.
2 A famous tribe of Makkah, to which the prophet also belonged.
3 A wealthy lady of Makkah who later on married the prophet.
4 One of the leaders of Makkah people who later on embraced Islam.
goods to an agent and might bargain for a share of the profit of the venture. This partnership assumed many forms. But in all cases, the approval of the economists required two conditions: 1) the investor remained the owner of his capital, and 2) he shared in the risk. This made him morally entitled for a share of the profit.¹

A number of economic historians have described the form and importance of partnership in the Middle Ages. Alfred Marshal writes, "The oldest and simplest plan for renovating the energies of a business is that of taking into partnership some of its ablest employees."² Gray says, ".....the medieval doctrine did not condemn investment when investment took the form of a partnership, provided the partner did in fact share the risks of the business. The commenda, the original form of partnership, had always been regarded as entirely legitimate, and here one party might advance money to another and share in his profit, while refraining from taking any direct part in the enterprise."³ In the Cambridge Economic History of Middle Ages¹, there is a detailed description of the commenda and other forms of partnership. Here is an extract: "From.....Genoese and Venition records, it appears that the two most typical contracts in overseas trade were the commenda and the societas maris -- they were called collegantia in Venice, but the name has little, if any, importance.* Both contracts were partnership agreements, concluded not for a period of years, but for a single venture or

¹cf., Don, J., "Usury" art. in Encyclopaedia of religion and ethics, Vol. XII, p. 551.
voyage, usually a round trip to the Levant, Africa, Spain or even Provence. There were also commenda contracts per terram, that is relating to distant trade overland, or even to local undertakings, but these were relatively few.

"The commenda and the societas maris both involved cooperation between a travelling partner, called tractator or procertans, and an investing partner who stayed on land and was called stans. In the case of the commenda the venture was financed entirely by the stans; the travelling partner did not supply any capital, but he took the risk of embarking upon dangerous sea voyage and had to endure all the discomforts that went with it. As a reward for his labours and his hardship, he usually received only one-fourth of the profits; and the investing partner, who ran only the risk of losing his money, received the remaining three-fourths. This arrangement may seem unfair, but in the twelfth and thirteenth centuries life was cheap and capitals scarce.

"In the societas maris, profit were shared equally by the two partners, but the tractator supplied one-third of the capital and the stans, two-third. Essentially, the two contracts were the same, since in both cases, one-fourth of the profits went to the tractator for his labour and three-fourths to the investors of capital. In the societas, however, the tractator received an additional fourth, or one-half of the profits in all, because he had supplied one-third of the capital. The only difference is really that the Genoese notaries called one contract a commenda and the other a societas maris."¹

In the Middle Ages, in Europe like in Islamic world, the partnership was a preferred form of investment, and one that was not

tainted by usury. It was exactly the assumption of the risk of failure by the capitalist that distinguishes the permissible partnership from the disallowed interest bearing loan. Reflecting on private partnership, Marshal says, "It is very strong and very elastic; it has played a great part in the past, and it is full of vitality now."\(^1\)

C. TWO TYPES OF ECONOMIC ACTIVITIES DISTINGUISHED BY IBN TAIMIYAH

Ibn Taimiyah has classified all economic transactions and activities in two categories: transactions based on justice (al tasarrufât al 'adliyah) and those based on generosity and benevolence (al tasarrufât al fadlîyah). The example of latter is act of lending, gift and will. The former has been divided by him into two categories - transactions through exchange (al muawadât) and transactions through partnership (al musharakât). The example of first category is trade in which one person exchanges goods for goods or money with another; hire (ijârah) of goods and services, in which one person offers his services or capital at a specific price for certain period.

