

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

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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), realistical approache.

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ANALYSIS OF NEGLIGENCE RULE EFFICIENCY IN IRANIAN LAW

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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.

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**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**

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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.

THE LIMITATIONS OF TRADITIONAL INTELLECTUAL PROPERTY RIGHTS PROTECTION FOR FASHION DESIGNS

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Abstract

Intellectual property law is premised traditionally on the protection of inventions (patent), literary and artistic property (copyright), and signs (trade mark); 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.

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COMPARISON BETWEEN TORT AND REGULATION FROM THE EFFICIENCY POINT

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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.

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**CIVIL LIABILITY OF STATE FOR EXPROPRIATION OF
REAL ESTATES SITUATED IN THE RECONSTRUCTION
PLANS (WITH AN EMPHASISE ON COURTS JUDGMENTS)**

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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.

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EXAMINING THE LEGAL PROTECTION OF IDEA (COMPARATIVE STUDY ON THE LEGAL SYSTEMS OF IRAN AND FRANCE)

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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.

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STUDY OF LATE PAYMENT DAMAGES OF DEBT RESULTING FROM CIVIL LIABILITY WITH EMPHASIS ON CASE LAW

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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.

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PRINCIPAL'S OBLIGATION TO UNAUTHORIZED MARRIAGE IN IMAMIEJ FIGH AND CIVIL LAW

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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 faqihs' 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, unauthorization.

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