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The Legal Nature of al-Tadamun Partnership (Comparative Study)

*Abdullah M. Al-Fawwaz**

ABSTRACT

This paper studies al-Tadamun partnership, and clarifies its legal nature, after identifying its major characteristics. The first one is the unlimited personal liability, which means that all partners are responsible for the debt of the company or partnership: all partners must have this obligation. The second characteristic is a partners' share in the company which is not able for circulation or transaction, which means a partner cannot sell his shares outside the company: If the partner wishes to do so, the consent of other partners is required. The third characteristic is that all partners share the distribution of profit and endure the loss as well. The distribution depends upon the agreement between partners. If there is no such agreement, the profit and loss is distributed among them depending on their share in the capital.

This study shows that al-Tadamun partnership is an overlap between al-Anan partnership and al-Mufawadah partnership in all its characteristics except the distribution of loss. Regarding this matter, the Muslim jurists agree that losses should be equally borne by partners depending on one's share in the capital.

Keywords: al-Tadamun partnership, Legal Nature.

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المصري، القانون التجاري، شركات القطاع الخاص (218/2)؛ عواد، ورفاقه مبادئ القانون التجاري، (147).

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