

The Impact of Epistemic Foundations (Indeterminate Knowledge and Customary Knowledge) on the Validity of Marriage and Rulings on Dowry in the Five Schools of Jurisprudence and the Family Protection Law

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Submitted: 2026.04.15 | Accepted: 2026.08.15

Abstractt

In Islamic jurisprudence, gharar (unlawful uncertainty) requires sufficient knowledge of counter-values. In marriage, two epistemic modalities arise: indeterminate knowledge ('ilm ijmalī) and customary knowledge ('ilm 'urfī). This study examines their impact on marriage validity and dowry (mahr) in the five schools (madhāhib khamsah) and Iranian law. Using a descriptive-analytical and comparative method, it analyzes opinions of Imāmī, Ḥanafī, Mālikī, Shāfi'ī, and Ḥanbalī jurists and compares them with the Iranian Civil Code and Family Protection Law. Findings show that in all five schools, indeterminate knowledge negates gharar and validates the contract, but leads to proper dowry (mahr al-mithl) due to unspecified exemplar. Customary knowledge preserves validity and establishes specified dowry (mahr al-musammā). Iranian Civil Code Article 216 deems indeterminate knowledge sufficient. However, the 2012 Family Protection Law, without distinguishing these foundations, caps recoverable dowry at 110 gold coins daily. In conclusion, distinguishing indeterminate from customary knowledge alters the dowry's legal destiny within one marriage contract. The legislature's equating them is inconsistent with the five schools' foundations and requires revision.

Keywords: : Indeterminate Knowledge, Customary Knowledge, Gharar, Proper Dowry (Mahr al-Mithl), Five Schools of Jurisprudence (Madhāhib Khamsah).

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1. Introduction

One of the most important discussions in the jurisprudence of transactions is the issue of gharar and its effect on the validity of contracts. Gharar is defined as the existence of risk, ignorance, or uncertainty in the subject matter of the contract, and since it leads to disputes and disruption in transactional relations, it has been prohibited in Islamic jurisprudence (Hurr Amili, 1414 AH, vol. 18, p. 460). However, the marriage contract, due to its specific nature in Islamic jurisprudence, differs from other exchange contracts in many respects. Marriage, in addition to its contractual aspect, also has a social and moral dimension, and this has led jurists to apply the rules of transactions with greater flexibility in some cases (Najafi, 1414 AH, vol. 29, p. 17).

In this context, the issue of the degree of knowledge of the parties regarding the financial subjects of the contract, especially the dowry, is one of the important and yet less examined discussions in the jurisprudence of marriage. Sometimes the parties may not have detailed knowledge of the dowry or some of its characteristics, but a kind of indeterminate or customary awareness of it exists. The question arises whether such knowledge is sufficient to negate gharar and validate the contract.

2. Literature Review

A review of jurisprudential and legal literature shows that although numerous studies have been conducted on the rule of ghurur, liability arising from deception, and its legal effects, the direct examination of the role of the degrees of knowledge of the deceived party, especially "indeterminate knowledge" and "customary knowledge," in the validity of the marriage contract and the rulings on dowry with a comparative approach among the five schools and the Family Protection Law has received less attention. Existing studies have generally examined only a part of this subject.

In this regard, Rahbar, Nikkhah, and Hajikaram Ra'iyat in the article "Explanation of the Rule of Ghurur in Unauthorized Transactions" (1401) have explained the conditions for the realization of ghurur liability and its effects in unauthorized transactions by analyzing the jurisprudential foundations of the rule of ghurur. Although this research is valuable in explaining the elements of the rule of ghurur and the scope of liability arising from deception, it has not addressed the effect of the degree of knowledge or ignorance of the deceived party on the validity of the marriage contract, entitlement to dowry, and the differences of opinion among Islamic schools in this regard.

