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A short personal status

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ABSTRACT

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The term personal status, a new term, that is, the civil rights and private international law today, is used, and the Jurisprudence texts never before. Personal status, it is the most important part of civil rights but because of civil rights, the personal circumstances of the two parts concrete is divided. Personal, belonging to the human person and the nature of, and not apart from his social position, as well as non-exchange calendar to make money, such as marriage or divorce his Aftershocks etc, as well as part of civil rights, so its history is shared with civil rights history, some experts believe that the personal status, has no clear definition. But lawyers have tried, with some evidences and examples, it should be defined. Definitions are provided, namely that: personal status or, in legal terms, that means the qualities and characteristics, status and personal identity, and the rights and duties of the individual, family and community will be specified in the definition lawyers are accepted in many countries. Examples personal status, the constitution of the Islamic Republic of Iran, as well as other laws, in some agreements between the government and other governments can be traced back.

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1. Introduction

Meanwhile, the word is used in two senses: one meant years, and the other Join Now that, in the second sense is common today, and I mean abandoned. The character also has a fake source, and is a member of the community, so the community is the right and duty. And character, the competence of a person to have a right and duty, refers. In law, a person shall be construed, and although not the required ones who are right, not a duty.

Person's rights, legal and is divided into two parts. The topic of personal status, the status of the individual are discussed. Personal status, is a term that is imported, the rights arising from the West, and the translation rights in Islamic countries, and the law. Nearly a century, the arrival of the so-called Islamic states have passed the law field, and has published on the subject, regardless of the nature of most of its constituent elements, and only a few examples of personal status, are discussed. Possible reasons for the different divisions of the law.

Another reason for the importance of understanding the nature of personal status, its place in private international law because it contradicts the rules of private international law is the main course, more than anything he finds in personal status.

2. Part I: the concept of person and character

Person and character, in a sense does not work everywhere, and at the various scientific disciplines have different meanings. In legal terms, a creature that has the right and duty. Legal person, and can be applied in the context of the law, and doing your homework can play a role, so the character is legal, however the person's competence, and the owner has the right and duty. Legislator will determine what animals the right and duty, and personality (Safaii and Ghasemzadeh, 2001, p 6).

The person is required to interpret the law, and although not required, are those who have to be right, but no obligation.

The law today, despite some of the old rules, the animals still have some rights and duties they were introduced, only human (natural person), and the right and duty are considered a legal person, not an animal. In today's society, every human personality, but that slavery existed in the past, people who had taken legal opinion, lack of character or characters were flawed (Safaii and Ghasemzadeh, 2001, p 7)

Person's rights, legal and is divided into two parts. The topic of personal status, the status of the person being discussed.

3. Part II: the concept of personal status

3.1. Literally meaning personal status

The word circumstances are such as to the quality of what is being collected, how the object or animal or human, the staff, and the situation is ... (Moin, M., 1996, p 7).

Dehkhoda the dictionary, it means "things that are upon the person's moods, situations, conditions and diseases, health and temperament qualities, and deeds of work and time, the story and finally etc.," has recorded (Dehkhoda, 1998, pp. 1479).

Personal attributed to individual and personal, individual females; private means, and what belongs to the individual person. The legal term is something that concerns the family person, and to a certain country. (Dehkhoda, 1998, p 278).

The term personal status in Jurisprudence

The term personal status, a new term, that is, the civil rights and private international law today, is used, and the Jurisprudence texts never before.

This term is not only Imami jurisprudence that Sunni jurisprudence, history does. As laws and regulations, and overseeing it as Imami Jurisprudence, Islamic jurisprudence, among other chapters, such as marriage, divorce, birth, wills and inheritance (ie its instances), has been discussed. Abdorahman Sabooni believes, the Jurist in the last century, the term was applied to Mohammad Qadri Pasha, an

Egyptian scholar, author Provisions of legitimate personal status. Book as an authoritative source of Hanafi jurisprudence, the courts in those days were used and cited (sabooni, E. 1978 , p 11).

