

The law governing parental relationships with children in Iranian and British law

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Abstract

Childhood is one of the most important and effective periods of life, in addition to paying attention to the child's physical and educational care, it should be socially and legally protected by the legislator, In this regard, how to define the responsibility of the parents and how they behave with the child and their guardianship, the citizenship and responsibility of supervisors, and the transfer of the child or their parents from one country to another, and also in terms of the interests and interests of children that the legislator must regulate in drafting the rules. This paper seeks to examine the rules of conflict resolution for children and their parents in Iranian and British law.

Keywords: Step-child; Guardianship; Conflict of Laws; Adoption; Expediency and benefit

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1 Introduction

Children of these divine gifts should enjoy the greatest support and should not sacrifice the interests and benefits of children to political games or lack of legislative decree. This basic principle cannot be ignored too early, which is tied to the interests of their parents. One of the most interesting topics in relation to personal status is the study of the supervisory authority, especially so, in this regard, the study has been done in a comparative way.

At present, the issue of conflicts of law has also attracted the attention of lawyers, because the expansion of the tourist industry on the one hand, and situations such as asylum and migration and displacement, has further increased the scope of these issues.

Speaking about adoption in the internal and external laws as well as the conflict of the rules of the current article's goal, in addition, we will have the passage of the conventions on adopting and protecting the interests of the adopted child. In this article we try to answer the following questions:

Is the institution of custody and adoption quite different? Which countries have adopted and which adoptions have been adopted? What are the social and legal grounds for not accepting adoption in Islam? What law does religious rulers or foreigners living in Iran decide to adopt a child to be adopted?

This article contains four topics. In the first section, we will have a short passage on the concept and basis of social adoption. In the second section, we are going to leave Iran's current Iranian perspective on adoptions and compare them with the rights of other countries. In the third section, we will analyze child adoption in the conflict of laws. We will allocate the fourth section to the review of adoption in international conventions.

2 First topic: concept, history and principles of adoption

Adoption is based on the words of child adoption, which means that a person accepts a child with no father or mother relationship with him. In the Arabic language, two terms of Dai or Tabany are also considered as adoptive. In the legal term of adoption or adoption,

one accepts someone who is not his natural child. When it is said that: adopting an adoptive parentage, a father-in-law or child-parenting relationship is said to occur between two people. This is a perception of adoption, which in fact is a mere legal entity, not natural.

Islamic law did not accept adoption as a formal legal entity, and the scholars in this regard are verses 4 and 5 of Surah Al-Ahzab 4 and 5 and are as follows:

Allah has not made for a man two hearts in his interior. And He has not made your wives whom you declare unlawful your mothers. And he has not made your adopted sons your [true] sons. That is [merely] your saying by your mouths, but Allah says the truth, and He guides to the [right] way.

Call them by [the names of] their fathers; it is more just in the sight of Allah. But if you do not know their fathers - then they are [still] your brothers in religion and those entrusted to you. And there is no blame upon you for that in which you have erred but [only for] what your hearts intended. And ever is Allah Forgiving and Merciful.

In the teachings of Islam, from the outset, the treatment of orphans and unaccompanied children was announced by a lawyer. In this regard, although the institution has not been recognized as adoptive child adoption, however, according to the Law on the Protection of Children, without a Supervisor, in March 1975, a special institution was approved, which is to some extent similar to adoption.

Negation to adoption was related to the story of Zayd bin Harrisha, Zayd bin Haritha, who accepted his son's message when he was mature, married a girl, but after the divorce between Zayd and his wife, and divorce, the two prophets married Zayed's former wife. This, unlike the custom and habit of that time, was Arabs and taunted the enemies, after which the verses were revealed.

In old Rome's law, to preserve the family's basic status after the death of the head of the family, who was the father, this position was transferred to his son and no son, the department was transferred to the husband's daughter's family. From that time on, the goal was to save a family from extinction. However, in ancient Iran and most of the Prophet's Zarathustra, adoption was colorful religious, and it was a necessity to have a child; what are the financial and material benefits of the future interests. The Zoroastrians believe that the

son of a vision is from the bridge of the bridge and the one who does not have a child is unable to pass through the bridge of the road on the Day of Judgment.

