The exceptions to the rule of the contract are the law of the contracting parties and their justifications

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Abstract--The contract is the legislation of the contractors, is considered one of the most important legal bases, as it has become an established rule in many legal systems in different countries of the world, the contract for its two contractors is considered a system or is their system, although its origin is the agreement between them. The meaning of the contract is that the obligation arising from the contract is equivalent in its force to the obligation arising from the system, and it is not permissible for an individual to waive both. This rule is based on philosophical, moral, economic, historical and civilizational foundations, it is based, firstly, on upholding the principle of the authority of the will, that is, the individual is obliged only by what he wants and if he wants to oblige, nothing prevents it, and secondly, it is based on respect for the contract, and it is also based on the Therefore, the contract had to have a binding force so that one of the contractors may not unilaterally revoke or amend it, and these are the foundations on which the rule of the contract is based on the sharia of contractors. Based on this, since the contract is the sharia of the contractors, the regime wanted him to do so that the contract becomes a kind of special regime for those who concluded it with his consent, the contractors must be subject to what they legislated as subject to what the regime legislated, and the judge must take care of those contracts and protect them as he shall apply the special provision laid down by the contractors between them, to which the public order has imposed that character and
that obligation.

**Keywords**—principle of good faith, emergency circumstances, contract

**Introduction**

The contract is one of the reasons that create rights and obligations, as the contractors acquire various rights from the contract, especially personal ones because the conformity of the will of the contractors can grant both contractors and sometimes others rights from the contract provided that they do not violate the law, public order and public morals.

Therefore, the validity of the contractual will by the law gives rise to the force of the contract, so the contract is with such binding force as the law between the contractors in the order of judgments, but this binding force that the contract generates is not absolute, but there are some exceptions to it, and these exceptions are either due to the principle of justice, or The following are the responses we received from the offices of the marriage ' regarding your inquiry: the office of the grand Ayatullah Khamenei: it isn't permissible. the office of the grand Ayatullah Khamenei: it isn't permissible. the Office of the grand Ayatullah Sistani: it isn't permissible. the Office of the grand Ayatullah Sistani: it isn't permissible. the Office of.

**The Importance of the study**

For research, it is of great importance to indicate the exceptions contained in the contract rule, the sharia of contractors, the reasons for these exceptions and their justifications.

**The problem of research**

The exceptions mentioned on the principle of contract, the sharia of contractors and the principle of the binding force of the contract have not been collected in academic research, each of the exceptions will be dealt with in scattered locations in the folds of the civil law has been briefly and sometimes in an irrelevant way, so this research studies these exceptions because of their importance within the scope of the general theory of contract And collects it within the scope of academic scientific study.

**Study methodology**

We rely on the presentation and analysis method in studying the vocabulary of this research by presenting the exceptions to the rule of the contract, the sharia of contractors, and then analyzing them and explaining their reasons and justifications, as well as comparing the provisions of the Iraqi Civil Law with the provisions of civil laws similar to it, such as the Egyptian civil law in.
Study plan

To get acquainted with all aspects of the research topic and cover them, we divide the research into a preface, two researchers and a conclusion. We devote the preface to a statement of what is meant by the principle of the contract, the sharia of contractors and the binding force of the contract, and we talk in the first section about the exceptions that are due to the principle of justice and the execution of the contract in a manner consistent with what is required by good faith as well. The second requirement will address the exceptions related to the principle of good faith in contracts and non-abuse of the right. And in the second section, we are looking at the exceptions related to the nature of some contracts and the reasons determined by the law, and that in two requirements, we study in the first requirement the exceptions due to the nature of some contracts, and in the second section we are looking at the exceptions due to the reasons determined by the law, and we Research topic.

