

OPEN PEER REVIEW

The Issue of Penalty Clauses in Iranian and U.S. Law

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1. Round 1

1.1. Reviewer 1

Reviewer:

In the introduction, the statement "In contemporary times, the agreements outlined in contracts often result in unequal conditions for the parties involved" requires further elaboration. Consider providing specific examples or citing relevant studies to substantiate the claim of "unequal conditions" to strengthen the argument.

The section on "floating prices" under U.S. law is well-stated but would benefit from an example illustrating how such prices are determined in practice.

The concept of "contractual balance" is introduced in U.S. law but remains vague. Consider defining the theory more concretely and discussing its implications with examples.

While the article draws parallels between Iranian and U.S. legal systems, it does not highlight the underlying philosophical differences. A brief discussion on these distinctions would enrich the comparative analysis.

The article frequently references doctrines like "necessity of mutual consent" without elaboration. Adding definitions and judicial interpretations would improve clarity for readers unfamiliar with Iranian law.

The impact of public policy on the enforcement or modification of penalty clauses is mentioned but not explored. This is a critical area that warrants further discussion with examples from both jurisdictions.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The introduction references Article 221 of the Iranian Civil Code but does not explain its practical application or historical significance. Including a short discussion on its judicial interpretations or landmark cases would provide depth.

The statement, "Under the principle of contractual freedom, the legislator recognizes the agreement of the parties," could benefit from further discussion on the limitations imposed by public order and morality, with examples from case law.

The transition from the discussion on penalty clauses to the principle of relativity of contracts feels abrupt. A linking paragraph explaining the connection between the two would improve the narrative flow.

While Shiite jurisprudence is referenced, the discussion on "unauthorized transactions" is minimal. Consider expanding this section with specific examples or prominent texts to bolster its relevance.

The comparison between Iranian and U.S. law on penalty clauses is insightful but lacks depth. Expanding on the doctrine of "consideration" and its practical implications in U.S. law would make the comparison more robust.

The section on "duty to mitigate damages" mentions the rule but does not provide practical examples or case studies. Including a case where this rule was pivotal would enhance its comprehensibility.

The concept of contingent contracts, while briefly explained, could benefit from a detailed example or a comparison with similar contracts under Iranian law.

The article briefly mentions "modern commercial needs and advancements" as factors influencing the relativity of contracts. Expanding on the socio-cultural impacts of these advancements in different jurisdictions would add depth.

The section referencing Sheikh Ansari's "Makasib" is underdeveloped. Consider discussing its influence on modern Iranian contract law to provide a historical perspective.

The mention of Article 230's role in validating penalty clauses could be enhanced with a discussion of landmark cases where this article was pivotal.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.