

Analysis of Contract Law in Iran

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Doi:10.5901/mjss.2015.v6n6p49

Abstract

Iran literally means the land of Aryans. After accepting Islam, it has used Islamic Law as a basic regulation for living. In 1928, the Iranian legal system was approached the Western and Roman-Germanic legal system formally, though in the content it was coordinated with the Islamic Law. There is no separate unit under the title of contract law in the Iranian Civil Code but most of the legal Articles related to the law of contract are predicted in contracts and obligations from the Article 183 onward. The research problem is the ambiguities that arise from the impacts of the two systems, namely the Islamic law and the Roman-Germanic law, on the Iranian contract law. This study aims at resolving such ambiguities and reaching a better understanding of Contract Law in Iran. This is an analytical research in nature.

Keywords: Iran, Contract Law, Islamic Law, Roman – Germanic Law

1. Introduction

Iran, literally means the land of Aryans, is a country located in the southwest of Asia, in Middle East (Zarrin koub, (2010). In the late 19th century and early 20th century, a public movement (mostly urban) was developed against the ruling autocratic political system and the interference of foreign countries (Ahmadi, 1972). Although in the beginning the demands of this movement were ambiguous, soon it changed its direction towards a liberal and national revolution by demanding a centralized political system in a western fashion along with a respect for Islamic moral principles. It was eventually succeeded following the Constitutional Declaration and consequently the approval of Constitution was achieved (Harisinejad, 2009). By establishing the Constitutional regime, the country's legal system aside from other factors had to be modified and improved to match the new conditions. Under such circumstances, paying too attention to the west for establishing a new legal system seemed natural. In fact, the European countries had a huge influence not only over Iran but also over Africa, Asia, and America. Thus, it can be argued that all countries in the world have been under the influence of legal principles of European law and Iran is not an exception.

In Private Law, Iranian Civil Code is strongly affected by the French Civil Code. Although the main resource of Iranian Civil Code, especially in its first volume, was the Islamic jurisprudence, the French, Belgian, and Swiss laws were also used in providing some Articles particularly in the second and the third volumes. Islamic Law is one of the features of Islam. Islam also includes doctrines and the principle of faith, which determines what a Muslim has to believe. It also includes Sharia which determines what any Muslim has to do. These are all specified by Divine Revelations.

In Iranian Civil Code, there is no single section allocated to contract law, but the most legal Articles concerning contract law have been predicted in "contracts and obligations" section, from Article 183 onward, and they were studied by the legislators. Contract can be defined as an agreement between the two or more parties which is legally binding. The words transaction and contract are synonymous in Iranian Civil Code and can mostly be used instead of agreement (Imami, 2002). Transaction is divided into two groups of financial and non-financial; financial contract refers to transaction and non-financial one refers to contract or agreement (Bahrami, 2002). In this study, the data are of library type and the analytical method was used (Yaquin, 2007). The hypothesis of the study is that Iranian Civil Code is affected by both the Islamic Law and Roman-Germanic Law. The main objective is to reach a better identification of Iranian Contract Law.

2. Islamic Law

Islam is a comprehensive and universal school because it takes mankind and all his rights into consideration from different aspects of life (Javan Araste, 2009). Islam is not simply a metaphysic religion; instead, it is one that regulates the plan of life based on a logical consistency (Khalifa, 1993).

The Islamic law is one of the features of Islam. Without making a distinction between the duties that one has towards their fellowmen (civil obligations and charity) and those that has towards God (praying, fasting, etc.), it teaches every Muslim how to behave based on the religion. Thus, the Islamic law focused on the duties which are upon people. (Halaf Ibn Vael, 2005). Instead of only relying on the moral principles upon which Islamic societies based their law, Islamic jurists and lawyers codified a complete and comprehensive law; one based on God's Revelations which belong to an idealistic society that may someday be established in the world under the dominance of Islam. Islam is essentially the religion of Law as well (Langroodi, 1991).

