Contemporary Readings in Law and Social Justice
ISSN: 1948-9137, e-ISSN: 2162-2752
Vol 15 (02), 2023
pp. 1243 - 1257

Comparative Study of *Khiyar al-Ghabn* (Option of Deficit) in Virtual and Non-Virtual Transactions, with Emphasis on the Stipulation of Waiver: An Analysis from the Perspectives of Imami Jurisprudence and Iranian Substantive Law

Parvin Makeh[1], Seyed Hessamoddin Hosseini[2*], Farajollah Barati[3], Farkhondeh Kornasi Dezfuli[4], Akhtar Soltani[5]

1. PhD student, Department of Jurisprudence and Fundamentals of Islamic Law, Ahvaz Branch, Islamic Azad University, Ahvaz, Iran.

2. Assistant Professor, Islamic Lifestyle Quranic Research Center, Ahvaz Branch, Islamic Azad University, Ahvaz, Iran (Corresponding Author).

3. Assistant Professor, Department of Jurisprudence and Fundamentals of Islamic Law, Ahvaz Branch, Islamic Azad University, Ahvaz, Iran.

4. Assistant Professor, Department of Islamic Studies, Ahvaz Branch, Islamic Azad University, Ahvaz, Iran.

5. Assistant Professor, Department of Theology, Ilam Branch, Islamic Azad University, Ilam, Iran.

Abstract

Introduction: *Khiyar al-Ghabn* (the option of lesion/deficit) stands as one of the most significant legal doctrines in the Iranian contractual system, playing a fundamental role in compensating for losses arising from a profound imbalance between the values of the consideration in commutative contracts. With the rapid expansion of e-commerce and virtual transactions, the question of the applicability and waiver of this option in the digital sphere has emerged as a critical challenge in contract law.

Objective: Aiming to clarify the perspectives of jurists and substantive law regarding *Khiyar al-Ghabn* in virtual and non-virtual transactions and to identify their points of divergence and convergence, this research conducts a comparative analysis of this legal doctrine in two different contractual contexts. Furthermore, it analyzes the role of the “stipulation of waiver” (clause of relinquishment) from the perspectives of Imami jurisprudence and Iranian substantive law.

Methodology: This study employs a descriptive-analytical method, utilizing library-based research including jurisprudential texts, legal treatises, scientific articles, and enacted laws. Data were collected through systematic note-taking from authoritative sources and analyzed using a comparative approach.

Findings: The findings indicate that despite differences in the tools and medium of contract formation, the legal nature of *Khiyar al-Ghabn* remains identical in both types of transactions. The stipulation to waive the option—whether express or implied—is applicable in the virtual sphere, provided that it adheres to principles of transparency, the possibility of real informed consent, and mandatory protective rules. However, in consumer-oriented electronic transactions, the seven-day right of rescission under Article 37 of the Electronic Commerce Law, as a mandatory and non-waivable right, creates a fundamental distinction from *Khiyar al-Ghabn* in traditional transactions. Furthermore, the waiver of all options (*Khiyar*), even with explicit mention of gross deficit (*Ghabn-e-Fahish*), shall not result in the forfeiture of the right to rescission in cases where the realized deficit exceeds customary and conventional limits.

Conclusion: Regarding the nature and conditions for its realization, *Khiyar al-Ghabn* in virtual transactions bears no fundamental difference from non-virtual transactions; the electronic nature of the manifestation of will pertains solely to the form of contract formation. Nevertheless, there are significant differences concerning the waiver of *Khiyar al-Ghabn* between these two types of transactions, primarily due to the specific characteristics of the electronic medium, such as the difficulty of establishing real awareness, delays in the realization of possession (*Qabd*), and the existence of the special seven-day right of rescission. The validity of the waiver of options in electronic contracts is contingent upon conditions such as real informed consent, transparency of the stipulation, the imputability of the will, and non-conflict with mandatory protective rules. Moreover, the waiver of all options shall not lead to the loss of the right to rescind in cases of gross deficit, as such cases fall beyond conventional customary limits.

Keywords: *Khiyar al-Ghabn* (Option of Deficit), Virtual Transactions, Stipulation of Waiver, Imami Jurisprudence, Electronic Commerce Law, Contract Law.

Received: 26 November 2023 **Revised:** 21 December 2023 **Accepted:** 29 December 2023

Introduction

Embezzlement option is one of the common options in all exchange contracts, which is foreseen in order to prevent undue loss to one of the contract parties, due to ignorance of the real value of the exchange. This legal entity is recognized in Article 416 of the Civil Code of Iran, and based on it, if one of the parties to the transaction is ignorant of the fair price and suffers an unforgivable gross loss, he will have the right to terminate the transaction. With the significant expansion of new communication technologies and the formation of transactions on electronic platforms, the question of how to apply and remove the ghoban cucumber in the virtual space has become doubly important. Today, natural and legal persons introduce, supply and exchange goods and services through the global Internet and other electronic communication tools, without physical presence and beyond geographical borders. This development has made the necessity of a comparative study of the Khyar Ghoban institution in two areas of virtual and non-virtual transactions inevitable.

The importance of this research comes from the fact that in most electronic transactions, the buyer enters into a contract without the possibility of seeing the goods physically and only based on the characteristics listed on the website; This greatly increases the probability of embezzlement. On the other hand, in many electronic contracts, the terms of the withdrawal of cucumbers are imposed on the parties in a comprehensive and sometimes opaque manner in the form of "terms and conditions of use", and this strengthens the necessity of checking the validity of the previous withdrawal of cucumbers in cyberspace.

The basic question that the current research aims to answer is whether the condition of Muscat cucumbers, especially Ghoban cucumbers, can be realized in electronic contracts or not? And if realized, what will be the differences with traditional transactions? Also, does the removal of Cucumber Cafe include gross embezzlement or not? And in the case of embezzlement beyond the conventional limits, what will be the effect on the validity of the condition of abortion?

Research background

Despite the importance of Ghoban cucumber in Iran's legal system, the researches conducted in the field of its adaptation to electronic transactions have been limited and often incomplete. Khodari et al. (1401) in a research investigated the theft of cucumbers in electronic transactions and concluded that electronic transactions are not different from traditional transactions in terms of legal nature, and by using the method of manat revision, the basis of the legislation of cucumber of theft can be extended to electronic transactions as well. Jialani (1400) in a research titled "Jurisprudential examination of options in electronic transactions (case study of Khiyar Ghoban)" analyzed this legal entity in the context of electronic contracts and pointed out the gaps in the law of electronic commerce, especially regarding Khiyar Ghoban. Akbarineh and Mahmudzadeh (2015) in a research entitled "Electronic Contracts" have analyzed the various aspects of electronic commerce and emphasized the necessity of developing special laws in this field.

