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Shariah Framework for the Real Estate Industry in Pakistan: A Jurisprudential Analysis of Contemporary Property Transactions

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Abstract

*Pakistan's property market grows fast. Yet behind rising deals lies a tangle of actions that often ignore Islamic law. Classical teachings on finance offer clear guidance, yet many current methods drift far from these roots. This piece looks closely at how land and buildings change hands today. It checks modern deals against old rules and decisions made by trusted religious bodies in Pakistan. Four types of dealings take center stage. First, buying and selling plots, apartments, or shops - often done without proper ownership transfer. Second, middlemen who arrange sales for pay, raising questions about fairness and transparency. Third, payment plans spread over time where price changes spark debate on interest-like gains. Fourth, builder contracts shaped like *istiṣnā* - a form meant for custom building but now twisted beyond intent. Many common moves fall short of religious standards. Selling paper rights too early, bribing officials to speed up paperwork, flipping assignment slips for quick profit - all break boundaries set long ago. Even so-called discount offers tied to early full payments hide debt traps forbidden under faith-based rules. For every gap found, another way opens - one rooted in honesty, clarity, and duty - not just money flow. Each flawed practice meets a match grounded in older wisdom rebuilt for present needs. Despite its roots in ancient doctrine, classical Islamic commercial law can adapt to today's real estate demands - yet shifts in how deals are made, contracts written, and rules enforced remain critical for Pakistan to meet its constitutional duties under Islam. Rather than dwell on theory, this piece builds a practical model rooted in the Ḥanafī school, which shapes most legal thinking in the country, adding to ongoing conversations about faith-based finance and land rights.*

Keywords: Shariah, real estate, bay' (sale), *istiṣnā*, *ijārah*, *wikālah*, *taqṣīṭ*, *fiqh al-mu'āmalāt*, Pakistan, Islamic finance, property transactions

1. INTRODUCTION

One of the biggest stores of personal wealth in Pakistan? Real estate. It also happens to drive much of the nation's capital growth. Some say its overall worth sits above 300 trillion rupees - possibly even 400. Only farming holds more weight in the economy. Even so, legal grounding based on Islamic principles remains missing here. The Constitution says laws must follow Islam's teachings - see Articles 2, 31, and 227 - but reality tells another story. Deals go down every day filled with hidden risks, unclear terms, interest charges,

or outright unfairness. Builders, brokers, property seekers - many take part without realizing what faith-based law has to say about such things.

Out in the open, research into Islamic rules about property tends to circle back to old ideas like bay', ijārah, and waqf. Yet when it comes to today's city living - where people book flats before they're built, trade files instead of deeds, pay in chunks with stiff penalties if late, get tangled in layers of agents, or hand over small deposits as promises - Pakistani scholars haven't dug deep. Strange, really, considering how many regular Muslim families in Pakistan stake nearly everything they've got in these deals.

This piece fills the void through a clear legal examination of common property deals in Pakistan. Starting with plot sales, moving to flats and whole buildings, it leans on key religious references. Notably, Real Estate: Aḥkām wa Masā'il guides much of the reasoning here. From Lahore's Dār al-Iftā' come rulings numbered 140 to 148, adding weight. Then there is wisdom pulled from Jāmi'ah 'Uthmāniyyah in Peshawar. Another layer comes from Dār al-'Ulūm Karachi, specifically ruling 804/64. Even corporate guidance matters - see what Idārah Nāfi' prepared for Sādāt Holdings. Each source shapes the view, rooted in Ḥanafī tradition. Mainstream voices from top Islamic boards form the backbone. Their combined input sets the standard used throughout.

After this comes what you'll find ahead. Look at section two and there's a look back on past work about Islamic property rules, showing where knowledge still falls short. Next up, part three lays out core Shariah ideas that shape business agreements. From sections four to seven, each dives into legal reasoning for one type of deal. What turns up by section eight is a gathering of insights, along with practical guidance for decision makers. The last stretch, number nine, brings it to a close.

2. LITERATURE REVIEW

Holding vast amounts of personal fortune, Pakistan's property industry shapes a major share of national assets while fueling long-term investment growth. With valuations stretching beyond PKR 300 to 400 trillion, its size trails just behind farming across the economy. Although enshrined in law through Articles 2, 31 and 227 requiring legal alignment with Islamic principles, regulation lags far behind promise. Commonplace deals among builders, brokers, owners, and purchasers frequently include hidden interest charges, ambiguous terms, risky bets, or unfair outcomes. Awareness about religious boundaries tends to fade amid daily transactions. Scholarship offers little guidance when it comes to sorting lawful practice from prohibited conduct within housing markets. While faith-based financial rules gain ground elsewhere, real estate remains mostly untouched by such reform efforts. Such gaps leave room for habits conflicting with core tenets of fairness and ethical trade. Despite strong cultural emphasis on religion, enforcement lacks both clarity and consistency. Ownership patterns evolve without reference to moral limits set centuries ago. Even so, few question whether current methods honor deeper values guiding economic life.

Though much scholarship once centered on traditional forms like bay', ijārah, and waqf, newer patterns in city-based land dealings - such as booking apartments before they exist, reselling purchase rights, paying in stages with fines for delay, tangled webs of agents, or small deposits meant to secure future ownership - rarely appear in depth within Pakistan's research landscape. Given how many regular Muslim families there place nearly all their savings into such ventures, the lack of attention stands out sharply.

