

9. ISLAMIC CONTRACT

In Islamic jurisprudence what is the ruling of putting a condition on a contract or agreement?

There are four basic rules for judging the validity of conditions in a contract:

1. A condition that is not against the contract is a valid condition.
2. A condition that seems to be against the contract but is in the market practice is not void if its voidness is not proven with the clear injunctions of the Quran and Sunnah. For example, A buys an air conditioner on condition that the seller will provide him a five-year guarantee and one year free service. This type of condition does not invalidate the contract.
3. A condition that is against the contract and not in the practice of the market but is in favor of one of the contractors or subject matter is void. For example, if A says he sells a car with a condition that he will use it on a fixed date every month, this contract will be void.
4. A condition that is against the contract not in market practice, and not in favor of any contractor is a void condition.

Now a question arises: what is the ruling of a void condition; whether it invalidates the contract or not?

The answer is that there is detail about the impacts of void conditions. Sometimes a void condition invalidates the contract and sometimes it does not invalidate the contract, however, the condition itself is annulled.

To elaborate this, Islamic jurists and scholars have written that the compensation (Uqood Muawadha) like sale, purchase and lease agreements becomes void by putting a void condition. However, non-compensatory (voluntary) agreements (Uqood Ghair Muawadha) like a contract of loan (Qard-e-Hasanah), do not become void because of void condition. The void condition, however, becomes itself ineffective. For example, if A gives to B a loan with a condition of a premium at the time of repayment, this condition of interest is void. However, this condition does not invalidate the contract, therefore all transactions done by this borrowed money will be valid. But the condition of interest itself is revoked; therefore B is not liable to pay interest.

Rights, Responsibilities and Obligations in a Contract:

In Islamic jurisprudence, some contracts are such that rights and obligations are also attached to the Agent doing the contract on behalf of the Contracting Party (e.g. Sales Contract, Ijara, Istisna, Salam etc). While in others the Principal has all the rights, responsibilities and obligations (e.g. Nikah).