Again he divides the partnership into two categories - partnership in property (shirkah al amlâk) and partnership in contracts (shirkah al 'uqud).\(^2\)

Partnership in property or shirkah al amlâk is a term used for common property. We have dealt with his views about common

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\(^1\) Marshal, A., op. cit. p. 251.
\(^2\) Cf., Ibn Taimiyah, MFS. Vol. XXIX, p. 99; idem. al Qawa'id al Nuraniyah, p. 166.
property in our chapter on property right. Here we shall concentrate our attention on partnership contract or shirkah al 'uqūd.

Ibn Taimiyah has mentioned five forms of partnership at different places. They are as follows:

1) (Shrikah al 'Inān).\(^1\) It means two or more persons pooling their capital together to work jointly and sharing in the profits.

2) Partnership in labour (Shirkah al Abdān).\(^2\) Artisans or labourers jointly undertaking a task and agreeing to distribute their earnings amongst themselves.

3) Partnership in credit (Shirkah al wujūh).\(^3\) One or more of the members procure goods on credit and sell them, and they distribute the profits.

4) Comprehensive partnership (Shirkah al mufawādah).\(^4\) The partners combine in every types of shirkah, namely, al 'inān, alwujūh and al abdān.

5) Muḍārabah partnership (Shirkah al muḍārabah).\(^5\) In this case capital is provided by one party and labour by the other

\(^1\) Ibn Taimiyah, MFS. Vol. XXIX, p. 79.
\(^2\) ibid. Vol. XXX, p. 73.
\(^3\) ibid. Vol. XXX, p. 74.
\(^4\) ibid. Vol. XXIX, p. 32; idem. al Qawāʾid al Nūrāniyyah, p. 122.
\(^5\) idem. MFS. Vol. XXX, p. 74.
Ibn Taimiyah was not original in pointing out these forms of partnership. They were prevalent in his age as well as before him and earlier jurists discussed them in great detail. Therefore he avoided details. However, in his opinion the basic thing in all these forms of partnership is the justice that should be maintained and observed. He says, "The basis of business and partnership is justice from both parties. Therefore it is against justice that one party reserves the profit of some particular commodity or some specific quantity of profit to itself, or that only one party should bear the loss."\(^1\)

It means, if there is profit, both parties should share it; and similarly if there is loss, both should share it. None of them should be guaranteed any particular part of profit. Therefore the agreement should be on the basis of percentage share in profit and not on a percentage to be earned on the capital supplied. These percentage share in profit would be decided by mutual agreement.

\(^1\)Ibid. Vol. XXX, p. 84.

*Ibn Taimiyah's division of economic transaction may be shown in the following figure:

<table>
<thead>
<tr>
<th>Economic Transaction or Behaviour (al Taşarrufât)</th>
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</thead>
<tbody>
<tr>
<td>Transactions based on Justice (al Taşarrufât al 'Adliyah)</td>
</tr>
<tr>
<td>Transactions based on Generosity (al Taşarrufât al Faḍliyah)</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Exchange (al Mu'awadât)</th>
<th>Partnership (al Mushārakāt)</th>
</tr>
</thead>
<tbody>
<tr>
<td>In Contract (Shirkah al 'Uqūd)</td>
<td>In property (Shirkah al Amlāk)</td>
</tr>
<tr>
<td>al Muḍārabah</td>
<td>al 'Inān</td>
</tr>
</tbody>
</table>
In partnership where one party provides capital and the other party provides labour (as in mudārabah), in the case of loss, the capital less is borne by the party that provides it, while the second party bears the loss only in the sense of going unrewarded for the labour.\footnote{Ibn Taimiyah, al Qiyās fi'lı Shara' al Islāmi, pp. 8-9.}

1. JUSTICE IN PARTNERSHIP

Ibn Taimiyah emphasizes justice in partnership and advocates shares of the both parties in profit as well as in loss, because he considers both factors - capital and labour - equal participants in the process of production. He says, "Profit is an increment (namā) gained from the use of one man's labour (badan) and other man's capital (māl). So it should be divided among them as any increment resulting from two factors."\footnote{Idem. MFS. Vol. XXX, p. 87.} But "if there is any maltreatment on the part of a partner and he had done something which was permitted neither by law nor by the capitalowner by words or by customs, then he will be held responsible for his wrong."\footnote{Ibid. Vol. XXX, p. 91.} This provision will check the misuse of capital by working partner. It means after handing over capital, the owner will not close his eyes; he may appoint an inspector to look after the use of capital and he may establish an inquiry board to examine genuineness of the reasons of loss.

