

Comparative Study of the Illegitimate Children's Rights under English and Iran Laws

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ABSTRACT

The relationship between parents and children in different legal systems is under the protection of the law-maker if it is derived from appropriate points or from the belief in the appropriateness of the relationship and the children given birth through a legal relationship are entitled to all human rights; whereas the children given birth through an illegal relationship are deprived from some human rights. In all legal systems throughout the history, illegitimate relationship has always been regarded as a despised and criticized action and has been the source of deprivation and disgrace. Today, in Iran's legal systems, an illegitimate child is entitled to all the rights belonging to the legitimate ones except inheritance. In Britain's legal system, the illegitimacy is the source of deprivation from all human rights and but the child is turned from illegitimate to the legitimate one through legal means, he/she is entitled to all human rights.

KEYWORDS: Parentage, Parent, Illegitimate, Legitimate, Parental Responsibility.

1. INTRODUCTION

Millions of children are born every day in the world. Although all the children are not born in the legal relations between men and women; however the majority of these children are born in the realm of family. The family has been considered as a basic social institution by legislators and it's the first collective institution which the child becomes familiar with it and he/she is introduced to others by it. Human efforts towards establishing and maintaining the family relationships should be considered as the most important and unique features of the human collective life. The community is recognized the shape and nature of the marriage and has expressed clear views about sexual orientation. The marriage is the tranquility and evolution of female and male in Islam (verse 21 of Sura Rome). Islam pays more attention in regard to making family because the righteous family is main core and infrastructure of a righteous community. When a child was born in the realm of legitimate marriage or marital relationship is caused to have all human rights. A woman has an original social value as a human being and she is worthy for growing the human being: ((Prophet (S.A) said a woman can be just caused a man to achieve to the success)) and She causes the stability and calmness in the life. In contrast, Islam is more emphasized not to have illegal sexual relationship. The illegal sexual relationship is one of the sins and you can find some verses in Quran which are allocated to avoid us the illegal sexual relationship (Verses 1-10 of SuraNour). Regardless of the mental damaging effects which the illegal sexual relationship has for the perpetrators during the time it can be devastated the system of family and community, too.

God is ranked it as third after the murder (verse 68 of SuraForghan); Islam pays more attention to the modesty and protection of human dignity because the society can be prevented from corruption and chaos beside them and prosperity of community and family security can be reached, too. The purpose of marriage is not only the sexual instinct but also the mental relaxation, growing children and cooperating in all aspects of life are the effects and blessing of marriage and without dedicating men and women together and avoiding them from illegal sexual relationship, any of these goals could not be achieved. Illegal sexual relationship is caused to have chaos in the family system and the relationship between children and parents are lost. Legal relationship is caused not only to identify individuals in social life but also to protect children in all aspects and it is made the kindness which is caused to continue this support during all life. Illegitimate children are not only attributed themselves to anyone but also they believe that their birth is as a result of lechery of a man and woman and they hate to call them as their fathers and mothers and they imagine an ambiguous future for themselves. But legal child who was born in a healthy family is not like them; because they are benefit the nobility and their identities are known to others. Although illegal relationship is widespread in western societies and even it can be observed in the married people. But almost in all western societies, marriage can only be done between just a woman and a man and it is considered that polygamy is criminalized in these societies. The marriage is considered as a turning point in social life for most of

people. Get married with each other or another person is very important for men or women who have sexual relations without being married to each other and sometimes they have common children. Despite the statistics of children who were born without marriage is increased but in England most children were born by women who have married for the first time. The natural result of sexual relations between women and men is a child in a legal or illegal marriage and this issue is not something which can be ignored easily; but in the legal relations, being a father and mother is an event which is caused to lots of rights and duties for parents and children while if the child is born from the illegitimate relationship she/he is deprived of certain rights.

The issue which is mentioned here is to consider the situation of illegitimate children who don't have any intervention about their creation but they have to endure the obscene act of their parents without any guilt and it seems to be deprived of certain fundamental rights. This paper is compared the situation of legitimate child and illegitimate child under English and Iran Law .This research is done by descriptive- analytic study and also using the library and internet tools.