Adoption today is not a tool for achieving the goals of parenthood, which is essential for the child's enjoyment. In this regard, the comfort and the benefits of the child is the principle and so the emphasis has been on the priority of adopted children's rights.

2.1 English law

In the English law, the 1968 Adoption Act was enacted to implement the provisions of this Convention; however, the rules of jurisdiction established under section 24 of the Children's Rights Act 1975 were the successor to the rules of law of the 1968 Act, which was implemented until that time. But the Convention of July 1978 on the acceptance of the House has been adopted, and now the amended provisions of the Convention and Article 24 of the 1975 Act and the remaining provisions of the 1968 Act on Adoption are being implemented.

The law applicable to adoption is a mixture of the English law and the applicable law of the applicant and the child, if the child is not a British national, in this case, the law of the country joining the convention and the child's nationality must be applied to the subject, if the law of the country is followed by the law of the country, the applicant is forbidden, and the prohibition has been notified to the British Government under the terms of the Convention, the British court must refuse to issue an adoption order.

If the applicant is a British citizen and a child resides outside the United Kingdom, in such a case, the court will, for the purposes of examining the main circumstances, such as the age of the parties and the consent of the relatives, the foreign law of the child's home, which in many cases differs from the law of England in these areas. It is a condition of action. However, the British laws in this area are not in line with the failure to comply with the law of the child's home by the English court, which would invalidate the child adoption order issued by the court. But even if the court does not consider the application of foreign law to the benefit of the child, it should refer exclusively to the law of the court (English law).

Of course, in English law, in cases where the ultimate goal of adolescence education was to study English citizenship, the court refused to issue an adoption decision based on British public order.

The Convention on the Rights of the Child also addresses the issue of the differences in the legal systems of different countries regarding adoption, especially since in the legal system of Islam, adoption means that, The adopter has the rights of a natural child, is not known, therefore Article 20 of the Convention stipulates:

Article 20: 1. The child should not be temporarily or permanently deprived of his or her own family's environment and should be supported and assisted by the government.

2. States Parties to the Convention shall, in accordance with their national law, ensure that alternative care is provided for such children.

3. Such care includes many things including; The appointment of a guardian of custody in Islamic law, adoption or, if necessary, sending a child to appropriate child care facilities should be given special attention when considering solutions to the continuing education of children, ethnicity, religion, culture and language of the child.

3 Second Topic: The View of the Current Iranian Right to Adoption and Comparison with the Rights of Other Countries

In our civil law, adoption is not foreseen; however, in the 1974 Supportive Children's Protection Law for the Protection of Indigenous Children, a legal guardian who was the source of a kind of affiliation in Iran was foreseen. In this regard, the subject of the legislator is cautious and this is natural, because respect for religious traditions required the adoption of childhood to be avoided and the term "guardianship" should be used instead. Of course, the law was enacted by the adoption of the Law on the Protection of Children and Juvenile Offenders and Bad Supervisors, approved on 22/9/2013. The law consists of 37 articles and seems to be more comprehensive than the former one. The law has been used for the first time in the name of adoptive childhood as the guardian.

Adoption cannot be considered legal, with the argument that it is a requirement of women and women, and accepting the assignment in this regard as acceptance. Rather, what

creates a guardianship is the court's ruling, and the court decree creates a legal, non-declarative aspect. Article 3 of the Law on Protection of Children, without Presumed Mentor and Article 9 of the new law refers to the aspect of the succession of guardianship or adoption, Article 9 of the new law states: (All minors and adolescents under the age of sixteen who are found to be inferior to the court for lack of development or who are in need of supervision and who are eligible for the provisions of Article 8 of this Law shall be subject to the provisions of this law)

Articles 6 and 14 of the new law provide for the initial conditions for the issuance of a court order.

Among the conditions set forth in Article 6 of the new law are the following: Performing duties and leaving confidentiality, imposing effective criminal penalties in accordance with the provisions of the Islamic Penal Code, financial rehabilitation, non-stoning, physical and mental health and practical ability to maintain and control children and adolescents under supervision, lack of drug addiction, psychosocial substances Battalion and alcohol, moral competence, non-communicable diseases, or cruelty, belief in one of the religions in the constitution of the Islamic Republic of Iran. The court will issue a custody order if the claimant carries out the administration of part of his property or rights to a guarded child or adolescent.

