

**THE LEGAL CONCEPT OF LEGAL ENTITY IN ISLAMIC FINANCE
AND LAW: DOCTRINAL FOUNDATIONS, COMPARATIVE ANALYSIS,
AND PRACTICAL CHALLENGES FOR UZBEKISTAN**

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***Abstract.** The global Islamic finance industry has grown past USD 3.88 trillion in assets, and Uzbekistan is now actively joining this market. The law on amendments and additions to some legal documents of the Republic of Uzbekistan aimed at introducing Islamic banking in Uzbekistan was adopted. But a fundamental question sits beneath all the practical reform: does Islamic law have its own concept of the legal entity, or does it simply borrow this idea from the West? This article examines the doctrinal basis for legal personality in Islamic jurisprudence, compares the Islamic approach with civil law, common law, and Uzbek legal traditions, and identifies two concrete legal problems that Uzbekistan must solve if its Islamic finance reforms are going to work. For each problem, a tested foreign-country solution is proposed. The article argues that Islamic law does contain the conceptual raw materials for legal personality, that these materials are functionally comparable to Western equivalents, and that Uzbekistan's unique position as a country with Soviet, European, and Islamic legal heritage gives it both challenges and opportunities in building a workable framework.*

***Key words:** legal entity, legal personality, Islamic finance, Islamic law, waqf, dhimmah, civil law, sukuk, Shari'ah Supervisory Board, comparative law.*

**ISLOM MOLIVASI VA HUQUQIDA YURIDIK SHAXS
TUSHUNCHASI: DOKTRINAVIY ASOSLAR, QIYOSIY TAHLIL VA
O'ZBEKISTON UCHUN AMALIY MUAMMOLAR**

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Annotatsiya. Jahon islom moliyasi sanoati 3,88 trillion AQSh dollaridan oshdi va O'zbekiston hozirda ushbu bozorga faol qo'shilmogda. 2026-yil mart oyida O'zbekiston Respublikasining ayrim qonun hujjatlariga O'zbekistonda islomiy bank faoliyatini joriy etishga qaratilgan qo'shimcha va o'zgartirishlar kiritish to'g'risida qonun qabul qilindi. Bu qadam mamlakatning islom moliyasini huquqiy tizimiga integratsiya qilish yo'lidagi eng muhim harakat bo'ldi. Biroq, barcha amaliy islohotlar ostida muhim savol yotadi: islom huquqi yuridik shaxs tushunchasining o'ziga xos kontseptsiyasiga egami yoki bu g'oyani G'arbdan oddiy qarz olganmi? Ushbu maqola islom huquqshunosligida yuridik shaxsiyatning doktrinav asoslarini o'rganadi, islomiy yondashuvni fuqarolik huquqi, umumiy huquq va O'zbekiston huquqiy an'analari bilan solishtiradi hamda O'zbekistonning islom moliyasi islohotlari muvaffaqiyatli bo'lishi uchun hal qilishi lozim bo'lgan uchta aniq huquqiy muammoni aniqlaydi. Har bir muammo uchun xorijiy davlatlar tajribasi asosida sinovdan o'tgan yechim taklif etiladi. Maqola islom huquqi yuridik shaxsiyat uchun kontseptual xom ashyolarga ega ekanligini, bu materiallar G'arb ekvivalentlari bilan funktsional jihatdan taqqoslanishi mumkinligini va O'zbekistonning sovet, yevropa va islom huquqiy merosi bilan noyob mavqeyi samarali tizim qurishda ham qiyinchiliklar, ham imkoniyatlar yaratishini isbotlaydi.

Kalit so'zlar: yuridik shaxs, huquqiy shaxsiyat, islom moliyasi, islom huquqi, vaqf, zimma, fuqarolik huquqi, sukuk, Shariatga muvofiqlik kengashi, qiyosiy huquqshunoslik.

**ПРАВОВАЯ КОНЦЕПЦИЯ ЮРИДИЧЕСКОГО ЛИЦА В
ИСЛАМСКИХ ФИНАНСАХ И ПРАВЕ:
ДОКТРИНАЛЬНЫЕ ОСНОВЫ, СРАВНИТЕЛЬНЫЙ АНАЛИЗ И
ПРАКТИЧЕСКИЕ ПРОБЛЕМЫ ДЛЯ УЗБЕКИСТАНА**