This piece fills the void through a methodical legal examination of common property dealings in Pakistan's housing sector. Rooted mainly in key references, it unfolds using writings like Real Estate: Aḥkām wa Masā'il - detailing rules on plots, flats, and buildings - as its backbone. Another pillar comes from religious rulings by Dār al-Iftā' wa al-Irshād in Lahore, specifically opinions numbered 140 to 148. Insights also emerge from

verdicts issued at Jāmi'ah 'Uthmāniyyah in Peshawar, offering local doctrinal clarity. Supportive guidance surfaces in decisions catalogued at Dār al-'Ulūm Karachi, particularly ruling number 804/64. Added weight arrives via official responses prepared by Idārah Nāfi' for Sādāt Holdings Company. These materials, taken as a whole, reflect dominant Ḥanafī interpretations voiced by major Islamic jurists across the country. Their collective reasoning forms the core standard shaping this review.

What comes next unfolds in several parts. Following this, section 2 examines prior work on Islamic property law while highlighting unresolved issues the current research tackles. Instead of moving straight ahead, it pauses to clarify core Shariah doctrines shaping business agreements in section 3. After that, sections 4 to 7 dive into detailed legal reasoning across four types of transactions. Rather than stopping there, section 8 pulls insights together and suggests practical steps for regulators. To close things off, section 9 wraps up the discussion.

3. FOUNDATIONAL SHARIAH PRINCIPLES GOVERNING PROPERTY TRANSACTIONS

Starting off, identifying core Shariah principles becomes essential prior to examining sectors. These guiding rules form the foundation shaping each part of the research ahead. Their role acts as a consistent reference point across all discussions included here.

3.1 The Presumption That Things Are Allowed

Most dealings sit within allowed boundaries under Islamic trade rules, unless clear evidence from the Qur'an, prophetic practice, or agreed legal opinion marks them forbidden. Rooted in this idea - original permissibility - flexibility emerges naturally, letting scholars and businesspeople adapt new models when key requirements remain met.

3.2 Conditions for a valid sale

Among requirements for a valid sale, clarity in proposal and agreement stands first. Next comes the need for those involved to have full legal standing. What is being sold has to be clearly specified - no vague references allowed. The amount paid cannot remain uncertain either - it must be defined without ambiguity. Delivery of the item later on must actually be possible under real-world conditions. Any deal tainted by forbidden clauses loses its validity automatically. Of particular note here, according to the Ḥanafī view, once offer meets acceptance, the sale becomes complete. Recording it afterward serves only as proof - not as part of forming the contract itself

3.3 Ban on Interest Uncertainty and Gambling

Among issues undermining agreements in property dealings, three types stand out under Islamic legal principles. Predetermined gains beyond the original sum in lending - known as ribā - make late-payment penalties unenforceable when treated as profit for lenders. When key elements like asset details, cost, or terms lack clarity, such excessive ambiguity, called gharar fāḥish, can nullify a deal entirely or leave it flawed. Unearned outcomes dependent solely on luck, referred to as maysir, rule out gambling-like mechanisms in contracts. Across Pakistan's current housing and land markets, traces of these flaws emerge frequently, depending on context, as what follows will show.

3.4 The Role of Urf Custom in Real Estate Deals

Though rooted in tradition, Islamic law allows room for practical norms to shape rulings. Customary practice often guides how agreements are interpreted by judges and scholars alike. Where trade habits stand, they carry nearly the same force as written terms - this idea runs deep in Ḥanafī thought. One well-known saying captures it: what people accept in business binds like a formal clause. Such reasoning opens space for pricing

adjustments when payments stretch over time. It also affects how up-front deposits are viewed under contract rules. These points tie closely to arguments laid out later in Section 6.

4. JURISPRUDENTIAL ANALYSIS OF SALE AND PURCHASE TRANSACTIONS

4.1 Plot Identification and the Need for Ta yin

One challenge within Pakistan's housing sector involves whether it is allowed to sell a plot without fixed borders, exact position, or assigned number. According to official guidance, such a sale counts as legitimate if the plot can be found by number on the authorized layout plan - known locally as laqaṭah. Since identification happens via this document, the object of sale achieves clarity - what scholars call muta'ayyan. From that point onward, the transfer stands as fully binding under law.

Still, one key condition applies: after selling a plot in a housing project, the developer - acting as manager - cannot change its number, edges, or position under Islamic law. If changes happen post-sale, it counts as altering the core object unilaterally, which demands new approval from the buyer. At contract signing, clear identification matters - not just to make the deal valid but also to lock in terms permanently afterward.¹⁶

Clearly identifying a plot's number, boundaries, and position is essential before its file can legally change hands. Such transfer remains invalid if these details stay unclear. One key reason behind this rule lies in curbing early-stage transactions involving uncertain land data. Trading at such a stage treats undeveloped information as a commodity. That kind of exchange runs counter to restrictions on speculative deals under Islamic contract principles. Uncertainty about core physical attributes makes the object too ambiguous for sale. Reselling files prematurely fits into prohibited categories due to incomplete definition. Legal recognition only follows once all spatial aspects become fully documented. Ambiguity during initial phases opens room for dispute and unfair advantage. The absence of precise markers undermines reliability in property records. Therefore, ownership movement must wait until demarcation reaches completion.

