Participatory Based Transactions in Sharī’ah (Islamic Commercial Law) and their Role in the Development of Rural Local Agricultural Sector in Khyber Pakhtunkhwa (Sharī’ah Based Newly Proposed Models)

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Abstract:
Local farming is, indeed, the most important sector of agriculture through which farmers grow food. However, owing to their weak financial conditions, they are not able to get maximum benefits from their labours for most of the times. The case of Pakistani farmers, particularly in rural areas of KP (Khyber Pakhtunkhwa), is not different in this connection. They frequently resort to formal and informal sources of financing to accomplish their basic agricultural requirements: both crops and non-crops inclusive. However, all these sources advance financing facility on interest basis. Being typical Muslims, such agricultural credit is, therefore, avoided by these farmers and, as a result, they always endure on their financial grounds. In such situations, some substitute arrangements are recommended to reciprocate with their problems. This alternative is offered by Sharī’ah through various commercial transactions – among which participatory based transaction i.e. Mushārakah is the most suitable and important one. In the present work, various models are proposed on the basis of such transaction to fulfill various agricultural requirements of farmers, living in rural areas of KP. In addition, such models are structured in the light of basic theory, available in the classical literature of Islamic law, in order to make them more Sharī’ah based rather Sharī’ah compliant. The proposed models are then, at the second stage, tested at ground level to strengthen further their viability for all stake holders. Findings show that all agricultural requirements, particularly heavy machinery and transport, can be realized through such models provided if they are applied in their true spirit. Moreover, content analysis and focused group technique of qualitative research have
been used, as a research methodology, for the investigation of the issue in the present work.

Keywords: Shari‘ah, Rural, Agricultural, Mushārakah, Models, Farmers, Islamic Banks, Financial Institutions, Crop, Non-crop, Local Farming, Islamic Agricultural Finance

1. Introduction:

On a normal day, any man, during waking hours, one way or another, typically uses and consumes many agricultural commodities. Owing to this fact, agriculture, in all probabilities, is the most significant source through which farmers grow food for themselves and others, meeting the current and future demands. In addition to this, a substantial portion of the world’s labor force is attached to this sector and, at the same time, it, directly or indirectly, contributes significantly to the world’s economic development. In case of Pakistan, for instance, agriculture accounts for 23% of its GDP, and employs 42% of its labor force.

As a matter of fact, an overwhelming majority of the farming class, almost in all countries, lives in rural areas. For instance, in Bangladesh, the rural population has reached up to as much as 80% of the whole inhabitants. An empirical research showed the same fact regarding the state of Ghana; where half of the population in rural savannah zones is extremely poor. The case of Pakistan, on the other hand, is not unlike in this connection; where 62% of the country’s population is living in rural areas and, directly or indirectly, allied with agriculture as their livelihood. Khyber Pakhtunkhwa, a typical province of the country, has the same dynamics. Agricultural, for the occupants of such area, is a source of life rather a source of business. However, their agricultural activities are, predominantly, related more to local farming comparatively to other sectors of agriculture like horticulture, dairy farming, livestock, poultry farming, fish farming and etc. There are many reasons, natural and unnatural, for this typical tendency towards the local farming. However, the poor economic conditions of farmers, in rural areas, can be counted as one of the most leading among them. Because of this reason, they are not in a position to bear out their agricultural requirements, arising at different times of the harvesting cycles – both for crop and non-crop activities. Since, money is required at all stages, and a vast majority of farmers faces shortage of financial resources, they, therefore, have to borrow money from various sources, including individuals, organizations, banks and government. In other words, they fulfill their agricultural requirements, through availing finance, from formal and informal institutions of credit.

As mentioned above, farmers of rural Khyber Pakhtunkhwa opt formal and informal sources of financing for their agricultural needs. Of course, both these sources advance agricultural credit on interest basis which is against the religious norms of Muslim farmers who are prohibited by Shari‘ah (Islamic law) to get interest-based loan. There are numerous verses of the Qur‘ān and Sunnah (tradition) of the Holy Prophet (SAW) that confirms
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the prohibition. In addition, it (interest based loan) adds to a farmer’s problems rather than solving the same; as he has to repay the principal amount as well as the interest.

Being a complete code of life, Sharī’ah presents a wide-ranging and easy ways for farmers, Islamic banks and Islamic financial institutions to enter into various commercial transactions. These transactions are viable for all stakeholders and, at the same time, also indispensable for the development of agricultural sector - both for crop and non-crop activities. These transactions, further, can be divided into trade based modes, such as, Murābahah (sale with cost plus profit), Musāwamah (bargaining contract), Salam (advance payment sale), and Istisnā’ (manufacturing contract); participatory modes, such as, Mushārakah (partnership), Diminishing Mushārakah (partnership that comes to an end at sale), Musāqah (watering contract), and Muzāra’h (share cropping); rent based modes, such as, Ijārah (leasing) which can be further divided into Ijārat-ul-Ashkhās (lease of personal services) and Ijārat-ul-Ashyā (leasing of asset against specified rentals). However, among these, the participatory modes are the most suitable modes for financing purposes.

