



A Comparative Analysis of the Legal Mechanisms for Determining the Registration Status of Lands and Buildings Lacking Official Title Deeds in Iranian and German Law, with Emphasis on the Institutional Efficiency of the Land Registration System

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Abstract

Purpose- The registration status of lands and buildings lacking official title deeds constitutes a significant challenge for land governance, ownership security, and the efficiency of registration systems. This study aims to examine the legal mechanisms for determining the registration status of undocumented properties through a comparative analysis of Iranian and German legal systems, with particular emphasis on the institutional efficiency of land registration mechanisms and the assurance of tenure security.

Design/methodology/approach- This research employs a descriptive-analytical method with a comparative legal approach. Data were collected through library-based research, including the analysis of statutory provisions, jurisprudential principles, legal doctrines, and institutional structures governing land registration in Iran and Germany. The study focuses on the mechanisms adopted by each legal system for formalizing ownership, correcting registration deficiencies, and balancing legal certainty with the need to resolve undocumented property situations.

Findings- Iran adopts a facilitative, corrective approach influenced by Imami jurisprudence, recognizing possessory evidence and enabling integration of informal properties into formal registration systems. Germany emphasizes registration conclusiveness, public reliance on the Grundbuch, and preventive legal certainty, applying restrictive mechanisms for registration corrections while ensuring stronger transactional predictability. The comparative analysis reveals that institutional efficiency requires balancing ownership formalization flexibility with registration reliability. Iran demonstrates greater adaptive capacity for historically accumulated informal ownership, while Germany provides superior informational coherence and third-party protection.

Research limitations/implications- This study is limited to a comparative doctrinal analysis of the legal frameworks of Iran and Germany and does not include empirical assessments of administrative performance or quantitative evaluation of registration outcomes. Future research may incorporate field studies and comparative institutional assessments to examine the practical effectiveness of registration reforms.

Originality/value- This research contributes to comparative property law by analyzing the relationship between mechanisms for formalizing undocumented properties and institutional efficiency. It demonstrates that effective registration systems require balanced approaches combining procedural flexibility with registration certainty, providing insights for improving registration governance while maintaining compatibility with jurisprudential foundations.

Keywords- Properties without official title deeds, Land registration system, Ownership formalization, Imami jurisprudence, Tenure security.

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1. Introduction

In the contemporary era, land registration systems represent one of the fundamental pillars for ensuring ownership security, organizing economic relations, and facilitating real estate transactions. By creating informational transparency, reducing proprietary conflicts, and strengthening public trust, efficient registration systems contribute to the stability of property markets and economic efficiency (Nazari & Ahmari, 2021). Nevertheless, the existence of lands and buildings lacking official title deeds remains a significant challenge, particularly in societies with a historical accumulation of informal possession. Accordingly, legal systems have developed specific mechanisms for determining registration status and integrating informal ownership situations into the formal legal framework (Zheng, 2024; Wegerif et al., 2025).

Determining the registration status of properties lacking official title deeds functions as a legal and institutional mechanism for transforming possessory situations and informal evidence into recognized ownership statuses (Masoumi et al., 2024). The importance of these mechanisms becomes more apparent when the absence of official titles creates ownership insecurity, increases legal disputes, limits the use of property as collateral, and affects land management policies (Haghaeighi et al., 2025). However, legal systems do not adopt identical approaches toward such properties. Some systems emphasize restorative and facilitative mechanisms to formalize informal ownership, while others prioritize registration certainty, institutional coherence, and public reliance on official records (Mghase, 2025). Comparative analysis of these approaches provides valuable insight into the relationship between ownership foundations and registration system efficiency.

Previous studies have primarily examined properties lacking official title deeds within individual legal systems. Research on jurisdictions affected by informal possession has emphasized the restorative and social functions of ownership formalization and demonstrated that facilitative mechanisms can improve access to official titles and economic integration (Assfaw Wolde, 2025; Manara & Regan, 2024; Abbasi et al., 2022; Masoudi Lamraski & Ghari Fatemi, 2021). In

contrast, studies concerning structured registration systems have highlighted the importance of registration reliability, public confidence in land registers, and informational coherence in ensuring legal certainty and reducing property disputes (Wegerif et al., 2025; Adechian, 2025; Haddad Rahmati et al., 2024; Khezrian et al., 2023). Despite these contributions, comparative studies simultaneously examining ownership foundations, mechanisms for determining registration status, and institutional efficiency remain limited.

The present study addresses this research gap by comparatively analyzing the legal mechanisms for determining the registration status of lands and buildings lacking official title deeds in Iranian and German law. These two systems reflect distinct legal approaches: Iran, influenced by Imami jurisprudential principles and the necessity of resolving historical possessory situations, adopts a facilitative and remedial approach toward ownership formalization; whereas Germany, based on the principle of registration conclusiveness and the institutional coherence of the Grundbuch system, emphasizes legal certainty and public reliance on registration records.

The significance of this research lies in explaining how different approaches to ownership formalization influence transparency, dispute reduction, transactional security, and institutional efficiency. By examining the balance between “facilitation of formalization” and “preservation of registration certainty,” this study seeks to provide a theoretical and practical framework for improving land registration governance. Accordingly, the main research question is: “What similarities and differences exist between the legal mechanisms for determining the registration status of properties lacking official title deeds in Iran and Germany, and how do these differences affect the institutional efficiency of the registration system and the security of ownership?”

2. Research Methodology

This study adopts a descriptive–analytical and comparative legal research methodology to examine the mechanisms for determining the legal status of lands and buildings lacking official title deeds in Iranian and German law. Unlike a purely descriptive comparison, the research applies a functional comparative approach by analyzing how each legal system addresses similar challenges, including ensuring legal certainty, protecting

ownership rights, and integrating informal property situations into formal registration frameworks.

Iran and Germany were selected as comparative cases due to their fundamentally different approaches toward land registration and ownership formalization. The Iranian legal system has developed various mechanisms to recognize and formalize possessory situations arising from the historical prevalence of undocumented properties. Conversely, the German system is based on a highly institutionalized registration model centered on the reliability of the Grundbuch, legal certainty, and protection of third-party reliance. This comparison enables an assessment of the institutional consequences of flexible and formalized registration approaches.

The analysis was conducted through five main dimensions: (1) legal foundations and normative principles, (2) competent authorities and procedural mechanisms, (3) evidence and criteria for ownership verification, (4) protection of good-faith third parties and compensation mechanisms, and (5) institutional efficiency and registration information infrastructure. These dimensions reflect the essential elements affecting the effectiveness of registration systems in resolving ownership uncertainty.

The research relies on primary and secondary legal sources. Primary sources include Iranian legislation, including the Civil Code, Registration Law, and regulations concerning undocumented properties, as well as the German Civil Code (Bürgerliches Gesetzbuch—BGB), Land Register Code (Grundbuchordnung—GBO), and related provisions. Secondary sources consist of legal commentaries, academic studies, and comparative legal literature.

The study employs structured analysis of legal rules, institutional arrangements, and procedural mechanisms without seeking to declare the superiority of either system. Its limitations include differences in legal history, institutional structures, socio-economic conditions, and the availability of quantitative performance data between the two jurisdictions. Nevertheless, the adopted comparative framework provides a systematic basis for identifying institutional strengths, weaknesses, and possible implications for improving land registration efficiency.

3. Properties Lacking Official Title

Properties lacking official title refer to lands and buildings that, despite possession or a claim of ownership, have not been registered in the formal registration system in the name of a specific person or for which no official title document has been issued (Pierri, 2025). This situation may result from a history of customary possession, informal transfers, institutional deficiencies in registration, or historical developments in land policy. The legal consequences of such a situation extend beyond private relations among individuals and affect areas such as security of ownership, enforceability of real rights against third parties, the ability to use property as collateral, and the efficiency of economic transactions. The absence of formal registration reduces transparency of ownership information and increases the likelihood of conflicting claims, growth of litigation, and transactional instability (Chigbu, 2023: 861-862). In response to this challenge, legal systems attempt to integrate informal situations into the framework of formal registration by designing specific mechanisms for determining registration status. These mechanisms may be based on acceptance of evidence of possession, presumptions arising from control, quasi-judicial proceedings, or administrative processes (Fredrick et al., 2025). In some systems, the primary objective of these instruments is to remedy historical gaps in registration and facilitate access to official title; by contrast, systems emphasizing certainty of registration restrict recognition of situations outside the register and rely on informational coherence and public trust in the land register (Alhola & Gwaindepi, 2024).

