

The Role of Religion in the Conflicts of Inheritance Laws in the Legal Systems of Iran, Egypt, and England

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In the private international law of Iran and Egypt, due to the significant influence of Islamic law and the French legal system, the law governing inheritance is the law of the deceased's nationality. However, in English private international law regarding inheritance, there are two conflict resolution rules: one for movable property and the other for immovable property. Accordingly, the governing law for movable inheritances is the law of the deceased's residence, while immovable inheritances are subject to the law of the location of the property. Given that inheritance and its related matters are a delicate blend of law and religion, it is essential for legislators to give serious consideration to the central role of individuals' religion when establishing substantive rules in the conflict of laws governing inheritance. Such consideration is often overlooked in English law and, to some extent, in the laws of Iran and Egypt concerning inheritance.

Keywords: *Inheritance, Religion, Conflict of Laws, National Law, The law of Domicile.*

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1. Introduction

There are a variety of issues in private international law concerning inheritance. The most important of such issues are the differences between the nationality of the testator and the heirs at the time of acquisition, causes and means of inheritance, classes of the heirs and their shares, bequest without heirs, modesty, and the effects of the acceptance and rejection of the bequest by the heirs. Given the extent and the complexity of the issue, the present study aims to explore the rule of conflict resolution governing the main inheritance

laws including laws relating to the determination of heirs (inheritance classes) and their shares of inheritance. One important factor in the adoption of conflict resolution system in different countries is cultural and historical backgrounds of that country. For instance, in Iranian and Egyptian private international law due to the influence of Islamic law and French legal system, the Law of Citizenship (the Law of the government obeyed by the deceased) will be adopted (Motevali, 1999). Rules governing inheritance in Articles 6 and 7 of



Iranian Civil Code* as well as Article 17 of Egyptian Civil Code deal with the same issue.

In Britain, however, the Law of Domicile is dominant due to historical background of feudalism. Nevertheless, since inheritance is regarded as part of properties in British Law; the rules governing immovable inheritance is based on the Law of Domicile while the rules governing movable inheritance follows the laws of the place of the property (Graveson, 1967).

In addition to educational requirements, the most important reason for selecting the problem at hand is the need for interpretation, revision, and to reformation of existing laws of conflict resolution governing inheritance based on a combination of religious criteria and global development. Obviously, comparative studies along with existing solutions in Muslim and non-Muslim countries such as Egypt and Britain provide a better understanding of the way issues are developed; sometimes leading to effective changes in countries' laws which clearly points to the significance of the present study.

Based on what was mentioned above, it seems that there are two views on the issues relating to inheritance, which is based on either citizenship (national law) or laws of the deceased domicile. None of these laws is regarded as the competent law because laws of inheritance at least in the countries in question are derived from or associated with religion. Therefore, followers of various religions, obeying whatever government

or residing whatever country, follow their own religious or divine laws, not laws of countries or nonreligious laws, unless people who have no religion or people with unknown religion who can be said are following the rules and regulations of their original country.

Religion does not play a central role in foreign rule conflicts in Iran so nationality is used as a framework of reference for laws governing inheritance. According to articles 7 and 967 of Iranian Civil Code, the laws governing inheritance of foreigners residing in Iran as well as movable and immovable inheritance belonging to them are the laws of their original country or the government obeyed by the deceased.

However, in conflicts regarding Iranian domestic laws especially concerning personal status laws, religion is used to determine competent law of inheritance. According to Single Article of Act related to observance of personal statuses of non-Shiite Iranians passed in 1933; each Iranian is free to follow the rules of his/her own religion. This is also confirmed by principles 12 and 13 of the Constitution of Islamic Republic of Iran. On the other hand, such issues in the international arena are governed by national laws of the beneficiary not by religious laws.

In Egypt whose main laws are generally derived from Islamic Jurisprudence, problems are more complicated because under articles 17 and 875 of new Egyptian Civil Code, all foreign and domestic nationals whether Muslims (of different religions

*. Article 6: Laws relating to personal status such as marriage, divorce, inheritance, and capacity of individuals and heirs will be effective for all Iranian nationals even those residing in abroad.

