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The Doctrine of Unforeseen Circumstances and its Impact on the Salam Contract: An Analytical Islamic Jurisprudential Study

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Abstract
This article examines the Islamic jurisprudential doctrine of unforeseen circumstances (naẓariyyat al-ẓurūf al-ṭāriʾah) and its implications for the Salam contract, a deferred-delivery sale whose performance is inherently exposed to changes in prices, supply conditions, production capacity, and access to markets. The study adopts a qualitative doctrinal and analytical approach. It examines classical juristic discussions of calamities (jawāʾiḥ), excuses (aʿdhār), hardship, contractual binding force, and related legal maxims, along with modern jurisprudential treatments and the Islamic Fiqh Council's resolution on unforeseen circumstances and contractual obligations. The analysis argues that the contemporary expression "doctrine of unforeseen circumstances" is not alien to Islamic jurisprudence; rather, it provides a modern conceptual formulation for a body of established juristic principles concerned with removing hardship, preventing harm, achieving justice, and restoring a fair contractual balance. The study further demonstrates that Salam may fall within the scope of this doctrine where performance is deferred, an exceptional and generally unforeseeable event occurs after contracting, its effects cannot reasonably be avoided, and performance becomes exceptionally burdensome without resulting from the debtor's negligence. In such circumstances, judicial or adjudicative intervention may, subject to the applicable Sharīʿah rules and contractual terms, include reasonable adjustment of obligations, temporary suspension or deferment, equitable allocation of exceptional loss, or termination of the unperformed portion of the contract. The article contributes by clarifying the conditions that distinguish genuine hardship from ordinary commercial risk and by proposing a structured framework for applying the doctrine to Salam transactions in contemporary Islamic finance.
Keywords: Unforeseen Circumstances, Salam Contract, Contractual Binding Force, Hardship, Contractual Rebalancing, Jawāʾiḥ, Islamic Commercial Jurisprudence, Force Majeure

Introduction

Contracts occupy a central position in Islamic commercial law. Islamic jurisprudence carefully regulates their formation, validity, effects, and termination, and establishes the general principle that a valid contract binds the parties. This principle protects legitimate expectations, preserves property rights, and promotes transactional stability. However, contractual binding force does not operate in isolation from the higher purposes of Sharīʿah. Where circumstances fundamentally alter the basis on which a deferred obligation was undertaken, Islamic jurisprudence offers a range of doctrines and legal maxims to address hardship and unjust harm.

The tension becomes particularly significant in deferred-performance contracts. A contract may be validly concluded under one set of economic and factual conditions. Still, before performance, the circumstances may change dramatically because of war, epidemic, natural disaster, closure of trade routes, severe scarcity, governmental restrictions, or other extraordinary events. The resulting burden may exceed the ordinary commercial risk the parties contemplated. Contemporary legal scholarship similarly distinguishes ordinary contractual risk from exceptional events that materially disrupt performance, although the precise consequences depend on the governing legal system and contractual provisions (Tan & Tehrani, 2023; Mydin Meera et al., 2021).

The Salam contract is especially relevant to this discussion. Salam is a sale in which the price is paid in advance while the delivery of the specified commodity is deferred to an agreed future date. Its permissibility reflects the needs of market participants, especially producers and traders requiring advance financing. At the same time, the deferred delivery creates exposure to fluctuations in commodity prices, supply, transportation, production, and market access. The contract therefore provides a useful test case for examining how the principle of contractual certainty interacts with the Islamic commitment to justice and the removal of excessive hardship.

The source study on which this article is based identifies the central problem as the possible disruption of the contractual balance in Salam when an unforeseen event occurs after formation and before performance. It emphasises that insisting on the contract's binding nature without qualification may, in exceptional circumstances, impose excessive hardship on the obligated party and undermine the broader objectives of justice and hardship removal in Islamic commercial law.

