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Legal Effects and Barriers of Hiba Revocation in Afghanistan's Civil Code

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Abstract
A gift (*Hiba*) is the gratuitous and voluntary transfer of property, undertaken with the aim of promoting human solidarity, altruism, and the strengthening of social relationships. In legal transactions, one of the important and controversial issues arising after the initial formation of a gift contract is its revocation or withdrawal. The primary objective of this study is to provide a comprehensive and in-depth analytical and practical examination of the legal effects, conditions, and statutory impediments to the revocation of gifts under the Civil Code of Afghanistan, particularly Articles 1201 to 1215. This study employs a descriptive-analytical research method based on library sources. The findings indicate that, drawing on principles derived from Hanafi jurisprudence, the Civil Code of Afghanistan prohibits unilateral and immediate revocation of a gift and permits revocation only with the consent of both parties or pursuant to a court decision based on a "reasonable cause." The findings further demonstrate that, upon the valid exercise of the right of revocation, the gift contract is terminated and the property is restored to the ownership of the donor (*Wahib*). At the same time, to protect the rights of the donee (*Mawhub-lah*), the law provides for compensation for necessary and beneficial expenditures incurred in relation to the gifted property. Moreover, the law identifies several specific circumstances as grounds that extinguish the right of revocation and constitute legal impediments to withdrawal, including the receipt of consideration, transfer or disposal of the gifted property beyond the donee's ownership, attached improvements to the property, the death of either party, and the existence of a marital relationship or prohibited close kinship between the parties. These provisions establish substantive limitations on the donor's right to revoke a gift and seek to balance the donor's interests with the legal protection and stability of the donee's acquired rights.

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1. Introduction

Gift (*Hiba*) has remained an effective means of strengthening spiritual relationships, affection, and gratuitous financial assistance among people since the early stages of human history. In Islamic law, the transfer of ownership and the voluntary provision of property to others without consideration are regarded as ethical and commendable transactions founded on benevolence, generosity, and the maintenance of kinship ties (Al-Ghazali, 1996; Al-Qurtubi, n.d.) [3]. In customary, jurisprudential, and legal practice, a gift generally remains stable once concluded and accepted by the parties. However, when the social relationship between the donor (*Wahib*) and the donee (*Mawhub-lah*) deteriorates, or the donor experiences financial hardship, the question of withdrawing or revoking the gift may arise (Ibn Qudamah, 2001; Al-Marghinani, n.d.) [14].

From a historical and jurisprudential perspective, the permissibility of revoking a gift after its conclusion has been a subject of considerable debate among the major schools of Islamic jurisprudence. The majority of jurists, including the Shafi'i, Maliki, and Hanbali schools, generally prohibit the revocation of a gift after possession (*Qabd*) has taken place, subject to specific exceptions, particularly in the relationship between a father and his child (Al-Shafi'i, 1410 AH; Ibn Qudamah, 2001; Al-Qurtubi, 1989) [14, 9]. In contrast, Hanafi jurists generally recognize the possibility of revocation after possession, subject to specific legal and jurisprudential conditions and the absence of recognized impediments (Al-Marghinani, n.d.; Al-Kasani, 1420 AH; Ibn Abidin, n.d.) [5]. The Civil Code of Afghanistan, enacted in 1977 (1355 Solar Hijri), has drawn substantially upon principles of Hanafi jurisprudence as well as modern legal systems in regulating civil and financial transactions. Accordingly, it establishes specific conditions, procedures, and limitations governing the revocation of gifts (*Civil Code of Afghanistan*, 1977).

In Afghan society, individuals frequently transfer property, land, and other assets to one another as gifts on the basis of friendship, family relationships, or social ties. Such gifts may sometimes be made orally or through informal arrangements. When relationships deteriorate or family members experience financial difficulties, the donor may attempt to recover the gifted property. The central legal problem arises from the fact that ordinary citizens, and in some cases even law students and litigants, may lack sufficient awareness of the legal and jurisprudential requirements governing the revocation of gifts. Many individuals assume that a donor may recover gifted property at any time and through unilateral action. However, the Civil Code of Afghanistan restricts revocation by requiring either the consent of the donee or judicial authorization based on the existence of a reasonable cause, subject to the statutory conditions and limitations (*Civil Code of Afghanistan*, 1977, Arts. 1201–1202).