Abedi and Khodabakhshi (2018) in a research entitled "Compensating the loss of the loser through payment of the price difference" investigated the effects of embezzlement from a jurisprudential and legal point of view and concluded that based on the foundations of jurisprudence and civil law, the loser's option is limited only between rescinding or maintaining the contract and he does not have the right to demand compensation for the difference instead of rescission. Molvi and Esmaili (2016) in a research entitled "Investigation of the option of embezzlement and its relationship with the rule of harm with an approach to the thought of Imam Khomeini (PBUH)" analyzed the jurisprudential foundations of this option and concluded that the rule of harm cannot be the evidence and basis of the option of embezzlement alone. Considering the above-mentioned backgrounds, it is clear that none of the previous works have independently and comprehensively examined the embezzlement option in virtual transactions and its adaptation to non-virtual transactions from the perspective of Imami jurisprudence and subject law.

Research goals and questions

The main purpose of this research is to explain the views of jurists and legal subjects regarding embezzlement in virtual and non-virtual transactions and to determine their differences and commonalities. The sub-objectives of the research are: explaining the cucumber of embezzlement in non-virtual and virtual transactions from the point of view of jurisprudence and subject law; Explaining the benefits of Ghoban cucumbers in electronic and non-virtual transactions; and checking the validity of the cucumber cancellation condition in electronic transactions.

The main question of the research is how to implement the Muscat cucumber condition in Iranian jurisprudence and law by applying virtual and non-virtual transactions. Sub-questions are also: Ghoban cucumber can be used in what transactions? What are the muscats of Khayar Ghoban in electronic and non-virtual transactions? And does the removal of cucumber cafe include gross embezzlement?

Research method

The current research has been carried out with descriptive-analytical method and using library resources. In this research, by using the library method, authentic domestic books and articles related to Ghoban cucumber were collected and after studying the sources, the sections related to the research objectives were scanned and the basic and decisive points were extracted and analyzed. In all stages of data collection, the use of reliable and reliable sources has been emphasized.

Theoretical basis of Ghoban cucumber

Definition and nature of Ghoban cucumber

The literal and idiomatic definition of Ghoban

"Ghoban" in the word means trickery, deception, and making things appear to be false (Omid, 1374, p. 741). The word "Ghabna" is used by Fatah Ba about judgment and intelligence and refers to weakness in discernment (Fakhar Toosi, 2004, p. 5). Also, ghaban is used in the meaning of breach of promise (Katouzian, 2010, p. 506).

In jurisprudential terms, embezzlement is the possession of property to another at a price higher than its real value, with the other party's ignorance (Haeri Shahbagh, 1376, vol. 1, p. 401). Another definition given in jurisprudential sources: "Buying for more than the market price or selling for less than it during the contract, in a way that is not tolerated by custom, assuming the customer's ignorance of the excess and the seller's ignorance of the purity". "In a way that if the contracting party had been aware of the true price, he would not have proceeded with the transaction and would not have been satisfied with it" (Mughniyyah, 1421 AH, Vol. 5, p. 187).

In legal terminology, embezzlement is the loss resulting from a gross inequality between the value of what must be paid or done and what is received in return, which occurs to the unknowing party at the time of the transaction (Katouzian, 1390, pp. 208-209). This definition is considered the most comprehensive definition because it includes all the basic elements of embezzlement. The realization of embezzlement requires three basic elements: first, embezzlement is conceivable only in contracts of consideration; second, there must be a gross and unusual inequality between the value of the consideration at the time of the conclusion of the contract; and third, the ignorance of the injured party regarding the true price of the transaction. Although "ghabn" in its literal meaning implies deception and trickery, in its idiomatic and legal sense, trickery and trickery are not a condition for the realization of embezzlement and do not play a role in the principle of its realization (Haeri Shahbagh, 1376, vol. 1, p. 401).

Definition and nature of option in jurisprudence and law

"Option" is a noun derived from the root "aktiyar" which in the dictionary implies the right to choose and elect (Ibn Manzoor, 1414, p. 267). In jurisprudential terminology, option has been interpreted as "the power to terminate the contract" (Fakhr al-Muhaqqiin, 1387, vol. 1, p. 482). Since it clearly emphasizes the element of "dominance over termination of the contract", this definition is more comprehensive and precise and is known as the most appropriate definition. Sahib Jawaher also defined option as "the power to confirm the contract and to remove it" (Najafi, Bi-ta, vol. 23, p. 3). On the other hand, another group of jurists, including Imam Khomeini (RA), have considered option not as property, but as a type of "right" and believe that option has a "right" nature that the holy lawgiver has forged for the parties to the contract. The requirement for option to be a right is that its realization and extinction are at the disposal of the right holder and that he can waive it (Imam Khomeini, Beta, p. 11). Sheikh Ansari also considers option to be a type of "right" and believes that "option is among rights, not among rulings" (Ansari, 1415 AH, vol. 2, p. 229). In Iranian law, options are included in the category of financial rights (Safaei, 2004, pp. 305-304; Katouzian, 2008, pp. 118-54). Article 448 of the Civil Code explicitly stipulates: "The extinction of all or some options can be stipulated in the contract." This legal clarification clearly indicates that options are rightful, because the ability to be revoked is an exclusive characteristic of a "right" and not a "ruling." Sharia and legal rulings, due to their departure from the realm of individuals' discretion, cannot be revoked at all, while options, due to their being within the scope of the rightful owner's will, accept the possibility of voluntary and conditional lapse (Emami, 1355, Vol. 1, p. 540).

Based on this analysis, the option to terminate is an example of a contract and its realization is subject to the unilateral will of the option holder. Also, the option to terminate is different from the permission to terminate in permissible contracts; on the one hand, the option to terminate is considered a "right" and can be revoked, while the permission in permissible contracts cannot be revoked, and on the other hand, the option is considered to be based on the will of the rightful owner (Khoi, 1410 AH, Vol. 2, p. 15).

Conditions for the realization of the option of embezzlement

For the realization of the option of embezzlement, three basic conditions must be met, which have been emphasized in Imami jurisprudence and statutory law:

The first condition: The contract must be negotiable. Embezzlement is a loss or damage that may be incurred by one of the two parties in a transaction, and the basis for the option of embezzlement is the compensation of this loss. Therefore, where two economic values are exchanged for each other and there is a possibility of inequality between them, the issue of embezzlement and the option arising from it arises (Katouzian, 2004, p. 387). In contracts concluded with the intention of giving, the person who gives implicitly accepts that he will not receive anything in return for what he gives away, and as a result, the claim of economic imbalance in such contracts is meaningless. Thus, the option of embezzlement is only conceivable in contracts of exchange, and the claim of embezzlement is applicable only in this category of contracts (Jafari Langroodi, 2001, vol. 5, p. 207; Katouzian, 2003, p. 318).

The second condition: The existence of a gross and unforgivable imbalance between the values of the two consideration at the time of concluding the contract. According to Article 416 of the Civil Code, the realization of the option of embezzlement is subject to the grossness of the price difference. A difference is considered gross when it is not forgivable according to custom and people are usually not willing to tolerate it at the time of the contract (Bahrani, 1405 AH, vol. 19, p. 40). Minor differences that are tolerated by custom will not result in the realization of the option of embezzlement. The basis for granting the option of embezzlement is to prevent a loss that custom considers contrary to justice and fairness; therefore, tolerable loss does not create the right to terminate (Emami, 2009, vol. 1, p. 497).