4. Ownership Formalization and Determination of Registration Status

Ownership formalization is a legal and institutional process through which ownership claims based on possession or informal documents, upon verification of legal conditions, are stabilized within the formal registration system (Dieterle, 2025). Determination of registration status, as the core of this process, encompasses a set of formal and substantive rules that enable identification of the owner, verification of property boundaries, resolution of conflicting claims, and final entry of the right in the land register (Movahhed Moghaddam, 2025). The importance of this process lies in transforming uncertain situations into registered rights, thereby enhancing

enforceability against third parties, enabling economic utilization of property, and improving the effectiveness of land management policies (Adechian, 2025). However, designing mechanisms for formalization requires balancing “facilitation of access to registration” with “preservation of certainty and trust in registration.” Facilitative approaches, aimed at broader integration of untitled properties, expand the range of admissible evidence and procedural pathways; in contrast, approaches grounded in registration certainty protect legal stability and transactional predictability by limiting exceptions and strengthening the evidentiary authority of registered entries. Differences in this balance have direct consequences for the level of proprietary disputes, transaction costs, and the degree of public trust in the registration system (Manara & Pani, 2023).

5. Institutional Efficiency of the Land Registration System

Institutional efficiency of a registration system refers to its capacity to achieve objectives such as transparency of ownership information, certainty of real rights, protection of good-faith third parties, reduction of conflicts, and facilitation of economic transactions (Dixon, 2024). This efficiency is not determined solely by substantive rules of ownership but also depends on organizational coherence, integration of information databases, transparency of procedures for correcting registration, mechanisms for compensation arising from registration errors, and the level of digitalization (Odoyi, 2025). Coherent registration systems, relying strongly on the evidentiary authority of land register entries and on limited but transparent mechanisms for correcting registration, provide higher levels of transactional predictability and control of legal risks (Wegerif et al., 2025). By contrast, systems confronted with an accumulation of informal situations may provide broader mechanisms for determining registration status in order to achieve restorative justice and economic integration; if not accompanied by informational integration and effective oversight, such expansion may lead to heterogeneity of registration data and an increased administrative burden (Ndugwa & Omusula, 2025). Accordingly, a comparative evaluation of institutional efficiency in registration systems requires simultaneous assessment of the degree of facilitation of formalization, the level of

registration certainty, and the quality of institutional and informational infrastructures.

6. Legal Mechanisms for Determining the Registration Status of Lands and Buildings Lacking Official Title in Iranian Law with Emphasis on Institutional Efficiency of the Registration System

In Iran, the issue of properties lacking official title represents one of the most complex and challenging aspects of the land registration system, directly affecting ownership security, information transparency, and the efficiency of the real estate market. To address this challenge, multiple legal mechanisms have been designed, combining principles from Islamic jurisprudence, statutory law, and administrative–quasi-judicial procedures. These mechanisms, in addition to formalizing ownership, aim to reduce historical ownership disputes, strengthen public trust, and prevent economic instability arising from the absence of official title. A detailed analysis of each component of Iran’s legal framework shows that institutional efficiency in registration depends on balancing restorative justice, procedural transparency, and information coherence.

6.1. Legal and Jurisprudential Basis for Registration Determination

Mechanisms for determining the registration status of lands and buildings without official title deeds in Iran are significantly influenced by Twelver Shi’a jurisprudential principles and traditional ownership theories. Concepts such as the validity of possession, evidences of control (emarat-e yad), and priority rights arising from long-term possession provide a legal basis for recognizing and formalizing ownership based on factual circumstances. Accordingly, registration authorities and determination commissions may verify ownership in the absence of official documents by relying on continuous possession, practical use, physical presence, and property maintenance activities (Beheshtian, 2019). This approach reflects restorative justice by recognizing actual ownership, preventing infringement of legitimate claims, and integrating undocumented properties into the formal registration system. It also contributes to resolving historical accumulation of informal properties, local disputes, and intergenerational ownership complexities, thereby strengthening public

confidence in ownership security (Mashhadi, 2025).

Nevertheless, the flexibility of jurisprudential principles and the diversity of accepted evidence create significant challenges. While broad evidentiary acceptance facilitates the formalization of numerous undocumented properties, the absence of unified standards for evaluating evidence may generate conflicting claims, increase judicial burdens, and undermine registration data consistency (Sohrabi Derakhshani, 2021). Moreover, reliance on jurisprudential principles alongside local customs enables responses to complex rural ownership conditions; however, such flexibility requires effective supervision by registration authorities and commissions to prevent abuse, overlapping claims, and contradictory ownership determinations (Emamverdi, 2022). Without adequate oversight, restorative mechanisms may intensify registration instability and legal uncertainty rather than promote justice (Saki, 2024).

Although Iran's jurisprudential foundations emphasize recognition of actual ownership and social justice, they also involve certain limitations. Ambiguity in evidentiary assessment may increase dependence on individual judgment, while extensive recognition of informal evidence can contribute to overlapping ownership and litigation. Therefore, clear guidelines, professional training, and institutional coordination are necessary to improve registration efficiency (Ahmadzadeh & Khalilzadeh, 2023). Overall, Iran's approach provides a flexible and restorative model, but achieving institutional efficiency requires balancing flexibility with standardized criteria, effective supervision, and procedural coherence to enhance ownership security and public trust.

6.2. Competent Authority and Nature of the Process

In Iran, the process of determining the registration status of lands and buildings without official title is a hybrid of administrative and quasi-judicial authorities. This combination allows the authorities to make swift and practical decisions for formalizing ownership while adhering to jurisprudential and legal rules (Karkhaneh, 2024). Determination commissions, usually composed of legal and registration experts, surveying specialists, and local representatives, are authorized to examine evidence, verify ownership,

and issue official rulings. These authorities can adopt restorative and flexible decisions that ensure social justice while enabling integration of untitled properties into the formal registration system (Sharifi, 2025).

One of the main advantages of this structure is the reduction of judicial case load and prevention of prolonged proceedings. Many ownership disputes are resolved at the commission level before reaching the judiciary, allowing flexible solutions to be applied. Additionally, the integration of administrative and quasi-judicial processes allows acceptance of diverse evidence and precise expert evaluation, which is vital for properties lacking official title. This hybrid structure enables the restorative approach to be implemented more rapidly and flexibly than rigid formal registration procedures (Sohrabi Derakhshani, 2021).

However, significant challenges exist within this structure:

1. Lack of standardized procedures and comprehensive guidelines means that each commission may base decisions on individual experience and evaluation, leading to inconsistent outcomes across different regions;
2. Variations in expertise and training of staff in different commissions can reduce the quality of decisions and accuracy of ownership verification;
3. Supervisory and quality control issues, including the absence of a central monitoring system and performance evaluation mechanisms, may allow errors or conflicting decisions to go uncorrected (Abdi, 2022).

Therefore, the success of this process depends on the system's ability to implement clear guidelines, train experts, and exercise effective oversight. In other words, while flexibility and restorative orientation provide significant advantages, inadequate supervision can lead to increased disputes, prolonged formalization procedures, and diminished public trust in the registration system (Beheshtian, 2019).

In summary, the process of registration determination in Iran, through the integration of administrative and quasi-judicial authorities, offers a practical and flexible approach to formalizing ownership and covers many limitations of traditional registration. Nevertheless, uniformity of

procedures, continuous expert training, and strong oversight mechanisms are prerequisites for enhancing efficiency and reducing legal risks. Therefore, the success of these mechanisms depends not only on jurisprudential and administrative flexibility but also on the quality of management, coordination among authorities, and procedural transparency; without these factors, the restorative benefits may be compromised by practical challenges.

6.3. Admissible Evidence and Verification Criteria

One of the main characteristics of mechanisms for determining the registration status of properties in Iran is the acceptance of diverse evidence, including continuous possession, *emarat-e yad* (presumptive indications of possession), private documents, local certificates, and witness testimony. These forms of evidence can establish ownership in the absence of official titles (Mashhadi, 2025). This approach reflects jurisprudential and administrative flexibility, facilitating the integration of undocumented properties into the formal system while protecting individual rights and expanding access to legal ownership and registration (Yousefi, 2024).

