INTRODUCTION

Standing on one’s own promise is a moral duty and the person who is guilty of perjury is reproached by divine and social rules. For example in verse 2 of surah Baqara, in verse 13 of surah Raad, in verse 16 of surah Nahl, in verse 17 of surah Alasra and in verse 8 of surah Alanfal in Quran. We can see that the above subject has been emphasized. Providing order and regularity in economic relations isn’t possible without firmness and stability of Contracts. Baseal on the works that are. Derived from the contracts, we can devise the contracts into different categories such as formal and satisfactory contracts, voluntarily and non-voluntarily contracts, irrevocable and revocable contracts, act. Relying on the degree of compulsion of both parties in keeping their contract, the contracts can be divided into two categories. Of irrevocable contracts and revocable contracts. The problem here is that how we can infer the Irrevocable of fidelity to irrevocable contracts and especially revocable contracts, based on the holy verse that says <<oufoubelghohud>>. To answer Contracts into revocable and irrevocable contracts can remove many of the ambiguities.

1) Categorization of the contracts regarding the permit ion and Irrevocable:

1.1. Irrevocable contract= The irrevocable contract is the one that none of the parties are allowed to cancel it except in determined cades>> (Article 185 civil law).

In fact the irrevocable contract can be cancelled just in two cases:
First – In the case that according to one of authorities and options, the right to cancel contract is given to both parties or one of them or to a third party.
Second= In every case that for which both parties have urged to cancel the contract. Because the same will that has produced the contract, has the ability to cancel it as well. There for rescission has been included in reasons of cancellation of commitment. However, in case that cancelation damages the public benefits and society has benefit in permanence of contract, like marriage and donation, and also where the cancellation damages the rights of third party, like cancellation of guaranty between guarantor and sebtor, agreement has no effect in cancellation of the contract.

1.2. Revocable contract= Revocable contract is the one in which, each of the parties cancel it whenever they want. Therefore cancellation of the revocable contract doesn’t need especial reason and each of the portion can cancel the contract every time they want. For example, after certainty of attorney ship, the lawyer can resign and
also the client has the right to depose and fire the lawyer, even though he has no justified reason to do this, unless the two parties in their relations, make it Irrevocable. As Article 679 from civil law says about attorney ship:<< client can depose the lawyer every time he wants, unless the attorney ship of the lawyer or lack of deposal are the conditions of irrevocable contract. We can generalize this order to all kinds of revocable contracts. In fact this order is in accord with governing of the will and we can conclude that the revocable contract is obligatory in the following cases: first= In the case that revocable contract is mentioned in, another irrevocable contract, in this case the affect of revocable contract is included in the groups of commitments of irrevocable contract and takes its Irrevocable from it. Cancellation of the revocable contract means that the committed and responsible person wants to nullify one of the conditions and undertakings that irrevocable contract has for him.

But he should pay attention that when the condition is with accordance with just one parties benefit, he can waive this profit and benefit (Article 234 civil law). For example, if it is stipulated in the rent contract(irrevocable)that the tenant must keep the furniture of landlord in free, and subordinate deposit contract is Irrevocable just from the tenant but not Irrevocable from the landlord. And the landlord can waive the condition which is for his benefit every time he want and his furniture from the tenant.

Second= In the case in which the right to cancel the contract is nullified : In article to cancel the contract is nullified : In article 679 from civil law it is supposed that this nullifying is performed during the irrevocable contract. But with the expansion that Article 10 of civil law has made for freedom of contracts, them no more any need of this duty for penetration of the intention of both parties. The culminant will, can provide Irrevocable, automatically & free from its body and both parties of contract can decide a bout nullifying of the right , individually (the content of Article 959 of civil law). For example the client can give irrevocable power and attorney ship to his own representative with out any formalities.