According to Rene (1999), Islamic law is the essence of real spirit of Islam, and it is the most definite representative of the Islamic ideology and the primary core of Islam. During his 23 missionary years, Mohammad the holy prophet of Islam (570 – 632 A.D.) was responsible for communicating and executing Islam, and made a revolution in all ideological, cultural, economics, societal and political arenas. He made major changes in the Arab ignorant societies by negating tribal and racial values and ideologies (Movaseghi, 1995). Unlike the American legal system, which is secular, the Islamic legal system has religious nature. Islam contains both religious and social orders. As such, it comprises rules concerning devotional obligations as well as rules regulating civil and commercial relations (Mattar, 2001). In Islamic law, there are not many mandatory rules and they prepare the way for achieving more human freedom and actions. Important changes can be made in the regulations suggested by Islamic law through contracts with no mandatory aspect and without any violating rule. In the Islamic law since usually some legal and binding rules are sought, the man primarily attempts to explore the divine will, which is the primary basis. Every Muslim must directly or indirectly attempt to explore such a will (Danesh pajouh, 2010).

The Quran is the most important resource of Islamic law (Cronin, 2002). In Islamic jurisprudence, the second main resource is Sunnah which is the innocent Imams' acts, speeches and utterances. *Reason and consensus of opinions* are the two other resources of Islamic law (Sadr, 1988) which are used where Sharia is silent (Tabatabaei, 2006). Instead, in Sunnite jurisprudence, the factor of analogy is used (Hallaf Ibn-e Vael, 2009) which means comparing two subjects in order to draw out their similarities and commonalities and also generalizing from them to the cases about which there is no explicit judgment. In another categorization, legal resources in terms of validity can be divided into two categories of main and subsidiary resources. 'Main or primary resources' directly guide men in exploring the basics, while the validity of subsidiary resources backs to the primary resources. The primary resources in Islamic law include 'Quran', 'Sunna' and 'reason (Mohammadi, 1999). and the secondary resources are 'consensus of opinions', 'renown', 'Islamic conduct', 'common sense' and 'custom'. By heeding little attention, the importance of Islamic law is completely revealed in Iranian legal system. The basis of Islamic Law is implementing Justice among people. No subject in Islamic Law is more important than justice even Monotheism which is the spirit of Islam is related to justice and also in negating polytheism; the necessity of anti-oppression has been focused (Abdul Hakim, 1993).

Since long time ago, Islamic law has been one of the most important resources of law in Iran (Javan Araste, 2009). After the establishment of Constitutional government and the creation of legislative assembly, law and Islam theoretically became the two separate systems. In that era, one of the main sources for regulation of Islamic law was the legal writers' opinions and law experts' viewpoints, who sought the fundamental principles of Civil Code in Islam (Hamiti vaghef, 2009). By a glance at the Civil Code books, it is clearly revealed that how the traditionalists tried to incorporate Islam in their books and to use it as a primary section in the legal system. In the present time, the Islamic law in Iran is one of the official resources for law which, according to the Constitution, rules over all the principles of Constitution and other regulations as well (Mansour, 2003).

Furthermore, the role of Iranian judicial procedures in creating correlation between law and Islam has been dramatic. Many orders inspired by Islam can be seen in incomplete series extracted from the Supreme Court orders and the Judge's tendency towards an interpretation that approach law to the Islam is obvious. In the Iranian legal system, the two waves of Islamism and modernism are sometimes combined and sometimes distanced. However, the 1979 revolution chose the victorious power. The Constitution of Islamic Republic of Iran officially brought the Islamic law to life and used other legal institutions at the service of this goal (Jahangir, 2003). The fourth Article of the Constitution law explicitly states that all civil, criminal, financial, economic, administrative, cultural, military, political rules and regulations must be based on the Islamic standards (Department of translation, 1997). This principle governs the principles of Constitution law as well as other rules: discretion in this regard is upon the Guardian Council Jurists. On the other hand,

the Article 167 of Constitution law placed the Islamic law among the official and supplementary legal resources (Bahrami Ahmadi, 2003). It obliged all judges to execute the Islamic law. In this Article which has been mentioned in the judiciary section, it is written that the judge is responsible for finding orders and decrees of any claim in the codified law and if he failed to do so, he must issue judgment in accordance with valid Islamic resources and he cannot refuse handling the claim and issuing an order with the excuse of silence, deficiency, brevity or conflict of the codified law. Thus, the Islamic law is not only the criterion for a fair law enactment that must administrate the Iranian legal system, but also it is considered as an amendment in court because it is among legal sources. The aim of Islamic Republic of Iran's Constitution is to make a unity between law and religion (Katouzian, 1997).