4.2 Registration and Its Standing in Islamic Law

Ownership shifts when agreement happens, not when paperwork follows. Many in Pakistan's property trade wrongly think legal titles change only after official recording. Yet Islamic law sees it differently - consent seals the deal, creating immediate transfer of possession. Paperwork comes later, serving as proof should one side later refuse to acknowledge the transaction. The act of registering does little more than guard against future disputes

A key outcome stands clear: once buyer and seller finish the ijāb-qabūl process, ownership passes legally prior to any registration. For flats - where structure and plot form one unit - the new owner can sell onward before putting the title in their name, so long as the initial seller helps complete paperwork.¹⁹ By allowing this, the decision removes an unnecessary delay that might otherwise block valid transfers.

Yet trouble emerges if someone who bought property declines to finalize paperwork without extra money. When that happens, demanding more cash turns into an invalid condition (sharṭ fāsīd), since no law supports such a claim. Should the original owner choose to give funds anyway, out of kindness, it counts solely as their personal decision (tabarru'). This kind of offer changes nothing legally for buyer or seller alike.²⁰

4.3 Purchasing Waqf Land

One type of deal clearly forbidden by Islamic legal rulings involves buying land set aside as waqf. After a proper establishment of waqf, such property no longer belongs to any person but is regarded as belonging to God alone. Because of this condition, transferring ownership through sale becomes impossible forever. Any attempt to sell such land fails legally - termed bay' bāṭil - even if money changes hands. Such religious

guidance applies directly to known instances in Pakistan where real estate projects sold residential lots on grounds previously declared waqf yet hidden from buyers.

4.4 Token Payments and Pre Sale Resale

In Pakistan's property market, few matters stir more legal confusion than token payments - known locally as "token deke kharīd o farokht" - especially when buyers attempt resale prior to ownership transfer. Whether such deals hold up often turns on religious law, where distinction arises: bare land behaves differently under Islamic jurisprudence compared to plots with structures already built upon them.

Ownership transfers immediately upon agreement if both sides clearly identify a piece of land, settle on a price, then commit to full payment by an agreed date - even if that sum remains unpaid when the deal is made. Once this arrangement exists, selling the plot again becomes allowed after buying it, yet prior to actual physical control (qabḍ).²²

Though ownership of a flat depends on its position, rules differ sharply based on location. Ground-level units attach directly to earth; thus, they align with land-based rulings and allow transfer prior to handover. Upper units - without dedicated plots - fall under different logic entirely. Since such spaces lack territorial independence, reassignment before receipt meets resistance in classical reasoning. A decision recorded by Dār al-'Ulūm Karachi (Fatwa No. 804/64) clarifies this boundary clearly. Multi-storey apartments cannot change hands ahead of physical access. Why? Because legally speaking, an undelivered unit resembles any unfinished product - not yet handed over, not freely tradable.²³

4.5 Bribery in Property Papers

In Pakistan's real estate sector, it remains common to give money secretly to local land officers - especially patwārīs and tehsildārs - to speed up paperwork. From an Islamic legal standpoint, there is no ambiguity: these actions are forbidden for several clear reasons. Bribing someone (rishwah) stands directly against explicit warnings from the Prophet himself.²⁴ Not just offering but also receiving a bribe draws each party into wrongdoing - the idea known as i'ānat 'alā al-ma'ṣiyyah - which means helping sin spreads blame widely. Since official records produced through such payments carry ethical contamination, their legitimacy becomes questionable under religious principles.²⁵

5. SHARIAH ANALYSIS OF BROKERAGE AND AGENCY (DALĀLAH) ARRANGEMENTS

5.1 The General Allowance of Real Estate Brokering

In Islamic commercial practice, acting as a real estate intermediary - known as dalālah or simṣārah - is recognized and allowed when paid via commission, called ujah. A broker, referred to as a dallāl by Ḥanafī scholars, serves not as a signatory but as one who connects buyers and sellers so they can form agreements directly. Though he introduces the involved sides, it is they alone who issue offer and acceptance. For such brokerage to align with Shariah principles, several factors matter: first, whatever deal is arranged must comply with religious rules. Second, what the broker needs to do should be clearly outlined ahead of time. Third, payment terms need exactness - one cannot leave the fee open-ended. Fourth, actual effort matching the described task must take place; mere claims aren't enough. Lastly, responsibility for paying the commission must rest on a known party, leaving no doubt about financial duty

5.2 Collecting Fees from Buyer and Seller

A unique legal question emerges if a broker arranges a deal while seeking payment from buyer and seller alike. According to established religious rulings created for property firms, dual commissions are allowed - so long as the broker merely introduces the two sides without stepping in to finalize terms for either. Should

that intermediary take on representation duties for just one side, acting legally on their behalf, then compensation must come solely from that client, excluding any fee from the opposite party

5.3 Ban on Fake Buyer Schemes

One troubling method seen in fatāwā describes real estate firms aiming to buy property at the advertised rate, yet also taking payment from the seller. Because this dual role creates clear ethical issues, they bring in an imaginary buyer - sometimes a family member or worker - to act as an intermediary. Instead of buying directly, the firm first acquires the asset through this placeholder at reduced cost, then resells it to the true buyer at full value, keeping the gap as profit.

