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The Features of Contract Adjustment with an Emphasis on its Relation of the unexpected theory

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ABSTRACT

Background: "Adjustment of contract" is a legal institution taking its relevance and existence from another institution named as "unexpected theory" or "the change of circumstances theory". **Objective:** The existence of this cause and effect relation necessitates interpretation and analysis of this institution in the light of the existing close relation such a view from this perspective ,on one hand ,and paying attention to the examples presented by Iranian jurists and authors regarding the legal adjustment, on the other hand fortifies this belief that "contract adjustment" should be divided and presented in two sections: the general concept conforming to the literal meaning of the word "adjustment" namely "any changes in the terms of contract in order to be proportionate with circumstances" ; and the contract adjustment in its particular meaning, namely "conforming a contract which has lost its economic balance due to an unforeseeable accident, to new circumstances by the judge in making the continuation of legal relation possible". **Conclusion:** The quality of the contract disorder, the purpose of adjustment, the adjustable contracts and the destiny of adjusted contract are the important elements considered in this definition

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INTRODUCTION

The Contract is considered the governing law on the relationship of the parties. Hence, the Coercive Enforcement of Contracts is appropriate the relationship of the parties, must commit the provisions of the accord and any manipulation is not possible except by the will of the common or by virtue of statutory causal, Interference that may occur after the conclusion of the contract was diverse and each is looking for a specific purpose. Some of these interferences are done to establish the equality and balancing *rights and responsibilities of the parties entitled "adjustment of Contract"*. *The origin of adjustment also may be "Contractual" and by the agreement accord between the parties or is predicted by the laws and regulations (statutory); But sometime after the conclusion of the contract, Events are happening that will affect its performance. Some of these events make impossible performance of the contract. These events are known as the "coercive power" or "force majeure" is not in the scope of this study. But some unexpected events, however, cannot exclude and impossible to performance of the contract but makes difficult the act of its provisions for one party; whereas, it's Solution is not envisioned neither the agreement and nor the rules. This situation is referred to as the "change of circumstances" or "unforeseen events" In countries that it has recognized results are following that including can be noted to "adjustment of Contract". This relationship requires that Definition and description of "adjustment of Contract" be done in consonance with this special relationship. According what was said, until with the review of lexical and idiomatic meanings of the term "adjustment", has been explained and described Features of "adjustment of contract" by a special focus on the role and position of the unexpected theory in the emergence and its spread. The important result of the current discussion is Facilitating on separation and identification of legal action from the other interferences after Conclusion on contract provisions and also identification of its criteria and conditions as independent and specific legal entity (T. Andersen and M. Stampe Christensen. (2002)*

1. Concepts:

Achieve to an accurate definition "adjustment of contract" is required on Scrutiny of its lexical and idiomatic meanings. Such study, in addition to creating a better measure of the performance of Iranian writers and lawyers in order to introduce and explain of the legal entity, it is useful to separate them from other

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interventions are performed by contract. Furthermore, it will be useful for comparative study on the Institution. "Adjustment" is in the word used to mean: "Equate and Share on Justice, Right and true up, make something by verdict, truth, Honesty, equality, justice, Settlement, Equal to scales, equal something to something. On the Idiomatic, Concepts have been expressed for the term "adjustment. In the jurisprudence refers to the testimony of the justice a person and are known Amended Witness and also is called Adjustment witness.