Also, Babaei's thesis entitled "Jurisprudential-Legal Examination of the Rule of Ghurur in Civil Liability and Its Comparison with English Law" (1392) has examined the scope of the rule of ghurur in civil liability and the foundations of liability and has provided a comparison between Imāmī jurisprudence and English law. Despite the importance of this research, its focus is on civil liability, and discussions related to marriage, dowry, the effects of the deceived party's knowledge, and comparative analysis of the five schools are not addressed in it.

On the other hand, some research in the field of family law, such as studies related to marriage and its financial effects, have mainly addressed the conditions

of contract validity, impediments to marriage, or the rulings on dowry in jurisprudence and Iranian law, and have not examined the role of the epistemic state of the parties, especially the distinction between indeterminate knowledge, customary knowledge, and effective ignorance, in analyzing the effects of the contract. Also, comparative studies conducted on marriage in Islamic schools have mostly focused on jurisprudential differences in the pillars and conditions of marriage or issues of age and legal capacity, and have neglected the foundational analysis of the effect of degrees of knowledge of the deceived party on entitlement to dowry and the financial effects of the contract.

Therefore, a review of the literature shows that existing studies have either focused on the rule of *ghurur* and liability, or have examined the rulings on marriage and dowry independently of the theory of *ghurur*, or have addressed only one of the jurisprudential or legal systems. As a result, a study that coherently and comparatively analyzes the effect of the degrees of knowledge of the deceived party (indeterminate knowledge and customary knowledge) on the validity of the contract and the rulings on dowry in the five schools and in light of the Iranian Family Protection Law is not observed in the existing scholarly literature. Hence, the present study seeks to fill this gap by providing a comparative analysis based on the jurisprudential sources of Islamic schools and the provisions of Iranian statutory law. However, a study that systematically addresses the distinction between "indeterminate knowledge" and "customary knowledge" in marriage and their different effects on dowry in the five schools is not observed. This is the research gap that the present study seeks to fill.

Therefore, the main questions of the research are:

- What effect do indeterminate knowledge and customary knowledge have on the validity of the marriage contract in the five schools?
- What effects does each of these two types of knowledge have on determining the type of dowry (specified or proper)?
- To what extent does Iranian statutory law harmonize with the jurisprudential foundations of the five schools in this regard?

The research hypothesis is that in all five schools, indeterminate knowledge leads to the validity of the contract and the establishment of proper dowry (*mahr al-mithl*), and customary knowledge leads to the validity of the contract and the establishment of specified dowry (*mahr al-musammā*); but the Iranian Family Protection Law has ignored this distinction.

The main objective of this research is to precisely explain the jurisprudential foundations of the aforementioned distinction and to offer a reform proposal for the legislator. The necessity of the research is also because Iranian judicial practice in determining dowry, due to ambiguity in epistemic foundations, has faced a diversity of opinions.

The structure of the article is as follows: after the introduction, Section 2 explains the conceptual foundations of indeterminate and customary knowledge. Section 3 is devoted to the research method. Section 4 separately examines the theory of *gharar* in marriage from the perspective of *Imāmī* jurisprudence and the four Sunni schools. Section 5 provides a comparative analysis between the

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five schools and the Iranian Civil Code. Section 6 is devoted to discussion and critique of the Family Protection Law, and finally conclusions and suggestions are presented.

3. Research Method

The present study is fundamental-applied in terms of purpose and qualitative in terms of the nature of the data. The research method is descriptive-analytical and comparative. Data were collected through library (documentary) methods by referring to primary jurisprudential sources of the five schools (Imāmī, Ḥanafī, Mālikī, Shāfiʿī, Ḥanbalī) and Iranian statutory laws (Civil Code and Family Protection Law of 1391).

The study population included authoritative jurisprudential texts of each school on marriage and dowry, as well as books of *usul al-fiqh* related to the theory of indeterminate knowledge. The analysis method was comparative; that is, first the view of each school was extracted separately, then their differences and commonalities regarding the effect of indeterminate and customary knowledge on the validity of the contract and the type of dowry were compared.

The temporal scope of the research extends from the era of classical jurisprudence to the enactment of the Family Protection Law in 1391. The evaluation of data validity was based on the authenticity of the source, the fame of the jurist, and conformity with other texts of the same school. This research does not involve any human or statistical sampling.

