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B.Com Honours | Semester V | Calicut University

FUNDAMENTALS OF ISLAMIC COMMERCIAL LAW

Course Code: COM5EJ312 • Module 1 Notes

Module I: Fundamentals of Islamic Finance & Shariah Framework

Covers primary and secondary sources of Shariah, objectives of Islamic Law (Maqasid al-Shariah), Islamic perspective on wealth and ownership, economic goals, and the distinction between Ibadath and Muamalat.

Unit 1: Sources & Objectives of Islamic Shariah (Maqasid al-Shariah)

Primary Sources: Holy Quran (Divine Revelation) & Sunnah/Hadith (Prophetic traditions).
Secondary Sources: Ijma (Consensus of jurists) & Qiyas (Analogical deduction).
Maqasid al-Shariah (Objectives of Law): Preservation of 5 Essential Human Interests: Faith (*Din*), Life (*Nafs*), Intellect (*Aql*), Lineage (*Nasl*), & Wealth (*Mal*).

Unit 2: Concept of Wealth (Mal) & Ownership (Milkiyyah)

Trusteeship Perspective: Absolute ownership of all wealth belongs to Almighty Allah; humans act as trustees (*Khalifah*). Ownership Rights: Private property rights (*Milkiyyah Khassah*) are recognized subject to social welfare duties (Zakat, prohibition of hoarding & extravagance).

Unit 3: Goals of Economic Activities in Islamic Perspective

Core Economic Goals: Achieving holistic human well-being (*Falah*), equitable wealth redistribution, elimination of poverty, full employment, & prohibition of economic exploitation.

Unit 4: Distinction between Ibadath & Muamalat

1. Ibadath (Ritual Worship): Governed by strict prescription; everything is forbidden unless explicitly commanded.
2. Muamalat (Commercial/Civil Transactions): Governed by general permissibility (*Ibaha*); everything is permissible unless explicitly prohibited by Shariah.

Practical Case Framework 1 (Maqasid al-Shariah 5 Essential Protection Goals Matrix): Detail essential human interest, Shariah protective directive, and commercial application.

Maqasid al-Shariah Objectives Reference Table:

Essential Human Interest	Shariah Protective Directive	Commercial Law Application
Preservation of Faith (Din)	Protection of religious values	Prohibition of haram business activities
Preservation of Life (Nafs)	Protection of human dignity & health	Safety standards & ethical labor treatment
Preservation of Intellect (Aql)	Protection of rational mental capacity	Prohibition of trade in intoxicants
Preservation of Wealth (Mal)	Protection against unlawful appropriation	Prohibition of Riba, fraud, & theft

Practical Case Framework 2 (Ibadath vs Muamalat Legal Jurisprudence Matrix): Compare scope, default legal presumption, flexibility, and real-life applicability.

Ibadath vs Muamalat Jurisprudence Table:

Jurisprudence Dimension	Ibadath (Ritual Acts of Worship)	Muamalat (Commercial Transactions)
Default Presumption	Forbidden unless explicitly prescribed	Permissible (Ibaha) unless explicitly prohibited
Adaptability & Flexibility	Rigid, fixed, non-adaptable rituals	Highly adaptable to modern business contracts
Commercial Scope	Personal spiritual obligations (Prayer, Fasting)	Trade contracts, banking, leasing, & partnerships