

# Theoretical And Legal Analysis Of Contract Types In Islamic Law

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**Abstract:** This article analyzes the main types of contracts in Islamic law - jaiz (valid), qati' (void), and fasid (defective) contracts. Based on al-Sarakhsi's "Al-Mabsut" and al-Marghinani's "Al-Hidaya", the content, conditions, and practical application of contracts are examined. The legal consequences arising from breaches of contracts are discussed. Furthermore, the application of contract law in modern Muslim countries (Saudi Arabia, Egypt, Turkey, Uzbekistan) is analyzed.

**Keywords:** Islamic law, contract, jaiz contract, qati' contract, fasid contract, al-Sarakhsi, al-Marghinani, lease (ijara), Islamic banking.

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## Introduction

In the system of Islamic law, the law of contracts occupies an important place. The Qur'an and Sunnah emphasize the fulfillment of covenants and adherence to agreements as a duty of a Muslim. Therefore, Muslim jurists have thoroughly examined the institution of contracts and classified them into various categories. The relevance of the topic lies in the fact that, even today, the theory of contracts in Islamic law retains practical significance, especially in the fields of Islamic banking, financial relations, land leasing, and trade. The doctrines concerning jaiz, qati', and fasid contracts continue to influence modern legal systems. Studying the essence, types, and practical importance of contracts in Islamic law, and analyzing them in comparison with current legislation and economic relations, is both theoretically and practically significant. For example, bay' (sale) is the fundamental commercial contract in Islamic law, defining the rights and obligations between the owner of goods and the buyer. According to Islamic law, for any contract to be valid, the following conditions are necessary:

**1. Parties** – they must be of sound mind, have reached the age of majority, and be legally entitled to conclude a contract.

**2. Intention and consent** – both parties must enter into the contract voluntarily, with mutual consent.

**3. Subject matter (object of the contract)** – the object of the transaction must be lawful (halal), clearly defined, and capable of being owned.

**4. Price (value)** – it must be clearly determined and accepted by both parties.

**5. Compliance with Sharia** – the contract must not include prohibited (haram) or ambiguous conditions.

In his work *Al-Hidaya*, al-Marghinani states: "For a contract of sale (bay') to be valid, the price must be precisely determined, and the goods being sold must exist and be lawful (halal)." (al-Marghinani, 1970, p. 3). If we analyze the contractual foundations in the Qur'an and Sunnah, it becomes clear that contract law in Sharia, particularly the bay' (sale) contract, holds great significance. In the Qur'an it is stated: "O you who believe! Fulfill your covenants" (al-Ma'idah 5:1). In another verse, believers are called to conduct fair trade: "Allah has permitted trade and prohibited usury" (al-Baqarah 2:275). These verses demonstrate that the contract of sale forms the basis of lawful financial relations among Muslims. The Prophet Muhammad (peace be upon him) also emphasized transparency and fairness in trade. According to a hadith narrated by Imam al-Bukhari: "The seller and the buyer retain the option (to cancel or confirm the contract) as long as they have not yet separated." This hadith indicates that a contract must be based on the principle of free choice. If we turn to *ijma'* (consensus) and *qiyas* (analogy), jurists further strengthened the legitimacy of contracts such as sales and leases. For instance, through *ijma'*, Muslim scholars agreed on the permissibility of contracts such as sales and leases. Through *qiyas*, cases where contractual conditions were not explicitly defined were resolved by analogy. For example, the principle that the price in a sale must be clearly determined was extended by analogy to lease agreements as well.

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Thus, the fundamental principles of contract law, justice, transparency, and voluntariness derive from all the sources of Islamic law. For instance, a *jaiz* contract is one that fully complies with the requirements established by Sharia, with the rights and obligations of the parties clearly defined. Such a contract is valid and possesses full legal force for the contracting parties. In his work *Al-Mabsut*, al-Sarakhsi states regarding the *jaiz* contract: "A lease (*ijara*) is based on specifying the compensation for use of the property. If the payment is determined and the period is fixed, then the lease is valid (*jaiz*)." (al-Sarakhsi, 1989, vol. ..., p. ...).