There are many jurisprudential, as well as, logical reasons for opting Mushārakah as a tool for financing agriculture. Firstly, such transaction is, at first, originated by Sharī’ah for the expansion of agricultural activities. The contract of Musāqah and Muzāra’h, for instance, being typical kind of Mushārakah, can be cited as best examples in this connection. Secondly, Mushārakah is the ideal form of transactions in the contemporary mechanism and structure of Islamic finance, having more potential to be Sharī’ah-based rather than Sharī’ah compliance. This fact has been recognized by Muhammad Taqi Usmani, a contemporary scholar in the field of Islamic banking and finance. Thirdly, majority of farmers in Khyber Pakhtunkhwa belongs to lower class and, therefore, cannot furnish collaterals and other securities, required by Islamic banks for the sanction of financing facility. Being a trust contract, farmers are not in need to provide any security/collaterals to financial institutions. This distinguishing nature is based on the established principle of Islamic commercial law where guarantee in trust contracts is not permitted. The Accounting and Auditing Organization for Islamic Financial Institution (AAOIFI) clear up this characteristic by stating, “It is not permissible to stipulate any guarantee in trust contracts like agency contract, contract of deposits, and therefore, no guarantee can be taken in the contract of Mushārakah or Mudārabah”. However, if they enter in any other type transaction i.e. Murābahah, Musāwamah, Salam, Istisnā’ and etc. they will have to furnish security by one way or another. This fact is confirmed by the Accounting and Auditing Organization for Islamic Financial Institution (AAOIFI) where it positions that a contract of guarantee is permissible in the contracts of exchange, for instance, contract of sale or contract of rights, and, right of intellectual property. The case of Ijārah is not different in this regard.
There are some inherent objectives of the present work. Firstly, to explore the practicability of Mushārakah based models for financing rural local farming of Khyber Pakhtunkhwa. Secondly, to find out various requirements of farmers in such areas, related to crop and non-crop sectors. These requirements, commonly, start from the basic agricultural inputs and ends at heavy agricultural machinery and equipment. Thirdly, to suggest Sharī'ah based models for the accomplishment of such requirements on the basis of Mushārakah. Fourthly, to establish the profitability of these transactions for Islamic banks, farmers and other stake holders. Moreover, it is endeavored, in the present work, to realize all these intended objectives at ground level, by applying the participatory based transactions in their true spirit, envisaged by Shari‘ah at the time of their inception.

2. Literature Review:

The literature on Mushārakah, in terms of agribusiness, can be appropriately divided into two subheadings i.e. classical literature and contemporary literature. The following discussion may elucidate the above with minute details.

2.1 Classical Literature on Mushārakah (in Terms of Agribusiness):

Mushārakah is discussed, primarily, by the classical Muslim jurists in their works for general enterprise other than agribusiness. The possible reason, for this, may be the undivided involvement of the people of that time in general commercial business activities rather than agribusiness. It seems that their inclination towards the general trade was due to the lack of suitable environment for agricultural activities. However, it does not mean, under any stretch of explanation, that such transaction (Mushārakah) has no potential for the growth of agricultural sector. Its generic nature, indeed, makes it more flexible and applicable to agribusiness too; provided its general rules, prescribed by Shari‘ah, are kept intact.

Muzāra‘ah and Musāqah, being typical kinds of Mushārakah, are purely related to local farming and, as a result, extensively discussed by the classical fiqhāh (Muslim jurists) in their scholarly works. These jurists include Imām al-Shawkānī, Imām al-Kāsānī, Ibn Qudāmah al-Maqdisī, Abū al-Walīd Muhammad ibn Ahmad ibn Rushd, Imām Muhammad ibn Ahmad ibn Abī Sahal al-Sarkhasī, and Ibn ‘Ābidīn. Among these jurists, the work of Imām Muhammad ibn Ahmad ibn Abī Sahal al-Sarkhasī is very remarkable in nature; as he discusses these two agricultural specific transactions with much detail. Like Muzāra‘ah and Musāqah, Salam, another known transaction in Shari‘ah, is discussed by the classical Muslim jurists for financing agriculture. However, its discussion is not intended in the present research work and, therefore, can be possibly left for another study.

2.2 Contemporary Literature on Mushāraka (in Terms of Agribusiness):

Some of the contemporary scholars have done a wide-ranging work on the application of various modes of Islamic finance, including Mushāraka and its other types, with a special reference to the agricultural and its sub sectors.
These scholars include Muhammad A. Gulaid, Maulana Muhammad Taqi ’Uthmâni, Brian B. Kettell, Monzer Kahf and M. Fahim Khan, Magda Ismail Abdel Mohsin, Laurence M. Crane and David J. Leatham, Adam B. Elheraika, Ali Yasserî, Saeed Yazdani etc. Nevertheless, the works of all these scholars, for the most part, elaborate the whole theoretical structure of Islamic finance in terms of Islamic agriculture finance, as a whole, and no separate discussion is devoted to a particular mode. In other words, Mushâraka, Muzâra’ah and Musâqah are discussed as ancillary in a general discussion of Islamic agriculture finance. However, still, there are some scholarly works which are directly related to these transactions. The following discussion will further illuminate this statement.

Some of the contemporary scholars deliberate Mushârakah and its effective application for the development of agricultural sector, both for crop and non-crop activities. They elaborate, painstakingly, that how such commercial transaction can be applied with true spirit, aims and objectives for the development of agriculture, predominantly, local farming. In addition, they have developed various concepts for agricultural projects, including methods for the distribution of profit, sharing of loss, risk minimization in agricultural finance, the monitoring and supervision of agricultural projects and etc. With a special focus on local farming in rural areas, they have developed various methods and techniques for the minimization of cost.

Muzâra’ah and Musâqah transactions are discussed by Abdul Aziz Muhammad Rizwan in his notorious work. He provides, for instance, an amalgamation of classical and contemporary research on Islamic agricultural finance and agribusiness. In his view, modern Islamic banks and other Islamic financial institutions can offer financing facility to agro-entrepreneurs through participatory modes of financing. However, his study is purely conducted in the context of Malaysia and, hence, cannot be applied to the rural agricultural sector in Pakistan. Al-Hashimi and Muhammad Ali Alula, on the other hand, also contribute a scholastic contribution for the development of agricultural sector through Mudârabah, a special kind of Mushârakah. In their view, such transaction is more constructive for farmers than an interest based credit; as the latter contains the element of exploitation. Their study, however, has limited application; as it largely focuses on the development of Islamic agricultural finance in Sudan. Mahmoud A. Gulaid, a renowned scholar of the field, has also discussed Mushârakah, in terms of its application to rural agricultural sector. His work is technically very much sound, owing to his practical experience in the field of Islamic banking and finance.