By contrast adjustment has used the term Mayhem. In principles, adjustment is called to testify of Justice Immaculate News Narrators (L. Danziger. (2003). In the Economy, adjustment are meant to add to the process price of the bidding contracts, after some time, due to changes in the market prices and coordinate tax with the amount of taxpayers of income. As legally, the definitions are provided for adjustment of contract. Adjustment of contract is meant to interfere with the provisions of the accord and changes in contractual terms which are done by purpose of harmonistic of contract with the new demands on either parties or the social and economic imperatives. To achieve this goal, it is usually added or removed one or more bet of the contract (O. Hart and J. Moore. (1988). another definition has been stated: "The term of the contract adjustment is meant to reform previous contract and change in conditions consideration or reciprocal. This change, as reducing or adding, also includes the amount of them (H. Holden, L. Holden. and S. Holden. (2005). the author defines adjustment of contract such as: When to equality Obligations of the parties of the contract should be modified the initial conditions of the contract Or provisions of the accord in any way possible has been done adjustment of contract. Another researcher by dividing of contract adjustment into as three types has been described and sometimes has also provided definitions. They have defined the judicial adjustments as follows: "judicial adjustments that there are a lot of discussion and uncertainty on possibility"; It is known the case that the magistrate according to implied condition of the contract or to prevent injustice and disadvantage of the parties is adjusted the contract provisions (S. Holden. (1999). All of the definitions of adjustment (in terms of lexical and legal terminology) are presented: "adjustment is changes in provisions of the contract in order to Creating appropriate conditions"; But the point that requires to special attention and plentiful. This is that what once is feeling the need for such a change? Or changes the contract provisions are considered adjustment what time and under what conditions? Look at the history of the unexpected theory and subsequently adjustment of contract makes clear many dark aspects and ambiguous discussion. Historically, adjustment of contract provides the emergence, necessity and its reputation from the emergence of the theory named "the unexpected theory " which has rooted in ancient Greek and Roman Law, appropriate to Commercial needs of the world, have been raised in domestic law; But the point to note is that What is causing the "Rebus sic stantibu " in the ancient Greek and Roman Law has been requirements of ethical and normative. However, "the unexpected theory "is due to from an economic perspective. In fact, "the unexpected theory" and governing similar institutions of change of conditions is a new rendition of "Rebus sics stantibu" which is based on an economic perspective. In recent centuries, the disappearance of economic balance of the contract due unexpected and unavoidable event in continuous or long-term contracts has caused to use this theory and adjustment of contract as the most important effect; such an event that would change the balance of the contract that makes it difficult to tolerate the unfortunate and ruinous consequences on one of the contracting parties as legally and logically. Adjustment of the contract is considered that one of the solutions to overcome these ravages. Hence, should be described in such circumstances. The definition can be expressed to adjustment of contract from this comment is as the followings: "Conform to contract that has been lost its economic balance Due to an unpredictable event to new conditions by the magistrate, in order to enable the continuation of legal relations ". However, referring to the domestic books can be seen which the legal act is divided into three types: (adjustment of contract, adjustment of statutory, adjustment of Judicial) according to what was stated as a result of these two categories, It seems to be divided into two general concepts and specific, It is necessary and inevitable. General concept are included "any change in conditions of equality and proportionality"; in this concept, the purpose of the adjustment is interference of method in provisions of the contract and conditions that may interfere in the provisions of the accord; it has been used in the general concept. The particular concept is same as definition that it was stated previously. The important factors take such a decision Include: Impairment quality of the contract, the purpose of adjustment, contractual adjustment, destination of Contract adjustment which will be analyzed in the following. After examining the mentioned items, criticizes the approach of the internal authors in the examples of legal adjustments in terms of the above mentioned features.

1.1. Restoration Lost economic balance of the contract by the magistrate:

Adjustment of the contract is considered when the economic balance of the contract is disrupted as a result of an unexpected event during its implementation; In case of such claim, the magistrate adjust contract with attainability all of the requirements. According to what was said, this title has two features: 1. the purpose of the contract adjustment is Restoration Lost economic balance of the contract.2. Contract adjustment is performed by the magistrate. Each of these features can be analyzed independently.

2.1. *Restoration Lost economic balance of contract:*

Adjustment of contract should be done to address the injustices of the unexpected accidents and Restoration Lost Economic equilibrium of the contract. Basically pursuant to rule of the will, contracting parties have authority that Choose the fate of their legal relation as known good. Possibility interference in provisions of the accord does not need to pay special attention. Changes in provisions accord can be done with any purpose. Legislator, also in performing the duties is responsible for the controlling the affairs of society are following several objectives of laws and regulations according diversity of duties. However, the legislator is obliged to respect the will of the parties; But, Sometimes according to expediency will justify the legislator of interference in the concluded contract between the parties (Kate M. Manuel.2010); however, the issue is whether they can be known Legal adjustment as any Legislator of interference and any purpose? How is Legislator of interference considered adjustments? Review of these instances is not this topic. But with a bit thinking can find out that considering to lexical concept of adjustment is causing to reinforce this belief, exposure these Instances of among the legal adjustment and creating such view; As has been stated which is proportional by the general concept of adjustment. In fact, the major reasons of the local authors of approach in addressing examples of legal adjustment has been as an act of creating the basics of Legislator interference and establish the rule in order to contract adjustment of enforcement by Judge; Due to the Lack of legislation that prescribe contract adjustment in difficult conditions. But it should be noted that although the Legislator can interfere in the private affairs to achieve some of the objectives of economic, social, and cultural justice and fairness and maintain public order accordance with the interests. But the point is when an issue is posed as a legal institution. The jurists should be carefully to the exact use of concepts and avoiding the confusion of concepts. So, only items can be considered as a legal adjustment that the legislative of interference has done to Restoration Lost economic balance of contract