Article 7: Foreign nationals residing in Iran are required to obey laws and regulations of their original country as to matters of personal status and their capacity as well as inheritance rights to the extent of treaties.

and denominations) and non-Muslims are free to follow the laws of their original country and individuals' religion does not basically intervene in the determination of laws of inheritance.

An investigation of British Law would show the role of place of residence in solving problems related to inheritance of foreigners so that it can be said that the application of the law of domicile concerning foreigners' inheritance under the fulfillment of certain conditions is not only a sign of underdevelopment but perhaps it shows a type of progress in the field of law.

Given the religious constraints (religion and denomination), the delicate intermingle of inheritance-related issues with law and religion along with political constraints (nationality), and alignment with global developments, the adoption of the law of domicile concerning foreigners who follow heavenly religions is dependent upon the fulfillment of certain conditions that are going to be addressed in the present study. According the aim of the present study is to find an appropriate and creative method concerning the law of conflict resolution governing inheritance based on the merging of religious and legal rules.

Based on what was mentioned, here the question is that if a British Jewish heir (assuming the testator is British and Jewish) makes a legal claim in Iranian or Egyptian court, which law will be determined by the court concerning the main rule governing inheritance?

In response to the above question it should be said that under Article 27 of the Egyptian Civil Code which specifies the absolute non-adoption of reference, the Egyptian court, in accordance with

the same article, shall place itself in the position of the British court and impose all Britain's regulations concerning inheritance. Obviously if both the heir and the testator are Muslim, the non-application of Islamic Law on the part of the court of an Islamic country in the case that such application is demanded from the court will be difficult only due to the dominance of the law of the original country of the deceased because it is against jurisprudential principles of Private International Law of Islam.

If the claim is referred to an Iranian court since Article 7 of Iranian Civil Code refers the case to British Law and the latter considers the law of the place of the residence (Iranian law) as a competent law in this case as inferred by most lawyers, the Iranian judge is required to apply all Iranian internal laws concerning inheritance (without the consideration of the religion of the deceased) (Almasi, 2009; Arfa' Nia, 2010; Fadavi, 2006; Motevali, 1999).

However, it should be noted that rules and regulations concerning inheritance should be applied for the heirs who have the same religion in Iran (with determination of the reason(s) for the verdict and the unity of criterion of the Single Article of Act related to observance of personal statuses of non-Shiite Iranians enacted on 22nd July 1933).

The main argument here is that the application of Iranian Civil Code in which the laws of inheritance like other personal statuses are generally derived from Shiite jurisprudence, is contradictory to doctrines of foreign religious minorities and is basically inconsistent with the Islamic juridical

principles as in Islamic law, regardless of issues related to race and geographical borders, the personal status matters concerning individuals' beliefs are addressed with reference to the most eminent obligatory juridical principle*.

In addition, the purpose of the application of the national laws concerning cases related to inheritance is to strengthen their familial and personal affairs as much as possible; a goal which is not fulfilled through the acceptance of the dominant assumption of lawyers. Besides, principles 4 and 167 of the Iranian Constitution as well as the adoption of the law of domicile regarding foreign citizens' inheritance who have a heavenly religion is corroborated with this thesis offered by the author of the present study.

Concerning what was mentioned above; the main question in the present study is what are commonalities, differences, advantages, and disadvantages of the laws of the inheritance in Iranian, Egyptian, and British laws?

Besides, the present study is going to answer the following secondary questions:

1. What are commonalities and discrepancies of the laws of conflict resolution in Iranian, Egyptian, and British laws?
2. What are advantages and disadvantages of the laws of the inheritance in Iranian and Egyptian laws?
3. What are advantages and disadvantages of the multiplicity of laws of conflict resolution in British laws?

* Forcing the followers of a religion to observe their own religious laws

To answer the main research question, the following hypothesis is offered:

Despite the existence of advantages, disadvantages, commonalities, and differences in Iranian, Egyptian, and British laws as well as fundamental differences between Iranian and Egyptian laws and rules of conflict resolution in the British law, it sees that Iranian Law, due to having more strength, is more dominant than British and Egyptian laws.

