




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

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After the victory of the Islamic Revolution, the Iranian Civil Code underwent amendments in the field of contract law to align with Islamic legal principles. These amendments addressed three significant issues: the presumption of legal capacity and the age of contractual capacity, transactions intended to evade debt payment, and compensation for delayed payment of monetary obligations. However, these amendments have not been particularly effective. Using an analytical and descriptive method, this article demonstrates that crucial criteria, such as the definitive contradiction of previous laws with Islamic legal principles, seriousness, uniformity, and the anticipation of the consequences of the amended law, were not considered. As a result, not only did these amendments fail to strengthen contractual relationships, but they also made them more unstable.

Keywords: *Presumption of contractual capacity, obligation to fulfill commitments, compensation for delayed payment, conformity with Islamic legal principles*

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1. Introduction

Law is fundamentally enacted to establish order and facilitate social life. For instance, in some cases, laws are initially legislated to regulate future processes, as exemplified by Iran's Electronic Commerce Law, which was enacted before electronic transactions became widely prevalent. In other cases, laws are proposed or amended to address existing issues. 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. Until such changes occur, compliance with the law is mandatory to maintain social order.

The Iranian Civil Code was enacted in 1935 and underwent amendments after the Islamic Revolution. Some of these amendments aimed to align the legal framework with Islamic principles and Sharia. Over recent decades, gradual reforms have been introduced in certain provisions of the Civil Code, mainly to address deficiencies and enhance legal efficiency. Issues such as the protection of women's and children's rights, modifications in marriage and divorce laws, and matters related to inheritance and property ownership have been focal points of these amendments.

In the realm of contract law, amendments have primarily focused on the presumption of legal capacity and contractual competency, regulations concerning transactions intended to evade debt obligations, and provisions related to compensation for delayed payment



of monetary debts. However, these amendments have not rendered the revised provisions more effective; rather, they have made their application impractical. Therefore, this article aims to examine the criteria that should have been considered in the amendments to the Civil Code, particularly in balancing the dual influences of customary practice and Sharia. This is critical because Iranian legislators are simultaneously influenced by religious legal principles and the demands of social customs.

2. Amendment of the Civil Code

Legal reform refers to the modification, updating, and improvement of existing laws and regulations within a country's legal system. These amendments may be introduced to align the law with social, economic, cultural, and technological developments, ensuring that the legal framework effectively addresses contemporary needs and challenges while maintaining efficiency and justice. Civil law reforms can take various forms, including partial amendments that involve minor and limited changes to specific legal provisions to eliminate ambiguities, rectify minor deficiencies, or harmonize laws with other legal frameworks. Such modifications may focus on resolving legal uncertainties, correcting minor errors, or adapting certain provisions to comply with other existing regulations (Katouzian, 2006). Comprehensive amendments, on the other hand, entail substantial and fundamental changes to the structure and content of the law. These reforms may result in the revision of an entire section of the law or even its complete rewriting. Additionally, new provisions may be incorporated into the legal framework to address emerging issues or resolve novel legal complexities, while outdated or obsolete legal provisions may be repealed to eliminate contradictions with contemporary legal principles and ensure the continued relevance and effectiveness of the legal system (Shahbazinia, 2004).

Regardless of the type of amendment, any modification to enacted laws is considered a reform, with its primary objectives including the elimination of ambiguities and contradictions within the legal framework. Legal ambiguities and contradictions can lead to multiple interpretations, resulting in inconsistency and legal fragmentation. Another critical objective of legal reform is ensuring the alignment of laws with social transformations. Adapting legal provisions to evolving

societal and cultural conditions—such as shifts in family structures, gender relations, and children's rights—ensures the protection of individual rights and contributes to social stability. Additionally, economic developments necessitate continuous legal adaptation, as ensuring the compatibility of laws with financial market expansion, e-commerce, and modern contractual frameworks enhances legal efficiency and economic growth.

In the amendments to civil law, the primary goal of legislators has been to align laws with Islamic legal principles. Consequently, the criterion of conformity with Sharia has been a key consideration in legal reforms, with legislative changes being primarily examined through this lens.