Furthermore, the Civil Code identifies several circumstances that prevent or extinguish the right of revocation, including the provision or receipt of consideration, certain dispositions or changes affecting the gifted property, the death of both party, and certain marital or prohibited close-kinship relationships (*Civil Code of Afghanistan*, 1977, Arts. 1205–1213). Uncertainty surrounding these legal impediments and the consequences of revocation may contribute to disputes and prolonged litigation, thereby affecting the stability of property rights and legal security. Therefore, this study seeks to examine and analyze the relevant legal provisions and clarify the conditions, effects, and impediments governing the revocation of gifts under Afghan law.

The significance of this study arises particularly from the practical challenges and legal uncertainties surrounding the application of the relevant provisions of Afghan civil law. The importance of the study can be explained as follows:

There is limited analytical legal research examining the provisions of the Civil Code of Afghanistan concerning the revocation of gifts in conjunction with the relevant jurisprudential sources. This study seeks to contribute to addressing this research gap by providing a systematic analysis of the legal framework governing the subject. The study may provide a useful legal and analytical reference for courts, judges, lawyers, legal practitioners, and law students in understanding and applying the relevant statutory provisions when dealing with disputes concerning the revocation of gifts. By clarifying the conditions under which a gift may or may not be revoked, the study contributes to greater awareness of property rights, the prevention of arbitrary recovery of gifted property, and the strengthening of financial and legal security within society.

The main objective of this study is to provide a comprehensive analytical and practical examination of the legal effects, conditions, and statutory impediments governing the revocation of gifts under the Civil Code of Afghanistan.

1. To identify the legal nature of the revocation of gifts under the Civil Code of Afghanistan and examine the role of the court in the revocation process.
2. To analyze the legal effects arising from the revocation of a gift, including the consequences for ownership, benefits derived from the gifted property, and liability for its destruction or loss.
3. To clarify the conditions and legal impediments (*Musqitat*) that may extinguish or restrict the donor's right to revoke a gift.

What legal framework, effects, conditions, and limitations govern the revocation of gifts under the Civil Code of Afghanistan?

1. What reasonable causes and legal principles are established under the Civil Code of Afghanistan for permitting the revocation of a gift?
2. What legal effects arise with respect to the gifted property, benefits derived from it, and expenditures incurred following the lawful revocation of a gift?
3. What legal and factual circumstances prevent the revocation of a gift and extinguish the donor's right of revocation?

Although the concept and general principles of *Hiba* have been addressed in various classical and contemporary works of Islamic jurisprudence, the originality of this study lies in examining the issue beyond a purely jurisprudential framework and analyzing it specifically through Articles 1201 to 1215 of the Civil Code of Afghanistan. The study examines the legal and practical implications of the statutory framework, including the role of judicial decision-making, the effects of improvements and dispositions concerning the gifted property, and the reciprocal rights of the donor and donee regarding the recovery or reimbursement of expenditures. In this respect, the study seeks to provide an integrated legal and jurisprudential analysis of the conditions, effects, and impediments of gift revocation and to contribute to addressing the limited attention given to these issues in specialized and independent legal research.

2. Literature Review

The issue of *Hiba* (gift) and its revocation has been examined extensively by classical Muslim jurists and contemporary legal scholars from various jurisprudential and legal perspectives. Previous studies have primarily focused on the legal nature of *Hiba*, its conditions of validity, the significance of possession (*Qabd*), and the circumstances under which a donor (*Wahib*) may revoke a gift. Some contemporary works have also attempted to compare Islamic jurisprudential principles with statutory civil laws. However, relatively limited attention has been given to the practical application of the specific provisions governing gift revocation under the Civil Code of Afghanistan, particularly

Articles 1201 to 1215. Therefore, the following review evaluates the major relevant studies according to their subject matter, problem focus, methodology, findings, and relationship to the present study.

Khair Abd al-Radi Khalil (2002) [1], in his work *Al-Hibah wa Ahkamuha fi al-Shariʿah al-Islamiyyah*, provides a detailed jurisprudential examination of the concept of *Hiba*, its pillars, conditions, legal legitimacy, and the limits governing its revocation. The study addresses the problem of balancing the rights of the donor and the donee in gratuitous transfers of property and examines the principal areas of jurisprudential disagreement concerning the revocation of gifts. Methodologically, the work follows a descriptive-analytical and library-based approach, relying on Qur'anic texts, Prophetic traditions, and the opinions of the major schools of Islamic jurisprudence, together with relevant principles of consensus and analogical reasoning. The author concludes that revocation of a gift is generally restricted by Islamic legal principles and is permissible only in limited circumstances, particularly in certain cases involving the relationship between a parent and child. Although the work provides an important jurisprudential foundation for understanding gift revocation, its primary focus is Islamic jurisprudence and it does not undertake a specific analysis of the Civil Code of Afghanistan or its practical judicial application. The present study therefore differs by examining the issue specifically within the statutory framework of Afghanistan and by analyzing the legal consequences and impediments established by Articles 1201 to 1215 of the Civil Code (Khalil, 2002).

