



Comparative Study of Non-Financial Rights of Spouses in Iran and France

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Abstract

The present study examined the comparative study of non-financial rights of spouses in Iranian and French law. The Iranian legal system, following the common view of Islamic jurisprudence scholars, has given special authority to the husband over the wife. This attitude has led the Iranian legislator to accept the effects of patriarchal thinking in the family and has caused it to be reflected in the categories of wife's employment, determining housing and joint residence, woman's departure from the country and recognition of her nationality, and in a way reveals the superiority of the husband over the wife. This research attempts to examine the legal models of family management in France, taking into account the current needs and requirements of Iranian society, and considering the historical course and stages of development of French law in the field of family management and its results, the possibility of choosing some of the existing solutions of the above legal system is examined. Although it seems impossible to apply all the solutions of the French legal system regarding how to manage the family without considering the conditions of Iranian society and taking into account all the customs and traditions as well as the beliefs of our people, adopting the management model foreseen in Iranian law that includes accepting the absolute headship of the husband over the family is also a matter of discussion and reflection. The aim of this paper is to examine the attitudes of the two legal systems of Iran and France regarding the non-financial rights of the couple, especially the study of the evolution of the legal reforms in France regarding the change in the family management model from the direction of "husband's authority" to joint cooperation with a comparative approach and descriptive-analytical method.

Keywords: Legal model, family management, non-financial rights of the couple, joint management of the couple, patriarchy.

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Introduction

In the legal systems of the world, two legal models have been proposed for family management: 1. Presidential model of family management. The participatory model of family management in a patriarchal system naturally brings to mind the preference of the man's personality over the wife's personality, and the idea of the inequality of the two human beings who make up the family undoubtedly places the wife in a position that is lower than the husband from a psychological perspective. The emergence of such a situation will definitely cause various tensions and abnormalities in the family, but in the case of joint management of the family, the feeling of equality between the spouses in the family will reduce the emergence of tensions and will lead each of them to try to strengthen the foundations of the family.

Considering the course of the legislation of family rights in the legal system of Iran, it can be seen that the legislator, by intensifying the effects of the authority of the spouse over the family, contrary to the legal practice of European countries, especially France, has not only not had much desire for the participatory management model in family management, but has also followed the common understandings of some Islamic texts in order to strengthen the presidential model of family management.

The allocation of some non-financial rights in the family to the spouse, such as the right to determine housing, imposing citizenship, and the ability to prevent the wife from free movement, brings the position of Iranian civil law in the area of exercising the spouse's authority closer to the position of the French legislator in the years before 1970.

This research attempts to examine the legal models of family management in France, taking into account the current needs and requirements of Iranian society, and to examine the possibility of choosing some of the existing solutions of the above-mentioned legal system, considering the historical course and stages of development of French law in the field of family management and its results. Although it seems impossible to apply all the solutions of the French legal system regarding how to manage the family without considering the conditions of Iranian society and taking into account all the customs and traditions, as well as the beliefs of our people, the adoption of the management model foreseen in Iranian law, which includes accepting the absolute headship of the spouse over the family, is also a matter of discussion and reflection.

The innovation of the present research is that by studying the process of family management evolution in the French legal system and learning about the principles of the adopted solutions, it proposes new methods for family management in the Iranian legal system. The present article seeks to answer these questions through a comparative study on the legal model of family management in France and a descriptive-analytical method.

1. Similarities and differences of the non-financial rights of couples in the relationships of couples in Iranian and French law; 2. The necessity or non-necessity of reviewing the principles of family management as they exist in the Iranian legal system. Investigating the non-financial rights of couples in Iranian and French law; studying the similarities and differences of these two legal systems; examining the historical course and stages of change and evolution of French family law in the subject of family administration and management and its effects and results constitute the purpose of this research. In order to achieve the desired goals, first some of the non-financial rights of couples in Iranian and French law and the similarities and differences of the rulings and solutions of the above legal systems are studied and examined. Then, relying on a comparison of the criteria and principles of the two legal systems of Iran and France, the issue of moderate and justifiable rulings is presented.

1 Non-financial rights of the spouse in Iranian law

Among the non-financial rights of the spouse over the wife in Iranian law, the right to determine joint residence (1.1)

Imposing the spouse's nationality on the wife and the wife's lack of independence to leave the country (1.2), the right to prohibit the wife from working (13) and the possibility of unilateral use of the family name

The husband's support is from the wife's side (1.4).