The broad acceptance of evidence, particularly in rural areas and locations with complex ownership histories, enables authorities to identify actual ownership and prevent violations of legitimate claims. It also supports restorative justice by reducing accumulated informal properties and public dissatisfaction (Bashiri, 2025). However, excessive flexibility without structured criteria may produce inconsistent registration records, ownership disputes, and increased litigation. Unregulated acceptance of evidence can create conflicts between claims, complex commission decisions, and reduced transactional predictability (Alizadeh Sabet, 2021).

Furthermore, evidence such as local certificates and witness testimony may involve subjective evaluations and therefore requires careful verification. Registration experts must assess credibility and establish appropriate evidentiary weight, highlighting the necessity of standardized procedures, continuous training, and clear operational guidelines (Khezrian et al., 2023).

Accordingly, broad evidentiary acceptance enhances restorative justice and ownership access but may weaken registration efficiency and

transaction security without effective supervision. The balance between flexibility and standardization is essential. Establishing clear evaluation criteria, operational guidelines, and continuous monitoring of commission decisions can preserve the advantages of restorative justice while preventing litigation and data instability (Sharifi, 2025). Overall, Iran's evidentiary mechanism provides a facilitative approach, yet its effectiveness depends on standardized frameworks, expert training, and institutional supervision. Balancing evidentiary flexibility with procedural coherence remains crucial for strengthening legal certainty, public trust, and registration efficiency within Iran's contemporary land registration system.

6.4. Protection of Good-Faith Third Parties and Compensation

Protection of good-faith third parties is a fundamental pillar of justice in the mechanisms for determining the registration status of properties in Iran. This protection ensures that individuals who engage in transactions without knowledge of the informal status of a property and with legitimate intent are not harmed by registration reforms. In other words, Iran's registration system, by recognizing third-party rights, seeks to balance the restoration of untitled ownership with the security of economic transactions (Masoudi Lamraski & Ghari Fatemi, 2021).

In addition, compensation mechanisms for registration errors play a critical role in reducing transactional risk and enhancing public trust. For example, in the case of erroneous rulings or registration mistakes, registration authorities are obliged to provide compensation for those adversely affected. Such a mechanism not only supports social justice but also strengthens public confidence in the registration system and stabilizes the real estate market (Abdi, 2022).

Nevertheless, several practical challenges exist:

1. Dispersed procedures and decision-making authorities: Each commission may use different criteria for identifying good-faith third parties, leading to inconsistent and conflicting decisions;
2. Limited compensatory resources: Financial budgets and capacities of authorities to provide compensation are constrained, sometimes preventing full restitution for damages caused by registration errors;

3. Lack of process standardization: The absence of clear guidelines for evaluating good faith, determining compensation amounts, and implementing restitution reduces the efficiency of this protection (Yousefi, 2024).

Therefore, to enhance the effectiveness of this mechanism, clear and comprehensive guidelines are necessary. These should include: first, specific criteria for identifying good-faith third parties; second, standardized methods for damage assessment; and third, effective and transparent compensation mechanisms (Mashhadi, 2025). It should be noted that protection of good-faith third parties and compensation mechanisms ensure a balance between restorative justice and transactional security. In Iran, this legal pillar plays a crucial role in reducing transactional risks and reinforcing public trust; however, procedural dispersion and lack of standardization may limit its effectiveness (Alizadeh Sabet, 2021). Therefore, improving performance requires the registration system to implement uniform guidelines and continuously monitor their application. This approach not only preserves third-party rights but also strengthens the coherence, predictability, and security of the registration system sustainably.

6.5. Institutional Efficiency and Information Infrastructure

Institutional efficiency of Iran's registration system is directly influenced by organizational coherence, data integration, and the quality of information infrastructure. Policy focusses on resolving the historical accumulation of informal properties requires coordination among various registration authorities, digitization of processes, and management of extensive and complex information. This focus not only helps reduce ownership disputes but also facilitates faster, more accurate, and transparent decision-making (Bashiri et al., 2025).

Recent advances in digitization and development of information systems have played a significant role in increasing the speed of case handling, reducing human error, and integrating data (Abdi, 2022). Nevertheless, practical challenges remain:

1. Multiplicity of authorities and dispersed decision-making: Numerous organizations and commissions with different powers lead to process repetition and reduced efficiency;
2. Lack of unified data standards: Registration information across different authorities is often

stored in varying formats and criteria, reducing coherence and quick data retrieval;

3. High administrative burden and complexity of information management: The large volume of untitled property cases and the need to review diverse evidence impose significant pressure on experts and systems, potentially slowing case processing (Ahmadzadeh Bazzaz & Khalilzadeh, 2020).

To enhance institutional efficiency, it is necessary to develop integrated digital infrastructure based on national standards and subsequently standardize registration processes and procedures. This ensures that authority decisions are executed in a coordinated and predictable manner, while continuous training of registration experts improves their ability to evaluate evidence and use digital systems effectively (Bashiri, 2025).

Thus, data integration, organizational coherence, and standardized digital infrastructure are key pillars of institutional efficiency. Proper management of these factors not only increases processing speed and accuracy but also sustainably strengthens public trust in the registration system, security of ownership rights, and predictability of real estate transactions (Saki, 2024). In summary, institutional efficiency in Iran's registration system results from a combination of smart policymaking, data integration, and expert empowerment. Practical challenges such as dispersed authorities, data heterogeneity, and high administrative burden can impede full exploitation of digitization and standardization benefits. Therefore, achieving institutional efficiency requires a unified, transparent, and intelligent system, clear operational guidelines, and continuous, supervised training of experts. This approach, in addition to facilitating ownership formalization, ensures sustainable public trust, restorative justice, and security in property transactions, transforming the registration system into an effective tool for property and economic policymaking.

7. Legal Mechanisms for Determining the Registration Status of Lands and Buildings Lacking Official Title in German Law, with Emphasis on the Institutional Efficiency of the Registration System

In the German legal context, lands and buildings lacking official title deeds cannot be understood as equivalent to undocumented ownership situations in Iran. Since German property law relies on the

constitutive effect of registration, absence of registration generally indicates that a real right has not achieved full legal effectiveness within the land registration system (Meier & Bühler, 2024). Therefore, this analysis examines mechanisms addressing incomplete, inaccurate, disputed, or inconsistent ownership information rather than broad legalization of informal possession. This distinction is essential because Iran and Germany attach different legal meanings to possession, ownership, and registration. The German land registration system is based on legal certainty, reliability of registration, and public reliance on the contents of the land register (Grundbuch) (Walter & Walter, 2025: 803-805). Unlike systems that address historical informal ownership through broad recognition, Germany emphasizes protection and stability of formally registered rights. Its mechanisms primarily aim to preserve transactional security, accuracy of registered information, and stability of real rights (Fischer & Janssen, 2023).

The German registration framework is founded on the interaction between substantive property law, procedural rules, and judicial supervision. Its main statutory foundations are the German Civil Code (Bürgerliches Gesetzbuch BGB) and Land Register Code (Grundbuchordnung GBO). Within this framework, registration functions as a central mechanism for establishing, transferring, and protecting immovable property rights. Consequently, the German model demonstrates how institutional coherence, information reliability, and registration certainty contribute to land registration efficiency and provide a comparative basis for evaluating different approaches to ownership formalization mechanisms.

7.1. Legal Basis and the Principle of the Reliability of Registration

The German registration system is founded upon the constitutive role of registration in real property law and the principle of public reliance on the accuracy of the land register. Under §873(1) BGB, ownership transfer requires both a substantive agreement and registration, making registration a constitutive legal act rather than merely evidence of ownership (Notarkasse München & Kell, 2025). Furthermore, §925 BGB establishes the formal requirements of the declaration of transfer (Auflassung), confirming the formal nature of the

system and its objective of preventing uncertainty through legally controlled procedures (Palandt et al., 2024). A fundamental feature of German property law is the separation principle (Trennungsprinzip) and abstraction principle (Abstraktionsprinzip). The contractual obligation and the transfer of the real right are legally independent, allowing the land register to function as an autonomous mechanism for determining rights rather than simply recording contractual relations (Bauer & Schaub, 2025).