4. Conceptual Foundations of Indeterminate Knowledge and Customary Knowledge in Jurisprudence

4-1. Definition of Gharar and Its Scope

Gharar linguistically means risk, deception, and a matter whose appearance is desirable but whose inner reality is unknown. Raghīb al-Isfahani in defining gharar writes: "Al-gharar is that whose appearance is attractive and whose inner reality is unknown" (Raghīb al-Isfahani, 1420 AH, p. 362). Jurists also have often considered gharar to mean the existence of ignorance or risk in the subject matter of the contract. The jurisprudential basis for the prohibition of gharar is the prophetic tradition "The Messenger of Allah prohibited the sale of gharar," which has been narrated in Shi'i and Sunni hadith sources (Muslim, 1420 AH, vol. 3, p. 1153; Hurr Amili, 1414 AH, vol. 18, p. 460). However, jurists have stated that not every type of ignorance causes the invalidity of the contract; rather, only ignorance that leads to dispute is considered gharar (Najafi, 1414 AH, vol. 22, p. 392). Therefore, in many cases, custom and the practice of the wise play a fundamental role in determining the acceptable level of ignorance.

4-2. Indeterminate Knowledge and the Theory of Dissolution

Indeterminate knowledge (*ʿilm ijmalī*) in *usuli* terminology is knowledge that a person has of the realization of one of several matters, but does not know its exact exemplar. Shaykh Ansari in defining indeterminate knowledge writes: "It is knowledge of the establishment of a ruling in one of several alternatives without specification" (Ansari, 1415 AH, vol. 2, p. 294). The important feature of this type of knowledge is that despite the lack of specification of the exemplar, it has a bind-

ing effect and prevents the obligated person from committing the probable prohibited act. Usulis have proposed the theory of "dissolution" (inḥilāl) in analyzing indeterminate knowledge. According to this theory, in some conditions, indeterminate knowledge transforms into a set of detailed cognitions and loses its practical effects (Sadr, 1420 AH, vol. 3, p. 145). If a person knows that one of two containers is impure, he has indeterminate knowledge of impurity; but if he washes both containers successively and becomes certain of their purification, the indeterminate knowledge dissolves. This usuli discussion has also been applied in the jurisprudence of transactions and has been cited in some cases to negate gharar.

4-3. The Concept of Customary Knowledge in Transactions

Alongside logical or usuli knowledge, jurists have sometimes spoken of a concept called customary knowledge or conventional knowledge. What is meant by customary knowledge is awareness that is considered sufficient in the custom of society for conducting transactions, even if it is not precise from a logical or philosophical perspective. For example, in many everyday transactions, the parties proceed with the transaction merely on the basis of customary knowledge without precise knowledge of all the characteristics of the goods. Jurists have considered this type of knowledge sufficient for the validity of the contract if it does not lead to dispute (Muhaqqiq Hilli, 1420 AH, vol. 2, p. 33). In Imāmī jurisprudence, the criterion for determining gharar is often considered to be custom. Sahib al-Jawahir in this regard states: "The criterion of gharar is the ignorance that leads to dispute in custom" (Najafi, 1414 AH, vol. 22, p. 393). This basis is also applicable in many contracts, including marriage, and has led jurists in some cases to consider customary knowledge sufficient for the validity of the contract, even if detailed knowledge does not exist.

