

# The Consequences of Unlawful Coercion in the Contract of Sale from the Perspective of Islamic Jurisprudence

Rahimullah Serat<sup>1</sup> and Abdulbasir Azizi<sup>2</sup>

<sup>1</sup>Islamic Jurisprudence Department of the Shariah Faculty of Badakhshan University, AFGHANISTAN.

<sup>2</sup>Islamic Jurisprudence Department of the Shariah Faculty of Badakhshan University, AFGHANISTAN.

<sup>1</sup>Corresponding Author: rsrajabi1989@gmail.com



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## ABSTRACT

In Islamic jurisprudence, coercion (ikrah) refers to the act of threatening or forcing someone to perform an action, say something, abstain from doing something, or refrain from making a statement. Coercion is considered one of the acquired impairments of legal capacity and one of the most significant defects in consent and intention in transactions, particularly in the contract of sale. The contract of sale is one of the most frequent and essential social and economic transactions upon which individual and societal life depends. The principle is that a sale transaction should be conducted between the parties according to the appropriate legal and religious conditions and regulations, ensuring its validity and the fulfillment of their needs in the best possible manner. However, contrary to this ideal, such transactions are sometimes carried out by ignorant or oppressive individuals in society, leading to a loss of consent and a corruption of free will. Consequently, there is a need to conduct research on the religious rulings of coerced transactions—particularly in the case of sales—aimed at raising public awareness of the detrimental religious and social impacts of these transactions. This research seeks to contribute to the reduction of such challenges and to encourage members of society to engage in healthy financial and social relations. Although the esteemed jurists of Islamic schools of thought have extensively discussed the religious rulings related to contracts and other issues in their legal texts, the specific issue of "the consequences of coercion in the contract of sale" has not, to the author's knowledge, been studied in a comparative manner across Islamic schools of thought. Thus, this research, recognizing this scholarly and jurisprudential gap, seeks to answer the question: "What are the consequences of unlawful coercion in the contract of sale from the perspective of Islamic jurisprudence?" Utilizing a descriptive-analytical method and a library-based, comparative approach, the study concludes that all schools of Islamic jurisprudence agree that unlawful coercion is impermissible and invalid. One specific manifestation of unlawful coercion in Islamic jurisprudence is the "coerced sale" (bay' mukrah), on which Islamic jurists are divided into two camps regarding its effects. One group, advocating nullification, includes jurists from the Shafi'i, Hanbali, and some Maliki schools, as well as a few Imami jurists. In contrast, a large group of jurists from the Hanafi, prominent Maliki, and renowned Imami schools argue that coerced sales are voidable but not inherently invalid. They believe that the coerced party (mukrah) has the right to either confirm or rescind the sale, and their subsequent consent can validate the sale retroactively. The Hanafis, however, differentiate between contracts that are irrevocable, such as marriage, where coercion is ineffective, and revocable contracts, such as sales, where coercion is deemed effective. The remaining jurists from the four schools of thought, without distinguishing between revocable and irrevocable contracts, consider the effect of coercion to be equal across all types of contracts.

**Keywords-** Unlawful coercion, ruling, consequence, coerced sale, valid, null, Islamic jurisprudence.

## I. INTRODUCTION

As is evident to all, people in human societies are always engaged in various forms of contracts such as sale, lease, mortgage, and others, which are considered

as fundamental aspects of any community. Among these, the contract of sale (Bay') is one of the most crucial means to fulfill both economic and social needs, with the stability of people's lives often depending on it. For this reason, the contract of sale has received attention in all

divine and human-made legal systems. In particular, Islamic law deems the contract of sale as lawful and permissible, and it mandates certain conditions such as intention, freedom of choice, consent, and the absence of coercion for the validity of the transaction. However, at times, there are ignorant or oppressive individuals in society who force people to sell their possessions, attempting to illegitimately acquire these assets at minimal prices. They are unaware that Islamic law condemns any form of coercion or oppression, and not only mandates financial restitution in this world but also promises accountability in the afterlife.