Another central principle is the protection of good-faith reliance on registered information. According to §892 BGB, a person acquiring a right based on the land register is protected when acting in good faith, even if registered information differs from the actual legal situation. This principle transforms the land register into a legally authoritative institution that reduces uncertainty and strengthens transactional security (Hügel, 2024). German law also provides corrective mechanisms for inaccurate registration. Under §894 BGB, a person whose right is incorrectly reflected may request correction. However, correction does not constitute a general method for recognizing informal ownership; rather, it restores consistency between registration records and the actual legal situation while preserving stability of registered rights. The procedural framework is governed by the Grundbuchordnung (GBO), which regulates applications, documentary requirements, examinations, and responsibilities of registration authorities. The examination principle requires authorities to verify legal requirements before modifying the register, ensuring that substantive property rules operate through a reliable institutional process (Meikel & Böttcher, 2024). Although commentaries such as Palandt, Meikel, Bauer/Schaub, and Hügel clarify practical applications, the authority of the system derives primarily from the BGB and GBO rather than administrative practice alone (Kral & Uhl, 2025). The strong reliance on registered information provides institutional advantages, including informational coherence, predictability, and transactional security. Although correction of errors is possible, it remains limited and subject to defined procedures and judicial supervision, thereby preserving confidence in registration stability (Kühn, 2024).

Nevertheless, formal registration may create challenges for historically established possession lacking documentation. Unlike facilitative systems recognizing diverse possessory evidence, German law generally requires informal situations to be transformed into legally effective rights through formal procedures. Thus, the German model prioritizes prevention of uncertainty rather than extensive correction of historical informality (Walter & Walter, 2025). Overall, the German registration system reflects an institutional choice favoring certainty and reliability of registered rights over flexibility in recognizing informal ownership. Its effectiveness derives from three elements: the constitutive effect of registration under the BGB, procedural discipline under the GBO, and protection of reliance through mechanisms such as §892 BGB. Together, these elements establish registration as a central legal institution for maintaining certainty, reducing transactional risks, and stabilizing real property relations (Kratzmeier, 2023). From an institutional efficiency perspective, the German experience demonstrates that reliable registration depends on coordinated substantive rules, procedural standards, and controlled correction mechanisms (Wellstein, 2023; Hügel, 2024).

The German approach therefore differs from legal systems that seek to integrate large numbers of undocumented properties through flexible recognition mechanisms. Instead, it maintains a strict distinction between ownership formation and evidence of possession, ensuring that real rights acquire legal effect only through compliance with registration requirements. This structure enhances institutional reliability but may impose procedural burdens when historical property relations do not correspond with registered information. Consequently, the German model represents a balance between formal certainty and limited corrective capacity, where legal stability remains the primary objective of the registration framework. Therefore, comparative evaluation with Iran reveals how different legal philosophies shape registration efficiency, dispute prevention, protection of third parties, and the management of uncertain property relations in practice.

7.2. Competent Authority and the Nature of the Procedure

The institutional structure of the German land registration system is based on an allocation of

responsibilities among authorities, including land registry offices (Grundbuchämter), courts, notaries. Unlike systems relying on broad discretion to recognize informal ownership, the German model operates within a legality-based framework where each institution performs functions according to statutory requirements (Meier & Bühler, 2024).

The Grundbuchamt is responsible for maintaining the land register, examining applications, verifying legal requirements, and recording effective rights. However, it does not independently determine ownership based on possession or informal claims; rather, it examines compliance with the BGB and GBO requirements, preserving the distinction between factual possession and legally recognized real rights (Meikel & Böttcher, 2024). The procedural framework established by the GBO requires authorities to verify submitted documents through the examination principle (Prüfungsprinzip), ensuring objective and registration decisions.

Judicial supervision is another element of the German system. Courts resolve ownership disputes, review complex legal situations, and address inaccurate entries through controlled correction mechanisms such as §894 BGB (Neumann, 2024). This supervision prevents arbitrary modifications and maintains confidence in registration stability. Notaries further enhance reliability by ensuring that ownership transfers, including the *Auflassung*, comply with legal requirements before registration. From an institutional perspective, this distribution of responsibilities creates procedural standardization, predictability, and accuracy. Specialized institutions applying uniform legal criteria reduce inconsistencies and strengthen public trust in registration outcomes (Walter & Walter, 2025; Hügel, 2024). However, strict legal boundaries may reduce flexibility in cases involving historical possession, incomplete documentation, or informal claims. Unlike facilitative systems, Germany prioritizes legal certainty and procedural accuracy. Therefore, German registration efficiency depends not merely on speed but on the quality, durability, and predictability of decisions. The interaction of specialized authorities, judicial oversight, notarial verification, and standardized procedures enables management of ownership uncertainty while preserving the authority of the land register (Kral & Uhl, 2025).

7.3. *Admissible Evidence and Criteria of Verification*

The German approach to evidence and ownership verification is based on the principle that legally effective rights in immovable property must be established through formally recognized procedures and reliable documentary foundations. Unlike legal systems that permit extensive reliance on factual possession, customary evidence, or informal documentation for the purpose of formalizing ownership, the German system assigns primary importance to the information contained in the Grundbuch and the legally prescribed requirements for registration. Under §29 of the Grundbuchordnung (GBO), registrable facts must generally be proven through public documents or publicly certified documents. This requirement represents a fundamental component of the examination principle governing German land registration. The land registry authority (Grundbuchamt) is therefore required to verify whether the legal prerequisites for registration have been satisfied before making any entry or modification in the land register. Consequently, the evidentiary process is not based on broad discretionary evaluation but on a structured legal assessment of formally valid documents and legally recognized proof (Lenz, 2025).

The restrictive evidentiary framework serves several institutional objectives. First, it preserves the accuracy and consistency of registration data by ensuring that registered information is derived from reliable legal sources. Second, it enhances transactional security because third parties can rely on the assumption that registered information accurately reflects legally effective rights. Third, it reduces administrative discretion and promotes uniformity in registration decisions across different jurisdictions. German legal commentaries, including Meikel, Bauer/Schaub, and Hügel, emphasize that this strict evidentiary approach is inseparable from the principle of reliability of registration and the objective of maintaining public confidence in the land register (Dreier & Schmidt, 2024).

However, the formal character of evidence requirements also demonstrates one of the principal limitations of the German model. Where ownership relations have developed historically through informal possession, undocumented transfers, or incomplete documentation, integration

into the formal registration system may require complex legal procedures. Mere factual possession does not generally create a registrable right; rather, such situations must be transformed into legally recognized rights through the mechanisms provided by substantive and procedural law (Kühn, 2024).

This feature reveals a fundamental difference between the Iranian and German approaches. While the Iranian system generally emphasizes corrective mechanisms aimed at incorporating existing factual ownership situations into the formal registration framework through broader evidentiary recognition, the German system follows a preventive model that seeks to avoid uncertainty by ensuring that only formally verified rights obtain full legal protection. Accordingly, the German evidentiary system strengthens institutional efficiency through accuracy, predictability, and informational coherence, although it provides comparatively limited flexibility for absorbing historically accumulated informal ownership situations (Walter & Walter, 2025; Böttcher & Meikel, 2023).

7.4. *Protection of Good-Faith Third Parties and Compensation*

Protection of good-faith third parties constitutes one of the central pillars of the German land registration system and directly derives from the principle of public reliance on the contents of the Grundbuch. According to §892 BGB, a person acquiring a right in reliance on registered information is protected when acting in good faith, even where the registered information subsequently proves inconsistent with the actual legal situation. The importance of this mechanism extends beyond the protection of individual transactions. By allowing market participants to rely on the accuracy of registered information, German law significantly reduces transaction costs and eliminates the need for purchasers to investigate complex historical ownership chains. Consequently, the principle of public reliance transforms the land register from a simple information database into a legally authoritative institution that supports economic activity and market stability (Kratzmeier, 2023).

Where discrepancies exist between registered information and the actual legal position, German law provides corrective mechanisms, particularly through §894 BGB. Nevertheless, correction

procedures are carefully structured to avoid undermining the security of existing transactions. The purpose of correction is not to weaken reliance on registration but to restore consistency between the legal reality and the registered situation while preserving acquired rights and protecting legitimate expectations (Braun & Schmidt, 2025).