Carolina Khalid al-Daghmi, in *Ahkam al-Hibah fi al-Fiqh al-Islami*, examines the rules governing *Hiba* from the perspective of the four major schools of Islamic jurisprudence: Hanafi, Maliki, Shafi'i, and Hanbali. The study particularly focuses on the conditions of a valid gift, the role of possession (*Qabd*), and the circumstances under which revocation may occur. Its central problem concerns the differences among the schools regarding the effect of possession and delivery on the binding nature of the gift contract and the resulting legal implications of such differences. The study employs a comparative jurisprudential and library-based methodology by examining and comparing the legal opinions and evidentiary bases of the four schools. Its findings indicate that possession plays a significant role in determining the legal status of *Hiba* and that the conditions governing revocation differ among the four schools on the basis of their respective jurisprudential arguments. While this work provides valuable comparative jurisprudential foundations, it remains primarily concerned with doctrinal differences and does not undertake a detailed examination of Afghanistan's statutory provisions on gift revocation. The present study extends this discussion by placing particular emphasis on Articles 1201–1215 of the Civil Code of Afghanistan and their practical legal implications (al-Daghmi, n.d.).

Madkur, in *Al-Hibah fī al-sharīʿah al-Islāmiyyah wa al-qānūn*, specifically investigates gifts made by parents to their children and the jurisprudential rules governing their revocation. The study addresses the problem of inequality among children in parental gifts and examines the implications of unequal treatment and subsequent revocation for family justice and intra-family relationships. He employs an analytical and deductive jurisprudential methodology, drawing on relevant textual evidence and juristic reasoning to establish the legal rules applicable to parental gifts. The study concludes that equality and fairness among children are significant considerations in parental gifting and that Islamic jurisprudence recognizes specific rules on a parent's ability to revoke gifts under certain circumstances. The distinctive feature of the study is its concentration on the parent-child relationship. In contrast, the present research adopts a broader approach by examining the complete statutory framework of gift revocation in Afghanistan, including impediments related to marital relationships, close prohibited kinship, disposal of the gifted property, death, destruction, consideration, and other circumstances addressed by the Civil Code (Madkur, n.d.).

Al-Istanbulī, in his study *Al-Hibah wa al-rujūʿ bayna al-sharīʿah wa al-qānūn*, examines the legitimacy of revoking a gift and the jurisprudential and legal dimensions of its undesirability in Islamic law. The principal problem addressed in the study concerns the apparent tension between Prophetic traditions discouraging the revocation of gifts and jurisprudential positions that permit revocation in certain circumstances. The author employs a specialized jurisprudential, textual, and analytical methodology, examining relevant Prophetic traditions and juristic interpretations in order to reconcile the apparently different legal positions. The study concludes that revocation is generally regarded as an undesirable act, while under Hanafi jurisprudential principles a donor may retain a right of revocation in specified circumstances where no recognized legal impediment exists. Nevertheless, the stability of the gift and protection of the donee's acquired rights remain important considerations. Although Abu al-Basal's study provides a significant jurisprudential basis for understanding the nature and legitimacy of revocation, it does not examine the statutory framework of a particular contemporary legal system. The present study differs by analyzing how these jurisprudential principles are reflected and regulated in the Civil Code of Afghanistan, particularly with regard to judicial intervention, reasonable cause, legal effects, and statutory impediments (Al-Istanbulī, n.d.).

Muhammad Salam Madkur, in *Al-Hibah fi al-Shariʿah al-Islamiyyah wa al-Qanun*, examines the rules of *Hiba* through a comparative analysis of Islamic legal principles and the Egyptian Civil Code. The study addresses the problem of differences in the practical application of the rules governing the formation and revocation of gifts between classical jurisprudential doctrines and contemporary statutory legal systems. Madkur adopts a descriptive-analytical and comparative methodology, examining relevant Islamic legal principles alongside statutory provisions in order to identify areas of convergence and difference. The study concludes that contemporary civil legislation incorporates several principles rooted in Islamic jurisprudence while also establishing procedural mechanisms through which a court may determine whether the circumstances justify revocation of a gift. The major limitation of this work in relation to the present research is its focus on Egyptian law rather than Afghan law. Accordingly, the present study seeks to extend the comparative discussion by examining the specific provisions of the Civil Code of Afghanistan and determining how the Afghan statutory framework regulates the donor's right of revocation and protects the rights of the donee (Madkur, n.d.).

