

OPEN PEER REVIEW

Potential Breach in the United Nations Convention on Contracts for the International Sale of Goods (CISG - 1980) and Iranian Law

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1. Round 1

1.1. Reviewer 1

Reviewer:

In the introduction, you mention, "the theory of potential breach has been accepted in the common law system" but "has not been acknowledged in Iranian law." However, later sections suggest that Iranian law contains implicit provisions that resemble this theory. This contrast should be clarified to avoid misinterpretation.

The discussion on explicit vs. implicit breach should be expanded. While explicit anticipatory breach is relatively clear, implicit breach requires a more structured explanation with examples from case law.

The article states that "Iranian law traditionally does not recognize anticipatory breach." However, Iranian contract law allows termination in some cases of financial incapacity (Article 380 of the Civil Code). Should this be considered an implicit recognition of anticipatory breach?

There is little mention of Iranian judicial precedents on this issue. Have there been any cases where courts have implicitly applied anticipatory breach principles? If so, their inclusion would strengthen the argument.

While the argument that La Darrar (No Harm) supports anticipatory breach is persuasive, it would be beneficial to include more legal scholarship or judicial interpretations affirming this stance.

The article does not explicitly discuss how the burden of proof for anticipatory breach is determined. Under CISG, does the promisee need to show a high probability of breach, or is a reasonable suspicion sufficient?

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The discussion of the principle of *pacta sunt servanda* (introduction) should address counterarguments more explicitly, particularly how the theory of anticipatory breach does not necessarily contradict this principle but rather serves as a protective mechanism for contracting parties.

The section on "Definition of Contract in Iranian Law and the Implications of Accepting the Theory of Anticipatory Breach" discusses the CISG extensively. However, it would be beneficial to compare it with other major international legal frameworks, such as the UNIDROIT Principles or the Principles of European Contract Law.

The section discussing the right to suspend performance under Iranian law (Articles 237 and 238 of the Commercial Code) should clarify whether this right applies only in commercial contracts or also extends to civil contracts.

The discussion of CISG should highlight how anticipatory breach principles serve risk allocation purposes in international trade. How does this compare with Iranian legal traditions on risk allocation in contracts?

Some critics argue that recognizing anticipatory breach could lead to abuse, where a party claims an unjustified breach to escape obligations. How does CISG or Iranian law prevent such misuse?

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.