Ahmad Kaleem, a prominent scholar of the field, proposes a viable model, based on Diminishing Mushârakah, for local farming. He adds, with solid evidences, that such a model is very supportive for the development of rural agricultural sector; provided if applied in its true spirit, avoiding the usual profit maximization approach of financial institutions. However, his
results are not consistent as they are based on unreliable data. The study of Badawi B. Osman also reflects contribution of Mushārakah for the development of lower class of farmers, predominantly, those living in rural areas.\textsuperscript{40} He argues that if the agricultural partnership is well guided and supervised, by the Islamic banks, then it can, indeed, yield more returns as compared to other modes of Islamic finance. Furthermore, this mode (Mushārakah) is fit for farmers in the sense that they are not required to provide collaterals or other forms of securities, which mostly act as a hurdle for them to secure financial backing.

The role of Mushārakah in the development of the agricultural sector of Iran is also discussed by Kazem Sadr\textsuperscript{41} with minute details.\textsuperscript{42} In his view, agricultural banks in Iran have earned more profit through the investment of their liquidity in Mushārakah based projects comparatively to other modes. He adds that such profit ratio can further be increased through effective mechanism of supervision, technical assistance and proper observation of the fund, provided to a farmer.

3. Methodology:

Being a discipline of social sciences, the qualitative research technique has been used for the investigation of the issue in the present research endeavor. While following this, the content analysis method is utilized, in the first part of the paper; where the secondary data, available on the Mushārakah, has been used to offer the newly proposed models. At this part, the secondary data has been obtained from the Holy Qurān, Sunnah of the Holy Prophet (SAW), work of the classical Fuqahā and contemporary Muslim jurists. However, the work of classical Fuqahā is preferred more comparatively to that of contemporary Muslim jurists, owing to the fact its more reliability. Moreover, the research of non-Muslim scholars is also resorted whenever deems beneficial. Libraries, both online and classical, journals and official websites are used as sources of secondary data. In case of journals, only the reputed and related journals (i.e. journals which are related to the discipline of Islamic banking and finance) are resorted to maintain the reliability of the data. The same approach is made in case of official websites of various organizations. At the second part of the present work, where the proposed models are tested at ground level, the focused group technique is used. In this case, the proposed models are explained to the farmers in a very simple way, followed by their open group discussion. At the end, they (farmers) are asked, through various questions, regarding the viability and feasibility of the models. Their suggestions are inculcated at this stage in order to strengthen the practical utility of such models at ground level.

4. Theoretical Background of Mushārakah:

At a practical level, prior to the discussion as to how Mushārakah can be applied for rural local agricultural financing in Khyber Pakhtunkhwa, it is deemed appropriate to present its theoretical background, envisaged by Shari‘ah. “Sharikāt\textsuperscript{43} is an Arabic word, literally means, ‘mixing’ or ‘Ikhtilāt’,
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as said by the Holy Qurān, “Most of the partners are transgressing on each other.”\textsuperscript{44} Sharikāt, in Islamic jurisprudence, is used for describing a contract of partnership. It can be divided into three classes i.e. Sharikat-ul-Ibāha (common sharing of things),\textsuperscript{45} Sharikat-ul-Milk (co-ownership)\textsuperscript{46} and Sharikat-ul-‘Aqd (partnership through contract). This classification is very exhaustive in nature as it covers all related areas of partnership in Islamic law. However, the present work is mainly related to the last one i.e. Sharikat-ul-‘Aqd, and hence, more focus has made over it. According to Majallah al-Ahkām al-’Adliyah, “It is a partnership which comes into being as a result of an agreement between two or more persons in order to share profit”\textsuperscript{47} This important kind of Sharikāt is further divided into three classes by the Hanafī school of thought i.e. Sharikat-ul Amwāl, Sharikat-ul-Amal and Sharikat-ul-Wajūh.\textsuperscript{48} However, Sharikat-ul-Amwāl is more practicable and workable, as far as, the present mechanism of banking sector is concerned. In the view of Ibn ‘Ābidīn, a renowned Hanafī jurist, “It is a contract between two or more persons for participation in capital and its profit”\textsuperscript{49} The other prominent schools of thought (Maliki, Shafa’i and Hanbalī) define Sharikāt on the same way, with some minor variation, and therefore, there is no need of their discussion distinctly. The definition given by Hanafī school of thought, indeed, is more elaborate in nature; as it covers all essential components of a valid partnership (i.e. parties, agreement, capital investment, sharing of the profit) and, therefore, be used in this work.

Like other commercial transactions, there are some governing rules prescribed by Sharī’ah for Mushāraka. All these rules must be followed, both in letter and spirit, in order to achieve the intended results, envisaged by Islamic law from the application of such mode. These rules are, undeniably, copious in nature; however, for the purpose of succinctness, the most important has to be discussed in the coming lines.

Firstly, as Mushārakah is a contract, and therefore, all rules and regulations of a valid contract will be applicable. It means that there must be proper offer and acceptance, legal obligation, free consent, capacity of the parties, lawful object, possibility of performance and etc. Secondly, as the main purpose of Mushārakah arrangement is to earn profit, therefore, the issue of its distribution must be settled in the beginning of the contract.\textsuperscript{50} In addition, the profit, to be divided between the shareholders, must be related to the actual profit, accrued by the business, and its sharing must be predetermined in clear terms. For example, one-half (1/2), one-third (1/3), one-fourth (1/4); or a given percentage of actual percentage of the profit, e.g. 10% or 20%, etc.\textsuperscript{51} Moreover, it is not allowed to determine a fixed lump sum amount for any or all partners nor it should be related, by any means, to the amount of capital invested by each party.\textsuperscript{52} Some of the financial institutions provide a fixed amount of profit for their customer in case of Mushārakah, but it should be subjected to a final settlement at the end of the banking year.\textsuperscript{53} Fourthly,\textsuperscript{54} according to Hanafi School of thought, it is lawful that the capital of each partner may be equal and yet the profit be shared unequally.\textsuperscript{55} In their
view, the profit share in the contract of Mushārakah is related to the agreement, not to the capital. However, this school considers it as a rule for a normal business activity. However, it recognizes that in a special situation, where a partner explicitly agrees not to participate in the management of the business (a sleeping partner), their share of profit cannot be more than the ratio of their investment. Fifthly, the contract can come to an end by various means i.e. death of a party or lost of legal capacity, issuing of notice by any party for the termination of the contract, completion of the time period prescribed in the contract, destruction of the subject matter of the contract and etc.