3. Written Law (Roman-Germanic)

The written law is one of the most important large legal systems which dominated a large part of Europe, Central America, South America and parts of Asia and Africa (Khosro shahi, 2012). The written legal system namely the Roman-Germanic or civil system is rooted in Roman law (Shiravi, 2010) and a set of Justinian Civil Code. For the first time, it was developed in Europe and then extended into many other countries in the world. Generally, the Roman laws were modeled on the French Civil Code from 1804 (Napoleonic Code). It seems that as the Napoleonic armies conquered the countries, Europe's realm of ideas was dominated by this country (Brand, 2003). Scientifically speaking, Roman-Germanic legal system dates back to 13th century, before which surely there existed elements for establishing a legal system; however, they could not be considered as a system. The first period in the 13th century was started with the reconsideration of Roman law studies in the universities.

The Roman-Germanic law family includes countries whose law is based on the Roman law. Legal rules in these countries consist of general behavioral rules and are considered to be in close relationship with justice and morality. The major effort of law is determining the exact quality of the mentioned rules (Shiravi, 2010). The Roman-Germanic law family basically originated from Europe. It was formed by European universities' endeavors and since 19th century, according to the Justinian series, provided a common Law Science for all which is suitable for the new world conditions. The Roman-Germanic law is the continuant of the Roman law and it is the climax of this evolution. In countries of the Roman-Germanic family, it is believed that the best method for finding fair legal solutions for lawyers is referring to the legal regulations. This attitude definitely succeeded in the 19th century when all the member countries of the Roman-Germanic family enacted codes for themselves and developed written regulations (Rene 1999). Thus, all countries of this family have modern law whose regulations are especially valid. The position of judicial procedure in the Roman-Germanic legal system is one of the most obvious forms of discrimination and segregation between Common Law and Roman-Germanic Law. The Roman-Germanic law is the result of the Europeans' efforts in the 13th century onwards. This law has been exceptionally accepted in the Islamic countries. In fact, in Islamic countries, Islamic law governs Muslims' social relations. The attitude of Roman-Germanic Law, in addition to the aforementioned items, can be summarized as follows:

- a) Unity of legal system; thereby law has unity across the country.
- b) Unity of Law origin; thereby the law is aroused from the legislative or public representatives.
- c) The evolved feature of law; thereby the legislators expect all social and even familial relations to be under the rule of law.
- d) The separation of law from morality, religion and politics (Erfani, 2011).

4. Effects of Islamic and Roman-Germanic Laws on Iranian Law

Civil Code is one of the main branches of private law which investigates and formulates the relations of people with each other in a society, regardless of their social status and position. Civil Code is a set of rules which determine the personal status of citizens of a society. It organizes private ownership, regulates fundamental right that citizens can gain against each other and organizes the ways of obtaining, transferring and declining those rights (Safaei, 2008). In Iranian Civil Code, there is no single section allocated to contract law but most of the legal Articles concerning contract law have been predicted in 'contracts and obligations' section, from Article 183 onwards. The second part of the first volume of Iranian Civil Code has been devoted to the subject 'contracts, transactions and obligations'. The first volume is exclusively about 'contracts and obligations'. The writers of Iranian Civil Code have adopted the section 'contracts and obligations' from the French Civil Code, in such a way that some parts of it are simply the translation of relevant parts in French Civil Code. The Islamic jurisprudence is the most important resource in codifying different parts of Civil Code. Such principles as freedom of contracts, contract's validity, privity of contracts and custom sovereignty are undeniable basics of contract law in Iran.

According to Article 183 of Iranian Civil Code, a contract is made when one or more persons make a mutual agreement with one or more persons, on a certain thing (Bonakdar, 2005). An obligation is a legal relationship which will be obtained as the result of transferring property (merchandise or money), performing or refusing an act and discharging a legal work (Bagheri, 2003). It can be said that Civil Code is the basis for private law issues, and certainly obligations along with liabilities constitute the necessary basis of different issues in Civil Code. An obligation implies debt. Obligation has been defined as 'a person's duty to perform or refrain from performing something in favour of another person who is considered a creditor (Mortazavi, 2008).