Preface: Contract Sharia contractors (Binding force of the contract)

The contract is what humanity has invented in its progress as a tool for the possibility of mutual benefit at once, that is, it is a tool that individuals use to satisfy their multiple and diverse needs, and a means by which there is a guarantee for what may change in the future, it must have the strength and stability to ensure this purpose. And as much as the contract has strength and stability, as much as the transactions have security and reassurance between individuals. The answer given by the Office of Grand Ayatollah Khamenei (may Allah grant him long life) is as under: if the purchase and sale of an item by a non-mahram individual are prohibited, then the purchase and sale by him should be carried out as soon as possible, otherwise, it is not permissible. if the purchase and sale price of an item is. (1)

After the judge interprets the contract and determines its scope if it is vague, it becomes binding and forces the contractors to carry out what is stated in it, i.e. it remains only to oblige the contractors to carry out all that is included in it as long as the contract has arisen valid and binding, and it is valid and binding only in the circle Violates public order and no etiquette. (2)

The judge applies the contract as if he were applying the law, because the contract takes the place of the law in regulating the contractual relationship between the contractors, rather, he breaks the law in the Department of Public Order and morals. Because the legal provisions that are not related to public order and morality are only complementary or explanatory provisions to the will of the contractors, if the contractors voluntarily take over the regulation of the relationship between them in the contract, the contract is the law that applies to them. And this is the meaning of the contract rule, the sharia of contractors. (1)

The article stated (145 From the Iraqi Civil Code) However, it: (Whatever the shop to which the contract responds, the contractor is obliged to fulfil his obligation)) (2). As stated in article (146) From the law mentioned in its first
If the contract is executed, it is necessary and one of the contractors may not revoke it or amend it except by a provision in the law or by mutual consent. The article states (From the Egyptian Civil Code) However: (The contract is the sharia of the contractors, it may not be revoked or amended except by agreement of the parties or for the reasons determined by law) (3).

In this sense, the article also states (The contract is the sharia of the contractors, it may not be revoked or amended except by agreement of the parties or for the reasons determined by law).

The French Civil Code provides that: (Agreements that have been made legally take the place of the law for those who have concluded them).

The direct result of the principle that the contract is the sharia of contractors is that the contract may not be revoked or amended except by agreement of the parties or for the reasons determined by law.

The binding force of the contract approved by the various legislations of the contract is required by social conditions, as it is one of the first requirements of human life in the community. The contract derives its binding force from the conscience of the contractors and also derives its force from their wills. The task of legislation in this regard is only to regulate the provisions of this binding force, to which the contractors originally wanted to submit, and to determine its extent and limits. (1)

The Egyptian court of Cassation has ruled in this regard that (There is nothing in the provisions of the civil law that justifies the judge to overrule the obligations imposed by the contract, but this is contrary to the general principle that the contract is the sharia of the contractors). (2)

In addition to the above, the contract rule of Sharia has two main contractors:

1. Moral basis arising from the principle of respect for the covenant.
2. Legal economic basis arising from the principle of stability of transactions. (3)

It is clear from the foregoing that if the contract is concluded correctly, then each party to it is bound by what is contained in this contract, and he is not bound by anything other than what is stated in it, and he has nothing but to submit to its provisions and may not revoke it or revoke it or amend it except by mutual consent or for the reasons determined by the law.

It is not permissible to annul the contract or amend it on the part of the judge, this cannot annul a valid contract or amend it on the pretext that the annulment or amendment is required by Justice. Justice complements the will of contractors, not cancels it.

It is also not permissible to cancel the contract or amend it by any of the contractors because the contract is the result of two wills and what is complicated by two wills is not solved by one will. Because if the two contractors voluntarily take over the regulation of the relationship between
them by the contract, that contract is the law that applies to it and the alternative has disappeared in front of the original. (4)

However, the rule of contract has been violated according to the Shari’ah of the contracting parties in some cases, except for the cases in which the laws stipulate:

- The possibility of amending or revoking the contract for considerations related to the rules of justice, as in the case of the theory of emergency circumstances, the theory of the contract of acquiescence and the theory of exploitation.

- Some of them are due to the need to execute the contract in good faith and the inadmissibility of abuse of a right arising from the contract.

- Some of them are due to the nature of some contracts, where the law allows one of the contractors to be independent in his termination, either because of the nature of these contracts or the circumstances surrounding their conclusion.