3.1. *Adjustment by the magistrate:*

“Adjustment of Judicial as is evident from its name, change the obligations of one or both parties to make appropriate with occurred conditions by a judicial authority. When the “adjustment of judicial” is discussed to the “Adjustment of contract “or “adjustment of statutory ”, It is thought that the judge has been against the law and will of the parties; He changes independently contract consideration and its features, without the parties demand its during the establishing contract and Without is provided by law. It is clear that such an adjustment has no foothold in our country's legal system and not by the other legal systems. So the purpose of the adjustment of Judicial is in fact Adjustment of contract based on interpretation of the will of the parties or law by the magistrate. Finally, its return is to one of two contractual or statutory adjustments. Hence it should not be considered as a third type of adjustment (Lemieux, Thomas et.al.2009). The purpose of this discussion is to note the basic differentiation between “adjustment of judicial” and " adjustment by a judge." Although the two terms have the same performance in terms of results, but the base can be different. In fact, adjustment of judicial is dealt on the basis of authority and jurisdiction to the magistrate in the adjustment of contract. But adjustment of contract by Judge is being considered merely to the status of adjuster regardless what the basis of the authority. In other words, adjustment of judicial is important that the magistrate has authority of legislation. And it is limited to systems based on common law and the Roman - Germanic (Civil law) generally does not have the authority or that has been very limited. So the scrutiny of adjustment of contract should be considered several points in terms of the current discussion:

1. Adjustment of contract by the judge is not considered necessary the adjustment of judicial. Because the legislator may moreover determine of adjustment of contract in the occurrence of unpredictable circumstances, it is specified its method. In this case, the magistrate had to be adjusted but absolutely will be act according to the law; Or Legislator despite determining of adjustment of contract as a bail of this condition, assigned to method of adjustment to the discretion of the court. Although, in this case the Magistrate has more discretion, but the mission has been delegated by law, such an adjustment is not considered an adjustment of judicial.

2. Judicial adjustment of contract, which is relevant only where the Magistrate would have right to rule and in practice the courts establish this institution and are recognized. While in the law of Iran because of the lack grant such jurisdiction to the courts, is not possible judicial adjustment of the contract; because in the Civil law systems, Change the obligations of the parties and the adjusting of the contract are in the jurisdiction of the legislator and the judge has no right to change the obligations of the parties, under any circumstances even the administration of justice and as bound to law enforcement and should be executed the contract and if there is ambiguity in its, should be construed As the legal, must be interpreted The contract in the same way(Card, David. 1986). It seems that some researchers consider the doubtful possibility of adjustment of judicial for this reason (Azariadis, Costas. 1975).

3. Any "judicial adjustment" is not necessarily the specific meaning of the adjustment of contract. It may that in the systems judge has ultimate authority to make rules, he has interfered in private contracts and revise contract without it is provided the requirements for adjustment of the contract in the its specific meaning. For example, in English law is discussed about the theory of changes in circumstances or the unexpected theory in Doctrine

"Doctrine of Frustration" and since this doctrine is termination of contract (teritel) Therefore, the law of England has considered including the opponents of the adjustment of contract. While, the terms of contract adjustment found to judicial procedures and the laws of this country (In The general). However, among the works and writings of authors who have studied the rights of this country any division of the contract adjustment is not found the customary form among Iranian writers. According to what was said that can be expressed by using the word of adjustment by a judge is superior than "Judicial adjustment" because of its comprehensiveness and necessity to apply the correct legal concepts