1.1. The right to determine common housing

In the civil law, the husband's right to determine the residence and impose the residence of the husband on the wife is recognized as an independent right and is not deferred to the issue of the wife's compliance. Therefore, it can be said that the right of the husband to determine the residence is one of the consequences of exercising the authority of the husband in the family. The wife can play a role in determining the housing only through the condition of the contract. From the point of view of judicial procedure, the right to determine the housing has been interpreted as the right to determine the city of residence and to determine the house and area of residence.

According to Article 1114 of the Civil Code, a woman "must live in the house that her husband determines...". In this case, due to the fact that determining housing is also related to the issue of residence, in Article 1005 A.H. M. It has been decided that the residence of the married woman is the same as the residence of the husband..." (assuming that the couple is not separated)

1.2. Imposing the husband's citizenship on the wife and the wife's lack of independence to leave the country

According to the articles of the civil law of Iran, there is a difference of opinion among jurists regarding whether imposing the nationality of the husband on the wife is one of the effects of his authority in the relations of the spouses or not. Some jurists have explicitly considered this arrangement to be the result of the husband's authority in the relationship between spouses, and in support of this, they have insisted on the provisions of Article 986, which prescribes the possibility of such a woman returning to her first citizenship after the death of her husband and the end of his presidency, and by observing the prescribed procedures. Some of them believe that the imposition of the husband's citizenship on the wife is not one of the effects of this authority. In this view, it is argued that citizenship is related to public rights and subject to the expediency of the government; While the authority of the spouse is part of private rights and is based on the interest of the family, at the same time, it is also quite reasonable that a legislator takes the authority from the spouse without having to reconsider the issue of the wife's citizenship.

2. According to Article 18, Paragraph 3 of the Passport Law, one of the conditions for issuing a passport to married women is as follows: "For married women, even if they are less than 18 years old, the written consent of their husband and, in urgent cases, the permission of the prosecutor of the city where the passport is applied for, who is obliged to announce his opinion, whether to accept or reject the application, within a maximum of three days, is sufficient..." It is noteworthy that the legislator has made it particularly strict that a woman's departure from the country is subject to the written permission of her husband, and even this written permission is not expressed in a normal manner, but in an official manner and through specific and uniform forms in notary offices.

1.3. The right to prohibit a wife from working

To examine the legal evolution of the issue of wife's employment in Iranian law, one should refer to the Constitution, Civil Code, Family Protection Law, and Labor Law. Before the approval of the first family protection laws in Iran, it was understood from the appearance of Articles 1105 and 1117 of the Islamic Revolution that the man, as the head of the family, could recognize the interests and qualities mentioned in the article and directly prohibit the wife from the desired employment. Finally, the wife had the right to prove that the job was not incompatible with her by going to court and to subjectively negate the husband's exercise of authority. However, with the approval of the Family Protection Law, the issue changed; in such a way that Article 15 of the Family Protection Law approved in 1946 and Article 14 of the Executive Regulations, it made the prohibition of the wife from working in a job that was incompatible with her subject to the issuance of a final court ruling declaring the job to be incompatible; so that the husband could only oblige the employer to terminate the wife's employment by presenting such a ruling.

The Family Protection Law of 1953, which is the culmination of changes in Iranian family law due to the influence of ideas of equality between women and men, explicitly repealed the Family Protection Law of 1946, while expanding the issue of a job that is incompatible with the wife to a job that is incompatible with the husband in Article 18, maintained the same rules of the previous law on the issue of incompatible jobs. However, in the regulations of this law, which was approved in 1975, there is no article similar to Article 14 of the regulations of the law approved in 1977. The only difference between the wife's authority to prohibit the husband from a job that is incompatible with the husband's authority to prohibit the husband from a job that is incompatible with the wife's authority in the Family Protection Law of 1953 is that, pursuant to Article 18 of this law, the wife's authority, contrary to the husband's authority, is limited to cases where the husband's prohibition does not disrupt the family's livelihood. Of course, preventing the husband from working on the part of the wife does not seem to be consistent with the concept of the husband's authority in the relationship between the spouses, which is still valid and valid in our family laws and traditions.

With the revolution and the rule of Islamic regulations, the Constitution, in Article 28, referred to the principle of freedom of employment as a right for all Iranian citizens, both men and women, and apparently expanded the Family Support Law of 1953, creating a relatively equal view between men and women, and making no distinction between their employment. Since the adoption of the Constitution, given the possibility of interpreting this law and its rule over other ordinary laws, the need to enact a new Family Support Law in the field of employment and education for wives has not been seen. In practice, many of women's professional activities are prohibited in society under the pretext of conflicting with family interests.