- And one of the cases is due to reasons determined by civil laws in multiple and scattered locations. Which is the subject of our research by the following investigations and demands, respectively.

The first research

Exceptions due to the principle of justice and the principle of good faith

The law may allow amending the contract due to the requirements of the rules of justice if circumstances arise after the conclusion of the contract that led to an imbalance in the economic balance in the contract, and may allow amending the contract by adding a new obligation to the contract or reducing an obligation of it in consideration of the principle of good faith, so In the second requirement, we deal with exceptions due to the principle of good faith.

The first requirement

Exceptions to the rules of Justice

If the basic principle is that the contract is following the Shari’a of the contracting parties, and it is executed according to what they have agreed upon, but sometimes the legislator takes into account some circumstances that arise during the execution of the contract and lead to an imbalance in the economic contractual relationship, then the legislator took into account these circumstances. It is also permissible to amend the contract to take into account the interests of the weak party in the contract in other cases where the economic balance in the contractual relationship – which is supposed to exist since the inception of the contract – has been disturbed due to the exploitation of the weak by the forces or the exploitation of a weakness in the contractor. So we have to look at this requires two things:-
1. Modification of the contract due to emergency circumstances.

2. The contract modification is due to the exploitation of the strong by the weak in the contract. Each of them is discussed in a separate section and that respectively.

Section one

Modification of the contract due to emergency circumstances

(Theory of emergency circumstances)

The theory of emergency circumstances is that if a contract is a contract of continuous execution or immediate execution and its execution was postponed, and economic circumstances occurred that the contractors did not expect when concluding the contract led to a serious imbalance in the economic balance that existed at the time of the contract and made its execution threaten the debtor with a huge loss, then, in this case, these changes must be taken into account What has happened and what the contractors have agreed is reviewed to balance the interests of the parties, so that the debtor is not forced to fulfil his obligation as contained in the contract. (1)

It is stated in the second paragraph of article (146) According to the Iraqi Civil Code, the (If there are general exceptional incidents that could not have been foreseen and as a result of their occurrence, the performance of the contractual obligation, if it does not become impossible, has become burdensome for the debtor so that it threatens him with a serious loss, the court May, after balancing the interests of the parties, reduce the burdensome obligation to a reasonable extent if justice so requires, and ).

And well, the Iraqi legislator did this by adopting this theory, which fits with the idea of justice in the implementation of the contract, as it is not fair to oblige the debtor to fulfil his obligation as agreed with the existence of circumstances that occurred after the conclusion of the contract that makes its implementation in the agreed manner burdensome for him.

And to apply the theory of emergency circumstances and the provision of the second paragraph of Article (146) According to the Iraqi Civil Law, which requires amending the contract after weighing the interests of the parties, certain conditions must be met, and these conditions are:-

1- The contract is one of the contracts of continuous execution or immediate execution and its execution was postponed.

2- If exceptional circumstances or incidents occur after the conclusion of the contract and during the execution of the contract, i.e. they are not specific to the debtor.

3- This circumstance is unexpected and cannot be paid, meaning that an
ordinary person cannot expect this circumstance that happened, and this criterion is an objective criterion that does not concern only the debtor's person.

4- The occurrence of an emergency circumstance entails fatigue for the debtor in fulfilling his obligation, but if the obligation becomes impossible, we are talking about force majeure and not emergency circumstances. (1) And this fatigue must lead to a huge loss, and the assessment of this is left to the trial judge. (2)

And if the conditions mentioned above are met – the judge-if the lawsuit is filed before the judiciary - To intervene and return the obligation to a reasonable extent. However, the judge does not have the right to force the creditor to perform the contract in the manner specified by him, so he can choose between accepting it or cancelling the contract. Although it is not permissible for a legislator to exempt one of the parties from fulfilling his obligation, it is up to him to assess the circumstances that make his intervention in the contract beneficial for both parties, and whether the legislator has set some things that the judge should guide in this case. In addition to the above-mentioned conditions, the Egyptian court of Cassation has ruled in this regard that (The judge intervened to restore the obligation to a reasonable extent by article (142 F2 From the Egyptian civil code) A license from the law must be used to meet certain conditions, the most important of which is the condition of exhaustion threatened with serious loss, and the assessment of this is based on objective considerations). (1)