3. Absolute Contradiction

One of the fundamental criteria for legal reform is the absolute contradiction of existing laws with Islamic legal provisions. Following the victory of the Islamic Revolution and the enactment of the Constitution, Article 4 of the Constitution explicitly stated that no law or regulation should contradict Islamic principles. Consequently, ordinary laws that contradict Islamic legal norms lose their validity since, from a legal logic standpoint, no ordinary law should contravene constitutional provisions. The Guardian Council, whose primary duty is to safeguard Islamic legal principles and ensure that legislative enactments comply with Sharia, has exercised this authority in various instances. For example, in its opinion No. 3845 dated July 3, 1985, the Guardian Council declared Articles 719 to 723 of the former Code of Civil Procedure to be in violation of Sharia. Similarly, on January 4, 1989, in response to an inquiry from the Supreme Judicial Council, the Guardian Council ruled that all provisions and regulations permitting the imposition of additional payments as compensation for delayed payments—which, in essence, involve charging creditors an amount exceeding the original debt—were invalid and non-Sharia-compliant. Specifically, the Council declared certain sections of Article 34, as well as clauses 4 and 5 of Article 36 and Article 27 of the Enforcement Regulations of the Registration Law, void because they permitted the collection of amounts exceeding a debtor's original debt as compensation for delayed payment.

According to Islamic jurisprudence, any mandatory additional payment beyond the principal debt—under any terminology such as compensation for delay, late penalty, or interest—is considered *riba* (usury) and is prohibited (Safaei, 2008). Therefore, the Guardian Council invalidated any legal provisions mandating additional payments beyond the original debt.

However, with regard to amendments concerning transactional laws—particularly those related to the legal capacity of parties and the fulfillment of contractual obligations—it is necessary to examine whether these provisions were in absolute contradiction with Sharia. If they were not in conflict with Islamic principles and, in fact, conformed to them, then the legislative amendments may have inadvertently introduced inconsistencies, causing further judicial complexities and disputes. Consequently, each of these two areas of reform requires separate scrutiny.

3.1. Contractual Capacity

One of the essential conditions for the validity of any contract is the legal capacity of the contracting parties. According to Article 211 of the Civil Code, the capacity to transact is a primary requirement for the validity of a contract (Eskini, 2016). However, considering the natural progression of human social life, which moves from weakness to strength and from intellectual incapacity to maturity, Article 958 of the Civil Code establishes an initial presumption of incapacity or lack of capacity to exercise rights. This is because maturity is acquired through the socialization process and is not innate. Moreover, maturity is defined as a mental and intellectual state in which an individual can exercise and fulfill their rights and obligations according to rational standards. Unlike legal capacity, which is determined by legal statutes, maturity is subject to the actual intellectual and cognitive status of each individual. As a result, it cannot be arbitrarily determined by law that a person is mature. On the other hand, if the recognition of an individual's maturity were entirely subject to judicial determination, it would create practical complications. Thus, while maturity is necessary for the validity of transactions, it cannot be universally presumed by law, nor can it always be adjudicated on a case-by-case basis. Consequently, the legal system has adopted age as an evidentiary presumption of maturity, determining the age at which most individuals attain intellectual

maturity. Those who experience early or delayed maturity must seek judicial confirmation regarding their legal status. Therefore, the two legal conditions of puberty and maturity, whose presence or absence has legal implications, are presumed in most individuals through legal presumptions.

In the amendments to the Civil Code, the distinction between puberty and maturity, as well as the evidentiary nature of legal presumptions, particularly regarding Articles 1209 and 1210 of the Civil Code, has been overlooked. The provisions related to the presumption of maturity have been drafted in a manner that does not accurately reflect the reality of most individuals' cognitive and intellectual development. This issue requires detailed examination. The term "presumption" in legal terminology, as defined in Article 1321 of the Civil Code, refers to the inference of a fact based on circumstantial evidence or judicial recognition. This article states that "a presumption consists of circumstances that, by virtue of legal provision or judicial determination, serve as proof of a fact." Therefore, the validity of a legal presumption is based on its correspondence to reality, as it represents existing factual circumstances (Fakhr Modarres, 1977), and on legislative recognition as a basis for legal determinations. Evidently, a legal presumption is only reliable if it aligns with factual reality.

Before the amendments to the Civil Code in 1982, the legal presumption of maturity in Iran was recognized at the age of 18. Article 1209 of the Civil Code stated that "anyone who has not yet reached the full age of eighteen is considered legally immature. However, if a person's maturity is established in court after the age of fifteen, they shall be released from guardianship." Additionally, Article 1210 of the Civil Code stipulated that "no person may be declared legally incompetent due to insanity or immaturity after reaching the age of puberty unless their lack of maturity or insanity is proven." In the 1982 amendments, the content of Article 1209 was removed from the Civil Code, and Article 1210 was modified to state that "no person may be declared legally incompetent due to insanity or immaturity after reaching the age of puberty unless their lack of maturity or insanity is proven."