In the Universal Declaration of Human Rights (Article 23) and the Convention on the Elimination of All Forms of Discrimination against Women (Article 11), the right to employment is considered one of the inalienable rights of individuals and its prohibition is considered a form of injustice. Several opinions have been issued regarding the prohibition of employment and education by the husband solely due to the husband's lack of consent and in view of the legal changes before the enactment of the first Family Protection Law. However, unlike in the past, in these opinions, it was the husband who had to prove that the wife's employment and education were contrary to the interests of the family. Several advisory opinions have also been issued in this regard; for example, in the advisory opinion of the Legal Department of the Judiciary in 1376, it was stated as follows: "According to Article 1117 of the Civil Code, a husband can prohibit his wife from a profession or industry that is contrary to the interests of the family or his or her dignity. Therefore, the consent of the spouse is not a condition for the employment or employment of a woman. However, if the wife's work or occupation is contrary to the interests of the family or the dignity of either spouse, the husband can prevent his wife from continuing her work after proving the matter in court. Determining that the job in question is contrary to the interests of the family or the dignity of either spouse family or the status of each of the spouses is inconsistent with the competent court or not.

Today, Iranian judicial practice is more inclined than ever to issue decisions that accept the wife's employment. For example, in a case, a couple filed a petition on behalf of the wife to the court to prohibit the wife from working; and during the hearing, the couple claimed that the wife stays at work until sunset and then returns home tired from work and does not pay attention to the needs of her young husband, and as a result, this has led to disputes and numerous cases against the client. The wife denied the claim and stated that she works in a factory owned by her father and requested the dismissal of the lawsuit due to the type of educational field that resulted in employment. The court, taking into account the contents of the case and the wife's suitable work environment and the field of study of electronic engineering, declares her entitled to work only within the working hours determined by the Ministry of Labor, and considering the provisions of Article 1117 of the Civil Code And the lack of a general prohibition on employment and being bound to the fulfillment of the conditions stated in the article does not recognize the disputes between the spouses as solely arising from the wife's employment and issues a ruling to dismiss the lawsuit based on Article 1257 of the Civil Code. The issue of women's employment in the current Iranian society is one of the developments that has led to an increase in the level of freedom in Iranian families and also a change in women's attitudes regarding traditional and customary patterns.

The traditional male-centered idea has become de-centered and is facing serious challenges, and the strong presence of women in social arenas is becoming institutionalized as a norm.

¶Providing opportunities for women to enter universities, training, employment in jobs that were previously reserved for men, having the right to vote and be elected, and participating in the country's social and political affairs are considered to be some of the advancements in the status of Iranian women.

Regarding women's employment, it is worth mentioning that educated women in the current period have been able to obtain important jobs and, unlike in previous periods, have gone so far that governments propose female ministers to manage various ministries and deputy ministries. The number of female ambassadors has also increased compared to the past, and they have been able to enter the judiciary and obtain positions such as assistant prosecutors and investigators, heads of enforcement branches, or court advisors. Fortunately, current judicial practice pays special attention to the issue of women's employment

and does not allow a husband to easily obtain a court order prohibiting his wife from working. This approach is significant in the context of the evolution of women's rights.

1.4. The possibility of unilateral use of the spouse's surname by the wife

According to Article 42 of the Civil Registration Law of 1976, it is foreseen that the wife can, with the consent of her husband, use her husband's surname without observing the right of precedence as long as she is married, and in the event of divorce, the continuation of using the surname is subject to the permission of the husband. Also, pursuant to Article 41 of the amendment of 1974, the right of precedence of the surname, observing the priority date of issuance of documents, is reserved for persons whose names are registered in the special surname offices of the civil registration offices, and no one else has the right to use it in that office except with the permission of the holder of the right of precedence. This right is transferred to the legal heirs after death; of course, the Civil Registration Law of 1976 is silent on the issue of the death of the spouse. There is a difference of opinion in response to the question of whether the wife can use the spouse's surname as she used to after the death of the spouse or not.

The Civil Registration Law of 1355 does not explicitly state that a husband should use his wife's surname, and it has been said that the law does not provide any precedence for the husband in this regard. Therefore, a husband, like other persons, must obtain permission from the holder of the "right of precedence" if he wants to adopt his wife's surname; whether it is the holder of the wife's right of precedence or another person.