In Imami jurisprudence, there is no specific limit for gross embezzlement and its determination is left to custom. The Civil Code, after amending Article 417 in 1982, also accepted the same view and made the criterion customary non-indulgence. The customary determination varies according to the type of goods, market conditions, time, place, and specific circumstances of the transaction. For this reason, assessing whether embezzlement is gross is a relative, flexible judgment that depends on the specific circumstances of each transaction (Katouzian, 2002, Vol. 5, p. 212). The criterion for assessing embezzlement is the time of conclusion of the contract. According to the well-known opinion of jurists and lawyers, an increase or decrease in the price after the contract before the delivery of the sold item has no effect on the realization or collapse of the embezzlement option. Judicial practice has also accepted the same opinion.

The third condition: Ignorance of the loser about the real or customary price of the property at the time of concluding the contract. In the case of conscious knowledge of the price and deliberate action of a harmful transaction, embezzlement is not proven; Because a conscious action prevents embezzlement (Ansari, 1415 AH, vol. 5, p. 167). Ignorance at the time of entering into a contract is one of the main pillars of the realization of the choice of embezzlement, and this ruling is also fully valid in electronic transactions. Because in this type of transactions, if one of the parties enters into a transaction knowing that the price or the valuer is lower or higher, he is actually satisfied with the terms of the contract and his right to claim embezzlement is lost (Halli, 1411 AH, p. 97; Najafi, 1404 AH, vol. 23, p. 42).

Ghoban cucumber types in terms of realization time

One of the basic controversies in Imamiyyah jurisprudence is whether the emergence of ghabban is the origin of the creation of khiyar or merely the discovery of its previous existence. Allameh Hali believes that "stealing by itself causes the evidence of cucumber" and the appearance of stealing has only a role of discovery; This means that the ghoban cucumber is fixed from the time of the contract (Allameh Hali, Bita, vol. 11, p. 70). Sheikh Ansari, on the other hand, considers the emergence of embezzlement as a condition for the occurrence of khiar and believes that khiar is realized only after the embezzler is aware of embezzlement (Ansari, 1415 AH, vol. 5, p. 162).

However, the famous opinion of later jurists, as well as the prevailing view of jurists, is based on the discovery of the emergence of embezzlement from the existence of cucumbers from the time the contract was concluded (Katouzian, 2018, p. 219; Emami, 2005, vol. 1, p. 522). According to this view, the act of embezzlement is realized from the moment the contract is concluded, and the knowledge of embezzlement is not considered as one of the elements of the act of embezzlement, but the actualization of the act of embezzlement constitutes the whole issue of this act of embezzlement. The science of theft does not have an independent subjectivity and only plays the role of discovering and expressing it (Sebahani Tabrizi, 1414, pp. 209-210).

Jurisprudence and legal foundations of Khayar Ghoban

Proofs of embezzlement in Imami jurisprudence

The jurists have cited several evidences to prove Ghoban cucumber, the most important of which are:

A) Qur'anic verses: the honorable verse "Do not trust my wealth, I will be in vain unless you make a trade for the sake of my wealth" (Nisaa, 29) and the verse "Afwa al-Aqud" (Ma'idah, 1). According to the analysis of some jurists, in the Ghobni transaction, although there is consent to the principle of ownership, there is no consent to the necessity of the transaction and bearing the huge loss; Therefore, the marriage will be valid but not obligatory (Sheikh al-Sharia Isfahani, 1410, p. 131; Khoi, 1412 AH, vol. 6, p. 291).

In the analysis of the argument to the verse "Tijarah An Taraz", two main interpretations have been proposed. The first interpretation is that whatever the contracting parties agree on, is legally signed and in the Ghobni transaction, there is an agreement of the parties regarding the principle of the transaction, but such an agreement is not realized regarding the necessity of selling. Therefore, the requirement that is not agreed upon by the contracting parties is not signed by the Shariah, and according to the limitation contained in the verse, possession without consent is prohibited (Sheikh al-Shari'ah Isfahani, 1410, p. 131). The second interpretation dissolves the consent of the loser into two parts: the consent to buy a foreign object, which is valid in the validity of the transaction, and the consent to buy an object with a special description, such as the value of two dirhams, which plays a role in the necessity of selling. In the assumption of embezzlement, the lacked attribute is one of the attributes to which the second consent is assigned; Therefore, its absence will make the transaction unnecessary and, as a result, evidence of embezzlement (Shahidi Tabrizi, 1375, vol. 3, p. 155).

B) Narratives: including the prophetic hadith "Prohibition of the taking of rakban" which some jurists, including Imam Khomeini (RA) have cited to prove the choice of stealing. In this narration, the Holy Prophet (PBUH) forbade welcoming the commercial caravans before entering the market and said: "I will meet the customers with cucumbers if they enter the market" (Imam Khomeini, 1421, Vol. 4, pp. 414-415). Also, traditions indicating the sanctity of stealing, such as "Ghban al-Mu'min haram" which has been quoted in several jurisprudential sources (Kilini, 1407, vol. 5, p. 153; Sheikh Sadouq, 1413, vol. 3, p. 273). The narratives of "Ghoban Al-Mustaral Saht" and "Ghoban Al-Mostaral Riba" are also among the jurisprudential documents in this field (Kilini, 1407, vol. 5, p. 153; Sheikh Sadouq, 1413, vol. 3, p. 272).

Imam Khomeini (may Allah be pleased with him) in response to the forms of the weakness of the chain of transmission of these traditions, states that the weakness of the chain of transmission can be compensated for, but the weakness of the evidence cannot be accepted; Because in the first narration, the proof of the cucumber is dependent on entering the market, which indicates the discovery of the real price, and if the cucumber was only considered for self, there would be no such use (Imam Khomeini, 1421, Vol. 4, pp. 414-415).

C) The principle of harm: many jurists have considered the principle of "no harm and no harm in Islam" to be the strongest reason to prove the choice of embezzlement (Bahrani, 1405 AH, vol. 19, p. 41; Ansari, 1380, vol. 5, p. 161). According to this rule, any sentence that requires undue harm is outside the scope of legislation. As a result, the necessity of a fraudulent transaction that causes loss to the loser cannot be justified, and therefore, the loser will have the right to cancel (Naraghi, 1415 AH, vol. 14, p. 390).