5. Needs of Farmers in Rural Areas of KPK:

Before presenting various models on Mushārakah basis, it is appropriate to know about the basic needs of rural local farmers in KPK, more importantly, those which can be fulfilled through this mode of Islamic finance. These needs include the following.

1. Farmers in rural areas of KPK are, all the time, in need of funds to purchase agricultural inputs like seeds, fertilizers, pesticides, herbicides, weedicides and etc. They also require, at the same time, means to bring their agricultural yields to the local markets so that the portion of their profits, normally used to pay others for transporting their goods, may also accrue to them.

2. Farmers are also in need of heavy agricultural machinery and equipment (see figure No.3). These equipment and machineries, which are numerous and expensive in nature, required by almost all farmers in their fields. While having meager economic conditions, the lower and middle class farmers are not in a position to purchase such equipment for themselves (see figure No.4). The machinery, customarily used by the farmers, can be divided into various groups, based on their purposes and functions. These include, for instance, traction and power (like tractor), soil cultivation (like cultivator, cultipacker, chisel plow, harrow, spike harrow, plow, spading machine, stone removal implement, subsoiler, rotator and etc.), planting equipment (like broad cast seeder, planter, plastic mulch layer, potato planter, seed drill, air seeder, transplanted and etc.), fertilizer and pest control (like fertilizer spreader, terragator, liquid manure, manure spreader, sprayers and etc.), irrigation (center pivot irrigation, drip irrigation, hydroponics and etc.), produce sorter (like weight sorter, color sorter, blemish sorter, diameter sorter, shape sorter and etc.), harvesting (like baler, beet harvester, beet cleaner loader, bean harvester, cane harvester, cart carrot harvester, chase bin, combine harvester, corn harvester, cotton picker, cradle, gleaner, grain cleaner, grain dryer, grape harvester, gravity vagon, potato spinner, potato harvester, rake, reaper, reaper, binder, rice buller, sickle, silage trailer, sugarcane harvester, swather,thesher, tractor and etc.), hay making (like bale mover, bale wrapper, baler and big baler, conditioner, hay rake, haytedder, mower, bale lifter, loading (like backhoe loader, front end loader, skewtedder, mowing, bale lifter, loading (like backhoe loader, front end loader, skid steer loader and etc.) milking (like bulk tank, milking machines, milking pipeline
and etc.), obsolete farm machinery (like stationary steam engine, portable engine, traction engine, reaper binder, flail, hog oiler, reaper, winnowing machine, threshing machine and drag harrow) and etc.

3. Farmers in rural areas of KPK are always in need of transport facilities in order to carry their products to the local market on time. This facility may include tractors, refrigeration vans, farm cooling tanks, motorcycles for milkmen, small pickups, mini trucks and chiller carriers and etc.\(^5\) Effective transportation, indeed, plays a vital role in the development of agricultural sector.

4. A considerable number of farmers hold the land units of less than 12.5 acres, which is barely enough for providing subsistence standards of living. They are, therefore, in need of land for yielding agricultural products.

Table.  

<table>
<thead>
<tr>
<th>Categories of Farmers</th>
<th>No. of Farms</th>
<th>Farm Area</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Million</td>
<td>(million acre)</td>
</tr>
<tr>
<td>Marginal farms up to 5 acre</td>
<td>2.41</td>
<td>5.31</td>
</tr>
<tr>
<td>Small farms (5 – 12.5 acre)</td>
<td>1.70</td>
<td>13.05</td>
</tr>
<tr>
<td>Total small farms</td>
<td>4.11</td>
<td>18.36</td>
</tr>
</tbody>
</table>

Source: Agriculture census organization, 1990

Table 1: Land units held by farmers

6. Solution of the Farmers’ Problems through Mushārakah Based Models:

The above table illustrates that, except for a few big landlords, the average farmers generally remain poor as they hold a very small piece of land for cultivation of agricultural crops. This actuality puts them in the back lines of poverty and, hence, they always face financial problems. Some arrangements, therefore, must be made under the contract of Mushārakah in such a way to provide them land for cultivation purposes. It will really increase their agricultural production and, consequently, their income and life standard.

All the requirements, mentioned above, can be fulfilled through various models, structured on the basis of Mushārakah. For instance, requirements mentioned in category No.1, can be fulfilled through an arrangement whereby an Islamic bank provides the required funds for the agricultural inputs and the farmer, on the other hand, contributes land, labor and management—from sowing to harvesting the crop(s). The profits of the joint venture, which can be called, “We Cultivate Together” can be shared by the Islamic bank and the farmer under a predetermined ratio. The risks normally associated with agriculture are drought, floods, hail, earthquakes, pests attack, mudslides and a multitude of other mishaps.\(^6\) Ironically, these risks are not common in other sectors.\(^7\) All these risks may be mitigated
under Takāful (Islamic insurance) cover. Putting together all the factors of production for a gainful business pursuit, will create a form of Mushārakah between an Islamic bank and a farmer. As discussed earlier, the Islamic bank may assume the role of a sleeping partner, thus, confining its share of profit, as well as the loss, to its investment. The farmer, on the other hand, will manage the entire production process and, as such, will be entitled to claim managerial costs (ujrat-ul-‘Amal)\(^2\); as the deductible business expenses before arriving at the distributable profit from the venture. It must be noted in that an Islamic bank, under such an arrangement, will not be a lender of the money to a farmer but an active or sleeping partner who provides all or most of the agricultural inputs (e.g. tools, seed, fertilizer, pesticides, irrigation etc.) and, therefore, shares the profit or loss of the partnership. The farmer, therefore, will not be required to offer any collaterals\(^3\) (e.g. guarantees, pledging of assets or mortgage of properties) to Islamic banks, which are normally required by conventional banks against their lending facility. The following proposed model may explain the theory in the best way:

**Model 1**

![Diagram](image-url)

Profit and initial investment

Figure 1: Mushārakah based model 1

The requirements, on the other hand, which are mentioned under the category No.2 and No.3, can be fulfilled through a variety of models based on a contemporary type of Mushārakah known as the Diminishing Mushārakah\(^4\). While following this arrangement, the Islamic banks and other Islamic financial institutions use Diminishing Mushārakah for the purchase of heavy agricultural machinery and transport facility, including purchase of tractors, refrigeration vans, farm cooling tanks and transport vehicles, etc.\(^5\) Under this model, the Islamic bank and the farmer acquire the vehicles collectively and, thus, become co-owners of the asset. This
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arrangement has been accepted by majority of farmers (see figure No.5). Once this relationship is time-honored, the farmer will take share of the Islamic bank on rental basis. This understanding has also been accepted by majority of farmers (see figure No.6). The share of the Islamic bank will be divided into small units and the farmer will purchase these units periodically. It is sensible for Islamic banks and other Islamic financial institutions to divide their shares comparatively in small units than they do in their normal business with ordinary customers. A special relaxation, therefore, will be provided to farmers in their payment structure and mechanism; owing to the fact of their meager economic condition. While doing so, such financial institutions will also put their share in the development of agricultural sector; which is always considered a national sacred cause. This process will be continued until the share of the farmer increases to full ownership of the vehicle. The division of bank’s share in various units and their subsequent sale has been appreciated by majority of farmers (see figure No.7).

All risks and liabilities, related to the ownership, are supposed to be divided by the parties according to their share in the asset. Through mutual agreement, however, they can divide these liabilities otherwise. This contract of Diminishing Mushārakah is very useful because most of farmers are very poor and these assets, while very expensive, are, at the same time, essential for their livelihood. Since, they do not have the necessary resources to purchase these assets, Diminishing Mushārakah can be a viable option for them in such circumstances. Majority of farmers have the same opinion. The following model can be developed in light of the theory mentioned above.

**Model 2: Diminishing Musāharkah Based Mode of Financing (Provision of Heavy Agricultural Machinery and Transport Financing)**
Figure 2: Model 2 Diminishing Musāharkah based mode of financing (provision of heavy agricultural machinery and transport financing)

7. Mushārakah Models on Trial:

A focused group survey is conducted for checking the viability and practicability of the proposed Mushārakah based model for local farming sector in rural KPK. The farmers are asked various questions, related to the whole mechanism of the model. The following response has been received.

- The farmers are always in need of heavy agricultural machinery for various purposes. This requirement of heavy machinery is also confirmed by 95% of the respondents as shown in the following graph.

![Figure 3: Requirement for heavy agriculture machinery](image)

Figure 3: Requirement for heavy agriculture machinery

The lower and middle class (lower middle class) farmers are not in a position to purchase heavy agricultural machinery. This fact has been established through the data, collected from the respondents.
The graphical presentation clearly indicates that 70% of the farmers have confirmed their financial inability to purchase agricultural machinery. It means that Islamic banks and other Islamic financial institutions can target this potential area in their financing policies.

- Under Diminishing Mushārakah model, an Islamic bank and a farmer can acquire the vehicles collectively and, thus, become co-owners of the asset. This arrangement has been accepted by majority of farmers as shown in the following paragraph, designed from the collected data.

In the above graphical presentation, 65% farmers are agree to purchase the agricultural machinery jointly with the financial institutions through the arrangement of Diminishing Mushārakah. This positive response, indeed, shows the viability of this arrangement for the development of agricultural sector.

- Under the Diminishing Mushārakah, the farmer will take share of the Islamic bank on rental basis. This arrangement has been accepted majority of farmers. The following graphical presentation can be presented as an evidence in this regard.
Figure 6: Renting machinery
- The division of bank’s share in various units and their subsequent sale (in Diminishing Mushārakah) has been appreciated by majority of farmers from the various groups. The following graphical presentation can explain their view in a better way.

Figure 7: Willingness to pay in the form of installments
- The graphical presentation shows that 57% of the respondents are willing to pay price of the agricultural machinery/commodity in installments rather than on spot. This fact illustrates appropriateness of the Diminishing Mushārakah for financing local farming in rural areas of KPK.
- The farmers are asked, in a generic way, regarding the beneficial nature of Mushārakah. The following data is obtained from their positive perception.
The graphical presentation indicates that 72% of the farmers have positive perception regarding the role of Mushārakah (particularly the Diminishing Mushārakah) in the development of agricultural sector.