Contracts are divided into either specified or unspecified. A transaction usually occurs when a contract is concluded with the other party; a unilateral obligation is called 'iqa' (unilateral legal act). Some exceptions of unilateral obligations in Iranian Law include will and divorce. Regarding durations, contracts can be divided into revocable and irrevocable. According to Article 130 of Iranian Civil Code, intention and consent are fundamental conditions for the validity of transaction. That is why if someone enters into a transaction while they are drunk, unconscious or asleep, the transaction will be null and void (Shahidi, 2012). Offer and acceptance are considered as undeniable bases of a contract. There are three factors rendering will defective: mistake, duress and misrepresentation each of which can be enough to nullify the contract or transaction. A transaction by an insane or a minor person is void. Articles 264 to 300 of Iranian Civil Code have been devoted to discharge of contractual obligations. As to the form, this part of Civil Code has closely followed the French Civil Code, though in content it has been remained compatible with the Islamic rules.

The main source for codifying the first volume of Civil Code, especially for the section 'contracts' – has been jurisprudence books. The writers of the first volume of the Civil Code cited the books: Sharayi, Sharhe Luma, Maksib and their commentaries, as references. They also studied the Commentary by Rustam Salim Baaz on the law of Majalla Al-Ahkam Al-Adlia which was the Civil Code of Ottoman. Among foreign laws, they specially referred to the French law; hence, most of the Articles in the introduction, and also some parts including property to movable, immovable, right of benefit and right of easement, as well as basic rules for transaction validity and even some Articles in the section regarding contracts and agreements have been derived from the French law (Zarini & Hajirian, 2005). The word transaction and contract are synonymous and in Custom's terms it is mostly used instead of agreement (Imami, 2000). Transaction is divided into two groups of financial and non-financial; financial contracts are referred to transaction and non-financial ones are referred to contract or agreement (Shahidi, 2009). In common law, a contract may be defined as an agreement between two or more parties that is legally binding (Duxbury, 2008). People spend an important part of their social relations with others by agreeing and concluding different contracts. Contemporary scholars in Islamic jurisprudence mostly tend to accept any necessary rational and moral contract which has no conflict with religious orders, as the source of obligation. This is a principle which can be traced back to Iranian Constitution law (principles 19 and 20) and different Articles of Iranian Civil Code (Article 10). Private contracts are only operative for those who have concluded them unless they are explicitly contrary to law (Ghasemzadeh, 2008). The will sovereignty and freedom of contract principles in Iranian Civil Code are based on four elements:

- a) Parties are free in concluding a contract and nobody can be forced to accept the standard forms of contract.
- b) Contracts are concluded based on both parties' will and intention.
- c) Any contract between two parties or their representatives is binding (according to Articles 219 and 231 of Iranian Civil Code) until the contract has not been cancelled through mutual consent of the parties or has not been revoked by any legal reasons, so that it is regarded as law among the parties and must be executed (Katouzian, 2000).
- d) The privity of contracts principle (Article 231 of Civil Code) is accepted and except for exceptional cases, the contracting parties can neither impose an obligation upon a third party, nor can they donate rights upon them, within the framework of a contract. Of course, the contract freedom is not unlimited and parties cannot make illegal, immoral or harmful obligations under the contracts. The Iranian legislators have predicted these limitations in Article 975 and have mentioned rules, public order and public morals as the limitations for contract freedom principle.

Offer and acceptance are the main pillars of contract while any transaction is created in form of a contract or through an agreement. Article 190 of the Iranian Civil Code has considered the following elements as the basic conditions for the accuracy of any transaction: 1) Parties' intention and consent; 2) parties' capacity; 3) specificity of object of transaction; 4) legitimacy of cause of transaction (Maghsoudi, 2009). Contracts can be divided into different types of financial, personal, specified, unspecified, permanent, temporary, official, regular, procedural, simple, verbal, written, free, ready to sign, instant, continuous, bilateral, free of charge, supplementary, bond, essential and incidental.