Accordingly, the present study consists of two parts: The first part consisting of two chapters, deals with commonalities and differences of laws concerning inheritance in Iranian, Egyptian, and British laws. Similarly, the second part with two chapters discusses strengths and weaknesses of laws concerning inheritance in Iranian, Egyptian, and British laws.

2. Chapter I: Commonalities

2.1. *Unity of characterization concerning movable inheritance (in Iranian, Egyptian, and British laws)*

The term *characterization* used by a number of American and British authors and a few British lawyers is one of the most fundamental issues with regard to the existing conflicts between rules governing inheritance.

The determination of the legal title of the movable inheritance by the competent judge with the observance of international private internal legal principle is considered vital when determining the dominant rule.

Article 6 of the Iranian Civil Code specifies “Rules related to personal statuses such as marriage, divorce, people competency, and inheritance shall be applied to all Iranian citizens even if they reside in other countries. According to this article, issues related to personal statuses are mentioned symbolically so that the Iranian legislators include the issue of inheritance as a part of personal statuses.

It seems that to complement the rule of conflict resolution, Iranian legislators have passed Article 7 concerning the personal statuses of foreigners: “Foreign citizens residing in Iran shall follow the cases related to their personal statuses and their capacity *and* their inheritance according to the rules and regulations of their original country”. Given that Article 7 separates the rules of personal statuses from those related to inheritance (with reference to foreign citizens) by the use of the conjunction “*and*”, perhaps it sees that the legislator sees inheritance as an issue apart from personal statuses although he has referred to inheritance as a matter of personal statuses in article 7 of the same act. However, this is not true at all because issues that are originally placed in one of the legal categories such as personal statuses, however they may be regarded as different issues in various countries; such issues are not placed in a different category in a given country especially within the regulations of a single constitution (e.g., Iranian Civil Code).

Accordingly, here the question is: Why has the Iranian legislator talked about inheritance and personal statuses in such a manner? According to some lawyers (e.g. Arfa’ Nia, 2009: 51), given that

two legal articles included the Second Volume of Iranian Civil Code address the capacity of foreign citizens (Article 962) and inheritance rights of foreign citizens (Article 967); in Article 7 the legislator merely focuses on these two issues. However, since the Second Volume of Iranian Civil Code was passed six years after the first volume; the legislator inevitably has mentioned the content of articles 962 and 967 instead of making any explicit reference to them. In any case, Article 7 is ambiguous with regard to issues of personal status so it should be amended (Kamal Fahmi, 1985).

It is worth mentioning that principles 12 and 13 of the Constitution of Islamic Republic of Iran refer explicitly to issue of inheritance as the single article related to the permission of observance of personal statuses of non-Shiite Iranian in the courts.

Article 13 of Egyptian Judicial System, concerning the definition of personal status as mentioned in Article 17 of the Egyptian Civil code, stipulates: “Personal statuses such as conflicts and issues related to people’s positions and their capacity are associated with familial issues such as marriage proposal, the rights of the couples, inheritance, and other possessions after death.

Concerning instances related to personal status in the British Law, it has been stated: “... such issues include family relationship affairs and the family possessions. More precisely, such affairs are under personal dominance: the internal validity of marriage, courts’ capacity to investigate divorce and nullification of marriage, parentage, adoption, testament to the movable property, and the

inheritance of the deceased's testament to the movable property ... (Miller, 1974).

As can be seen, based on legal articles and the lawyers' opinions, the inheritance of a deceased without the testament to the movable property in the laws of the three countries under study is regarded as a part of the personal status matters. The main point in this regard is the different view of the British Law towards the movable and immovable inheritance and the characterization of the issue of inheritance based on the classification of these two types of inherited properties. In addition, according to a principle which is accepted nearly in all countries, the characterization of movable inherited properties in all the three countries' laws will be basically made by the original country of the judge. Article 10 of the Egyptian Civil Code has made explicit reference to this issue and stated: "In the time of determining the binding law of conflict resolution, the Egyptian Law is the only authority to describe legal relations".