Al-Ayni, in his work *Al-Bināyah sharḥ al-Hidāyah: Kitāb al-Hibah, Bāb al-Rujūʿ fī al-Hibah*, provides a comparative

examination of the impediments to revoking a gift according to different schools of Islamic jurisprudence. The study focuses on the legal problems that may arise when a donor seeks to withdraw from a gift after ownership has been transferred and possession has occurred, particularly where subsequent changes have taken place in the gifted property. Using a comparative and analytical jurisprudential methodology, the author examines the positions of different schools concerning the circumstances that prevent revocation. The study finds that the right of revocation is not absolute and that subsequent developments affecting the gifted property, including changes in its condition, increases, or other forms of *nama'* (growth or accretion), may prevent the exercise of that right. The work is significant for identifying the jurisprudential impediments to revocation; however, it remains largely theoretical and does not provide a detailed analysis of judicial practice or statutory application within Afghanistan. The present study addresses this limitation by examining these impediments through the specific provisions of Articles 1201–1215 of the Civil Code of Afghanistan and by considering their practical legal consequences (Al-Ayni, n.d.).

Muhammad al-Istanbulī, in *Al-Hibah wa al-Ruju' bayna al-Shari'ah wa al-Qanun*, examines the legal and jurisprudential dimensions of gifts and their revocation, with particular attention to the procedural and legal mechanisms applicable to withdrawal from a gift. The study addresses uncertainties concerning the legal status of a gift and the procedures required for revocation, particularly where the gift has been formally established or registered. The author employs a descriptive-analytical and applied methodology, combining Islamic jurisprudential principles with statutory legal analysis. The study concludes that, where judicial intervention is legally required, a donor cannot simply recover the gifted property through unilateral action; rather, revocation must follow the legally prescribed procedure and, where applicable, be determined by a competent court. Although the study contributes to understanding the relationship between Shari'ah principles and statutory rules governing gift revocation, it does not specifically address Afghanistan's social and legal circumstances or the detailed provisions of the Afghan Civil Code. The present research therefore differs by focusing specifically on the Afghan legal framework and by examining the statutory conditions, impediments, and consequences of revocation within the Afghan context (al-Istanbulī, n.d.).

The review of the preceding literature demonstrates that scholars have approached the issue of *Hiba* and its revocation from several important perspectives. Some studies have concentrated on the general principles, pillars, conditions, and legal nature of gifts, while others have focused specifically on the jurisprudential disagreement among the four major Islamic schools. A further group of studies has examined particular relationships, especially gifts between parents and children, or has compared Islamic jurisprudence with the civil laws of other countries. Collectively, these works provide an important theoretical and jurisprudential foundation for understanding the concept of *Hiba*, the role of possession, the legitimacy of revocation, and the circumstances that may prevent it.

Nevertheless, a significant research gap remains concerning the systematic analysis of the revocation of gifts under the Civil Code of Afghanistan**,** particularly Articles 1201 to 1215**.** The reviewed literature does not sufficiently integrate the jurisprudential foundations of *Hiba* with the specific statutory rules applicable in Afghanistan, nor does it provide a comprehensive analysis of the legal consequences and impediments established by Afghan law. In particular, issues such as the meaning and legal significance of reasonable cause, the role of judicial intervention, the effect of disposal or transfer of the gifted property, subsequent improvements or increases in the property, death of either party, marital or prohibited close-kinship relationships, consideration, benefits derived from the property, and reimbursement of necessary and beneficial expenditures require further systematic examination.

Accordingly, the present study seeks to address this gap by analyzing the legal framework governing gift revocation under Articles 1201–1215 of the Civil Code of Afghanistan and relating these statutory provisions to the relevant principles of Islamic jurisprudence. The study further examines the legal effects of revocation and the reciprocal rights and obligations of the donor and donee, with particular attention to property ownership, benefits, expenditures, liability, and statutory impediments. In this way, the study seeks to provide a more integrated jurisprudential and legal analysis that is specifically relevant to the Afghan legal context and may contribute to a clearer understanding of the practical application of the rules governing the revocation of gifts.

3. Methodology

Based on the nature and objectives of the study, this research adopts a descriptive-analytical approach and constitutes a theoretical and legal study. The primary purpose of this type of research is to describe the relevant concepts, examine existing legal and jurisprudential texts, and analytically assess the applicable legal rules. Since the rules governing the revocation of a gift are founded on legal, statutory, and jurisprudential principles, the study examines and interprets these principles within the framework of the Civil Code of Afghanistan and Islamic jurisprudence. Particular attention is given to the legal nature of *Hiba*, the conditions governing its revocation, the role of judicial intervention, the legal effects arising from revocation, and the circumstances that constitute impediments to the exercise of the donor's right of revocation.