The method of reasoning to the rule of harm to prove the ghoban cucumber is based on the examination of different situations of the ghoban transaction. Three hypotheses can be imagined: the invalidity of the Ghobni transaction, the validity and necessity of the Ghobni transaction, and the validity and lack of penetration of the Ghobni transaction. The first assumption (false) has not been considered correct; Because the parties are satisfied with the principle of the transaction and transfer of property, and the mere lack of equality in the property of the parties does not affect the validity of the contract. The second premise (correctness and necessity) has also been invalidated by referring to the rule of harm; Because the necessity of selling a ghobni requires the realization of a loss for the ghoboon, and such a ruling cannot be considered as one of the Shari'a rulings. As a result, the third assumption (correctness and lack of influence) will be determined (Mohammadi Khorasani, 1390, vol. 8, p. 298; Naraghi, 1415 AH, vol. 14, p. 390).

d) Reasonable foundation and the implicit condition of the balance of the exchange parties: According to this theory, in exchange contracts, the customary basis of the parties is on the existence of relative proportionality between the two exchanges, and even if this condition is not explicitly mentioned in the contract, the custom assumes it (Khoei, 1412 AH, Vol. 6, p. 291; Sobhani Tabrizi, 1414, pp. 209-210). Violation a This implicit condition provides the basis for the determination of the option for the injured party. The minor argument is that the social life of humans is based on exchange and barter, and the customary foundation of the contracting parties is based on the equality of the counterparties in property; and since this foundation is a type, it is as if the contract was made on this condition, in such a way that if the aggrieved party had been aware of the inequality, he would not have consented to the transaction. The major argument is that the violation of this customary foundation causes the lack of real consent, but since in cases such as a fictitious and fraudulent transaction it has been proven that subsequent permission is equivalent to prior permission, the violation of this foundation does not invalidate the contract; rather, the aggrieved party has the right to terminate or sign the contract (Mousavi Bojnourdi, 2009, vol. 2, p. 1234; Isfahani Company, 2018, vol. 2, p. 1249).

Criticism and Review of the Evidence for Proving the Option of Embezzlement

Some jurists, including Imam Khomeini (RA), have raised objections to the argument based on verses and narrations to prove the option of embezzlement. Imam Khomeini (RA) believes that the argument based on the verse “Trade without consent” to prove the option of embezzlement is incomplete (Imam Khomeini, 1421, Vol. 4, p. 1466). The objections to this argument are:

The first objection: Multiple meanings cannot be derived from a single word. In other words, the aforementioned verse cannot be used to mean once the validity and necessity, once the validity and choice, and a third time the validity and invalidity of the transaction. According to the explanation provided by the scholar’s words, the content of the verse is that if a transaction is based on consent, it is valid and necessary, and if there is no consent, in some cases it will be valid and optional, and in others it will be invalid; however, such an interpretation is not consistent with the revelation of the verse (Imam Khomeini, 1421, Vol. 4, p. 396).

Second objection: This verse has no connection with the option of embezzlement, because it refers to “consent” or actual consent at the time of the contract, in which case the transaction will be valid and binding forever, even if it is later revoked; while none of the jurists have committed to such a conclusion. Or is it true consent after the discovery of the wrongdoing, which is necessary for this statement that until the fact of the matter is discovered and true consent is obtained, possession of the property is not permissible; while the jurists have clarified that the embezzler can possess his property, whether before the embezzler is informed of the embezzlement or after it and before termination (Esfahani Company, 1418, Vol. 4, p. 236).

Third objection: The verse only indicates the affirmative ruling of the validity of a transaction that is made with consent and does not appear in any negative ruling, i.e. the invalidity of the transaction in the absence of consent; Unless the concept of an exclusive contract is adhered to, while the scholars have argued only for the concept of an exclusive contract. Even if we accept the concept of having an exclusive contract, ultimately the nullity of the transaction is proven, not the proof of the option (Hosseini Rouhani, 1420, vol. 1, pp. 284-285.(

Some problems have also been raised regarding the argument of the rule of harm, among them, we can point to the problems of Imam Khomeini (RA) who considers the provisions of the rule of harm to be a negation of harmful legislation, not a negation of legislation through which it is possible to avoid harm. Based on this, the absence of the need for a contract enables the loser to avoid the loss, while the ruling on the permissibility or the possibility of getting rid of the loss is not an example of the legislation of loss to be subject to negation (Imam Khomeini, 1421, vol. 4, p. 410; Najafi Irvani, 1406, vol. 2, p. 128). Sheikh Ansari, by briefly accepting the reasoning power of the tort rule, disputes the conclusion based on it and states that even if, with the blessing of the tort rule, the ruling on the necessity of sale is rejected and the transaction is placed in a state of instability and instability, this will not necessarily lead to the proof of the term theft option (Ansari, 2013, vol. 5, p. 161).

Ghaban cucumber in electronic transactions

Legal nature of electronic transactions

Electronic contracts are not fundamentally different from traditional contracts in terms of their nature, elements and validity principles, and their only difference lies in the method or environment of concluding the contract (Maqaminia, 1391, p. 293). The electronic nature of the way of declaration of will is only related to the form of concluding the contract and does not conflict with the principles and principles of validity of contracts. Although the civil law and special laws have not provided independent provisions for electronic contracts, but by deriving from the general principles of contract law, comparing these contracts with traditional contracts and analyzing the features of the environment and electronic tools, it is possible to identify the basic characteristics of electronic transactions (Maqaminia, 1391, p. 293).

According to Article 6 of the Electronic Commerce Law approved in 2002, whenever the presence of writing is required by law, "message data" is written in the ruling. Also, Article 10 of the same law considers data messages as valid documents in terms of effects and validity. Based on this, legal acts in the electronic platform have the same validity as traditional acts. Article 12 of the Electronic Commerce Law has also considered the proofs of litigation valid in the electronic platform and introduced the data message as valid. Therefore, the electronic acceptance of the condition of rescission of options can be considered as proof of the fulfillment of the will and composition of rescission (Electronic Commerce Law, Articles 6, 10 and 12).

Electronic transactions are often classified as contracts between absentees (correspondence contracts); Because requests and acceptances are not done mutually and are done through electronic intermediaries (Amiri Qaim Maqami, 2008, vol. 2, p. 238; Jafari Langroudi, 2010, vol. 4, p. 2585). Although Iran's civil law has not stated an explicit ruling about absentee contracts, there is no doubt about their validity; Because the commercial custom accepts this type of contract and there is no reason to invalidate it in the relevant laws. In addition, in Iranian law, the principle is on the authenticity of transactions and contracts concluded between individuals, unless there is a valid reason for its corruption (Amiri Ghaem-Maqami, 1998, vol. 2, p. 238).

Contracts concluded through the Internet and electronic platforms are also examples of absentee contracts; Because, firstly, requests and acceptances in such contracts are not mutually agreed upon, and secondly, there is usually a time gap between the request and acceptance, as well as a spatial distance between the contracting parties (Jaafari Langroudi, 1370, vol. 4, p. 2585).

The conditions for the realization of Ghoban cucumber in electronic transactions

In electronic transactions, as in traditional transactions, the realization of the option of embezzlement depends on the meeting of three basic conditions: the contract being compensated, the existence of a gross imbalance between the value of the exchange, and the ignorance of the embezzler about the real price at the time of the conclusion of the contract. However, the specific characteristics of the virtual space, including the absence of the transaction, the impossibility of directly observing the subject of the transaction, and more reliance on the information provided by the other party, intensify the implementation of embezzlement in this type of contracts (Khudri et al., 1401; Jialani, 1400).