4. The concept of the personal status law

Some experts believe that the personal status is not clearly defined. But lawyers have tried, with some evidences and examples, it should be defined.

Definitions are provided, namely that: personal status or, in legal terms, that means the qualities and characteristics, status and personal identity, and the rights and duties of the individual, the family and society will be specified, (Katoozian , 1992, pp. 4) this definition is accepted by practitioners in many countries.

It also said, Whole Personal status human traits which, to their credit, a person of rights, and those rights shall (Taheri, 1997, p 36).

Some have said, personal status, family traits that are natural or of human Otherwise he audit is usually A birth certificate documents and identification papers are listed (Abdotavvab, no data., p 24).

The term personal status, sometimes the circumstances His eyes the attributes that are associated with financial problems, is used (Shebli, 1976, p 12).

Some lawyers alleged personal status, including inheritance and wills are also considered. If some Egyptian law, the general meaning of the term, which is used to include inheritance and wills includes. Syria's personal status law, passed in 1953, Morocco's personal status law, enacted from 1958 to 1957, the Tunisian Personal Status Law, passed in 1956 and the Iraqi Personal Status Law, passed in 1959, including the rules on inheritance and wills, but clean, Egyptian Court, in defined circumstances personal, has stated that the personal status, family traits of natural or that which differentiates man from the other, and the legal effect of the origin of life, but to finance such dedication, gift, will, acquisition and maintenance of His eyes condition (financial) , it is not an personal status, though lawmakers Egyptians, this state of personal status with regard to the religious aspect of them, the competent civil courts outside it, such as personal status, the jurisdiction of the courts of Sharia has (Tovfigh, 1969 ., p 36).

Some authors personal status, including three sets of issues are considered:

- Issues of status, wealth and population of the province.
- Family Issues.
- wills and inheritance issues.

Allow law abiding nonshia Iranian, adopted in 1933, the so-called personal status, inheritance rights, and will go to work, and it seems that the legislator's will and inheritance rights, the separation of the concept of personal status, although the Persians nonshia, in all matters of religious regulations, put (Safaii and Ghasemzadeh., 2001, p 11).

Article 6 of the Civil Code, an personal status, an allegory, including marriage, divorce, inheritance and population knows. While Article 7 of the Civil Code, an personal status, and inheritance of capacity, by turning him apart, and in the first place, it may seem that legislators capacity and inheritance, despite the earlier material (especially Iranian nationals), considered among the Shia in the next article (the foreign nationals), is considered a separate personal status.

But this is not true because the issues in a legal divisions, such as personal status are, though in different countries may vary, but within a country, and especially in a single law (civil law), may not be considered differently.

According to the above question is, why the legislature, in Article 7 of the Civil Code, so the personal status and speaks of ability is inherited?

It seems that, in this case the only justification that can be said is that, given that, in the second volume of materials related to civil law, two legal matter, it is dedicated to two things, one about the capacity of nationals State (Article 962), and another regarding inheritance rights of foreign nationals (Article 967).

Therefore, Article 7 of the legislation, only two have been emphasized, but the second volume of the Civil Code, the 6 years away, toward the front passed, compelling the legislature, rather than the aforementioned two articles 962 and 967, the subject matter is. However, for non-compliance issues within the Shia, the object of Article 7 of the Civil Code, and should be corrected.

Principles 12 and 13 of the Iranian constitution, the so-called personal status, applied in particular to Article 12, it is seen as an explanation. Under this principle, the official religion of Iran is Islam and religion, parsley Meanwhile Ashari, and this principle to Perpetuity , unchangeable, and other Islamic sects, including the Hanafi, Shafei, Maleki, Hanbali, and Zeydi, are accorded full respect, and the followers of these religions religious ceremony, according to their own religious freedom, and religious education and personal status (marriage, divorce, inheritance, and wills) and related litigation in courts have recognized, and in each region, the following each of these religions, the majority have local laws in the jurisdiction of the council, according to the religion, and the rights of other faiths.

Therefore personal status, the constitution includes marriage, divorce, inheritance and wills is. Here are two forms seem to be:

- The exact meaning of personal status, inheritance and wills does not apply to, and use, whether it means to be criticized. Of course, this is a flawed argument, and is negligible.