The partners may agree to share the profits in any proportion they like. It may depend on the skill of the worker as well as on easy availability or non availability of capital; in other words on supply and demand. But "if the partners start business without agreeing on any explicit ratio, they will share equally...
in work and benefit (al ‘amal wa'1 ajr). Even if one voluntarily works more than the other, he will get a share equal to others. But if he had not done it voluntarily, having asked to work more he might ask either extra benefit according to his work or he might ask others to work equal to him. If the other partners agree to give such a person a greater share, it will be legitimate."^1

If there is any chance of injustice or malpractice from any partner, the state may be asked to intervene and resolve their dispute. He says, "When the worker, through negligence or inordinate use, harms the capital, he will be charged against it. Likewise, if the other partner denies the right of workers or conceals the money due on him or requires of them some unjustified labour, he will have committed a sin. And it will be duty of the authorities to help the rightful owners in obtaining their rights."^2

a. Allowance for Working Partners. Although it is unjust that a partner should be entitled to any guaranteed amount out of the profits the working partner is allowed to spend on himself if there is a stipulation to that effect. In the absence of such stipulation he will spend according to current practice or tradition if there is any. Otherwise he cannot enjoy such benefit. In all cases his expenses must be according to the custom and commonly accepted fashion (al ma'ruf)."^3

These expenditures are obviously being treated as part of the cost of business and not as part of the profits. But having agreed in principle the jurists have nevertheless differed on what expenses

should and what should not be allowed in this regard especially when travelling is involved.

One group of Islamic thinkers favour him to take his necessary expenses according to commonly accepted fashion (maʻrūf), from the partnership account. They consider it as the transportation cost (ajr al hammāl). In the opinion of other group, it will be unfair for a partner to take personal expenses from partnership amount, as he has to bear them even when he is staying at home. They argue that the two parties having agreed on certain share in the profit, none of them should enjoy more than that. If expenses are allowed, the working partner may try to realize his profit in the form of expenses in case there is no expectation of any profit other than that. But even this group gives him the right to draw the expenses on food, clothing, conveyance etc. if it is already stipulated in the contract.¹

The opinion of first group which includes Ibn Taimiyah seems to be more reasonable. Travelling cannot be considered at par with staying at home, because in travel a person faces a lot of inconvenience which is not faced at home. The preoccupation of the jurists with these details reflects their concern with ensuring a just deal between partners.

2. PARTNERSHIP IN LAND CULTIVATION OR SHARECROPPING (MUZĀRA‘AH)

One important form of organization is partnership in land cultivation or sharecropping and hire of land for cultivation. Ibn Taimiyah has discussed this form in detail. He has also examined the opinion of earlier jurists. He starts his discussion by referring to some jurists who are against sharecropping or

muzāra‘ah. He says, "They hold that the sharecropping* is a kind of hire (ijārah); and in ijārah wage or price of the hired one should be determined and known, but in sharecropping this condition is not fulfilled. The crop may be large or small or it may fail altogether. In case of a total crop failure labour goes unrewarded which is against justice. This opinion is held by Abū Ḥanīfah."¹

Ibn Taimiyah disputes this analogy. He says, "This is a kind of partnership, and not a case of hire. The product is a result of two main factors -- labour and bullocks owned and employed by the cultivator and land and trees owned by the landlord.... The contribution of labour, bullock and plough is similar to the contribution (manfa‘ah) of land and trees, and none of them wants to acquire others contribution. Both of them share in the product obtained by the joint contribution of all factors. In this case if some product is available, both will share it, and if not, all will go without it. Thus both will share in loss and gain as it happens in all cases of partnership where product is the result of factors owned by them."²