One of the most important challenges in detecting embezzlement in electronic transactions is determining the fair price measurement criteria. In contracts concluded through websites, the price of the goods is determined in advance by the seller, and the buyer usually has the possibility to know the price of the goods in other virtual or traditional markets. In this context, there are two views:

The first point of view: Internet markets are only a tool to facilitate trade and do not have an independent custom; Therefore, selling goods at a higher price than the actual market price can lead to the realization of the ghoban cucumber. In this view, the comparison criterion is the prices of traditional and real markets.

The second point of view: Internet markets have their own commercial customs, and the comparison criteria should be the common prices in other Internet markets, not local and traditional markets. The second opinion seems to be waver; Because Internet markets often have a trans-local and even global nature, and their pricing is influenced by global customs. Therefore, the comparison of global prices with local prices is not always correct (Katouzian, 2006, vol. 5, p. 165).

The important thing is that in many cases, electronic transactions are done on a local platform; Like an active online store in a specific city. In such an assumption, if the seller determines the price of the goods based on global prices and is much higher than the local conventional price, the mere fact that the contract is electronic will not prevent embezzlement. Because the ghoban cucumber is one of the general rules of contracts, and wherever a customary gross loss is inflicted on one of the contracting parties, the right of termination is created for him.

Ghoban cucumber's position in electronic commerce law

Iran's e-commerce law, inspired by the UNCITRAL model law, has provided special provisions to protect consumers in remote transactions. According to Article 37 of this law, the consumer in remote transactions, without the need to provide a reason, has the right for up to seven working days. has the right to terminate the contract. This right of termination, which is envisaged with the aim of protecting the consumer in cyberspace, is in practice considered a general and legal option for terminating distance transactions (Poursayed, 2007, p. 58). According to Article 46 of the Electronic Commerce Law, the waiver of this right of termination is not permitted and this ruling is of a mandatory nature. Thus, the parties to the contract cannot agree against this seven-day right of termination (Poursayed, 2007, p. 59.(

However, the nature of this right of termination is fundamentally different from the embezzlement option. On the one hand, the seven-day termination right subject to Article 37 is mandatory and non-waivable in nature and, pursuant to Article 46 of the Electronic Commerce Law, its waiver is not permitted. On the other hand, this right is not based on the consent of the parties and the legislator has imposed it as a mandatory ruling on all distance transactions. In contrast, the embezzlement option is a waivable financial right and the parties can waive it by agreement during the contract (Article 448 of the Civil Code).

However, the exercise of the seven-day termination right does not prevent the recognition and exercise of other options, including the embezzlement option, in electronic contracts. In some cases, due to the descriptive nature of virtual transactions, the possibility of embezzlement in these types of contracts is higher than in traditional transactions, and therefore the embezzlement option can play a complementary and effective role in protecting consumer rights (Taqoizadeh and Zolfaqar Arani, 2011; Maghamnia, 2012). However, in contracts concluded through websites and the price of the goods is determined in advance by the seller, if the price of the goods is equal to the prevailing prices in real or virtual markets or the difference is considered to be forgivable, the embezzlement option will not be realized.

Abandonment of the embezzlement option in virtual and non-virtual transactions

The concept and nature of abandonment

Abandonment literally means to throw and eliminate, and its fall is considered its effect and result (Abdul Rahman, Beta, Vol. 1, p. 178). In law, abandonment is the destruction of a right that may occur by contract, settlement, or exchange. The revocation of an option is considered a unilateral legal act (iqa'), the realization of which is subject to the declaration of the will of the owner of the option and does not require the consent of the other party to the contract to be effective (Safaei, 2004, p. 306; Katouzian, 2008, pp. 912-936).

Some jurists, considering the effects and consequences of the revocation of options, have likened it to rescission (agreed termination of the contract) (Safaei, 2004, p. 310). This analogy means that all the legal effects resulting from rescission also apply to the revocation of the option. Among the common effects is that the effect of the revocation of the option arises from the time of the revocation.

Different views have been presented regarding the difference in the nature of the waiver of options existing during the contract and options that are created after the contract:

The first view (prevention of the formation of the right): It is believed that the waiver of options essentially means preventing the creation of the necessary conditions for the formation of the option. In this approach, the parties, by mutual agreement or even by declaring the unilateral will of the right holder, eliminate the necessary conditions for the creation of the option and, as a result, prevent its creation (Katouzian, 2008, pp. 903-936).

The second view (simultaneous creation and collapse of the right): This view believes that the creation of the option is a requirement of the nature of the contract and the will of individuals cannot prevent its realization at all. Therefore, the option is created as soon as the contract is concluded, but is immediately and without lapse of time (Katouzian, 2008, pp. 903-936).

Some civil law professors prefer the first view and believe that with the condition of relinquishment, the basis and context for creating an option is completely eliminated and the right of option is not realized. In other words, the condition of the fall of the option in this assumption refers to preventing the formation of the right, not the fall of the right after its realization. This analysis will undoubtedly be acceptable, especially in cases where the basis of the option is the consent and agreement of the parties (Katouzian, 2008, p. 936). In cases where the basis of the option is the rule of harm, this view can also be accepted; because the injured person has acted against himself and the harm resulting from the person's action is not considered an unjustified harm (Katouzian, 2008, p. 936).

Types of Relinquishment of the Option for Fraud

Relinquishment of the option for fraud can be divided into two types, explicit and implicit:

a) Explicit relinquishment: In this case, the owner of the option declares openly and unambiguously that he has waived his right to terminate. This declaration may occur at the time of conclusion of the contract or afterwards and can be oral, written or in the form of an official or ordinary document (Katouzian, 2008, Vol. 5, No. 912). In non-virtual transactions, this type of waiver is usually included in the text of the contract with phrases such as "The option of options is waived even if the option of gross embezzlement is waived by the parties."

In virtual transactions, explicit waiver of the embezzlement option can also be realized through electronic means. For example, the parties can include a condition in the electronic contract that the embezzlement option will be waived, and the user can accept this condition by selecting the option to accept the terms of the contract. Also, after the transaction is completed, the embezzler may announce by sending a data message, email or electronic confirmation that, despite being aware of the embezzlement, he/she approves the transaction and waives the right to terminate (Electronic Commerce Law, Articles 6 and 12; Rahimi, 2013, p. 210).

b) Implied revocation: In this case, the option holder does not directly and explicitly declare revocation, but performs a behavior that is not conventionally compatible with the survival of the right of revocation, and from this, consent to the transaction and waiver of the right of revocation are inferred (Safaei, 2004, p. 307; Emami, 2016, vol. 1, p. 530). In jurisprudence and law, this type of revocation is analyzed based on the principle of "the implication of the act on consent." In other words, if a person's behavior is such that conventionally it implies consent to the transaction and waiver of the right of revocation, implicit revocation is realized.