- personal status, with commentary on the twelfth, it is seen to include a termination of marriage, and adoption will be while terminate the marriage is an institution separate from the divorce, and adoption of an personal status is; termination Nonshia about Muslim marriage and adoption, in the case of non-Muslim minorities may be raised, and shall be subject to the rules of their religion, as in the case of adoption, the law abiding Nonshia Iranians, has explicitly set it. To resolve the problem, ie constitution twelfth principle, one could say what was said in explaining the personal status, capable, not allegorical, and the term, termination issues such as marriage and adoption, are also included.

Capacity and stone as well, but has an personal status, and the aliens, and their respective state laws, will govern these issues, but Nonshia Muslims and religious minorities in the constitution of qualification and stone, and the law allows states to comply Nonshia Iranian personal status, an personal status component, has been considered, and apparently the legislature, the strength of the trades, and the security of legal relations has asked all Iranian interdiction capacity and, subject to the general rules contained in the Civil Code (Safaii and Qasemzadeh, 2001 , p 12).

In Opinion No 4501/7 dated 08.02.1982, the Legal Department, the Judiciary, the issues of personal status reads: "... the rights to personal status, including the following issues: marriage, divorce, discrimination, dowry, Abbott, birth, adoption, legal capacity, maturity, Guardianship and trusteeship, Stone, right of inheritance, by virtue of the will, or the will, refined and shared heritage or property, and generally all matters relating to family law, and All matters relating to personal status ... "

Also personal status, also used in two meanings, one meaning or another particular meaning. Personal status, both in the sense of the word, the status and capacity is made (Article 6 of the Civil Code), but in the strictest sense, refers only to the situation, and does not include capacity (Article 7 of the Civil Code).

5. Part III: history personal status

Personal status, as part of civil rights, so its history, the history of civil rights in common, but the question that arises here is that, from what time personal status, as independently made, and what the legal system, Share personal and objective, first created? Researchers believe that the term personal status, the first time in Italy, and in the 12th and 13th centuries AD, came into existence. During that time, Rome was pervasive state law, and local laws also existed. For that, the two are not misleading, the Roman general rule of "law" called, and local law, "however," that the "circumstances" are summed. The two groups, however, was divided into situations that belongs to the people, and situations that belongs to the property. Italy, the term loan, and civil law can be divided into two parts: one personal relationships, ability, gender, and other property, the first "personal" and the second "objective circumstances" call (Abdotavvab, No data , p 21).

Some people have said that, the personal status of the so-called French law, and the authors code civil (set of civil laws of France), it would have imposed, and the way to translate expressions in French, the language of Persian (the Great Islamic Encyclopedia, NO DATA, P. 129).

Terms of personal status, in the late nineteenth century by "Mohammad Qadri Pasha", the book " The conditions of legitimacy in the Personal Status ", as he was entering the Islamic jurisprudence (Ghandoor, NO DATA, Page 8).

Probably the first time, the term was used in Shia jurisprudence, refers to the author's book " Personal circumstances In the jurisprudence of the household (p) " in the year 1951 , By "Sheikh Yoosof Faqih", then president of the Supreme Court of Proceeded Jafari, was published in Beirut, Lebanon, that the writing of the coding method, is used. This work began with the Stone's book, and the book ends inheritance.

Of course, this does not mean that, in Islamic law, before it all about personal status, has not been discussed. But also important personal status, including marriage and its functions, administration, inheritance, guardianship, stone and among Muslim jurists, has a long history, and laws relating to personal status, the civil law of the Islamic world, inspired Comments are rich Islamic jurists. Because, of course, the topics Shia religious scholars, mostly married and have its functions, is that the personal status of its nature, that it must have been unknown to them (Abdotavvab, NO DATA, p 23).

