# INVALIDITY OF CONTRACTS IN ISLAMIC LAW AND THE CIVIL LEGISLATION OF UZBEKISTAN: CONVERGENCES AND DIFFERENCES

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The deepening of market relations, the growing complexity of economic ties and the expansion of property turnover require the stable and consistent development of the institution of contract law. One of the most important aspects of the system of contract law is the criteria for determining the validity of contracts and the procedure for declaring them invalid. This institution is of fundamental importance in both legal systems – Islamic law and the civil legislation of Uzbekistan – as it serves to ensure stability in civil turnover, protect the interests of the parties and guarantee adherence to the principles of justice.

Islamic law is a complex normative system with a millennia-long history, in which the requirements for the validity of contracts are based on specific religious, ethical and economic principles. Elements such as riba (interest), gharar (uncertainty) and maysir (speculative risk) are regarded as key criteria leading to the invalidity of a contract. In addition, defects of consent, personal incapacity of the parties, the non-existence of the subject matter or the unlawful (Sharia-incompatible) purpose of the contract also directly affect its validity. Today, the Islamic judicial practice formed in countries such as Saudi Arabia, Malaysia and the United Arab Emirates provides a broad illustration of how these criteria are applied in contemporary commercial transactions.

The Civil Code of the Republic of Uzbekistan, for its part, establishes clear legal norms regarding the invalidity of contracts and is aimed at preventing disputes and ensuring stability in civil turnover. Articles 113–119 of the Civil Code regulate the grounds for invalidity of contracts, in particular defects of consent, unlawful purpose, non-compliance with the mandatory form, and transactions concluded by persons lacking transactional capacity. These provisions reflect the traditional approach characteristic of the continental (civil law) legal family.

The relevance of this topic can be explained by several factors. First, the rapid development of Islamic finance institutions in Uzbekistan is intensifying the need

to apply Sharia-compliant mechanisms in contractual relations. This makes the study of convergences and differences between the norms of Islamic law on contract validity and the civil legislation of Uzbekistan a particularly topical issue. Second, the growing number of disputes related to the invalidity of contracts due to the presence of Sharia-prohibited elements in practice necessitates a renewed scholarly and normative examination of this matter. Third, there are successful models in international practice for harmonising Islamic contractual arrangements with national civil-law systems, and these models can potentially be adapted to the context of Uzbekistan.

Accordingly, the aim of this article is to conduct a comparative legal analysis of the main criteria, legal consequences, theoretical foundations and practical mechanisms for declaring contracts invalid under Islamic law and the civil legislation of Uzbekistan. The research is based on the sources of Islamic law, the views of classical and contemporary fuqaha (jurists), modern Sharia standards (AAOIFI, IFSB), as well as the Civil Code of the Republic of Uzbekistan and national judicial practice.

This analysis makes it possible to identify similarities and differences between the two legal systems and to develop scientifically grounded proposals for harmonising civil legislation with Islamic contractual mechanisms.

The issue of invalidity of contracts in Islamic law and in the civil legislation of Uzbekistan necessitates a comparative assessment of the approaches of two distinct legal systems. The findings of the research demonstrate that in both systems, the institution governing the validity of contracts is aimed at ensuring justice, stability in legal relations and protection of the interests of the parties, and that there are shared fundamental principles in their approaches. At the same time, a number of important differences are also evident within these commonalities.

Islamic law relies on axiological (religious and ethical) criteria in determining the validity of contracts. Elements such as riba, gharar and maysir function as fundamental factors that may render a contract entirely invalid. Defects of consent, the existence of the subject matter, the legal capacity of the parties and the conformity of the contract's purpose with the objectives of Sharia are among the key pillars of Islamic contract law. Modern Sharia boards, AAOIFI and other international bodies interpret these criteria in a manner adapted to contemporary economic relations, which has significant practical importance.

The civil legislation of Uzbekistan, in contrast, determines the invalidity of contracts on the basis of precise normative legal criteria. Articles 113–119 of the

Civil Code ensure legal certainty by setting out the necessary legal grounds for declaring a contract invalid, including defects of consent, mandatory form requirements, incapacity and unlawful purpose. This approach is characteristic of the continental legal tradition and creates a predictable legal environment for participants in civil turnover.