5. The Theory of Gharar in Marriage and the Effect of Knowledge on the Validity of the Contract and Dowry in the Five Schools

5-1. Indeterminate Knowledge in the Five Schools

5-1-1. Imāmī Jurisprudence

Imāmī jurists are unanimously agreed that if the husband knows that property has been designated as dowry but does not know its exact type, the contract is valid; because indeterminate knowledge negates gharar. Allamah Hilli in *Mukhtalif al-Shī'a* states: "If he knows that she has a dowry but does not know its amount and type, the contract is valid" (Allamah Hilli, 1420 AH, vol. 7, p. 359). The evidence for this view is the analogy of dowry to "debt in the obligation" (dayn fī al-dhimmah); just as in the chapter of destruction (itlāf), indeterminate knowledge of the existence of property in the obligation is binding (Hurr Amili, 1414 AH, vol. 18, p. 456). However, due to the lack of specification of an external exemplar, proper dowry (mahr al-mithl) is established and specified dowry (mahr al-musammā) is not stabilized. Sahib al-Jawahir in this regard writes: "If the dowry is unknown in substance and amount, proper dowry is established and the contract is not invalidated" (Najafi, 1414 AH, vol. 31, p. 145).

5-1-2. Ḥanafī Jurisprudence

Ḥanafī jurists have also accepted this basis. Sarakhsī in *al-Mabsūṭ* states that if the husband knows that property has been designated as dowry but its type and

amount are unknown, the contract is valid but the dowry is proper dowry (Sarakhsī, 1420 AH, vol. 5, p. 29). Kāsānī in *Badā'i' al-Ṣanā'i'* considers the reason to be that "ignorance in the dowry does not affect the validity of the contract as it affects the sale of gharar" (Kāsānī, 1420 AH, vol. 2, p. 248). In other words, the nature of marriage, which is worship-like and not purely exchange-based, causes ignorance in the dowry not to harm the validity of the contract.

5-1-3. Mālikī Jurisprudence

Mālikī jurists have been somewhat stricter in this regard. Ibn Rushd in *Bidāyat al-Mujtahid* writes: "Marriage is permissible on what is unknown, and the unknown dowry is invalid" (Ibn Rushd, 1420 AH, vol. 2, p. 11). Accordingly, if the dowry is designated with indeterminate knowledge, the marriage contract is valid but the dowry is void and proper dowry replaces it. Qurtubī in his exegesis emphasizes that ignorance in the dowry, if gross, harms the dowry, not the contract (Qurtubī, 1420 AH, vol. 3, p. 244).

5-1-4. Shāfi'ī Jurisprudence

The Shāfi'īs hold the strictest position in transactions, especially dowry. Nawawī in *Rawḍat al-Tālibīn* says: "The dowry is not valid except with knowledge of it that removes dispute" (Nawawī, 1420 AH, vol. 7, p. 407). However, regarding indeterminate knowledge, they also hold to the rule of "validity of the contract and invalidity of the dowry." This means that ignorance in the dowry with indeterminate knowledge keeps the contract valid but invalidates the specified dowry and establishes proper dowry.

5-1-5. Ḥanbalī Jurisprudence

Ibn Qudāmah in *al-Mughnī* explicitly says: "Marriage is valid with ignorance of the dowry because the dowry is not a pillar in it" (Ibn Qudāmah, 1420 AH, vol. 7, p. 327). Therefore, indeterminate knowledge in the Ḥanbalī school is also sufficient for the validity of the contract, and in case of ignorance in the amount and type of dowry, proper dowry is established.

Comparative Summary of Indeterminate Knowledge:

All five schools agree that indeterminate knowledge negates gharar from the marriage contract and keeps the contract valid. They also all hold for the establishment of proper dowry in case of failure to specify an external exemplar of the dowry. The difference is only in the intensity and weakness of emphasis on the authority of indeterminate knowledge (the Shāfi'īs are the strictest, the Ḥanafīs and Ḥanbalīs are the most lenient).

5-2. Customary Knowledge in the Five Schools

5-2-1. Imāmī Jurisprudence

Customary knowledge in the view of Imāmī jurists is weaker than indeterminate knowledge; but custom considers it conditionally sufficient for negating gharar. The criterion here is "absence of dispute." Allamah Hilli in *Qawā'id al-Aḥkām* writes: "Everything that is known in custom negates gharar" (Allamah Hilli, 1420 AH, vol. 2, p. 156). In marriage, customary knowledge usually has an exemplar regarding dowry; such as when the parties know that the dowry is "a piece of gold" or "a piece of land," without specifying the exact weight or area.