The study relies primarily on a library-based method for collecting data and information. Relevant materials were collected from reliable primary and secondary sources relating to Islamic jurisprudence and Afghan civil law. The primary legal sources include the Civil Code of Afghanistan, with particular emphasis on Articles 1201 to 1215, which specifically regulate the revocation of gifts and its relevant conditions, effects, and impediments. In addition, authoritative jurisprudential sources were consulted, particularly classical works of Hanafi jurisprudence such as *Al-Hidayah*, *Bada'i al-Sana'i*, *Al-Mabsut*, and *Radd al-Muhtar*, as well as relevant works representing other schools of Islamic jurisprudence where comparative analysis was necessary. Contemporary legal literature, including analytical works by prominent legal scholars, academic articles, and legal commentaries, was also examined to provide a broader theoretical and comparative framework for the study.

The collected information was analyzed and organized systematically to ensure logical consistency and clarity throughout the study. First, the conceptual and definitional

analysis focused on establishing the linguistic, jurisprudential, and legal meanings of *Hiba* and its revocation. Second, the study conducted a legal and jurisprudential textual analysis by examining the explicit provisions of the Civil Code of Afghanistan and assessing their relationship with the underlying principles of Hanafi jurisprudence. Third, the conditions and legal effects of revocation were examined separately, including the consequences for ownership, reimbursement of expenditures, benefits derived from the gifted property, and the rights of third parties. Finally, the impediments and exceptions to revocation were systematically classified and analyzed. These include circumstances such as the existence or receipt of consideration, destruction or substantial alteration of the gifted property, marital relationships, prohibited close kinship, death of either party, and other statutory circumstances that may prevent or extinguish the donor's right of revocation.

The subject scope of the study is limited to the legal effects, conditions, and statutory impediments associated with the revocation of gifts. Although other gratuitous or property-related transactions may have similarities with *Hiba*, transactions such as wills, endowments (*Waqf*), and charitable donations (*Sadaqah*) fall outside the primary scope of this research. The legal scope of the study is principally confined to the relevant provisions of the Civil Code of Afghanistan, particularly Articles 1201 to 1215, while the corresponding principles of Hanafi jurisprudence are used as a jurisprudential framework for interpretation and comparison. Accordingly, the study does not attempt to provide an exhaustive analysis of all rules governing *Hiba* but concentrates specifically on the legal framework of revocation, its effects, and its impediments under Afghan law.

The study follows a consistent academic citation and referencing system for documenting legal, jurisprudential, and scholarly sources. Relevant Qur'anic verses, Prophetic traditions, jurisprudential principles, statutory provisions, and scholarly arguments are cited within the text in accordance with accepted academic referencing practices. Particular attention is given to accurately identifying the relevant provisions of the Civil Code of Afghanistan and the corresponding jurisprudential sources. The references are presented with sufficient bibliographic information to enable readers to identify and verify the original legal or scholarly source. Where appropriate, the study uses an English-language citation format consistent with established academic and legal referencing practices, while preserving the original Arabic titles and terminology of classical jurisprudential works to maintain their scholarly accuracy.

4. Results

The findings of this study, derived from a comprehensive analysis of the Civil Code of Afghanistan, relevant principles of Islamic jurisprudence, and the applicable legal literature, demonstrate that revocation of a gift (*Hiba*) is not an unrestricted or unilateral process. Rather, it constitutes a legally regulated procedure subject to specific conditions, reasonable grounds, procedural requirements, and statutory impediments. The relevant provisions of the Civil Code, particularly Articles 1201–1215, establish a framework that seeks to balance the donor's (*Wahib*) legitimate interests with the acquired rights and legal security of the donee (*Mawhub-lah*). Article 1201 provides that revocation may occur by agreement between the donor and the donee; where the donee does not consent, the donor must seek permission from the court, provided that a reasonable excuse exists and no statutory obstacle to revocation applies. Article 1202 further identifies specific circumstances in which revocation may be considered excusable.

4.1. Legal Grounds and Reasonable Excuses for Revocation of a Gift

The analysis of Articles 1201–1203 demonstrates that the donor does not possess an unrestricted right to withdraw a completed gift. Under Article 1201, revocation may take place through mutual agreement between the donor and the donee. Where the donee refuses to agree, the donor must seek judicial permission, and such revocation must be supported by a reasonable excuse and must not be excluded by any applicable legal impediment. Article 1202 specifies several circumstances that may constitute reasonable grounds for revocation, including serious disregard by the donee toward the donor, the donor's inability to maintain the standard of living required by his or her social circumstances or to support legal dependents, and the subsequent birth or discovery of a living child. Article 1203 additionally provides a specific rule where the donee intentionally and unjustifiably kills the donor, allowing the donor's heirs to revoke the gift.