The definition of illegitimate child

To determine the rights of illegitimate child, at first it is necessary to provide a definition for illegitimate child.

1.Iran's Law

Since Iran's rights are based on rich Shiite jurisprudence, at first we will cover the issue of Shiite jurisprudence and then to the related laws.

1.1.Shiite jurisprudence

In Shiite jurisprudence, the illegitimate child is a general and extensive concept which not only covers a child given birth through the adultery, but also covers all children given birth through an illegitimate relationship from the Islam's perspective. The relationship between the "illegitimate child" and "forbidden unlawful child" is publicly and privately absolute and any illegitimate child born is forbidden, but any forbidden unlawful child, like the child conceived during menstruation, is not illegitimate (JabaieAmeli, No date; P.64), so the decrees regarding illegitimate child do not apply to him/her. A child from a prostitute mother is an illegitimate born in terms of religious terms. That is, all the decrees for an illegitimate child is the same as those of legitimate one, but the child from a prostitute has specific decrees: (HosainiZanjani,2008); In fact, the relation between the two concepts of "illegitimate child" and "the child from a prostitute" is publicly and privately absolute; that is, any child from the adultery is an illegitimate child but any illegitimate child (as a result of unlawful inoculation) is not adultery. These two concepts in the realm of the illegitimate child's decrees are the same but the child from a prostitute is deprived from the inheritance while this decree is not applicable and binding to other illegitimate children. The illegitimate child belongs to the same class of the child from a prostitute in terms of the religious orders and its evident example is a child from menstruation period in which the husband copulates with his legal wife in forbidden cases, and although this child is born and added to his/her family, he/she is illegitimately born.

1.2.The Statute Laws

In Iranian laws, there is no definition of illegitimate child and is only stipulated in the clauses of civil laws that the child born from a prostitute does not belong to the adulterer and adulteress and according to the above stipulated law, the child given birth from adultery will not inherit from his/her parents.

2.England`s law

In the Britain's laws, children who are born out of lawful matrimonial relationship or the belief in the correctness of the matrimonial relationship are considered illegitimate children. These children have no basic human rights. Based on the matrimonial causes act in 1973, one of those cases where the marriage runs void is when parents, who are in forbidden classes, have married ((such as a marriage between brother and sister, foster sibling)).

Parentage of an illegitimate child

One of the most important issues concerning the rights of children born out of wedlock in Iran's and England`s law is the issue of his/her accession to the delinquent parent.

1.Iran's Law

1.1.Shiite jurisprudence

In proving the parentage of the child born from adulterous intercourse, there is a divergence of views among Shiite jurists:

1.1.1. Most Shiite jurists believe that the parentage is not proven through adultery. So, if a man commits adultery with a woman and a child is given birth from his sperm, he/she is not ascribed to the owner of the sperm (JabaieAmeli, No date; P 202). To prove this theory, we rely on the narrative by Imam Sadq quoted by Abdollah ben Senan. Imam was asked that the child from adultery is deceased and has parents, who is entitled to his/her

inheritance? His response was that the illegitimate child's inheritance is entitled to Imam as a parent (Ibid) or relies on the gathering of what is acquired and properties, but rather, a claim of necessity is expressed. SahebJavaher(Karaki,1990;p190;Najafi, 1972; P.257;Mohammadi, 1992;PP. 178-179;Tabatabaei, No date; P.125)believes that anytime the matrimony is not right and the following three cases do not apply, the action of copulation is regarded as adultery:

1.1.1.1) Unlawful sexual intercourse in which the doer regards himself entitled to it due to ignorance of the issue or ignorance of legal decree, and it happens when the doer' ignorance is excusable; for example, a man marries a woman but the woman is in menstruation and does not know that marriage in the menstruation period is unlawful or that does not know that she is in menstruation period, though knows that marrying a woman under menstruation period is unlawful.