The first provision added to Article 1210 established the age of puberty as fifteen lunar years for boys and nine lunar years for girls, while the second provision

stipulated that "the property of a minor who has reached puberty may only be transferred to them if their maturity is proven." Although the revision of Articles 1209 and 1210 was necessary to separate the presumption of maturity from the presumption of puberty—since puberty, in temporal terms, precedes maturity and represents the activation of sexual and reproductive instincts—the amendments failed to adequately distinguish between these two legal concepts. In the Quran, Surah An-Nisa (4:6) explicitly differentiates between puberty and maturity, requiring that orphans be tested upon reaching puberty to determine their level of maturity before entrusting them with their property. Given that the reformers of the Civil Code aimed to align the law with Islamic legal principles, it was expected that they would clearly separate these two presumptions. However, instead of achieving this distinction, they maintained the previous legislative approach by equating the age of puberty with the age of maturity in a way that contradicts legal reasoning. The text of Article 1210, which repeats the language of the previous version, effectively treats puberty as a presumption of maturity, while its first provision establishes the legal age of puberty. This creates a legal contradiction: according to the main article and its first provision, a boy who reaches fifteen lunar years and a girl who reaches nine lunar years are presumed to be mature and thus legally competent unless proven otherwise. However, according to the second provision, their property may only be transferred to them if their maturity is explicitly proven, which is inconsistent with the presumption established in the article itself.

This inconsistency led to confusion among judges, prompting them to seek clarification from the Judicial Consultation Commission of the Supreme Judicial Council. The commission responded by stating that "Article 1210 pertains to the removal of legal incapacity, whereas its second provision relates to the administration of a minor's property, which remains under the control of a guardian until the minor's maturity is established after puberty." Although this interpretation attempted to reconcile the contradiction between the article and its second provision, it effectively divided minors' property into two categories: first, assets already in their possession, which they could manage upon reaching puberty, and second, assets held by a guardian, which could only be transferred to them

upon proof of maturity. However, this interpretation invalidated the presumption of puberty as an indicator of maturity, as it failed to specify how long a guardian was required to retain control over the minor's property before transferring it (Safaei, 1990; Shahidi, 1994).

Due to the legal inconsistencies arising from these amendments, the Supreme Court issued Unifying Opinion No. 30 on December 24, 1985, stating that "Article 1210 of the amended Civil Code of December 29, 1982, generally presumes that minors who reach puberty are also mature, unless proven otherwise. However, in financial matters, as specified in the second provision of the article, maturity must be explicitly established. In other words, a minor who reaches puberty and proves their maturity may independently manage property acquired before puberty, but without proof of maturity, they are prohibited from such transactions. Therefore, the appointment of a guardian to manage the financial affairs of individuals lacking a legal guardian remains necessary after puberty and until maturity is proven" (Shahbazinia, 2004).

Although this ruling effectively invalidated the presumption of puberty as an indicator of maturity, it remains problematic in several ways. First, all Islamic legal scholars unanimously agree that maturity is not required for non-financial matters such as marriage and divorce (Vahdani Far, 2017). Second, maturity is fundamentally defined as the ability to make rational financial decisions, making it intrinsically tied to financial transactions (Mirabdulfattah, 1997, p. 686). Third, Iranian law does not specify an alternative age as a legal presumption of maturity. If a guardian is appointed for an individual after puberty, until what age does their guardianship remain in effect? Some scholars argue that the removal of Article 1209 of the Civil Code should not be interpreted as repealing the legal presumption of maturity at age 18, as legislators may have simply eliminated redundant provisions without intending to change the legal standard (Fakhr Modarres, 1977).

