THE PRINCIPAL OF CONFORMITY WITH THE LAW (SEHAT) IN ACCORDANCE WITH TRADITIONE OF CIVIL LAW AND LEX MERCATORI

Farhad Iranpour*
Associate Professor, Faculty of Law and Political Sciences, University of Tehran, Iran

Sepideh Mansouri
LLM of Commercial and Financial Law, International Campus of Kish, University of Tehran, Iran
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Abstract
The principal of conformity with the law (Sehat) is recognized in Iranian legal system. In this article, at first we analyze this principle in respect with the Iranian jurisprudence in order to demonstrate the legal evaluation. Subsequently, we analyses the realistical approach of the jurist in lex mercatori in such regards with due respect to the doctrine and arbitration awards in international commercial law.

Keywords
Islamic jurisprudence, Lex mercatoria, principal of conformity with the law (Sehat), relaistical approcahe.

* Corresponding Author Fax: +98 21 66409595 Email: iranpour@ut.ac.ir
ANALYSIS OF NEGLIGENCE RULE EFFICIENCY IN IRANIAN LAW

Hasan Badini*
Associate Professor, Faculty of Law and Political Sciences, University of Tehran, Tehran, Iran

Reza Khodkar
PhD Student Privacy Law, University of Judicial and Sciences Administrative Services, Tehran, Iran

Parviz Rahmati
LLM in Law and Economics, Allameh Tabatabae’i University, Tehran, Iran
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Abstract
One of the main concerns of lawyers is that on what basis a responsible person to be identified. Legal thought with respect to its defined objectives represented different bases. It looks that in judicial system of Iran the “Negligence Rule” make the primary responsibility. In unilateral and bilateral events the “Negligence Rule” leads to performance, although it should be noted that in cases which the level of activity could be effective in making damage this rule does not work. Since the legislator doesn’t have any attention to “Negligence Rule” at different levels of activity, this won’t result in substantial performance. We suggested that in these cases, including producing dangerous goods the strict liability be ruling.

Keywords
efficiency, game theories, negligence rule, standard economic theory of production.

* Corresponding Author Email: hbadini@ut.ac.ir Fax: +98 21 66409595
CONTEMPLATION ON THE CONCEPT AND SCOPE OF ARTICLE 963 OF THE CIVIL CODE AND ITS INCLUSION FOR THE EFFECTS OF MARRIAGE OF AN IRANIAN FEMALE WITH A FOREIGN MALE

Mustafa Daneshpajooh*  
Assistant Professor, Department of Law, Research Institute of Hawzah and University, Iran  
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Abstract  
Article 963 of the Civil Code considers the personal and financial relations of spouses who are not the nationals of the same government as subject to the concerned government of husband. In the first glance, primitive emergence of this article also includes an Iranian woman who has married a foreign man and considers her as subject to the law of the concerned government of her foreign husband. However, logic of the law and procedure of interpretation and accuracy in the relation of the aforesaid article and articles 6 and 7 of the Civil Code as well as the general logic of legislation (consolidation and generalization of jurisdiction and governance of domestic law and legal support of legislator for its nationals) not only hesitates on the emergence and inclusion of this case, but also denies that. The present paper explains this hesitation and denial and finally provides the legislator with a corrective suggestion which if fulfilled; it will remove the dust of hesitation from the law.

Keywords  
allocation, binding, jurisdiction of court venue law, jurisdiction of national law, jurisdiction of husband law, principle of obligation.

Email: mdanesh@rihu.ac.ir    Fax: +98 25 32803090
THE LIMITATIONS OF TRADITIONAL INTELLECTUAL PROPERTY RIGHTS PROTECTION FOR FASHION DESIGNS

Seyyed Hasan Shobeiri Zanjani
Assistant Professor, Faculty of Law, University of Qom, Iran

Hasan Mahdavian
M.A., Faculty of Law, University of Qom, Iran
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Abstract
Intellectual property law is premised traditionally on the protection of inventions (patent), literary and artistic property (copyright), and signs (trademark); and Sui generis rights, such as design law, stand outside this framework and are constantly questioned and re-shaped the fashion industry is an intellectual Property (iP) intensive industry, continually generating and commercially exploiting creative ideas and innovations, but the question of whether fashion designers can protect their works under the intellectual property laws of their country is hotly debated. Unlike the industries like music, film, video game, and book publishing, the fashion industry’s principal creative element— its apparel designs— doesn’t protect by traditional IPR completely and hence it’s created a sui generis IPR for protection of designers.

Keywords
fashion designs, Sui generis intellectual property rights, traditional intellectual property rights.

* Corresponding Author: Email: ShShobeiri@yahoo.com Fax: +98 25 32850959
COMPARISON BETWEEN TORT AND REGULATION FROM THE EFFICIENCY POINT

Seyed Mohammad Tabatabaei Nejad*  
Assistant Professor, Faculty of Law & Political Science, University of Tehran, Iran

Mohammad Hasan Sadeghi Moghadam  
Professor, Faculty of Law & Political Science, University of Tehran, Iran  
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Abstract
It is a basic question in law with the aim to regulate conducts that how tort and regulatory law could have interaction to reach that aim. In this regard it is clear that they have fundamental difference in both goals and functions and the choice of law makers is to evaluate them differently and internally. But they could be seen in a coherent system of conduct regulation, in which the tort and regulation are comprised from the points of efficiency. In this evaluation costs, public awareness, international harmonization, etc. shall be considered. In conclusion we reach the point that it is necessary for our system of law that it is not a strict thing to say tort is better than regulation or vice versa but we need a coherent system that in each case we shall choose between these two.