1.1.1.2) Unlawful sexual intercourse in which the doer does not recognize it entitled but has trusted in the woman's remark that she has no husband and has married her.

1.1.1.3) Unlawful sexual intercourse of the non-obligated person, like during asleep or madness or drunkenness whose cause is not religiously forbidden.

The result of this reasoning is that parentage requires legitimate reasons, whether all the natural children except child from adultery to be ascribed to their parents, it was enough to express the exception of adultery and the divisions were not necessary (Helli, 1989;p.526). This group can be divided into two categories, those who consider a broad sense for adultery and believe that unlawful copulation is composed of two components, and intentional intercourse and ejaculation of sperm onto a woman's uterus, so just pouring semen of a strange man into uterus of a strange woman is illegal and unlawful and impedes the natural parent-child reunification. In other words, in the case of other physical contact between strange men and women leading to child birth, the child should not be ascribed to the germ owners. Also in a narrative about lesbianism, the child is ascribed to the man (uncertainty) due to the lack of his knowledge (Katuzyan, 1993; P29-30). Some scholars believe the surface title of the term "adultery" in the terms of scholars "La Yasbet Al nasbBelzena" is its common and famous sense in the book "Hodood" under the issue of "adultery boundary" and the crucial and necessary element for committing adultery is penetration of man's penis with knowledge of the dignity inherent in a relationship, without the presence of uncertainty(Helli, 1990, P.428; Karaki, Ibid).Thus, the meaning of adultery is the same in the issue of "adultery boundary" and the "ascribing the child" and does not involve delivering semen to the uterus in a way other than copulation and combination of stranger's semen and the stranger woman's ovule, etc. Thus, it does not include the child born in ways other than copulation through adultery(MohammadiHidaji ,1996 ,P.27;MusaviSabzevari, 1996;Vol.25,P.10).

1.1.2. Some other scholars believe that a child born through adultery is ascribed to the adulterer and adulteress and the only exception is the specific text of the order of inheritance and there exists a parentage between them in terms of the rest laws. AbdollahMamghani says: "there is no difference between ascribing a parentage in an appropriate matrimony, uncertain ones or adultery, and although the rest of the scholars have emphasized on the lack of parentage, we have not found any evidence in this regard. A child from adultery is the same as legitimate one in terms of all parentage decrees except inheritance and there is no inheritance between a child from adultery and relatives which is due to particular specific text of the order but in other cases of ascription, the evidence is of priority that the child from adultery is like legitimate child because religiously and in terms of the vocabulary, confirms the titles of brother, son, etc(Mamaqani, 1983; P.355)To justify this theory, they have relied on the prohibition of the matrimony between the adulterer and the daughter born through the adultery(MusaviBojnoordi, 1998; P.33-34) and to narration of Muhammad ibn Moslem (HorrAmeli, No date; Vol.18, P.427) about lesbianism and narration of Muhammad ibnIshaqMadini (Ibid, Vol.17, P.568) has been invoked.

Based on this theory, in all cases including lawful or unlawful matrimony, uncertain ones, or adultery, or any other means in which the semen of a strange man touches the uterus of a strange woman, the child is ascribed to her/his natural parents.

1.2.Statutes law

In Iran's civil laws, the articles 1158 to 1167 are devoted to the parentage based on the article number 1167, and the child born through adultery is not ascribed to the adulterer and the article number 1165 states: "the child born through uncertain copulation is only ascribed to the partner who has been in mistake and if both have been in mistake, she/he will be ascribed to both of them".