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Аннотация. Глобальная индустрия исламских финансов превысила 3,88 триллиона долларов США в активах, и Узбекистан активно присоединяется к этому рынку. 27 марта 2026 года принят Закон о внесении дополнений и изменений в некоторые нормативно-правовые документы Республики Узбекистан, направленные на внедрение исламского банкинга в Узбекистане, что стало важнейшим шагом страны на пути интеграции исламских финансов в правовую систему. Однако за всеми практическими реформами стоит фундаментальный вопрос: имеет ли исламское право собственную концепцию юридического лица, или оно просто заимствует эту идею у Запада? В настоящей статье исследуется доктринальная основа юридической личности в исламской юриспруденции, проводится сравнительный анализ с системами гражданского права, общего права и узбекской правовой традицией, а также выявляются три конкретные правовые проблемы, которые Узбекистан должен решить для успешной реализации реформ. Для каждой проблемы предлагается решение, проверенное опытом зарубежных государств. Статья доказывает, что исламское право содержит концептуальные основы для юридической личности, что эти основы функционально сопоставимы с западными аналогами, и что уникальное положение Узбекистана как страны с советским, европейским и исламским правовым наследием создаёт как трудности, так и возможности для построения эффективной правовой SJIF: 5.051

базы.

Ключевые слова: юридическое лицо, правосубъектность, исламские финансы, исламское право, вакф, зимма, гражданское право, сукук, шариатский наблюдательный совет, сравнительное правоведение.

Introduction

Islamic finance is no longer a niche market. According to the Islamic Financial Services Board's most recent stability report, the global Islamic finance industry reached USD 3.88 trillion in assets by the end of 2023.¹ Growth is particularly strong in Southeast Asia, the Gulf states, and, increasingly, in Central Asia. Uzbekistan, with a population of over 36 million people (around 97% Muslim), represents one of the largest untapped markets. On 25 March 2026, President Mirziyoyev was briefed on the introduction of Islamic finance instruments into the banking sector, covering *murabaha*, *mudarabah*, *musharakah*, *ijara*, and other structures.² A law on Islamic banking followed shortly.³

But here is the question that all this activity leaves unanswered. When an Islamic bank is set up in Uzbekistan, what is it? Legally, an Islamic bank in Uzbekistan would acquire legal personality through state registration under Uzbek law and would operate within the general framework of civil, corporate, and banking legislation. Its legal personality will come from Uzbek state registration. What, then, does Islamic law contribute? Is the bank 'Islamic' only because its contracts avoid interest? Or is there something deeper, a concept of legal

¹Islamic Financial Services Board, Islamic Financial Services Industry Stability Report 2024 (IFSB 2024). Available at: <https://www.ifsb.org/>

²Official website of the President of the Republic of Uzbekistan, 'New Finance and Digital Technology Initiatives Presented' (25 March 2026). Available at: <https://president.uz/en/lists/view/9048>

³Law of the Republic of Uzbekistan on Islamic Banking, signed by President Shavkat Mirziyoyev on 27 March 2026.

personality within Islamic jurisprudence itself that shapes the identity of the institution?

This article, drawn from a longer master's dissertation, argues that the answer matters. It matters for how Uzbekistan designs its regulatory framework. It matters for how judges handle disputes. And it matters for whether Islamic finance in Uzbekistan turns out to be a genuine integration of two legal traditions or just a set of conventional transactions with Arabic labels.

Literature Analysis

The question of legal personality in Islamic law has attracted serious scholarly attention over the past century, though the literature remains spread across several disciplines. Al-Zarqa's *al-Madkhal al-Fiqhi al-'Amm* is the foundational modern work.⁴ He was the first to give a systematic name to the Islamic concept of collective legal personality: *al-shakhsiyyah al-i'tibariyyah* (jurisprudential personality). His argument that the classical Hanafi treatment of *Bayt al-Mal* and *waqf* already contained the raw materials for legal personality has shaped the entire subsequent debate. Zahraa reached a parallel conclusion in his article in the *Arab Law Quarterly*, noting that Islamic jurists drew a clear line between natural and juristic personality.⁵

On the critical side, Kuran's *The Long Divergence* argued that the absence of legal personality in classical Islamic partnership law was a significant reason why the business corporation did not develop independently in the Islamic world.⁶ His analysis is thorough but limited in scope: he focuses almost entirely on commercial partnerships and does not engage seriously with *waqf* or *Bayt al-Mal*, where legal

⁴Mustafa Ahmad al-Zarqa, *al-Madkhal al-Fiqhi al-'Amm*, vol 1 (Dar al-Qalam, Damascus 1998) 256–270.

⁵Mahdi Zahraa, 'Legal Personality in Islamic Law' (1995) 10(3) *Arab Law Quarterly* 193–206.

⁶Timur Kuran, *The Long Divergence: How Islamic Law Held Back the Middle East* (Princeton University Press 2011) 97–118.

personality features are strongest.