1.3. The contract which is revocable for one party and irrevocable for another party= The contract can be irrevocable for one party and revocable for the other party like mortgage and guarantee. The contract is revocable for mortgagee and irrevocable for mortgager. It means that creditor can waive the security every time he wants and like normal creditors refer to other properties of the debtor, but debtor or everyone for whom he has given his properties as security, is bound and can’t cancel that or fake possession of the property in mortgage which is against the rights of mortgage, In guarantee contract, the guarantor can’t avoid the performance of responsibility and contract is irrevocable contract for him but the one whose presence must have undertaken has the right to cancel the contract by depositing the guarantor or even directly, this is not specific right of the guarantee and in all situation in which the contract obliges commitment just for one of the two parties. It is applicable.

Notice=we can summarize the practical benefits of categorizing contracts into irrevocable & revocable, into two different cases: 1) in irrevocable contract. Both parties of the contract or one of them, is loyal to his commitment and can’t avoid performing the: contract as he desires. But in revocable contracts it is possible to nullify the contract without any impediment.2) The contract is allowed to be cancelled in condition that one of the parties die or be insane or fool while none of this conditions have any effect in irrevocable contracts. For example the contract of loan, deposit or bailment of the capital in the case of death or insanity of one of the two parties of the contract can be cancelled, but in buying, rent guarantee, protection or death of them has no effect in commitment of the contract and the substitute of the dead or interdicted must perform the condition of the contract must perform the condition of the contract instead. About this case that why the revocable contract is nullified by death and insanity, there is no definite answer: It is possible to be said sine in revocable contract every event that cancel this authority, must cause cancellation of the contract. Death and insanity also can cancel the revocable contract because of this reason. But this reasoning doesn’t seem complete. Since the person who participate in a revocable contract has this in the mind that in the case of appearance of insanity or death for himself or the opposite party in the contract, the contract is cancelled. So there is no place for intrusion of law to cancel the contract in this circumstances. On the other hand, if this is true, in every referable action, insanity and foolishness must result in dispensary with it and they must remove the legal penetration of the action, while this is not the case. For example although the testator can refer from the will while he is alive, but the Insanity and foolishness of the testator in the gap between writing of the will & death, doesn’t nullify the will. Also, Although donor after delivery of the subject to receiver has the right to give it Bach, but insanity and foolishness of the donor doesn’t nullify the contract. Even his death or death of the receiver, make the contract irrevocable. It seems that every time the two parties don’t mean creation of right and responsibility and they want to give permission or vicegerency for doing a job to same one or leave their supervision on doing a job and only authority is created from their will, the contract is revocable contract and since things like death, insanity and foolishness cuts the relation of this permission with the source, it causes the nullifying of the permitting contracts.
2. The etymology of division of contract to revocable and irrevocable:

Since most of the contracts that is common among people now and people refer to them to eliminate their needs are the contracts that had existed before Islam and the holly legislator has just signed them, we can say that common law is one of the most important causes of making contracts of different kind. For example a person produces a good can transfer it to others and in return takes whatever he needs from them, had founded the selling contract and also when one gives the profit of this money to another person for a short time and in return take the rent, has created the rent contract and also all the contract each of which satisfy part of humans’ needs in their interactions.

According to this a group of scholars don’t believe in the Irrevocable rule and believe that we should analyze the history of each of the contracts separately in order for it to become clear whether it is irrevocable contract or revocable contract. (molla Ahmad Naraghi, page 7). In the idea of this group since most of the contracts among intellectuals have been founded because of their needs are holly legislator has signed most of them in his legislation, same of the contracts have been founded after legislator and based on human need(Dr. Feiz pamphlet, page 26).

Based on this need, the common law has forged some of these contracts in the from of irrevocable contracts i.e violation and cancelling than shouldn’t be Revocable and the direction of some of other contracts is like this that each one of the two parties can cancel the contracts. Of course some time the holly legislator has said that contract for example is irrevocable contract and its cancellation because of an spiritual and social aspect is impossible: like donation which is not revocation , and marriage which con’t be dissolved except in limited and specific cases. The Irrevocable is of two kinds: peremptory Irrevocable and right Irrevocable. Both of these Irrevocable mean the stability of the contract, and the only difference between them is that in peremptory Irrevocable , the leg is later ordered that special contraction and interaction is irrevocable: so . it can’t be cancelled, like divorce. But in right Irrevocable, the person owns another Irrevocable and this ownership is some time for one party and some time for both parties and can be cancelled (like authority of Animals).