The concept of exhaustion is considered for each debtor individually, so what is considered burdensome for one debtor may not be so for another, and the criterion by which the degree of exhaustion of the obligation of the debtor is measured is objective, in which the transaction is considered and not the total wealth of the debtor. (2)

Thus, the legislator, by deciding this theory, aims to achieve the interests of the parties, because the contract is not something ossified, and therefore the contractors must abide by the spirit of this contract and not by its letter. (3)

It is in the interest of the creditor that the contract be executed in the agreed manner no matter what the circumstances change, but the legislator took into account the debtor's interest, so the judge allowed to amend the contract if emergency circumstances occur, and this is for the benefit of the parties, and this is what the spirit of the contract should be aimed. (4)

It is not possible to force the debtor under the contract rule of Shari'a to bear alone the result of changes in economic conditions that he has nothing to do with, which may result from these changes and lead to an imbalance in the economic contractual relations existing. (1)

According to (Paragraph 2 From article 146 ) According to the Iraqi Civil Law, the provisions of the theory of emergency circumstances of public order, it is not permissible to agree on what violates them.
It appears from the foregoing that the legislator, by taking into account the theory of emergency circumstances, has taken into account the interest of the weak party who is absent in the contractual relationship due to general exceptional incidents that were not expected and could not be paid led to an imbalance in the economic balance existing at the time of the creation of the contract, by allowing the judge to intervene to modify the content of the contract by reducing the obligations of the debtor or increasing the obligations of the creditor to rebalance the contract; This amendment to the content of the contract is a clear exception to the rule of the contract, the sharia of the contractors or the binding force of the contract, which requires the contractors to execute the contract according to what it included without increasing or decreasing.

Section two

Contract modification due to the exploitation of the strong by the weak

There are many cases in which the legislator has approved the amendment of the content of the contract during its execution despite the will of the contractors, due to the exploitation of the strong by the weak, which creates an imbalance in the contract, and this is in two cases: :

First- The exploitation of one contractor by a certain weakness in the other contractor leads to the infliction of obscene injustice on him, which is stipulated in Article (125) From the Iraqi Civil Code by saying: (If one of the contractors has taken advantage of his need, indiscretion, hobby, inexperience, or poor perception, then he has suffered from an obscene injustice from his contract, he may, within a year from the time of the contract, request to lift the injustice against him to the extent reasonable, if the act from which he issued a donation, he may, in this period, revoke it ).

According to this text, the judge may intervene in a contract where one of the parties is involved in exploitation by the other party to fix this imbalance to achieve equality between the parties, and therefore the role of the judge, in this case, is a kind of control over the contract imposed on him - When filing a lawsuit against him - This can be done either by reducing the obligations of the negligent contractor or by increasing the obligations of the contractor who carried out the exploitation, it is not necessary to restore the full balance to the contract, so that all injustice is lifted, but it is enough that there is no obscene injustice. And the intervention of the judge shows his departure from the rule of the contract, the sharia of contractors.

Second- If there are arbitrary conditions in the contract and it was done by acquiescence, the judge may intervene to amend these conditions following the interest of the submissive party, because he is the weak party in the contractual relationship and worthy of protection, and the judge may also exempt the submissive party from these conditions, but the legislator has gone to make these provisions of the Agree on what is contrary.
The second paragraph of the article provides as follows (167) The Iraqi Civil Code, which states that: "If the contract is concluded by way of acquiescence and it has included arbitrary conditions, the court may amend these conditions or exempt the acquiescing party from them, by the requirements of justice, and any agreement to the contrary shall be void". (1)

It appears from the foregoing that in the cases of exploitation and the contract of acquiescence, the rules of justice require the intervention of the judge in the life of the contract to modify its content, to restore the dysfunctional economic balance to protect the weak party in the contract and to achieve the interest of society, it is not fair that a person.