From an Islamic legal standpoint, this setup faces clear rejection. A hidden buyer used by the agent to mask their personal acquisition interest - while also taking payment from the supposed seller - blurs honesty with misleading conduct. Deception, falsehood, and undisclosed dual roles merge here. Religious guidelines prohibit both the act of receiving fees and the framework enabling it.²⁹

5.4 Fee Following Uncompleted Deal or Shared Withdrawal

Commission rights can persist even if a deal falls apart after both sides agree. Should one side pull back following a full sale agreement (bay' tamm), the broker still qualifies for payment - service completion secures that right. Yet uncertainty arises when no firm contract ever forms. In such instances, outcome hinges on wording within the brokerage arrangement along with circumstances behind the collapse.³⁰

5.5 Allowed Ways to Reach Customers

Among the issues covered, fatāwā outline acceptable ways real estate firms can promote their offerings. Newspaper ads might be used, so long as imagery or messages avoid what is deemed ethically unsuitable under Islamic principles. Electronic platforms, such as social networks or email campaigns, fall within allowable bounds when free of mukhālif shar'. Reaching out to agents already active in property markets remains unobjectionable. Conditions apply: material must refrain from objectionable visuals or morally conflicting themes. Each method stands permitted only if aligned with religious norms

6. INSTALMENT-BASED (TAQSĪT) TRANSACTIONS: PERMISSIBILITY AND LIMITS

6.1 Differential Pricing in Instalment Sales

Most people asking about property deals in Pakistan wonder whether it's allowed to set a higher cost for homes bought by instalment versus full upfront payment. According to clear Islamic legal guidance, such pricing differences are permitted - selling later at an increased amount through installment plans (bay' bi al-taqṣīt), while offering cheaper rates for immediate cash purchases (bay' bi al-naqd). What matters is that during the agreement meeting (majlis al-'aqd), only one method gets fixed - not both together. Without this clarity, the deal risks falling into forbidden territory known as bay'atayn fī bay'ah, where mixing two types of sales happens within a single transaction.

6.2 Early Payment Discounts

Early payment discounts bring up a need to separate allowed terms from those that are not. When buyers get a reduced amount by paying sooner, set right at contract start, problems arise - this link between cost and timing mirrors ribā, much like adding fees for delays. Such setups tie financial outcomes too closely to when payments happen, making them unacceptable under these rules

Should the agreement lack any prior clause about early payment, yet the seller later chooses to give a reduction when the buyer settles promptly - especially if this move stays outside regular usage or accepted norm ('urf) - then such a step fits within allowed bounds, seen as ethically favorable. What matters most

separates an advance-locked rebate, which fails scrutiny, from one freely offered after signing, so long as it never hardens into assumed marketplace behavior.³⁴

6.3 Late Payment Penalties What Is Allowed and Not

It remains debated whether charging extra fees for missed installments aligns with Islamic finance principles, especially within property transactions. Usually, adding such charges - called *jarmānah* - to a sale agreement makes it flawed under Shariah law. This flaw arises because the added term benefits only one side unfairly - a problem known as *shartun fāsid*. Such conditions lack proper justification according to traditional rulings. Though common in utility bills and regular payments, these setups catch attention in Pakistan's religious rulings. Because so many people face them daily, flexibility appears when repeat offenders might exploit gaps. A condition-based workaround gets approval - one where extra charges can apply only if certain rules hold. Starting with intent, buyers must clearly aim to dodge interest-like costs right from the beginning. The money collected through those fees cannot stay within the business. Instead, every bit goes straight to charity, given freely without expectation. Nothing returns to the provider, not even indirectly, ensuring no gain hides behind generosity.

6.4 The One Crore Advance with Twenty Lakh Discount

One common setup in Pakistan's property market stands out: when a builder gives what seems like a 20 lakh rupee reduction if a buyer pays 1 crore up front, then settles the rest later. This so-called discount hides something else beneath - scholars examining it through Islamic principles see two deals happening at once. Instead of one clean purchase, there is a transfer of an 80 lakh asset along with a separate flow of borrowed funds. That extra advantage tied to early payment crosses a boundary - it becomes gain linked to lending. Such returns on loans clash directly with Quranic teachings that forbid *ribā*. The mechanism, although presented as savings, operates against foundational rulings. What appears beneficial shifts meaning under close textual scrutiny. Legal form masks economic function here, triggering religious concern. Financial outcomes matter more than labels placed on them. Even widely used models fall short when tested against scriptural limits. Intent does not override consequence in this framework. An upfront sum changes character depending on context around it. Later payments reveal the true nature of the initial amount. Structure determines permissibility, regardless of naming choices. No terminology can reshape forbidden results into acceptable ones.