Here the scholar defines lease (*ijara*) as a *jaiz* (valid) contract, emphasizing two essential conditions clarity of compensation and specification of the period. For example, if a landowner leases one hectare of land for one year in exchange for a payment of 10 million soums, this constitutes a *jaiz* contract. Likewise, if a seller sells one ton of rice for 8 million soums, since both the price and the quantity are clearly specified, the contract is considered valid. A *qati'* (void) contract, by contrast, is one in which the conditions are unknown, ambiguous, or where the essential elements are not clearly defined. Regarding such contracts, al-Sarakhsi states: "If the conditions of a contract are unknown, its implementation is not possible, for ambiguity inevitably leads to dispute." (al-Sarakhsi, 1989, vol. 12, p. ...). From this opinion it follows that if the price or the term is not specified in the contract, it is considered *qati'* (void). Looking at practical examples of such contracts, in a land lease agreement, if the payment is written as "to be agreed later," the contract becomes void. In a sales contract, if the goods are described as "one of the items currently taken from the warehouse," the uncertainty regarding the object renders the contract void. Another type of contract is the *fasid* (defective) contract. Its essential conditions may be correct, but an additional clause contrary to Sharia is introduced, which invalidates it. On this matter, al-Sarakhsi writes: "If a contract is essentially valid (*jaiz*), but a condition contrary to Sharia is added, the contract becomes *fasid* (defective)." (al-Sarakhsi, 1989, vol. 15, p. ...).

One practical example of such a situation is when, in a land lease contract, a condition is added stipulating that "only a portion of the harvest must be delivered exclusively to the lessor." Another case is in a house lease where a condition is imposed that "only one specific group may perform worship in the house." Analyzing the legal views of classical jurists, we find that according to Abu Hanifa, the founder of the Hanafi

school, several conditions are required for a *bay'* (sale) contract to be valid. First, the mutual declaration of offer and acceptance (*ijab* and *qabul*) between the parties is essential. During a transaction, if one party declares the intention to sell his goods and this is the offer (*ijab*), and if the other party agrees to purchase this is the acceptance (*qabul*). For example, a farmer in the market says: "I sold 10 kilograms of rice for 100,000 soums," and the buyer responds: "I bought it." In this case, offer and acceptance are concluded. In addition, the object of the sale must be lawful (*halal*) and legitimate. Forbidden items such as wine, pork, or gambling instruments are strictly prohibited in Sharia. For instance, if someone sells alcohol, such a contract is considered void, because the object of the transaction is unlawful. Secondly, the parties must be free and not coerced. If the seller transfers his property under threat or duress, the contract is invalid. For example, if a creditor threatens a debtor by saying, "Sell me your house cheaply!" and the debtor does not consent, the sale is not valid. Thirdly, the price must be clearly determined and specific. In sales, the price cannot be ambiguous or conditional. For instance, if a seller says, "I will sell this garment for either 50,000 or 70,000 soums," the sale is invalid, since the price is uncertain. In the legal doctrine of Imam al-Shafi'i, the validity of a sale depends on the consent of the parties. However, if the buyer is deceived for example, if the seller excessively praises the item or conceals its defects the contract is void. For instance, if a seller hides the illness of an animal, the buyer has the right to demand annulment of the contract. Furthermore, the subject of the contract must exist and the ownership rights must belong to the seller. For example, if someone attempts to sell land belonging to another person or an animal that has not yet been born, such a sale is invalid.