With this amendment, the legislator has come out based on the contract, the sharia of contractors and the principle of the authority of will.

The second requirement

Exceptions due to the principle of good faith and non-abuse of the right

The law does not allow the contractor to perform the contract in a way that indicates his bad faith, or in a way in which a person is arbitrary in using his right in the contractual field, because if this contractor has the right to perform the contract as agreed with the other contractor, but this must be under the good faith that dominates All contracts. And this is what we will discuss in the first section, as well as the person should not abuse the right granted to him by law, and this is what we will discuss in the second section.

Section one

The need to execute the contract in good faith

If the contractors have the right to execute the contract by what it contains, and it is their law to do so, they must observe the principle of good faith in its implementation. The Iraqi legislator has decided that the first paragraph of the article (150 From the Civil Code) Where states that "The contract must be executed under what has included in it and in a manner consistent with the requirements of good faith". (2) And good faith means sincerity and honesty in what the contractors mean, and in what they aim to conclude the contract. (3)

And this principle restricts the debtor in the performance of the obligation, as well as restricts the creditor in his claim in the performance of the obligation, the contract cannot be executed contrary to the principle of good faith. (4)

In this sense, the Explanatory Memorandum of the preliminary draft of the Egyptian civil law states that "There are no contracts that govern buildings without meanings, as was the case in some contracts among the Romans, good faith remains in all contracts Both in terms of defining its content and in terms of how it is implemented). (1)
The French judiciary stipulates that good faith must be observed in the execution of the contract, and that the contractor who undertakes to supply a certain house with electrical energy, is obliged, in addition to the terms of the contract, to connect the wires from the shortest possible route, and that the secretary of transport is obliged to transport the goods from the most suitable. In addition to fulfilling his obligation to transfer ownership, the seller must not hinder this transfer by making it impossible or difficult, and the taxi owner must (the carrier) By taking the nearest route that takes the passenger to the place of arrival. (2)

The law rewards good faith about the execution of the contract, and gives the debtor a favourable view if he fails to perform the contract in good faith. (3) The debtor is obliged in contractual liability to compensate for the damage that could not have been foreseen at the time of the contract if this debtor committed a fraud or a serious mistake in the performance of his obligation. (4)

It is an obligation that requires each of the contractors to cooperate with the other contractor in the execution of the contract, for example, in the insurance contract, the insured must cooperate with the insurer to take his risks of accidents during the validity of the contract and to do his best to mitigate From the insured damage if it occurred (1). The duty of cooperation is imposed on the publisher to notify the author about the sale of his book, and the buyer must notify the seller of the claim due to the sale promptly (Article 440 From the Egyptian civil code) F (Article 551 From the Iraqi Civil Code). Also, the tenant may not prevent the lessor from making urgent repairs that are necessary to save the leased eye (Article 570 From the Egyptian civil code) F (Article 752 From the Iraqi Civil Code). The agent must provide the client with the necessary information about what he has reached in the implementation of the agency. (Article 705 From the Egyptian civil code) F (Article 936 From the Iraqi Civil Code)(2).

As a result of the principle of good faith, the contract must be executed per its requirements determined by the complementary rules of law, custom, justice and the nature of the obligation, and not only with the obligations contained in the contract. This is stated in the second paragraph of the article (150) From the Iraqi Civil Code by saying; ((The contract is not limited to obligating the contractor with what is stated in it but also deals with what are his obligations according to law, custom and justice according to the nature of the obligation)). (3)

In application of the principle of good faith and the obligation of the contractor-in addition to what is stated in the contract to what is considered one of the requirements of the contract, the French judiciary has established a new obligation on the organizer of sports activities, which is the obligation to ensure safety towards players and spectators when performing sports activity. (1)

Therefore, the principle of good faith is an important restriction that responds to the freedom of contract and the role of the will in the execution of the
contract, as well as an exception to the rule of contract Sharia contractors.