In terms of material about the parentage including the term " from the date of intercourse" in the articles 1158 and 1159 or in the article 1165 «the child born through uncertain copulation is only ascribed to the partner who has been in mistake ..." and also the article 1166 of the Civil Laws, stating that if the marriage between a man and a woman is void, the child is legally ascribed to each of them who was unaware of the nullity of the marriage, it can be understood that in terms of legal laws in Iran, the criterion to ascribe the child to the father is the birth of child

through his semen; even though, apparently in civil laws, to prove parentage, the sheer point of birth of child through the father's semen is not enough, but rather, other conditions such as the existence of matrimonial relationship, the occurrence of copulation, the conception of semen during matrimony or intercourse with uncertainty and giving birth in bed, etc. are required, whether in the parentage derived from adultery, despite the existence of evolutionary relationship between the infant and the adulterer, the adulterer is not regarded as the legal father of the child. As such, based on the civil laws, parentage is a credit relationship. That is, blood relationship with a legitimate cause is accepted by the law-maker. The distribution of parentage in the articles of civil laws relates to the parentage derived from a lawful matrimony or uncertainty. It only regards legitimate the parentage from the children who are born through a lawful matrimony within the realm of a family or through belief in the appropriateness of matrimonial relationship and it seems that other children born through illegitimate means including adultery and same-sex intercourse other than adultery are not ascribed to their parents, since if the law-maker's view was to accept and ascribe all children except those of adultery to the parents, it was enough to state that the children born through adultery are not ascribed to their parents and there was no need to distribute according to the parentage derived from lawful matrimony and or uncertain ones.

In 1997, the united vote of the Court Supreme procedure No. 617 was issued concerning the proof of parentage and obtaining a birth certificate for a child born from adultery (No: 617, 1997, the vote of unity in Supreme Court, quoted of no 15293, Official Gazette 1997).

It states "under paragraph (a) of the article one of an Act Registration rule enacted in 1976, one of the duties of the Registration Office is to register birth of children and to issue a birth certificate card and the law-maker pinpoints no difference between the children born through legitimate and illegitimate ones. The articles number 16 and 17 of the above law has decreed concerning the cases in which the marriage between the father and mother is not registered, and the birth is not notified in the birth certificate card or that the parents of the child are not specific. Thus, in cases the child is born through adultery and the adulterers does not take action to get a birth certificate card, he is regarded as the conventional father of the child based on the notification and generalizations of the above articles, and the issues 3 and 47 of Judiciary topics from Imam Khomeini's perspective and as a result, all the tasks related to a father including obtaining a birth certificate card is up to him and based on the article no.884 of civil laws, the issue of inheritance between them is void and thus, the verdict of the 30th branch of Supreme court which is in accordance with this view, is plausible for the majority of public members of the Supreme Court and is consistent with legal and religious norms. The verdict is binding for branches of the Supreme Court and the courts in similar cases based on the single article of the law related to the unity of judicial procedure enacted in June 1945."

Based on this verdict, all mutual rights of father-child concerning the child born through adultery with the adulterer are accepted except inheritance and it seems that the law-maker has deviated based on the admission in the civil laws and based on non-ascription of the child to the adulterer and has accepted the ascription of the parentage between the child born through adultery and the adulterer and adulteress and only the issue of inheritance is the exception of the text of order.

2.England`s law

Traditionally, in a void marriage, it was supposed that the marriage had not taken place from the beginning. Based on the law of the cause of marriage in 1973, the children born through such marriages were illegitimate but according to the article no. 1 of the amended law of family law enacted in 1987, the child born through a void marriage could be considered legitimate if meeting the predefined law requirements, including one or both of parents believed reasonably that they have done a proper marriage in terms of British laws and the father is residence of England or Wales. This was also true of the supposition in which the belief in the correctness of the marriage was stemmed from a mistake in the law. If the marriage is void, it must be determined whether the parents believe in the correctness of the marriage reasonably or not. To do so, the court will measure this belief whose name was "the test of reasonable belief" called by the court; for example, as for a child who was born after the execution of the article no. 28 of Amended family law dated 4,4,1988, it was supposed that the parents believed reasonably that the marriage had been valid unless there is an evidence against this (for instance, in case of a woman, living in a country in which the law of bigamy was allowed, who had married a man who had another wife, the belief and faith is considered reasonable). If one of the parties believes that marriage is appropriate according to the rights of another country, it is not enough; rather, he/she should believe that according to England's right, this kind of marriage is lawful. In the above instance, the explanation of the parents themselves based on their lack of belief in the correctness of the marriage before the conception or pregnancy is a justification for the existence of a doubt regarding this belief.