4.1. Adjustment of contract current in the contracts "reciprocal" and "Aleatory:"

As previously mentioned, the contract is regarded as one of the most important needs of human life. Natural and fair way without any external force, facilitate distribution and exchange of wealth in the social life. Thus, basically, each of the parties is achieving their targets and motivations seek for cooperation by the opposite in coagulation and the legal relationship. So, in today's world, if someone gives any financial to other or takes obligation, this is mainly due that acquired equivalent or more what has been (Azariadis, Costas. 1975); According to this rule, contracts typically have either the obligation or acquisition: Each of the parties versus gives property or an obligation, Obtains property or other obligation. These contracts are known as reciprocal contract (shahidi) they are interchange two cases, ranging from they occur simultaneously or subsequently. Sales and leasing are considered these contracts (safae). In contrast, another group of contracts is based on ethical considerations. These contracts are known gratuitous contracts or free contract. They have worship aspect and the person is attempted as unilateral to acquire the property or committed without receiving anything reciprocally. Disposition agreement and loan agreement are considered such contracts (katozian). Including the effects of this division is the Compensatory of the intention of the parties, each of the two contracts are related to each other as if they are part of a body. The spiritual relationship makes if a party refuses to perform their obligations while there is no the authority in free contract(Azariadis, Costas. 1975) Also, whenever wiped out a Consideration in the reciprocal contracts or void or shall be unenforceable due to Opposition to public order will be void of its obligation to the other party (Weitzman, M. L. 1983) Another classification is performed such as contracts, based on the validity of the issue and economic objectives of Contracts is divided the contracts into transaction Contracts (aleatoire contract) and Contract Commutatif. In reciprocal contracts the economic purpose of the parties is commercialism and business. Each is followed to earn benefits at least equal not greater. Such contracts are referred transaction Contracts or Aleatory contract (*Chiotellis A., 1981*). In contrast, in negligence contract the main motivation of one of the both parties is Spiritual motivation. The most important effect of this division is resulting that in Aleatory contract when the economic value of the two items of contracts, there is an obvious difference, a person who has been diddled can be terminated the contract by Short change option (Article 416). While there is no such right in the negligence contract; the correlation Consideration and Compensatory of parties are the point to share and connect the division and adjustment of contract. The purpose of the adjustment is to reduce the inadmissibility due to economic imbalance of contract which has been created result of an unexpected incident. Hence, the adjustment of contract could be accomplished only reciprocal contract and in this group is also limited to cases that the contract is not based on negligence (J. M. Malcomson. (1997). severely disturbed the balance is specific of reciprocal contract. Among the reciprocal contract must also be separated contingency contracts that have been established based on the risk and the risk of serious problems.

5.1. The survival of adjusted contract:

There is no doubt in the survival of contract in the legal and Judicial Adjustment; because simply the legislator or judges will interfere in order to execute the contract and it is not authorized to interfere in the basis the contract. Sometimes in the Contractual adjustment the parties during the contract have done required predictions about the incidence of conditions and the appropriate fields of adjustment and acts in accordance with the conditions of the contract. In fact, what is done in this method due to contract provisions and is not considered the new agreement in the survival or deterioration of contract; but sometimes by the occurrence of new terms and without has been considered the solution on contract, the parties of contract are realizing that implementation of contract is very difficult and expensive based on the specified rate; So, they will attempt to change the theme or condition of the contract; Such that during the construction of the dam, Suddenly Salaries increases drastically and construction materials are scarce and expensive, Consequently, The parties will write amendment or complement to the first of contract and adjust it to continue working. Because, adjustment is accompanied by changing one of two case of the contract or the terms contained in it, so the question occurs whether the contract after the adjustment has been liquidated and replaced by the new the contract or the same previous contract remains but by changing one of the term or its conditions? According to the meaning of adjustment and its logical analysis, this result has been obtained that the survival of something is necessary to correct it until can adjust by removing or adding some terms. Thus, in adjustment of contract by maintaining basis of the contract, make changes to the content and its conditions are intended to equality and desired