2.2. *The unity of the law governing inheritance (in Iranian and Egyptian laws)*

One of the commonalities of rules of conflict resolution in Iranian and Egyptian laws concerning inheritance is the dominance of the National Law of the residing country.

In addition to Article 7 of the Iranian Civil Code, described above, article 967 of the same act stipulates: "The movable and immovable inheritance of foreign citizens that is situated in Iran; the heirs shall abide by the law of the country of the deceased concerning the main regulations

governing the determination of heirs, the inheritance share, and the share that the deceased could have possessed according to his/her will. Article 17 of the Egyptian Civil Code is consistent with similar articles of Iranian Civil Code concerning inheritance. According to Clause 1 of the same article, "Inheritance, will, and other transactions effective after the death, will be addressed according to the national laws of the country of the heirs or testator, or a person who has transferred some property before death". Therefore, it can be said that the element of nationality in rules of conflict resolution of the two countries plays the central role in the determination of the rule governing inheritance.

2.3. *The adoption of the first-degree renvoi (in Iranian and British laws)*

When the proceedings of the rule of conflict resolution are referred by a competent court to the original country of the judge, such renvoi is referred to as the first-degree renvoi (Collier, 1993; Ernst, 1958).

It should be mentioned that if in the above example the Iranian judge first directly refers to internal (material) British rules, he does not run into such a problem. However, as it is known the reference to the laws of another country means reference to the whole legal system and the regulations of that country. Therefore, the judge needs to refer to the rules of conflict resolution and international regulations because he introduces the rule of conflict resolution of that country as a competent rule. However, after the determination of the competent law, the judge

refers to material rules and regulations of a country that are found as competent with regard to the conflict resolution to settle the arguments. Of course, this is possible only when the regulations of the original country of the judge accept such renvoi.

Article 973 of the Iranian Law is the legal documentation of the adoption of first-degree renvoi concerning inheritance. As this article states, "If foreign laws that shall be observed according to Article 7 of the first volume of the Iranian Law or as stipulated by the above articles are submitted to another law; the court is not required to observe such renvoi unless it has been submitted to the Iranian Law.

Accordingly, when the heirs of a British deceased residing in Iran refer to an Iranian judge for their inheritance claim, the Iranian law investigate the claim according to the British Law while the latter consider the law of residence (in this case the Iranian Law) as the competent law to investigate the matter.

In Britain, the issue of renvoi has been raised from the Eighteen Century and it has been attended by British lawyers. Of course, different theories have been developed concerning renvoi. Here for the purpose of the present study, we present the second theory "Theory of Simple Renvoi" and other theories will be elaborated on in Chapter II. According to the second theory, the judge is allowed to adopt the first-degree renvoi and apply the internal principle of the British Law in time as the submitted law. In other words, in the view of British rules of conflict resolution; the Iranian Law (as the law of the domicile of the unwilling

deceased) is considered as the competent law. Besides, since according to rules of conflict resolution in Iran, inheritance shall be proceeded based on the laws of the original country of the deceased and the heirs; the judge first of all is required to establish the British nationality of the deceased and then apply the British internal laws according to such renvoi.

3. Chapter II: Discrepancies

3.1. *Discrepancies in the characterization of immovable inheritance*

As was mentioned earlier, according to articles 6, 7, and 967 of the Iranian Civil Code and Article 13 of the Egyptian Judicial System as well as Article 17 of the Egyptian Civil Code; the issue of inheritance, whether movable or immovable, is included in personal status matters. In British laws, however, the immovable inheritance of the deceased is regarded as a part of properties and, thus, is subjected to the laws of the place of the property. Therefore, it can be said that there is a basic difference between the characterization of inheritance between the Iranian and Egyptian laws on the one hand, and the British laws, on the other.

3.2. *Discrepancies in the laws governing inheritance*

As was mentioned in the first part of the present study, the rules of conflict resolution governing movable and immovable inheritance of the deceased are the same in the Iranian and Egyptian laws and the law governing the inheritance is the

law of the original country of the deceased (the National Law) according to both countries' laws. Articles 7 and 967 of the Iranian Civil Code and Article 17 of the Egyptian Civil Code refer to the issue of inheritance.