Keywords
cost, efficiency, regulation, tort.

* Corresponding Author: Email: sm.tabatabaei@ut.ac.ir Fax: +98 21 66409595
CIVIL LIABILITY OF STATE FOR EXPROPRIATION OF REAL ESTATES SITUATED IN THE RECONSTRUCTION PLANS (WITH AN EMPHASISE ON COURTS JUDGMENTS)

Azizallah Fahimi*
Associate Professor, Private Law Department, Law Campus, Qom University, Iran

Mohammad Bafahm
MSc. Student of Private Law, Qom University, Iran
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Abstract
Among state’s duties are constructing roads, water pipelines and the likes. In order to do these the state sometimes has to utilize private owners’ lands. This research, we seek to investigate this questions that is there any possibility of liability for usurpation for state if these formalities are not be observed? Some researchers have questioned the possibility of this liability. In this research after explaining these formalities and analyzing courts judgments, we conclude that disregarding the legal formalities will amount to civil liability for state.

Keywords
appropriation, legal formalities, possession, real estate’s supply, usurpation.

* Corresponding Author    Email: aziz.fahimi@yahoo.com    Fax: +98 25 36650255
EXAMINING THE LEGAL PROTECTION OF IDEA
(COMPARATIVE STUDY ON THE LEGAL SYSTEMS OF
IRAN AND FRANCE)

Saeed Mohseni*
Associate Professor, Law Department, Ferdowsi University of Mashhad, Iran

Sayyed Mohammad Mahdi Qabuli Dorafshan
Associate Professor, Law Department, Ferdowsi University of Mashhad, Iran
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Abstract
Idea is the starting point for the creation of intellectual works and the development of science and technology and art. In many cases, the birth of Idea requires a lot of study and suffering. So the question is whether the Idea has capability of legal support? The present article with descriptive and analytic method and by using comparative studies in the legal systems of France and Iran, With investigating these questions in different legal areas, has concluded that in both the legal systems, the mere Idea due to the lack of external form as literary and artistic works, industrial designs, trademarks, geographical indications, as well as computer software is not supportable. But the Idea of the brand and also an idea that has industrial applications can, if there are the legal requirements, benefit from legal protection for brand or invention. Also, if there are circumstances, it will have civil responsibilities for the aggressor of the idea. In French law it is possible to protect the idea by insidious competition claim and an idea that formed part of the contents of the database, is subject to special legal protections.

Keywords
civil responsibility, idea, intellectual property, insidious competition.

* Corresponding Author: Email: s-mohseni@um.ac.ir, Fax: +98 51 38829584
STUDY OF LATE PAYMENT DAMAGES OF DEBT RESULTING FROM CIVIL LIABILITY WITH EMPHASIS ON CASE LAW

Hassan Mohseni*
Assistant Professor of Civil Procedure & Enforcement Law, Faculty of Law & Political Science, University of Tehran, Iran

Abbas Mirshekeri
Assistant Professor of Law, Faculty of Human Sciences, University of Science and Culture, Iran

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Abstract
Whether for the delay in payment of debt resulting from civil liability can be demand late payment damages? In answering this question, answer of some of lawyers is Positive. They believed that late payment damages is Accrued to debt resulting from civil liability. Because, these creditors are more deserving of protection. Also, the word of debt in Article 522 of code civil procedure is absolute. Conversely, a number of legal experts have a different view. They rely to appearance and base of Article 522. Among these perspectives, there is a third view. According to this view, the date of the final judgment of the court is beginning of calculation of late payment damages. Because by this judgment, Elements of civil liability is proved and debt for creating factors of damage. In this article, we study and evaluate these perspectives with emphasis on case law.

Keywords
case law, civil liability, debt, late payment damages.

* Corresponding Author: Email: hmohtseny@ut.ac.ir Fax: +98 21 66409595
PRINCIPAL'S OBLIGATION TO UNAUTHORIZED MARRIAGE IN IMAMIEJ FIGH AND CIVIL LAW

Sam Mohammadi*
Associate Professor, Private Law Department, Faculty of Law and Political Science, University of Mazandaran, Iran

Mohammad Farzanegan
PhD Candidate of Private Law, Faculty of Law and Political Science, University of Mazandaran, Iran
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Abstract
According to civil law and Shia Fiqh, unauthorization is a phenomenon involved in various contracts including marriage. Studies on unauthorized transactions tried to reveal the conditions of authorization, principal and authorized marriage so that principal plays no role here or is influenced. Fiqh and law textbooks indicate that role of principal's intention fades gradually and are largely hidden. Different reasons such as necessity for loyalty to contract and kashf moreover, committed the principal to this precarious contract and its negative effects until the other party clarify the unauthorized contract. Investigating civil law and faqis' ideas, this study aims to show whether principal is supposed to commit the unauthorized marriage or he can dissolve the unauthorized marriage, or paves the way for dissolution of the unauthorized marriage by another marriage.

Keywords
Kashf-o-Naghl obligation, marriage, principal, unauthorized.

* Corresponding Author : Email:sammhmd@yahoo.com Fax: +98 11 25342102