adjustment; In other words, the adjustment is accompanied by changes in the derivatives without change in the basis; the purpose of the contract revision is The Court may change the specifications and effects of contract by contract reinstatement (P. Grout. (1984). Some scholars of rights by Expression of mentioned question without are looking to explain about the condition of the adjusted contract in terms of survival or demise, have been expressed about the justification of validity such an agreement: The two parties of inappropriate Conditions have been accorded to mutual rescission and instead of it make the other Contract and resulting from these legal action is adjustment of the first contract (P. Grout. (1984) What this phrase seems ambiguous and contradictory in the first is the term "another contract" and "the adjustment of the first contract" That this indicates decline and The other confirms the survival of the original contract but the whole content provided by the experts can be deduced about the survival of the adjusted contract. In fact, what makes to mutual rescission (in claims) is a disproportionate condition that constitutes part of the contract and "other contracts" is also according to the alternative appropriate condition. In other words, the term of the contract in the "another contract" is used in its general means "agree" and "intransigence" on the part of the contract and in a specific meaning is part of the contract. The Referred of the agreement as "Amendment" or "complement" and the outcome of the legal action as "the first contract of adjustment" is being represented survival of contract in the present assumption; otherwise, despite knowing entity Substitution of a different obligation will not feel the necessary to be defined as such by the legal action. Another prominent lawyer by providing an example by the theme" With the advent of difficult condition, extremely expensive, and beyond the scope of forecasts parties of the contract for supplies of contract Performance, The Employer agrees to increase percent of the contract amount and the Wage of the contractor "; Meanwhile uncertainty in the survival or demise of the original contract, are convinced that in this case, the original contracts have been lost and create a new contract to replace it. He has stated to justify in his opinion "... Compliance of contract Survival seems difficult by adjustment and change of its one of two terms. Because the item of the contract is one of the pillars of the contract, in this case, how can accept that change Contract Subject and remain contract still?" (Avinash Dixit. 1989). He believes that Substitution of a different obligation by changing Object of obligation do not inhere change of its contract and is added that if we accept that the contract remains by change of its provisions and requirements; this change is considered Substitution of a different obligation by changing Object of obligation. This approach involves two attitudes: 1. by adjustment of contract has been disappeared the main contract and will be replaced by a new contract which varies in terms as the previous contract. 2. In case of acceptance of Survival of contract, the title refers to the act of Substitution of a different obligation by changing the object of obligation. As the first argument of this approach can be expressed any change in one of the contract cases, does not mean the disappearance of the subject. The change is not Change erode consumer Instead of keeping, It only adds to amount of; for example If the Amount of Contract of wages has been hundred units and after the new agreement is added, the new amount is added to the previous amount, the contract amount and Previous salary does not disappear and the agreement is done on amount hundred and twenty unit, and this does not mean the loss of the contract and replacement of new cases until The disappearance of adjusted contract is justifiable. Secondly, although the survival of the contract, is targeted but the legal mechanism for this change does not seem justified as Substitution of a different obligation by changing Object of obligation; because 1. It was an absolute matter that belief that by changing just one of the provisions and conditions of the contract is done Substitution of a different obligation by changing Object of obligation and includes changing Object of obligation in the legal and judicial adjustment; While The scholar does not accept such a result(Avinash Dixit. 1989).

2. In Substitution of a different obligation in addition to the capacity of the parties to the transaction that is the basis of the transactions, it is necessary other two conditions; the first: existence of two obligations One of which is voided and another is established. Second: the purpose of Substitution of a different obligation (Stanley Fischer. 1977). On the one hand, if Substitution of a different obligation is known as a reciprocal contract that the its two subjects which One Termination of the pervious obligation and the establishment of new obligations and Such as consideration per transaction inhere among them; Namely, the emergence of new obligation With the demise of the previous obligation is Simultaneous and inherent (E. Sheshinski and Y. Weiss.1983). In the above example, what is considered of Substitution of a different obligation? Can be considered Contract amount and wages in contracts as a consideration and contract amount and wage with the increased amount as other consideration? Is it possible deterioration and creating simultaneously something rationally and logically? (In the present discussion is common contract amount and wage to both considerations). Is not the result of such a change same as increasing in the contract amount and wage? So the previous contract remains, however, with changes in the deal and without Substitution of a different obligation. The purpose of Substitution of a different obligation must be present until Substitution of a different obligation and this purpose must be obvious that turns out the first obligation is voided and replaced by a new obligation Otherwise it will not make Substitution of a different obligation (Stanley Fischer. 1977).

4. Such belief it is necessary to the acceptance of (shahidi144.156). The acceptance of Determinism of Legal effects is as the demise of the guarantees and aspects of the first obligation (E. Sheshinski and Y. Weiss.1983)

According to all the results obtained to remain the adjusted contract. Such a view also agrees with the legal principles, it is consistent with the concept of adjustment; it will protect the legal boundaries