2. Non-pecuniary Rights of the Husband in French Law

In the ancient Roman Empire, women were deprived of personality and human rights. In this system, girls were under the protection and authority of their father until they were married, and then under the protection and authority of their husbands and father-in-laws. In terms of the influence of Roman law on French law, the exclusion of women or the lack of the slightest rights for women can be observed in the first codified laws of France. The law relating to the family (enacted in the Civil Code of 1804) was the fruit and product of a compromise and consensus between the old model and the revolutionary model. In the church, two almost opposing tendencies also prevailed; On the one hand, the equality of spouses was advised, and on the other hand, the subordination of the wife to the husband was preached, but in this era, the exercise of the husband's authority over the wife did not cause the complete disqualification of the wife; for example, a noblewoman was considered a partner to her husband. The law of February 6, 1893 freed women who had achieved physical separation and division from the control of the husband's power and granted them full capacity. In 1938, women were granted the exercise and exercise of civil competence, but despite this, the husband was still recognized as the head of the family. In 1942, a woman could replace a man in the matter of headship of the family, of course, if the man lost the conditions to exercise headship over the family. In 1970, the concept of headship was removed from the law and the family no longer had a head and the spouses were placed in a similar legal situation. In fact, the institution and concept of the family in current French society is completely different from the concept of the Roman family, the Old French regime and the Napoleonic Code (1804).

This section discusses some of the important non-pecuniary rights of spouses in French law, such as the right to determine the common residence (2.1), the nationality of the wife (2.2), the right to prohibit the employment of the wife (2.3), and the right of spouses to use each other's surnames (2.4) in the various ways of cohabiting in France.

2.1. The right to determine a common residence In the French Civil Code of 1804 (Napoleon Code), the wife must be obedient and submissive to her husband, live with him, have a common residence, and wherever the husband determines, the wife must live with him. Article 213 of the first French Civil Code, approved in 1804, emphasized that the husband must take care of the wife and the wife must obey the commands of her husband. One of the things that was considered part of the commands of the husband and was mentioned in Article 214 was that the wife was obliged to live in the house that the husband chooses, but this was not without exception. Rather, if the husband changed his home more than usual, the wife's

obligation to obey the husband was waived. However, after 1804, changes were made in the law and judicial practice. In 1938, Article 213 was amended and, in order to strengthen the foundation of the family within the framework of the marriage of the couple, the "head of the family" was explicitly introduced. This change gave the husband the right to determine the residence and the wife was also obliged to live in that place. Judicial practice regarding the place Before 1970, the residence of the spouses was such that the opinion of the husband prevailed over the opinion of the wife, but if the wife could prove that the place chosen by the husband caused physical or mental danger and harm to her, she could request the court to choose another place of residence and even in cases where the husband tried to change his place of residence, he could refrain from going to the new place of residence; but she had to prove that the changes were frequent or that the home space was inadequate.

The years 1975, 1980 and 1981 are important years in which decisions and laws An important issue regarding the right to determine housing has been issued. In 1975, the French Civil Code made a fundamental change in the direction of protecting women, in which the superiority of men was removed from the law and even living in the same house was removed as an obligation from the law. Since that year, the choice of the joint residence of the family was by agreement of the parties, but although the law was changed, this legislative action did not have much consequence and impact on the civil law, and even the removal of the obligation to have a common home mentioned in Article 108 of the Civil Code did not lead to the elimination of the obligation to live together. The First Chamber of the French Supreme Court, by issuing a ruling on July 1, 1980, did not consider the possibility of having separate housing for spouses (document within the meaning of Article 108 of the Civil Code to be a reason for ignoring the obligation to live together as mentioned in Article 215 of the Civil Code). The Supreme Court reasoned that the obligation of Article 215 includes the obligation to be together and live together as a common home, and this obligation does not create an obligation to reside in a single home. Before 1980, a wife had to obtain a court order in order to be able to have separate housing, but according to the ruling of the French Supreme Court on January 6, 1981, the other wife did not need to obtain judicial permission to have separate housing. In the current French Civil Code, pursuant to Article 108, a husband and wife can choose separate residences, provided that the rules related to the obligation to live together are not violated. Any notice to one of the spouses, even if physical separation has been achieved), regarding the capacity of persons must be sent to the other spouse or partner. The assumption of non-implementation of this provision will be met with a guarantee of nullity. Article 108 clearly states these three points. It would be better if this article were interpreted alongside Article 215 of the Civil Code, because the first part of Article 108, which gives spouses the right to choose separate housing, should not contradict the commitment of the spouses to live together. In this case, the family residence is a place that the spouses choose by mutual agreement, and neither spouse can enjoy rights that enable them to determine and secure the family home or its furnishings without the permission of the other.