Meanwhile, Islamic jurisprudence has established contracts such as the sale agreement as permissible and legitimate to meet life's necessities, requiring that the aforementioned conditions be met for their validity. Therefore, addressing the issue of illegitimate coercion, which is considered a type of injustice aimed at achieving unlawful goals, is of great importance. It must be emphasized that individuals should strive to earn their livelihood through legitimate means, ensuring that their personal and social affairs are conducted in an orderly manner. To avoid chaos in society, such contracts must be made in a peaceful and secure environment, carried out with full consent and free will, so that the positive effects—such as fulfilling needs through the peaceful transfer of ownership—can benefit both parties involved in the transaction. Based on these considerations, there is a noticeable gap in academic literature, as no comprehensive study has been written in the national language on "illegitimate coercion and its effects on the contract of sale from the perspective of Islamic legal schools." Consequently, the fundamental question that arises is: "What are the effects of illegitimate coercion on the contract of sale from the perspective of Islamic legal schools?"

This study aims to answer this central question. To uncover the correct answer, the researcher has examined the sources of Islamic jurisprudence, analyzing primary legal texts through a descriptive-analytical method with a comparative approach.

In this article, the nature of key concepts such as coercion, ruling, effect, contract, and sale will be examined. The article will also discuss the consequences of illegitimate coercion in the contract of sale from the perspective of the five major Islamic schools of jurisprudence—Hanafi, Maliki, Shafi'i, Hanbali, and Ja'fari—using a critical approach. The arguments will be analyzed, the reasons for differences in opinion will be explained, the strongest viewpoint will be highlighted, and the article will conclude with a summary and a list of references.

## II. RESULTS AND FINDINGS

### Conceptual Definitions

#### 1. Coercion (*Ikrah*)

##### 1.1. Linguistic Definition

Coercion, derived from the root (ك ر ه) in the form of *If'al* (إفعال), has been used in linguistic sources to convey various meanings such as compulsion, the opposite of love, hardship, task, unpleasantness, and oppression. Below are some common interpretations.

- *Ikrah* is derived from *kurh* (كره), which means the opposite of affection, hardship, task, and compulsion to perform something undesirable (Nasafi, n.d., 161; Razi, 1420 A.H., 269).
- In Sayis's interpretation, *kurh* refers to a person putting themselves into hardship without external compulsion, while *karh* indicates coercion by others (Sayis, 2002, 127; Muhammad Sijistani, 1416 A.H., 395).

##### 1.2. Jurisprudential Definition

Islamic jurists have defined coercion in various ways. Here are two prominent definitions:

- Coercion is the application of pressure on an individual through harmful means or the threat of such means to force them to perform or abstain from an action (Mustafa Zarqa, 1425 A.H., 1, 452).
- Coercion is defined as forcing someone to perform an action or utter a statement without right or consent ('Izz, 1426 A.H., 292; Abu Zahra, 355; Abu Zahra, 1996, 387).

#### 2. Ruling (*Hukm*)

##### 2.1. Linguistic Definition

The word *hukm* (حُكْم), with its plural *ahkam* (أحكام), is derived from *hakama* (حَكَمَ), meaning to judge, as in "I judged between the people" (*hakamtu bayn al-qawm*). It can also refer to a judge, a name of God, knowledge, precision, and preventing something, such as "I judged upon him with..." (*hakamtu 'alayhi bikadha*; B'ali, n.d., 317; Jawhari, 1407 A.H., 6, 179; Fayyumi, n.d., 78).

In the Qur'an, it means knowledge and judgment (Al-Anbiya: 79; Khurram Dil).

##### 2.2. Jurisprudential Definition

The most well-known and unanimously accepted definition of *hukm* from the perspective of Islamic jurists is:

- The divine address from God that is related to the actions of morally responsible individuals through either mandatory, optional, or conditional means (Shawkani, 1419 A.H., 1, 25; Baghdadi, n.d., 1, 5; B'ali, n.d., 317; Bahuti, 1414 A.H., 1, 9; Namlah, 1420 A.H., 1, 21; Khilaf, n.d., 100; Allama Hilli, *Tahdhib al-Usul*, 1380 A.H., 50).

### 3. Effect (Athar)

#### 1.3. Linguistic Definition

The word *athar* (أثر) in dictionaries, the Qur'an, and Hadith literature holds various meanings. Among the most notable ones are:

- News, transmission, such as "athara al-hadith," and the trace or relic of something, as in "athar al-dar" (the trace of the house) (Fayyumi, n.d., 8).
- The word *athar* in the Qur'an and narrations can also mean consequence, sign, following in someone's footsteps, path, or preference (Raghib Isfahani, n.d., 62; Munawi, 1410 A.H., 32-33; Taha: 84; As-Saffat: 70; Al-Hashr: 9).

#### Definition of Unlawful Coercion

Unlawful coercion refers to the compulsion aimed at achieving an illicit goal (Zuhayli, n.d., 4:3064).