But voidable Marriage, according to Article 12, paragraph (a) of matrimonial causes act, is one which covers one of the cases of the lack of legal competence of each party, lack of valid consent ((due to confusion or reluctance

of each party to marry)), a sexually transmitted disease, or the woman's pregnancy by other men and will remain effective until the court has declared the marriage void and the children of such marriages are considered legitimate; of course, it is possible to apply to the court for the nullity of marriage by each party, but the court decides whether to accept this request or not.

Illegitimate child can become legitimate through particular means based on the law:

Based on the Act Legitimacy Act of 1929, the child born from adultery except raping is legitimate through subsequent marriage of the parents and based on the Legitimacy Act of 1959; it was possible to allow children born from raping to become legitimate through the parent's subsequent marriage. Thus, under British law, it was possible to legitimize children through subsequent marriage of parents with each other or with a third party. Legitimization is a process in which the child's status of illegitimacy changes to legitimacy. So the mother's marriage with a third party to legitimize the child provides a condition in which the infant is not genetically in contact with the mother's husband who is the legal father. The amended family law enacted in 1969 allows the children born through illegitimate relationships to be entitled to inherit from their parents and has provided the possibility of using blood test for the first time in the arguments over parentage. The amended family law in 1987 eliminates all rights distinctions remaining among the children born from unlawful matrimony with unlawful parents. Adoption is one of the tools to use to legitimize the illegitimate child. Before the adoption law in 1926, there was no right of adoption for illegitimate children. Based on the law, there is a need for parental consent for adoption and the parents who have not married, have not the right to consent to adoption. Based on the Note no. 1 of article no. 10, the legitimization law in 1976, if the parents of a child get divorced during conception and the child's birth, or that the child's father dies, the child is still considered legitimate.

Nowadays, the situation illegitimate children are significantly different from the legitimate ones. Illegitimate children, while considering legal provisions, will be able to enjoy all the rights the legitimate ones are entitled to. The only difference between the fathers whose children are born through a legal relationship based on marriage (Cretney, 2002, pp519-520) and other cases is that in the first case, fathers (like all women) automatically as soon as the child is born will obtain all the rights and duties of parents towards their children (fnf.org.uk) but in case of the latter, under paragraph 1 and 2 of Article 2 of the children Act in 1989, in cases of child adoption or parenthood warrant, parents will not have parental responsibility, although according to Article 4 of Children Act in 1989 can take on such a responsibility through the signing of an parent agreement with the child's mother or through obtaining a court order. So adultery is not an effective factor in establishing or cutting the biological link and is only effective in the manner of using full human rights for a child from adultery.

Parental Responsibility

In relation to a child born from adultery, there is a right in terms of the law which should be observed concerning the parents, including: the prohibition of marriage, custody and guardian of the children over the mentioned child, alimony and inheritance.

1. The prohibition of the marriage

Iran's Law

The prohibition of the marriage between the adulterer and the child born from adultery is indicative of the existence of a biological link between the father and child without considering the legitimacy of the relationship. Taking into account the views of those who disclaim the ascription of the child born from adultery to the adulterer suggests that this group not only has no justifiable evidence for the prohibition of the marriage between the child from the adultery with the adulterer, but also regards the child from the adultery as the child of the adulteress in terms of vocabulary and validates the vocabulary ascription in the supposition of the matrimony, contrary to its reasoning which invalids the vocabulary ascription and the legitimate cause for the ascription (JabaieAmeli, Vol14,P421; MohammadiHidaji, 1996, P32; katuzyan, P.30).