6.1. Continuation of the adjusted contract:

The question is discussed in this regard is that, if the purpose of contract Adjustment is the only dispute resolution and settlement of the rights and obligations of the parties, regardless of whether the contract should be terminated or will be continued? Or interference is done in order to make required adjustment to provide continuation and implementation of the contract. However, writers and lawyers, adjustment of contract may have been principally with the continuous or long-term contracts, But about continuity or discontinuity of the contract have not mentioned after adjustment. The adjustment of our rights is influenced by the unexpected theory or changes in the terms and conditions of the foreign law. As mentioned before, this "adjustment of contract" is one effect of the theory. Adjustment of contract When is subjected the judge believes to Continuation of the Contract. And therefore the economic balance that has been lost due to change conditions and Reestablish it by Divided of creating loss and prevent serious and nontraditional loss of privet. The result of such action is to preserve the validity of the contract and its legal life. The difference between "Hardship" and "Force Majeure" is the difference in their goals (performance). The Purpose of "Hardship" "is to provide Renegotiated or adjustment of contract to continue contractual relationships; While Force Majeure Actually is often to terminate the invoked relationship (southerington, series B: 55-67). Eshmatov says that by adopting this approach: The parties do not want to dissolve the relationship but are asked to continue (eshmetov1343). The most important reason can be offered for the silence of authors and local lawyers in explicit commenting on the continuity or discontinuity of the adjusted contract is possibly the observation of various effects that can be achieved by changes in conditions of contracts in various systems and in cases where is the evidence of this theory. In fact, Lack of doubt in possibility to legal and contractual adjustment and Construction of judicial adjustment on the unexpected theory (Robert G. (2001) and efforts to coordination and attunement in Terms and Conditions of judicial adjustment with theory has been caused to neglect of this important point. The concept of continuity lies in the term adjustment, Otherwise, Any interference of the judge in settling disputes and conflicts will be considered an adjustment. As previously mentioned, Adjustment is in accordance with performance of the contract. By this attitude makes mean in terms of adjustment. Philosophy of emergence of the institution as an "adjustment of contract" is a balancing of rights and obligations of the parties to avoid the unconventional loss on one party and It requires the same rights and obligations of the parties during the imbalance and Its effect on creating a necessary space for the collaboration continuation and contract performance. The absence of any of these elements causes to exit desired topic of adjustment inclusion.

7.1. Analysis of mentioned instances of legal adjustment by the authors in terms of the features:

Lawyers and local writers are presented numerous cases as instances legal adjustment, Because of the lack legal provisions in the contract adjustment by judges, In the event of a change in contract terms must derive a solution for review by magistrates in continuous or long-term contracts (Costas Azariadis.1975). But this perception and performance is proportional to the general mean of adjustment. It should be noted that adjustment of contract influence of the unexpected theory As a legal factor on doctrine in our country and the instances of legal regulation, as mentioned, comes from feeling necessity of identify the interfere of judges with fulfillment of the conditions of the theory in the provisions of People's accord. Therefore, careful use of words and legal concepts is essential. However, whatever the title, by inquiry at the mentioned, it is clear legislative intent of the enactment of such legislation and create a rule to supervise changes due to unexpected conditions unusual costs imposed on one party in the implementation of its obligations But the extraction of rules for the regulation, is required to adhere to certain principles that the expression of some of these criteria will be mentioned weakness of this approach. Articles: 277, 652, 1130, 1082 civil law, Article 4 of Civil Liability Act and the terms of Regulations of rental dealt with Discharge Prohibition or notice to the tenant In case of lack of Location Article 41 of the labor law and Article 150 of the Admiralty law are items that they have been introduced as examples of legal adjustment.

But:1. The Prerequisite in the extraction rule of the dispersed Regulations is considering to compliance with these Terms and Conditions of topic feature, while these instances of legal adjustment are not identical in terms: A) adjustment of contract is considered in the continuous contract But most of the instances are lacking this feature; For example, Article 277 civil law in the topic " fulfillment of an obligation" is dealt with Forecast of Terme de Grace or Installment arrangement by Magistrate benefit Debtor Due to his condition. What is this supposed the party of the obligation Without It is right for him and reciprocally Task to oblige. So " Observance of condition debtor and reduce the pressure of payment are the motivation for the magistrate on the issuance of Installment arrangement and do Not provide the contractual adjustment. This approach is proportional to the concept of moral of adjustment and it is not by economic concept; thus, the involvement of the legislature in this regard, in order to neither terminate the contractual relationship and dispute resolution nor create the necessary conditions for the continuation of the contract. Article 652 civil law also which is guaranteed Granting deadline