## III. EFFECTS OF UNLAWFUL COERCION IN SALES CONTRACTS FROM THE PERSPECTIVE OF ISLAMIC SCHOOLS OF THOUGHT

This section will discuss the consequences of unlawful coercion from the viewpoints of the Hanafi, Maliki, Shafi'i, Hanbali, and Ja'fari (Imami) jurisprudences.

### 1. Hanafis:

According to the Hanafi school, all verbal transactions of a coerced individual, whether under absolute or partial coercion, are valid. After the coercion is lifted, any contract that can potentially be annulled will be voided if the coerced party chooses to annul it. However, certain contracts, like marriage, remain unaffected by coercion and cannot be annulled by the coerced party (Mulla Khusraw, n.d., 2:271; Al-Fatawa Al-Hindiyyah, 1411 AH, 5:35; Khudari Bek, 1389 AH, 107-108). This is because coercion negates consent, which is a necessary condition for the validity of contracts. Without consent, contracts are deemed invalid (Mulla Khusraw, n.d., 2:271). Examples of annulable contracts include sales, leases, mortgages, etc. Here, we will focus on the effects of coercion in sales contracts, where the coerced individual becomes a tool in the hands of the coercer.

According to prominent Hanafi jurists such as Marghinani [d. 593 AH], Al-Mawsili [d. 683 AH], Al-Zayla'i [d. 743 AH], and others, a coerced sale is invalid. However, once the goods are delivered, ownership is transferred, and the sale becomes valid upon the coerced party's approval (Marghinani, n.d., 199; Nadwi, 1432 AH, 332-333; Samarkandi, 1426 AH, 333-335; Zuhayli, n.d., 5:18; Al-Mawsu'a Al-Fiqhiyya Al-Kuwaitiyya, 1404 AH, 22:233). The lack of consent is the primary reason for the invalidity, as mutual consent is a condition

for the contract's validity (Hanafi, 1393 AH, 311; Tohmasz, 1430 AH, 3:197).

Hanafi jurists base the invalidity of coerced sales on various grounds:

**a) The Qur'an:** The Qur'an states, "O you who have believed, do not consume one another's wealth unjustly" (An-Nisa:29). This verse prohibits unlawful consumption of wealth through means such as theft, betrayal, usurpation, interest, gambling, and coercion (Khorramdel). Abu Zahra, a contemporary Hanafi jurist, explains that this prohibition invalidates the contract's condition. When the prohibition targets the condition of the contract, it becomes void. The defect that leads to invalidity is the lack of consent, which is tied to the coerced party. Once consent is restored after coercion, the contract becomes valid (Abu Zahra, 1996, 391). The latter part of the verse states, "Except when it is by trade based on mutual consent" (An-Nisa:29), emphasizing that valid transactions must stem from mutual satisfaction (Khorramdel). Muzzahiri adds that consent is a prerequisite for the validity of sales contracts, which is lost in cases of coercion (Muzzahiri, 1412 AH, 5:377). The condition of consent is fundamental for the legitimacy of a sale.

**b) Prophetic Tradition:** Abu Sa'id Al-Khudri narrates that the Prophet (PBUH) said, "Sales are based on mutual consent" (Darimi, 1414 AH, 11:341). Commenting on this, Sindi [d. 1138 AH] notes that this Hadith clearly indicates the invalidity of coerced sales due to the absence of consent (Sindi, n.d., 2:15). Abu Huraira (RA) also reports that the Prophet (PBUH) said, "Neither party should separate until mutual consent is achieved" (Tirmidhi, 1395 AH, 3:551). Another narration states, "It is not permissible to consume a Muslim's wealth without his consent" (Abu Bakr Bayhaqi, 1344 AH, 6:166).

**c) Jurisprudential Principle:** The Ottoman Code of Civil Law states, "A coerced sale, whether under absolute or partial coercion, is invalid unless the coerced party approves it after the coercion is lifted" (Majallat al-Ahkam al-Adliyya, n.d., 194).

**d) Logical Argument:** Hanafi jurists argue that the essence of the sale (offer and acceptance) remains valid as long as it is initiated by a competent individual. However, the absence of consent renders the contract invalid. Coerced contracts, though fundamentally valid, are void due to the lack of mutual consent, a key requirement for a legitimate sale.