### The Legal Views of Imam Malik and Ahmad ibn Hanbal

In the doctrines of Imam Malik and Ahmad ibn Hanbal, one of the fundamental conditions for the validity of a contract is its clarity and conformity with justice. According to their teachings, if a contract contains *gharar* (uncertainty) or *riba* (usury), such a contract is deemed void. For example, if someone says: "I sold you as many fruits as there are on this mulberry tree," the contract is invalid, because the number of fruits is unknown, which introduces *gharar*. They also emphasized that a contract must always be consistent with justice and the public interest. For instance, the sale of weapons for purposes of sedition or criminal

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activity is prohibited, since it harms society and contradicts the requirements of Islamic law. Al-Marghinani's renowned work *Al-Hidaya* provides a detailed exposition of contract law, particularly with respect to bay' (sale) contracts, i.e., transactions of buying and selling and the classification of jaiz (valid), qati' (void), and fasid (defective) contracts. According to Marghinani's analysis in *Al-Hidaya*, a jaiz contract is one where the parties mutually consent, and the quality and price of the goods are clearly specified. For instance: "I sold you this book for 10 dinars." Marghinani emphasized that "The contract is a means to conduct commercial and political affairs in a just manner." (*Al-Hidaya*, *Kitab al-Bay'*). A qati' contract is deemed void in cases where it is in absolute contradiction with Sharia. For example, the sale of prohibited items such as wine or the meat of an animal not slaughtered according to Islamic law. Likewise, a fasid contract is one that is formally correct in structure, but contains a condition contrary to the requirements of Sharia. For example: "I sell you this house, but you may not live in it for three years." Marghinani regarded such conditions as null and void. In his view, a contract must be consistent with justice and the requirements of Sharia; otherwise, it causes social harm. It is noteworthy that this topic and its related issues have been the subject of academic-level research. For instance, Abduqaffor Abduhaqqov has written extensively on the general theory of Islamic law, particularly on the legacy of al-Marghinani, and has also explained various approaches to contract law. Muhammad Sodik Muhammad Yusuf, in his works *Islamic Law and Fiqh*, cited al-Marghinani on matters relating to contracts and trade-economic relations. For example, he discussed fasid contracts in the context of uncertainty (gharar) and usury (riba). Sherzod Abdullaev, a researcher at the Institute of Islamic Civilization, has published several articles comparing Marghinani's legal legacy with contemporary legal systems (Abdullaev, 2019, 2020, 2021, 2022, 2023). Farhodjon Mahmudov has carried out research on the role of Islamic law in economic relations, with a particular focus on Hanafi fiqh and the theory of contracts in *Al-Hidaya* (Mahmudov, 2019; Mahmudov, 2020). He has also examined the theoretical and legal foundations for regulating economic relations in Hanafi jurisprudence in his doctoral dissertation (Mahmudov, 2021). In the international context, Mahmudov has demonstrated the relevance of Hanafi contract law for contemporary Islamic finance practices (Mahmudov, 2022). Furthermore, scholars at the

International Research Center of Imam Bukhari under the Cabinet of Ministers of the Republic of Uzbekistan, the Center for Islamic Civilization, and the International Imam Termiziy Center are actively studying al-Marghinani's *Al-Hidaya* and his juridical heritage. Marghinani's ideas on bay' (sale) and contract law are increasingly integrated with modern Islamic banking and financial relations. In Uzbekistan, higher education institutions such as Tashkent State University of Law and the International Islamic Academy deliver specialized courses on Islamic law. In these, contract law is taught on the basis of Marghinani's legacy, which is studied not only as historical heritage but also in comparison with modern legal systems. These scholarly views and analyses are reflected not only in theory but also in the legislation of contemporary Muslim states. For example, in Saudi Arabia, trade and contractual relations are regulated entirely on the basis of Sharia principles. In particular, riba (usury) is strictly prohibited, contracts involving gharar (uncertainty) are considered invalid, and all agreements must be concluded on the basis of justice and mutual consent between the parties. In this way, the contract theory articulated by al-Marghinani remains relevant not only in the academic sphere but also in practical legal systems. Saudi Arabia, in particular, has fully preserved the implementation of Islamic contract theory in practice. In Egypt, although contract relations have been harmonized with the global legal system, they are still closely aligned with Sharia principles. The Egyptian Civil Code of 1948 establishes the general rule that a contract becomes binding through the consent of the parties. At the same time, the content of the contract must not contradict the Qur'an and Sunnah. For instance, usury is prohibited even in commercial contracts, and within the banking sector, Islamic banks operate as a separate division. In Pakistan, beginning in 1979, the policy of Islamization directly affected commercial contracts. The Supreme Court of Pakistan has declared that any contract involving usury is void. In financial relations, Islamic institutions such as mudaraba (a partnership between an investor and an entrepreneur), murabaha, and ijara are widely applied. For example, Islamic banks in Pakistan may conclude contracts only with the approval of a Sharia council. Malaysia has developed one of the most advanced Islamic finance systems in the world. In this country, contractual relations are regulated in two parallel directions: under national civil legislation and under separate provisions of Islamic law. According to the