The revocable is of 2 kinds: right revocable and peremptory revocable. In religious law some of the contracts like attorney ship are revocable contracts and this is revocable from order. The right revocable includes the owner ship of Irrevocable that means that person can cancel the contract every time he want; i.e he is owner of his own ans other’s Irrevocable. In technical term, there are two purports regarding the written works one is the purport of conformity and the other is the purport of Irrevocable. The Irrevocable purport is the composition of fidelity to interaction and not cancelling it.

3. Analysis of the holly verse <<ya Ayohal Lazina Amanoo oufou Beloghood..>>, and its reference to revocable and irrevocable contracts:

3.1. Analysis of the verse <<oufou Beloghood>>= fidelity means performing and doing something without any violation in it.<<oufou>>refers to Irrevocable of fidelity. (Ahmad mostafamaraghi, Almaraghi interpretation, part 6, page 42).contract or <Aghs> has different meanings and the one which is more suitable for its terminology is tieing one thing to another thing and idiomatically joining 2 wills of 2 people to each other which is the origin or source of legal and civil effect. So the Irrevocable of the one-sided kind is not idiomatic contract But in fact it is unilateral. Interpreters have different interpretations from the word <<oghoud>> in this verse. Aloghoud is plural form of Aghd that starts with Al and in principles of jurisprudence it is proved that the plural from with AL refer to all therefore the meaning of this verse is that fidelity to all contracts is obligatory for all Muslims since AL in Aloghoud refer to AL.

Inferring Irrevocable from the verse, is in one of the following forms:
1-The obligation of fidelity and Irrevocable to obey the conditions of contract is metaphor of Irrevocable of the contract.
2-The obligation of fidelity and Irrevocable, is the obligation in the manner of intellectual necessities not necessitating obedience that violation from which deserve punishment.
3-the obligation of fidelity and Irrevocable of matter is important; i.e violation from that deserves punishment Any way we can infer from the verse, the Irrevocable in contract (Imam khomeioni, Albeby book .colum1, page 186). In reference of this verse there are some points about the Irrevocable of contacts and interaction:

First point= some scholars have interpreted the verse in a very limited and difficult wavy by the interpretation that exist in talking about contract. But as it mentioned exist in science of juries prudence the case is not specific; i.e even if we suppose that the verse has been given to prophet in special case but since the interpretation is general, the verse is not limited to that special case and generality of it exists and the verse include selling and other trades(Imam khomini, Albey book, volum 3 page9).

Second point= some others have some doubt about the verse they say the verse says (Muslims be Fidel to your contracts) but it doesn’t say until when and how we should keep our contract thenefor until one contract hasn’t been nullified but about its cancellation, this verse hasn’t said anything and in other words the meaning of the is this that every contract is stable and hasn’t been cancelled keep it and this is different from inferring to obligation of contract and lack of its cancellation.
There have been two answers for this ambiguity and problem:

One they have said that common laws perception of this verse is fidelity to contract and not cancelling it, and other interpretation from this verse is not understood by common law

The second answer is that the interpretation that is said is true when there is obligation to fidelity to content and conditions of the contract but the verse has commanded that keep the contract (whatever it is) and it doesn’t mean anything but keeping the contract and not cancelling it.

Sheikh Azam Ansary and a group of scholars say that: the content of the verse is just responsibility command that is respect of possession and this command is a responsibility in need of a conditional command that is removing cancellation (sheykhmorta Ansari, 1383, page 50; Nasser makarem shirazi, 1384, page 327). since this group because of helplessness in conditioned commands don’t let and they believe that condition commands are taken from responsibility command and another group that believe that conditional commands have been under the credit of legislator individually and they believe that the content of holly verse is both responsibility command and conditional command.