Regarding the civil contract of solidarity and coexistence, according to the French legislator's emphasis on the foundation of the family, until 1970, the wife was obliged to live in the husband's house, and there was still no law for the civil contract of solidarity and concubinage, while the content of the commitment to cohabitation includes having a common residence. Therefore, since joint coexistence is not possible without living together, we should consider the existing rulings to be valid and valid in this issue of who should determine the common residence of the parties, it should be said that according to the principle of equality of the parties, which is one of the fundamental principles of living in this way of residence, the determination of the residence can be considered subject to the consent of the parties, and in this regard, the opinion of none of them will have priority over the other. In case of a dispute between the spouses in determining the common property in the marriage, according to the judicial solution adopted in this regard, the competent court will determine the task.

2.2 Citizenship of the wife

The rejection of the superiority of the husband over the wife in the civil law of France found concrete expression in two ways: 1. The submissiveness of the wife was abolished. 2. The authority of the couple was eliminated in the couple's relationship. In most cases, the notice for one of the spouses, even if physical

separation has been achieved, regarding the eligibility of the persons, must be sent to the other spouse or partner. The assumption of non-implementation of this provision will be guaranteed to be null and void. In this case, the place of residence of the family is the place that the spouses choose by mutual agreement, and none of the spouses can have the rights to determine and provide for the family home or its furniture without the permission of the other.

Regarding the civil contract of solidarity and coexistence, according to the French legislator's emphasis on the foundation of the family, until 1970, the wife was obliged to live in the husband's house, and there was still no law for the civil contract of solidarity and concubinage. This is while the content of the commitment to cohabitation includes having a common residence. Therefore, since joint coexistence is not possible without living together, we must consider the existing rulings to be valid and valid in this issue of who should determine the common residence of the parties, it must be said that according to the principle of equality of the parties, which is one of the fundamental principles of life in this way, the determination of the residence can be considered subject to the consent of the parties, and in this context, the opinion of none of them will have priority over the other. In case of disagreement between the spouses in determining the common residence in marriage, according to the judicial solution adopted in this regard, the competent court will determine the task for determining the common residence.

2.2. Citizenship of the wife

The rejection of the superiority of the husband over the wife in the civil law of France found concrete expression in two ways: 1. The submissiveness of the wife was canceled. In most of the countries of the world, especially France, the citizenship of the spouse was imposed on the wife by the conclusion of the marriage due to the exercise of authority in the relations of the spouses. In this regard, the 1945 law clearly paid attention to this point. With the change of opinion in the society and with the loss of the authority of the husband, it was considered unreasonable to impose the citizenship of the husband on the wife, and in the law of 1972, the imposition of the citizenship of the spouse was abolished. Because cohabitation is not associated with the same citizenship, even though a single residence seems necessary

In the solidarity civil agreement, although one of the conditions of conclusion is the joint French citizenship agreement of the parties; However, due to the prohibition of the imposition of citizenship in marriage in this contract, the citizenship of life partners is not imposed on each other in legal coexistence, considering that the principle of freedom of the parties prevails, the extension of the citizenship of partners from one partner to another is not accepted.

2.3. The right to prohibit the employment of the wife

The Great French Revolution is a period of social and political transformations in French history. Until then, not only women but also men were deprived of many rights. Although efforts had been made to equalize the rights of citizens, but due to the prevailing view of the feudal system, the wife's employment and, as a result, the prohibition of employment was not relevant. After that, in the Napoleonic Code approved in 1804 AD, according to Articles 215 and 217, the wife was somehow dominated by the husband. Because the wife cannot initiate a legal act alone without the husband's permission, however, the husband did not have complete authority, but if he refused to give permission without a valid reason, the wife could go to the court and after proving the validity of the transaction, the court would allow the transaction to take place instead of the husband, and in this case the man would not be responsible in any way. If the husband gave permission to the wife to trade for any reason, in addition to the enforcement of the legal act, the wife for any Both parties would be jointly responsible, in this case talking about banning employment would not be relevant; Because the authority of the wife's transactions was completely under the control of the husband.