The previous single-article law concerning contractual maturity was skillfully drafted, as it effectively distinguished financial transactions, which require maturity, from non-financial transactions, which only require puberty. Furthermore, it set the age of maturity for both men and women at 18 years, aligning with the reality that women, if not reaching maturity later than

men, certainly do not reach it earlier. However, given that the main motivation behind the amendment to the Civil Code was to modify the presumption of maturity, it is difficult to argue that the previous 18-year standard remains valid. The addition of the two provisions to Article 1210 and subsequent legal rulings demonstrate that treating puberty as a presumption of maturity lacks a solid legal and factual basis. Consequently, Article 1210 of the Civil Code should be revised to clearly define the legal presumption of maturity and establish a maximum age for judicial confirmation of maturity, ensuring both legal clarity and the prevention of unnecessary litigation.

3.2. *Necessity of Fulfilling Obligations*

Another amendment that contradicts the principle of certainty and disrupts the fulfillment of contractual obligations is the revision of Article 218 of the Civil Code, which recognizes transactions intended to evade debt repayment as valid. It is evident that every obligation is binding, and as a consequence, legal avenues for evading its enforcement must be blocked. European private law principles are built upon four fundamental principles, one of which is the principle of contractual security. This principle necessitates that a contracting party fulfills their obligations, and the legal system should not recognize lawful means of escaping contractual duties (Grami & Foroughi, 2015). Some scholars argue that legal reforms should not jeopardize stability and legal security in the market. Changes must be implemented gradually and with careful planning to ensure justice and fairness in transactions while preventing abuse and discrimination. Particularly in transactions between parties with unequal bargaining power, the law must protect the weaker party. Reforms should be practical and effective, achieving their intended objectives, as unnecessary and complex regulations can increase costs and reduce efficiency (Shahbazinia, 2004).

In this instance, the legal amendment not only fails to uphold the principle of certainty but also introduces ambiguity into the legal framework. Article 218 of the Civil Code declares sham transactions null and void, although such transactions are inherently void due to the lack of intent to create legal relations, as stipulated in Articles 192 and 194 of the Civil Code. Therefore, this provision was unnecessary. It appears that the reformers mistakenly equated transactions intended to evade debt repayment with sham transactions, whereas a sham

transaction is not a genuine contract but rather a form of document fabrication. In contrast, a transaction intended to evade debt repayment is a real transaction in which the debtor deliberately puts themselves in a state of insolvency to seek legal protection under insolvency laws and avoid fulfilling their obligations (Fakhr Modarres, 1977).

It seems that the reformers of Article 218 of the Civil Code, relying on the principle of ownership authority and Article 30 of the Civil Code, upheld the validity of transactions intended to evade debt repayment. However, since the principle of *La Darar* (no harm) takes precedence over the principle of ownership authority, such transactions are unlawful and invalid. Some scholars argue that the application of the ownership authority principle is contingent on the legal and legitimate right of an owner to dispose of their property without interference (Vahdani Far, 2017). Since harmful dispositions are inherently illegitimate, other scholars assert that the legislator has invalidated the transactions of debtors who do not possess assets beyond their debts to protect the interests of creditors (Grami & Foroughi, 2015). Furthermore, harmful transactions are deemed illegitimate and fall outside the scope of the principle of contract validity, even if they take the form of a settlement contract, which is generally recognized as valid under explicit legal provisions, including Article 754 of the Civil Code. The rationale for invalidating such settlements is drawn from the legal analogy with narrations prohibiting the sale of grapes for wine production (Safaei, 1990, 2008).

Therefore, in certain jurisprudential opinions, the validity of a debtor's transactions before a declaration of bankruptcy is contingent upon the absence of intent to evade debt repayment and deprive creditors of their rights. A transaction made with the intent to evade debt falls outside the scope of legal validity, even if the debtor has little hope of acquiring future assets (Katouzian, 2006). Since contemporary jurisprudential perspectives recognize the *La Darar* principle as prevailing over all rules affirming contract validity (Eskini, 2016), the legitimacy of harmful transactions is negated. The legal system prohibits causing harm to others, even if the act falls within one's right to property ownership (Shahbazinia, 2004). Consequently, harmful transactions are legally and religiously invalid (Eskini, 2016).

Considering the La Darar principle and established jurisprudential opinions, transactions intended to evade debt repayment are unlawful because they lead to the deprivation of creditors' rights. Legal reforms should aim to protect the rights of all contracting parties, particularly the weaker party, by ensuring stronger enforcement mechanisms for obligations, establishing effective and fair dispute resolution mechanisms such as arbitration and mediation, balancing power between contractual parties, and preventing the abuse of dominant positions. Additionally, ethical considerations and fairness in transactions should be emphasized (Vahdani Far, 2017). However, instead of safeguarding creditors' rights, the legal amendment unjustly relieves the debtor of their obligation. Although the reformers of the Civil Code sought to align legal provisions with Islamic principles, they failed to adhere to the principle of certainty in ensuring the compliance of legal reforms with Islamic legal standards, resulting in practical difficulties in enforcing the law.