Recent scholarship confirms that the question remains relevant. Belbia and Ouragh (2021) examined emergency circumstances in Islamic financing contracts during the COVID-19 crisis, while Tan and Tehrani (2023) analysed contractual non-performance, force majeure clauses, and frustration under Malaysian law. More directly, El Habib and Al-Sakhini (2026) have recently compared the effects of unforeseen circumstances on Salam and Istisnāʿ contracts. This article complements this emerging literature by focusing on the doctrinal architecture of the unforeseen-circumstances theory, its cumulative conditions, and the remedial options that may be considered specifically in relation to Salam.

The article therefore asks three principal questions: (1) what is the juristic basis and conceptual meaning of the doctrine of unforeseen circumstances in Islamic commercial law?

(2) What conditions must be satisfied before the doctrine can legitimately affect a binding contractual obligation? Moreover, (3) what consequences may follow when those conditions are satisfied in a Salam contract?

Research Objectives

i. to clarify the concept and juristic basis of the doctrine of unforeseen circumstances in Islamic commercial law;
ii. to identify and analyse the principal conditions governing the application of the doctrine;
iii. to examine the particular vulnerability of Salam contracts to extraordinary changes in circumstances;
iv. to analyse the available mechanisms for restoring contractual balance, including negotiated settlement, deferment, adjustment of obligations, equitable distribution of exceptional loss, and termination of unperformed obligations; and
v. to formulate a structured analytical framework for distinguishing legitimate hardship from ordinary commercial risk in contemporary Salam transactions.

Methodology and Analytical Approach

This qualitative doctrinal study employs an analytical and foundational (taʾṣīlī) approach. The analysis draws primarily on classical and modern Islamic jurisprudential literature cited in the source manuscript, supplemented by contemporary scholarly and institutional materials on unforeseen circumstances, force majeure, and Salam transactions. The study proceeds in three stages. First, it reconstructs the conceptual meaning of unforeseen circumstances and related notions such as hardship, calamity, excuse, and force majeure. Second, it identifies the cumulative conditions that restrict the doctrine's application and preserve the general binding force of contracts. Third, it applies those conditions to Salam and analyses the remedial consequences of a qualifying event.

The study does not claim to establish empirical frequency or economic magnitude of unforeseen events. Its contribution is normative and doctrinal: it clarifies the legal reasoning through which a competent adjudicative authority may determine whether a particular event warrants intervention. This methodological limitation matters because the doctrine is inherently fact-sensitive; the same event may qualify in one contractual setting but not another, depending on its foreseeability, preventability, effect on performance, and the contract's risk allocation.

Conceptual and Juristic Foundations of Unforeseen Circumstances

Meaning of Unforeseen Circumstances

The Arabic expression al-ẓurūf al-ṭāriʾah is composed of ẓurūf, referring broadly to circumstances, conditions, or surrounding states, and ṭāriʾah, referring to something that arises suddenly after not previously existing. Classical Arabic lexicographical works therefore support the general idea of an abnormal or unexpected circumstance that emerges after the original situation has been established (Qalʿajī, 1988; ʿUmar, 2008).

Modern legal jurists generally describe unforeseen circumstances as a general event occurring after the formation of a contract and not reasonably anticipated at the time of contracting, which substantially changes the balance of benefits and burdens in a contract whose performance is deferred. Performance remains possible but becomes excessively burdensome and threatens the obligated party with an exceptional loss (al-Sanhūrī, 2011). This distinction is essential: the doctrine addresses serious hardship, not impossibility.

The Islamic Fiqh Council described the phenomenon as a sudden change in circumstances that significantly affects the equilibrium on which the contracting parties based their calculations of rights and obligations. The source manuscript uses this resolution as an important contemporary juristic articulation of the doctrine. (Islamic Fiqh Council, 2004).

On this basis, the doctrine may be defined as a set of juristic rules and remedial principles addressing exceptional harm arising from a substantial change in the circumstances surrounding a contract, where the change was not reasonably foreseeable or avoidable and has transformed ordinary performance into exceptional hardship. This definition captures the common elements found in the modern legal and Islamic jurisprudential treatments reviewed in the source manuscript (al-Duraynī, 1997; Manṣūr, 1998; Banī Aḥmad, 2006).