8. Scope and Limitation of the Study:

The present research is connected, primarily, with the development of Shari‘ah based models, on the basis of Mushārakah, for local farming in rural areas of Khyber Pakhtunkhwa. However, the finding and results can be used, with minor amendments, for other rural areas of the country; as they almost have the same agricultural environment and climate and, thus, having the same agricultural requirements. The question may come to the mind that why rural local farming is focused more in the present research work while other sectors of agriculture i.e. horticulture, dairy farming, livestock, poultry farming, fish farming, etc., on the other hand, are entirely ignored. There are many, natural and unnatural, reasons for this priority. Firstly, other sectors of agriculture, like horticulture, dairy farming, livestock, poultry farming, fish farming, etc., do not exist in rural areas of Khyber Pakhtunkhwa. Secondly, majority of population the in rural areas is related to local farming, by one way or another, and, therefore, development of this sector is very much crucial. Thirdly, it is more significant for human life as compared to other sectors of agriculture, being a source of basic food. Fourthly, as local farmers are related to lower class of the society, therefore, helping them financially is in line with objectives of Shari‘ah. Besides these, there are some other inbuilt limitations in the present work. For instance, the work of classical Muslim jurists is not widely used as for as the structure of the proposed models is concerned. It is intentionally done in order to keep such models much close to the contemporary financing techniques, used by the modern financial institutions. This fact has, undeniably, molded the models more feasible and practicable at ground level. However, the work of such classical Muslim jurists is extensively used, while mechanizing the rules and regulations (procedure) for such models. Another limitation is faced at the stage where
the data has to be collected from the local farmers of Khyber Pakhtunkhwa. They show reluctance to answer simple questions, asked by the researcher i.e. “What are your basic agricultural requirements in the beginning of a season?”, “Do you own any property?”, “What types of tools do you require for agriculture?” and “Have you ever visited a bank?” The sample data is, hence, based on two sets of information; (a) the actual answers given by the respondents and (b) the self-presumed answers based on the already obtained data. Moreover, the same reluctance is tackled when the financial institutions are approached for obtaining the previous records on agricultural finance. This really put the quality of the proposed models at the back-foot, as such records can help in improving the existing procedure, used by the financial institutions in agribusiness. However, a part of such record is, later on, obtained from their official website and annual reports.

9. Conclusion and Findings:

Local farming is the most important source of food since the inception of this earth. The basic food, required by a human being on daily basis, is entirely owing to this sector of agriculture. However, majority of farmers, related to local farming, belongs to lower segments of the society. Having such economic status, they are not in position to fulfill their basic agricultural requirements, arising at various stages of the harvesting cycle.

The case of rural areas’ farmers in KPK (Pakistan) is not variant in this regard. In such a situation, if they are not financially supported, it may lead to, in worst case, the shortage of basic food. Being a complete code of life, Shari‘ah offers various ways, for the financial facilitation for such farmers. Among these, Mushārakah is the most important and appropriate one. Various models, in the present work, are presented that can be used by Islamic banks and other Islamic financial institutions for financing rural local farming in KPK. The mechanism of such proposed models are structured in the light of rules and regulations, available in the work of classical fuqahā. The reason for such approach is to keep the proposed models more Shari‘ah based rather Shari‘ah compliance.

To enhance the practical utility, the theoretical models are then tested though focused group techniques at ground levels. Moreover, the models are simply explained to the farmers, followed by group discussions and question answer session. At the end, they are asked, regarding various aspects of the proposed models. The indispensable changes are made, at this stage, in the light of collected data- provided such changes are not inconsistent with the basic principles of Mushārakah.

Moreover, the procedure required for the conclusion of Mushārakah, is kept very sample; owing to the fact that majority of farmers are illiterate and, therefore, cannot understand the more technical nature of commercial transactions. It is noticed, from various studies, that majority of farmers avoid availing financing facility because of such technicalities.

Finding shows that 95% local farmers are in need of heavy agricultural
machinery where 70% of them (farmers) cannot afford their purchasing. A majority of respondents i.e. 65% show their consent to acquire such heavy agricultural machinery through a typical kind of Mushārakah, known as, Diminishing Mushārakah. Further, 65% of the farmers come to an agreement to purchase Islamic banks’ share (in such machinery) through installments and, thus, becomes the sole owner at the end. Above all, 72% farmers have shown very positive perception regarding the viability of the Mushārakah based models for the fulfillment of their various agricultural requirements. The intended objectives from the proposed models, however, can be achieved if they are applied in their true spirit, envisaged by Shari ‘ah, and not mere as a source of financing.

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1 It is rightly said by Kierra De Camp that whenever a person gets up early in the morning and before his feet hit the floor, an industry we all take for granted becomes a part of our life i.e. agriculture. For example the sheet on our bed, the eggs of breakfast in our plate, the white milk which we have in a glass in front of our twin eyes, and the clothes on our body exist because of agriculture. The times we walk towards the shower room, the floor which we use for walking, the soap, shampoo, conditioner and even the towel which are used therein etc. are the outcomes of agriculture by one way or another. In addition, whenever we style our hair, brush our teeth, apply our makeup, and start our car, we have already used hundreds of modern agricultural products. In short without agriculture we would be inconvenienced, naked, malnourished, unprotected, and most important hungry...


3 Strengthening Agricultural support Services For Small Farmers, Report of the APO Seminar on Strengthening Agricultural Support Services for Small Farmers held in Japan, 4-11 July 2001 (SEM-28-01), Asian Productivity Organization, 2004


6 For example, at the start of the cycle, money is required to buy basic agricultural inputs like seeds, fertilizers, herbicides, ploughing tools etc. Similarly, during the middle of harvesting cycle, money is required to purchase pesticides, herbicides, weedicides, sprays and different agricultural tools.
Formal financial institutions mean those institutions which are registered, licensed and regulated by a specific national authority. These institutions include banks (including both public and private banks), insurance companies, macro finance institutions (MFIs), government funded bodies, formal money transfer service providers, NGOs and etc. These institutions are called formal in the sense as they follow certain rules and regulations prescribed by the country concerned in which they exist. ...Study on Informal and Non-Formal Rural Financial Services Concern Universal, Final Report, June (2012): 8-9. www.concernuniversal.org (accessed: April 10, 2013), This report was conducted by Kadale consultants in March and April 2012.

The informal sources include lending and gift from relatives, merchants, friends and local money lenders. These sources are usually non-governmental. The farmers have more inclination towards the informal sources of finance as compared to formal sources; as the previous are more flexible in terms of procedure and repayment structure.


