

Loans & Debts

- **Importance terminologies:**
- **Two words used in this context:**
 - (1) Dayn (الدَّيْنُ) : loan or debt.
 - (2) Qardh (الْقَرْضُ) : loan or debt.
- *Dayn* is more general while *qardh* is specific.
- Dayn refers to financial and other liabilities while *qardh* refers to the money or item that one borrows from the other.

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Dayn: Financial Liability

- **Examples of *dayn* as a liability:**
 - The deferred payment of an item.
 - The replacement of an item broken by mistake.
 - The unpaid *mahr* of the wife.
 - The unpaid basic maintenance (*nafaqa*) of the wife.
 - The unpaid khums, kaffarah and wajib hajj of the deceased.

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The Conditions for Validity of *Dayn*

- It should be received by the borrower.
- Both parties should be
 - *bāligh*,
 - of sound mind,
 - has intention,
 - free-will,
 - not be mentally weak.
- In addition to the above, the creditor should not be a bankrupt person.
- The item exchanged should be something that is legal in the shari'ah.

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Two Types of Dayn

- **Dayn ḥāll:** a loan which has no appointed term, or its appointed term has ended.
 - In this case, a lender can ask back the loan whenever he wishes.
- **Dayn mu'ajjal:** a loan which has an appointed term.
 - In this case, a lender cannot ask before the appointed term.

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Two Types of Dayn (2)

- **Dayn mu'ajjal:** with an appointed term.
 - If the borrower dies, then the loan with an appointed term becomes payable immediately upon the heirs.
 - The Rasul (s): "The first item [disposed from] the estate is *kafan*, the debts, the will [1/3] & inheritance."
 - However, if the lender dies, then his heirs will have to wait till the appointed term.

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Two Types of Dayn (3)

- If the deceased has left nothing behind but debts, and then his life insurance matures, or monetary compensation is paid for his injuries or death – Can that money be used for paying off his debt?
- Yes, that should be the first priority for the heirs to pay off the debt.

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What is the ḥukm of *Dayn* in Shari'ah?

- Asking a loan *without* any need is is reprehensive, disliked (makrūh).
- Imam 'Ali (a): "Beware of debt for it causes anxiety at night times and humiliation at daytime."
- Of course, if *there is a need*, then the karāhat is lifted.

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What is the ḥukm of *Dayn* in Shari'ah? (2)

- Mu'awiyah bin Wahab inquired from Imam Ja'far as-Sadiq (a) about the validity of the story that once a Muslim died in Medina and the Prophet was requested to lead the funeral prayer for him.
When the Prophet found that the deceased had left a debt of 2 dinars, he politely declined and asked his companions to say the funeral prayer until one of his relatives agreed to pay off the debt on his behalf.

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What is the ḥukm of *Dayn* in Shari'ah? (3)

- The Imam as-Sadiq (a) replied, "That is the truth. The Rasul (a) only did that so that people may learn a lesson to pay the debts back to one another and not to take the debts lightly.
"Otherwise, the Prophet (s) died while he was in debt, Amirul Mu'mineen was killed while he was in debt, al-Hasan died while he was in debt, al-Husayn was killed while he was in debt."

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Duty of the Debtor

- Al-qardhu 'l-hasan = a loan “good” means that has no condition of interest added to it.
- It doesn't mean that the debtor does not have to pay it back!
- Imam al-Baqir (a): “Every sin is washed away by martyrdom except the loan: there is no kaffārah for it except paying it off or paid off by his companion or forgiven by the owner.”

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Duty of the Debtor (2)

1. It is wājib by the debtor to do niyyat of paying off the loan.
- Imam as-Sadiq (a): “A person who seeks a loan but does not have the intention of paying it off is like a thief.”
2. While paying back the loan, if the debtor gives something extra willingly, then it is permissible.
- It is mustahab to give extra in return.

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What about giving a loan?

- Giving a loan to a mu'min who is in need is a highly recommended deed.

مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا
 فَيُضَاعِفَهُ لَهُ أَضْعَافًا كَثِيرَةً
 وَاللَّهُ يَقْبِضُ وَيَبْصُطُ وَإِلَيْهِ تُرْجَعُونَ

**Who will lend to Allāh a goodly loan?
 He will multiply it for him manifold—
 Allāh restrains and expands the provision,
 and to Him you shall be returned.**

(2:245)

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What about giving a loan? (2)

- The Prophet (s): "Sadaqa [is rewarded] ten times; loan eighteen times; helping brethren-in-faith twenty times; and helping the relatives twenty-four times."

❖ Sadaqa	= 10 x
❖ Loan	= 18 x
❖ Help a mu'min	= 20 x
❖ Help a relative	= 24 x

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Some Rules of Dayn

- (1) If the borrower is not able to pay off the loan, then can the lender force him to sell his property to pay off the loan?
- If the borrower has a house and the basic necessities of life according to his status in the society, then the lender cannot force him to sell them; he has to wait until the borrower can repay his loan.

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Some Rules of Dayn (2)

- (2) Of course, if the borrower can work and earn to pay off the loan, then it is wājib on him to do so.
- ...

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Importance of Writing a Loan Deed

^{2:282}O you who believe! When you deal with one another in contracting a loan for a fixed time, then:

1. write it down;
2. *or* let a scribe write it down between you with justice;
3. the scribe should not refuse to write as Allāh has taught him, so he should write;
4. and the debtor should dictate and he should fear *displeasing* Allāh, his Lord, and should not diminish anything from it;

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Importance of Writing a Loan Deed (2)

5. if the debtor is unsound in understanding or weak (*i.e., underage*), or if he is unable to dictate himself, then his guardian should dictate with justice;
6. *at time of writing*, call in to witness from among your men two witnesses;
7. but if two men are not available, then *call* one man and two women from among those whom you approve as witnesses—so that if any of the two errs, one of the two may remind the other;

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Importance of Writing a Loan Deed (3)

8. The witnesses should not refuse when they are summoned *to give evidence*.
 - Do not disdain from writing the agreement *whether it is small or large amount*, with fixed time—this is more equitable with Allah and assures greater accuracy in testimony, and the nearest *way* that you may not entertain doubt *afterwards*.

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Importance of Writing a Loan Deed (4)

- But if it is a ready merchandise which you give and take among yourselves from hand to hand, then there is no blame on you in not writing it down, *although it is better to do so, therefore*, have witnesses when you trade with one another.
- Let no harm be done to the scribe or the witness; and if you do *harm them*, then surely it will be a transgression in your. Guard yourself *against displeasing Allah*; & Allah teaches you & He knows all things.

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Importance of Writing a Loan Deed (5)

- ²⁸³If you are on a journey and you do not find a scribe, then *the creditor can* take possession of a security *from the debtor*; but if the creditor among you trusts the debtor, then he who is trusted should deliver his trust *at its appointed time* and he should fear *displeasing Allāh*, his Lord.
- Do not conceal the testimony, and whoever conceals it, his heart is surely sinful. Allāh knows what you do.

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The Duty of the Creditor

- **The importance of a written is there in the Qur'an.**
- **If the creditor does not follow this recommendation, then he shouldn't blame anyone else.**
- **Imam as-Sadiq (a): "Four peoples du'a will not be answered: ...a person who gave a loan without having any witness—he will be told: Didn't I ask you to take witnesses?"**

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The Duty of the Creditor (2)

- If the debtor is in difficulty and cannot pay, then the Qur’an says:
 - “If *your debtor* is in difficulty then let there be respite until *he is in ease and can pay you*;
 - “but if you remit *it* as alms, that is better for you, if you know.” (2:280)
- The emphasis is to either give him more time or change that into sadaqah.

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One Usage of Charity

- 9:60 talks about the usage of zakat and sadaqah:

إِنَّمَا الصَّدَقَاتُ لِلْفُقَرَاءِ وَالْمَسْكِينِ وَالْعَامِلِينَ عَلَيْهَا
وَالْمُؤَلَّفَةِ قُلُوبُهُمْ وَفِي الرِّقَابِ وَالْغَارِمِينَ
وَ فِي سَبِيلِ اللَّهِ وَ ابْنِ السَّبِيلِ
فَرِيضَةً مِّنَ اللَّهِ وَاللَّهُ عَلِيمٌ حَكِيمٌ
- “al-gharimin” means those who are in debt.

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