Sahib al-Masālik has considered this customary knowledge sufficient for the establishment of specified dowry and only in gross ignorance rules for the invalidity of the dowry (Shahid al-Thani, 1420 AH, vol. 7, p. 174).

5-2-2. Ḥanafī Jurisprudence

The Ḥanafīs have relied more on custom than other schools. Abū Ḥanīfa has accepted that customary fame of the dowry, such as "the dowry of our city" or "the dowry of its people," is sufficient for the validity of the dowry (Sarakhṣī, 1420 AH, vol. 5, p. 31). Kāsānī in *Badā'i' al-Ṣanā'i'* considers the reason to be that "custom is like a condition" and customary assurance takes the place of detailed knowledge (Kāsānī, 1420 AH, vol. 2, p. 250).

5-2-3. Mālikī Jurisprudence

The Mālikīs also consider the dowry valid if the custom of the locality specifies the financial range. Qurtubī in his exegesis quotes Mālik as saying: "What people customarily agree upon regarding the dowry is like a condition" (Qurtubī, 1420 AH, vol. 3, p. 245). Therefore, if it is clear in the custom of the region what the bride's dowry is, precise specification of the amount is not a condition.

5-2-4. Shāfi'ī Jurisprudence

The Shāfi'īs believe that customary knowledge is sufficient only if custom completely removes ambiguity. Nawawī in *Rawḍat al-Tālibīn* stipulates that "there must be knowledge of the customary amount in which people do not differ" (Nawawī, 1420 AH, vol. 7, p. 408). This means that if custom has determined a specific and defined amount (such as the Prophetic dowry of 500 dirhams), the dowry is valid; but if custom is general and ambiguous, it is not sufficient.

5-2-5. Ḥanbalī Jurisprudence

Ibn Qudāmah in *al-Mughnī*, noting that the dowry is not a pillar of the contract, says: "If an unknown dowry is named, the naming is not valid and proper dowry is obligatory, unless it is known by custom" (Ibn Qudāmah, 1420 AH, vol. 7, p. 329). Therefore, in the Ḥanbalī school, customary knowledge can also replace detailed knowledge and establish specified dowry.

Comparative Summary of Customary Knowledge:

All five schools consider customary knowledge sufficient for the establishment of specified dowry if it removes dispute and determines the financial range customarily. The difference is in the required level of confidence: the Shāfi'īs accept the highest level of clarity, and the Ḥanafīs accept the lowest level (mere customary fame).

6. Comparative Analysis in the Five Schools and the Iranian Civil Code

Based on the examinations conducted in Imāmī jurisprudence and the four Sunni schools, in the subject of marriage, both types of knowledge (indeterminate and customary) are effective in negating gharar, but they have different effects on the dowry. This difference is reflected in Iranian law but has appeared incompletely in legislation.

The Iranian Civil Code, following Imāmī jurisprudence, in Article 216 stipulates: "The subject matter of the transaction must not be ambiguous except in specific cases where indeterminate knowledge of it is sufficient." As understood

from the interpretation of legal scholars, this ruling is also applicable in non-financial contracts, including marriage (Katouzian, 1395, vol. 2, p. 165). Therefore, the Civil Code implicitly considers indeterminate knowledge sufficient for the validity of the marriage contract; however, regarding dowry, in Articles 1079 to 1080, it explicitly states that the dowry must be known, and in case of ambiguity, proper dowry is established. Therefore, the Iranian civil system has moved precisely on the basis of Imāmī jurisprudence in distinguishing between indeterminate and customary knowledge; but in the Family Protection Law, this distinction has been distorted.

6. Discussion and Analysis: Critique of the Family Protection Law in Light of Jurisprudential Foundations

6-1. Scientific Distinction Between the Two Epistemic Foundations

The findings of the research show that the jurisprudential system of the five schools has made a substantive distinction between "indeterminate knowledge" and "customary knowledge." Indeterminate knowledge is based on the theory of dissolution; the parties know that "something" exists as dowry but that "something" is not specified. In contrast, customary knowledge is based on customary tolerance; the parties know "what" the dowry is, even if they do not know its exact measure. This difference is decisive; because in the former, proper dowry (similar dowry) is established, and in the latter, specified dowry (customarily determined dowry).

