

OPEN PEER REVIEW

The Obligation to Execute Official Deeds in Real Estate Transactions: A Jurisprudential and Legal Analysis under Iranian Law

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1. Round 1

1.1. Reviewer 1

Reviewer:

In the sixth paragraph of the Introduction, the discussion of the “Law on Compulsory Registration of Immovable Property Transactions, adopted in 2024” is too general for a manuscript whose originality largely depends on this legislative development. The authors should identify the exact statutory provision or provisions that alter the treatment of unregistered transactions and explain their effective-operation conditions, especially where implementation depends on electronic systems or transitional mechanisms. The sentence that the legislation “affects the judicial consequences of failing to register covered transactions” should be followed by a precise account of which actions become inadmissible or restricted, under what circumstances, and from what operative date. This statutory precision is essential because much of the article’s later doctrinal analysis rests on the assumption that the new law materially changes the traditional action for compulsory execution of an official deed.

In the final paragraph of the Introduction, the research objective is stated clearly, but the article lacks an explicit research question and methodological statement. The sentence “The central argument developed throughout the article is that official registration should not be conceptualized exclusively as a contractual formality or exclusively as a constitutive property-law mechanism” is a useful thesis, but it needs to be linked to a defined research method. The authors should add a concise statement explaining that the study employs doctrinal legal analysis of Imamiyyah jurisprudential sources, the Civil Code, registration legislation, the 2024 law, judicial doctrine, and selected registration scholarship. The authors should also formulate one primary question, for example whether compulsory official registration alters the validity of the underlying transaction, its

enforceability, its opposability, or merely access to particular remedies. This would make the manuscript's analytical trajectory more transparent.

In the first paragraph of the section "Jurisprudential and Legal Foundations of Mandatory Official Registration," the authors correctly propose a "functional" jurisprudential inquiry, but the methodology remains underdeveloped. The sentence "One must identify the underlying norms governing contractual fidelity, protection of property, prevention of harm, evidentiary certainty, and organization of social relations" should be followed by an explanation of the hierarchy and interaction among these principles. For example, the manuscript should address whether *asalat al-luzum* supports only enforcement between contracting parties whereas *hifz al-nizam* and *la darar* justify limitations on enforceability against third parties. Presently, several jurisprudential rules are placed alongside one another as mutually reinforcing considerations, but their distinct normative functions are not sufficiently differentiated. A more rigorous mapping of each jurisprudential principle to a specific legal consequence would significantly strengthen the paper.

In the paragraph beginning "A purely formalist interpretation would regard mandatory registration as decisive," the manuscript contrasts formalism with the general contract rules of the Civil Code. The discussion would benefit from a more explicit conflict-of-laws-within-the-system analysis. The authors should explain how general civil-law provisions and special registration legislation interact under principles such as *lex specialis*, mandatory statutory rules, and temporal succession of legislation. The present formulation may suggest that Articles 10, 190, 219, and 223 automatically preserve the effects of an ordinary sale despite registration requirements, but that conclusion requires demonstration rather than assumption. The revision should identify which provisions govern contract formation and which provisions restrict later legal consequences, thereby showing precisely why the Civil Code and Registration Act can be reconciled rather than simply juxtaposed.

In the paragraph stating that the 2024 law "represents a legislative attempt to address these weaknesses," the authors should provide a more critical assessment of whether the law actually establishes constitutive registration or instead restricts the judicial enforceability and recognition of unregistered acts. This distinction is doctrinally decisive. If registration becomes a constitutive requirement, the transaction does not achieve the intended proprietary effect until registration; if the principal sanction is procedural inadmissibility, the theoretical status of the underlying legal act may remain different. The manuscript currently describes the reform as "registration-centered" but stops short of specifying its exact juridical model. The authors should formulate their own interpretation of the law on this point and justify it textually and systematically.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

In the second paragraph of the jurisprudential section, the statement that "the duty to execute an official deed can arise as an implied consequence of the transaction as well as an express undertaking" requires closer examination. The authors should distinguish the implied contractual duty derived from the nature and customary effects of the sale from a statutory duty imposed independently by registration legislation. The two sources of obligation should not be merged because they may produce different consequences. If the obligation is contractual, its scope depends on the agreement and general rules of performance; if statutory, it may operate regardless of the parties' express intention and may be subject to mandatory sanctions. The revision should therefore develop a clear taxonomy of express contractual obligation, implied contractual obligation, statutory registration obligation, and possibly customary obligation, and then explain how these sources interact when a court considers specific performance.

In the third paragraph of the jurisprudential section, the authors distinguish substantive validity from "public-law, evidentiary, or proprietary effects," which is one of the manuscript's most important contributions. However, the terminology should be standardized throughout the article. The manuscript variously uses "validity," "registrational effectiveness," "recognition," "opposability," "admissibility," and "public effect" without consistently defining each term. The sentence "A transaction may be substantively valid between the parties while still failing to produce certain public-law, evidentiary, or proprietary effects" should therefore be expanded into a short doctrinal framework specifying the possible legal statuses of an

unregistered transaction. This framework could distinguish validity *inter partes*, enforceability, evidentiary admissibility, recognition of registered ownership, opposability to third parties, and availability of judicial remedies. The remainder of the article should then consistently apply those categories.

In the discussion of *bina' al-'uqala'*, the manuscript states that “Modern cadastral registration may thus be understood as an institutionalized form of a rational social need.” This conclusion is intuitively persuasive but jurisprudentially incomplete. The authors should explain the conditions under which rational practice acquires normative authority in Imamiyyah jurisprudence, particularly whether the relevant practice must be historically continuous, contemporaneously rational, or merely not prohibited by the Sharia. The article should also distinguish *sira al-'uqala'* as a source of legal validation from a policy argument that contemporary registration is rational and socially useful. Otherwise, there is a risk of converting every efficient modern institution into a jurisprudentially binding norm simply by characterizing it as rational practice. A more careful explanation would enhance the doctrinal credibility of this section.

In the paragraph addressing *la darar*, the sentence “The doctrine should not be converted into an unlimited authorization for any formality that the legislature might choose to impose; proportionality remains important” is particularly important and deserves further development. The authors should identify the limits of reliance on *la darar*: whether the rule functions negatively to remove harmful legal effects or positively to establish new regulatory duties remains a significant jurisprudential issue. Since the manuscript uses *la darar* to support compulsory registration, it should explain whether the rule itself creates the obligation or merely provides justification for legislative intervention designed to prevent identifiable harms such as double sales and concealed encumbrances. This distinction would prevent overextension of the rule and make the jurisprudential argument considerably more rigorous.

In the section on the Iranian statutory regime, the paragraph beginning “Article 22 of the Registration Act is central to this structure” requires a more exact treatment of Articles 22, 46, 47, and 48. The article currently presents them collectively as supporting official registration but does not sufficiently explain their different functions. Article 22 concerns state recognition of registered ownership, while Articles 46 and 47 address compulsory registration in specified circumstances and Article 48 concerns the reception of documents that were required to be registered. These provisions should be analyzed separately before their combined doctrinal effect is assessed. Most importantly, the authors should directly address the long-standing controversy over whether Article 48 negates the substantive transaction or merely restricts the use of the unregistered instrument before courts and public authorities. This issue is central to the article and should not remain implicit.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.