Table 1: Legal Grounds and Reasonable Excuses for Revocation of a Gift under the Civil Code of Afghanistan

No.	Type of Revocation / Legal Ground	Relevant Article	Legal Explanation and Conditions
1	Mutual agreement of the parties	Article 1201	The donor and donee may agree to revoke the gift. Where the donee does not consent, the donor must seek judicial permission.
2	Serious disregard by the done	Article 1202(1)	Revocation may be considered excusable where the donee seriously disregards the donor in the fulfillment of obligations owed to the donor.
3	Financial inability of the donor	Article 1202(2)	Revocation may be justified where the donor becomes unable to maintain the standard of living required by his or her social circumstances or to provide maintenance for legal dependents.
4	Subsequent birth or discovery of a child	Article 1202(3)	Revocation may be considered excusable where a child is born to the donor after the gift or where a child previously believed to be dead is subsequently found to be alive.
5	Intentional and unjustified killing of the donor by the donee	Article 1203	Where the donee intentionally and unjustifiably kills the donor, the donor's heirs may exercise the right of revocation.

The findings therefore indicate that the Afghan legal framework distinguishes between the existence of a ground for revocation and the legal procedure through which revocation is affected. A reasonable excuse alone does not necessarily authorize unilateral recovery of the gifted property. Where the donee does not consent, judicial

authorization is required. This distinction strengthens legal certainty and prevents the donor from independently taking possession of property that has already been transferred to the donee.

4.2. Legal Effects of Revocation of a Gift

The findings further demonstrate that valid revocation produces several important legal consequences concerning the contractual relationship, the gifted property, its benefits, and the expenditures incurred by the donee. Article 1214 provides that revocation effected through mutual agreement or pursuant to a court order nullifies the gift contract. Following such revocation, the donee is required to return the gifted property together with the benefits obtained from it up to the time of the agreement to revoke or the filing of the relevant claim. At the same time, the donee is entitled to demand reimbursement for necessary expenditures and, under the statutory conditions, useful expenditures that increased the value of the gifted property.

Table 2: Legal Effects of Valid Revocation of a Gift

No.	Legal Area / Effect	Relevant Article and Legal Mechanism	Legal Consequence
1	Nullification of the gift contract and restoration of the gifted property	Article 1214	Revocation by mutual agreement or court order nullifies the gift contract, requiring the donee to return the gifted property.
2	Return of benefits obtained from the gift	Article 1214	The donee must return the benefits obtained from the gifted property up to the time of the revocation agreement or filing of the relevant claim.
3	Reimbursement of necessary expenditures	Article 1214	The donee may demand reimbursement from the donor for necessary expenses incurred in relation to the gifted property.
4	Reimbursement of useful expenditures	Article 1214	The donee may claim useful expenditures to the extent that such expenditures increased the value of the gifted property.
5	Liability of the donor for unauthorized taking	Article 1215(1)	If the donor takes the gifted property without the donee's consent or without a court order, the donor is responsible for its destruction or loss as provided by the law.
6	Liability of the donee following judicial warning	Article 1215(2)	Where the court orders revocation and the donee, after receiving a warning to return the property, causes its destruction, the donee becomes responsible for the destruction even where it was not directly caused by an intentional act.

The analysis of these provisions reveals an important principle of reciprocal financial protection**.** Revocation does not merely restore the donor's ownership interest; it also protects the donee against unjust financial loss resulting from necessary and value-enhancing expenditures made while the property was under the donee's ownership. Thus, Article 1214 establishes a form of financial adjustment between the parties following revocation. Article 1215 further demonstrates that the legal consequences of possession after revocation depend upon the manner in which the property is taken or retained. The provision seeks to prevent the donor from circumventing the legal process by taking the property without consent or judicial authority, while also imposing responsibility upon the donee where, after receiving a judicial warning to return the property, the property is destroyed while remaining in the donee's possession.

4.3. Legal Impediments to Revocation of a Gift

One of the principal findings of this study is that the right of revocation is not permanent or absolute. Articles 1204–1213 establish several circumstances in which the right of revocation is extinguished or restricted. Article 1204 recognizes that revocation may be exercised in whole or in part only where none of the statutory obstacles apply. Articles 1205–1213 then identify various circumstances affecting the continued existence of the right, including additions or substantial changes to the gifted property, death of either party, transfer or radical alteration of the property, marital relations, close kinship, destruction of the gifted property, reciprocal consideration, and charitable gifts.