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“Islamic Banking Act” and under the supervision of the Shariah Advisory Council, contracts must not involve *riba* or *gharar*. In practice, contracts such as *istisna'* (manufacturing based on advance order) and *bay' al-salam* (advance payment with deferred delivery) are widely used.

In the practice of international organizations, such contracts today are increasingly applied by the member states of the Organization of Islamic Cooperation in accordance with unified standards of Islamic law. Since the 1980s, its economic resolutions have emphasized the prohibition of *riba* (usury) and required that financial contracts be based on the principles of the Qur'an and Sunnah. At the same time, the organization has supported the development of “standards for Islamic financial institutions.” In this process, the standards of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) play a central role. The Islamic Development Bank is recognized as a leading institution at the international level in the field of Islamic finance. In its financing operations, the bank primarily relies on forms of sale (*bay'*). For example, in a *murabaha* contract, the bank purchases a commodity and sells it to the client at a markup. In an *istisna'* contract, the agreement is based on a manufacturing or construction order, while in a *salam* contract, advance payment is made for goods to be delivered at a later date. For instance, in construction projects where *istisna'* contracts are applied, the bank provides financing, the contractor constructs the project, and delivery is made within the agreed period. Such practices are implemented in full conformity with Sharia principles. From the above, it follows that the international application of Islamic financial contracts rests on several key principles. First, the absence of *riba*, meaning that any contract involving interest is considered invalid. Second, justice, which requires that the interests of the contracting parties be proportionate and balanced. Third, mutual consent, whereby both parties must enter into the contract voluntarily. Fourth, contracts must be grounded in tangible assets, meaning that agreements should not be based solely on financial speculation but must be connected to real economic value.

For this reason, in practice contracts are regarded not only as legal instruments but also as mechanisms for ensuring economic and social stability. In the legislation of modern Muslim states, these principles are applied in various forms and have become the foundation of Islamic economic relations within the practice of

international organizations. The contemporary significance of contract law is manifested in several areas. First, in Islamic banking, where the model of *Ijara wa Iqtina* (lease-to-own) is widely applied in the acquisition of housing, transportation, and equipment, particularly in Saudi Arabia, the United Arab Emirates, and Malaysia. Second, in land leasing, where farmers in Uzbekistan, Sudan, and Egypt obtain agricultural land on a long-term rental basis. Third, in the social sector, where leases of housing, offices, and commercial shops are widely practiced in Turkey and Indonesia. Fourth, in the case of breach of contract, legal consequences vary depending on its classification. If the contract is *jaiz* (valid), the parties bear liability in accordance with their agreement. If the contract is *qati'* (void), it is considered null and has no legal effect. If the contract is *fasid* (defective), it must be annulled and compensation is required for any resulting harm. In Islamic law, when a contract such as *bay'* or others is violated, liability is defined as follows: if the contract contradicts Sharia requirements (for example, involving *gharar* uncertainty, *riba* interest, or the sale of unlawful goods), the contract is deemed non-existent. Each party is required to return what it has received. There are also provisions for financial penalties, under which restitution must be made. If one party breaches the contract, the other party is entitled to claim damages. For instance, if a contractor fails to complete construction on time, the client has the right to demand compensation. Importantly, contracts also entail moral and religious responsibility. Beyond legal consequences, there is ethical accountability, as the party who breaches the contract is considered sinful and his action is judged as unjust. In modern legislation, these principles are reflected in the decisions of Sharia-based courts in countries such as Saudi Arabia, Malaysia, and other Islamic states, where breaches of contract are resolved by ordering compensation, restitution of property, or annulment of the agreement.