Article 1045 of the Civil Laws, following the Shiite jurisprudence (Najafi, 1972; pp.379-378; TabatabaeiYazdi, 1997; p526-527) validates the affinity derived from the adultery when it comes to the prohibition of incest marriage. According to Article 1055 of the Civil Laws, "if intercourse with uncertainty (impostor) and adultery is based on the former matrimony, it is the same as the intercourse in a lawful matrimony in terms of marriage prohibition but does not annul former marriage".

2. Custody

2.1. Iran's Law

In Iranian law when an infant is born whether he/she was born with legitimate relation or with liaison, his/ her legitimate (Articles 1168 and 1172 of Civil Act) or natural parents are responsible for maintaining their infant (No: 617, the vote of unity in Supreme Court, quoted of no 15293, Official Gazette 1997)

2.2.England's law

In England law, custody is jointly up to father and mother. Unmarried father's (unmarried fathers, uknetguide.co.uk) whom their name has been mentioned in birth certificate, automatically have parental responsibility whom their name has been mentioned in birth certificate, automatically have parental responsibility(Craig, 2008; p4; Article 4(a) Children Act as has been amendment by Child and Adoption Act) and if their name was not mentioned in birth certificate, even in the case of long living with mother, not only parental responsibility does not belong to father, but also through an agreement with mother, through referring to court and getting a verdict, he can obtain parental responsibility (direct.gov.uk). Court, granting parental responsibility to unmarried father, considers child's best interest in addition to father's commitment to child, emotional relationship and father's purpose of this request (alternativefamilylaw.co.uk).

3.Guardianship / Authority

3.1.Iran's Law

In Shiite jurisprudence, we can survey the guardianship problem in two parties:

1. Guardianship on properties which could be in different shapes such as purchase & sell, lease, speculation, donation and loan.
2. Guardianship on oneself same as breeding, marriage, hiring, retribution and divorce right, obedience, vow, promise and swear.

Generally , guardianship on a child as well as supervising his/her benefits , is undertaken in priority order by following persons , that in case of absence of one of them, the responsibility will be shifted to the other : Father , paternal ancestor , executor of father or paternal ancestor , religion governor , righteous believers .

Based on the theory of that group of jurisconsults who consider "Guardianship" as one of juridical effects of legitimate descent , a son of adultery doesn't have a religious and legal relationship with his parents and therefore his/her guardianship doesn't belong to his/her father or paternal ancestor , but it will be undertaken by Imam.

On the other hand, regarding the theory of another group who consider the son of adultery contiguous to the adulterous - this theory only regards the legacy abrogated - forcible guardianship belongs to father and paternal ancestor.

About the guardianship of mother and maternal guardianship, the majority of Shiite jurisconsults don't believe in guardianship but a few like IbnJunayd believe in mother and maternal guardianship (Mohaghegh Damad, page 56).

Right now, according to the procedure unity vote of Supreme Court, a son of adultery is under guardianship of his/her natural father and in fact, based on this dictum, forcible guardianship has been accepted.

In Britain laws, there is no institution under title of forcible guardianship or authority, but a sub branch of parental responsibilities are the options in relation with the infant or management of his/her properties which father and mother have together. In fact parents have some rights, duties, powers and authorities among which their powers are divided into two subjects; financial affairs and marriage.

3.2.England's Law

In England's Law systems , there is a parental guardianship together , in relation with taking decisions of marriage or property management for the breed and it's not particularly dedicated to the father and is even devoted to some other persons too. Father and mother, always want the bests for their breeds, but regarding the established laws and standards, their willing is practicable only within the legal frameworks of: supervising children's footwork and alcohol, cigarette or drug usage as well as gambling and etc. Based on English laws, parental responsibility is not affected with divorce, juridical separation and abrogated marriage (Sec. 16, Matrimonial Causes Act 1973). The parental guardianship in relation to matrimony and management of financial affairs has a greater importance compared with other matters.