Compensation mechanisms within the German framework are therefore closely connected with the preventive structure of registration law. Rather than relying primarily on extensive post-registration remedies, the system seeks to minimize losses through accurate registration procedures, strict verification requirements, and protection of reliance interests. The combination of registration reliability, judicial supervision, and institutional coordination ensures that errors are addressed without compromising the overall stability of the system (Dreier & Schmidt, 2024).

From an institutional perspective, the German model demonstrates that effective third-party protection depends not only on substantive legal rules but also on the coherence between registration procedures, judicial oversight, and information reliability. Nevertheless, this approach reflects the broader limitation of highly formalized registration systems: where historical ownership situations have never been incorporated into the Grundbuch, priority remains with maintaining the reliability of registered information rather than broadly recognizing informal claims. Therefore, Germany achieves a high level of transactional security and public trust through strong protection of good-faith third parties, although this stability is accompanied by reduced flexibility in resolving historically accumulated undocumented ownership situations (Palandt et al., 2024; Kühn, 2024).

7.5. Institutional Efficiency and Information Infrastructure

Institutional efficiency in the German land registration system results from the interaction between statutory clarity, specialized institutions, standardized procedures, and reliable information infrastructure. The Grundbuch operates as the central and authoritative source of information regarding registered rights in immovable property and provides a unified informational basis for owners, purchasers, financial institutions, and public authorities. A fundamental feature of this system is the integration between substantive property law, registration procedures, and judicial

supervision. The BGB establishes the legal consequences of ownership and transfer, while the GBO provides procedural discipline for registration activities. This institutional coordination reduces uncertainty, limits inconsistent practices, and ensures that registration decisions are based on uniform legal standards. Another significant factor contributing to efficiency is the digital transformation of registration procedures. The modernization of electronic land registers has improved accessibility, information management, and administrative supervision. Digital registration infrastructure enables faster retrieval of property information, reduces human errors, and enhances transparency. Consequently, technological development reinforces the traditional strengths of the German model, namely reliability, predictability, and institutional coherence (Böttcher, 2025).

The German system also demonstrates a controlled balance between certainty and flexibility. Although the stability of registered rights remains the primary objective, legal mechanisms exist for correcting inaccurate entries and addressing exceptional situations where the registered information does not correspond with the actual legal position. However, these mechanisms operate within strict boundaries and do not undermine the fundamental reliability of registration.

From a comparative perspective, the German experience demonstrates that institutional efficiency is not merely the result of strict legal rules. Rather, it emerges from the coordinated functioning of legal norms, specialized institutions, judicial supervision, and information technology. The effectiveness of the system depends on the ability to maintain reliable information while providing limited corrective mechanisms for exceptional cases. Nevertheless, the German model also reveals an inherent trade-off. The same institutional features that generate high levels of certainty and predictability may make the formalization of historically undocumented ownership situations slower and more complex. Therefore, an efficient registration system must balance two objectives: preserving the authority and reliability of registered information while maintaining sufficient mechanisms for correcting exceptional inaccuracies (Notarkasse München & Kell, 2025).

The German legal framework for determining the registration status of lands and buildings lacking official title reflects a preventive model centered on registration certainty, institutional coherence, and protection of reliance on officially recorded information. Unlike systems that primarily seek to integrate informal ownership situations through flexible recognition mechanisms, German law emphasizes the creation and preservation of legally effective rights through formal registration procedures. The effectiveness of the German system derives from the interaction of four principal elements: first, the constitutive legal effect of registration under the BGB; second, the procedural discipline established by the GBO; third, the protection of good-faith reliance through mechanisms such as §892 BGB; and fourth, the institutional integration of registration authorities, courts, notaries, and digital information infrastructures.

This structure produces significant advantages, including high informational coherence, strong transactional security, predictable decision-making, and public confidence in the land register. However, the same characteristics may limit flexibility in incorporating historically established informal ownership situations. Consequently, the German model demonstrates that institutional efficiency requires not only accurate registration but also an appropriate balance between certainty and controlled correction mechanisms. In comparative terms, Germany represents a model of preventive legal certainty, whereas Iran represents a corrective approach aimed at formalizing existing informal property relations. The German experience suggests that improving registration efficiency requires strengthening institutional coordination, digital infrastructure, evidentiary standardization, and mechanisms for protecting reliance on registered information while maintaining limited and legally controlled avenues for correction.

8. Comparative Analysis of Legal Mechanisms for Determining the Registration Status of Lands and Buildings Lacking Official Title in Iranian and German Law, with Emphasis on the Institutional Efficiency of the Registration System

8.1. Legal and Jurisprudential Foundations / Statutory Principles

In Iran, the legal foundation for determining the status of lands and buildings lacking official title is influenced by principles derived from Imami jurisprudence, particularly the legal significance of possession and presumptions arising from factual control over property. These principles enable legal authorities to recognize ownership claims based on actual possession, existing circumstances, and available evidence. Consequently, the Iranian framework provides a corrective mechanism through which historically established but undocumented ownership situations can be incorporated into the formal registration system.

The principal advantage of this approach lies in its flexibility. By allowing consideration of various factual and evidentiary circumstances, the Iranian system is capable of addressing complex ownership situations that may have developed outside formal registration channels. However, this flexibility may also create challenges regarding uniform evidentiary standards, consistency of decisions, and coherence of registration information.

By contrast, the German legal system is structured around codified statutory principles and the reliability of registered information. Ownership and real rights in immovable property acquire legal effectiveness primarily through registration in the Grundbuch. The constitutive role of registration, combined with strict procedural requirements and judicial supervision, ensures a high level of legal certainty and predictability.

The German approach therefore provides stronger stability and informational coherence, but its formal structure limits the possibility of recognizing informal ownership situations that have not been transformed into legally registered rights. Unlike the Iranian model, which seeks to correct historical informality through flexible mechanisms, Germany primarily prevents uncertainty by ensuring that only legally verified rights obtain full registration protection.

Accordingly, the two systems reflect different priorities. The Iranian model emphasizes restorative justice and inclusion of existing ownership realities, whereas the German model emphasizes legal certainty, registration reliability, and preventive reduction of disputes. From an institutional efficiency perspective, Iran demonstrates greater corrective capacity, while

Germany achieves higher levels of predictability and informational stability.

8.2. Competent Authority and Nature of the Process

In Iran, determination procedures regarding lands and buildings lacking official title generally involve a combination of administrative and quasi-judicial mechanisms. Specialized commissions and competent authorities examine ownership claims, evaluate available evidence, and determine whether conditions exist for formal recognition and registration. This institutional design provides flexibility and facilitates the resolution of historically accumulated informal situations.

However, the involvement of multiple authorities and the possibility of variation in administrative practices may reduce procedural uniformity. Differences in interpretation of evidence, institutional coordination challenges, and the absence of a single conclusive source of ownership information may affect predictability and increase administrative burdens.

In Germany, the determination process is primarily organized around specialized registration authorities operating within a unified legal framework. The Grundbuchämter examine registration applications according to statutory requirements established by the BGB and GBO, while judicial supervision ensures that corrections or modifications occur only within legally justified circumstances. The involvement of notaries and courts further strengthens procedural reliability.

This institutional structure enhances consistency, transparency, and decision quality. Although the German system may require more formal procedures and therefore may not always provide the fastest solution for historically informal ownership situations, it produces decisions with greater legal durability and predictability.

From a comparative perspective, Iran achieves greater procedural flexibility and capacity for resolving undocumented ownership, whereas Germany achieves stronger institutional coherence through standardized procedures and strict legal control. Therefore, the institutional challenge for Iran is not eliminating flexibility but improving coordination and standardization, while the German experience demonstrates the importance of procedural discipline and quality control.

8.3. Evidence and Standards of Verification

The Iranian system adopts a relatively broad evidentiary approach in determining ownership status. Continuous possession, informal documents, local certifications, witness testimony, and other factual indicators may contribute to establishing ownership claims. This approach enables the formalization of a wide range of undocumented properties and reflects the corrective objective of the Iranian registration framework.

Nevertheless, extensive reliance on diverse forms of evidence may create difficulties in ensuring uniform evaluation standards. Where precise criteria are absent or inconsistently applied, conflicting ownership claims and inconsistencies in registration information may emerge.