However, there are two rules of conflict resolution in the British Private International Law: one addresses movable property and the other deals with immovable property. Accordingly, the law governing movable inheritance is the law of the deceased's place of residence and immovable property is subjected to the laws of the place of the property.

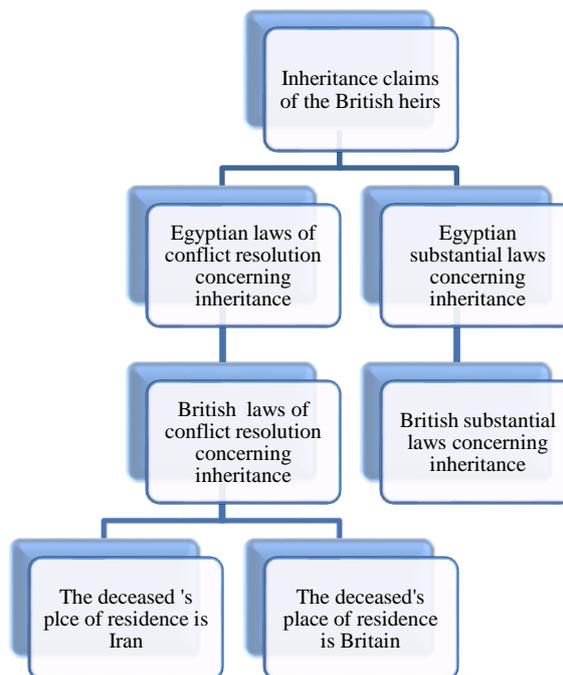
3.3. *Discrepancies in the renvoi system*

The legislative policies regarding renvoi in countries favoring the application of national laws on inheritance are not the same. For instance, unlike what is the case in Iran (e.g. Article 967), the renvoi has not been accepted in the Egyptian laws. Article 27 of the Egyptian Civil Code states: "In the case that a foreign country's law is recognized as the effective law, only the internal rules of that country are effective not regulations related to the private international law of that country".

Figure 1 illustrates the position of the renvoi policies concerning inheritance in Egypt:

Figure 1

The position of the renvoi policies concerning inheritance in Egypt



As can be seen in the above figure, as the renvoi is not adopted by the Egyptian legislatures, none of the above potential renvoi assumptions turn into action in the Egyptian courts. Therefore, according to Article 27 of the Egyptian Civil Code; the

Egyptian judge is required to immediately issue a verdict in all cases mentioned above according to the internal principle of the competent foreign laws (e.g. British civil laws) regardless of the British laws of conflict resolution.

As shown in Figure 1, although Egypt favors the application of the national laws and sometimes this involves a disagreement between conflict resolution systems in Egypt and Britain, a renvoi shall be null and void as the issue of renvoi has not been adopted by the Egyptian legislators.

On the other hand, unlike the Egyptian laws; legislative policies regarding inheritance renvoi in the Iranian laws point to the relative adoption of the renvoi. As a result, it is expected that unlike the Egyptian laws, the potential renvoi turns into action according to Iranian laws (this is a case of difference between the Iranian and Egyptian laws concerning the adoption of renvoi). Accordingly, Article 973 of the Iranian Civil Code states: "If foreign laws that should be observed according to Article 7 of this law or based on the above mentioned articles is submitted to another law, the court shall not observe such renvoi unless the renvoi refers to the Iranian laws".

As a result, assuming that an English deceased was residing in Iran (the deceased reside in the same country as the court is located) the perceived renvoi is regarded as the first-degree renvoi. In such cases according to articles 7 and 973 of the Iranian Civil Code, the Iranian judge is required to act according to renvoi to the law of the court place (the first-degree renvoi) and apply the internal rules of the Iranian Civil Code (as the law of the deceased's domicile) as specified by the British legislature.

No the question is that in the case that the deceased and the heirs are followers of one of the recognized heavenly religions and given the conflicts in Iranian civil laws concerning the issue

of inheritance, which part of the Iranian law should be applied by the Iranian judge? Which of the Iranian Civil Code (the majority law) or the Specialized Law of religions minorities concerning the single article of the permission for the observance of personal statues of non-Shiite Iranians enacted in 1933 must be effective in this regard?