Table 3: Legal Impediments and Extinguishing Circumstances Affecting Revocation

No.	Legal Impediment	Relevant Article	Legal Analysis
1	Death of either party after delivery of the gift	Article 1206	Where either party dies after the gift has been received, the right to revoke the gift is extinguished.
2	Substantial addition or increase in the value of the gifted property	Article 1205	Where an addition is made to the original gift in a manner that increases its value, revocation is not permitted while the statutory obstacle remains.
3	Radical alteration of the gifted property	Article 1207	Where the donee makes substantial changes to the gifted property, revocation is not permissible; where the change affects only part of the property, revocation may remain possible concerning the unaffected remainder.
4	Gift between spouses	Article 1208	A gift between spouses cannot be revoked even if the marital relationship subsequently ends through separation.
5	Close kinship	Article 1209	Revocation is not permissible where the gift is made between persons who fall within the category of close relatives recognized by the law.
6	Destruction or substantial damage to the gifted property	Article 1210	If the gifted property is destroyed or damaged, the right of revocation is extinguished; where only part is destroyed, revocation may remain possible with respect to the remaining part.
7	Gift made in return for consideration	Article 1211	Where the gift is made in exchange for a substitute or consideration, the right of revocation is generally extinguished subject to the specific conditions provided by the provision.
8	Gift by a father to a minor child in exchange for consideration	Article 1212	The father cannot obtain a substitute or consideration from a minor child in return for the gift given to the child.
9	Gift made as alms or for charitable purposes	Article 1213	A gift made as alms or for charitable purposes cannot be revoked.

The findings indicate that these impediments serve two principal legal functions. First, they protect the stability of acquired rights by preventing the donor from revoking a gift after significant legal or factual changes have occurred. Second, they protect particular social and family relationships, especially marital and close familial relationships. Articles 1205–1213 therefore demonstrate that the statutory framework does not treat revocation merely as a private preference of the donor but as a legally restricted right whose exercise may be extinguished by subsequent circumstances.

It is also important to distinguish between the different forms of impediment. Some are connected with the condition of the property itself, such as destruction, substantial alteration, or an increase in value; others arise from the legal relationship between the parties, such as marriage and close kinship; while others result from the nature or purpose of the gift, such as a gift made in return for consideration or a charitable gift. This classification demonstrates the systematic nature of the Afghan statutory framework.

The overall analysis of the relevant provisions leads to four principal findings. First, judicial supervision constitutes an important element of the Afghan legal framework. The donor cannot simply recover the gifted property by unilateral action when the donee refuses consent. Instead, judicial permission must be obtained where revocation is based on a reasonable excuse. This approach strengthens legal certainty and protects the donee against arbitrary deprivation of acquired property rights. Second, the law establishes a financial balance between the parties**.** While the donor may obtain judicial revocation under specified circumstances, the donee is not left without legal protection. Article 1214 allows the donee to seek reimbursement for necessary expenditures and, where the statutory requirements are satisfied, useful expenditures that have increased the value of the gifted property. This mechanism seeks to prevent unjust enrichment and distribute the financial consequences of revocation between the parties in a legally structured manner. Third, the statutory framework demonstrates respect for the stability of family and reciprocal legal relationships**.** Gifts between spouses and close relatives are protected against revocation, while certain other categories, such as charitable gifts, are also excluded from revocation. These provisions indicate that the law attaches significance not only to the property itself but also to the social and legal relationship underlying the gift. Fourth, the findings demonstrate that the right of revocation is subject to substantive and procedural limitations**.** The existence of a reasonable excuse does not automatically result in the return of the property. Rather, the donor must comply with the legally prescribed mechanism, while the right may be extinguished by death, substantial alteration, destruction, marital relationship, close kinship, consideration, or the charitable nature of the gift. Accordingly, the Afghan Civil Code establishes a structured legal balance between the donor's interest in revocation and the donee's interest in the stability of ownership and protection of expenditures.

Overall, the findings confirm that Articles 1201–1215 of the Civil Code of Afghanistan constitute an integrated legal framework governing the grounds, procedure, effects, liabilities, and impediments of gift revocation. The provisions combine the principle of judicial control with substantive limitations on revocation and reciprocal financial protection for the parties. The statutory framework therefore reflects an attempt to preserve both the legitimate interests of the donor and the legal security of the donee after completion of the gift.

5. Discussion

This major findings of the study in relation to the relevant principles of Islamic jurisprudence and the previous studies reviewed in Chapter Two. The discussion focuses on the legal nature of revocation, the role of judicial intervention, statutory impediments, and the balance between the rights of the donor and the donee.