Moreover, according to him, sharecropping is not a gamblesome hire (ijārah al gharar) where one party secures benefit while the other is exposed to chances. "If there is no crop, the land owner cannot take anything from the cultivator. Since the contract does not entitle him to it. But while the one party loses the fruits of his labour, other loses the yield from his land. Both parties get nothing. On the contrary, one of the

¹ Ibid. Vol. XXIX, p. 88; Al Qawa‘ed al Nūranīyah, p. 159.

*In the sharecropping one person provides land and the other cultivates it and the crop is shared by the two according to their agreement.
parties to the contract in *bai' al gharar* (gamblesome sale) and *ijārah al gharar* (gamblesome hire) gets his share while the other is denied anything. Such an arrangement leads to resentment and enmity among them."1

Here, Ibn Taimiyah tries to explain the bad effect of the partnership or sharecropping when one party's share is fixed and other party's share is not fixed. If such condition exists there may be some cases when capital owner or landlord can get full share of profit, while the working party gets nothing. No doubt, such conditions will create controversy between the two parties. Dishonesty and injustice will enter their practices and this will hamper the business activities.

For economic feasibility and validity of the *muzārahāh* (sharecropping) contract, Ibn Taimiyah consider it as *mudārābah* or profit sharing. According to him land is a factor that causes production, so it can be employed for production, in the same way as money (capital).2 A significant by-product of Ibn Taimiyah's discussion on sharecropping is a list of factors of production capital, labour and land. He says, "The crop is result of land that consists of soil, water and air, of labour's physical use (i.e. labour and organization) and of bullock, and instruments (i.e. capital)."3 Like all early economists, capital (animal power and agricultural equipment) is listed as an accompaniment of labour.

1 ibid. MFS Vol. XXIX, p. 100.
3 ibid. p. 103. (Arabic Test: *Bal al zarā' yahṣul bi manfa'ah al ard al mushtamilah ‘alā al turāb wa al mā', wa al hawā‘; wa manfa'ah al 'amil; wa al baqar wa al hadīd.*)
a. Muzāra‘ah in The Light of Tradition and Economic History of Early Muslims. In the above analysis, Ibn Taimiyah has tried to give an economic justification of the sharecropping (muzāra‘ah), and its legitimacy. He has also discussed the problem from Shari‘ah point of view that shows his deep insight in 'tradition' and economic history of early Muslims.

He examines the opinions of those doctors who are against sharecropping. They have adopted this stand due to a group of traditions reported by Rāfe‘ bin Khadīj, Jābir bin ‘Abdullāh and Abū Hurairah. These traditions prohibit the sharecropping. Ibn Taimiyah says, "that the prophet himself entered into the contract of muzāra‘ah and the history of Islamic people tells that it was common in each period of Islam." He proves that the prohibition reported above is not absolute. Only those types of sharecroppings are prohibited where one party makes as a condition that it will get a specific quantity of product; or that the product of some particular part of land (e.g. the fertile area) will go to it. This condition is unjust.

Ibn Taimiyah asserts that Rāfe‘ bin Khadīj, who is the main figure in those traditions, has himself explained the type of sharecropping that was prohibited. He has reported, that "we were owners of big farms in Madīnah and our people used to give land for cultivation on the condition that the product of specific part of land will be for them and the rest will be for the cultivator. It happens that sometimes land earmarked for the owner brought the crop and the other part produced nothing. So the prophet forbade them to do so." Thus he proves that sharecropping is permitted, and economically desirable and that it was prevalent.

b. Tenancy and Hire of Land (Ijārah). As far as hire of land (ijārah) on payment of cash or kind is concerned, Ibn Taimiyah allows it so long as the hire does not specify a fixed amount of the total produce of the land for one party. He is against those thinkers who absolutely oppose the renting of land. He argues: the purpose of renting an object is to benefit from it. The same is the case with land. This is the reason that the rent is due if a person gets control of cultivation on a land even if he has not actually cultivated it. The jurists, who are against ijārah, support their stand by a tradition according to which the prophet has forbidden the renting of land. Ibn Taimiyah presents other traditions which allow renting of land. He reconciles the two traditions and maintains that the prohibition relates only to the hiring of land in exchange for the produce of some particular part of land while general hiring of land in exchange for cash is permissible.