To answer the above question, it should be mentioned that according to most lawyers (Almasi, 2009; Arfa' Nia, 2010; Fadavi, 2006; Mansour, 1995; Motevali, 1999; Nasiri, 2010; Sadegh, 1974; Saljoughi, 1998) the British heirs cannot be subjected to the Specialized Law of Iranian religions minorities because such laws are especially for Iranian religions minorities not foreign religions minorities. According to the author of the present study, this argument seems convincing based on authentic legal texts at the first sight. However, in such cases it would be better act according to ceremonies and rituals of the deceased's religion and the said single article. The main argument posed here is that the application of the Iranian Civil Code on foreign religions minorities in which the rules governing inheritance have been generally derived from the Shiite Jurisprudence is contractor to juridical fundamentals of the Islamic laws. In addition, the personal statues matters including inheritance should be basically looked into according to obligatory judicial principles of the people's religion as mentioned in principles 4 and 167 of the Constitution of the Islamic Republic of Iran. Furthermore, the purpose of the application of the laws of the original countries of the individuals

concerning inheritance will result in the reinforcement of their familial and personal issues; a goal that is not met by the adoption of the dominant consensus of lawyers.

Accordingly, the adoption of the law of the residence concerning the inheritance issues of foreigners who believe in one of the heavenly religions seems to be consistent with the juridical principles of Islamic private international laws as well as the principles of the Constitution of the Islamic Republic of Iran. Different doctrines have been developed in the British private international laws by some British lawyers (Collier, 1993; Collin, 1986; Ernst, 1958; Graveson, 1967; Miller, 1974; Scott, 1979) with regard to the renvoi system; some of which are going to be discussed here:

1. Doctrine of Apply Internal Law Only
2. Doctrine of single renvoi (or partial renvoi)
3. Doctrine of total (double) renvoi or the foreign court

Doctrine 1: The British judge shall immediately apply the internal principles of the competent foreign law without the admission of renvoi on the part of the British court, regardless of whether the competent foreign law generating renvoi would itself accept the renvoi or not.

Doctrine I: *Non-acceptance of renvoi and the application of the internal regulations of the competent foreign law by the British judge*

So if a person voluntarily avoids staying in Britain and instead resides in Egypt and dies there without a will, the deceased's movable properties will be divided between his heirs and in the case of any disagreement related to it, the British judge according to British laws of conflict resolution

shall apply the laws of the place of the residence (the law of the unwilled deceased's place of residence). On the other hand, according to the Egyptian laws of conflict resolution; the internal laws of the deceased's country (the British Law) are considered valid. As a result, the British judge based on the first doctrine shall reject renvoi and apply the Egyptian internal laws (as the law of the unwilled deceased's place of residence).

Doctrine II: The British judge is authorized to apply the British internal laws. In other words, the Iranian internal laws are recognized as the law of the unwilled deceased's place of residence according to the British rules of conflict resolution. Given that according to Iranian laws of conflict resolution, the issue of inheritance is subjected to the internal laws of the original country of the deceased. The first-degree renvoi is fulfilled based on the British nationality of the deceased and the British judge can follow such this renvoi.

Doctrine II: *Acceptance of renvoi and the application of the internal regulations of the British law by the British judge*

Doctrine III: In the case of the occurrence of renvoi, the British judge's reaction will be the same as the reaction of the judge of the deceased's place of residence. The third doctrine can be summarized as follows:

Doctrine II: *The British judge's reaction = The reaction of the judge of the deceased's place of residence.*

4. Strengths of rules governing inheritance in the Iranian and Egyptian laws

Since rules related to personal status have been passed for individuals' matters, they should be continuous and always with individuals. Therefore, the issue of inheritance and its principal rules needed to follow a law which is more stable or less volatile. Such law is the national laws of the country where an individual lives which are based on one individual permanent element that is nationality.

