

CUSTOMS FORMALITIES RELATED LIABILITY OF INTERNATIONAL CARRIERS

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Abstract

In general, the liability of carriers towards the cargo owner arises out of an undue carriage of goods. Nevertheless, the carrier might be obliged to perform the customs formalities of the cargo and the liability arising out of that. This has been hardly considered by the authors in the field of transportation regulations. This article tries to answer the question that whether the carrier has any obligation for performance of customs formalities in case of no specification in the contract; if the answer is true, what are the conditions for this kind of carrier liability, so that whether it is covered by the international carriage conventions or it is subject to particular regulations out of the conventions. Finally, this aspect of carrier's liability has been analyzed in the international conventions for carriage of goods and the Iranian Customs Act as well.

Keywords: Carrier, Liability, Customs formalities, Cargo, Broker.

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ANALYSIS OF THE RECOGNITION AND ENFORCEMENT OF FOREIGN INTELLECTUAL PROPERTY JUDGMENTS IN THE LIGHT OF THE SPECIAL NATURE OF THESE PROPERTIES

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Abstract

The recognition and enforcement of foreign intellectual property judgments as the result of other substantive issues in conflict of law (jurisdiction and governing law) are in these cases. Due to the increasing international trade relations, especially with respect to intellectual property rights, the number of such claims has increased, and the need to internationally recognize and enforce the judgments issued in this area is felt in different ways. Given the background of the issue in international documents, this issue is not examined long ago, and recently some non-binding legal principles have been adopted by some foreign law institutes. Iranian law is silent in this regard and only the general provisions of Iran's civil law and the law on the enforcement of civil judgments can be invoked. The main issue of this article is that given the specific nature of intellectual property rights, it is necessary to address is the existing system sufficient to recognize and enforce the judgments of foreign intellectual property, or does it require the formulation of specific rules in this regard?

Keywords: Foreign judgments, Conflict of laws, Intellectual property rights, Recognition and enforcement, Public interest.

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APPROACH OF IRAN'S LEGAL SYSTEM TO KEY INDICATORS OF CORPORATE GOVERNANCE OF JOINT STOCK COMPANIES

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Abstract

Corporate Governance may vary from one country to another, given the approach that different legal systems have for managing corporate companies. The "English-American" and "European" models are among the most important approaches to the Corporate Governance System. There are serious differences between them due to the kind of "Key Indicators of the Corporate Governance System"; such as the proportions in ownership and control, and the amount of Costs of Agency, disclosure rate and the amount of attention paid to the rights of minority shareholders. The approach of each legal system to these indicators leads to a different corporate governance system for them. In Iran's law, there is no special statutory law regarding the "corporate governance system" and different regulations relevant to Joint Stock Companies, such as the "Legislative Bill of 1968". The regulations and guidelines for the "Corporate Governance System" illustrate the weak approach of the Iranian legal system to all of these key indicators. Hence, it is necessary to take legislative measures based on the native-based approach, based on these characteristics, especially in terms of ownership separation from control, reduction of representation costs, and strong protection of the rights of minority shareholders.

Keywords: Corporate governance, Key indicators, Ownership and control, Cost of Agency, Joint stock companies, Iran's law.

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RETURNING OF POSSESSION WILL IN IRANIAN CIVIL LAW, A COMPARATIVE STUDY IN EGYPTIAN AND ENGLISH LAW

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Abstract

Apart from the fact that “Possession Will” is known as unilateral or bilateral contract, it is also accepted as returnable or revocable by testator in the statutes of the most states. But the views are different to the fact that the testator has the right to forfeit his returning of possession will from himself or not. In Iranian Civil Law and Imamiyeh Jurisprudence, if this clause included from within the will, it would be certainly unreliable. If this right of forfeiting is concluded with within bilateral contract some lawyers know it null because it is contrary to spiritual law and some of them know it correct. In Egyptian Law, this clause is null. In English Law because returning of the possession will is counted as essential elements of that, it is not merely right and to take consideration of forfeiting this right is impossible. This research is to describe this right and present a comparative study with Egyptian and English Law to earn common basis and choice view that has most conformity parallel to statute and Imamiyeh Jurisprudence.

Keywords: Possession wills, Bilateral contract, Returning of will, Forfeited of right, Bilateral or unilateral contract.

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EVADE THE NET OF LAW USING TRANSACTION

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Abstract

Transaction in Imamieh jurisprudence and Iran law has the unique status that is provided for the realization of the supremacy of will and liberty of contract. So, it distinguishes Iran law from other countries. The legislator seem to have allowed persons by using their transactions to evade mandatory law, which has been anticipated about other transactions, while at the same time reaching out to their intended purposes. From this point of view, the discussion of "evade the net of law using transaction" is introduced. At first glance, the acceptance of this article is simply not possible, since it confronts the law with annulations doubt, but the Imamieh jurisprudence and the Iran law have accepted the principle. The present study examines and analyzes the applicability of the transaction as a means of evading the net of law and the scope of this feature.

Keywords: Breach of law, Supremacy of will, Legitimate, Iran law.

