

A Comparative Study of the End of Guardianship and Adoption in French Law; England and Iran

*Nemat Allah Olfat**
*Seyyed Ali Javaheri***

DOI: 10.22096/law.2022.559558.2073

[Received Date: 02/08/2022 Acceptance Date: 20/11/2022]

Abstract

Although in most of the contemporary legal systems, there are extensive regulations on adoption and guardianship, but in some of them, there are no regulations, or they are very incomplete and do not meet the needs of today's society. Among the topics that have received less attention are the provisions related to the end of the relationship of adoption and guardianship. Although in French countries, England and Iran, there are more or less different laws about this, but which of the laws is in line with protecting the best interests of the child and what are their shortcomings? It is a question that we seek to answer in this article. According to the authors, preserving the best interests of the child is the most important reason and basis for the legitimacy and rationality of ending the relationship of adoption and undesirable guardianship. Therefore, in summary, in all three countries, there is a possibility of canceling guardianship, but they differ in how and why. Now, while explaining how to end adoption and guardianship in each of the French legal systems; England and Iran, it finally becomes clear that in Iranian law, the legislator's performance in relation to the reasons for which the court may issue a guardianship termination order is more comprehensive than the laws of England and France.

Keywords: Adoption; Guardianship; Best Interests; Child without a Guardianship and a Bad Guardianship.

* Assistant Professor, Department of Law, Mofid University, Qom, Iran.

Email: olfat@mofidu.ac.ir.

** PhD in Private Law, Department of Law, Mofid University, Qom, Iran.

Email: javaheriseyedali@yahoo.com



Bibliography

- The Holy Quran.
- Adoption and Children Act. 2002.
- Alami Tameh, Hassan. *Adoption in Islam*. Qom: Farhang va Andishe Islami, 2013. [In Persian]
- Aude du Parc. "Revocation of simple adoption." Accessed October 3, 2022. <https://www.village-justice.com/articles/revocation-adoption-simple,31734.html>. [In French]
- Bean, Justice, Justice Baker, and Stephen Irwin. "by their children's guardian,(2021)." Accessed October 03, 2022. <https://www.bailii.org/ew/cases/EWCA/Civ/2021/1222.html>.
- "Dictionary biyamooz." Accessed October 31, 2022. https://dic.bamooz.com/fr/dictionary/w?word=r%C3%A9voquer#r%C3%A9voquer_verb_1. [In Persian]
- Emami, Asadallah. *A comparative study of lineage in Iranian and French law*. Tehran: National Library press, 1970. [In Persian]
- Fenton-Glynn, Claire. *Adoption without consent*. London: King's College, 2015.
- Ibn al-Manzoor al-Afrighi, Muhammad Ibn Mokram. *Lesan al-Arab*. Beirut: al-Nashar and al-Tawzii Dar al-Fekr, 1993. [In Arabic]
- Jafari langroudi, Mohammad jafar. *Dictionary terms of law*. Tehran: ganj danesh, 1999. [In Persian]
- Katouzian, Nasser. *Civil rights introductory course*. Tehran: Sahami Enteshar, 2005. [In Persian]
- Katouzian, Nasser. *Family law*. Tehran: Sherkat Sahami Enteshar, 1996. [In Persian]
- Katouzian, Nasser. *General principles of contract*. Tehran: Ganj Danesh, 2018. [In Persian]
- Labandibar, Emmanuelle. "Faire annuler une adoption." Accessed October 03, 2022. <http://lacan-avocat.com/faire-annuler-une-adoption/>
- Lebreton, Gilles. "The right of the child to respect for his or her "best interests". Republican Criticism of the Individualistic Drift of French Civil Law." *Special holders of fundamental rights 2* (2003): 77-86. <https://doi.org/10.4000/crdf.7717>. [In French]

- Marchant-Daisley, Gail, and Adam Moghadas. "Cambridge family law practice." Accessed October 03, 2022. <https://cflp.co.uk/un-adoption-is-that-possible/>.
- Marie Davey, Samantha. "The proportionality of non-consensual adoption in England and Wales under s52 (1) (b) of the Adoption and Children Act 2002." PhD diss., University of Essex, 2002.
- Mills, Brianna. Widener University Delaware Law School 4601 Concord Pike Wilmington, Delaware 19803 USA. "The Dignity Rights Project Dignity in Action." Accessed October 2, 2022. https://www.ohchr.org/Documents/Issues/ClimateChange/RightsChild/Dignity_Rights_Project.pdf.
- Nouri, Hossein bin Mohammad Taghi. *Mustadrak al-Wasail and Mustanbit al-Masail*. Qom: Moasese al-Bait PBUH, 1987. [In Arabic]
- "Revoke or discharge." Accessed October 3, 2022. <https://www.familycourtsupport.social/template-opposerevoke-adoption>
- Safai, Seyyed Hossein, and Asadullah Emami. *A Concise of family law*. Tehran: Mizan, 2018. [In Persian]
- Sigurdson, Randi. "Children's Right to Respect for Their Human Dignity." Accessed October 03, 2022. <https://brill.com/view/book/edcoll/9789004382817/BP000003.xml>
- Taheri, Habibullah. *Civil Rights*. Qom: Daftar Intesharat Islami Vabaste Be Jame Modaresin, 1997. [In Persian]
- The French Civil Code. [In French]