4.Alimony

4.1.Iran's Law

The Article 1196 of the Civil Laws states: "The relations between relatives, only parentage relatives in a vertical line, whether ascending or descending, are obliged to give alimony to each other." Therefore, not only the child is entitled to receive alimony from his/her parents, but also the parents are entitled to receive alimony if needed and this has been in accordance with the famous saying of the scholars (Shiite jurists) and there is a consensus about this(Tusi, Mabsut, No date; vol6, P.35).

Article 1199 of the Civil Laws states: "it is up to the father to provide the child's alimony; after the death of the father or his inability to provide it, it is up to the paternal grandparents, with respect to the closest relatives. In

the absence of the father and the paternal grandparents or their inability, it is up to the mother to provide the alimony. If the mother is not alive or able to do so, with respect to the closest relatives, it is up to the ancestors of the child of the same degree of closeness to pay the alimony in equal portions. Article 1200 of the Civil Laws states regarding the children's duty to pay the parents' alimony: "it is up to the children and the children's children to provide the alimony of the parents with respect to the closeness of the relatives". Those who have given birth to a child through adultery are responsible for his/her alimony (MakaremShirazi, *Ibid*) and therefore, provisions of Article 1199 apply to such a child; in addition, the united vote of the procedure no. 617 dated on June 1945 of the Supreme Court declares the adulterer as the religious father of the child and puts him responsible for all the tasks related to the father including alimony based on Imam Khomeini's perspective.

4.2.England`s law

Article no. 1 of the law in 1991 requires the parents to pay their child alimony and both parents are responsible for this. If mother's name is only in the birth certificate, he is merely responsible for the welfare of the child. Father's name in the child's birth certificate is registered only at the time of birth. When the father's name is recorded on the child's birth certificate, the parental responsibility will automatically be shared among them with the assumption that child is born after the year 2003. It is possible to conclude a deal concerning parental responsibility after the child is born if the mother agrees. The mother can ask for alimony from the father on the part of the child, and this does not mean that there is an obligation to share parental responsibility.

The Act of 2008 contains independent regulations in the Sections 1 and 2, but has amended some provisions of the Act of 1991. The Act of 2008 has pinpointed a new Law Commission known as the Child Maintenance and Enforcement Commission ('CMEC') to do what has already been done by the Child Support Agency. The major amendments of the Act of 1991 are related to the methods of calculating alimony and its execution. Child protection plan, in essence, consists of three components: evaluation, review and modifying the amount of alimony that should be paid. Appeals against decisions about the payment and other legal issues related to the execution. Child support agency has no separate legal entity (David, 2008).

The parents' conditions: According to the child support law, parents who are required to give alimony to their children are: "married couples" and "unmarried couples". So the existence of matrimony is not a prerequisite for starting a family and the man and woman who live together without coagulation marriage are considered a family.

5.Inheritance

5.1.Iran's Law

In Iranian Civil Laws, inheritance is not defined; however, it is mentioned in Article 140 of the law that inheritance is one of the property tools and its definition is: "forcible transfer of property and his bequest to the heirs of deceased. What the word property means is the financial rights of the deceased, which was at his disposal at the time of being alive"(Emami, 1970; p169).

According to Article 861 the civil laws induces descendant and heredity. The cause and appropriate reason for the inheritance of inheritor is descent (birth) and the cause (parity) and is the barrier for what is abrogating the proper impact of inheritance. Under Article 875 of the Civil Laws, one of the inheritance conditions is living during the testator's death, so that what is carried is inherited in the event where his/her semen has been concluded when dying and born alive, although died soon after the birth.

According to public and Shiite scholars, libertine (adultery committer) will not inherit of the child who is born of adultery (QebleheiKhoei, 1999; p146).However, inheritance between him and adulteress is not as much as consensus. Some believe in the lack of inheritance (Haman) and some in inheritance (Sadough, quotes from QebleyiKhoeyi, *Ibid*).