In addition, given the basic differences in issues related to inheritance between the Iranian and Egyptian laws that are founded on the Islamic jurisprudence and the British legal system; it is not fair that for instance Iranian residing in Britain follow the law of the country of their residence while the British people residing in Iran follow the Iranian laws concerning their personal matters given that according to the Iranian legal system, even non-Shiite Iranian follow their religious laws for the settlement of their personal matters. As a result, the nationality system for personal matters in the Iranian legal system seems reasonable and just as it considers the family interests and it is rooted in the Islamic and historical grounds.

It should be mentioned that most Egyptian lawyers, adopting the fairness of the nationality system concerning inheritance, consider the national laws of the deceased's original country as the best and the fairest laws in this regard (Kamal Fahmi, 1985; Sadegh, 1974).

On the other hand, according to some British lawyers; the law of the place of residence goes back to the feudalistic system in which human beings are subjected to a country's land. They believe that the feudalistic system was overturn by

the establishment of governments and people's emotional and spiritual relationship with governments are more important than the material relationship between the individuals and the land that is the place of residence (Scoot-op.cit, p. 21). In addition, the centrality of the nationality in determining the laws governing inheritance in the Iranian and Egyptian laws has some advantages as follows:

1. The nationality of a person can be established easily.
2. The change of the nationality is usually established easily and a person cannot change his/her nationality without reference to official and common legal procedures. Therefore, the possibility of cheating against the law is less in national rules and regulations. As a result, given the accumulation of evidence as mentioned above and the necessity of the strengths of family relations so that the laws governing such relations does not change with physical displacement as well as given the historical background of the influence of the Islamic jurisprudence on the Iranian and Egyptian laws; it seems that the application of the nationality system concerning the law of inheritance is the best choice in the Iranian and Egyptian laws.

5. Advantages of rules governing inheritance in the British Legal System

Some lawyers believe since the since the law of the place of residence is older than the nationality system and given that the residential place is the central settlement of a personal, the application of the law of the place of residence for solving

individuals' inheritance issues is more fair and natural than the application of the national law (Scott, 1979).

It seems that the most important strengths of the law of the inheritance are related to the existence of some general rules stated by the British lawyers about the place of the residence (Collier, 1993; Scott, 1979). Some of these general rules are:

1. Nobody is without the place of residence and the application of this law requires that the place of the residence of a person is the place where he/she was born.

2. Nobody has two places of residence because each person follows a certain legal system that is dominant on his/her rights and obligations.

These two general rules are among the most important advantages of the British legal system because using these two rules, British judges do not run into problems faced by the Iranian and Egyptian judges when applying the national laws of the original country of the deceased in cases where the deceased is without the place of residence or alternatively has two places of the residence.

3. The fact that the place of residence means a person's relation with a given legal system within a country does not necessarily indicate that a single legal system should be applied to all groups and classes. For instance, there are different legal regulations in a country like India for different groups based on their religion, race, and class.

Perhaps we can dare say that the third doctrine as an important principle can be applied with regard to the inheritance issues of foreigners with a heavenly religion in different countries and even

in countries (such as Iran and Egypt) that follow a national legal system.

6. Chapter II: Disadvantages

6.1. *Disadvantages of the law governing inheritance in the Iranian and Egyptian legal systems*

This section deals with disadvantages of the Iranian and Egyptian legal systems. Such disadvantages may arise from the principle of nationality. For instance, the deceased is without the nationality and has a double nationality. It is also possible that the national laws of the deceased's country contain some complexities that may create some problems when applying such laws.

6.2. *People without nationality*

People who do not follow the laws of a country are without a national law so it is not possible to hold a legal claim on their heirs' inheritance issues. Although Article 5 of the Iranian Civil Law refers to such individuals and considers the Iranian Laws as the binding law in this regard, there are some ambiguities in such cases. Such ambiguities also exist in the Egyptian Legal System. Of course, according to Article 25 of the Egyptian Civil Law; the Egyptian judge is required to investigate issues related to people without nationality based on the national laws of the judge's country.