The comparative analysis reveals a number of points of convergence between Islamic law and the national civil-law system. In particular, similarities can be observed regarding the conclusion of contracts on the basis of consent, the freedom of the parties, the clarity of contractual terms, limitation periods for claims and the legal consequences of invalidity. At the same time, the religious value-based restrictions in Islamic law, especially those concerning riba and gharar, are not fully reflected in the civil legislation of Uzbekistan, which gives rise to certain doctrinal particularities.

Given the expansion of Islamic finance institutions in the financial system of Uzbekistan and the increasing implementation of Sharia-compliant contractual mechanisms, the harmonisation of criteria for determining contract validity is becoming a pressing issue. In this process, the key prohibitions of Islamic law – in particular, the economic nature of riba and gharar, the Sharia standards applied in international practice and the specific requirements of national legislation – must be subjected to in-depth analysis.

In the course of adapting the criteria for contract validity in Islamic law to the civil-law practice of Uzbekistan, it appears appropriate to introduce a number of conceptual amendments to the Resolution No. 17 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated 22 December 2006. These amendments are intended to enhance transparency in contractual relations, protect the interests of the parties and integrate the principles of economic justice inherent in Islamic law into national judicial practice.

In particular, uncertainty (gharar) in the content of a contract is recognised as a factor undermining its validity. Where the subject matter of the contract, its essential terms or the obligations of the parties are not clearly defined, such a situation should be assessed by the court as grounds for declaring the contract invalid pursuant to Articles 115–116 of the Civil Code of the Republic of Uzbekistan. The proposed paragraph $17^1$ thus serves to harmonise the prohibition of gharar in Islamic law with national contractual practice.

Furthermore, where instances of deliberate misrepresentation of the price (tadlis) are established, it is proposed that the issue of rescission or invalidity of the

contract be examined in connection with Article 123 of the Civil Code. Through paragraph 18[1], price manipulation is acknowledged as a factor violating the principle of honesty in contractual relations.

Based on the results of the research, the following conclusions may be drawn:

– Creating functional harmony between the validity requirements under Islamic law and the grounds for invalidity under the civil legislation of Uzbekistan will enhance legal certainty.

– The specific features of Islamic financial contracts can be regulated in national legislation without infringing constitutional foundations.

– International Sharia standards (AAOIFI, IFSB) should serve as a methodological basis for the development of legal mechanisms adapted to the conditions of Uzbekistan.

– In order to reduce the number of contentious cases involving the invalidity of contracts in practice, it is advisable to strengthen normative coherence between national civil legislation and Sharia-compliant rules.

At the same time, in the current context of the growing involvement of Islamic finance in public finance and commercial banking, it has become evident that certain existing restrictions in the sphere of public procurement are not compatible with some Islamic financial mechanisms. In particular, in financial transactions based on Islamic law, a bank or credit institution purchases property as part of a process of interest-free financing of the ultimate consumer. This process does not constitute a traditional public procurement, but rather a Sharia-compliant financing tool implemented through contracts such as murabaha, ijara, salam or istisna'.

From this perspective, the uniform treatment of all acquisitions within the scope of the Law "On Public Procurement" may subject the activities of Islamic finance institutions to unjustified restrictions. International practice shows that in Malaysia, Indonesia, Saudi Arabia and the UAE, acquisitions of property by state-owned Islamic banks are regarded not as standard public procurement, but as an integral stage of the financing process, and are therefore not subjected to the general regime of public procurement.

On this basis, it is deemed expedient to introduce the following amendment into the legislation:

Acquisitions carried out by credit institutions in which the State holds 50 percent or more of the charter capital, for the purpose of transferring property to a client or ensuring liquidity within the framework of Islamic finance activities, shall not

be subject to the general restrictions provided for by the Law 'On Public Procurement'.

In conclusion, it may be stated that the comparative analysis of Islamic law and the civil-law system of Uzbekistan provides the scientific and practical foundations necessary for the improvement of contract law, the sustainable development of Islamic finance institutions and the consistent formation of a coherent legal environment.

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