Sharī’ah strictly prohibits interest based loans. There are many verses of the Holy Qur’ān and Hadīth of the Holy Prophet (SAW) that confirm this prohibition. For instance, in the Holy Qur’ān Allāh, the exalted, says “O Ye Who Believe! Fear Allāh, and give up what remains of your demand for usury, if ye are indeed believers. If ye do it not, take notice of war from Allāh and His apostle. But if ye turn back ye shall have your capital sums: deal not unjustly and ye shall not be dealt unjustly. (Qur’ān, 2:278-279). In another verse the Lord of Universe says, “That they took Ribā (usury), though they were forbidden and that they devoured men’s substance wrongfully. We have prepared for those among men who reject faith a grievous punishment”. (Qur’ān, 4:161)From Jābir, may Allāh be pleased with him, said: “The messenger of Allāh (SAW) has cursed one who charges Ribā, he who gives it, one who records it, and the two witnesses; and he said, “They are equal” (Muslim Sahīh, Ḥadīth # 1598).


In Pakistan 88% of the total farming population has less than five hectare of land. They are living from hand to mouth. Moreover, majority of these farmers do not have collateral and thus are deprived of the loan facilities... Urooba Pervaiz, Dawood Jan, Muhammad Zafarullah Khan, Mahmood Iqbal, Rukhsana Javed, “Disbursement of Agricultural Loans, Constraints and its Future Policy Implication,” Sarhad J. Agric. 27, no.2


Ibid., Sharī’ah Standard No.5, Rule No. 2/1/2, English Version, 57

Even today the majority of the Arab countries have less arable land and their economy mostly relies on industries like crude oil production, petroleum refining, basic petrochemicals, ammonia, industrial gases, sodium hydroxide (caustic soda), cement, fertilizer, plastics, metals, commercial ship repair, commercial aircraft repair, and construction. For instance, Saudi Arabia, a major Arab country, has only 2% arable land. (The information are taken from the official website of Fact Monster, http://www.factmonster.com › World › Countries(accessed: December 25, 2013). Other Arab countries like Iraq, Jordan, Egypt, Syria, and Kuwait have 13.2%, 3.32%,
3%, 25%, and 0.84% respectively. (The facts are taken from the official website of info-please, www.infoplease.com (accessed: December 25, 2013).

22 Ibn ‘Ābidīn, Radd al-Muḥtār, (Beirut: Dār al-Fikr, 2005), Vol. 6
23 Imām Abū Bakar Muhammad ibn Abī Sahal Sarakhsī was a prominent jurist of the Hanafi School in the 11th century. He was also known as “Shams ul al-A‘imma (“the sun of the leaders”). He was in prison for more than 15 years due to his juristic opinion against the ruler of that time. The mentioned book is a collection of his lectures delivered by him to his disciples while he was in prison. It is a very comprehensive book, spread over 30 volumes, contains detailed discussion of ibādah and mu‘āmalah. He discusses all their related issues in very details and tries to elaborate each and every single issue with practical examples from daily life. His work can be affectively used for introducing new methodology in the field of research related Islamic jurisprudence. He also has a book on the principle of Islamic jurisprudence which is an evidence of his intellectual capacity both in Islamic Law and its jurisprudence. He is considered an authority by the classical and contemporary jurists and weightage is always given to his jurisprudential verdicts.
24 The statement of Mufti Muhammad Taqi Usman can be cited as “Salam was allowed by the Holy Prophet (SAW) subject to certain conditions. The basic purpose of the sale was to meet the needs of the small farmers who needed money to grow their crops and to feed their family up to the time of harvest. After the prohibition of Ribā they could not take usurious loans. Therefore, it was allowed for them to sell the agricultural products in advance”...
25 Muhammad Taqi Usmani, An Introduction to Islamic Finance, 186
31 Ali Yasseri, “The Experience of the Islamic Republic of Iran in Mushārakah


35For example his work includes a series of topics which are directly related to agricultural sector like agribusiness from the Islamic perspective, agriculture as a tool to resolve the issue of unemployment, various contract of agriculture in Islamic commercial law, various Shari‘ah based models which can be easily applied by the contemporary banks for the development of agricultural sector both for crop and non crop activities etc. The book discusses all these issues with a special reference to Malaysian’s agriculture. See for further details Ab. Aziz, Muhammad Ridhwan, *Agriculture in Islam from the Perspective of Economics, Banking & Finance.*


37The authors have discussed the contract of Mudārabah with a special reference to Sudan’s agriculture. However, based on the logic that each and every country has its own agricultural environment, it is quite possible that the same transaction particularly with the same mechanism can not be applied for the development of agricultural sector of each and every state. It may be more beneficial for those countries that have the same agricultural climate, values and norms.


41Kazem Sadr is formerly professor in the department of Economics, School of Economics and Political Science., Shahid Beheshri University Tehran. The author has a great contribution to the existing body of knowledge related to Islamic economics, Islamic banking and Islamic finance. He teaches various subjects like Economics, Economics Theory, Agriculture and Resource Economics, Islamic Finance etc. His writing on agricultural finance is more practical in nature owing to the fact that he remained a committee member at Agriculture Bank of Iran. The learned author has two books and fourteen research articles published in various academic journals.......see for details [http:// www.inceif.org/faculty-members/emeritus-prof-dr-seyed-kazem-sadr-2acessed: February 20 , 2014].


43The Sharikāt can be divided into three classes i.e. Sharikat-ul-Ibāha (common sharing
of things), “It is the common right of the people in ownership by acquisition or gathering of items that are permissible and not originally owned by any one”. This means that if the item is not permissible in Shari‘ah, or when it is acquired by someone else, then such common right cannot be exercised. Most classical jurists like Imām Sarakhsī and Imām Kasanī, etc do not discuss the concept of Sharikat-ul-Ibāha in their works………… Sharikat-ul-Milk (co-ownership), on the other hand, according to Imām Sarakhsī, “It is the partnership between two persons in a property”……… Sarakhsī, Al-Mabsūt, 11:142, Ibn-‘Ābidīn defines the term more comprehensively as, “It is an ownership by a number of persons of any ascertained property or Dayn (debt not ascertained by weight or measure or other means) arising through inheritance or through exchange (bay) or through other means”… Ibn ‘Ābidīn, Radd al-Muhtār, (Beirut: Dār al-Fikr, 2005), 11:301, and Sharikat-ul-‘Aqd (partnership through contract). This classification is very exhaustive in nature and covers all related areas of partnership in Islamic law.