Identify the type and amount of property or rights with the court. In cases where the court determines that it is not possible to obtain objective assurance from the petitioner or if it is not expedient and that the child or adolescent parenting is necessary, the order shall give the written commitment to indemnify part of the property or rights in the future and after the acceptance of the requestor and the execution of the order, he issues the custody order.

According to the wording of article 14 of the new law, if the court determines that the granting of supervision without the implementation of the provisions of this article is in the best interest of the child or adolescent, he shall issue a guardianship order.

The Law on Protection of Indigenous Children and Adolescents, adopted in 1992, provides for conditions regarding the obligations of supervisors towards the child. In addition, Clause 3 of Article 3 of the Bill of the Civil Criminal Court of the Islamic Republic of

Iran approved in 1979 provides for material in this regard. But what is important is the work of guardianship; these works are listed in cases 15 and 17 of the new law.

Under Article 15 of the new law, the sole claimant or the supervisor must be obliged to pay all the maintenance and education expenses of the persons under guardianship. This sentence applies even after the death of the supervisor or supervisors until the new supervisor is appointed to the current child or adolescent. To this end, the supervisor or supervisors are required, in the opinion of their organization, to work with one of the insurance companies in the interest of the child or adolescent under the care of the insured.

If the court determines that the granting of custody without the implementation of the provisions of this article is in the best interest of the child or adolescent, he shall issue a custodial order.

According to Article 17 of the Law on the Protection of Children and Young Adolescents, in relation to the child or adolescent in terms of maintenance, education, and alimony, the observance of the Note (15) and respect, such as the parent's duties towards the children, are the same. Article 14 of the former law states that a ceremony for the issuance of a new birth certificate for a child should only be made with the profile of the couple's guardian and the spouse's family name, but even a new birth certificate for the child did not relinquish the relationship between the child and his or her fathers or other relatives. Therefore, as a source of marriage and inheritance of legal relationships between supervisors and child under guardianship is not created. The reason is not to bring these two effects into the law of protecting children without children, Therefore, the inheritance relationship was still maintained between relatives and relatives of the child under guardianship. In the new law, after the issuance of a decree, the head of the provisions of the ruling shall be notified to the Civil Registration Office and the welfare office in order to introduce changes in the certificate and the identity card of the guardian or supervisor's couples. The Registry Office, of course, must insert the supervisor's name and surname in the description of the provisions of the custody order and the actual parenting information (Article 22).

In sum, it can be said that the new law of the former law implies more protection for abusive children and adolescents. The law emphasizes the interest of the child and the adolescent, and has paid special attention to the provision of affairs and material and

livelihoods for children and young people, such as the use of their long-term and long-term care insurance. Although the former law was applicable to children under the age of 12, however, this law increased the scope of the law to 16 years. The important point of the law is that it applies to all Iranian nationals, whether in Iran or abroad, who can take advantage of the care of children and young people. Of course, in contrast, the conditions for admission of guardianship to the former law have increased. Of course, there are still some shortcomings such as the possibility of a guardian's marriage to a child under guardianship, although it is in the interest of the court and court order to include the actual parents in the description of the new birth certificate and the welfare of the spouse without marriage, which can be considered as failures and weaknesses of the law.

Most countries in the Islamic Republic did not accept the complicity of this act, but the Tunisian state approved the law of Western countries, especially France, to support the lawless abusive children in May 1958, which foresees three types of custody. One of the types of adoption is that the child is in the realm of the child, and the rights and duties of the real parent are not the same as either the inheritance rights or the marriage veneration.

In Denmark, Denmark, Spain, Finland, Ireland, Norway, the Netherlands, Sweden, and Switzerland, there is a full childhood. Adoption is against incomplete adoption, in which the offender's relationship is maintained with his or her true family. In full childbirth, the adopted relationship with his or her actual family is finalized or under special circumstances and at the discretion of the judge.

Therefore, in this adoption, apart from the issue of parental affairs, there may be a complete separation between the adoptive child and his or her true parents, but instead, the adopted child's status is like a legitimate child.

In French law, although there are two types of complete and simple adoption, in both of them, consent and consent of the adopters and the consent of the parent or parent who holds the child or the consent of the child if it is more than 15 years old is necessary. Of course, complete childbirth in France is only possible for children under the age of 15 years. However, in both of them, this is a court order that creates adoption.