3.2. The reference of the verse about irrevocable and revocable contracts= A group believe that the revocable contracts are not included in this verse automatically. Since the holly verse from the begging consists of contracts that are based on stability and firmness (irrevocable contracts) like possession contracts such as selling, or promising contracts like marriage but revocable contracts in which there is no stability and firmness, are cancelled just when returning of permission happens, so they aren’t included in the verse. In this group’s idea by analyzing the usage of the term (Aghd) contract Quran we understand that is being bound against being bound and this meaning include revocable contract from the begging. Not contract in the meaning of legal action that is accepted. It includes possession, promising and revocable contracts first and existing of revocable contract from that should be done in the form of allocation. Became in this case saying (most allocation) which is an unpleasant action is mentioned. So, the exiting of revocable contracts from contract meaning is specialized not allocative.

According to this idea the reference of this holly verse is this all contract are irrevocable and Irrevocable to be fidelity to unless another reason be said for the revocable contract in this case the reason is generalization of verses. Like there be a reason in which donation is an revocable contract or contracting the selling is revocable before expiration. In this case, revocable contracts that has no stability in nature, are included in the reference et the verse, and in technical words it is specially out of it. But optionality of irrevocable contracts and revocable contracts, like donation are allocatively out; since their exit from the inclusion of the verse has specific reasons.

In return some scholars believe that the meaning of obligation of fidelity to contract is doing the condition of the contract and the condition of contract is some time Irrevocable and some time revocable. So we can’t infer Irrevocable from this verse. Since Irrevocable and revocable are part of contract penetrate into the contract itself so the appearance of verse is being fide to the content of contract.

Imam khomeini says: the obligation for fidelity to contact is given to contract it means doing according to exigency of contract by referring to the difference of conditions of contract (Imam khomeini, Albay book, volum1, page 185). By obligation of fidelity we mean that human do the condition and necessitate of the contract, it means every thing that contract necessitates based on it verbal reference in the natural form. When the contract is created, this contract refers that the sales person fives his property to costumer so possessing in the sold good whit out his content is against the condition of contract and is forbidden and this respect of possession after cancelling is needed by obligation of not cancelling the contract. It means that the contract is that with one responsibility command (respect of possession after contract) means a conditional command in which cancellation is nullified conclusion= After analyzing the nature of contracts we conclude that the contract is divided to 2 categories of irrevocable and revocable contracts regarding the degree of obligation for both parties in keeping and performing the contract. since foundation of contracts has been by common law that based on Irrevocable has faked contracts so some contracts are naturally revocable means able to be violated and some other contracts are irrevocable that can’t be violated. So we can say that the revocable contracts that has been shaped just based on permission can counted as revocable since the nature of this contracts is that every time we want can remove permission and cancel the construal it means that the legislator has said this contract is irrevocable.

In irrevocable contracts there is no permission to violate the contract unless because of option or rescission but in some of the contract like donation ever this amount of option has been taken away. About the reference of the holly verse(Ayohalazzina Amanoo oufou beloghud) is said that every from that it is said every form that it is analyzed the verse refers to obligation to be faithful to promise. If we suppose that the meaning of the obligation of faithful to contract is doing conditions of contract based on its necessities, the verse refers to obligation to be faithful to the contract it means being faithful to contract according to necessities that permission to return from contract part of that. this meaning (The necessity to be faithful to what is the condition of contract) based on the reference of this verse is religious a religious must for contract that is equal to Irrevocable. But if we don’t believe in the obligation of being faithful as performing the conditions of contract, the result is that first revocable contracts the content of which has no natural stability is out of inclusion of the verse from the begging
it mean it is specifically out but by irrevocable conditions and revocable conditions being optional, so because of existence of external reason allocatively it is out of the generalization of the verse.

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