4. Seriousness

Another criterion for legal reform is seriousness. Seriousness in this context means that legislative amendments should not be rushed or implemented hastily but should involve thorough deliberation and exhaustive efforts to develop better and fairer legal provisions. This includes conducting comprehensive examinations of existing legal problems and needs, identifying weaknesses, ambiguities, contradictions, and inefficiencies in current laws, researching the foundations of legal provisions, analyzing judicial rulings, consulting expert opinions, and assessing the extent to which the law aligns with contemporary social, economic, and technological realities. Comparative legal studies of contract laws in other jurisdictions are also essential (Safai, 2008, p. 99).

Moreover, in accordance with the seriousness criterion, legal reforms must be drafted in a manner that is clear, precise, and comprehensible to prevent multiple interpretations. They should be consistent with related laws, particularly commercial and criminal laws, to avoid contradictions. However, the reformers of the Civil Code did not adhere to this criterion, as evidenced by the fact that while Article 218 bis of the Civil Code recognizes transactions intended to evade debt as valid, Article 21 of the Law on the Enforcement of Financial Convictions

criminalizes such transactions. Similarly, Article 1210 of the Civil Code considers the age of puberty as an evidentiary presumption of maturity, whereas several other legal provisions, including the 2020 Law on the Protection of Children and Adolescents, afford legal protections to individuals under the age of 18. Additionally, the 2002 Law on the Protection of Children and Adolescents classifies individuals under 18 as legally protected persons, and Article 9 of the 2013 Law on the Protection of Orphaned or Neglected Children extends legal protection to those under the age of 16. The enactment of provisions contradicting the amendments to the Civil Code suggests that the reformers did not exercise the necessary seriousness in drafting the law, necessitating further revisions.

Furthermore, concerning interest and late payment penalties, which were prohibited under Islamic law due to the prohibition of *riba* (usury), the legislator modeled legal provisions after Western legal systems that distinguish between interest and statutory compensation (Safaei, 1990). As a result, these financial penalties have been legitimized in the banking system under the labels of profit and late payment fines. However, profit refers to surplus revenue at the conclusion of a business activity after deducting expenses and initial capital, whereas interest and late payment penalties are additional amounts charged on the principal debt based on the parties' agreement (Fakhr Modarres, 1977). Consequently, banking contracts such as installment sales, *mudaraba*, lease-to-own agreements, and *joa'lah*, which banks neither intend nor have the capacity to enforce, indicate that the legislator lacked genuine intent in legal reforms. Instead, superficial legal amendments were made to present the changes as Islamic in nature, while in practice, *riba* continues to exist under the guise of bank profit or late payment penalties.

5. Uniformity

Legal amendments must be comprehensive and consistent, ensuring that under identical circumstances and for the same subject matter, the law does not provide multiple and conflicting rulings. However, for instance, the amendments concerning late payment compensation after the revolution have undergone numerous fluctuations. Legal provisions regarding the permissibility of receiving late payment compensation

were repeatedly deemed contrary to Islamic law by the jurists of the Guardian Council. Nevertheless, in the *Law on the Addition of a Note to Article 2 of the Law on the Amendment of Certain Provisions of the Check Issuance Law*, enacted on June 1, 1997, by the Expediency Discernment Council, and its interpretative law enacted on December 12, 1998, this issue was recognized specifically for checks as a commercial instrument based on a different rationale from previous rulings. Additionally, the *Code of Civil Procedure for General and Revolutionary Courts*, enacted on April 10, 2000, extended the ruling of the Expediency Discernment Council, which was initially limited to checks, to include all creditors under Article 522. In these cases, late payment compensation could only be awarded through judicial rulings and under prescribed conditions, preventing creditors from unilaterally calculating and collecting such compensation. Accordingly, the Mashhad City Council's resolution authorizing the municipality to unilaterally charge such compensation without a judicial order was annulled by the Administrative Justice Court. The Guardian Council, in reviewing the complaint against this resolution, not only found it legally invalid but also deemed it religiously impermissible. It concluded that any resolution determined to be contrary to Islamic law must be nullified and, in accordance with Article 13 of the *Law on the Establishment and Procedure of the Administrative Justice Court*, its nullification has retroactive effect.