D. ADMINISTRATIVE GRANTING OF LAND (IQTA')

An important problem connected with land cultivation is the iqṭa'. It was a form of administrative granting of land. The word iqṭa' has wrongly been translated by the European word 'fief'. Although there is some similarity between the two systems as both relate to the grant of land yet there are fundamental differences between

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1 cf., ibid. Vol. XXIX, p. 112.
3 cf., ibid. Vol. XXIX, pp. 91, 111.
the two. In the words of Cahen: "With the solid intellectual and administrative tradition of the East, the distinction between public and private rights was never obscured as it was in the West. Whilst in Europe the rebuilding of a social system was attempted on the basis of personal relations, in the East, the notion that all personal power was a delegation of public power remained clear. Even though personal subordination was known in the East, the feudal contract of fealty was never even imagined. Economically, a mukta differed from the Western Lord in that he lived in the town and did not have to organize his rural lands with the réserve, corvées etc. which would have been necessary had he lived there. He drew an income from the soil, and that is all. The fact he was often a foreigner might be very important from various point of view, but this did not modify the structure of the iktā, nor, since he was permanently established in the country, the use made of his income....

"Even in places and times where the tendency to it was strongest, a number of factors limited the formation of a fully developed military aristocracy. First of all, a system of law and custom which had been firmly established for generations and was linked in some degree to the Islamic religion itself could hardly be modified at the pleasure of the mukta. The Muslim law of succession ignoring primogeniture, shared out the inheritance and consequently rapidly weakened the power of great families. Furthermore, the iktā even when the right of inheritance to it was to some extent recognized was still conditional on service...."

The above statement of Cahen clearly distinguishes between Islamic system of iqtā and Western system of fief. To put both systems in the same category is a serious error.

Iqtāʾ or grant of land continued since the age of the prophet himself and in the later period it has taken many shapes. We have already described it while introducing the Mamlūk period and while discussing the iqtāʾ system in Egypt (Chapter I).

Ibn Taimiyah has distinguished two types of Iqtāʾ: Iqtāʾ of appropriation (al Tamlīk) and Iqtāʾ of usufruct (al istīghlāl). The former type of Iqtāʾ used to be granted by the head of the state, in early ages of Islam, to a person who had played a great part in a war or he had appropriated a land and made it cultivable (iḥyāʾ al mawāt). This grant was in fact a grant of ownership. The latter was a grant of the benefit of land—a man can cultivate it himself or give it on sharecropping or hiring. But he was not an owner of that land. Therefore he could not sell it, or donate it, neither was it transferrable by inheritance. In the age of Ibn Taimiyah only this type of Iqtāʾ was found.

The Iqtāʾ was granted to the army men for their help, for the maintenance of weapons and war horses and for expenditures on their dependents.

According to Ibn Taimiyah a Muqtaʾ (grantee) is permitted to benefit from his land by sharecropping or hiring it. Because if they are prohibited to give it on hire or sharecropping, they will face great difficulty, as some of the property like building shops etc. cannot be benefited without giving them on hire. And property like gardens and farms can be benefited from only by giving them on sharecropping or hiring.