Apart from full childbirth, which is not terminated, simple adoptions will also be issued upon issue. (Articles 355 and 361, Art. 2-370 of the French Civil Code) In addition, as the

adoption of a legal relationship between a child and his or her real parents ceases to exist, the child's relationship with his or her new family is exactly replaced and the same rights and place are settled in the new situation.

In the United States, each state has its own legal status. In most cases, adoptive adoption will establish all relationships and effects between the child and his blood relatives. In the state of Missouri, there is the possibility of accepting an older person as an adoptive child, and according to the law of the state of Mass., The accepted person must be smaller than accepted should be smaller than the recipient, unless she/he (adoptive parent) is a spouse, brother, sister, cousin, aunt, or adopter, whether father or mother. In this state, the child's relationship with the father-in-law is cut off by issuing a child-raising order.

In England, a person accepting as a child is under the age of 18 and, secondly, must be single. Adoption in this country also requires the transfer of the rights and paternity of the fatherland to the fatherland, and the mere adoption of full adoption in this country have been confirmed.

In French civil law, adoption is possible for couples who have at least two years of their common life and both are over 28 years of age.

In countries where there is complete adoption, there is no discussion of the end of the effects of adoption, and therefore the same rules apply to the natural family in the new family as the new family is the perfect replacement for the previous one.

There is debate and controversy surrounding the necessity or unnecessary existence of race, culture and ethnicity between acceptor and acceptance.

In accordance with an adoption perspective, as much as possible, it should be free of racial, religious, color, social class, and so on; To care for this affair in the context of your adoption is to discriminate between individuals. So you have to make the rules a piece of fabric so as not to differentiate between people.

But according to the other, race, color, and culture should not be excluded from the process of adoption, which would discriminate against children and disregard their interests. Removing these factors from the decision-making process does not guarantee that the needs of children are adequately met.

In the United States, the need to match the race prevented black children from being accepted by white people, even if the only alternative was the survival of the child in the orphanage. But in 1994, the federal government passed a bill prohibiting discrimination on the basis of color, race or national origin, on adoption (adoption). In 1995, the Code of Conduct issued a law expressly abolishing the use of color, race or national origin as a sole factor in determining the substitution of guardianship or adoption.

In British law, the ethnic, racial, cultural, linguistic, religious encounters with the true parents of the child are, in fact, one of the factors of adhering to the interests of the child; Although this criterion is not decisive, it is assumed that in such a situation, the needs of the child are better served and his healing is provided in practice. However, the government has explicitly stated that a child should not be deprived of meritorious Godfather merely because of cultural or racial disparities in the applicant. Therefore, in the absence of such an adaptation, adoptive agencies will seek to find a suitable alternative with a realistic look at time constraints.

3.1 B: Regulations on the effects of adoption

Inherited rights: In the United States, each state has its own rules of inheritance. For example, in Missouri, before 1917, Adoption did not have an effect on the inheritance rights of the child and his family, and the adopters were strictly permitted to sign him without any change in the relationship between the child and his or her actual relatives, inherited in law as immaterial, as his or her actual child. But with the passage of 1917, all existing relationships between the child and the family and its main relatives, including inheritance, are discarded and the new family is replaced in every way.

But in the federal law on the affairs of the federal government (dealing with heirlooms), both in 1969 and in its reform text of 1990 and in the draft new bill, the general principle was established; The adopter is inherited from the adopter's children, not the real parents, and in limited circumstances and in certain circumstances, certain cases have been excluded from this rule, Including the fact that if one of the parents re-marries after separation from another and accepts the child's new wife, the child or survivors will also inherit from the parent (Law 1969 and 1990) Also, if adoption takes place after the death of

the original parent, the child will be inherited and the survivors will inherit them, and this will be the same if the children of the child, including his grandparents, are admitted to a son.

In British law, although in the past not so long ago, the inheritance of a child was prohibited by the adopters; the inheritance between the child and his actual family is now discontinued and replaced in the new family.

In French law, although full adoption, interrupts the inheritance between the child and the former family or establishes a new family (Articles 356 and 358 of the Civil Code) but in simple adoption, a different position has been adopted: On the other hand, he has adopted the child and, firstly, he inherits his relationship with the original family as his heir, and at the same time it fully ties the receptors and their families, except that the parents and adoptive ancestors can remove them from the numbers of their heirs.