The irrevocability principle of contracts is one of the principles accepted in Iranian law thereby none of the contracting parties can refuse performance of the obligations caused by it or make an attempt to revoke the contract.

Nevertheless, there are some exceptions in the Iranian law for the irrevocability principle of contracts, which coordinate the contract performance with the requirements of the society and justice. This is referred to Force Majeure which causes the impossibility of contract performance. In Islamic law, *the negation of hardship rule* is one of the important Islamic rules which have many Quranic documentaries and it is considered as the basis for accepting the above-mentioned theory. However, it can be accepted according to *the no injury or loss rule* (Article 40 of the Iranian Constitution) or by referring to the implied conditions in the contract (Sadeghi-Moghaddam, 2007). It should be noted that in the Islamic law the irrevocability principle has always been favored by the Islamic jurists, as this principle has also been mentioned in the French law. The principle of will sovereignty and freedom also refer to the fact that when a person makes decisions in his life and society, he is free in making decisions and those decisions can be effective (Eftekhari, 2005). The impact of a person's will on developing a contract and determining its effects has always been among the important matters in the law of contracts.

In recent centuries, social, political and economic evolutions in European societies and also raising philosophical and economic theories paved the way for the influence of individualistic ideology in the legal field and introduced the will sovereignty principle to the legal arena. From its advocates' point of view, the will sovereignty principle meant that a person's will absolutely rules not only over creating the contract and its effects, but also over all legal relations (Ghanavati, 2000). In statute of many countries, law, public order and public morals limit will freedom for the contracting parties. In the Islamic law, people are usually free to the extent that it has no conflict with Islamic rules and regulations. Contractual freedom is also interpreted in this framework. As to the will sovereignty and freedom of contracts principle, Article 10 of the Iranian Civil Code states that private contracts shall be operative to those who have signed them, providing that these contracts are not explicitly contrary to the law.

In French Civil Code, Article 1134 of the Civil Code also emphasizes this principle (Safaie, 2008). In the 18th century, European lawyers' ideology was characterized by two features. One is that they considered obligations as being based on innate laws and the other is that they considered freedom as solution for all problems, believing that without freedom of contract the life of the individual would scarcely be worth living. Consequently, in the 19th century, the liberalist school was dominated. Likewise, in the field of law, under the influence of liberalism the principle of will sovereignty was accepted as a philosophical principle and also contracts were assumed as the origin of all obligations. In the early 20th century, in some countries, socialist system was established and in other countries liberalism remained without any changes. Thus, although the will sovereignty and freedom of contracts remained as principles, many exceptions were made and Civil Codes were influenced by these two facts in a way that without considering them, interpreting and understanding many of these legal Articles are difficult.

The Iranian Civil Code is codified under the influence of Islamic jurisprudence and has also been inspired by European law (Bahrami, 2003). Islamic lawyers believe that the contracting parties have the right to include in a contract any condition that has no conflict with Islam, referring to a tradition that says "believers are obliged to their obligations unless in their obligations they make something forbidden, lawful or vice versa" and in Quran, Mae'deh Sura says "those who believe in God fulfill your contract". This includes any contract and agreement that has no conflict with Islam, and peace contract can be an appropriate framework for any agreement due to its specific nature. It can be said that will sovereignty principle has more or less been accepted by all Islamic jurists.

In Iranian Civil Code, the principle of freedom of contracts has crystallized into Article 10, from which the following results can be achieved:

- a) People are free in concluding contracts and nobody can be forced into or prevented from concluding contracts.
- b) Everyone is free in choosing the contract parties and determining its content.
- c) Parties are free in choosing the form of the contract and there is no necessity to conclude a contract in form of specified and unspecified contracts. Moreover, in case of such contracts where Law has no judgments, it is possible to refer to Article 1.
- d) Contracts occur with mutual consent and have no procedural formalities.
- e) Parties are obliged to observe the contract content and even a court has no right to change the content in order to obey the justice and fair.
- f) Contract effects are limited to those who have concluded it and, except in special cases, imposing the will on another is not possible.