According to the Hanafi scholar Imam Zafar [d. 158 AH], a coerced sale is suspended and non-binding until approval is granted post-coercion. Prior to this approval, the contract does not result in ownership transfer, similar to unauthorized sales (Kasani, 1406 AH, 7:186; Abu Bakr Zabidi, 1322 AH, 2:254; Al-Mawsu'a Al-Fiqhiyya Al-Misriyya, n.d., 1:70). Imam Zafar argues that once a contract is invalid due to coercion, it cannot be rectified by later approval, as approval cannot restore a voided contract (Abu Zahra, 1996, 391; Ahmad Zarqa,

1409 AH, 462). However, according to Ahmad Zarqa, a suspended contract is valid but becomes invalid if it was coerced (Ahmad Zarqa, 1409 AH, 462). Sheikh Zuhayli supports Imam Zafar's view, stating that if the coerced party consents within three days, the contract is binding. Otherwise, it becomes void (Zuhayli, n.d., 4:551).

This difference of opinion between the three main Hanafi jurists and Imam Zafar (RA) leads to the question of whether ownership transfers to the buyer if the coerced party sells under duress. According to Imam Zafar, ownership does not transfer because a suspended contract does not create legal consequences before approval. However, according to Abu Hanifa and his companions, ownership is transferred because even a voided sale results in ownership upon delivery (Abu Zahra, 1996, 391).

In conclusion, coerced sales in the Hanafi school are invalid, following the general rule of sales. The lack of consent due to coercion invalidates the contract, although the coerced party has the right to either approve or annul the contract once the coercion is lifted. Imam Zafar, however, views coerced sales as suspended contracts. (Zuhayli, n.d., 6:4456).

The Shafi'i and Hanbali schools rely on the following arguments to substantiate their claims:

**1) The Holy Qur'an:** Allah Almighty says: "Do not consume one another's wealth unjustly" (An-Nisa: 29), meaning that wealth should not be taken unlawfully (through means such as bribery, usury, extortion, theft, etc.). Furthermore, in the same verse, it is stated, "Unless it is through a trade conducted by mutual consent" (An-Nisa: 29), emphasizing that lawful transactions must be based on the mutual agreement of the parties involved. This verse establishes that in Islamic law, transactions require consent; it is a fundamental principle of the financial system that no contract is valid without it. This verse encompasses more than just contracts—it also prohibits gambling, fraud, theft, denial of rights, forced transactions, bribes, and other illegitimate means. (Shabir, 1430 AH, 19-20). Moreover, this verse implies that when a sale occurs without mutual consent, it is impermissible to benefit from it (Shirazi [Al-Muhadhdhab], n.d., 2, 3; Nawawi [Al-Majmu'], n.d., 9, 158). In another verse, Allah says: "except for him who is compelled while his heart is secure in faith" (An-Nahl: 106), meaning those who are forced to utter words of disbelief but whose hearts remain steadfast in faith will not be held accountable (Shabbir). Shafi'i and Hanbali jurists derive from this verse that if someone is coerced into the greatest form of speech—disbelief—they are not held accountable for it. By extension, lesser statements, such as sales or purchases made under duress, are also invalid. (Shanqiti, n.d., 5, 211; Uthaymeen [Duroos], n.d., 5, 2; Saadi, 1420 AH, 450; Zaidan [Al-Madkhal], n.d., 363; Al-Khan et al., 1393 AH, 3, 462-463). However, if the seller, under duress, is inwardly satisfied, then the sale is considered valid (Shanqiti, n.d., 5, 211). Thus, coercion by unlawful means is invalid,

while coercion by lawful means is valid. (Ramli, 1404 AH, 3, 387; Sharbin, 1415 AH, 2, 332; Suhaibani, 1424 AH, 20, 8; Hamza, 1427 AH, 8). The Shafi'i and Hanbali schools consider "invalid" and "corrupt" to be synonymous, as explained in the conceptual analysis in Chapter 1.

**2) Prophetic Tradition:** In a narration, the Prophet (peace be upon him) said that the validity of a sale depends on mutual consent. According to these schools, consent cannot exist without free will, meaning that contracts made under duress are invalid according to this tradition.

**3) Rational Argument:** From a logical and customary standpoint, it is clear that:

1. Free will is the opposite of coercion; therefore, someone under duress is not acting of their own free will. They are giving something without intending or desiring it, so any sale or purchase made under coercion is invalid. (Shanqiti, n.d., 5, 211). This indicates that free will is an integral part of consent according to these schools.
2. Intention and free will are conditions for the validity of any transaction, so actions taken by a child or a mentally impaired person are invalid. Duress eliminates free will because the person under duress acts not out of intention but to avoid harm.
3. The person under duress utters words not with the intention of their literal meaning but to avoid harm. Therefore, their speech should be considered void, similar to the speech of a child, a sleeping person, or someone with no intention behind their words. (Zaidan [Al-Madkhal], n.d., 363; Zaidan [Al-Wajeez], 1438 AH, 132).