But on the part of inheritance, if a child does not have a child after the death of a child, after the property is paid back by the true parents to them, and the debts and the contribution of his wife are paid, we are the rest of the family and the decree Due to adoption) will inherit the equality. (Articles 364 and 368_1_368 of the French Civil Code)

The real purpose of these regulations is to: Preceding the nature of the situation and imposing laws that, in addition to complicating the situation, would disrupt the natural system of the family (for example, imposing a guardianship order to indemnify part of the property upon the child during the lifetime of the guardian) and to further refute the adoption institution Lead, prevent.

Sanctity marriage: The former law on the protection of children and ... The issue of marital reciprocity in relation to a guarded person and the family members of the adopter (supervisor) in general is silent and not passed. This silence has led to different opinions on deprivation: Some, because they consider that the obligation to carry out works related to the guardianship is contrary to the principle and exception of its nature, silence is regarded as a negative expression in the expression of the expression. Article 11 of the law may be mentioned as confirmation of this view.

On the other hand, others have focused their attention on the spirit and purpose of the law and considered the goal of establishing a space similar to the natural one of the individual, contrary to the permissibility of sexual desire. Therefore, although not stipulated

in the law, at least in relation to the relationship between the child and supervisors, they have been respected.

The law on the protection of unaccompanied children and adolescents has launched a new initiative and has basically prohibited the marriage of the guardian and adopted son, with the permission of the court.

In this way, the marriage between a guardian and a guarded person is similar to the situation of the marriage of Iranian women with men of foreign citizens.

But this initiative, contrary to what it seems to be, is a step backward in rejecting the relation between the deprivations of a guardian-supervised person; Regardless of the fact that the law enforcement guarantee allows the court to not influence the marriage, or simply preventing it from being registered, the mere possibility of marriage of the abovementioned persons, although based on the examination of the court (supervision), i.e., the creation of an environment similar to that of the natural family, is the source of sexual domination over the relations of individuals. However, this regulation is opposed to Articles 21-29 and 34 of the Convention on the Rights of the Child, which Iran has acceded to in 1993.

4 Third Topic: Adoption in the Shadow of Rule Conflict

The conflict between the laws of the branches is the rights of every country in which part of the dispute is related to foreign elements or factors, the foreign factor in each country is beyond the domestic law of that country. The conflict of laws is based on two types of conflicts of domestic laws and conflicts of international law. We must note that in any conflict of laws, there are three conditions: Economic / political / legal condition

Adoption is subject to another placement in the category of personalities, since Article 13 of the Law on Protection of Children without a former guardian was approved in 1972:

(The provisions of the Personal Status Act of non-Shea Iranians remain valid for adoption) Also, the regulations of other countries indicate that the rules of childbirth are private residences.

4.1 A: In the process of creating the right

Adoption and conflict of laws can be more complicated than other personal issues, because it can be analyzed in two broad ways: firstly, adoption can be viewed from the perspective of the godfather and the mother-in-law.

The second can be seen from the perspective of the child. But it may be that one of them has a religion or religion different from one another, and it may be that the two foreigners are either Iranians or one of them are Iranian and the other is foreign, and that the child can be Iranian or foreign, residing in Iran or not. Rituals should be in accordance with the parent's parents.

However, it is possible to imagine different rules. Which law should be applied? To answer this question, first of all, what is the law applicable to resolving conflicts and describing a legal matter such as adoption? There is a theory that it considers competent to enforce the law.

The Iranian legislator states in Article 7 of its Civil Code: (The personal status of foreigners is subject to their national law) From this rule, the conflict resolution is taken about Iranians, which is the right of the Iranian legislator to express his views on personal status and to determine whether the adoption is a private citizen or not?

We explained that this is so and the law allows the non-Shiite Iranians to observe the personal status of the 1312 tribunals, as well as adoptions, in accordance with personal status. It was also found that foreign lawmakers in most countries have adopted a legal entity for adoption. Therefore, regarding the Christian, Jews of the Islamic Republic, who have been recognized in accordance with Article 13 of the Constitution? According to section 3 of the law, the permission to observe the personal status of non-Shiite Iranians in the 1312 tribunals is governed by customary habits and customary rules in their religion. That is, the religion is followed by the godfather or adopted mother. Therefore, adoption of adoption in Iran is specific to the three religious minorities mentioned.

