

Unconsidered Criteria in the Process of Amendments to the Iranian Civil Code

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1. Round 1

1.1. Reviewer 1

Reviewer:

In the introduction, the phrase "Nevertheless, regardless of the reason behind its enactment, a law remains valid and enforceable unless a superior law is introduced to repeal or replace the existing provisions." needs clarification. Given the constitutional framework, what constitutes a "superior law" in Iran? Explicitly mentioning the legislative hierarchy would enhance clarity.

The discussion of legal reform states that "reforms may be introduced to align the law with social, economic, cultural, and technological developments." Provide a precise definition of "legal reform" and distinguish between reform types (incremental vs. radical) in the Iranian context.

The discussion of absolute contradiction in amendments relies heavily on constitutional provisions but does not discuss cases where contradictions are not absolute but rather involve a reinterpretation of Sharia principles. Consider adding an example where reinterpretation rather than direct contradiction was a factor in legal amendments.

The section on contractual capacity (Article 211) lacks engagement with judicial precedents. The discussion would benefit from mentioning specific Iranian court rulings on legal capacity to illustrate how courts have interpreted amendments to Article 1210.

The section on necessity of fulfilling obligations criticizes the amendment to Article 218 but does not clarify whether the reform was influenced by economic policy considerations. Did policymakers argue that permitting debt-evading transactions would benefit economic activity? Addressing this would provide a more balanced analysis.

The statement "European private law principles are built upon four fundamental principles, one of which is the principle of contractual security." needs further elaboration. Specify which legal traditions (French Civil Code? German BGB?) emphasize contractual security, and whether Iran's amendments align with or diverge from these models.

The article argues that "the reformers of the Civil Code did not adhere to this criterion." What evidence supports this claim? If legal scholars or policymakers criticized the amendment process as rushed, citing their opinions would add credibility.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The introduction discusses legal reforms broadly but does not clearly delineate the scope of this study. You state: "However, these amendments have not rendered the revised provisions more effective; rather, they have made their application impractical." Provide a more specific example of this impracticality in contract law to support the assertion.

The section on Legal Reform relies on Katouzian (2006) and Shahbazi Nia (2004) but does not sufficiently engage with more recent literature. Given the dynamic nature of legal amendments, referencing more contemporary sources (2015–2024) would strengthen the discussion.

In the discussion on contractual capacity, you argue that the Iranian Civil Code conflates puberty and maturity. However, the analysis primarily cites Quranic sources. Consider integrating comparative legal perspectives (e.g., Egypt, Saudi Arabia) to show how other Sharia-based legal systems differentiate these concepts.

The argument that "the amendments have made their application impractical" is asserted but not substantiated with economic consequences. Has the instability of contractual relationships led to measurable effects, such as increased litigation or commercial uncertainty? If data exists, incorporating it would strengthen the claim.

The article uses both "legal presumptions" and "evidentiary presumptions". Are these terms synonymous in Iranian jurisprudence? If not, clarify their distinction and ensure consistency throughout the text.

The claim that "the recognition of transactions made with the intent to evade debt repayment has, in effect, rendered the enforcement of contractual obligations ineffective." is significant but not empirically supported. Has there been a rise in such transactions? If possible, reference legal cases or government reports.

The discussion on uniformity states that "Article 218 bis of the Civil Code recognizes transactions intended to evade debt as valid, whereas Article 21 of the Law on the Enforcement of Financial Convictions criminalizes such transactions." How have courts resolved this contradiction? Judicial interpretations should be included.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.