Differences in the waiver of the option of embezzlement in virtual and non-virtual transactions

Difference in the means of expressing will

In non-virtual transactions, the waiver of the option of embezzlement is often explicitly included in the text of written contracts or official documents, and the signature of the parties to the document is considered evidence of their awareness and consent to the waiver (Katouzian, 2007, Vol. 5, p. 165). In contrast, in virtual transactions, the expression of will is carried out through data messages, electronic clicks, digital signatures, emails, system acceptance, and digital behaviors. According to the Electronic Commerce Law, data messages are considered written and A secure electronic transaction is equivalent to a handwritten signature (Articles 6, 10, and 12). Therefore, from a legal perspective, the waiver of the option in cyberspace can also be realized through data message, digital signature, or electronic acceptance.

Difference in awareness

In non-virtual transactions, the parties' awareness of the waiver condition is usually established by reading and signing the contract, and in cases of dispute, the principle is based on awareness unless proven otherwise. However, in virtual transactions, the possibility of the "condition remaining hidden" and, as a result, the user's lack of real awareness of it is greater. In many electronic contracts, users choose the acceptance option simply to enter the system without reading the conditions. Therefore, some lawyers have emphasized that the waiver condition must be provided to the user in a transparent, visible, and nonmisleading manner; Otherwise, the condition may be considered unenforceable due to unfairness or in conflict with consumer protection (Safaei and Rahimi, 2013, pp. 244-246).

Difference in the time of receipt and its effect on the forfeiture of the option

In virtual transactions, the delivery of goods is often delayed and the customer is also informed of the discovery of the embezzlement later than in traditional transactions. As a result, the realization of effective possession as the forfeiture of the embezzlement option requires that the goods have actually reached the hands of the embezzler and that he has been provided with the opportunity to see and examine it. Before this stage is achieved, possession cannot be considered as the forfeiture of the embezzlement option (Khodri et al., 2014; Jafari Charmheini, 2017, pp. 9-1).

In electronic contracts, determining the time of receipt is more complicated. For physical goods, receipt is realized when the goods actually reach the customer's possession or when the possibility of possession is provided. For digital data (software, files, licenses), receipt is realized with the possibility of access, successful download or activation. Therefore, if before this stage, the file is deleted from the server or the activation code becomes invalid, the contract is terminated and the price must be returned (Emami, 1976, Vol. 1, p. 495; Katouzian, 2007, Vol. 4, p. 134). This difference in the time of receipt has a direct impact on the possibility of exercising the embezzlement option and how to waive it in virtual transactions.

Difference in the special right of cancellation for distance transactions

As mentioned earlier, the Electronic Commerce Law in Article 37 has foreseen a special right of cancellation for the consumer in distance transactions that can be applied up to seven business days and, due to its mandatory and non-waivable nature, is fundamentally different from the general rules of options in the Civil Code (Poursayed, 2007, pp. 58-59). Although this right of termination is considered a kind of termination option for one of the contracting parties within a certain period of time, and it can be considered with caution to have some effects of a conditional option, since it is not based on the consent of the parties and the legislator has imposed it as a mandatory ruling on all distance transactions, it cannot be considered a conditional option in the sense of the term in civil law (Maqaminia, 2012, p. 293; Poursayed, 2007, p. 59.(

Abolition of the right of option and its inclusion in gross embezzlement

One of the most challenging issues in Iranian contract law is the possibility of abolition of all options and its inclusion in gross and indecent embezzlement. According to the famous view of contemporary jurists, the abolition of all options does not include gross embezzlement, and even if it is specified to abolish gross embezzlement, if the realized embezzlement goes beyond what was intended in the customary consent of the parties, the right of option will remain for the aggrieved party (Imam Khomeini, 1377, vol. 3, p. 3; Ayatollah Bahjat, 1379; Ayatollah Mazaheri, 1380; Ayatollah Makarem Shirazi, 1385).

Sheikh Ansari, on the other hand, has argued that it is more important to know the validity of the condition for the abolition of gross embezzlement. In his opinion, if the abandonment of the option of embezzlement causes the transaction to be void, it is necessary that all transactions in which the parties are not aware of the real price of the goods with the experts be considered void; a conclusion that is certainly rejected (Ansari, 2003, vol. 2, p. 282). However, the well-known opinion of contemporary jurists and lawyers is that the abandonment of the option of embezzlement cannot include gross embezzlement; because gross embezzlement is to such an extent that it is not customary to condone and tolerate it, and as a result, the assumption of the consent of the parties to tolerate it is nullified (Allameh Heli, Bita, vol. 11, p. 70; Katouzian, 2008, vol. 5, p. 954).

In Iranian judicial practice, numerous opinions have also been issued on this basis. The Tenth Branch of the Supreme Court, in its decision dated 1372/01/18, No. 10/20, has recognized the reliance on the embezzlement option as null and void, considering the waiver of all options, including the embezzlement option, in the contract (Bazgir, 1379, p. 307). The Eighth Branch of the Supreme Court, in its decision dated 1369/10/10, No. 8/562, has rejected the reliance on the option to terminate a transaction that was concluded by waiving the option clause (Bazgir, 1379, p. 311). However, these decisions are based on the assumption that the embezzlement was within the limits agreed upon by the parties, and in cases of gross embezzlement, the judicial practice has adopted a different approach.

Among contemporary jurists and authorities, there have also been various opinions regarding the explicit waiver of the embezzlement option in the contract. Imam Khomeini (RA) believes that even if it is specified in the contract that the option of embezzlement, even if it is gross or obscene, is void, the voiding only includes the amount of embezzlement that is considered possible in the custom of such a transaction, and if the embezzlement exceeds the conventional and assumed limits of the parties, the option will not be voided (Al-Musawi Al-Khomeini, 1377, Vol. 3, p. 3). Ayatollah Bahjat also believes that the voiding of all options, even the option of gross embezzlement, is effective to the extent that there is no definitive withdrawal from it, and in the event of an unforgivable embezzlement that was not customary to be agreed upon, the right of termination remains. Ayatollah Mazaheri also specifies in his fatwa that all options can be voided except the option of embezzlement, and in the event of a gross difference in the price at the time of the transaction, the right of termination will be reserved. Ayatollah Makarem Shirazi also does not consider the waiver to include such embezzlement in cases where a person has committed serious embezzlement without knowing the real value of the property, despite the condition of waiving the option, and considers the right of rescission to be fixed.

Consequently, according to the well-known opinion of contemporary jurists, waiving all options does not include gross embezzlement, and even if it is specified to waive gross embezzlement, if the embezzlement that has occurred exceeds what was intended in the customary consent of the parties, the right of rescission will remain for the embezzler. This view, which is clearly expressed in the fatwas of Imam Khomeini (RA) and Ayatollah Bahjat, is also closer to the views of the majority of contemporary jurists; although Sheikh Ansari's view in strongly recognizing the validity of the condition for the waiving of the option for gross embezzlement, is still considered a significant view in Imami jurisprudence.