The Doctrine as a Contemporary Formulation of Established Islamic Principles

The expression “doctrine of unforeseen circumstances” is modern in terminology, but its normative foundations are not foreign to Islamic jurisprudence. The source manuscript situates the doctrine within a wider network of juristic principles concerning the removal of hardship, prevention of harm, protection of rights, and the achievement of justice. Classical discussions of calamities affecting leased property, agricultural produce, and other contractual benefits illustrate how jurists recognised that circumstances beyond a party’s control could alter the legal consequences of an otherwise binding relationship (al-Anṣārī, n.d.; Mālik, n.d.; al-Shīrāzī, n.d.).

The doctrine should therefore not be understood as a general licence to escape contractual obligations. Its function is corrective rather than permissive. It becomes relevant only when a legally significant external event disturbs the contractual equilibrium to an extent that ordinary commercial risk can no longer explain. This restrictive character protects the fundamental principle of pacta sunt servanda while allowing the law to respond to exceptional injustice.

This balance is also consistent with contemporary Islamic finance practice. During the COVID-19 pandemic, studies of Islamic financing contracts documented the use of deferment and restructuring measures to mitigate hardship, while emphasising that relief should be connected to the actual effects of the extraordinary event rather than applied automatically (Belbia & Ouragh, 2021).

Scope and Conditions of Application

The source manuscript organises the conditions around three central elements: a deferred contractual obligation, the occurrence of an extraordinary circumstance affecting the contract, and exceptional hardship caused by that circumstance. (Mhanna, source manuscript).

Deferred Performance

First, a contractual obligation must be deferred long enough for circumstances to change between formation and performance. The delay must arise from the nature of the contract rather than from the debtor's negligence or intentional procrastination. The source manuscript notes that not every obligation on both sides must be deferred; it is sufficient that a relevant obligation remains to be performed after the extraordinary event and is materially affected by it.

This condition explains why Salam is a natural candidate for analysis. The buyer pays the Salam price in advance, while the seller (al-muslam ilayh) remains responsible for delivering the specified goods at the agreed time. The temporal gap between payment and delivery creates the factual space in which an extraordinary event may arise. The contemporary relevance of deferred-delivery transactions is also reflected in AAOIFI's issuance of FAS 52 in 2025, which revised the accounting treatment of Salam and Istisnāʿ transactions in response to the continuing development of Islamic finance practice (AAOIFI, 2025).

An Extraordinary Event

The event must be exceptional rather than an ordinary fluctuation of commerce. The source manuscript identifies examples such as pandemics, floods, locust infestations, earthquakes, wars, revolutions, and severe governmental restrictions. Ordinary changes in market prices or normal supply and demand cycles do not, by themselves, satisfy the threshold.

The requirement of exceptional character serves an important policy function. If every adverse market movement were treated as an unforeseen circumstance, contractual certainty would be seriously weakened. The doctrine therefore operates at the boundary between normal risk, which commercial parties are expected to bear, and exceptional disruption that fundamentally alters the economic conditions underlying performance.

The source also discusses whether "generality" is an independent condition. The manuscript adopts the stronger view that generality is ordinarily more consistent with fairness and contractual stability, while recognising that classical juristic doctrines of excuses and calamities sometimes accommodated events affecting an individual party. Contemporary comparative research likewise shows that Islamic jurisprudence may be more flexible than some civil-law formulations in considering individual circumstances (El Habib & Al-Sakhini, 2026).

Unforeseeability and Lack of Preventability

The event must not have been reasonably foreseeable at the time of contracting, or at least its legally relevant consequences must not have been reasonably anticipated. A trader who enters a transaction while a clearly impending war has already threatened the relevant trade route cannot ordinarily invoke the doctrine merely because the anticipated risk later materialises. By contrast, a sudden closure, unexpected embargo, epidemic, or natural disaster may satisfy the requirement where it could not reasonably have been anticipated.
The source manuscript discusses both objective and subjective approaches to foreseeability. The objective approach asks what a reasonable person in the circumstances could have anticipated; the subjective approach gives greater weight to the contracting party's

knowledge and circumstances. The objective approach is preferable for commercial certainty because it reduces arbitrary differences between similarly situated parties.