**Al-Mawardi al-Shafi'i** [d. 450 AH] adds to this argument by stating that the invalidity of coerced sales arises not only from the lack of consent but also from the incapacity of both parties to fulfill the contract. Therefore, such a sale is as invalid as selling a bird in the sky or a fish in the water, because the validity of a sale depends on the owner's consent and ownership. If a sale occurs without the owner's consent, it is non-binding, and even post-sale approval by the owner does not render it valid. (Mawardi, 1419 AH, 5, 329). He also cites a narration from Ali ibn Abi Talib (may Allah be pleased with him) in which Ali foretells a time of scarcity and miserliness, when people will be forced into transactions that are not based on consent. The Prophet (peace be upon him) prohibited sales involving duress, deception, and the sale of unripe fruits. (Abu Dawood, n.d., 3, 263).

Sales made under duress can be divided into two categories:

1. Sales made under unlawful duress are invalid and non-binding.

2. Sales made out of necessity for lawful reasons, such as to pay a debt, are valid but can be canceled. It is preferable to offer the seller a gift or loan instead of purchasing from them. (Khatabi Abu Sulayman, 1351 AH, 3, 87; Nawawi [Al-Rawdah], 1412 AH, 3, 420; Nawawi [Al-Majmu'], n.d., 9, 161). This indicates that coerced sales are considered invalid. (Mawardi, 1419 AH, 5, 410; Ghazali, 1417 AH, 5, 388; Muhamili, 1416 AH, 370). The Prophet (peace be upon him) also said that his community is absolved of errors, forgetfulness, and actions taken under compulsion. Therefore, contracts made under duress, whether imposed by a king or otherwise, are invalid. (Mawardi, 1419 AH, 5, 411).

The principle established in Islamic jurisprudence is that coercion nullifies both actions and statements. (Subki, 1411 AH, 1, 150).

**Ibn al-Luhham al-Hanbali** supports this view by asserting that all coerced contracts are invalid, especially when someone is forced to sell something without a valid reason. However, if someone is forced to sell a specific quantity of goods and does so willingly, the sale is valid. (Ibn al-Luhham, 1418 AH, 67; Ibn Taymiyyah, 1404 AH, 1, 311). If the seller under duress agrees to sell a specific amount, the sale is valid.

**Abu Hafs al-Hanbali** (may Allah have mercy on him), quoting Al-Qurtubi in "Al-Lubab," divides coerced sales into two categories:

1. Sales made to fulfill a legal obligation, which are valid and irrevocable because the compulsion comes from the need to fulfill a legitimate right.
2. Sales made under oppression and compulsion are invalid. The seller has the right to reclaim their goods without payment, and if the goods are destroyed, the buyer can seek compensation from the oppressor. (Naumani Abu Hafs, 1419 AH, 12, 166-167).

In conclusion, Hanafi jurists consider coercion to affect revocable contracts such as sales, deeming them voidable unless post-coercion approval is given, making the contract valid. However, coercion does not affect non-revocable contracts like marriage, which they consider valid. Maliki jurists largely agree with the Hanafis, but some, like Qayrawani and Ibn Juzayy, along with the consensus of the Shafi'i and Hanbali schools, consider all coerced contracts void due to the absence of consent and free will. These two elements are foundational in the social contract system. Some contemporary jurists, like Zaidan, favor this second view. (Shabbir, 1430 AH, 241-242; Zaidan [Al-Madkhal], n.d., 362-364).

#### IV. SECOND GROUP: THE THEORY OF INVALIDITY

The overwhelming majority of Imami jurists hold the view that coerced sales (بيع اكرهى) are invalid