The German system follows a substantially different evidentiary philosophy. Ownership verification relies primarily on registered information contained in the Grundbuch and legally recognized documentary evidence. The requirements established by the BGB and GBO limit reliance on informal evidence and ensure that registration entries are based on verified legal acts. This strict evidentiary framework produces significant institutional benefits. It enhances informational coherence, reduces administrative discretion, and allows third parties to rely confidently on registered information. However, it also reduces flexibility in recognizing historically established possession or informal ownership situations.

Therefore, the Iranian model prioritizes inclusion and corrective formalization, while the German model prioritizes accuracy, predictability, and reliability of registered information. The comparison demonstrates that effective registration systems must balance two competing objectives: the ability to incorporate legitimate but undocumented ownership situations and the necessity of maintaining the certainty of registered rights.

8.4. Treatment of Intermediate and Ambiguous Ownership Situations: Beyond the Documented–Undocumented Dichotomy

A significant limitation of a simple classification between documented and undocumented ownership is the existence of intermediate property situations. These include incomplete documentation, informal transactions, uncertain documents, conflicting possession claims,

inconsistencies between occupation and registration, or disputed legal status. Therefore, comparative analysis must examine how legal systems manage transitional and ambiguous ownership conditions.

In Iran, intermediate cases are generally addressed through mechanisms aimed at identifying factual ownership foundations and transforming possession-based situations into legally recognized rights. Flexible evidentiary rules allow authorities to consider informal documents, possession history, witness testimony, and local evidence. This approach provides capacity to resolve complex ownership situations outside formal registration channels. However, such flexibility may create institutional challenges. Dependence on multiple forms of evidence rather than a single authoritative source can increase inconsistent interpretations, competing claims, and variations in decisions. Thus, while Iran demonstrates corrective capacity, maintaining uniformity and informational coherence remains challenging.

Germany approaches intermediate cases differently. Since the Grundbuch represents the authoritative source for registered rights, uncertainty is managed by preserving registration reliability. Correction mechanisms such as §894 BGB address inconsistencies between registered information and actual legal situations within a controlled framework. The objective is restoration of accuracy, not broad recognition of informal claims. These approaches reflect different philosophies: Iran emphasizes transforming uncertain factual situations into legal rights, whereas Germany prioritizes preventive certainty through reliable registration. Neither model is universally superior. Efficient systems require both reliable information structures and corrective mechanisms capable of addressing exceptional cases while preserving legal certainty. This balanced approach enhances institutional efficiency, ownership security, trust, and stability within registration systems.

8.5. Protection of Good-Faith Third Parties and Compensation Mechanisms

Protection of good-faith third parties is a fundamental indicator of the effectiveness of property registration systems because it demonstrates the extent to which transactional reliance is secured. Although both Iran and Germany recognize third-party protection as an

important objective, their institutional mechanisms differ significantly.

In Iran, protection of good-faith third parties operates through ownership recognition procedures, registration rules, and judicial assessment of competing claims. Since undocumented properties require evaluation of factual circumstances and diverse evidence, determining priority between interests may involve complex assessments. This approach supports substantive justice and recognition of genuine ownership but may increase uncertainty for parties relying on incomplete information. Accordingly, the Iranian system emphasizes corrective justice by preventing the loss of legitimate ownership claims resulting from historical informality. However, the absence of a single conclusive source of ownership information may increase transactional risks.

By contrast, Germany places third-party protection at the core of its registration framework. Under §892 BGB, good-faith reliance on the accuracy of the Grundbuch is legally protected, allowing third parties to depend on registered information without independently examining ownership history. Furthermore, correction mechanisms under §894 BGB balance restoration of legal accuracy with protection of acquired interests. Thus, the German system prevents transactional harm through reliable registration, institutional supervision, and protection of reliance.

Comparatively, Iran prioritizes recognition of genuine ownership situations, whereas Germany emphasizes transactional stability and market confidence. From an institutional efficiency perspective, Germany provides stronger preventive protection mechanisms, while Iran offers greater capacity to resolve historically accumulated ownership issues. An effective registration system may therefore combine Iran's focus on substantive fairness with Germany's emphasis on predictable protection of third-party reliance.

8.6. Institutional Efficiency, Information Infrastructure, and Procedural Standardization

Institutional efficiency in land registration cannot be evaluated solely by the number of resolved cases or administrative speed; rather, it depends on the interaction of legal rules, institutional coordination, information quality, procedural standardization, and the ability to produce reliable outcomes.

In Iran, mechanisms for determining the status of properties lacking official title deeds primarily address historically accumulated informal ownership situations. Specialized authorities and flexible evidentiary mechanisms facilitate integration of properties outside the formal registration framework. This corrective function represents an institutional advantage by enabling responses to social and historical realities. However, efficiency is challenged by multiple decision-making bodies, variations in administrative practices, complex evidence evaluation, and limited information integration. Improving efficiency therefore requires enhanced coordination, unified information systems, standardized procedures, and greater transparency without eliminating flexibility.

The German registration system reflects a different institutional model. Its efficiency derives from the integration of substantive legal rules, specialized authorities, judicial supervision, and advanced information management. The Grundbuch functions as a reliable institutional database, supported by the BGB, GBO, judicial oversight, and digital infrastructure, producing high predictability and informational coherence. Nevertheless, the German model may complicate recognition of historically informal ownership situations. Its efficiency is achieved through preventive certainty rather than extensive flexibility.

Comparatively, Iran achieves efficiency through corrective capacity and flexible integration of informal ownership, whereas Germany relies on standardization, information reliability, and institutional predictability. An effective institutional model should combine reliable information infrastructure and procedural

consistency with mechanisms capable of addressing exceptional ownership situations. Such a balanced approach can enhance ownership security, reduce disputes, improve public trust, and strengthen registration systems by harmonizing legal certainty with solutions for complex property relations.

8.7. Comparative Assessment of Institutional Efficiency Indicators

Because Iran and Germany operate within different legal traditions and institutional structures, direct quantitative comparison of registration performance is difficult. Therefore, institutional efficiency should be evaluated through a structured comparative framework rather than through a single numerical indicator. The following assessment examines key institutional dimensions relevant to land registration effectiveness.

The indicators selected include procedural standardization, flexibility in resolving informal ownership, reliability of registration information, protection of third-party reliance, institutional coordination, digital infrastructure, and predictability of decisions.

The comparative assessment demonstrates that neither system achieves absolute superiority across all dimensions. The German system performs more strongly in areas related to registration reliability, institutional coordination, and transactional predictability. Conversely, the Iranian system demonstrates greater adaptability in addressing historically established ownership situations that have not entered the formal registration framework.

Accordingly, institutional efficiency should be understood as a balance between two competing objectives: legal certainty and social responsiveness (Table 1).

Table 1. Comparative Analytical Matrix of Legal Mechanisms for Determining the Registration Status of Lands and Buildings Lacking Official Title in Iran and Germany

Comparative Dimension	Iran	Germany	Comparative Assessment
Legal Foundation	Combination of statutory law, principles of Imami jurisprudence, and corrective mechanisms for recognizing undocumented ownership.	Registration governed principally by the BGB and GBO; registration has constitutive legal effect.	Iran prioritizes legalization of existing informal ownership, whereas Germany prioritizes legal certainty through constitutive registration.
Institutional Objective	Formalization of historically accumulated undocumented properties and reduction of informal ownership.	Preservation of the reliability of the land register and stability of real rights.	The two systems pursue different institutional objectives: corrective integration versus preventive certainty.
Competent	Registration offices,	Registration authorities	Germany demonstrates greater