A different approach follows Islamic law without complexity: one set price is fixed when signing, where those paying immediately get a reduced rate while others who pay later face an increased amount - just one choice applies, made clear during the agreement meeting. On the flip side, offering upfront discounts ties together borrowing money and buying real estate into a single deal, creating what scholars call two deals inside one sale, something banned under religious rules.³⁸

6.5 Adjusting three year payments using four year rates

Though payments were set for three years, collectors sometimes demand them stretched across four because buyers fall behind. This shift faces rejection under Islamic law - altering terms needs both parties' approval, not just one. Already paid sums stay linked to the seller's hold on the property, known as *milkiyyat al-bā'i*, while ownership stays out of the buyer's hands. Instead of marking a fresh deal, this adjustment extends the first agreement using updated timing - quietly slipping interest-like gain into a transaction meant to avoid it.³⁹

A different path opens when both sides agree to cancel the initial three-year deal through *iqālah*, replacing it with a newly structured agreement lasting four years. Each payment already made flows into the updated

repayment plan, recognized under the revised terms. The method keeps outcomes fair while staying within permitted boundaries, sidestepping any restricted components. Clarity emerges not from complexity, but from alignment with established principles

7. DEVELOPER AGREEMENTS: ISTIṢNĀ' AND MULTI-PHASE CONTRACTUAL STRUCTURES

7.1 Pre-Construction Sales: The Istiṣnā' Framework

Pre-construction deals in Pakistan's property sector often feature the reservation of apartments, hotel spaces, or retail areas prior to construction. These arrangements typically entail transferring ownership of items not yet built - a practice usually prohibited under traditional bay' rules. Yet, within Islamic legal thought, the Ḥanafī tradition allows an outlet through istiṣnā', a contract tied to commissioned production. Rooted in juristic preference and social demand, it finds legitimacy despite initial appearances of invalidity. Such acceptance emerges less from doctrinal rigidity, more from practical accommodation.

Most notably, Islamic legal principles tied to istiṣnā' limit the ability to sell something before it exists. Ownership stays with the builder (ṣāni') until completion, even if someone else paid upfront. Because of this, the buyer (muṣṭaṣni') holds no right to transfer possession prior to receipt. In Pakistan's property sector, this means individuals who reserve flats or hotel units through early-stage contracts - classified legally as istiṣnā' - cannot pass those rights to others ahead of handover. Such guidance targets common practices where future homes are traded repeatedly while still being built.

7.2 The Four Phase Developer Agreement

Beginning with intent, the arrangement follows a sequence shaped by Islamic legal principles. Instead of merging roles, parties engage step by step through distinct stages. Each stage holds its own religious-legal standing, separated yet linked by purpose. From declaration to execution, the process unfolds without blending functions. Religious approval in Lahore, specifically Fatwa No. 145, frames this model clearly. Its foundation rests on clarity between investor and builder. Not simultaneous but sequential - this method avoids overlapping obligations. Compliance arises through timing, structure, and defined responsibilities. One phase ends before the next begins, preserving doctrinal precision. Through such staging, financial participation meets scriptural alignment

Step one begins with a Memorandum of Understanding (MOU) between developer and investor, outlining broad conditions and commitments. Though structured as a preliminary agreement, it holds Islamic legal weight as a firm pledge (wa'd). Three future deals - istiṣnā', then ijārah, followed by another istiṣnā' - are expected under its framework. If one side fails without cause, and real harm occurs, financial redress may follow. Yet every clause remains a pledged intent, not contractual obligation, until each later deal is formally completed. Only execution turns promises into enforceable agreements

Later comes Phase Two - First Istiṣnā'. Here, a specific agreement takes shape through which the flat's skeleton gets built. Known technically as ḍhānchah, this structure emerges under tailored conditions. The investor instructs construction only after mutual terms are set. What follows is not rental activity; nothing flows in payment until bones rise from foundation. Standing form must exist prior to any financial exchange. Timing matters strictly at this stage. Completion triggers what happens next, yet movement halts without visible progress

After the building skeleton rises, leasing begins between investor and developer. Though incomplete, the unit gets treated as usable property under Islamic custom. Payment reflects current condition, not finished value. As walls go up and floors settle, installments adjust accordingly. Terms follow local practice rather than theoretical pricing models. Occupancy rights transfer temporarily, tied strictly to oversight duties. Value

grows step by step, matched by gradual payment shifts. Agreements anchor in real-world benchmarks, avoiding assumptions. Progress defines cost, not speculation. Each phase shapes what comes next. Structure dictates terms, not fixed schedules

Later on comes Phase Four - another *istiṣnā'* begins. This time, building finishes happen under a fresh agreement. Now the builder serves as contractor for the buyer, who takes role of the *mustaṣni'*. Each deal stands apart in law. None waits on another to take effect. If one falls through, it leaves the rest intact.⁴⁵

7.3 Cancellation Charges in *Istiṣnā'* Contracts

Rescinding a deal, under traditional rules, means returning things to how they were - so any sale ends at its starting cost. Charges tied to pulling out aren't allowed if written into the agreement ahead of time. These rulings examine fees linked to backing out of early-stage real estate contracts. In an *istiṣnā'* setup, setting penalties upfront breaks this principle. Scholars point out such conditions conflict with how cancellation should work in Islamic law

Still, there remains another option allowed under the rules: instead of a penalty clause, builders can ask buyers to make a standalone pledge - called *wa'd mustaqill* - that any cancellation during the agreement period triggers a fixed donation to charity, known as *ṣadaqah*. Though the buyer commits to pay, the funds never become corporate revenue. Instead, they flow strictly through approved Islamic avenues meant for social welfare. What sets this apart is its design: it functions not as a contractual fine baked into the sale terms, but as a distinct moral commitment tied solely to generosity

7.4 Inflation Adjustments and Rising Costs in Development Agreements

Unexpectedly common in lengthy build agreements: inflation's effect on project costs. Islamic legal guidance handles this through precise clarifications. Where development tasks are widely accepted by custom - known as *ma'rūf* - and typical fees were built into initial pricing, like routine plot-related charges at time of sale, those same costs cannot later resurface. Buyers must clearly agree before such amounts reappear.⁴⁸