Section two

Inadmissibility of abuse of the right arising from the contract(2)

The answer given by the Office of Grand Ayatollah Khamenei (may Allah grant him long life) is as under: if the purchase and sale of goods are carried out by the rules and regulations, then it is not permissible for a person to sell any of them in a way that does not correspond to the social purpose that the. It has provided for the inadmissibility of abuse of the right article (7) From the Iraqi Civil Code by saying:

1– Anyone who has used his right unlawfully must guarantee.

2– The use of the right becomes inadmissible in the following cases:

(A) if such use is intended only to harm others.

B-if the interests that this use aims to achieve are of such little importance that they are disproportionate to the harm caused to others because of them.

C-if the interests that this use is intended to achieve are unlawful).

The Jordanian civil code has added a fourth case to the mentioned cases, namely (If the use of the right exceeds what has been custom and custom)(1) And according to the previous text, the contractor may not abuse his right in the contractual field, and based on that, the lessor who wants to evict the tenant on the day when his lease ended, even though the tenant is sick and his condition does not allow him to move immediately, and that with the testimony of doctors, the lessor was not obliged This landlord is being abusive in using his right to vacate the House. (2)

This and the law may sometimes give one of the contractor's independence by terminating the contract Association, but if that termination is without a legitimate reason, it is considered arbitrary.

If the client is to terminate the agency and dismiss the agent, then if the agency is paid and the dismissal is untimely, the client is obliged to compensate the agent. (3)

If a husband has the right to divorce his wife for no legitimate reason, and his wife is injured as a result of that, then such a divorce was arbitrary, and in that case, the wife may demand appropriate compensation from the divorcée. (4)

Based on the foregoing, it can be seen that non-abuse of the right in the contractual field is a restriction on the role of the will in the execution of the contract and limits it, so it is an exception to the rule of the contract.
The second research

Exceptions due to the nature of the contract

Or for reasons determined by law

The answer given by the Office of Grand Ayatollah Khamenei (may Allah grant him long life) is as under: if the purchase and sale price of a home is not too high, the purchase and sale price of a home is not too high, and the purchase price of a home is not too high. Since Justice cannot prevail over the will of the contractors, it is not right to copy or modify it, and if it can be complementary to it.

However, this does not mean that the judge should neglect the rules of justice at all, rather he should resort to the rules of justice and custom to use them to identify the will of the contractors, and in that case, those provisions are complementary to the will of the contractors. [1] The article stated that(150) From the Iraqi Civil Code and Article (95) From the Egyptian civil code.

However, the law allows cancelling the contract and dissolving the obligations it contains, but by agreement of the parties to it, this agreement is considered to terminate the contract or amend the contract as if it were another contract and is called dismissal.

However, the rule of the contract according to Sharee'ah of the Jurists, which means that it is not permissible for one of the jurists to cancel or amend the contract on his own does not apply to all contracts at all, but some contracts are exempt from being governed by it, in which one of the jurists can independently terminate it, even if the other party does not agree with. And that's what we're going to look at in the first requirement.

The contract may be annulled or amended for a reason determined by law, the law may provide in some exceptional cases that the contract may be amended or revoked. As the Iraqi civil law did in the permissibility of amending the penal clause, and in the permissibility of referencing the gift... And also other cases. And this is what we will discuss in the second requirement.

The first requirement

Exceptions due to the nature of the contract

There are contracts whose nature allows one or both parties to independently terminate or amend it without referring to the other party and taking his consent to it, and these contracts are called unnecessary contracts, and below we provide certain examples of these contracts.