Comparative Dimension	Iran	Germany	Comparative Assessment
Authorities	specialized commissions, administrative bodies, and judicial authorities jointly participate in determination procedures.	(Grundbuchämter), notaries, and courts operate within a unified statutory framework.	institutional coordination and procedural standardization, while Iran provides broader administrative flexibility.
Nature of the Procedure	Combination of administrative and quasi-judicial procedures with relatively flexible evidentiary assessment.	Highly formalized judicial-registration procedure based upon statutory verification requirements.	Iran emphasizes accessibility and corrective capacity; Germany emphasizes procedural certainty and legal durability.
Evidence and Verification	Wide range of documentary and non-documentary evidence including possession, witness testimony, local certifications, and judicial assessment.	Registration primarily based on official documents, registered entries, notarized instruments, and documentary proof required by the GBO.	Greater evidentiary flexibility in Iran facilitates legalization but may reduce informational coherence; Germany maximizes reliability through restrictive evidentiary standards.
Treatment of Intermediate Cases	Flexible judicial and administrative assessment permits evaluation of incomplete documentation, disputed evidence, and partially documented ownership.	Intermediate situations are generally resolved through statutory correction procedures while maintaining the reliability of the register.	Iran demonstrates greater adaptive capacity for complex factual situations, whereas Germany preserves legal certainty by limiting departures from registered information.
Protection of Good-Faith Third Parties	Protection exists but depends upon judicial evaluation and the interaction between registration and ownership claims.	Strong statutory protection under §892 BGB based upon public reliance on the land register.	Germany provides significantly greater transactional predictability and market security.
Correction of Registration Errors	Correction may occur through administrative decisions and judicial review depending upon the legal circumstances.	Correction is available through legally regulated procedures (particularly §894 BGB) subject to judicial supervision.	Germany limits corrective intervention to preserve registration stability, whereas Iran allows broader corrective mechanisms.
Information Infrastructure	Digitalization is progressing, although information remains dispersed among multiple authorities.	Highly integrated digital land registration system with standardized information management.	Integrated digital infrastructure substantially enhances institutional efficiency in Germany.
Procedural Predictability	Moderate due to institutional diversity and flexible evidentiary practices.	High because of statutory standardization and uniform procedural rules.	Germany provides greater legal predictability, while Iran provides greater procedural adaptability.
Institutional Efficiency	Efficient in integrating undocumented ownership but affected by administrative overlap and evidentiary complexity.	Efficient in maintaining registration reliability through institutional coordination and standardized procedures.	The systems represent different models of institutional efficiency: corrective efficiency in Iran versus preventive efficiency in Germany.
Overall Comparative Outcome	Corrective and facilitative registration model designed to incorporate existing informal ownership into the formal legal framework.	Preventive registration model designed to preserve certainty, public confidence, and transactional security.	Neither model is universally superior; each reflects different legal priorities and institutional objectives shaped by its broader property law system.

9. Discussion and Conclusion

Legal mechanisms for determining the registration status of lands and buildings lacking official title

perform a fundamental function in modern property law by enhancing ownership security, reducing legal uncertainty, strengthening public

confidence in land administration, and facilitating sustainable economic development. Beyond merely formalizing ownership, these mechanisms shape the institutional capacity of registration systems to reconcile legal certainty with equitable recognition of property rights. Their importance is particularly evident in jurisdictions where historical patterns of informal possession, incomplete documentation, or institutional fragmentation continue to influence the legal status of immovable property.

The present study comparatively examined the legal mechanisms governing lands and buildings lacking official title in Iranian and German law through five analytical dimensions: (1) legal foundations; (2) competent authorities and procedural structure; (3) admissible evidence and verification standards; (4) protection of good-faith third parties and corrective mechanisms; and (5) institutional efficiency and information infrastructure. Rather than merely identifying doctrinal differences, the comparative analysis sought to explain how each legal system balances ownership formalization, registration reliability, procedural predictability, and institutional efficiency within its broader legal and historical context.

The findings demonstrate that the Iranian and German registration systems pursue fundamentally different institutional strategies rather than different versions of the same regulatory model. The Iranian system primarily adopts a corrective approach, seeking to incorporate historically established but undocumented ownership into the formal legal order through relatively flexible evidentiary mechanisms and administrative procedures. This flexibility enhances the system's capacity to recognize genuine ownership situations; however, it may also generate challenges relating to procedural consistency, informational coherence, and institutional coordination.

Conversely, the German registration system emphasizes preventive legal certainty through the constitutive legal effect of registration, strict documentary requirements, judicial supervision, and strong protection of public reliance on the Grundbuch. These characteristics produce a highly predictable and coherent registration system that significantly strengthens transactional security and institutional stability. Nevertheless, the same

institutional features may reduce flexibility in accommodating historically informal ownership situations that have not yet been transformed into legally recognizable registered rights.

A principal conclusion emerging from the comparative analysis is that institutional efficiency should not be evaluated exclusively in terms of procedural speed or the number of properties successfully formalized. Rather, institutional efficiency represents a multidimensional concept encompassing legal certainty, procedural predictability, evidentiary reliability, institutional coordination, digital information management, protection of good-faith third parties, and the capacity to resolve ownership uncertainty without undermining confidence in the registration system. Consequently, both legal systems demonstrate internal coherence because each seeks to achieve different institutional objectives through different legal techniques.

The comparative analysis further demonstrates that effective land registration systems should not be understood solely through the traditional distinction between documented and undocumented ownership. Contemporary property relations increasingly involve intermediate ownership situations, including partially documented properties, documents of uncertain authenticity, competing informal ownership claims, and other legally complex factual circumstances. The Iranian legal system addresses many of these situations through relatively flexible evidentiary assessment and corrective administrative or judicial mechanisms, whereas the German system manages such complexity primarily through formal statutory procedures designed to preserve the reliability of registered information. Accordingly, the study demonstrates that the capacity to manage intermediate ownership situations constitutes an important dimension of institutional efficiency and should be regarded as an essential component of modern land registration policy rather than an exceptional or peripheral issue.

From a comparative policy perspective, the study suggests that neither unrestricted flexibility nor excessive procedural rigidity provides an optimal institutional solution. Excessive flexibility may undermine informational coherence and increase legal uncertainty, whereas excessive rigidity may delay ownership formalization and restrict access

to legally protected property rights. The comparative experience of Iran and Germany therefore indicates that effective registration systems require a carefully balanced institutional framework capable of combining legal certainty with sufficient procedural flexibility to address exceptional ownership situations while preserving public confidence in the registration system.

The findings also demonstrate that institutional efficiency is closely associated with procedural standardization, integrated digital information infrastructure, clearly defined institutional responsibilities, transparent correction mechanisms, and effective protection of good-faith third parties. These institutional characteristics reduce transaction costs, improve legal predictability, strengthen market confidence, and enhance the overall reliability of property registration.

Overall, this study contributes to the comparative literature by demonstrating that differences between the Iranian and German systems extend beyond doctrinal rules and reflect distinct institutional philosophies regarding the governance of undocumented property rights. Rather than identifying a universally superior model, the research illustrates how different legal traditions pursue different balances between corrective justice and preventive legal certainty. These findings may provide a useful analytical framework for future comparative research and may assist policymakers in designing registration systems that strengthen ownership security while maintaining institutional coherence, legal predictability, and public trust.

Practical Recommendations:

1. **Strengthen the integration and standardization of registration data.** Developing interoperable databases and standardized registration procedures can improve informational coherence, reduce registration errors, and enhance institutional transparency and public confidence.

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2. Expand digitalization and electronic registration procedures.

Greater use of digital technologies for filing applications, examining evidence, correcting registration entries, and monitoring procedures can improve administrative efficiency, reduce processing time, and strengthen institutional accountability.

3. Maintain an appropriate balance between flexibility and registration certainty.

Legal mechanisms should permit recognition of legitimate undocumented ownership where justified while preserving the reliability and conclusiveness of registered rights through clear statutory criteria and procedural safeguards.

4. Develop clearer legal mechanisms for intermediate ownership situations.

Registration systems should adopt transparent legal standards for addressing partially documented properties, disputed documentation, conflicting informal claims, and other legally complex ownership situations without undermining transactional security or public reliance on the registration system.

5. Strengthen the protection of good-faith third parties and compensation mechanisms.

Predictable compensation procedures and effective protection of legitimate reliance interests contribute substantially to legal certainty and market stability.

6. Enhance institutional coordination and professional capacity.

Continuous training of registration officials, stronger coordination among competent authorities, and the adoption of uniform procedural guidelines can improve decision quality, reduce administrative inconsistency, and increase public confidence in land administration.

Author Contributions

The authors contributed equally to the development and preparation of this research.

Conflict of Interest

The authors declare that there is no conflict of interest regarding the authorship or publication of this article.