Once a sale agreement takes effect, gains from rising prices shift to the buyer - ownership now rests there. So long as no new approval comes from the buyer, raising the cost afterward crosses a line. Such changes on one side alone disrupt the deal already made. Legal reasoning draws this boundary clearly: agreed terms stay fixed unless both sides agree to adjust them.⁴⁹

A workable option exists through two-sided consensus: if both sides agree again, they can revise pricing due to rising costs - but only when real, extra tasks are carried out, going past prior commitments, delivering clear value to the buyer. What the supplier earns beyond base cost must match exactly what it delivers newly, not simply lift old figures because time has passed

8. RESULTS AND DISCUSSION: SYSTEMIC PATTERNS OF SHARIAH NON-COMPLIANCE

Looking closely at the legal review from Sections 4 to 7 uncovers repeated issues where property practices in Pakistan fall short of Shariah standards. While these shortcomings appear across multiple areas, what stands out is how consistently they recur in different regions. Because of this, each example points toward deeper structural flaws rather than isolated mistakes. Though some cases differ in detail, their underlying nature remains similar over time.

8.1 Pervasive Speculation In File Sharing

Most housing developments across Pakistan see buyers exchanging plot files long before land gets officially marked. This happens even though Islamic law demands clear identification of property for any sale to be valid. A file bought or sold typically promises access to a piece of land that either does not exist yet or lacks proper boundaries. Such deals fall directly under what scholars call *bay' al-gharar* - trade clouded by

excessive ambiguity. Because so many people engage in these exchanges, much of the resale activity fails basic Shariah requirements due to its underlying legal setup.

Clearly, the reform points toward a specific step - developers of housing projects alongside regulators need to define exact boundaries before issuing any files. Where plots lack such marking, trading their documents ought to face both legal limits and scrutiny under Islamic law.

8.2 Hidden Interest in Upfront Payment Systems

A payment made upfront, followed by a reduced price later, shows how interest-like gains hide inside deals that look like regular trade. When borrowing money gets tied to buying something - so the lower price depends on the loan - it mixes two actions in a way religious rules forbid. This mix of purchase and credit, where profit comes from lending, matches old examples scholars named as hidden usury. Such pairings cross boundaries set long ago in market ethics

Surprisingly, the evidence points to a gap in how Pakistani property firms and religious consultants separate valid payment plans from disguised interest schemes. Instead of treating them alike, clear boundaries must exist between lawful price adjustments over time - allowed under principles detailed earlier - versus upfront discounts masking lender profits on early payments, which break rules. What really matters comes down to this question: what value changes hands in practice? From a legal standpoint, that inquiry fits best when judging compliance. Often overlooked, the true nature of exchange reveals whether arrangements follow doctrine.

8.3 Institutional Support for Forbidden Actions

Though rarely acknowledged, patterns emerge when institutions like property firms, city planners, or builders engage in restricted deals. Not through oversight, but via deliberate setups - such as fake buyers created by agencies, demands for payments to fast-track paperwork, or treating housing allocations like marketable assets. These actions suggest a setting where religious financial rules are treated as optional rather than guiding policy. What stands out is how routinely such steps blend into everyday operations.

8.4 The Istiṣnā' Framework Offers a Shariah Compliant Financing Option

Beginning with its stepwise design, the four-stage istiṣnā'-ijārah model described in Section 7.2 offers a workable Islamic finance option instead of standard property development loans. Since every stage ties to a specific asset either present or soon-to-be-built, legal conditions remain valid under Shariah rules. Meanwhile, the preliminary agreement helps secure planning confidence for builders and backers alike.

One major hurdle stands in the way: every stage demands its own distinct agreement. Since stages cannot depend conditionally on one another, contracts must be written precisely so trouble in one does not spill over. Legal expertise rooted in Islamic finance principles could offer a solution. Such skills, already refined within banking circles, might now find use shaping property deals. Drafting must prevent automatic collapse across agreements if just one fails.

9. POLICY RECOMMENDATIONS

This study suggests several steps for three different groups involved, drawing from the earlier examination. Each suggestion ties back to findings discussed previously. One group should consider adjusting current practices slightly. Another may benefit by focusing more on communication efforts between teams. The third might want to revisit how decisions are made day-to-day. All proposals connect directly to evidence shown in the results

9.1 Real Estate Developers and Industry Groups

Most housing developers ought to involve certified Shariah advisory panels when checking their standard agreements - especially those dealing with staged payments, termination fees, early reservations before building starts, or price adjustments linked to inflation. On another note, groups like housing finance bodies and construction industry associations could create sample contract formats that follow Islamic principles, using the *istiṣnā'* method alongside payment rules described here. These examples might cover frequent property deals without straying from religious compliance.

9.2 For Regulatory Authorities

Plot boundaries must meet basic standards before any file gets approval, say regulators like SECP, RERA where active, and local land offices. Where religious compliance matters, details about a deal's alignment with Islamic principles ought to appear clearly. Developer contracts commonly slap on extra fees for delayed payments - those mimicking interest need to stop. Structures built into property deals that openly include interest-like terms could fall under review by the Federal Shariat Court. Its authority in such cases exists - using it makes sense when rules are plainly broken.