2 ibid. MFM, p. 272.
3 idem. al Ḥisbah, p. 33.
It seems that Ibn Taimiyah accepts *iqtāʾ* system as a social necessity, as the *iqtāʾ* was granted to army men in lieu of salary. If *iqtāʾ* were abolished, the payments to them would have become difficult in a period when monetary payment was not convenient or feasible. He is against any excess on the part of muqtaʾ (grantee) and the person who works on it. He says that if the men engaged in holy war need that their land be cultivated, then the farmer may be compelled to do that for them (if they do not willingly do it). But justice requires that the army men should not tyrannize upon the tenant, as it is obligatory for the tenant to cultivate for the army.\(^1\) At another place he observes that if army men were deprived from acquiring land and from sharecropping, they might engage themselves in cultivation and none would be available for defence.

E. REBATE DUE TO NATURAL CALAMITY (*WAĐAʾ AL JAWĀʾEH*)

The requirement of justice attracted attention of Ibn Taimiyah towards the problem of losses after the completion of hire or sharecropping contract, arising out of natural calamity. According to him, if a person hires land for cultivation, and crops are ready but before he harvests them or takes them to his place, it gets destroyed, then a distinction between the case caused by Nature or by man. The contract will be void if the destruction occurs due to natural factors. Ibn Taimiyah has mentioned this opinion with reference to Qādī Abū Yaʿlā.\(^2\)

Similarly, when a person hires land for cultivation but expected and usual rain does not fall, he shall have the right to cancel the contract. And if the return has decreased (due to scanty

\(^1\)ibid. *al Ḥisbah*, p. 30.
rain), he may decrease the rent in proportion to that loss. He has referred this view to his predecessor Imām Aḥmad bin Ḥanbal and others. He explains the method how the contract will be settled down. Rent will be decided in both cases of usual rainfall and scanty rain; and it will be paid according to the situation. For example, if the rent is one thousand dirham with the usual rainfall and five hundred dirham with the scanty rain, then in the case of scanty rainfall, it will be rebated in that proportion. The reason is that he could not benefit from the land according to contract. It will be assumed as if the object contracted upon has been destroyed partly before he took it into possession.

He puts the destruction caused by war, fire, pests etc. in the category of natural calamities and advocates reduction of rent in proportion to the loss.

Ibn Taimiyah has inferred all this from a saying of the prophet who told a companion that if he had sold a thing to his brother, and a natural calamity had occurred, then he had no right to charge from him anything; on what basis he would take his brother's property without right." In an another tradition the Prophet has been reported to order for the discount of natural calamities (Amar bi waḍa' al jawa'āḥ). According to Ibn Taimiyah "these are the rules that must be agreed upon and followed by all sects and communities, because the foundation of these rules is justice, on which the heaven and the earth are based, and with which 'Allah' has revealed in The Book." 

1 ibid. p. 257.
2 ibid. p. 255.
3 ibid. p. 268.
4 ibid. p. 266.
From the above discussion we can infer that according to Ibn Taimiyah the State must cancel a taxes or levy imposed upon certain public utilities and lands in the case of such calamities, as it is done at the present time when such a demand is made by inhabitant of the country. Ibn Taimiyah, refers to this problem as wada' al jawā'eh meaning discounting the natural calamities -- a term taken from the tradition of the prophet.  

F. PROHIBITED CONTRACTS

One of the characteristics of Islamic economics is that it is governed by the concept of Ḥalāl and Ḥaram (legitimate and illegitimate). All those economic activities which violate the basic moral values are prohibited or considered undesirable while others are permitted and considered desirable. These principles have been provided in the Qurān and Sunnah. In his writings, Ibn Taimiyah frequently quotes the relevant verse and expresses his own opinions. Before we conclude this chapter, it seems us better to examine his views regarding such transactions.