Unavoidability is equally important. A party must take reasonable measures to prevent or mitigate the event's consequences. A debtor who could reasonably have reduced the loss but failed to do so should not benefit from the doctrine. This reflects the Islamic requirement of good faith and the juristic insistence that avoidable harm should not be transferred to the counterparty.

Exceptional Hardship and Disproportionate Loss
Exceptional hardship is the core of the doctrine. The extraordinary event must materially affect the contractual obligation so that performance becomes unusually burdensome and threatens the debtor with a grave and abnormal loss. Mere inconvenience, a modest reduction in profit, or an ordinary increase in production cost is insufficient.

The source manuscript discusses objective and subjective approaches to measuring hardship and prefers an objective assessment connected to the affected obligation and the contractual transaction. This approach prevents a party's general wealth or poverty from becoming the sole determinant of whether performance is excessively burdensome. The relevant question is whether the event creates an exceptional burden in relation to the transaction.

The distinction between hardship and impossibility is crucial. Where performance remains possible but exceptionally burdensome, the issue falls within the logic of unforeseen circumstances. Where performance becomes objectively impossible, the case may instead fall within the rules of force majeure or impossibility. The source manuscript expressly notes that an unforeseen circumstance may develop into force majeure if its effects render performance impossible (Mashʿal, 2022). Contemporary Malaysian legal scholarship similarly distinguishes hardship, contractual force majeure, and frustration based on the contract's wording and the event's legal consequences (Tan & Tehrani, 2023).

Absence of Fault or Negligence
The debtor must not have caused or materially contributed to the hardship. If the exceptional burden resulted from the party's own negligence, delay, poor planning, or failure to take reasonable protective measures, the doctrine should not operate as a shield against the consequences of that fault. This requirement is particularly significant in commercial Salam transactions because the seller should ordinarily bear risks within the normal sphere of production and procurement.

The cumulative character of these conditions is essential. An event is not sufficient merely because it is unusual; nor is serious financial loss sufficient by itself. The event, its timing, foreseeability, avoidability, causal connection with performance, and degree of hardship must be considered together.

The Salam Contract and its Exposure to Unforeseen Circumstances
Salam is a distinctive deferred-delivery sale permitted by Sharīʿah to meet genuine commercial and productive needs. The price is paid at the time of contracting, while the commodity is delivered later according to specified characteristics and an agreed delivery

date. The arrangement therefore transfers liquidity to the seller before delivery and creates a future performance obligation.

This structure produces both economic utility and legal sensitivity. The seller may use the advance payment for production or procurement, but the seller remains exposed to changes in commodity prices, input costs, transport, supply, and market access. The buyer, on the other hand, has paid in advance and has a legitimate expectation that the specified commodity will be delivered at the agreed time.

The contractual balance may therefore be disturbed in several ways. First, production facilities may close or be disrupted, preventing the seller from producing the contracted goods. Second, border closures or disruption of land, sea, or air routes may prevent procurement or delivery. Third, severe raw-material scarcity may dramatically increase production costs. Fourth, emergency restrictions may affect the seller’s ability to access the market or the buyer’s ability to receive the goods. The source manuscript identifies these mechanisms, especially disruptions to production, trade routes, and raw-material availability during major crises. (Mhanna, source manuscript).

Legal Consequences for Salam Contracts

Where the cumulative conditions are satisfied, the objective is not to reward non-performance but to restore justice while preserving the contractual relationship as far as reasonably possible. The source manuscript identifies three main routes: implementing agreed contractual mechanisms, amicable settlement, and judicial intervention. (Mhanna, source manuscript).

Contractual Clauses and Agreed Risk Allocation

The first step is to examine the contract itself. Modern contracts may contain clauses addressing force majeure, extraordinary events, notice requirements, suspension, alternative performance, renegotiation, or termination. Such clauses should be respected, provided their operation does not contradict mandatory Sharīʿah principles or unlawfully deprive a party of rights recognised by applicable law.

This contractual-first approach is consistent with contemporary contract scholarship. The legal effect of a force majeure clause depends substantially on its wording, while the absence of such a clause may shift the dispute toward doctrines such as frustration or statutory relief (Tan & Tehrani, 2023). In Islamic finance, contractual drafting should therefore anticipate extraordinary disruption without transforming every commercial fluctuation into a ground for avoidance.