6. Section IV: status of personal status, the rights

Personal status, some civil rights, but the most important part, because the civil rights, the personal circumstances of the two parts concrete is divided. Personal, belonging to the human person and the nature of, and not apart from his social position, as well as non-exchange calendar to make money, such as marriage or divorce His functions etc, in other words, anything that the individual , with his family more tightly to the personal status, and whatever is related to financial relationships, or physical condition is trading rules (Shebli, 1976, p 11).

Civil Code of the Islamic countries typically have to comply with this division, such as civil law, is composed of an introduction and three books, the first book on property rights, and the second book about the rights of individuals, and the third book about evidence fights, argues.

7. Part V: examples personal status

During the review of the definition and concept of personal status posts, the position of the current laws and proposed definitions in the legal literature, which is often the concept of personal status, the separation of the components, or credit or enumerate distinct notions of examples it introduced, and is expressed. Therefore, the analysis of the previous discussion, the various formulations of these components, and the examples mentioned. However, it is necessary, as the following independent and carefully expand, issues and concepts of personal status, will be investigated. Examples personal status, the constitution of the Islamic Republic of Iran, as well as other laws, in some agreements between the government and other governments, and even with a comparative view of the legal system of other countries, we were seeking.

Article XII of the constitution, the status of respect for other religions, states: "The official religion of Iran is Islam and religion, parsley, duodenal, and this principle is to Perpetuity immutable, Islam and other religions, including the Hanafi, Shafei, Maleki , Hanbali, and Zeydi, are fully respected, and followers of these religions, the religious ceremony, according to their own religious freedom, and religious education, and personal status (marriage, divorce, inheritance, and wills) and related litigation the courts have recognized, and in any area where the followers of each religion, have the majority, local regulations, the jurisdiction of the council, according to the religion, and the rights of other faiths.

Article 6 of the Civil Code stipulates: laws relating to personal status, including marriage, divorce and personal capacity, and the inheritance of all Iranian nationals, even if they are resident abroad, will be the moderator.

As stated in this article implies, are examples of figurative and non-personal nature. Article 7 of the Civil Code, statements of qualification and inheritance rights, the personal status has been defined, based on an analysis of the specific generic mentioned Bob knew, as we have said, personal status, meaning whether consisting of qualification, and the it means not specifically included (Jafari Langroodi, 1964, p 285).

The first book (General), the second volume in those civil law, refers to instances of personal status, ancestry, Article 964, Article 965 legal guardianship, the guardian of the lineage Wand 967 movable or immovable which foreign nationals in Iran is located.

Under the law also allows a single article, respected Nonshia Iranians, the Courts Act 1933, in relation to personal status and inheritance rights, and will Nonshia Iranians that their religion recognized, courts have rules and habits Certain commonplace in Religion them, except in cases where the law concerning public security, Should observe the following way:

- In matters relating to marriage and divorce, habits and rules Certain commonplace in religious law is followed.
- In matters relating to inheritance and wills, customs and rules Certain commonplace, the religion of the deceased.
- In adoption issues, habits and rules Certain commonplace in religious stepfather or stepmother, follow it.

The single article above seems to be it, except upon the public both Article 6 and 7 of the Civil Code, he said, and to confine ourselves to the cases stipulated, Shia Iranians, confined to specified limits, to specify a single article, and the other cases, the rule of law, as Article 5 of the Civil Code of Iran, on all interior and foreign nationals, has decreed, civil law country, has been ruling the state. This, in particular, important issues such as capacity and the Stone, is important, and its relationship to public opinion, requires that, in civil rights, in terms of the stability of the transactions, and similar legal procedures and practices, there is a (Safaii and Ghasemzadeh., 2001, p 11).

Some examples of the components of personal status, in the form of treaties signed between the government and other governments expressed. For example, Article V protocol attached to the Treaty of Amity, and reside and trade between Iran and Greece, adopted in 1310, an personal status include knowledge, marriage, status of property between spouses, divorce, discrimination, Dowry, Abbott, birth, adoption, capacity, growth ward ship, trusteeship, Stone, inheritance rights, thus No reputation wills or legacy, the legacy of preparing or assets and generally all matters relating to family law, as well as all matters relating to personal status.