About the Muslims, including Shafei, Maliki, Hanbali, Wahanfi and Zaidi, this establishment has been accepted with special conditions and works under the title of Guardianship.

However, if the adopted child or adoptive parents are Iranian citizens living outside Iran, they will be described in accordance with the prescribed law. Therefore, if the court is out of court and ultimately recognizes the adoption of a private residence - which is usually the case - the foreign judge will enforce the law of Iran in the above-mentioned lawsuit; Of course, the application of this law should not be in line with the public order of the court of the country. Also, if the referral of the law governing the law is subject to the law of Iran, the law of the persons involved in the ruling is not the law of the residence. In this regard, we can cite such an example that Iranian women and women in France or Belgium want to take care of the Iranian child.

According to Article 7 of the Civil Code, the personal status of foreign nationals is subject to their national law; however, Article 978 of the Civil Code introduces an exception to this principle, which is not contrary to public order and law.

It is necessary to note that; if the father and adopted children are foreign and adopted, the adoption is accepted by the Iranian legislator and can be applied to the godfather or mother-in-law, because the establishment of an adoption relationship in Iran is not opposed to the general order, this is because of the situation in the private relations of foreigners, the problem arises when an external citizen wants to apply for adopting non-Muslim citizens in Iran, which law does this apply to?

In this regard, it seems that the foreign law governing this is because it is expressed as it is, Non-Shia Iranians are subject to common habits and rules in the religion of the godfather or mother-in-law and also Article 964 of the Civil Code makes fatherhood and children subject to the law of the state of the father.

Some lawyers have made some mistakes in this regard. According to them, due to the fact that Iranian law does not allow adoption, and another institution is called "custody", and the guardianship law states, this rule applies to every foreign husband and wife ruling the foreign country. Therefore, foreign nationals cannot accept a child in Iran; therefore, there will be no such works as the inheritance accepted by the Iranian legislator as a result of the establishment of a child adoption institution.

However, the Iranian legislator in paragraph 3 of article 1312 has recognized the relationship with all the works for non-Shia Iranians and according to Articles 7-964 and 965 of the Civil Code, this right can be conceived to foreigners.

This is possible with regard to adoption (assignment) And that if the foreign national applying for adoption in Iran is a national of the country where the law of the country of origin applies to the place of residence As in the case of the United Kingdom, in this case (assignment) comes first and in accordance with Article 973 of the Civil Code, the Iranian legislator is required to accept this assignment. Therefore, non-Muslim foreign nationals should be subject to the law of adopting the law. (Permission to observe the personal status of non-Shia Iranians in 1934 regarding non-Shiite Iranian personalities)

In the new law, in Articles 3 and 4 of the Law on the Protection of Child and Young Adolescents, poorly supervised and unaccounted-for, the possibility of drawing up a request for custody from foreigners (non-Iranian) is more explicitly raised; Iranians living abroad can apply for their custody through the embassy or offices to protect the interests of the Islamic Republic of Iran. The embassies or offices in question are required to cooperate with the organization in implementing this law, and the organization is required to address the applicant's request by a competent court ruling.

Under Article 6 of the new law, in the form of a statement of the terms of the claimants "Belief in one of the religions specified in the constitution of the Islamic Republic of Iran"

On the other hand, according to the wording of this article, "observance of the religious commonality between the guardian and the guardian is obligatory, the competent court, with due regard to the interests of the child and the non-Muslim minority, carries him over to the Muslim applicants ... According to this article, the powers that were given to non-Iranians in violation of the law of the law of law are excluded from the bill, and all the believers of the religions mentioned in the constitution are included in the bill. Also, the non-Shi'a recipients of the recipients have withdrawn from the monopoly of Iranians and extended to all foreign nationals living in Iran.

In the original bill of the new law, the law provides for the strange act in Article 25: <All laws and regulations relating to the personal status of non-Muslim Iranians who believe in one of the clear religious faiths of the constitution of the Islamic Republic of Iran regarding

adoption will still be valid> , The point here is that such a text in the law protects unaccompanied children, with meaning and exclusion, Because, while basically "guardianship" is specific to Shiites (even non-Iranians), it recognizes non-Shiite Iranians as concessions and allows exceptions to them in accordance with their personal circumstances and thus not subject to the law.