Hennigan provided the most detailed historical study of *waqf* formation in early Hanafi discourse, showing that the legal structure was well established by the ninth century CE.⁷ AAOIFI's Shari'ah Standard No. 60 represents the most authoritative contemporary statement, treating *waqf* as an autonomous juridical person with independent financial liability.⁸ The OIC Fiqh Academy's Resolution No. 65 (1992) confirmed that Islamic law can accommodate the concept of collective legal personality.⁹

On the comparative side, Kraakman and others provide the standard functional framework for comparing corporate law systems.¹⁰ Watson and Legrand offer competing theories on whether legal rules can be successfully transplanted between systems.¹¹ McChesney remains the essential source on *waqf* in Central Asia, documenting four hundred years of endowment history at Balkh.¹² On Uzbek law specifically, the AJEE article (2023) on legal challenges in Islamic finance is the most directly relevant academic source.¹³

A notable gap in the existing literature is the absence of sustained comparative

⁷Peter C. Hennigan, *The Birth of a Legal Institution: The Formation of the Waqf in Third-Century A.H. Hanafi Legal Discourse* (Brill 2004) 53–78.

⁸AAOIFI, *Shari'ah Standard No. 60: Waqf* (Accounting and Auditing Organization for Islamic Financial Institutions 2021). Available at: <https://aaoifi.com/>

⁹International Islamic Fiqh Academy (OIC), *Resolutions and Recommendations of the Council of the International Islamic Fiqh Academy, Resolution No. 65 (7/1), Seventh Session (Jeddah 1992)*. Available at: <https://iifa-aiifi.org/en/resolutions>

¹⁰Reinier Kraakman and others, *The Anatomy of Corporate Law: A Comparative and Functional Approach* (3rd edn, Oxford University Press 2017) 5–15.

¹¹Alan Watson, *Legal Transplants: An Approach to Comparative Law* (2nd edn, University of Georgia Press 1993) 21–35. Cf. Pierre Legrand, 'The Impossibility of "Legal Transplants"' (1997) 4 *Maastricht Journal of European and Comparative Law* 111–124.

¹²R.D. McChesney, *Waqf in Central Asia: Four Hundred Years in the History of a Muslim Shrine, 1480–1889* (Princeton University Press 1991) 3–30.

¹³'Legal Challenges Hindering the Development of Islamic Finance in Uzbekistan' (2023) *Access to Justice in Eastern Europe* (AJEE). Available at: <https://ajee-journal.com>

analysis connecting Islamic legal personality doctrine to Uzbek civil law. Most scholarship treats these as separate fields. This article attempts to bridge that gap.

Research Methodology

This article uses three research methods. First, *doctrinal analysis*: the classical Islamic legal sources (works of al-Zarqa, al-Zuhayli, Ibn Abidin, al-Kasani) are examined to identify the doctrinal basis for legal personality in Islamic jurisprudence. The concepts of *dhimmah*, *ahliyyah*, and *al-shakhsiyyah al-i'tibariyyah* are traced from their classical origins to their modern formulations in OIC resolutions and AAOIFI standards.

Second, *comparative legal analysis*: the Islamic concept is placed alongside its equivalents in three other legal systems (German, English common law, and Uzbek civil law). The comparison is structured around five core attributes of legal personality: separate patrimony, contractual capacity, the right to sue and be sued, limited liability, and perpetual succession. This framework, drawn from Kraakman and others,¹⁴ provides a consistent basis for cross-system comparison.

Third, *functional analysis of legal problems*: two specific gaps in the current Uzbek legal framework are identified through primary legislation, official government documents, and expert assessments from international forums. For each problem, a foreign-country solution is examined using primary legal sources (Turkish Waqf Law No. 5737, UK Finance Act 2008).

Institutions that prove the point: Waqf and Bayt al-mal.

Concepts are one thing. Practice is another. Two classical Islamic institutions demonstrate that legal personality was not just a theory in Islamic law. It was

something that actually worked.

The *waqf* (endowment) has the strongest claim. When a founder dedicates property as *waqf*, the property leaves the founder's ownership permanently. In classical Hanafi doctrine, *waqf* property is removed from the founder's private ownership and treated as dedicated to God. In modern legal terminology, this separation can be understood as functionally similar to an independent patrimony of a juridical person. A trustee (*nazir*) manages the property, but does not own it. The beneficiaries receive the income, but do not own the underlying asset. The property cannot be sold, mortgaged, or given away. Hennigan's study of early Hanafi legal discourse traces the institution's development back to the ninth century.¹⁵ Measured against the five standard attributes of legal personality (separate patrimony, contractual capacity, the right to sue and be sued, limited liability, and perpetual succession), *waqf* scores highly. Its property belongs to no individual. Its trustee acts in a representative capacity. Its existence is perpetual. AAOIFI's Standard No. 60 now treats *waqf* as an autonomous juridical person.¹⁶

The *Bayt al-Mal* adds a second example. Established during the caliphate of Umar ibn al-Khattab, the public treasury held tax revenues separately from the caliph's personal estate. It had its own officials. It collected revenue and paid obligations according to rules. When a caliph died, the treasury continued. Its debts were not cancelled. That is perpetual succession in everything but name.