Among lawyers, as well, some has mentioned adultery as an obstacle to the inheritance) (Emami, 1970; p200)and some believe that the legitimate parentage is the prerequisite of inheritance and consider it to be effective in bringing about the requirement of inheritance and told that although the parentage is based on blood relationship, however, this relationship is a credit relationship and just legitimate parentage is accepted by lawyer and cause inheritance, and the relationship of the child born of adultery with adultery committer and adulteress does not lead to inheritance. According to article 1167 of the Civil Laws, the child born of adultery is not belonged to the adultery committer, i.e., no relative relationship is raised between them and by virtue of Article 884 of the Civil Laws, a child born of adultery, does not inherit from his/her parents and their family and the lack of inheritance, between adultery committer and the resulting child, is one of the results of the lack of legitimate relative relationship (Katuziyan, PP100-101).However, there are some accounts, as well, that point to the inheritance of the adultery child of adultery committer.(HorrAmeli, No date; Vol 17, PP.568) perhaps it is on this basis that some of Mote'akherin (Sane'i, Haman) have commented on the inheritance of adultery child of adulterer and adulteress. However, this theory has

little advocate. But the absolute verdict is the view of the forerunner scholars and what has been stated in the civil laws is that the child from adultery is the relationship between the child from adultery and adulterer and adulteress which prohibits the inheritance. The child from adultery is scientifically, naturally and conventionally considered the child from the persons who committed the adultery and thus, contrary to what has been stated in Civil Laws, is ascribed to the natural parents and simply the relationship of inheritance is denied.

5.2.England`s law

In the British law «Law of Succession» is considered a branch of the «Law of Property» and includes a set of principles and rules that determines the people's property, both movable and immovable property after the death. Inheritance by heirs may either be in the form of a letter by the testator's will within his/her lifetime, under the condition of the legal validity of the will in which everything is performed likewise and the extent of bequest is distributed among the deceased's inheritors based on his/her view . Testator has the right to provide a will for all his/her own property, and to deprive one or some persons of the legal heirs from the inheritance (adviceguide.org.uk).

Today, inheritance is done based on The Law Reform of Succession Act, 1995. Perhaps, the most important legal obstacle in terms of inheriting in Britain is the will. If a deceased has a relative or causal parentage, but has willed for another person, parentage and hereditary relatives will not inherit from him/her. Adultery is one of the obstacles of inheriting in this country's laws and therefore, the illegitimate children in this country will not inherit from his/her father until he/she has not changed his/her status legally to a legitimate child.

CONCLUSION

Considering the different laws system is shown this fact when a child who was born in the illegitimate relationship was indecent in the past and in addition, it was mentioned as the social stigma; parents and children were deprived from lots of social and individual rights; there is lots of difference between legitimate and illegitimate children in all different communities, yet. The child who is born by illegal sexual relationship is called "bastard" under Islam Law. In the past, illegitimate children are called with these titles in England and also were deprived of certain social and individual rights. Nowadays are announced to prevent from mentioning the titles of "bastard" for illegitimate children because children have right to use all human rights without considering the relationship which they were born. If a child is born by illegal sexual relationship it's also called as the illegitimate child under England Law System, but the child can be legitimate if her/his parent gets married together or another person therefore he/she can use all rights such as legitimate children.

In spite of that in Shiite jurisprudence , a son of adultery is not contiguous to his/her natural parents , but regarding the current laws in Iran laws , the infant is contiguous to his/her natural and customary parents and enjoys all human rights except than legacy . In England's law system , a son of adultery won't have all the human rights until when legitimated throughout a legal way and in case of converting the situation to legitimacy , he/she will enjoy all the human rights exactly same as a legal infant.

Therefore the performance of law system in Iran and England in relation with a son of adultery is similar in many ways with the exception that, in laws of Iran a son of adultery is deprived of legacy too.

By the way it seems that the wrongdoers who exit the law frameworks by committing adultery, following their carnal desires most of the time are not willing to keep their natural children, so surrendering these infants to their wrongdoer parents and admitting right of custody and authority for the natural parents seems to be a decision outside the juridical logic .It's better that the legislator surrenders the child preservation to meritorious persons, at the natural parents' costs.

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