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ASSESSMENT OF ACCESS TO JUSTICE IN THE CIVIL JUSTICE SYSTEM OF IRAN

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Abstract

Access to justice should be outlined as one of the fundamental principles in the Civil Procedure. It is an indicator of efficient judiciary and a measure of social justice. Access to justice can be analyzed in terms of physical access and qualitative access. The purpose of physical access is to perform the proper allocation of facilities and resources through the distribution system of qualifications, the systematic development of physical spaces, and so on. By the way, this can make the judicial system more efficient. Qualitative access is a fair trial within a reasonable time, without undue delay, with standard costs, and ultimately achieving the appropriate compensation and enforceability of the result. In other words, if access to justice is inexpensive and quality of procedure and outcome is at a high level, it can be said that the justice is more readily accessible. Real users try to diagnose accessible justice to examine their experiences of costs and quality. The measurement is done by examining three features of dispute settlement: costs, quality of procedure and quality of outcome. Therefore, this research emphasizes on user-centric approach and the findings are presented based on interviews with actual judicial users. The research method is descriptive-analytical with a library and documents survey that referred to the survey population through questionnaires. The results of the data showed that quality of procedure and quality of outcome is desirable from perspective of users but costs (such as financial costs, opportunity costs and intangible costs) are undesirable. Effective and efficient services require investment in time and quality to reduce the length of the proceedings and provide high quality sentences. The usual cost to people can guarantee the access to justice in Iran's civil justice system.

Keywords: Access to justice, Civil justice system of Iran, Costs, Quality of procedure, Quality of outcome.

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RIGHT TO INFORMATION IN IRAN'S "INDUSTRIAL PROPERTY REGISTRATION SYSTEM"

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Abstract

The goal of any industrial property registration system is to provide a tool for "accurate information" and "protection". These two functions of the industrial property registration system are called "the right to information". Various systems exist in the initial stage of registration, as well as the recording of subsequent changes and transfers of industrial property rights which raises the questions: which one of these systems can better provide this right? And how much does Iran's industrial property registration system provide the "right to information"? In response to these questions, the present study, with a comparative and analytical approach, considers the two aspects of the right: "collecting information and facts" and "information retrieval". Thus, this can be concluded that the two systems of initial registration are "declarative" and "examination" systems. The aforementioned system can provide better access to information. If we accept the broad concept of registration, the right of access to information will be provided in secondary registration systems. Iran's registration system has provided the right to information on "gathering information and facts" by accepting the examination registration system at the initial registration stage and the impossibility system at the secondary registration stage. The second aspect of this right, "information retrieval" is provided in the law, but the issues of its implementation in the executive code are not well considered.

Keywords: Data recovery, Declarative registration system, Intellectual property law, Substantive examination registration system, Registration law, Transaction security.

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A COMPARATIVE ANALYSIS OF CRYPTO-CURRENCIES IN THE LIGHT OF JURISPRUDENCE AND LAW

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Abstract

The entrance of crypto-currencies as the creature of information technology into the field of exchanges and the growing acceptance of them has led to a wide range of reactions from absolute prohibition to full permission. The present paper examines the crypto-currencies in the context of jurisprudence, law and comparative study to shed light on some of the ambiguities. Since these currencies are related to wealth, financial resources and generally the economy of the society, then their study in the context of individual jurisprudence and private law is not sufficient but it is necessary to analyze relevant issues in the light of public law and government jurisprudence. The present study, with the aforesaid approach and with regard to disadvantages and threats as well as advantages and opportunities of the currencies does not recommend the policy of absolute allowance or rejection. Instead, this study suggests that we can use the experience of other countries to establish the required policy and legislation. The application of different countries' approaches to the creation of a national crypto-currency under present international conditions can be useful for Iran to confront with restrictions or sanctions. It is better to determine necessary backing for this currency, such as oil and gas production, to make their investment and use more attractive and reliable.

Keywords: Crypto-currency, Money, Blockchain, Private law, Public law, Individual jurisprudence, Government jurisprudence.

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THE RIGHT OF PUBLICITY

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Abstract

People are not always looking for loneliness; sometimes they are looking to use their identity to advertise a commercial product. Against this kind of utilization, they can receive an appropriate advantage. In the US legal system the term of "The Right of Publicity " is used to identify this right. Based on this right, the person has the right to use your identity, e.g., name, likeness, picture, voice, persona, etc., as it wants. It can be protected against the unauthorized commercial appropriation of an individual's identity. There is no unanimous approach to the right of publicity in the countries of the EU. However, legal writers in these countries are trying to use other institutions for support from the commercial value of a personality. Our legal system is the same.

Keywords: Damage, Identity, Image, Personality, Privacy.

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CONSIDER THE CONTENT AND BASICS OF SELF-ENFORCING AGREEMENTS IN CONTRACT LAW

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Abstract

Traditionally, the state has been regarded as the sole actor guaranteeing contract performance. Self-enforcing agreements are based on private order which assures contractual performance by extra-legal governance and ex-ante mechanisms. This article considers the meaning of self-enforcing agreements and outlines the basics. The reasoning behind self-enforcing agreements is found on legal functionalism and psychological approach of contract law. This viewpoint emphasizes on the opportunism of parties and seeks to assure contracts imposing on cost exit and relational governance. The findings of this study confirm the benefits of non-governmental performance, which improves the legal decentralism. These agreements are not well known in Iran and this topic is still a relatively unstudied area. As a result, it is safe to say the lack of requirements of self-enforcing agreements to constitute them as complementary and not substitute.

Keywords: Binding, Contractual enforcement mechanisms, Contractual governance, Exchange governance, Game theory, Management of contract.

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