Closing Protocol, Article 8 of the Convention relating to accommodation, the national governments of Iran and Germany, was approved in 1928 as well (Two-state contractors agree that personal and family rights of inheritance, or ocher words, the rights relating to personal status, including issues include: the marriage, the property between spouses, divorce, discrimination, Dowry, Abbott, birth, adoption, legal capacity, maturity, Guardianship and trusteeship, Stone, right of inheritance under a will or without a will, refined and split the wand with property, and generally all matters, family law, and all matters pertaining to personal status.

Article VIII of the contract stay between Iran and Switzerland Two-state, enacted in 1933, governs the following:

Contracting Parties agree that, personal, familial and hereditary rights, the latter the rights to personal status, including the following issues.

Marriage, divorce, the couple's property, differentiation, Dowry, Abbott, birth, adoption, legal capacity, maturity, provincial mandate, Stone, right of inheritance under the will, refined and split twig or property, and public personal status related to family law, and all matters pertaining to personal status.

Cited numerous examples of personal status in the law, it can be clearly deduced that the four cases mentioned in Article XII of the constitution, the analogy is Bob, and the concept of personal status, snobbery on instances even wider than in the as prescribed there.

Apart from the civil rights stance, in this context, we have some examples of personal status laws in other countries mentioned. As British law, the substantive rules of marriage, the couple's financial rights of marriage, divorce and nullity of marriage Courts Private investigation claims rejected, birth, adoption, wills over movable property, inheritance, wills not dead, relative to movable property and , ..., are among the matters related to family relationships, and family-owned status, and the rights of individuals, empowering.

Syrian rights enumerated instances. Marriage, dissolution of marriage, love and dowry, custody and foster support between spouses and children, the general endowment of the sentence. The necessity and propriety of its provisions (Sabooni, E. 1978, p 13).

Egyptian law, personal status, including matters relating to the status and capacity, and family relationships of persons known, and things like matchmaking, marriage, mutual rights and duties of spouses, sealed, financial relationships between spouses, divorce, discrimination, relations between

parents and son, admits to Abbott, denying Abbott, alimony, relatives, close causal proof of parentage, birth and wills, adoption, guardianship, Hagar, Mott hypothetical, absent missing, inheritance issues and changes after death, stated that (Eshmooni, 1950 ., p 18).

So far it is observed, in the sense of their personal status, laws and treaties in general, and even the foreign legal systems, despite differences in the examples, a concept is almost the same, and if at the end, including the detection of a subject, or the relationship specific legal, communications handle personal status, the investigating judge may, however, mention the weight of the items stipulated in laws, bilateral treaties, convention, precedent and legal theory, the elimination of ambiguity and ease of detection, and judicial has been effective. It seems that the law and precedent in Iran, so it's not compressed.

8. Conclusions

personal status topic of the discussion is that, in private international law, is addressed. Although the concepts of personal status, and set forth in its broad scope and characteristics are such that, given its detailed and extensive and comprehensive research is needed, but this study sought to analyze personal status, components and concepts and related provisions, as well as examining its instances, civil law and the constitution, a greater understanding of this topic in Iran right before the show.

History personal status, thus suggesting that, under these terms, researchers believe, the first time in Italy, and in the 12th and 13th centuries AD arose. Some also believe that the personal status of French legal terms, and authors of the French Civil Code, have imposed it, and the way the French term translated into Persian language is. Moreover, the term personal status, the first time in 1949, by "Sheikh Yoosof Faqih", has entered the Shiite jurisprudence.

Personal status, part civil rights, and it is considered as the most important part. In absence of editing, the legal definition of personal status, what's describe the concept, the statute is written, and the subject of legal scholars have concluded, or around the breakdown, and the breakdown into its components, and defining its scope respectively, or to its knowledge, the above instances are dedicated, and in the meantime, of course, the general definition of this concept is also provided.

Included in the definition of personal status, is introduced as follows: "personal status, the attributes that relate to the person, regardless of his job and a place in society is. Personal status attributes, and calendar accounts that the money was exchanged, and the civil rights of the respective works, such as marriage, divorce and parentage. "

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