Despite these legal and religious rulings, the General Assembly of the Supreme Court, disregarding these precedents, issued Unifying Opinion No. 805 on January 5, 2021, allowing parties to contractually agree on the amount of late payment compensation under the guise of liquidated damages (penalty clause). It extended the application of Article 230 of the Civil Code—originally concerning damages for non-performance of non-monetary obligations—to monetary obligations as well. The ruling stated: "The determination of a contractual penalty for late fulfillment of monetary obligations falls within the broad scope of Article 230 of the Civil Code and the final clause of Article 522 of the *Code of Civil Procedure for General and Revolutionary Courts* (2000). Given Article 6 of the same law, the agreed contractual penalty is valid and legally unproblematic, even if it exceeds the officially declared inflation rate, provided that it does not violate mandatory financial regulations.

Consequently, the ruling of the Mazandaran Province Court of Appeals, Branch 25, insofar as it aligns with this interpretation, is deemed correct and legal. According to Article 471 of the *Code of Criminal Procedure* (2013, with subsequent amendments), this ruling is binding on all courts and judicial or non-judicial authorities in similar cases."

Although this ruling lacks validity from the perspectives of Islamic jurisprudence and statutory legal principles, as any additional payment beyond the principal debt, by agreement or obligation, constitutes usury (*riba*) and is prohibited (Sadr, 1980, p. 164), it also contradicts positive law. According to Note 2 of Article 515 of the Code of Civil Procedure, which states that "losses resulting from lost profits are not recoverable, and late payment compensation is only recoverable in legally prescribed cases," the default position is the illegality of monetary compensation, and such compensation is only permitted where explicitly provided by law. Furthermore, under Clause 1 of Article 14 of the Monetary and Banking Law, the determination of the official discount rate and loan interest rates, which may vary based on the type of loan or financial instrument, is within the exclusive authority of the Central Bank, and private agreements cannot override this regulation. These responsibilities have been assigned to the Supreme Banking Council under Clauses 9 and 10 of Article 8 of the Central Bank Law (2023), which states: "9. Decision-making on setting ceilings for deposit interest rates and financial facilities based on contracts with predetermined returns. 10. Decision-making on fees for interest-free loans, equivalent to the cost of providing such facilities." Therefore, under general legal principles, any payment exceeding the principal debt is prohibited unless explicitly permitted by law, such as in Article 522 of the Code of Civil Procedure. Additionally, under the Monetary and Banking Law, determining interest and financial returns falls exclusively within the Central Bank's jurisdiction. However, the issue here is not just the legality of the ruling but rather the lack of uniformity and consistency in legal amendments, where the legislature has enacted contradictory and discriminatory reforms that have confused even the highest judicial authorities, resulting in a ruling that contradicts both the purpose of legal reforms and statutory provisions.

As a result, had the principle of uniformity and comprehensiveness been observed in legal reforms, such inconsistencies and contradictions would not have arisen, and the intended legal amendments would not have failed. Even statutory provisions allowing late payment compensation contradict Islamic legal principles, which were supposed to be the foundation of the reforms. Accordingly, those who believe in the legislative authority of the Supreme Leader have also limited it, asserting that the Supreme Leader cannot declare usury lawful, permit fraudulent and deceitful transactions, alter inheritance laws, or annul legitimate property ownership (Sadr, 1996, p. 287). From this perspective, permitting late payment compensation violates two fundamental legal principles: first, the prohibition of usury (*riba*), and second, the expropriation of the debtor's property, which exceeds the scope of governmental authority. The Quran explicitly prohibits any increase beyond the principal debt in exchange for time, regardless of the amount, categorizing it as usury and impermissible (Fakhr Modarres, 1977).

Therefore, if the legislature considers interest and late payment compensation as unlawful, it should have declared all forms of monetary compensation illegal, following the principle of uniformity. Similar to foreign legal systems, where late payment compensation exceeding the statutory banking interest rate is deemed usurious and impermissible, Iranian law should have upheld a consistent and comprehensive stance rather than enacting conflicting and ambiguous amendments.