9.3 Islamic Scholars and Shariah Institutions

One might begin by translating the extensive Urdu *fatāwā* on property issues - those issued by *Dār al-'Ulūm* Karachi, *Jāmi'ah 'Uthmāniyyah* Peshawar, *Dār al-Iftā'* wa al-Irshād Lahore, among others - not as isolated efforts but through coordinated compilation into clear English resources. Though rooted in religious interpretation, these texts hold value beyond ritual, offering insight when organized for everyday use. Because legal practice and research alike depend on reliable sources, having a centralized national record of real estate rulings makes sense. As new forms of ownership and leasing appear over time, so too could updates to such a repository. While translation alone does not resolve complexity, it opens pathways otherwise closed to non-Urdu readers. With consistency, what emerges is neither mere documentation nor theory, but something usable. Such work quietly supports both courtroom decisions and classroom analysis.

10. CONCLUSION

This piece examines four key types of property dealings in today's Pakistani housing sector - buying and selling, agent roles, payment plans, when contracts are signed gradually, alongside builder-client pacts - through the lens of traditional Islamic trade principles, as interpreted by top Shariah authorities in the country.

Despite appearances, Pakistan's property market operates through deeply rooted mechanisms at odds with Islamic finance principles. From unmarked land plots traded speculatively - breaking *ta'yīn* rules - to discounted early payments laced with *ribā*, the flaws run wide. Documentation fast-tracked via bribes adds another layer. So does selling flats before construction finishes, contrary to *istiṣnā'* conditions. Such behaviors appear not on the edges, but at the core of how transactions unfold. Rather than reflecting personal lapses, these patterns point to systems built around non-compliant frameworks.

At the same time, findings show classical Islamic legal thought - especially within the *Ḥanafī* school - holds tools sufficient for navigating today's complex property markets. Rather than relying on conventional models, solutions emerge through instalment sale regulations, which offer structured payment paths. Pre-build financing gains clarity via *istiṣnā'*, a contract shaped by mutual obligation and defined deliverables. When projects halt, refund policies grounded in binding charitable pledges allow fair handling of exit fees. Price revisions, when needed, rest upon shared agreement between parties, ensuring flexibility without compromise. Each approach stands consistent with Shariah while answering actual market demands.

Though rules may be clear, change only happens when systems align. This piece offers one part - legal reasoning. Governments must adjust regulations. Financial groups plus faith organizations handle awareness. In Pakistan, belief shapes law; most citizens follow Islam deeply. That shared value sets the stage. What follows needs structure more than theory.

ENDNOTES

1. Pakistan Real Estate Investment and Management Company (REIACO), Market Overview Report (Islamabad: REIACO, 2023). The sector's precise valuation remains contested due to widespread under-reporting of transactions.
2. Al-Kāsānī, *Badā'i' al-Ṣanā'i' fī Tartīb al-Sharā'i'* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1986), vol. 5, pp. 137–149; Ibn 'Ābidīn, *Radd al-Muḥtār 'alā al-Durr al-Mukhtār* (Beirut: Dār al-Fikr, 2000), vol. 4, pp. 503–510.
3. Al-Sarakhsī, *Kitāb al-Mabsūṭ* (Beirut: Dār al-Ma'rifah, 1993), vol. 15, pp. 84–85; the *istiṣnā'* exception is grounded in the ḥadīth permitting the commission of signet rings, sandals and other craft items, as elaborated in Ḥanafī tradition.
4. Mohammad Taqī Usmani, *An Introduction to Islamic Finance* (The Hague: Kluwer Law International, 2002), pp. 65–99.
5. Monzer Kahf and Tariqullah Khan, *Principles of Islamic Financing* (Jeddah: Islamic Research and Training Institute, 1992).
6. Muhammad Imran Ashraf Usmani, *Fiqh al-Buyū'* (Karachi: Maktabah Ma'ārif al-Qur'ān, 2010), 2 vols. See especially vol. 2, pp. 892–950 on *istiṣnā'* and real property.
7. Habib Ahmed, *Product Development in Islamic Banks* (Edinburgh: Edinburgh University Press, 2011), pp. 45–72; Mahmoud El-Gamal, *Islamic Finance: Law, Economics, and Practice* (Cambridge: Cambridge University Press, 2006), pp. 15–40.
8. Muhammad Ayub, *Understanding Islamic Finance* (Chichester: John Wiley & Sons, 2007), pp. 279–310.
9. Federal Shariat Court, *Dr. Mahmood-ur-Rahman Faisal v. Secretary, Ministry of Law, PLD 2000 SC 225* (Supreme Court of Pakistan Shariat Appellate Bench).
10. Mufti Rafi Usmani (ed.), *Real Estate: Aḥkām wa Masā'il* (Karachi: Dār al-'Ulūm, 2018). This compilation represents the most authoritative single-volume Urdu reference on real estate jurisprudence in Pakistan.
11. Al-Suyūṭī, *al-Ashbāh wa al-Nazā'ir* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1990), p. 60: '*al-aṣlu fī al-ashyā' al-ibāḥah ḥattā yadulla al-dalīlu 'alā al-taḥrīm'* (The default ruling for things is permissibility until evidence of prohibition is established).
12. Ibn 'Ābidīn, *Radd al-Muḥtār*, vol. 4, pp. 510–515; Usmani, *Fiqh al-Buyū'*, vol. 1, pp. 120–145.
13. *Real Estate: Aḥkām wa Masā'il*, p. 212. The Ḥanafī position on registration as evidentiary rather than constitutive is consistent with the general principle that *bay'* is completed by *ījāb* and *qabūl*.
14. Ibn Nujaym, *al-Ashbāh wa al-Nazā'ir* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1993), p. 93; the maxim '*al-ma'rūf 'urfān ka al-mashrūṭ shartān*' (what is established by custom is as binding as an express condition) is a foundational principle of Ḥanafī jurisprudence.
15. *Real Estate: Aḥkām wa Masā'il*, p. 243.
16. *Ibid.*
17. *Fatāwā of Jāmi'ah 'Uthmāniyyah, Peshawar*, cited in *Real Estate: Aḥkām wa Masā'il*, p. 243.
18. *Real Estate: Aḥkām wa Masā'il*, p. 212.
19. *Ibid.*, p. 212. The distinction between plots (where post-contract but pre-registration resale is valid) and upper-floor flats (where pre-possession resale is not) is critical.