In 1881 and due to the improvement of the situation, the women legislators of France made a major change in order to support women and improve their conditions in the society. For example, in cases where the wife wanted to do business, it was enough for the man to agree to her employment in the business profession, and in three cases, the wife did not need to obtain the husband's consent and permission for her transactions, which were: drawing up a will, depositing money and legal actions performed in the

process of separation. Samani, but other transactions that the wife made without the husband's consent were subject to cancellation or nullification. In 1892, a law was passed that prohibited night work for all women of all ages and that employers could not use women in two shifts. By law of July 13, 1907, married working women and women who had a job other than their husband's job could freely manage their salaries and monthly income, and by this law the wife was considered the owner of all her property. Another law was passed in 1910, which allowed women to take maternity leave for two months until they were fully recovered. A review of the history of the years 1940 to 1948 shows that women's rights in the field of work were established; although the principle of equal employment was not fully observed; because although the equality of employment between men and women was recognized from a legal point of view, society was not yet ready to accept it intellectually. It is true that legal science should be at the forefront of some issues, but unless society accepts something, the legislator's efforts alone will have no practical benefit. Finally, the last restriction on the wife, namely the need for the husband's permission and consent to engage in a commercial profession, was also removed by the law of July 13, 1965.

Regarding the wife's right to employment in the current French Civil Code, Article 223 of the Duties and Rights of Spouses states that each spouse can freely engage in a profession, receive their income and wages, and after paying their expenses, take control of the rest of their lives. In fact, the legislator not only explicitly abolishes the incapacity of women, but also stipulates in Article 225 of the same chapter of the law that each spouse can manage their personal property alone, mortgage or pledge it, and transfer it. In this way, women have been given equal rights with men and the legal difference between women and men has been eliminated.

Regarding the civil contract of solidarity and legal coexistence, it should be said that when the French legislator speaks in Article 223 of the French Civil Code of the freedom of employment of each spouse in a formal marriage, in the first place in the civil contract, the solidarity of the partners in choosing a job is freedom of action. They have.

The principle of sovereignty of the will of each life partner governs the contract and neither of them will have the right to prohibit the other partner.

2.4 The right of spouses to use each other's surnames

Considering the legal and social effects of the surname and its impact on society and the family, the French legislator has enacted provisions in this regard, one of the most important of which is the possibility for each spouse to use the spouse's surname. Regarding the right to use the surname of each spouse during marriage, given the evolution that occurred in women's rights, initially it was women who were able to use the spouse's surname. However, given the changes, the French legislative society decided to adapt the law to the requirements of its time. Therefore, according to Article 2251 of the French Civil Code, each spouse has the right to use the spouse's surname in an alternative or connected way to his/her own surname in the order he/she wishes as a common and usual name without priority. However, after divorce, pursuant to Article 264 of the French Civil Code, the principle is that spouses can no longer use their spouse's surname unless each spouse can prove and justify a specific benefit for themselves or their children, in which case they will be able to continue to use their spouse's surname with the permission of the judge or with the consent of the spouse. Regarding physical separation, Article 300 of the French Civil Code also specifies the obligation of this issue. According to this article, each spouse is allowed to use another surname during physical separation. However, if the interests of one of the parties are harmed in this regard, they may be prohibited from doing so by virtue of the same physical separation decision or a separate decision taking into account the interests of each spouse. In the civil partnership and cohabitation agreement, a law, in accordance with the 2006 amendment to the law on civil partnership agreements, made it mandatory to include the partners' names and surnames on the other partner's identification card, which indicates its connection to public order. Therefore, although French law is silent about the possibility of using the partner's surname, considering this amendment and the final interpretation, it must be assumed that in French law there is also the possibility of using the partner's surname in civil partnership and concubinage agreements.

Conclusion

1. Among the important non-pecuniary rights of the couple in Iranian law is the right to determine housing, which the wife must reside in the house determined by the couple, which is an indication of the adoption of the presidential model of family management in Iran. Although the agreement contrary to this provision is accepted as a condition of the contract, the assignment of the right to determine housing to the sole will of the spouse and not the will of the spouses seems to be criticized. According to French civil law, the place of residence of the family is a place that the spouses choose by mutual agreement.