But in the framework of a bill that could be taken out of the Shiite monopoly and was also included in other constitutional religions, the removal of non-Shi'a Iranians was a violation of the will. In fact, the bill has led to the establishment of a uniform and coordinated regime for the supervision of all Iranian children, and has therefore brought Article 6 and the Note to the same intention so that non-Shiite subjects are subject to its provisions. Under such circumstances, Article 25 would have violated this objective by eliminating the ambiguity in the new law by eliminating it.

From the point of view of private international law, this is a principled objection that foreign nationals, as part of the granting of the privilege (the law of the state or the particular religion of a person), are more appropriate than their own nationals, in accordance with Article 7 of the Civil Code << The foreign national resident in Iran's soil will be subject to the laws and regulations of his or her government in respect of his personal status and religion ... However, in accordance with the provisions of the same law, "Personal Status Laws ... will be enforceable to all Iranian nationals, even if they are resident abroad" which, in accordance with Article 25 of the former bill, practically affects this rule.

In other words, while the bill gives "non-Shia Iranians" permission to refer to the rules of their own religion, the foreign nationals, Christians, and Zoroastrians are placed in the order of the "Shia Iran" in the order of law. And this approach was criticized.

According to what has passed, religion is the only factor that is important from the point of view of the legislator, which is included as a condition of necessity, its proportion in relation between the adherent and the accepted. In defense of the elimination of the intervention of these agents as non-transgresses conditions in adoption, it can be stated that the goal is to provide prosperity for children and inferiors, however, such participation does not have the capacity to play a leading role, whether it involves the participation of people of the same race or ethnicity.

4.2 B: Right Effect Step

What was said about the stage was the creation of the right, but in the area of influence there is less right to doubt. But what should first be determined is whether the implementation of the offender's works created in accordance with foreign law in the Iranian territory is contrary to Iran's public order? If the answer is true, then the rights of the adopted child are ignored, that is to say, contrary to the rights to observe and observe expediency and envy, and contrary to international credentials that are in the Convention on the Rights of the Child. Therefore, by unity of the criteria of Articles 7 and 967 of the Civil Code, after the foreign law is enforced, it decides in accordance with the substantive rules of the law of the state of the father or adoptive mother.

Another ambiguity is that if the difference between the citizenship of the adopted child and the woman is different, what is the law of the relevant state? It seems that the meaning of these provisions is to observe the envy and consistency of the law and the child. And in accordance with Article 2 of the Law on the Protection of Unmarried Children and Article 20 of the Convention on the Rights of the Child, which refers to the issue of the material and spiritual benefits of the child and the best interests of the child, the law of the state of the child of the adopted child shall be in force.

The rules governing the choice of law governing adoption in different countries are different. In the rules of conflict resolution of Egypt and Kuwait, the law of the country is dominant father and adoptive son, but governs the effects of the adoption of the law of his country.

In French law, adoption is subject to the law of the applicant or adopter, but the procedure for the consent of the adopted child is subject to the law of the country of which he is a national.

The adoption law of the Sausage states that the authority to grant adoption in the relationship between the husband and son and the adopted child residing in the Syrian court is the responsibility of the judicial authorities of this country, even if they are not Swiss, but

one of them is a Swiss citizen, it is the eligibility of adoption with Switzerland, provided that this adoption is not achieved in a country where they live.

In the United Kingdom, although the principle is that the law of residence is being implemented, the law of the country has filled the legal vacuum caused by the lack of prediction of the law of justice, with the help of the International Convention. For example, if the applicant, a resident of England and a child, is outside the United Kingdom, the criterion is the law that the child is subject to. However, if this law does not protect the interests and interests of the child, in order to protect his interests, he may enforce the law of adoptive parents, which is the same law as the United Kingdom, and there is no legal prohibition in that regard. In Denmark, personalities like England are subject to the Residence Act, but countries like Iran, Belgium, and Italy follow the rules of national law.

5 Fourth Topic: Adoption in international conventions

The 1989 Convention on the Rights of the Child has accepted childbirth to the fullest extent, that is, the same legal rights as a child for adoption.