### Recommendations

Based on the analysis, several proposals may be put forward regarding the development of the institution of contracts in Islamic law.

First, the institutions of Islamic contract law (*jaiz*, *qati'*, *fasid*) should be regarded not only as historical heritage but also as a scientific foundation that enriches contemporary legal systems. In the primary sources of Sharia, the Qur'an, the Sunnah, and *ijtihad* contracts are based on justice, mutual consent, and the protection of

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values and benefits. These principles may serve as universal legal standards for modern legal systems.

Second, there is a need to revisit the classification of contracts. Drawing on the legacy of al-Marghinani and al-Sarakhsi, the boundaries between *jaiz*, *qati'*, and *fasid* contracts should be re-analyzed in light of contemporary law and finance. In addition, it is important to study contractual terms and sanctions in order to develop mechanisms that harmonize Islamic penalties applied in cases of breach such as restitution of payments, oaths, compensation, or exclusion from transactions with modern civil law norms.

Third, land and property leasing, which is treated as a distinct category in Islamic law, should be further developed in the context of modern Islamic financial institutions. On this basis, instruments such as leasehold rights and financial leasing could be expanded and integrated into today's financial markets.

Finally, in academic and educational practice, it is advisable to strengthen the study of Islamic contract law. Institutions such as Tashkent State University of Law, the International Islamic Academy, and other universities should deepen their specialized courses on Islamic law, focusing particularly on the contract doctrines of classical jurists. This will ensure that students and researchers understand these doctrines not only as historical legal traditions but also as frameworks relevant to the modern development of law, finance, and economics.

## Conclusion

In conclusion, contract law in Islamic jurisprudence is fundamentally grounded in justice and transparency. *Jaiz* contracts are legally valid, *qati'* contracts are void, and *fasid* contracts are annulled due to the presence of impermissible conditions. The legal doctrines articulated by al-Sarakhsi continue to hold significant relevance for contemporary legal systems and economic relations. On their basis, modern legislation in areas such as Islamic banking, land leasing, and trade has been developed and continues to evolve. The purpose of our historical, theoretical, and legal analysis of these contracts is to demonstrate that, in recent years, broad opportunities have emerged in Uzbekistan, alongside other fields of science, for the revival and integration of religious and educational disciplines. In order to reinvigorate traditional Islamic sciences, including *Sharia*, *fiqh*, *'aqida*, *kalām*, and *taṣawwuf* and to harmonize them with contemporary practice, a number of specialized research institutions have been established. Among them are the Higher School of

Hadith Studies in Samarkand, the School of *Kalām* Studies at the Imam Maturidi Center, the School of Islamic Law at the Marghinani Research Center in Fergana, the School of *Taṣawwuf* at the Bahauddin Naqshband Center in Bukhara, and the School of *'Aqida* at the Abu Mu'in al-Nasafi Center in Kashkadarya. These institutions not only contribute to strengthening the knowledge and competencies of imams, scholars, and specialists working in the religious sphere, but also play a crucial role in restoring and re-examining the Islamic intellectual heritage. Through their activities, long-standing issues in the field of Islamic sciences are being studied on a scholarly basis, with reference to the earliest sources of *hadith*, *fiqh*, *kalām*, *taṣawwuf*, and *'aqida*. At the same time, the establishment of the new Center for Islamic Civilization in Tashkent represents a milestone of global importance. Its primary mission is to study the rich spiritual heritage of Muslim peoples in depth, to promote it on an international scale, and to highlight the scientific role and contribution of Central Asia in the history of Islamic culture and scholarship.

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