for the debtor is faced the same drawbacks; Meanwhile, according to the Article 651 civil law "debtor must pay Such as fiscal has been borrowed although it is the rise or decline in terms of price. "The result of these two solely appreciation on debtor do Not create on equal and balance the obligations of the parties. The subject of Note on Article in 1082civil law is computed of dowries on current market rates that are known as "dowries adjustment". The Purpose of Legislator is not dowries adjustment in this note in specific meaning; because the dowry contract is immediate contract. Upon signing the contract, the wife is owner's dowry (Article 1080 civil law).It is noted that Origins of Dowry's wife is a marriage contract that with the formation of the contract does not remain obligation on wife unless about the half of it which With the fulfillment of the requirements is an obligation of man. So justly of wife to half of the dowry or All of it according to the case, what remains that they are the Rights of a party and Obligations of The opposite side no reciprocal rights and obligations until is eligible for adjustment.

2. Adjustment o contract is dealt on the loss of economic equilibrium of the contract by fulfillment of the requirements and do not attention to other matters; Whereas Article 1130 civil law that considers the right of divorce for wife in some cases, it is considered a non-financial and there is no measure changes.

3. In many cases has been introduced Distress and constriction as the basis for adjustment of the contract while the hardening, Implementation of Obligation on the adjustment is not considered in the Distress and constriction. Governments or businesses and large companies can also be requested by making contract adjustment of terms, without the obligation to create a problem for those according to their financial ability may create a hardship for them. In other words, "Hardship" can be referred if the value of the Operator receives as compared to the cost of his implementation is reduced (southerington 202001) and it is not necessary to Distress and constriction. Article 4 civil law, in addition is dealt with non-contractual relations and it is not associated with the adjustment of contract In terms of condition. In many cases that Legislator in the rent regulations has been forecast mainly to prevent the discharge or notice to the tenant also is not associated with the adjustment of contract In terms of condition; Because these conditions are mainly based on the lack of a place to rent and to avoid Distress and constriction in terms of finding new place. This is clearly different from the loss of economic equilibrium of the contract. This means is that the adequacy and location of residence, the rent increases will not prevent eviction in accordance with this regulation. In other words, "Hardship" can be referred if the value of the Operator receives as compared to the cost of his implementation is reduced (southerington 202001) and it is not necessary to Distress and constriction. Article 4 civil law, in addition is dealt with non-contractual relations and it is not associated with the adjustment of contract In terms of condition. In addition, Sanction of Distress and constriction is rescission; while that certainly does not mean the same right for instance debtor in Article 277 and Article 652civil law that their basis is introduced Distress and constriction. Some lawyers have even mentioned even the rules of Compensation for defect and Exercise of pre-emption as adjustment of contract (D. Gale Johnson .1950). some without regard to concept of adjustment have been introduced frustrated contract rule in the right of United Kingdom That the effect is Termination of obligation as judicial adjustment of contract (Costas Azariadis.1975). According to what was said that our lawyers and writers have been used in attempts to describe and introduce the adjustments of the contract only, have been paid attention that the lexical meaning and general adjustment. Obviously, such an approach can not be used in the extraction of rules to manage the special case that is different from that of the referred cases

2. Discussion:

The "adjustment of contract" is an organization which has been considered as a result of the unexpected theory influenced by political and economic conditions in recent centuries in international law and human rights in Iran in recent years. But local lawyers and authors and do not pay much attention to the fact and in the review of this institution have been paid attention the general meaning of the adjustment. The exact interpretation of the entity by mentioned facts will not only provide a correct image of contract adjustment, But also is effective in creating an adequate solution according to absence of a statutory provision that the judge intervene in contract to excuse of restitution the lost of economic equilibrium as a result of changing conditions and circumstances. In this article "adjustment of contract" is divided to the two meanings of "general" and "specific" by such an attitude and approach. The specific definition provided by the institution's relationship with the unexpected theory, describes adjustment of contract such as": Conform to Economic balance of the contract is taken to an accidental and unpredictable new conditions, by the magistrate, in order to enable the continuation of legal relations".In this definition, While maintaining the relationship between the two legal entities have been considered features that they are as follows: disruption of the quality of the contract, the purpose of adjustment, Reference of adjuster, adjustable contract and the fate of the adjusted contract. In the Performance Evaluation of Iranian writers and lawyers of the aforementioned features is the conclusion that they have not provided your policy is based on certain criteria; for this reason the adjustment of contract with Iran law should be reconsidered.

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