This has led to the reaction of Islamic countries such as Egypt and Iran that do not accept adoption as such, and indeed have the right to circumvent it. For example, the Islamic Republic of Iran expresses its opposition to the provisions of the Convention << Declares the right to the materials and regulations which are in accordance with Islamic Shariah and reserves the right to declare such a right at the time of ratification >>...>> Egypt did not accept the adoption of the institution because it did not exist in Islamic Sharia.

What is important in the Convention on the Rights of the Child is Article 21 of the Convention, which emphasizes international adoption. An adopted child must have the same eligibility for the child's nationality (destination country). International adoption actually states that the adopted child and the parent have a different orientation, and then a law that is more in harmony with the material and spiritual interests of the child is applied.

In this article, it is also a matter of supervising the supervisor's supervisor to prevent abuse such as trafficking in human beings and sexual exploitation.

International documents also anticipate additional contracts for the prohibition of slavery and slavery to prevent the conversion of the caretaker entity into a vehicle for the purchase and sale of children.

These contracts were signed at the headquarters of the United Nations Office in Geneva in September 1956, and our country has also entered into this contract in accordance with the article of the law on the accession of Iran to the Supplementary Agreement of 3/3/1999.

Of course, the origins of these documents should be sought in international documents and the 29 May 1993 Convention on the Protection of Children and International Recipient, adopted by the Private International Law Conference in The Hague in 1995, and after a year Iran joined it.

The Optional Protocol to the Convention on the Rights of the Child on the sale of child prostitution and child pornography, adopted by the United Nations General Assembly on 25/9/2000, was another attempt to protect children, especially unaccompanied children and adoptive parents, which Iran joined in 2007. The protocol prohibits inappropriate and inappropriate agreements for the child's adoption that is accompanied by violations of international documents. The Convention on the Adoption of the 1993 Hague Convention contains important provisions on the need for cultural and educational coordination ... between adopter and adopted children. Article 16 of the Convention explicitly requires the State to pay full attention to education, ethnicity, religion and culture, in order to determine, on the basis of the reports of the child and his or her future father and mother, whether the replacement is in accordance with the best interests of the child. Article 30 of the 1993 Hague Convention also refers to the adoption of a national law: "The agents of the government must ensure that the information available to them regarding the child's identity and information about his parents' identity, as well as his medical records, are protected."

6 Conclusion

First, childbirth has a long history and early civilizations such as ancient Iran, ancient Rome, and later Islamic civilization have been identified in another way, But over the course

of time, theories about the acceptance of the adopted child have changed and changed, if, in the past, the survival of the generation and the interests of the godfather has been posed, today the needs of the child are considered more or less in the material dimension.

Secondly, it is concluded that the rights of Iran and Islamic countries other than Tunisia have not accepted the institution of childbirth. Western countries such as: Britain, Denmark, Spain, Finland, Ireland, the Netherlands, Sweden, Switzerland, France have stepped up and recognized the full childhood adoption, which means that the child of the child is the legal child and He has the rights and benefits of a real child.

Thirdly, we realized that the adoption of a child was enforceable from a court of law, and if the foreign element came into the case, the conflict of laws would arise, It is possible to imagine different situations, If a lawsuit is filed in Iran, the Iranian court goes directly to the custodial rules of law, But if the debate is about adopting it and requested by non-Shiite Iranians, they will be referred to their religion, and the common rules and regulations of their religion and religion will govern that. As regards Jews, Zoroastrians and Christians in the context of adoption, between adoptive children and accepted, inheritance and affinity are established. About the foreigners living in Iran, this is almost the same, and they are dominant in their respective countries; Now, what is the law of the adoptive parent's country, depending on the legislative process and the substance of the law. At the stage of the impact of the right, if the relationship of adoption outside Iran is properly created and works such as affinity and inheritance are cited by one of the child's adoptive parents or adopted parents, the legislator and the court will consider the national law of the child to be governed by the matter.

Fourthly, many international conventions have been signed on the adoption of the Convention, all of which have been signed in order to support a weak and disadvantaged group. It is better for the Iranian legislator to change his child-rearing requirement with the provisions of the Convention on the Rights of the Child. The adoption of new protective laws and regulations for children, especially unaccompanied children, could be a new step to protect the interests of this corpse.

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