

OPEN PEER REVIEW

Examination of the Parties’ Freedom of Will in Determining the Time of Ownership Transfer in Sales Contracts under Iranian and Iraqi Law

Idrees. Ihsan Star^{1*}, Seyyed Mohammad. Taghi Alavi², Heydar. Bagheri Asl²

¹ PhD Student in Private Law, Faculty of Law and Social Sciences, University of Tabriz, Tabriz, Iran

² Professor, Department of Law, Faculty of Law and Social Sciences, University of Tabriz, Tabriz, Iran

* Corresponding author email address: zandedres123@gmail.com

Received: 2025-07-17	Revised: 2025-09-25	Accepted: 2025-10-04	Initial Publish: 2025-10-07	Final Publish: 2026-04-01
EDITOR: Ghasem Eftekhari Associate Professor, Department of Political Science, University of Tehran, Tehran, Iran. Email: eftekhari@ut.ac.ir				
REVIEWER 1: Sandeep Kotwal Knowledge Management Division, National Health Systems Resource Centre, Ministry of Health and Family Welfare, New Delhi, India. Email: sandkotwal@gmail.com				
REVIEWER 2: Jeremiah Thuku Thuku Department of Literary and Communication Studies, Laikipia University, Nyahururu, Kenya. Email: jerethukuthuku@gmail.com				

1. Round 1

1.1. Reviewer 1

Reviewer:

In the Introduction (paragraph starting “In practice, this subject can lead to disputes...”), the research gap is mentioned but remains generic. Strengthen it by explicitly stating how previous comparative studies have not addressed the enforceability of deferred ownership transfer clauses.

The research questions (“is immediate transfer... or is eventual transfer sufficient?”) appear near the end of the introduction but could be presented earlier and formatted as bullet points or a short numbered list for clarity.

The paragraph beginning “In Iraqi law—shaped by Imami jurisprudence and Egyptian codification...” mixes historical and doctrinal remarks. Separate the historical background from the operative legal rule (Article 508) for better readability.

When explaining suspensive conditions (“such concepts are reflected in several provisions...”), clarify whether these conditions affect the formation (inshā’) or only the effect (athar) of the contract; readers unfamiliar with Islamic legal terminology may need definitions.

In “Section Four: The Effect of Party Agreements...,” you cite Article 332 of the Iranian Civil Code stating “ownership does not transfer upon the mere conclusion of the contract.” This seems inconsistent with the earlier claim of immediate transfer (Article 362). Add explanation reconciling these provisions to avoid doctrinal confusion.

The paragraph on Contractual Stipulations mentions “precise timing of transfer and reduce future disputes.” Consider adding one or two real or hypothetical case examples (e.g., property sale with price retention clause) to illustrate.

In Legal Challenges and Constraints, the text notes “practical difficulties may emerge in harmonizing different legal frameworks.” You could briefly discuss conflict-of-law solutions (e.g., Rome I Regulation or Iranian private international law rules) to strengthen the analysis.

The paragraph starting “In Iranian law, based on Article 366...” describes effects of capacity but lacks clarity on how incapacity practically delays transfer. Provide a short example (e.g., sale by a minor needing guardian approval).

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

In “Immediate Transfer of Ownership upon Conclusion of the Sale Contract,” the manuscript cites mainly Iranian sources (Katouzian, Qanavvati, etc.). Consider balancing with more Iraqi doctrinal references (e.g., Hammadi Al-Jubouri, Abu al-Saoud) to maintain comparative symmetry.

In the Literature Review (paragraph starting “Niknejad and Naderi Samirmi (2024) analyzed...”), the sources are listed sequentially but lack critical evaluation. Introduce short analytical sentences about how these works agree or diverge regarding party autonomy.

Although CISG is mentioned briefly through Hosseini Lorgani (2020), the discussion could expand how CISG Articles 66–70 influence ownership transfer timing to add an international benchmark.

In “Section One: Party Autonomy...,” you quote Article 10 of the Iranian Civil Code but not its full language. Consider providing the full Persian text or an authoritative English translation in a footnote to improve precision.

In Section Seven: Analysis of Differences..., there is extensive discussion on human rights and criminal law. While informative, it slightly deviates from the main topic (ownership transfer). Consider condensing this part or clearly linking it to contract autonomy.

Many citations in this section are older (e.g., Alizadeh 2005, Shahidi 2014). Add one or two recent comparative constitutional or private law studies to ensure the literature is up to date.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.