44Qur‘ān, 38:24.
45“It is the common right of the people in ownership by acquisition or gathering of items that are permissible and not originally owned by any one” This means that if the item is not permissible in Shari‘ah, or when it is acquired by someone else, then such common right cannot be exercised. Most classical jurists like Imām Sarakhsī and Imām Kasanī, etc do not discuss the concept of Sharikat-ul-Ibāha in their works.
46According to Hanfī jurist Imām Sarakhsī, “It is the partnership between two persons in a property”, Sarakhsī, Al-Mabsūt, 11:142, Ibn-‘Ābidīn defines the term more comprehensively as, “It is an ownership by a number of persons of any ascertained property or Dayn (debt not ascertained by weight or measure or other means) arising through inheritance or through exchange (bay) or through other means”… Ibn ‘Ābidīn, Raddul al-Muhtār, 11:301.
47Commission of Ottoman Jurists, Majallah al-Ahkām al-‘Adliyah (Constantinople, 1305), Article: 1329
48Sharikat-ul-Amwâl is a contract whereby two or more persons invest certain capital into a commercial enterprise. This is considered the ideal form of Sharikat-ul-‘Aqd. Sharikat-ul-‘Amal is a contract involving two or more persons who provide services to their customer and the fee charged for the services, is distributed among them according to the agreed ratio. Sharikat-ul-Wajûh is a contract whereby two or more persons use their goodwill, their credit worthiness and their contacts for promoting the business without contributing to the monetary capital….. Muhammad Taqi Usmani, An Introduction to Islamic Finance, 32
49Ibn ‘Ābidīn, Raddul al-Muhtār, 6:208.
51Muhammad Taqi Usmani, An Introduction to Islamic Finance, 36
52Mohammad Nejatullah Siddiqi, Partnership and Profit-sharing in Islamic Law, (Leicester, UK The Islamic Foundation, 1985), 22-23
53Muhammad Taqi Usmani, An Introduction to Islamic Finance, 386
54The issue is comprehensively discussed in another article with minute details... Lutfullah Saqib; Kellie W. Roberts; Mueen A. Zafar; Khurram Khan; Aliya Zafar, “Mushārakah-A Realistic Approach to the Concept in Islamic Finance and its Application to the Agricultural Sector in Pakistan,” Arab Law Quarterly, Volume 28, Issue 1 (2014): 1–39
55 Wahbah-al-Zuhayli, Al-Fiqh-al-islāmī –Wa-Adilatuhū, 5:3901
56 Marghinānī ,Al Hidāyah Sharh Bidāyat ul Mubtadā, 4:378
57 Muhammad Taqi Usmani, An Introduction to Islamic Finance, 37
58 Wahbah-al-Zuhayli, Al-Fiqh-al-islāmī –Wa-Adilatuhū, 5:3901

62 According to the Hanāfi school of thought a person is entitled to profit because of Māll (capital), or ‘Amal (work) or Damān (liability). So it is permissible that a party to the contract of Mushārakah may get more profit irrespective of his capital share as he may contribute more in the shape of work as compared to other parties. This is based on the Hadith of the Holy Prophet (SAW) “The profit will be distributed according to the agreement and lost will be borne according to the capital”. Wahbah-al-Zuhayli, Al Fiqh al Islamī Wa Adilatuhū, 5:3901

63 The concept of Rahn (pledging of asset) is applicable to loan and sale transactions. It can also be applied for the securing of Ujrah (rent), Mahr (dower) ... see for further details (Ibn Quḍāmah al-Maqdisi, Al-Kāfī, 2:128). The concept of Kafālah is applicable for any liability in general, while the concept of Hawālah (assigning of debt) is only applicable in case of loan transaction. Abū al Walīd Muhammad ibn Ahmad Ibn Rushd, Bidāyat al Mutajāhid Wa Nūḥiyat al Muṭaṣīdī, 2:525-536

64 Some of the scholars trace back the legality of D. Mushārakah in the Holy Qurān “If the man or woman whose inheritance is in question, has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if more than two, they share in a third; after payment of legacies and debts; so that no loss is caused (to any one). Thus it is ordained by Allah. Allah is All-knowing, Most Forbearing”. (Qur’ān 4: 12). It is defined in AAOIFI “ A form of partnership in which one of the partners promises to buy the equity share of the other partner gradually until the title of the equity is completely transferred to him”...Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) 2010, Bahrain, English Version,,Rule.5/1,p.214, http://www.aaoifi.com (accessed December 25, 2011)...It is totally a new concept to the Islamic financial system, envisaged by the contemporary scholars, i.e. Mulana Mufti Muhammad Taqi Usmani, Wahbā-al-Zuhayli, Abdullah bin Suliman-al-Manee, Abdurrehman bin Sālih, Al-Sādiq Muhammad-al-Ameen, Ajeel Jasim , Yousf Muhammad and etc. ...(See for the detailed rules of Diminishing Mushārakah ...Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) 2010, Bahrain, English version, Shari’ahStandard.12, Al-Sharikha wa Al-Sharikatul-Hadītha, p.205 and onward.)...The International Fiqh Academy of OIC in its 15th session has made a detailed discussion on this mode of Islamic finance where the Shari’ah scholars have discussed its fundamental characteristics”--see for example International Fiqh Academy of the Organization of Islamic Conference, 2004, 15 Th Session, “Resolutions of Mushārakah Mutanāqisah and its Shari‘ah Principles,” www.fiqhacademy.org.sa (accessed 15th December, 2011).
65 Guidelines on Islamic Agricultural Finance, Agricultural Credit Department Islamic

66 The idea has been taken from the work of Lutfullah Saqib, Kellie W. Roberts; Mueen A. Zafar, Khurram Khan and Aliya Zafar regarding the concept of Mushārakah and its Application to the Agricultural Sector in Pakistan, published in a well renowned journal on Islamic research i.e. Arab Law Quarterly