Where Islamic law genuinely struggled with legal personality was in commercial partnerships. Classical *musharakah* and *mudarabah* did not produce separate legal persons. Liability stayed with the individual partners. If a partner

¹⁵Peter C. Hennigan, *The Birth of a Legal Institution: The Formation of the Waqf in Third-Century A.H. Hanafi Legal Discourse* (Brill 2004) 53–78.

¹⁶AAOIFI, *Shari'ah Standard No. 60: Waqf* (Accounting and Auditing Organization for Islamic Financial Institutions 2021). Available at: <https://aaoifi.com/>

died, the partnership ended. Kuran has argued that this was a significant reason why the business corporation did not emerge within the Islamic legal tradition independently of Western influence.¹⁷ This is a fair point. But it does not disprove the existence of legal personality in Islamic law. It shows that the concept developed unevenly, in some areas but not others, which is also how legal personality developed in the West.

How the islamic concept compares with western and uzbek law. When you put all four legal systems side by side (Islamic law, civil law, common law, and Uzbek law), three findings stand out.

First, there are genuine functional equivalents. The strongest pair is the *waqf* and the German *Stiftung* (foundation), English charitable trust, Uzbek *fond*. All four hold property for a defined purpose, under appointed management, with some form of long-term commitment. The underlying human need is the same. Every legal system found a way to meet it. But the source of authority differs. The *Stiftung* gets its standing from state registration. The English trust operates through equity. The Uzbek *fond* is created by the Civil Code (Articles 73–77).¹⁸ The *waqf* gets its standing from Islamic jurisprudence. The function converges. The legal technique does not.

Second, there are genuine divergences. Islamic law imposes a *Shari'ah* constraint on corporate purpose that Western law does not have. The prohibition of *riba* (interest) and *gharar* (excessive uncertainty) acts as a structural limit on what an Islamic financial institution can do. The Islamic Finance Council has no direct equivalent in conventional Western corporate governance, although it may be

¹⁷Timur Kuran, *The Long Divergence: How Islamic Law Held Back the Middle East* (Princeton University Press 2011) 97–118.

¹⁸Civil Code of the Republic of Uzbekistan, Part I (21 December 1995, No. 163-I), Articles 73–77 (on foundations/fond).

compared functionally with compliance or ethics oversight bodies.

Third, Uzbekistan occupies a hybrid position that is actually quite unusual. Its Civil Code (Article 39) defines legal personality in language that mirrors the German BGB.¹⁹ Its institutional memory is Soviet. Its cultural and religious heritage is Islamic, rooted in the Hanafi school. And now it is adding an Islamic finance layer. Some might see this as a contradiction. It can also be seen as a resource, if the legal reforms are designed carefully.

Two specific issues and their solutions in Uzbekistan.

1.No legal category for waqf. Uzbekistan once had one of the richest *waqf* traditions in the Islamic world. The madrasas of Bukhara, the mosques of Samarkand, and the charitable institutions of Tashkent were all sustained by *waqf* endowments for centuries. McChesney's study of the 'Alid shrine at Balkh documents how endowments there operated as major economic forces for over four hundred years.²⁰ Between 1925 and 1930, the Soviet authorities nationalised all *waqf* property and abolished the legal category entirely. Today, there is still no Waqf Law in Uzbekistan. Anyone wanting to create a *waqf*-like structure has to register it as a *fond* under the Civil Code, which lacks three features that a *waqf* needs: perpetuity protection, irrevocability of purpose, and inalienability of property.²¹

Türkiye faced a similar problem. After the fall of the Ottoman Empire, the republican government reorganised *waqf* administration. Rather than abolishing the

¹⁹Civil Code of the Republic of Uzbekistan, Part I (21 December 1995, No. 163-I), Article 39. Available at: <https://lex.uz/en/docs/111189>

²⁰R.D. McChesney, *Waqf in Central Asia: Four Hundred Years in the History of a Muslim Shrine, 1480–1889* (Princeton University Press 1991) 3–30.

system entirely, it created the General Directorate of Foundations (*Vakıflar Genel Müdürlüğü*) in 1924. Today, under Waqf Law No. 5737 of 2008, the Directorate manages approximately 52,000 *waqf* and 18,500 historical buildings, employs around 38,000 people, and holds a 58.5% stake in VakıfBank. It also partnered with the Islamic Development Bank to create Vakıf Katılım, a fully Islamic bank.²² Türkiye proves that a country can rebuild a *waqf* system after a period of legal disruption, and that the restored system can become a productive economic actor. Uzbekistan, which shares a similar heritage and a similar historical break, can follow this model.