Conclusion and Suggestions

Conclusion

The present study shows that the option of embezzlement, as one of the most important legal institutions in the Iranian contract system, can also be applied in virtual transactions and, in terms of its nature and conditions of realization, is not fundamentally different from non-virtual transactions. The electronic nature of the method of declaring the will merely refers to the form of concluding the contract and does not conflict with the pillars and principles of the validity of contracts. Therefore, in electronic transactions, as in traditional transactions, whenever there is a gross imbalance between the value of the consideration and the embezzler is ignorant of the real price, the option of embezzlement will be proven for him.

The waiver of the option of embezzlement in electronic contracts is essentially subject to the same principles and rules as in traditional contracts. According to the principle of the rule of will, the parties can waive the waiveable options in cyberspace, either explicitly or implicitly. Tools such as the acceptance of the terms and conditions tick, electronic signature, final confirmation of the order, and recording of system records can be means of realizing and proving this waiver. However, the validity of the waiver of the option in electronic contracts is subject to conditions such as actual awareness, clarity of the condition, attribution of will, and non-conflict with protective mandatory rules.

However, there are significant differences between virtual and non-virtual transactions in the field of waiver of the option of embezzlement, which is mainly due to the specific characteristics of the electronic platform. Among these differences are different means of expressing will, the difficulty of ascertaining the actual awareness of the parties, the delay in the realization of the receipt and, as a result, later awareness of the embezzlement, and the existence of a special seven-day right of cancellation in distance transactions, which, as a mandatory and non-waivable right, has created a fundamental difference from the option of embezzlement in traditional transactions.

Also, the waiver of the cafe of options, even with the stipulation of gross embezzlement, will not cause the right of cancellation to fall in cases where the embezzlement that has occurred exceeds the conventional and customary limits. This view, which has been emphasized in the fatwas of contemporary jurists and the prevailing theories of jurists, indicates that the principle of protecting the weaker party to the contract and preventing undue harm, even against the apparent will of the parties, has a high position in the Iranian legal system.

Suggestions

Based on the findings This study presents the following suggestions:

1. Formulating transparent regulations regarding the terms of option waiver in electronic transactions: Given the increasing expansion of electronic commerce and the difficulty of establishing real awareness of users, it is suggested that the legislator, inspired by global regulations and with a protective approach, establish clear criteria for the manner of including and validating terms of option waiver in electronic contracts. These criteria should include the requirement to include the condition in a transparent, visible and accessible manner, as well as the prohibition of the use of hidden or ambiguous terms.

2. Clarifying customary indicators for detecting gross embezzlement in virtual transactions: Given the cross-border and global nature of many electronic transactions, determining the criteria for measuring fair price in these types of transactions is of particular importance. It is suggested that the legislator, by determining or at least explaining customary criteria and indicators for detecting gross embezzlement, provide the basis for resolving this ambiguity and unifying judicial practice.

3. Independent study of gross embezzlement in future research: In cases where the amount of embezzlement is such that there is a very obvious and significant difference between the price of the transaction and its real value, it is referred to as gross embezzlement. Despite the practical importance of this type of embezzlement, it has not been addressed independently and in detail in common and conventional legal books. Therefore, it is suggested that in future research, gross embezzlement be examined and analyzed independently and comprehensively in terms of its concept, legal effects, and its distinction from gross embezzlement.

4. Development of electronic dispute resolution systems: Given the increase in lawsuits arising from electronic transactions, especially in the field of embezzlement, it is suggested that the infrastructure of online dispute resolution be developed in the Iranian legal system to enable the rapid, low-cost, and efficient handling of this type of lawsuit.

5 .Educating and informing consumers in cyberspace: Given the determining role of awareness in the validity of the option, it is recommended that the responsible institutions design and implement educational and information programs for consumers in cyberspace so that they become familiar with their rights, including the seven-day right of withdrawal and the option of embezzlement, and can make more informed decisions in electronic transactions.

Sources and References

A) Persian Sources

1. Ibn Manzur, Muhammad ibn Makram. (1414 AH). Lisan al-Arab (Volume 1). Beirut: Dar Sader.
2. Imam Khomeini, Ruhollah. (Bita). Kitab al-Ba' (Volume 5). Tehran: Institute for the Compilation and Publication of Imam Khomeini's Works.
3. Imam Khomeini, Ruhollah. (1377). Tahrir al-Wasilah (Volume 3). Qom: Dar al-Ilm Press.
4. Imam Khomeini, Ruhollah. (1421 AH). Kitab al-Khayrat (Volume 4). Qom: Institute for the Compilation and Publication of Imam Khomeini's Works.
5. Emami, Hassan. (1355). Huqoq al-Madi'ni (Volume 1). Tehran: Kitab-e-Islamiyya.
6. Emami, Hassan. (1378). Huqoq al-Madi'ni (Volume 1). Tehran: Kitab-e-Islamiyya, 11th Edition.
7. Amiri Ghaem-e-Maqami, Abdul Majid. (1378). Huqoq al-Aqsamat (Volume 2). Tehran: Mizan Publications.