6-2. Philosophy of the Difference in Financial Effects

The reason why the five schools do not consider indeterminate knowledge sufficient for specified dowry is the rule "what is not known is not owned." As long as the dowry is not specified and does not have the capacity for concrete delivery, it cannot be made the property of the wife. In contrast, in customary knowledge, although the exact measure is not specified, the type and genus of the dowry are known and it can customarily be delivered (like "a gold ring"). This customary tolerance in marriage has been accepted due to the predominance of the social aspect over the financial.

6-3. Analysis of the Critique of the Family Protection Law

The Family Protection Law of 1391 in Article 22, without attention to this subtle distinction, has limited the dowry to a number of coins. This approach has three fundamental flaws:

First flaw – Incorrect unity of criterion: The legislator has not distinguished between the case where the dowry is designated with indeterminate knowledge (which is not specified dowry at all) and the case where it is designated with customary knowledge (customary specified dowry), and has subjected both to the limit of 110 coins.

Second flaw – Conflation of the stages of conclusion and execution: In jurisprudence, "validity of the contract" is different from "establishment of specified dowry." It is possible for the contract to be valid but for the specified dowry not to be established (as in indeterminate knowledge). The Family Protection Law has conflated these two and assumed that every validity of contract requires the establishment of specified dowry with fixed specifications.

Third flaw – Ignoring the basis of customary tolerance: In many marriages, the dowry is determined on the basis of customary knowledge (for example, "proper dowry" or "dowry according to the custom of the locality"). Limiting this type of dowry to a fixed number of coins is contrary to the practice of the wise and the customary tolerance that has been accepted in the five schools.

6-4. Correspondence with the Iranian Civil Code

The Iranian Civil Code in Article 216 stipulates: "The subject matter of the transaction must not be ambiguous except in specific cases where indeterminate knowledge of it is sufficient." This article, which is adopted from Imāmī jurisprudence, has correctly distinguished between indeterminate knowledge and detailed knowledge and has considered indeterminate knowledge sufficient in specific cases. In marriage, too, the general rules (Articles 1079 to 1080) follow the same basis. But the Family Protection Law, as a specific and later law, without explicitly abrogating the general rules, has practically ignored them. This inconsistency in the Iranian legal system has caused a diversity of judicial opinions and injustice in determining the real dowry.

Research Limitations: This research is based solely on library sources and the current judicial practice of Iranian courts regarding the distinction between indeterminate and customary knowledge has not been examined. Also, the opinions of contemporary jurists in each school have not been systematically collected.

7. Conclusion and Suggestions

7-1. Conclusion

This research was conducted with the aim of explaining the effect of the two epistemic foundations "indeterminate knowledge" and "customary knowledge" on the validity of the marriage contract and the rulings on dowry in Imāmī jurisprudence, the four Sunni schools, and Iranian statutory law. The findings of the research provide a clear answer to the research questions.

First, in answer to the question: What effect do indeterminate knowledge and customary knowledge have on the validity of the marriage contract in the five schools? The examination of jurisprudential opinions showed that among the five schools, there is no fundamental disagreement on the principle of the validity of the marriage contract, despite the existence of indeterminate or customary knowledge regarding the dowry. All schools believe that in marriage, unlike many exchange contracts, limited ignorance regarding the dowry does not invalidate the contract; because the main purpose of the contract is the creation of the marital relationship, and the dowry is considered an ancillary attribute of it. The difference of views is only in the degree of sufficiency of customary knowledge and the limits of negating gharar, not in the principle of the validity of the contract.