or non-binding. This consensus includes scholars such as Sheikh Mufid [d. 413 AH], Hilli [d. 676 AH], Hilli [d. 726 AH], Hilli [d. 832 AH], Allameh Amili (Shaheed al-Thani) [d. 966 AH], Ardabili [d. 993 AH], Tabataba'i [d. 1231 AH], Baqir Irwani, Araki [d. 1415 AH], Meshkini [d. 1428 AH], Gilani [d. 1430 AH], and many others from both earlier and contemporary periods. In their works, they emphasize the necessity of free will, consent, and internal satisfaction (طيب نفس) for the validity of a sale, and they argue that coerced sales are neither valid nor enforceable unless followed by the consent and approval of the coerced party, at which point they become valid and lawful. (Sources: Mufid, 1413 AH, 612; Jafar Hilli, 1408 AH, 2:8; Allameh Hilli [Tahdhib al-Ahkam], 1420 AH, 2:276; Allameh Hilli [Tadhkira], 1414 AH, 10:13; Hilli [Ma'alim], 1380 AH, 1:339; Araki, 1415 AH, 1:219; Ardabili, 1403 AH, 8:155; Tabataba'i Haeri, n.d., 1:511; Meshkini [Al-Fiqh al-Mathur], 1428 AH, 376; Bahjat Gilani, 1423 AH, 435; Shaheed al-Thani [Masaalik], 1413 AH, 3:155; Ma'jam Fiqh al-Jawahir, 1417 AH, 1:570; Jazairi and others, 1419 AH, 2:209).

The basis of this jurisprudential stance is the lack of internal satisfaction and consent in coerced sales. They draw upon the general Qur'anic prohibition against consuming wealth unjustly or without consent, as well as Hadiths that invalidate coerced actions and prohibit the unlawful consumption of others' wealth without their internal satisfaction (طيب نفس). (Irwani [Duroos], 1427 AH, 2:28; Fayyaz Kabli, n.d., 2:124). As Makarem Shirazi explains, in a coerced contract, a person recites the formula under pressure or threat, and while the articulation of the contract is correct, the condition of internal satisfaction is missing. However, the contract becomes valid after subsequent consent. (Makarem Shirazi [Kitab al-Nikah], 1424 AH, 2:74). Hence, the non-enforceability of coerced sales is established by both reason and tradition, and there is unanimous agreement that the sale becomes valid upon the coerced party's consent, with some even claiming consensus on this point (Ardabili, 1403 AH, 8:155).

This group relies on several key arguments to justify the invalidity and non-enforceability of coerced contracts, as well as their validity once consent is given:

1. **Consensus:** According to Sabzawari, the consensus referred to here is that of rational people (اجماع عقلا) rather than the general populace. (Sabzawari, 1413 AH, 16:282). However, Sheikh Khoei expresses doubt that this consensus is based on religious obligation (تعبدى) and suggests it may rest on the following arguments:
2. **The Holy Qur'an:** God Almighty states, "Do not consume one another's wealth unjustly, except in lawful trade by mutual consent" (Qur'an 4:29). Several points can be derived from this verse:
  1. The use of "بالباطل" (unjustly) and its counterpart "تَبَايَعًا عَنْ تَرَاضٍ" (lawful trade by mutual consent) indicates that God is

distinguishing between valid and invalid causes for acquiring wealth. The term "consume" is metaphorical, referring not only to eating but to the unlawful acquisition of wealth in any form.

2. The exception clause "إِلَّا" in the verse, whether viewed as connected or disconnected, serves to restrict valid causes of transactions to those involving consent. If the exception is connected, the restriction is obvious. Even if disconnected, the context suggests that God is delineating between valid and invalid causes for transactions, leaving no doubt that coerced sales do not fall under "lawful trade by mutual consent" and are therefore invalid.
3. The term "رضائت" in the verse refers to internal satisfaction (طيب نفس) rather than mere intent or willingness, as the former is a condition for the validity of trade, while the latter strengthens the contract. Thus, the verse is concerned with valid and invalid causes of transactions, and without the contract being concluded, there can be no basis for distinguishing between valid and invalid causes. (Khoei, n.d., 3:287-288).
4. Furthermore, contracts are voluntary acts expressed through external means, so executing them without intent is irrational. Moreover, if consent simply meant intent or its equivalent, the mention of satisfaction in the verse would be redundant, as the word "trade" inherently implies intent. Thus, the satisfaction referred to here must be internal satisfaction (طيب نفس) rather than mere intent. (Khoei, n.d., 3:289).

In summary, based on the third interpretation of the verse, a coerced sale is like other voluntary actions, which are preceded by steps such as conception, belief in the benefit, inclination, and a will that equates to choice—albeit lacking consent and internal satisfaction. Therefore, trade cannot occur without intent and free choice, meaning that a coerced sale is ultimately a trade without consent (تجارة عن (تراضي). (Khoei, n.d., 3:290).