He says that the basic thing in this connection is that 'Allah has prohibited us in His book to take one's property through wrong means.....', then he says that to take property by wrong means are of two types revealed in the Book of Allah, namely, al Ribā (interest) and al maisir (gamble). Thus all businesses and contracts that contain elements of interest or gamble will be against the spirit of justice and must be prohibited. He defines gamblesome dealings as the ones 'whose result is not known... such transactions cause the evil of gamble; that is, they create jealousy and enmity, moreover it amounts to taking one's

1 ibid. p. 278.
2 idem. al Qawa'ed al Nūrāniyyah, p. 115.
property through wrong means which is a kind of injustice. Thus the gamblesome dealings bear three evils — injustice, enmity and jealousy.\(^1\) According to him it is their gamblesome nature due to which the prophet has prohibited contracts such as sale and purchase of animals not yet borne or even conceived by the female; sale of fruits before they have appeared on the trees, or of the crops before they ripen, or deals effected through touch or throwing of an object, etc.\(^2\)

A close analysis would reveal that the indeterminacy and ambiguity involved in such dealings that might result in disputes, and damage the peaceful functioning of the market.

As far as usurious transactions are concerned they have been outlawed by the Qur'an. Traditions have mentioned some other forms of usurious transactions such as \(\text{ribā al Fādāl} \) and \(\text{ribā al Nasīlah} \). These transactions have been discussed above (Chap. V).

According to Ibn Taimiyah interest is severely prohibited while gamblesome risky dealings that involve uncertainty and chance are relatively less vicious. It is for this reason that when gamblesome and risky transaction are indispensable, they are allowed to the extent of necessity.\(^3\) For example, fruits and vegetables grown inside the earth like carrot, onions, etc. may be sold as they are, though it is not free from the risk of being more or less than the expected amount. Here Ibn Taimiyah gives greater importance to people's need. According to him gamblesome businesses are prohibited as a precaution and to avoid any suspicion of enmity, jealousy and taking others' property by wrong means. But here the need of such businesses is more

\(^1\)ibid. p. 116.
\(^2\)ibid. p. 116.
important than avoiding a mere suspicion. If such transactions are prohibited, people would face a lot of hardship, because they most frequently face the need of those transactions. He supports his opinion from another principle of Shari'ah as he says, "The whole Shari'ah is based on the principle that any source of evil that requires its prohibition, if faced with a grave need, the prohibited action would be allowed."\(^1\) Ibn Taimiyah's stand saves people from several difficulties in their transactions. They will be able to sell fruits and vegetables growing under the ground without any inconvenience. The buyer can take them out according to his convenience. To strengthen his opinion he further argues that this transaction is free from gamble as we can know very well the inside hidden portion by looking the apparent upper portion of the fruits and vegetables. Moreover knowledge of sold goods is necessary to that extent only which is easily available. In this regard, Ibn Taimiyah goes against the famous opinion of Hanbalites doctors and the opinions of the doctors of Hanifites and Shafi'ite Schools.\(^2\)

Ibn Taimiyah's views are governed by the Islamic concept of Ḥalāl and Ḥaram. So he is of the opinion that a person should not engage in a business or industry of an article which is prohibited. For example, wearing of a silk cloth is prohibited for Muslim male. Muslim should not manufacture it for men, nor should he sell it to men for whom it is prohibited. (It is permissible for women). He himself gives the reason as he says that"for a man it is not permissible to earn his livelihood by sewing silk for a person to whom its use is prohibited, because it will be a kind of help and cooperation in the matter of sin and disobedience. In the same way silk cannot be sold to a person

\(^1\)ibid. p. 49.

\(^2\)ibid. p. 227; idem. al Masāel al Mārdānīyah, pp. 105-6.
for whom it is prohibited to wear it. But it can be sold to women and non-Muslims.\(^1\) However he sees no harm to have transaction with a person whose belongings are mingled with Ḥalāl and Ḥarām. For example, one who takes interest by tricks, or who earns his livelihood by making pictures etc. (to prepare pictures of living object is prohibited in Islam). He says that if a person carries a business believing it permissible, then the other persons can make transaction with him though they do not believe it to be permissible.\(^2\)

\(^1\)ibid. pp. 290-99.
\(^2\)ibid. p. 318.