Amicable Settlement and Renegotiation

Where the contract does not adequately address the event, negotiated settlement may be the most efficient way to reduce harm. The parties may agree to defer delivery, divide performance into stages, substitute a permissible performance mechanism, modify timing, or terminate the unperformed portion by mutual consent. The source manuscript strongly emphasises amicable negotiation as a practical way to prevent unnecessary litigation.

Renegotiation is particularly appropriate where the event is temporary. If the seller’s inability to deliver is likely to disappear within a reasonable period and the buyer will not suffer disproportionate harm from delay, temporary deferment may preserve the transaction while avoiding an unnecessary termination. The approach also aligns with the broader Islamic objective of reconciliation and avoidance of needless dispute.

Judicial or Adjudicative Intervention

If negotiation fails, a competent court or adjudicative authority may assess whether the doctrinal conditions are met. The authority should not intervene merely because one party has become less profitable. It should examine the contractual terms, the nature and timing of the event, foreseeability, preventability, causal connection, the degree of hardship, and both parties' interests.

The source manuscript identifies several possible remedial mechanisms. First, the counter-performance may be adjusted so that the exceptional burden is shared rather than imposed entirely on the debtor. Second, the debtor’s obligation may be reduced to a reasonable level where the extraordinary event has materially restricted the available supply or increased the cost of performance. Third, performance may be temporarily suspended or deferred where the event is expected to disappear, and delay will not cause serious harm to the counterparty. Fourth, the unperformed portion of the contract may be terminated where continuation would produce substantial injustice and no reasonable adjustment can restore balance.

Adjustment of the Price or Counter-Performance

The source manuscript discusses the possibility that a court may increase the counter-performance owed by the creditor when an extraordinary event causes a sharp and abnormal increase in the seller’s costs. The underlying idea is not to transfer the entire loss to the buyer but to remove the exceptional component of the burden through a balanced adjustment.

Any such remedy requires particular caution in Salam because the price is an essential element of the contract and was paid in advance. A contemporary application cannot simply disregard the classical requirements of Salam. Rather, any adjustment must be examined within the permissible mechanisms of Islamic law, the parties’ agreement, the governing jurisdiction, and the event's specific legal characterisation. The purpose is to restore justice, not to rewrite a valid transaction without a juristic basis retrospectively.

Where adjustment is not acceptable to the buyer, the source manuscript indicates that termination may become an alternative. The contemporary comparative literature similarly reports that unforeseen circumstances may lead, depending on the circumstances and legal mechanism, to modification, rescission, recovery of capital, or allocation of loss (El Habib & Al-Sakhini, 2026).

Reduction of the Debtor’s Obligation

A second remedial option is to reduce the burden imposed on the debtor to the level that remains reasonably performable. This may be relevant where a sudden event has drastically restricted supply or made the original scale of performance exceptionally burdensome. The reduction should correspond to the effect of the extraordinary event and should cease when the exceptional circumstances cease, unless a different legal consequence has been established.

The principle is therefore temporary and proportionate rather than permanent. It seeks to restore the contractual relationship to a workable equilibrium without allowing the debtor to retain an unjustified benefit after the emergency has ended.

Suspension and Deferment

Where the event is temporary and likely to end within a reasonable period, suspension or deferment may be preferable to termination. This remedy preserves the contract while recognising that immediate performance would impose an exceptional burden. The source manuscript gives the example of temporary price disruption in construction and other deferred obligations, where a short postponement may remove hardship without seriously prejudicing the counterparty.

For Salam, deferment must be handled carefully because the delivery date is a core contractual specification. The recognised legal framework should therefore justify any judicial or negotiated extension and should not become an open-ended alteration that defeats the essential structure of the transaction.

Termination of the Unperformed Portion

Termination is the most intrusive remedy and should therefore be considered only where continuation cannot reasonably restore justice. The source manuscript states that a court may terminate the unperformed portion where that course is more beneficial and less harmful in the circumstances, while also recognising the need for fair compensation where appropriate.