First: Deposit contract: In this contract, the depositor can refund the deposited item at any time as soon as he requests it unless the term of the deposit has been set in the interest of the Depositor. The depositary may also
request the refund of the deposit whenever he wishes unless it appears from the contract that the term has been set for the benefit of the Depositor. (1)

Second: - Agency contract: The principal can terminate the agency at any time or restrict it provided that the agency is not issued in the interest of the agent or the interest of the foreigner, and also the agent has the right to withdraw at any time from the agency provided that the agency is not issued in the interest of the foreigner, then new reasons are required to justify. (2)

Third: - Bare knots: Also, in this contract, the borrower may return the loaned thing before the expiration of the loan, provided that the refund does not harm the loaner, then he is not forced to accept it, and the loaner may also request at any time to terminate the loan, if an urgent need for the loaned thing is presented to him that was not expected at the time of the contract, or Or short of maintaining it, or if the borrower is left-handed. (3)

Fourth: - In a lease contract concluded without an agreement on a term or a contract for an indefinite period, the lease is contracted for the period specified for the payment of the rent and ends with its expiration at the request of one of the contractors without taking the consent of the other contractor if he alerted the latter to vacate within the dates stipulated by law. (1)

Fifth: - Life insurance contract: The life insured who has committed to paying periodic instalments may dissolve the contract at any time he wishes, provided that he sends a written notification to the insured before the end of the current period, and his discharge from subsequent instalments. (2)

Sixth: - Contracting contract: In the contract of contracting, the employer has the right to terminate the contract or suspend the execution at any time before its completion, provided that the contractor compensates for all the expenses he spent, for the work he completed and what the contractor could have earned if he had completed the work. (3)

Seventh: - Loan contract: In the loan contract in which the contractors agree on the time, the lender could recover the money at any time based on the second paragraph of art (689) From the Iraqi Civil Code. (4)

In the foregoing, it is clear that the rule of the contract is based on the Shari'a of the contractors, and the inadmissibility of one of the contractors to terminate the contract individually because in each of the contract models we presented above, one or both parties to the contract can independently terminate the contractual association without referring to the other party to obtain his satisfaction. Therefore, the nature of the contract is a restriction that responds to the freedom of the contractors and limits the binding force of the contract.
The second requirement

Exceptions due to the reasons established by law

The answer we received from the Office of Grand Ayatollah Khamenei (may Allah grant him long life) is as under the following conditions: if it is within the limits set by law, it is up to the individual who wishes to terminate the contract to do so on his own, which means that his will is the only factor in that.

However, there are some circumstances in which the desire to cancel the contract or amend it is not left to one of the contractors or the judge, but the law restricts it to the reasons and circumstances that it decides, which must be met for the contract to be annulled or amended. (1) That is, the movement of the will (The will to revoke the contract) Based on the presence of a certain reason determined by the law and must be available for this, and the following is a presentation of some of these cases:

First: The contractors may agree after the contract or in a subsequent agreement on the amount of compensation that the debtor must pay to the creditor, and this compensation is called the penalty clause. But the judge may reduce the value of the penalty clause (Contractual compensation) If the debtor proves that the estimate was significantly overestimated or that the original obligation was partially fulfilled. (1)

Second: The law allows contractors to agree on an interest rate provided that it does not exceed (7) If they agree on interest over this price, it should be reduced to seven per cent unless the agreed price is a motive for concluding the contract. Also, any commission or benefit that exceeds the seven per cent rate is considered a hidden interest and is subject to reduction, if it is proved that this commission is not offset by a real service that the creditor has performed for the debtor. (2)

In addition to the above, by the third paragraph of art (173)(3) The Iraqi civil law allows the judge to reduce the benefits, whether they are legal or an agreement, or not to spend them at all for the period that the dispute has unreasonably prolonged, if the creditor while claiming his right in bad faith, prolongs this dispute. (4)

Third: If it turns out from the agreement that the debtor does not fulfil his obligation only when he is able or facilitated, the judge shall appoint the appropriate date for the solutions of the term, taking into account the debtor's current and future resources. And the debtor has to exert in fulfilling his obligation the care of the usual careful man. (5) These provisions are contained in article (297) From the Iraqi Civil Code, the article (272) From the Egyptian civil code.