8. Ansari, Morteza. (1380). Al-Makasib (Volume 5). Tehran: Mortezavi Publishing.
9. Ansari, Morteza. (1382). Al-Khayyarat (Volume 2). Qom: Sheikh Ansari Congress Publications.
10. Ansari, Morteza. (1415 AH). Al-Khayyarat. In Makasib (Volume 5). Qom: Sheikh Ansari Congress Publications.
11. Bazgir, Yadollah. (1379). Al-Khayyarat and rulings regarding them, articles 396 to 465. Tehran: Ferdowsi Publishing.
12. Bahrani, Yusuf bin Ahmad. (1405 AH). Al-Hadeeq Al-Nadhra (Volume 19). Qom: Islamic Publishing Institute.
13. Poursayed, Behzad. (1386). Electronic Commerce Law and Its Innovations. Justice Legal Journal, 59, 58-60.
14. Jafari Charmhini, Hossein. (1396). Consumer Rights in Electronic Contracts. Private Law Quarterly, 4(1), 1-9.
15. Jafari Langroodi, Mohammad Jafar. (1991). Legal Terminology. Tehran: Ganj Danesh.
16. Jafari Langroodi, Mohammad Jafar. (1999). Civil Law: Contracts and Contracts (Volume 1). Tehran: Ganj Danesh.
17. Jafari Langroodi, Mohammad Jafar. (1999). Civil Law (Volume 5). Tehran: Ganj Danesh.
18. Jilani, Seyyed Mohammad Reza. (1999). Jurisprudential Study of Options in Electronic Transactions (Case Study of the Option of Cheating). Islamic Law Research, 22(43), 175-198.
19. Haeri Shahbagh, Seyyed Ali. (1997). Explanation of Civil Law (Volume 1). Tehran: Ganj Danesh.
20. Hosseini Rouhani, Seyyed Mohammad. (1999). Fiqh al-Sadiq (Volume 1). Qom: Dar al-Kitab Institute.
21. Helli, researcher Najm al-Din Jafar ibn Hassan. (1999). Islamic Laws in Halal and Haram Issues (Volume 2). Qom: Second Edition.
22. Khodri, Hossein; Mohammadi, Sam; Mostafavi, Zahra. (1401). A Study of the Option of Embezzlement in Electronic Transactions. Researches on Islamic Jurisprudence and Law, 18(66), 157-184.
23. Khoei, Abul-Qasim. (1410 AH). Misbah al-Fiqah (Volume 2). Qom: Ansarian Institute.
24. Khoei, Abul-Qasim. (1412 AH). Misbah al-Fiqah (Volume 6). Qom: Ansarian Institute.
25. Rahimi, Habibullah. (1392). Electronic Commerce Law. Tehran: Samat Publications.
26. Sobhani Tabrizi, Jafar. (1414 AH). Mukhtar in the Option of Embezzlement. Qom: Imam Sadiq (AS) Institute.
27. Sheikh Saduq, Muhammad ibn Ali. (1413 AH). He Who Is Not Attended by the Faqih (Volume 3). Qom: Islamic Publications.
28. Sheikh al-Sharia Isfahani, Muhammad. (1410 AH). Al-Bai. Qom: Islamic Publications.
29. Safaei, Seyyed Hossein. (1383). General Rules of Contracts (Volume 1). Tehran: Mizan Legal Foundation.
30. Safaei, Seyyed Hossein and Rahimi, Habibullah. (1392). Contract Law. Tehran: Mizan Legal Foundation.
31. Tabatabaei Yazdi, Muhammad Kazem. (1374). Urwat al-Wathqi (Volume 2). Qom: Nashr al-Wathaq al-Ilm.
32. Allama Heli, Hassan ibn Yusuf. (Bita). Tazkirat al-Fujhaa (Volume 11). Qom: Islamic Publications.
33. Umid, Hassan. (1374). Farhang al-Umid. Tehran: Amir Kabir.
34. Fakhr al-Muhaqqeen, Muhammad ibn Hassan ibn Yusuf Asadi Heli. (1387). Idhah al-Fawaad fi Sharh al-Hilalat al-Qawa'id (Volume 1). Qom: Ismaili Institute.
35. Fakhar al-Tusi, Javad. (1384). In the presence of Sheikh Ansari: Explanation of Options (Volume 3). Qom: Morteza Publishing House.
36. Katouzian, Naser. (1380). General Rules of Contracts (Volume 5). Tehran: Publishing Joint Stock Company.
37. Katouzian, Naser. (1383). General Rules of Contracts (Volume 1). Tehran: Publishing Joint Stock Company.
38. Katouzian, Naser. (1383). General Rules of Contracts (Volume 2). Tehran: Publishing Joint Stock Company.
39. Katouzian, Naser. (1386). General Rules of Contracts (Volume 4). Tehran: Publishing Joint Stock Company.

40. Katouzian, Naser. (1387). General Rules of Contracts (Volume 3). Tehran: Publishing Joint Stock Company.
41. Katouzian, Naser. (1390). General Rules of Contracts (Volume 1). Tehran: Publishing Joint Stock Company.
42. Katouzian, Naser. (1398). Civil Law: Specific Contracts (Volume 2). Tehran: Publishing Joint Stock Company.
43. Koulaini, Mohammad bin Yaqoub. (1407 AH). Al-Kafi (Volume 5). Tehran: Daral-e-Kutub al-Islamiyyah.
44. Isfahani Company, Mirza Mohammad-Hossein. (1418 AH). Fiqh al-Sadiq (Volume 2). Qom: Islamic Publishing Institute.
45. Mohaghegh Damad, Seyyed Mustafa. (2002). Rules of Jurisprudence (Volume 2). Tehran: Islamic Sciences Publishing Center.
46. Mohammadi Khorasani, Ali. (2011). Principles of Jurisprudence (Volume 8). Qom: Islamic Publishing Institute.
47. Modarresi Tabatabaei, Seyyed Hussein. (2014). Fundamentals of Islamic Law Inference. Tehran: Mizan Legal Foundation.
48. Maghamaniyya, Hossein. (2012). Electronic Contracts and Their Legal Challenges. Justice Legal Quarterly, 77, 293-310.
49. Mousavi Bojnourdi, Seyyed Mohammad. (2009). Rules of Jurisprudence (Volume 2). Tehran: Institute for Compilation and Publication of Imam Khomeini's Works.
50. Mousavi Khomeini, Ruhollah. (1937). Tahrir al-Wasilah (Volume 3). Qom: Dar al-Ilm Press.
51. Mousavi Khomeini, Ruhollah. (1421 AH). Kitab al-Khayyarat (Volume 4). Qom: Institute for the Compilation and Publication of Imam Khomeini's Works.
52. Mughniyeh, Mohammad Javad. (1421 AH). Fiqh al-Imam al-Sadiq (A.S.) (Volume 5). Qom: Islamic Publications.
53. Najafi, Mohammad Hassan. (1404 AH). Jawaher al-Kalam (Volume 23). Beirut: Morteza al-Alami Foundation.
54. Najafi, Mohammad Hassan. (Beta). Jawaher al-Kalam (Volume 23). Tehran: Dar al-Kutub al-Islamiyya.
55. Najafi Irwani, Mirza Baqir. (1406 AH). Hidayat al-Mustarishdin (Volume 2). Qom: Islamic Publications.
56. Naraqi, Mohammad Mahdi. (1415 AH). Jame al-Mas'il (Volume 14). Qom: Islamic Publications.
57. Arabic Sources
58. Al-Hurr al-Amil, Muhammad ibn al-Hasan. (1409 AH). The Shia's Resources (Volume 18). Qom: Al-Bayt Foundation.
59. Al-Shahid al-Awl, Muhammad ibn Makki al-Amil, (1417 AH). Al-Drus al-Shari'ah (Volume 3). Qom: Islamic Publications Office.
60. Al-Shahid al-Thani, Zayn al-Din ibn Ali al-Amil, (1410 AH). Al-Rawdha al-Bahiyyah (Volume 3). Qom: Maktab al-Ilmiyah al-Islamiya Publications.
61. Al-Tabatab'i, Sayyid Ali ibn Muhammad ibn Abi Mu'adh. (1418 AH). Riyadh al-Mas'il (Volume 2). Qom: Al-Bayt Foundation.
62. Al-Fazl al-Miqdad, Jamal al-Din. (1418 AH). Kanz al-Irfan (Volume 2). Qom: Nawid al-Islam Publications.
63. Al-Karaki, Ali ibn Husayn (1428 AH). Jame' al-Maqassed (Volume 4). Qom: Al-Bayt Foundation for the Revival of Heritage.
64. Al-Golpaygani, Sayyid Muhammad Reza. (1409 AH). Majma' al-Mas'a'il (Volume 2). Qom: Dar al-Quran al-Karim.
65. Al-Musawi al-Khomeini, Ruhollah. (1421 AH). Al-Ba' (Volume 4). Qom: Institute for the Compilation and Publication of Imam Khomeini's Works.