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تحلیل تطبیقی سازوکارهای حقوقی تعیین وضعیت ثبتی اراضی و ساختمان‌های فاقد سند رسمی مالکیت در حقوق ایران و آلمان، با تأکید بر کارایی نهادی نظام ثبت اراضی

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مبسوط

چکیده

۱. مقدمه

حقوقی نیست، بلکه بر مبنای رویکرد کارکردی، نحوه پاسخ هر نظام حقوقی به یک مسئله مشترک، یعنی ایجاد قطعیت حقوقی، حمایت از مالکیت و ادغام وضعیت‌های غیررسمی در نظام رسمی ثبت، بررسی شده است. منابع پژوهش شامل قوانین و مقررات اصلی دو کشور، از جمله قانون مدنی، قانون ثبت و مقررات مرتبط با املاک فاقد سند در ایران، و قانون مدنی آلمان و قانون ثبت اراضی آلمان است. همچنین از منابع تفسیری، مطالعات حقوقی و دیدگاه‌های دکترین حقوقی استفاده شده است. تحلیل تطبیقی بر پنج محور شامل مبانی حقوقی و اصول هنجاری، مراجع صلاحیت‌دار و ماهیت فرایند ثبت، ادله اثبات مالکیت، حمایت از اشخاص ثالث با حسن نیت و کارایی نهادی نظام ثبت انجام شده است.

۳. یافته‌های تحقیق

یافته‌ها نشان می‌دهد که نظام حقوقی ایران در مواجهه با املاک فاقد سند رسمی، رویکردی اصلاحی و تسهیل‌گر اتخاذ کرده است. مبانی فقه امامیه، از جمله اعتبار تصرف، اماره ید و توجه به مالکیت ناشی از تصرف طولانی‌مدت، زمینه پذیرش طیف گسترده‌ای از ادله مانند اسناد عادی، شهادت شهود، گواهی‌های محلی و سابقه تصرف را فراهم کرده است. این انعطاف موجب می‌شود بسیاری از وضعیت‌های مالکیتی شکل‌گرفته خارج از چارچوب رسمی ثبت، امکان ورود به نظام حقوقی رسمی را پیدا کنند و از منظر عدالت ترمیمی، از تضییع حقوق واقعی مالکان جلوگیری شود. با این حال، گستردگی ادله قابل پذیرش و نبود معیارهای کاملاً یکسان برای ارزیابی ارزش اثباتی آنها می‌تواند موجب افزایش اختلافات، تفاوت در تصمیم‌گیری، کاهش انسجام اطلاعات ثبتی و افزایش هزینه‌های قضایی شود. بنابراین، کارآمدی نظام ایران نیازمند ایجاد استانداردهای روشن ارزیابی ادله، هماهنگی نهادی و توسعه زیرساخت‌های اطلاعاتی است. در مقابل،

نظام ثبت املاک به عنوان یکی از مهم‌ترین نهادهای حقوقی تضمین‌کننده امنیت مالکیت، نقش اساسی در تثبیت حقوق عینی، کاهش اختلافات ملکی، تسهیل معاملات و افزایش اعتماد عمومی ایفا می‌کند. کارآمدی این نظام وابسته به توانایی آن در ایجاد هماهنگی میان وضعیت واقعی مالکیت، اطلاعات ثبتی و حمایت از اشخاص ثالث است. با این حال، وجود املاک و ساختمان‌های فاقد سند رسمی یا دارای وضعیت ثبتی نامشخص، یکی از چالش‌های مهم بسیاری از نظام‌های حقوقی محسوب می‌شود. این وضعیت در ایران عمدتاً ناشی از انباشت تاریخی تصرفات غیررسمی، معاملات عادی و فقدان ثبت رسمی در بخش‌هایی از جامعه است؛ در حالی که در نظام حقوقی آلمان، فقدان ثبت بیشتر به معنای عدم تحقق کامل اثر حقوقی حق عینی در نظام ثبت است. بنابراین، مقایسه دو نظام حقوقی ایران و آلمان می‌تواند ابعاد متفاوت مواجهه حقوقی با مسئله مالکیت‌های غیررسمی و کارایی نهادی نظام ثبت را آشکار سازد. بر این اساس، هدف پژوهش حاضر، تحلیل تطبیقی سازوکارهای تعیین وضعیت ثبتی اراضی و ساختمان‌های فاقد سند رسمی در حقوق ایران و آلمان و بررسی تأثیر تفاوت‌های این سازوکارها بر کارایی نهادی نظام ثبت، امنیت مالکیت و حمایت از اعتماد عمومی به اطلاعات ثبتی است. پرسش اصلی پژوهش آن است که تفاوت‌ها و شباهت‌های میان سازوکارهای تعیین وضعیت ثبتی املاک فاقد سند رسمی در دو نظام حقوقی ایران و آلمان چیست و این تفاوت‌ها چگونه بر کارآمدی نهادی نظام ثبت و تضمین امنیت مالکیت تأثیر می‌گذارند؟

۲. روش تحقیق

این پژوهش با روش توصیفی - تحلیلی و رویکرد تطبیقی حقوقی انجام شده است. روش مقایسه در این تحقیق، صرفاً توصیف قواعد

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۴. بحث و نتیجه‌گیری

نتایج پژوهش نشان می‌دهد که هیچ‌یک از دو الگوی حقوقی به‌طور مطلق بر دیگری برتری ندارد، بلکه هر یک بازتاب‌دهنده اولویت‌های متفاوت نهادی است. نظام ایران با تأکید بر انعطاف و عدالت ماهوی، توانایی بیشتری در جذب وضعیت‌های مالکیتی تاریخی دارد، اما برای افزایش کارایی به استانداردسازی و کنترل‌های نهادی نیازمند است. نظام آلمان با اولویت دادن به قطعیت ثبت و حمایت از اعتماد عمومی، امنیت بالایی در معاملات ایجاد می‌کند، هرچند انعطاف کمتری در پذیرش وضعیت‌های غیررسمی دارد. بنابراین، الگوی مطلوب ثبت املاک باید تلفیقی از زیرساخت اطلاعاتی قابل اعتماد، استانداردهای روشن ثبتی و سازوکارهای اصلاحی مؤثر برای مواجهه با وضعیت‌های استثنایی باشد؛ به گونه‌ای که میان «تسهیل رسمی‌سازی مالکیت» و «حفظ قطعیت ثبت» تعادل برقرار شود.

کلیدواژه‌ها: املاک فاقد سند رسمی، نظام ثبت زمین، رسمی‌سازی مالکیت، فقه امامیه، تضمین تصرف.

تشکر و قدردانی

مطالعه حاضر حامی مالی نداشته و حاصل فعالیت علمی نویسنده است.

نظام ثبت آلمان بر اصل اثر تأسیسی ثبت، اعتبار دفتر ثبت اراضی و حمایت از اعتماد عمومی به اطلاعات ثبتی استوار است. مطابق مقررات قانون مدنی آلمان، انتقال مالکیت اموال غیرمنقول نیازمند توافق رسمی و ثبت در دفتر املاک است و ثبت صرفاً نقش اثباتی ندارد، بلکه شرط تحقق حق عینی محسوب می‌شود. همچنین اصل حمایت از شخص ثالث با حسن نیت مطابق ماده ۸۹۲ قانون مدنی آلمان، موجب می‌شود اشخاصی که بر اطلاعات ثبت‌شده اعتماد می‌کنند، از حمایت حقوقی برخوردار شوند. سازوکار اصلاح ثبت مطابق ماده ۸۹۴ قانون مدنی آلمان نیز تنها با هدف هماهنگ‌سازی اطلاعات ثبت‌شده با وضعیت حقوقی واقعی و در چارچوبی کنترل‌شده عمل می‌کند و وسیله‌ای برای شناسایی گسترده مالکیت‌های غیررسمی نیست. مقایسه دو نظام نشان می‌دهد که ایران بیشتر بر عدالت اصلاحی و تبدیل وضعیت‌های واقعی مالکیت به حقوق رسمی تأکید دارد، در حالی که آلمان بر پیشگیری از عدم قطعیت، ثبات معاملات و اعتبار اطلاعات ثبت‌شده تمرکز می‌کند. از منظر کارایی نهادی، نظام آلمان با اتکا به تقسیم روشن وظایف میان ادارات ثبت، دادگاه‌ها و دفاتر اسناد رسمی، استانداردسازی رویه‌ها و انسجام اطلاعاتی، سطح بالایی از پیش‌بینی‌پذیری ایجاد کرده است؛ در مقابل، نظام ایران ظرفیت بیشتری برای حل مسائل تاریخی مالکیت‌های غیررسمی دارد.

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