Therefore, the influence of Islamic and Roman-Germanic Law on the Iranian legal system and consequently on the law of contracts is undeniable. However, the reasons why Iranian Law has been affected by Roman-Germanic Law can be summarized as follows:

- i) One of the reasons of inclination towards the Roman-Germanic legal system in Iran is the attachment and familiarity of Iranian societies with the Islamic law. Islamic law is nothing but one of the features of Islam.

Sharia (means a way to be followed) includes a wide part of what we call 'Islamic Law'; one which is based on divine revelations. Despite many basic discrepancies, this law is close to Roman-Germanic Law in different aspects yet far from Common Law. Just like the Roman-Germanic law, the Islamic law is codified and despite the structural difference in nature especially in terms of law resources, it has affinity with the mentioned legal system. Just as law is considered as the first and main source in the Roman-Germanic law, the Quran and Sunnah have the same validity in the Islamic law. Quran's commandments are dispersed in different chapters; they are called 'verses of commandment' and include 500 verses i.e. 1/6 of the Quran. Sunnah refers to the speeches, acts and prophetic examples of the prophet Muhammad and Imams in the Islamic jurisprudence. In Islam, prophetic examples are the prophet and Imams' satisfaction of acts which have done in their presence, where they did not respond except through silence. However, as in the Roman-Germanic law, secondary resources i.e. the judicial procedure, customs and doctrine are referred to the factors for completing the rules and obligations. Similarly, in Islamic law, it is possible to derive legal solutions from other sources i.e. consensus of opinions, reason and Ijtihad (individual legal reasoning by a Muslim jurist), as Quran and Sunnah, despite their importance and extent do not fully respond to all the issues. Consensus of opinions (Ijma) is the third Islamic law resource, which refers to an agreement on a decision by a group of people. Recognition of this resource is based on a tradition saying that "my nation never reaches a consensus over a wrongdoing". In this sense, consensus of opinions in concept is comparable with custom and habit in Roman-Germanic law, but in action it is a valid agreement which is unique among competent individuals or Islamic jurists. In this case, it will be comparable with the judicial procedures in Roman-Germanic law. Eventually, the last Islamic law resource in Islamic jurisprudence is Reason. Whenever consensus of opinions is not achieved, it is argued using reason and reasoning. One of the most important strategies of Islam for confronting with new circumstances is Ijtihad (individual legal reasoning by a Muslim jurist) which refers to an effort to derive and deduct the Islamic rules based on reason. This source of Islamic law is similar to the doctrine of modern law. This law is originally based on a doctrine that would have been developed in subsequent centuries by Islamic jurists. Therefore, it can be concluded that the contract law in Iran has approached the Roman-Germanic law.

- ii) After the Constitutional revolution in Iran, it was necessary to establish a new legal system. Due to the lack of notable legal traditions and trained competent lawyers, a need for using others' experiences, especially those of advanced western countries was inevitable. Common law is the legal tradition, which emerged in England from the 11th century onwards (Tetley, 1999). In fact, the main resource of Common Law is the verdict and judicial decisions (Golduzian, 2007). As Rene (2010) states "common law which was strongly dependent on an ancient legal procedure and needed experienced technicians was not executable in all colonies". Inevitably, Iranian legislators chose the law of countries which contained written and codified rules and undoubtedly, Roman-Germanic law was the most outstanding. Modern Iranian lawyers agree that after the Constitutional revolution, most of the rules enacted in different legislation periods were either a word for word translation of European laws, especially France (Harisinejad, 2009). The first Iranian Constitution was derived from the Constitution of Belgium, France and to some extent Balkan countries.

In Private Law, the Iranian Civil Code and consequently the Law of Contracts is strongly affected by French Civil Code. Although the main resource for Iranian Civil Code, especially in its first volume, is the Islamic jurisprudence, yet the French, Belgian, and Swiss laws were also used in providing some materials particularly for the second and the third volumes. It should be noted that in Iranian Civil Code, there is no single section allocated to the contract law, but most of the legal Articles concerning contract law have been predicted in Contracts and Obligations, from Article 183 onward, and were studied by Iranian legislators. Furthermore, the reason why most of the Articles of Iranian Civil Code have been derived from French Law is that the first Iranian lawyers, who pursued their studies in France, had used French patterns in their educational systems. Besides, the presence of French counselors at the time of law codification in the House of Justice in Iranian Constitutional period can be regarded as another reason. In 1904, the era of Mozaffar Al-Din Shah Qajar when the issue of establishing the House of Justice was raised, some important responsibilities had been already assigned to French counselors because the French government had dispatched its scholars to different countries. The results of these travels and researches were manifested in form of a codified law. This is one of the main reasons why Iranian Civil Code and contract law was derived from the French law.