20. Ibid., p. 213.
21. Ibid., p. 231. The principle 'al-waqf lā yubā' (waqf property may not be sold) is a foundational maxim of Islamic property law. See Ibn Qudāmah, *al-Mughnī* (Cairo: Maktabah al-Qāhirah, 1968), vol. 6, p. 211.
22. Real Estate: *Aḥkām wa Masā'il*, p. 212; *Dār al-'Ulūm Karachi*, Fatwa No. 804/64, cited in the same compilation.
23. *Dār al-'Ulūm Karachi*, Fatwa No. 804/64. The distinction between ground-floor houses (treating land and structure together) and upper-floor flats (lacking independent land) has significant practical implications for Pakistan's high-rise residential market.
24. The prohibition on bribery is established by the ḥadīth: 'La'ana Allāh al-rāshī wa al-murtashī' (Allah has cursed the one who gives a bribe and the one who takes it). Sunan Abī Dāwūd, *Kitāb al-Qaḍā'*, Bāb fī al-Hadāyā li al-'Ummāl, No. 3580.
25. Real Estate: *Aḥkām wa Masā'il*, p. 217.
26. *Al-Kāsānī*, *Badā'ī' al-Ṣanā'ī'*, vol. 6, pp. 28–35; the *dalālah/simṣārah* contract is treated under the broader category of *ijārah 'alā al-a'māl* (hire of services).
27. *Idārah Nāfi'* for *Sādāt Holdings Company*, Institutional *Fatāwā* (Lahore: *Idārah Nāfi'*, 2020), p. 4.
28. Ibid., p. 4. The distinction between 'aqd al-simṣārah (brokerage) and 'aqd al-wikālah (agency) determines the permissible scope of commission collection.
29. Ibid., p. 8.
30. Ibid., p. 12.
31. Ibid., p. 10.
32. *Dār al-Iftā' wa al-Irshād*, Lahore, Fatwa No. 146. The condition of selecting one mode at the *majlis al-'aqd* is derived from the ḥadīth prohibiting 'bay'atayn fī bay'ah' (two sales in one sale): Sunan al-Tirmidhī, *Kitāb al-Buyū'*, No. 1231.
33. Ibid., Fatwa No. 146.
34. Ibid. The distinction between stipulated discount (*shartun fāsīd*) and voluntary post-contract gesture (*tabarru'*) is a critical Ḥanafī jurisprudential distinction.
35. Usmani, *An Introduction to Islamic Finance*, pp. 74–78; the Accounting and Auditing Organisation for Islamic Financial Institutions (AAOIFI), *Shariah Standard No. 3 (Late Payment by an Obligor)* reaches the same conclusion.
36. *Dār al-Iftā' wa al-Irshād*, Lahore, Fatwa No. 140.
37. Ibid., Fatwa No. 140. The prohibition of 'al-bay' wa al-salaf' (combining sale with interest-bearing loan) is established by the ḥadīth: 'Lā yaḥillu salaf wa bay' (It is not lawful to combine a loan and a sale): Sunan Abī Dāwūd, No. 3504.
38. Ibid.
39. Ibid., Fatwa No. 142.
40. Ibid.
41. *Dār al-Iftā' wa al-Irshād*, Lahore, Fatwa No. 145; Usmani, *Fiqh al-Buyū'*, vol. 2, pp. 940–945.
42. *Dār al-Iftā' wa al-Irshād*, Lahore, Fatwa No. 145. On the binding force of *wa'd*, see AAOIFI *Shariah Standard No. 49 (Unilateral Promise)* and the majority scholarly position that a promise is binding when the promisee has incurred costs in reliance on it.
43. Ibid.

44. Ibid. The determination of 'urf-based rent for partially constructed structures requires market data and periodic reassessment as construction advances.
45. Ibid. The prohibition of mutual conditionality between the four contracts prevents the arrangement from collapsing into a single composite transaction.
46. Ibid., Fatwa No. 144. The principle 'al-iqālah bi mithl al-thaman al-awwal' (rescission at the original price) is foundational in Ḥanafī law.
47. Ibid.
48. Ibid., Fatwa No. 148.
49. Ibid. The maxim 'al-ziyādah ba'd al-'aqd ribā' (any increase after the contract is ribā) underlies this prohibition.
50. Ibid.
51. See supra note 37 and accompanying text.

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