Second, in answer to the question: What effects does each of the two types of knowledge have on determining the type of dowry? The results of the research showed that there is a fundamental difference between indeterminate knowledge and customary knowledge in terms of legal effects. Whenever there is only indeterminate knowledge regarding the dowry and its exemplar is not specified, ac-

cording to the consensus of the five schools, specified dowry cannot be established and proper dowry replaces it. In contrast, whenever custom clarifies the subject of the dowry to the extent that the effective ambiguity in the transaction is removed, specified dowry will be valid and enforceable. Of course, the required level of clarity for the realization of customary knowledge is not the same among the schools; such that Ḥanafī jurisprudence considers customary knowledge sufficient with greater tolerance, while Shāfiʿī jurisprudence has adopted stricter criteria in establishing the negation of gharar, but this difference concerns the criterion for establishing customary knowledge, not the principle of its validity.

Third, in answer to the question: To what extent does Iranian statutory law harmonize with the jurisprudential foundations of the five schools? The findings showed that the Iranian Civil Code, especially in light of Article 216 and the provisions related to dowry, has considerable harmony with the foundations of Imāmī jurisprudence and, in general, with the dominant view of the five schools, and has implicitly accepted the difference between indeterminate knowledge and customary knowledge. However, the Family Protection Law of 1391, especially in Article 22, without attention to the substantive difference between these two epistemic foundations, has adopted a uniform approach in the enforcement of dowry. This has caused it not to distinguish between a dowry that is determined on the basis of indeterminate knowledge and a dowry that is validly and completely formed on the basis of customary knowledge; as a result, the enforcement of the legal ruling in some cases is not fully consistent with the jurisprudential foundations governing the establishment of specified and proper dowry.

From a legislative perspective, the most important finding of the research is that the main gap in Iranian law is not in the validity of the marriage contract, but in the lack of explicit legal specification of the different effects of indeterminate and customary knowledge in determining the type of dowry. This gap can lead to different judicial interpretations and reduce the uniformity of practice in dowry-related claims.

The innovation of this research is that for the first time, the analysis of dowry rulings in the five schools and Iranian law is organized on the basis of the distinction between the two epistemic foundations "indeterminate knowledge" and "customary knowledge," and it has been shown that the source of many apparent differences between jurisprudential opinions and legal provisions is the failure to distinguish between these two concepts. Accordingly, it is suggested that the legislator, by amending or interpreting the provisions related to dowry, especially in the enforcement of Article 22 of the Family Protection Law, distinguish between cases of establishment of specified dowry based on customary knowledge and cases of recourse to proper dowry arising from indeterminate knowledge, in order to establish greater harmony between the Iranian legal system and the established foundations of Islamic jurisprudence.

7-2. Reform Suggestions

Legislative Suggestions:

1. Amending Article 22 of the Family Protection Law as follows: "The maximum enforceable dowry with imprisonment guarantee is 110 coins at the daily rate;

unless the dowry is determined by customary knowledge, in which case the customary specified dowry is fully recoverable."

2. Adding a note to Article 216 of the Civil Code: "In the marriage contract, if the dowry is determined on the basis of indeterminate knowledge, proper dowry is established, and in case of customary knowledge, specified dowry is established."
3. Drafting a single article to distinguish between "proper dowry" and "customary specified dowry" inspired by the comparative jurisprudence of the five schools.

Suggestions for Future Research:

4. Examining the judicial practice of family courts regarding how to deal with dowries arising from indeterminate and customary knowledge.
5. Comparative study with the laws of other Islamic countries (Egypt, Saudi Arabia, Pakistan) regarding how to distinguish these two types of dowry.
6. Feasibility study of establishing a "theory of epistemic foundations of contract" in Iranian law similar to what is proposed in French law under the title "erreur sur la substance."
7. Economic analysis of dowry in the banking system and the effect of distinguishing indeterminate and customary knowledge on bank collateral.