This remedial hierarchy is significant. It suggests that Islamic jurisprudential reasoning should prefer preservation and proportional adjustment where possible, while allowing termination when the contractual relationship can no longer operate fairly.

Distinguishing Unforeseen Circumstances from Force Majeure

A major analytical contribution of the doctrine is distinguishing hardship from impossibility. An unforeseen circumstance generally leaves performance possible but exceptionally burdensome. Force majeure, by contrast, concerns an event whose effects may render performance objectively impossible or legally unavailable. The consequences may therefore differ.

The distinction prevents the misuse of force majeure as a label for every adverse economic event. A pandemic, war, or border closure does not automatically terminate a contract. Its legal effect depends on the particular obligation and the extent to which the event actually prevents performance. Contemporary Malaysian scholarship reaches a similar conclusion: a force majeure clause does not automatically establish relief; its precise wording and the event's factual consequences remain decisive (Tan & Tehrani, 2023).

Islamic jurisprudence requires the same caution. If a seller can still procure the Salam goods through commercially reasonable means, although at a significantly higher cost, the case is more appropriately analysed as hardship. If the goods cannot be obtained or delivered at all because the relevant market or route has become inaccessible, the case may move toward impossibility and force majeure. The legal response should follow the event's actual effect rather than its name.

A Structured Framework for Applying the Doctrine to Salam

Based on the source manuscript and the contemporary literature reviewed, the following analytical sequence may assist courts, Sharīʿah advisers, arbitrators, and contracting parties:

a. Contract identification: confirm that the transaction is a valid Salam contract and identify the exact deferred obligation, delivery date, commodity specifications, and contractual allocation of risk.
b. Temporal connection: establish that the relevant event occurred after formation and before completion of the affected obligation.
c. Exceptional character: determine whether the event is outside normal commercial fluctuation and ordinary business risk.
d. Foreseeability: assess whether the event, or its legally relevant consequences, could reasonably have been anticipated when the contract was concluded.
e. Preventability and mitigation: determine whether the affected party could reasonably have prevented or reduced the consequences.
f. Causation: establish that the extraordinary event materially caused the increased burden or inability to perform.
g. Exceptional hardship: determine whether performance has become excessively burdensome or threatens an abnormal and grave loss rather than merely reducing expected profit.
h. Absence of fault: exclude cases where the debtor’s negligence, delay, or misconduct materially caused the hardship.
i. Remedial proportionality: prefer contractual mechanisms, negotiated adjustment, or temporary deferment where they can restore fairness; consider judicial adjustment or termination only where necessary.
j. Sharīʿah compliance: ensure that any modification remains consistent with the essential rules governing Salam and does not create a prohibited transaction.

Contemporary Relevance and Policy Implications

The COVID-19 pandemic demonstrated the practical importance of contractual doctrines that can respond to systemic disruption. Production shutdowns, border closures, transport restrictions, input scarcity, and rapid price changes affected deferred obligations across multiple sectors. Studies of Islamic finance during the pandemic showed the practical use of payment deferment and restructuring as responses to hardship (Belbia & Ouragh, 2021). Comparative legal research likewise showed that force majeure and frustration mechanisms became central to disputes over contractual non-performance (Mydin Meera et al., 2021; Tan & Tehrani, 2023).

For contemporary Islamic finance, the issue extends beyond pandemics. Climate-related disasters, geopolitical conflict, export restrictions, sanctions, supply-chain disruption, cyber-related infrastructure failure, and abrupt regulatory intervention may all affect the feasibility and cost of deferred performance. Salam transactions, particularly those linked to agricultural commodities and cross-border supply chains, may face these risks.

The issuance of AAOIFI FAS 52 in 2025, which replaces the earlier accounting standards for Salam and Istisnāʿ, also shows the ongoing institutional development of deferred-delivery contracts within Islamic finance. Although an accounting standard does not itself determine the jurisprudential test for hardship, the development confirms that Salam remains a live and evolving commercial instrument requiring clear governance and documentation (AAOIFI, 2025).

