

**Nature and Effects of "Direction of Defense Clause"
in Liability Insurance**

Dr. Mohsse`n Izanlou*

Assistant Professor In faculty of Law of University of Tehran

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Abstract

Liability and Insurance policies usually include provisions which state that the insurer may defend against any suit, by third party injured, alleging bodily injury or property damage resulting from an occurrence that is within the scope of the insurance coverage. This type of provision serves often to afford the insurer the exclusive right in regard to exercising control over the defense of an insured; by which the insurer protects its financial interest in the matter.

There are many questions regarding the legal nature, validity and, particularly, positive and negative effects of such a provision upon the insurer and the insured.

The article examines the various aspects of these questions and their responses in Iranian law with a comparative view.

Keywords: Liability Insurance- Defense Clause- Agency- Third party claim- Stopple

* mizanloo@gmail.com

**Etude de la Situation de la Science du Droit en Iran Apres la Revolution
Islamique Avec Regard à Son Orientation Future**

Dr. S. Hossein Safai*

Professeur à la Faculté de Droit de l'Université de Téhéran

Dr. Mahmoud Kazemi**

Professeur assistant à la Faculté de Droit de
l'Université de Téhéran

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Abstract

Nous avons étudié les deux périodes de l'évolution du droit iranien avant la Révolution Islamique, dans un autre article. Dans cet article, nous proposons d'examiner l'évolution de le droit après la Révolution Islamique.

Après le triomphe de la Révolution islamique, commence la troisième période de l'évolution du droit iranien. De maintes changements et modifications se sont intervenus dans la législation iranienne, en vue de son adaptation aux principes et règles du droit musulman chiite(figh). Les programmes des facultés de droit et le contenu des livres académiques ont été modifiés pour répondre aux exigences de la nouvelle législation. Le système de l'enseignement et de la recherche en matière de droit souffre, à l'heure actuelle des inconvénients et insuffisances notables qui sont examinés en cet article proposant en plus certaines solutions.

Key words: enseignement du droit, Révolution islamique, sources du droit, évolution du droit

* ✉ hsafaii@chamran.ut.ac.ir

** kazemi46@gmail.com

**Consumer Protection Legislations:
Their Application and Effective Factors**

PART II

Dr. Morteza Adel*

Assistant Professor In Faculty of Law, University of Tehran

Behnam Ghafari Farsani**

PhD student In Faculty of Law, University of Tehran

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Abstract

In the first part of this article it was mentioned that nowadays in most countries consumer protection acts are approved, however, necessary and fundamental aspect of these legislations, i.e., determining the scope of their application have received less attention, both in legislations and in law books. It can be claimed that the precise determination of the ambit of these acts depends on three elements and concepts to be specified, that is, Consumer, Supplier and Consent to Consumption. The concept of consumer and its effective factors was completely debated in the first part of this article. In the current part, supplier and consumption consent will be dealt with coupled with some comparative studies. In the end, the conclusion of article will be rendered.

Key Words: Consumer, Supplier, Consumption Consent, Consumer Protection, Rights, Iranian Law.

* ✉ madel@ut.ac.ir

** bghaffary@ut.ac.ir

La Justice Constitutionnelle ou le Contrôle de Constitutionnalité des Lois

Dr. Bizhan Abbasi*

Assistant Professor In faculty of Law of University of Tehran

Date Received: 2010/5/18

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L'extrait

Dans un système juridique, la constitution est au sommet de la hiérarchie des règles et les autres normes sont plus bas. Cette hiérarchie se fait en fonction des organes auteurs de ces règles. Il ne suffit pas seulement de parler sur l'autorité de la constitution sur les autres normes, mais il est nécessaire de prévoir un système de contrôle et une institution afin de surveiller la conformité de la loi du pouvoir législatif et des règlements du pouvoir exécutif à la constitution. La plupart des pays ont adopté ce système mais les organes et les modalités sont différents. Tantôt une institution juridique (les tribunaux ordinaires de l'ordre judiciaire ou une juridiction spéciale) fait ce contrôle tantôt un organe politique dont les membres sont nommés par les autorités politique ou une chambre législative. Egalement le contrôle peut s'opérer avant l'entrée en vigueur de la loi ou après et selon l'initiative des citoyens ou des autorités publiques (les juges ou les autorités politiques).

Les mots clés: constitutionnalité de la loi, justice constitutionnelle, modèle américain, modèle européen, cour constitutionnelle, juge constitutionnel, autorités politiques, tribunal ordinaire, contrôle par voie d'action, contrôle par voie d'exception, autorité de chose jugée.

* bizhan_abbasy@yahoo.com

Financing BOT Projects

Dr. Majid Ghamami*

Assistant Professor In faculty of Law of University of Tehran

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Abstract

To speed up the industrialization and development in infrastructures are the most important challenge of the developing countries. The core of this challenge is how to finance the process. For the countries that do not have enough energy resources or other natural resources to export, the simple way of financing is borrowing from the international bodies like World Bank or the internationally active financial institutions. But this is the beginning of the complicated problems of economic nature. To overcome these problems and to encourage the private sector investment in the infrastructures, an effective mechanism has been recently derived from the traditional suspicious system of "concession" by the name of BOT (Build, Operate and Transfer) scheme. The cornerstone of BOT approach is the financing the project without the host government being financially indebted. This method of financing called "project finance" is the main subject of this essay.

Keywords: "Build, Operate & Transfer", BOT, Financing, Sovereign Guarantees, Project Finance, Risk Allocation, Concession System, Privatization

* majidghamami@ut.ac.ir

**Kali- Be- Kali Sale, in Iranian Law;
a Comparative Study in FIQH**

Dr. Mahmoud Kazemi*

Assistant Professor In faculty of Law of University of Tehran

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Abstract:

There are different ideas about the concept of "Kali- Be- Kali sale". Civil code is brief in this regard. The prevalent idea in Fiqh, regards this type of sale as an invalid contract; So civil Law hasn't accepted it. But the study of the different Fiqh texts and literature of this subject in Fiqh suggest that this opinion isn't well established. Three main evidences (reasons) setforth to against this type of sale: the necessity of payment of price in meeting place at forward sale (Baya- e-salam); ivalidity of Baya'- e- Dain -be-Dain (sale of debt to debt); the concensus of opinions.(Ejmaa') But none of these evidences. Can prove the invalidity of this sale. in this article, effort has been made to analyze and criticize the avoidances of prevalent idea and finally we conclude that in terms of Fiqh the "Kali- Be- kali sale" is valid and reliable, and it is too in Iranian Legale system.

Key words: Baya-e-Dain-be-Dain (Sale of debt to debt), Baya-e-salam (forward sale), Credit sale, un specified sale, debt, term, respite .

* kazemi46@gmail.com

Fax:++9821-88575715