References

- Ibn Rushd, Muhammad ibn Ahmad. (1420 AH). *Bidāyat al-Mujtahid wa Nihāyat al-Muqtaṣid* (Vol. 2). Beirut: Dar al-Fikr.
- Ibn Qudāmah, Abdullah ibn Ahmad. (1420 AH). *Al-Mughnī* (Vol. 7). Beirut: Dar al-Fikr.
- Emami, Seyyed Hasan. (1385). *Civil Law* (Vol. 5, 18th ed.). Tehran: Islamiyyah Publications.
- Ansari, Murtada ibn Muhammad Amin. (1415 AH). *Farā'id al-Uṣūl* (Vol. 2). Qom: Dar al-Fikr.
- Hurr Amili, Muhammad ibn Hasan. (1414 AH). *Wasā'il al-Shī'a* (Vol. 18). Qom: Al al-Bayt (peace be upon them) Institute for the Revival of Heritage.
- Raghib al-Isfahani, Husayn ibn Muhammad. (1420 AH). *Al-Mufradāt fī Gharīb al-Qur'ān*. Beirut: Dar al-Ma'rifa.
- Sarakhsī, Muhammad ibn Ahmad. (1420 AH). *Al-Mabsūṭ* (Vol. 5). Beirut: Dar al-Ma'rifa.
- Shahid al-Thani, Zayn al-Din ibn Ali. (1420 AH). *Masālik al-Afhām ilā Tanqīḥ Sharā'i' al-Islām* (Vol. 7). Qom: Mu'assasat al-Ma'ārif al-Islāmiyya.
- Shariati, Muhammad. (1392). Critique of the Family Protection Law of 1391. *Legal Journal of Dadgostar*, (36), 10–25.
- Sadr, Muhammad Baqir. (1420 AH). *Buḥūth fī 'Ilm al-Uṣūl* (Vol. 3). Qom: n.p.
- Allamah Hilli, Hasan ibn Yusuf. (1420 AH). *Qawā'id al-Aḥkām fī Ma'rifat al-Ḥalāl wa al-Ḥarām* (Vol. 2). Najaf: Al-Maktaba al-Ḥaydariyya.
- Allamah Hilli, Hasan ibn Yusuf. (1420 AH). *Mukhtalif al-Shī'a fī Aḥkām al-Sharī'a* (Vol. 7). Najaf: Al-Maktaba al-Ḥaydariyya.

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- Qurtubī, Muhammad ibn Ahmad. (1420 AH). *Al-Jāmi‘ li-Aḥkām al-Qur’ān* (Vol. 3). Cairo: Dar al-Kutub.
- Kashif al-Ghita, Ja‘far ibn Khidr. (1348 AH). *Kashf al-Ghiṭā‘ ‘an Mubhamāt al-Sharī‘a al-Gharā’*. Najaf: Al-Maktaba al-Ḥaydariyya.
- Kāsānī, Ala’ al-Din Abu Bakr ibn Mas‘ud. (1420 AH). *Badā’i‘ al-Ṣanā’i‘ fī Tartīb al-Sharā’i‘* (Vol. 2). Beirut: Dar al-Kutub al-‘Ilmiyya.
- Katouzian, Nasser. (1395). *General Rules of Contracts* (Vol. 2, 17th ed.). Tehran: Mizan Publishing.
- Muhaqqiq Hilli, Ja‘far ibn Hasan. (1420 AH). *Sharā’i‘ al-Islām fī Masā’il al-Ḥalāl wa al-Ḥarām* (Vol. 2). Qom: Dar al-Surur.
- Muslim ibn Hajjaj Nishapuri. (1420 AH). *Ṣaḥīḥ Muslim* (Vol. 3). Beirut: Dar Ihya’ al-Turath al-Arabi.
- Najafi, Muhammad Hasan. (1414 AH). *Jawāhir al-Kalām fī Sharḥ Sharā’i‘ al-Islām* (Vols. 22, 29, 31). Beirut: Dar Ihya’ al-Turath al-Arabi.
- Nawawī, Yahya ibn Sharaf. (1420 AH). *Rawḍat al-Ṭālibīn* (Vol. 7). Beirut: Dar al-Kutub al-‘Ilmiyya.