3. **Prophetic Hadith:** The basis for the argument against coerced sales lies in hadiths prohibiting the use of someone else's property without internal satisfaction. If a coerced sale were valid, it would allow the buyer to rightfully own the seller's property without their satisfaction, which is inconsistent with Islamic law. This is reinforced by general hadiths that invalidate coerced divorce and manumission. (Kulayni, 1429 AH, 6:127). Although these hadiths specifically address divorce and manumission, there is no indication that they differ in principle from contracts and transactions. Additionally, the general and specific evidence in Islamic law against coercion (إكراه) further supports the view that coerced sales are invalid but not outright void. (Khoei, n.d., 3:291-293).

4. **Reason:** Rationally, oppression and injustice are inherently reprehensible. Taking someone's property without their consent is oppressive, and thus morally wrong. It is widely accepted that coerced contracts and transactions do not result in their intended outcomes. Moreover, the legal principles that govern coerced contracts are understood to align with what is innately recognized by human reason, without needing extensive legal elaboration. (Sabzawari, 1413 AH, 16:282). Furthermore, based on the consensus of rational people, someone coerced into a contract should not be bound by its terms, as such a contract is not valid. (Muhaqqiq Damad et al., 1389 SH, 2:109).

Imami jurist Hasani [d. 1403 AH], citing "Al-Riyad" and "Mawsu'at Fiqhiya Hada'iq," reports that later jurists agree that a coerced contract becomes valid and binding upon subsequent consent and internal satisfaction of the party involved. This is because a coerced contract fulfills all conditions of a valid contract except for consent, and once consent is given later, the obstacle to its validity is removed, and the contract takes effect. However, some earlier jurists believe that since a coerced contract lacks consent, subsequent consent cannot remedy its initial invalidity. They argue that Qur'anic verses such as "تِجَارَةٌ عَنْ تَرَاضٍ" and the hadith of "رفع" (removal of responsibility) apply to all effects of coerced contracts, rendering them akin to the contracts of someone who is mentally incompetent or a child. Moreover, they maintain that once a contract is deemed void, subsequent consent cannot revive it. (Hasani, n.d., 239).

The reasoning behind the position that post-coercion consent is insufficient, and the counter-argument from the verse.

The primary argument of those who argue that post-coercion consent is inadequate and does not validate a contract is as follows: they contend that the noble verse, which considers mutual consent and satisfaction as essential conditions in contracts, only pertains to the initial consent that permits the exchange of property through trade. In other words, the verse refers to the original consent at the time of establishing a coercive sale, not to any subsequent consent after the coercion has ceased.

In response, it must be noted that the verse does not stipulate that consent must occur before or simultaneously with the trade, nor does it indicate that any subsequent consent would be inadequate. Even if we assume that "mutual consent" in the verse describes the trade, it cannot be concluded that any consumption of wealth, without such a qualifying description, would be prohibited. Some scholars believe that the insufficiency of subsequent consent arises from this notion. However, for a ruling to be invalidated due to the absence of a qualifying characteristic, two conditions must be met: (1) the ruling must solely depend on the characteristic; (2) the absence of the characteristic in a given scenario

must be due to characteristics that are typically inherent in such cases. Therefore, it is possible that the verse's mention of consent as a qualifier for trade applies generally, without being exclusive to specific instances. Furthermore, if consent is understood as a necessary quality, but not a condition for the lawfulness of the transaction, then subsequent consent would suffice.

#### **Critique of the content of the Hadith of Raf'**

Regarding the Hadith of Raf', which removes the legal consequences of coercion, a concise summary of the key points can be made:

1. The Hadith removes accountability and related rulings from the coerced individual, as it was revealed in a context of divine mercy (*imtinan*), lifting the burden of accountability from the legally responsible individual (*mukallaf*). This relief is a blessing for them. However, the notion that a contract is dependent on consent relates to the fact that the coerced person is given the option to consent later, which is beneficial to them rather than detrimental. This ruling is exclusive to the coerced individual, not others, as the Hadith only applies to them. That is, until the coerced person gives consent or annuls the contract, according to some jurists, the other party in the contract does not have the right to annul it. This shows that the obligation falls on the non-coerced party, while the Hadith of Raf' does not remove accountability or obligation from them.
2. The Hadith implies that, in the absence of coercion, the ruling on the coerced act remains valid and binding. However, once coercion occurs, it is lifted, just as the Hadith implies for mistakes and forgetfulness. This is because a contract issued by the owner, regardless of coercion, is a sufficient cause for the transfer of ownership, but coercion nullifies this effect. The diminished effect caused by coercion is only part of the complete cause for ownership, and absent coercion, the act is binding. Thus, the ruling remains valid, and coercion alone does not nullify the transaction.
3. If one were to argue that the Hadith of Raf' indicates the inadequacy of post-coercion consent, it would not benefit the proponents of this view. This is because what the Hadith exempts the coerced individual from would still apply in the absence of coercion. The effects established by the Hadith are not negated, and post-coercion consent benefits the coerced individual rather than harming them. Relying on the Hadith of Raf' to invalidate post-coercion consent contradicts the divine purpose of nullifying coercive or forced transactions, which is to alleviate hardship. Not accepting post-coercion consent, based on the Hadith, contradicts this objective and places unnecessary restrictions on the coerced party, who is now willing to accept the contract.
4. From the discussion, it becomes clear that the arguments denying the effect of coerced contracts