5.1. *Predicting Consequences*

Laws are enacted for the purpose of enforcement, and the implementation of any law inevitably has consequences for the legal relationships of individuals within society. According to the principle of predicting consequences, legislators must assess the potential effects that the enforcement of a given law will have on legal relationships. Considering that the objective of amending the Civil Code in the field of transactions was to align it with Islamic law and Sharia, it should have been anticipated whether the amended provisions would genuinely achieve the intended religious and legal objectives. For example, the establishment of nine years for girls and fifteen years for boys as the presumptive age of maturity should have been examined to determine

whether it fulfills the objectives of Islamic law. There is no doubt that, based on verse 6 of Surah An-Nisa, the requirement of maturity in financial transactions is intended to protect the financial interests of the individual exercising ownership. It is evident, however, that a nine-year-old girl or a fifteen-year-old boy lacks the ability to manage financial affairs competently.

Accordingly, in line with the objectives of Islamic law—which emphasize the protection of the individual's financial interests—the presumption of maturity should have been determined based on the predictability of consequences and the principles of Islamic law that mandate securing financial well-being. The presumptive age of maturity should have been set at an age where the majority of individuals possess the customary ability to manage their financial affairs. The objectives of Sharia must be considered in the deduction of legal rulings (Mughniyah, 2000, Vol. 3, p. 69). Undoubtedly, one of the essential objectives of Islamic law is the promotion of public welfare (Mughniyah, 2000, Vol. 2, p. 633). Therefore, it should have been evaluated, under the criterion of predicting consequences, whether recognizing transactions intended to evade debt repayment serves or undermines public welfare. It is clear that validating such transactions not only infringes on creditors' rights—an act that is religiously prohibited—but also leads to greater social harm by eroding trust in financial transactions.

Some scholars argue that, based on the authority of the Islamic ruler over those who refuse to fulfill their obligations, the state has the authority to intervene in cases where an individual refuses to fulfill their financial obligations. This concept, known in Islamic jurisprudence as "*al-hakim wali al-mumtani*" (the ruler is the guardian of those who refuse to fulfill obligations), requires the ruler to compel those who evade their financial duties to comply with their obligations (Katouzian, 2006). One instance of such refusal is transactions conducted with the intent to evade debt repayment, which the state must prevent from acquiring legal validity. Additionally, the invalidity of transactions aimed at avoiding debt repayment is further justified by the religious obligation to settle debts, as the obligation to pay a debt necessitates the prohibition of any transaction that contradicts this duty. Although there is a debate in jurisprudence regarding whether an obligation inherently negates an opposing action, if the

subject of the action directly contradicts a religious duty, it must be deemed prohibited. Accordingly, some scholars argue that the obligation to repay debts implies the prohibition and invalidity of transactions intended to evade repayment (Safaei, 1990, 2008).

Furthermore, regarding late payment compensation, had the objectives of Islamic law been properly considered, particularly the principle that financial relationships in Islamic law are based on partnership rather than exchange-based transactions, the superiority of Islamic financial law over usurious financial systems would have been evident. Thus, some scholars argue that understanding the objectives of Sharia and the public interest is a prerequisite for deducing religious rulings (Grami & Foroughi, 2015). Failing to consider Islamic principles and approaching legal issues in a purely formalistic manner can sometimes lead to outcomes that are entirely inconsistent with the objectives of Islamic law (Shahidi, 1994; Vahdani Far, 2017). The amendments to Articles 1210 and 218 of the Civil Code serve as prime examples of flawed legislative outcomes that fail to align with Islamic objectives.

One potential objection to this approach is that predicting the consequences of legal provisions and ensuring their alignment with Islamic objectives is a subjective process that introduces personal discretion into legal interpretation, which would constitute an innovation (*bid'ah*) prohibited by Islamic texts. However, this objection is unfounded. First, the rules governing financial transactions in Islamic law are predominantly "endorsed rules" (*ahkam imdha'iyya*) rather than "originated rules" (*ahkam ta'sisiyya*), meaning that the widespread social or economic reasoning behind a transaction can be considered an Islamic objective. Second, the objectives of Islamic law in transactions, as inferred from narrations of Imam Ja'far al-Sadiq, are to preserve public interest and prevent public harm. This implies that any legal provision that secures the well-being of the majority or any law that causes harm to the majority is contrary to Islamic objectives. Consequently, some contemporary Maliki scholars have criticized later jurists for their excessive reliance on the literal meaning of legal texts while neglecting the underlying legal rationale (*manat*) and fundamental principles (*qawa'id*) (Shahbazinia, 2004). Although it cannot be claimed that all religious objectives are fully comprehensible, in the domain of transactions

and social relationships, certain legal principles such as securing public welfare and preventing societal harm serve as legitimate indicators of Islamic objectives. In a systematic analysis, scholars have categorized the criteria for determining Islamic objectives into three levels:

1. *Daruriyyat* (necessities): These are essential principles required for preserving religious and worldly affairs. If these necessities are compromised, societal welfare is disrupted, and corruption prevails.
2. *Hajjiyyat* (needs): These are principles necessary for facilitating life and alleviating hardship. Neglecting these needs often results in difficulty and undue burden on individuals, making daily life significantly more challenging.
3. *Tahsiniyyat* (enhancements): These include commendable customs and social ethics that promote refined behavior and adherence to Islamic moral standards (Fakhr Modarres, 1977).

Each of these three categories must be considered in the interpretation of religious rulings because religion is the greatest divine blessing for humanity, and its legal provisions should not be interpreted in a way that leads to corruption, hardship, or loss of social trust.

According to the predictability of consequences criterion, expert opinions and recommendations from legal, economic, and commercial specialists should be taken into account during legal reforms. Some scholars argue that legal amendments should be implemented gradually, with careful consideration of their impact on society and the economy, and supported by clear reasoning and logical justification. Transparency and accountability in the reform process are of utmost importance (Vahdani Far, 2017). Clear and transparent laws reduce ambiguity and legal complexity, which, in turn, minimizes legal disputes in transactions and alleviates the burden on the judicial system. Ultimately, this ensures justice and equality in economic relationships and prevents the stronger party in a transaction from exploiting their dominant position (Fakhr Modarres, 1977). However, an example such as Article 1210 of the Civil Code, where the main text and its provisions contradict one another, illustrates how the entire judicial system has attempted to justify an illogical and unfair law. If the predictability of consequences

criterion had been observed, such legal discrepancies and contradictions would have been avoided.

6. Conclusion

The amendment of the Civil Code in the field of transactions, given its practical significance, has far-reaching implications for legal relationships and other areas of law. In an effort to align contractual laws with Islamic principles, modifications were introduced concerning the presumption of contractual capacity, the necessity of fulfilling obligations, and compensation for non-performance of monetary obligations. However, these amendments not only failed to enhance the security of contractual relationships but also destabilized them further. The main deficiencies in these reforms can be summarized as follows.

First, given that the primary objective of the reformers was to align the law with Islamic principles, it was necessary to establish definitive contradictions with Islamic law as the criterion for amendment. The presumption of contractual capacity and the invalidity of transactions intended to evade debt repayment should have been assessed in this light. However, these provisions were not only consistent with Islamic law but actually conformed to it. The recognition of transactions made with the intent to evade debt repayment has, in effect, rendered the enforcement of contractual obligations ineffective, contradicting the original intent of the legal reform.

Second, amendments should have been made with seriousness and realism, ensuring that all provisions requiring modification were duly reformed. However, in the case of monetary obligations and cash damages, interest and additional amounts exceeding the principal debt were declared *riba* (usury) and prohibited. Despite this, the same financial burdens were reintroduced under different labels such as "profit," "penalties," and even "liquidated damages", effectively legitimizing them under different terminology. This indicates that the reformers were not genuinely committed to substantive legal change but merely altered the superficial terminology of certain legal provisions.

Third, the principle of uniformity was not observed. Despite the fact that Article 1210 of the Civil Code establishes the age of puberty as the presumption of maturity, numerous other laws define individuals under the age of 18 as minors or children deserving special

protection. Additionally, transactions conducted with the intent to evade debt repayment were deemed valid, yet Article 21 of the Law on the Enforcement of Financial Convictions criminalized such transactions. Had the principle of uniformity been upheld, such contradictions and inconsistencies within the legal framework of contract law would have been avoided.

Fourth, the criterion of predicting consequences should have been applied, ensuring that the practical effects of the amendments were considered. However, the outcomes of these legal changes are in no way aligned with the objectives of Islamic law concerning contractual validity, which primarily aims to protect public welfare and prevent social corruption. The failure to anticipate the negative consequences of these amendments has led to a legal system plagued with contradictions, inefficiencies, and inconsistencies, ultimately undermining the very goals the reformers sought to achieve.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

The authors report no conflict of interest.

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Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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