2. Another non-financial right of the spouse in Iran is the right to prevent the wife from receiving a passport and leaving the country, which is a result of the spouse's exercise of authority and the adoption of a presidential model of family management. In this regard, in order to leave the country, the wife must, pursuant to paragraph 3 of Article 18 of the amended Passport Law of 1380, wait for the consent of the spouse by preparing a document in the notary's office, but in French law this has been abolished by the law of 1972.

The right to prevent the wife from working is another non-financial right of the spouse in Iranian law, which is a consequence of the adoption of a presidential model of family management, although this right for the wife is also recognized in a more limited way than the spouse's right and is recognized in Article 18 of the Family Protection Law of 1353, and it reflects the efforts of the Iranian legislator in this regard. Of course, if we do not believe that some provisions of the above Family Protection Law are not repealed by the Family Protection Law approved in 2012.) Considering the legislative process in Iranian law and the tendency of judicial practice not to prohibit the employment of wives, it shows the increasing employment of women in Iranian families. The evolution of the employment of wives in the three legal ways that create cohabitation in French law has also been manifested in its current form in the current French civil law, after going through various twists and turns and the requirements of the time, and any obstacles and obstacles in the way of employment of married women have been removed.

4. The possibility of using the spouse's surname by the wife is actually a privilege that can be attributed to the husband in a way. In Iranian law, only the wife can use her husband's surname without prior right with the consent of her husband and as long as she is married, and in the event of divorce, the continuation of using the surname is subject to the husband's permission. However, in this law, the assumption that a husband wants to use his wife's surname is not specified, and if the husband wants to use his wife's surname, he must obtain permission from the holder of the right of priority. However, according to the provisions of the French Civil Code, each spouse has the right to use the wife's surname as an alternative or connected to his own surname as a common and usual name. Regarding the right to use the surname of each spouse after divorce, the principle is that after divorce, the spouses can no longer use their spouse's surname; but this is not absolute and each spouse can justify it by proving a special benefit for themselves or their children.

5. In order to better understand the developments in the concept of family, and especially the evolution of the role of women in Iranian society, it is better to avoid two perspectives: "emotional" and "politicization." One of the important causes of the authority of the spouse and the authority of the father in the structure and concept of the Iranian family is the existence of some patriarchal regulations in the family. The following suggestions can modify the non-financial rights of the spouse in the new position of the family:

5.1 In order to change the absolute model of the spouse's leadership in the relations of spouses (Article 1105 of the Islamic Civil Code), it is proposed to adopt a participatory model of family management, change the way this article is worded and revise it. It is better to change the text of the above article as follows: In the relations of spouses, family management is shared by the spouses. The spouses are jointly responsible for guiding and managing the family.

5.2. In order to validate the originality of the free will of each spouse and the principle of independence and equality of each of them in decision-making and adopting a participatory model of family management in determining the family's place of residence, it is proposed that the text of Articles 1005 and 1114 of the

current Civil Code be amended as follows: Article 1005 of the Civil Code: The joint residence of the spouses is determined by their agreement. If the principles of cohabitation are not violated, the residence of each of them can be independent. - Article 1114 of the Civil Code: The place of residence of the family refers to a place that the spouses choose by mutual agreement. 5.3 It is appropriate that paragraph 3 of Article 18 of the amended Passport Law of 1380 be replaced with this phrase: "The husband shall not have the right to prevent his wife from receiving a passport or from leaving the country by law." 5.4 Women's management at the macro-levels of the country, the Ministry of General Management should be accepted by taking into account the various principles of the Constitution of the Islamic Republic of Iran. Contrary legal interpretations in this regard are worthy of criticism and reflection. 5.5 Article 42 of the Civil Registration Law of 1976, in order to provide the possibility for couples to use each other's surnames, should be changed as follows: "Each of the spouses has the right to use the surname of his/her spouse, in an alternative or connected way to his/her surname, as a customary and usual surname." Considering the above, it seems that if the Iranian legislator does not seek to change the absolute presidential model of family management towards a shared model, we may witness the weakening of the family institution in the not too distant future. In this case, in order to escape the obligations of marriage, the interest and desire to form a family through permanent marriage will seriously decrease, and methods such as open relationships, cohabitation relationships, and the emergence of married singles will gradually emerge as competitors to permanent marriage. The failure to change the regulations, despite the current developments in Iranian society, cannot be justified much, and the need to review the absolute model of the couple's leadership in the field of family management is clearly felt. Moving the family management towards a collaborative model in management and accepting the effects of this method will certainly create a better atmosphere in the family and current Iranian society.

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