The findings demonstrate that the Civil Code of Afghanistan does not recognize revocation of a completed gift as an unrestricted or unilateral right of the donor. Under Article 1201, revocation may occur by mutual agreement; where the donee does not consent, the donor must seek judicial permission on the basis of a reasonable excuse. Therefore, the right of revocation is a conditional and legally regulated right**,** rather than an absolute power of the donor. This approach protects the stability of legal transactions and the acquired rights of the donee while allowing the donor to seek revocation in circumstances recognized by law. Articles 1202 and 1203 provide examples of such circumstances, including serious disregard by the donee, financial inability of the donor, the subsequent birth or discovery of a child, and the intentional and unjustified killing of the donor by the donee. At the same time, Articles 1205–1213 establish circumstances that restrict or extinguish the right of revocation.

The findings also show that revocation has reciprocal financial consequences. Article 1214 requires the return of the gifted property and relevant benefits while protecting the donee's right to reimbursement for necessary and, under specified conditions, useful expenditures. Thus, the law seeks to balance the donor's interest in revocation with the donee's property and financial rights. The findings are generally consistent with the jurisprudential studies of Khair Abd al-Radi Khalil (2002) [1] and Carolina Khalid al-Daghmi**,** which emphasize that revocation of *Hiba* is subject to restrictions under Islamic jurisprudence. However, the present study differs in its specific focus on Articles 1201–1215 of the Civil Code of Afghanistan and explains how jurisprudential principles are expressed through a codified national legal framework.

Similarly, the studies of Muhammadi (2017) [16] and Al-Marghinani (1404) emphasize the restricted nature of revocation and the existence of circumstances that prevent withdrawal. The present findings support this general position but provide a more detailed statutory classification of impediments, including death, close kinship, marriage, and changes in the gifted property, consideration, destruction, and charitable purposes. The works of Muhammad Salam Madkur and Muhammad al-Istanbulī demonstrate how the rules of *Hiba* can be examined within contemporary legal systems and through judicial mechanisms. The present study reaches a similar conclusion regarding the importance of judicial intervention but contributes specifically by analyzing the Afghan statutory framework and its relationship with Islamic jurisprudential principles.

Overall, the discussion demonstrates that the Afghan Civil Code establishes a balance between the donor's legitimate interest in revocation and the donee's acquired legal rights**.** The law permits revocation in specified circumstances but subjects it to judicial control and several statutory

impediments. In comparison with previous studies, the principal contribution of this research is its integrated analysis of Articles 1201–1215 and its examination of the relationship between Hanafi jurisprudence and Afghan statutory law. This approach helps clarify the legal conditions, limitations, and consequences of revoking a gift within the Afghan legal system.

6. Conclusion

The comprehensive legal and analytical examination conducted in this study demonstrates that, although a completed gift (*Hiba*) may be subject to revocation under specific conditions, the donor does not possess an unrestricted or unilateral right to withdraw from the gift after delivery and possession. The Civil Code of Afghanistan regulates revocation through mutual agreement between the parties or, where the donee does not consent, through judicial intervention based on a legally recognized "reasonable excuse." This approach seeks to protect the stability of ownership, the security of financial transactions, and legal certainty between the parties. The study further concludes that valid revocation produces specific legal effects. The gift contract is nullified and the gifted property is returned to the donor, while the legal framework also protects the donee by recognizing the relevant benefits obtained before revocation and providing reimbursement for necessary and, under the statutory conditions, useful expenditures made in relation to the gifted property. Thus, the consequences of revocation are not limited to the restoration of ownership but also include reciprocal financial rights and obligations.

The findings also establish that the right of revocation is subject to several statutory impediments. Circumstances such as the existence of consideration, significant changes or additions to the gifted property, death of either party, marital relations, close kinship, destruction of the property, and charitable purposes may restrict or extinguish the right of revocation under the relevant provisions of the Civil Code. These limitations demonstrate that the law places significant emphasis on the stability of acquired rights and the protection of established legal and family relationships. Overall, the study concludes that the Afghan Civil Code provides a structured framework for regulating revocation of *Hiba* by combining principles derived from Islamic jurisprudence, particularly Hanafi jurisprudence, with the requirements of a modern codified legal system. Through reasonable grounds, judicial supervision, statutory impediments, and reciprocal financial protections, the law seeks to maintain an appropriate balance between the legitimate interests of the donor and the acquired rights of the donee. The provisions examined in this study therefore provide an important legal basis for ensuring certainty, fairness, and stability in disputes concerning the revocation of gifts in Afghanistan.

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