do not extend to cases where coercion is later nullified and the coerced individual consents. General and absolute Quranic directives, such as "fulfill the contracts" (*awfu bil-uqud*) and "Allah has permitted trade" (*wa ahalla Allah al-bay'*), indicate the validity of a coerced contract once its essential components and conditions, including consent, are met.

#### **Critique of the principle "Al-ibratu bil-qasood" (Intent matters)**

In response to those who argue based on this principle, it should be said that a coerced person does indeed intend the words of the contract; their situation is unlike that of a sleeping or senseless person. The coerced individual only lacks the motivation to create the contract in reality because they are acting out of fear of harm from the oppressor. Therefore, when it is said that intent is a necessary condition for contracting parties, it refers to the free will that contrasts with coercion. This intent, meaning the will to act, is a crucial component of the contract. However, when a coerced individual lacks this intent—despite having the intention of the words and meaning—the contract does not materialize.

The majority of jurists, especially the later ones, agree that a coerced sale becomes valid after consent is given. The lack of intent in the aforementioned sense does not invalidate the contract. Some may argue that validating a coerced sale after consent contradicts the principle of "Al-ibratu bil-qasood," but major scholars respond by stating that the coerced individual still intends both the words and the meaning, even if they lack satisfaction with the contract at the time.

## V. CONCLUSION

In conclusion, after presenting the arguments and examining the views of scholars from the five major Islamic schools of thought, several key points emerge regarding the consequences of illegitimate coercion in sales contracts.

In Islamic jurisprudence, coercion refers to the act of compelling someone with the necessary legal capacity to perform or refrain from an action, or to make a statement, through unjust threats or harm. Illegitimate coercion involves an intention to achieve an unlawful objective. The concept of *hukm* (legal ruling) is defined as the divine command, expressed either as a request or a stipulation, related to the actions of those responsible for adhering to Islamic law. The concept of *athar* (legal effect) refers to any result that arises from an act or ruling, as interpreted by jurists.

The essence of sale in Islamic jurisprudence involves the exchange of goods with full mutual consent, in a manner that conveys ownership, whether the object of the sale is a tangible asset or a benefit. A valid sale is one that complies with Islamic law and produces legal effects. A voidable sale, such as one made under

coercion, lacks certain conditions. A void sale, on the other hand, occurs when a fundamental element is missing, such as a marriage without witnesses.

Islamic jurists have provided numerous definitions for the term *'aqd* (contract), with the most comprehensive being the binding of one party's statement to another through a lawful process that affects the subject matter of the contract. According to the prevailing view in Imami jurisprudence, subsequent consent given by the coerced party validates the contract retroactively, and the benefits of the sold item, during the period of coercion, belong to the buyer.

The responsibility for the loss of goods in a coercive sale varies: in the Hanafi school, it depends on the type of coercion, while in Shafi'i, the responsibility lies with the coercer, but the coerced party may still have recourse. In the Hanbali school, liability may fall on either or both parties. In Imami jurisprudence, the coercer is always held liable.

The majority of Hanafi, Maliki, and Imami scholars consider a coerced sale to be voidable and invalid unless later consent is granted by the coerced party, while some Shafi'i, Hanbali, and Maliki scholars argue that it is absolutely void. However, the majority opinion is deemed more authoritative.

This analysis reflects the complexity of the legal implications of coercion in sales contracts, demonstrating that while scholars have varied views on the validity of coerced sales, the prevailing opinion supports the retroactive validation of the contract once consent is obtained. This reflects a nuanced understanding of the balance between legal formality and fairness within Islamic jurisprudence.

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