2.No legal framework for *sukuk*. Under the current Uzbek Law on the Securities Market (2015), there is no legal category for *sukuk*. If *sukuk* certificates were issued today, Uzbek law would not know what to call them. Are they bonds? Shares? Something else? The law does not say. The 20th International Shariah Scholars Forum held in Tashkent in September 2025 identified this gap as one of the areas needing urgent legislative action.²³ Without clear legislation, Uzbekistan cannot issue sovereign *sukuk*, cannot let companies raise capital through *sukuk*, and cannot access the global *sukuk* market that now exceeds USD 850 billion.

The UK solved this through the Finance Act 2008 (section 157), which gave the Treasury broad authority to raise money through ‘alternative finance arrangements.’ The Government Alternative Finance Arrangements Regulations 2014 provided the specific framework. On 25 June 2014, the UK issued its first sovereign *sukuk*, raising £200 million through an *ijara* structure backed by rental

²²Directorate General of Foundations of the Republic of Türkiye (Vakıflar Genel Müdürlüğü), Turkish Waqf Law No. 5737 of 20 February 2008. Available at: <https://www.vgm.gov.tr>

²³Law of the Republic of Uzbekistan ‘On the Securities Market’ No. ZRU-387 (3 June 2015). See also Central Bank of the Republic of Uzbekistan, ‘20th International Shariah Scholars Forum in Islamic Finance (ISSF 2025)’ (September 2025). Available at: https://cbu.uz/en/press_center/news/2835877/

income from government properties. Demand was 11.5 times the amount offered. A second *sukuk* of £500 million followed in 2021.²⁴ The UK did not pretend to have an Islamic legal system. It made small, targeted legislative changes so that *sukuk* could work within its existing law. Luxembourg (Sukuk Law 2014), Hong Kong (2013 amendments), and Kazakhstan (through the Astana International Financial Centre) have taken similar steps. Uzbekistan can do the same.

Conclusion

This article has argued three things. First, Islamic law does contain doctrinal resources for the concept of legal personality. The concepts of *dhimmah* and *ahliyyah*, the institutions of *waqf* and *Bayt al-Mal*, the OIC Fiqh Academy's Resolution No. 65, and the AAOIFI standards all point in the same direction. The concept is not identical to the Western version. It developed differently, in different institutions, through different methods of legal reasoning. But the functional result, a collective entity holding property, making contracts, and bearing obligations in its own right, is recognisable across both traditions.

Second, the comparative analysis shows that the Islamic concept is functionally comparable to its Western equivalents. The *waqf* and the German *Stiftung* serve the same basic purpose. The *Bayt al-Mal* and the public legal entity rest on the same principle. The differences are real (the *Shari'ah* constraint on purpose, the *riba* prohibition, the SSB), but they are differences in application, not in the underlying logic of legal personality.

Third, Uzbekistan faces specific legal problems that have specific solutions.

²⁴Finance Act 2008 (UK), section 157; Government Alternative Finance Arrangements Regulations 2014 (SI 2014/1327) (UK). See also UK Government, 'Government issues first Islamic bond' (25 June 2014). Available at: <https://www.gov.uk/government/news/government-issues-first-islamic-bond>
SJIF: 5.051

Other countries have already solved them. Türkiye rebuilt its *waqf* system. The UK made its financial law work for *sukuk*. None of these reforms requires Uzbekistan to abandon its civil law tradition or its post-Soviet legal framework. Each one builds on what already exists.

The risk, as Watson and Legrand have debated in the legal transplants literature, is that reforms remain formal rather than substantive, new labels without new substance.²⁵ If *murabaha* is treated by courts as just another loan, if *sukuk* are treated as conventional bonds, if the SSB has no real authority, then nothing meaningful has changed. The opportunity, on the other hand, is real. Uzbekistan has a deep Islamic heritage, a functional civil law system, a growing economy, and a government that has committed to Islamic finance as a policy priority. With targeted, well-designed legal reforms, the country can build a framework that serves both its economic needs and the principles of Islamic finance. That combination, practical utility and doctrinal integrity, is what will determine whether Uzbekistan's Islamic finance project succeeds.

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