6.3. *People with double nationality*

The issue of nationality conflict arises in cases where the deceased intentionally or obligatorily

possesses two or more nationalities. In such cases if the one of the nationalities is the same as the judge's nationality and given that both countries can act independently in determining the nationality of their citizens and given the peremptory nature of the nationality regulations; the Iranian judge shall consider the person in question as an Iranian citizen. Certainly, in this case; the Iranian Law is the dominant law governing the inheritance. According to articles 5 and 976 of the Iranian Civil Law, if the Iranian judge faces cases in which the deceased have foreign nationalities and none of them is Iranian nationality, of course the Iranian Law is silent on these matters; it seems that the determination of the nationality is possible through the investigation of the degree of the possession of nationalities attributed to the person (Almasi, 2009; Motevali, 1999; Nasiri, 2010; Saljoughi, 1998).

In the case of nationality conflict with no Egyptian nationality, the determination of the preferred nationality lies with the judge. Concerning such cases, Article 25 of the Egyptian Civil Law states: "If a person possesses the Egyptian nationality as well as one or more foreign nationalities, the Egyptian Law shall be regarded as the only binding law. However, if the person does not have an Egyptian nationality; the judge is required to determine the competent law and, in practice, the judge determines the dominant and effective law of a given country as the binding law".

6.4. *Disunity of foreign laws*

Since there are different laws in Iran concerning the religious minorities' personal affairs, the Iranian judge may run into problems in determining the binding law when he faces the first degree renvoi. For instance, when the heirs of a Jewish British deceased residing Iran make a claim in an Iranian court and the Iranian laws give renvoi to the British laws and the latter considers the former as the competent law, the main question is which law is applied by the Iranian court? In other words, given the conflict in Iranian internal laws concerning inheritance issues; shall the judge apply the Iranian laws or rule according to the Iranian Jewish people?

The Egyptian legislature has passed unified regulations for all Egyptian citizens whether Muslims or non-Muslims (Kamal Fahmi, 1985; Mansour, 1995).

6.5. *Disadvantages of the rules of inheritance in the British Legal System*

Given that inheritance and issues related to it are a intermingle of legal and religious complexities, the legislator is required to consider the central role of the religion in both internal rules and regulations of conflict resolution when legislating the inheritance rules; an issue which has been disregarded in the British Legal System as well as in the Iranian and the Egyptian rules of conflict resolution. Therefore, the most important weakness in the British Legal System is the legislature disregard for rules of the deceased's inheritance. On the other hand, the multiplicity of the rules of conflict resolution in the British laws

concerning inheritance and the lack of a unified law concerning the transference of the whole inherited properties have resulted in the disintegration of the laws governing immovable inherited properties located in different countries.

Other weaknesses of the British Legal System on the issue of inheritance are related to basic drawbacks of the law of the domicile, some of which are as follows:

1. The identification of the deceased place of the residence is difficult due to the emphasis of the British rules on the person's will and intention.
2. The concept of the place of residence may be different from a country to another to the extent that it is possible different concepts exist within a single country as in the federal countries in which each state has a unique definition of the place of residence. Accordingly, there is no consensus on the concept of the place of residence.
3. A person may choose an unreal place of residence for a special purpose and, consequently, dies in the same place.
4. Because of the ease of the law of the place of residence, there is always a possibility of cheating against this law.

7. Conclusion

Due to the intricate blending of inheritance issues with religious law and family systems, it seems that the existing viewpoints on inheritance matters, which are based on the law of nationality or the law of the deceased's residence, cannot be definitively and solely considered as determining the applicable law. In this regard, it is necessary to first interpret, review, and possibly amend the

conflict of laws governing inheritance in the three studied countries with an emphasis on the centrality of the deceased's religion. Secondly, all inherited properties, whether movable or immovable, should be described as personal status matters; because the multiplicity of conflict of laws regarding inheritance and the lack of a unified law concerning the transfer of all inherited properties lead to the fragmentation of the applicable law for immovable inheritances that are located in different countries. Therefore, despite the strengths and weaknesses as well as the commonalities and differences between the inheritance laws of Iran, Egypt, and England, and despite the fundamental distinctions between the conflict of laws rules in Iran and Egypt compared to the conflict resolution regulations in English law, it seems that the law governing inheritance in Iranian law has superiority due to its greater strengths compared to the laws of Egypt and England.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

The authors report no conflict of interest.

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Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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