Accordingly, contemporary Salam documentation should identify relevant risk categories, notice requirements, evidence of disruption, mitigation duties, renegotiation procedures, and permissible mechanisms for temporary suspension or termination. Such drafting can reduce uncertainty without undermining the underlying Sharīʿah principles of fairness and risk allocation.

Discussion

This study finds that contractual binding force and contractual rebalancing are not necessarily contradictory in Islamic jurisprudence. The binding nature of a valid contract remains the starting point; intervention is an exception justified by a demonstrable transformation in the factual circumstances of performance. The doctrine therefore functions as a controlled corrective mechanism.

Three principles emerge. First, certainty remains the default. Parties should not be allowed to invoke ordinary market volatility, reduced profitability, or predictable commercial risk to escape Salam obligations. Second, justice requires attention to exceptional hardship. Where an external event fundamentally alters the basis of performance and imposes an abnormal burden, rigid insistence on the original obligation may itself become inconsistent with the objectives of Sharīʿah. Third, proportionality governs the remedy. The appropriate response should be the least disruptive measure that restores a fair balance.

This approach also helps clarify the relationship between Islamic jurisprudence and modern contractual doctrines. The Islamic framework does not require an exact conceptual equivalence between naẓariyyat al-ẓurūf al-ṭāriʾah and force majeure, hardship, or frustration in civil law. Instead, assess similarities and differences functionally. Islamic jurisprudence has its own conceptual resources, jawāʾiḥ, aʿdhār, rafʿ al-ḥaraj, ḍarar, and considerations of maṣlaḥah—that can explain why a valid obligation may have a different legal consequence after an extraordinary change in circumstances.

The most important limitation is that the doctrine cannot be applied mechanically. The source manuscript itself emphasises that the nature of the event, time, place, contract, and degree of hardship must all be considered. (Mhanna, source manuscript).

This fact-sensitive character is also why recent research calls for stronger judicial and institutional mechanisms for handling unforeseen circumstances in deferred-delivery contracts (El Habib & Al-Sakhini, 2026). The present analysis contributes by organising the conditions and remedies into a coherent sequence that can serve as a doctrinal decision framework.

Conclusion

a. The doctrine of unforeseen circumstances is not foreign to Islamic jurisprudence. Although the expression is modern, its substance is rooted in established juristic principles on removing hardship, preventing harm, protecting rights, and achieving justice.
b. The binding force of valid contracts remains the general rule, but it is not absolute where a legally recognised extraordinary event fundamentally disrupts contractual equilibrium and produces exceptional hardship.
c. Salam is particularly exposed to unforeseen circumstances because its structure separates payment from delivery and therefore creates a period in which prices, supply, production capacity, transport, and market access may change.
d. Application of the doctrine requires cumulative safeguards: deferred performance, an extraordinary event, reasonable unforeseeability, lack of effective preventability, a causal connection with performance, exceptional hardship, and absence of fault or negligence by the affected party.
e. The preferred response is proportionate rather than automatic termination. Contractual clauses and negotiated settlement should be considered first, followed where necessary by temporary deferment, reasonable adjustment of obligations, equitable distribution of exceptional loss, or termination of the unperformed portion.
f. In Salam transactions, any adjustment must remain within the essential Sharīʿah requirements governing the contract. Judicial or adjudicative intervention should therefore be evidence-based, proportionate, and directed toward restoring justice rather than rewriting ordinary commercial risk.

Recommendations

a. Islamic financial institutions and commercial parties using Salam should incorporate carefully drafted extraordinary-event and risk-management clauses that identify notice, mitigation, negotiation, deferment, and termination procedures.
b. Sharīʿah boards and Islamic finance regulators should develop practical guidance on distinguishing ordinary market risk, hardship, and force majeure in deferred-delivery contracts.
c. Courts, arbitrators, and mediators should adopt a structured evidentiary approach addressing foreseeability, preventability, causation, and exceptional hardship before granting relief.
d. Future research should undertake comparative madhhab analysis of jawāʾiḥ and aʿdhār doctrines and examine their relationship with contemporary hardship and force majeure doctrines.
e. Empirical research should examine how Islamic financial institutions currently manage Salam-related disruption and whether contractual documentation adequately allocates extraordinary risks.

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