- iii) Besides the legal factors which have been discussed briefly, the political and especially cultural presence of France in Iran is enumerated as another reason for inclination of the new Iranian legal system towards Roman-Germanic law. This reason which is an illegal factor is the main focus of this study. The relationship between Iran and France can mainly be traced back to the early 17th century. Shah Abbas Safavid is considered as one

of the most powerful Iranian kings who used the French presence to confront with the Britain and Netherland (Seyed Gohrab, 2010). French physicians were in the service of Qajar kings as their private physicians. Most of Qajar princes as well as some princesses could speak French fluently. Thus, the French cultural impact on Qajar kings' courts and Iranian innovators cannot be ignored. The origin of liberal ideas was the European (especially French) scholars' works, so that the first school in modern fashion was the poly-technique school where French teachers began to teach (Harisinejad, 2009). Some of the liberal precursors in Iranian constitutional era, who were among statesmen as well, were graduated from France. Therefore, they could be considered as the political and legal propagandist of France (Haeri, 1988). Thereafter, the Iranian educational system was formed according to French culture and totally these circumstances led to the impact and penetration of the French law over the Iranian contract law.

5. Conclusion

By establishing the Constitutional regime, the country's legal system, aside from other factors, had to be modified and improved to match the new conditions. Under such circumstances, paying attention to the west for establishing a new legal system seemed natural. In 1928, Davar completely transformed the Iranian judiciary structure and drew it closer, in form, to the French, Roman-Germanic, Swiss and the western law; however, in terms of content, he coordinated it with the Islamic law. In Private Law, Iranian Civil Code is strongly under the influence of the French Civil Code. Although the main resource for Iranian Civil Code, especially in its first volume, is the Islamic jurisprudence, the French, Belgian, and Swiss laws were also used in providing some Articles particularly in compiling the second and third volumes. Islamic Law is nothing but one of the features of Islam. Quran is the most important resource of Islamic Law and after that, Sunnah is the second one. In Islamic jurisprudence, Sunnah refers to innocent Imams' acts, speeches and utterances.

The written law is one of the most important large legal systems, dominating a large part of Europe, Central America, South America and some parts of Asia and Africa. The written legal system is also called the Roman-Germanic or civil system which is originated from Roman law and Justinian rules. It was developed in Europe and then influenced many other countries in the world. In countries of the Roman-Germanic family, it is believed that the best method for finding fair legal solutions for lawyers is to refer to legal regulations, at the top of which is Constitution. Civil Code is one of the main branches of private law which investigates and formulates the relations of people with each other in a society regardless of their social status and positions. Civil Code is a set of rules which determines the personal status of citizens of a society. It organizes private ownership, fundamental right which citizens can gain against each other and also the ways of gaining, transferring and declining those rights (Safaie, 2008). In Iranian Civil Code, there is no single section allocated to the contract law but most of the legal Articles concerning contract law have been predicted in 'Contracts and Obligations' section from Article 183 onward. The second part of the first volume of Iranian Civil Code has been devoted to the subject 'Contracts, Transactions and Obligations'. The first volume is exclusively about 'Contracts and Obligations'. The writers of Iranian Civil Code have adopted the section 'Contracts and Obligations' from French Civil Code, in such a way that some parts are word by word translation of relevant parts in French Civil Code. Islamic jurisprudence is the most important resource in codifying different parts of Civil Code. Such principles as Freedom of Contracts, Contract's Validity, Privity of Contracts and Custom Sovereignty are undeniable basics of Contract Law in Iran. It can be stated that Civil Code is a basis for private law issues. Furthermore, the obligations and liabilities constitute the necessary basis of different issues in Civil Code. Iranian Civil Code is codified under the influence of Islamic jurisprudence and European law. The effects of these two trends are obvious in Iranian Contract Law.

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