Fourth: In the loan contract and per art (544) From the Egyptian civil code (6) If the contractors agree on the benefits, the debtor May, after six months have passed on the loan, declare his desire to terminate the contract
and return what he has received, provided that the response is made no later than six months from the date of this announcement. (1)

Fifth: The judge can follow the second paragraph of art (394) From the Iraqi Civil Code, and the second paragraph of Article (346) In exceptional cases, if a provision in the law does not prevent it, the debtor should be given a deadline to fulfill his obligation, if his condition requires it and the creditor has not suffered serious damage from this postponement and the debtor is insolvent. (2)

Sixth: The buyer is entitled based on the first paragraph of article (544) From the Iraqi Civil Code and the first paragraph of Article (433) It is the Egyptian civil law to request the termination of the contract due to a shortage of sales, provided that it proves that this shortage is so serious that if he had been aware of it, he would not have entered into the contract. (3)

Seventh: In the gift contract and following art (620) And the article (621) From the Iraqi Civil Code, and the second paragraph of Article (500) According to Egyptian civil law, the donor has the right to withdraw from the gift and terminate the contract if an acceptable reason is achieved, i.e. if there is a legitimate excuse for him, and there is no reason against returning. (4)

Eighth: In contracts binding on both sides, if one of the contractors does not fulfill what he was obliged to do with the contract, the other contractor May after the debtor's excuses request the termination of the contract. (5) The first paragraph of the article states that (177) From the Iraqi Civil Code, and the first paragraph of Article (157) From the Egyptian civil code.

It can be seen from the foregoing that even if the original is the inadmissibility of amending the contract or terminating it by the will of the individual contractor, however, the law listed several exceptions to this original, taking into account certain reasons that it took into account their importance and ability to influence the life of the contract by survival or demise.

Therefore, these reasons and circumstances that led the legislator to rely on them and allow the contractor, based on the existence of these reasons and circumstances, to terminate the contract of his own free will, is an important and clear exception to the rule of the contract, the Shari'a of contractors and limits the binding force of the contract.

**Conclusion**

At the end of our study of the research topic, we came to the following conclusions and recommendations:-

First: Conclusions:

1. The following are the responses we received from the offices of the grand jurists: Office of Grand Ayatollah Khamenei (may Allah grant him long life): it is permissible if it is under the rules and regulations of
the government of the Islamic Republic of Iran. Office of Grand Ayatollah Khamenei (may Allah grant him long life): it is permissible to.

2. The binding force of the contract has several bases, including a moral basis arising from the principle of respect for the Covenant and its fulfilment, including a legal economic basis arising from the principle of stability of transactions, and the contract derives its binding force from the conscience of the contractors and their will.

3. The exceptions to the binding force of the contract are either required by the rules of justice, as in the case of emergency, acquiescence and exploitation, or they are required by the principle of good faith and non-abuse of the right. Some of them are required or justified by the nature of the contract, such as the contract of agency, deposit or naked, and some of them are justified by the reasons determined by the law, such as in the case of a penalty clause or the case of recourse in the gift ...Etc.

4. Through our study of the binding force of the contract and the exceptions contained therein, it turned out that these exceptions are scattered in the folds of the Iraqi Civil Law and were not collected in one text, and this is what made it extremely difficult to refer to and identify them.

5. The absence of a provision in the general rules of the Iraqi civil code regulating unnecessary valid contracts that are a real exception to the rule of contract Sharia contractors.

Recommendations

1- We recommend amending the second paragraph of art (146) From the Iraqi civil law, including all the exceptions that can be answered to the binding force of the contract and the rule of the contract Sharia contractors.

2- Developing a text in the Iraqi civil law to regulate unnecessary valid contracts similar to the text of the article (176) of The Jordanian civil code, which states that (( 1- The contract is not necessary for one of its contracts or both, despite its validity and enforceability, if a condition has the right to terminate it without consent or litigation. 2- And each of them can independently terminate it if it is by its nature unnecessary for him or a condition for himself the option of termination.)), Because the Iraqi Civil Law came free of the existence of such a provision that would be necessary to determine the rights of the parties to the contract to terminate such contracts.

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