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Inheritance and conflict of laws

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Abstract

The scope of this research is determined in matters of inheritance and the determination of the law applicable to disputes concerning legal relations tainted by a foreign element in inheritance. We examine the rules of attribution related to this issue in Iraqi law, Moroccan law, Algerian law and the law of the Arab Republic of Egypt and the ideas contained in these rules and controls of attribution, and limit the scope of our study to the position of laws on conflict of laws in inheritance with different nationality. We have taken the method of comparative research as a platform in our research by clarifying the concept of inheritance in language, terminology and law and we clarified the definition of inheritance with different nationality and then we clarified the legal nature of inheritance with different nationality as well as the statement of issues involved in the idea of inheritance and its content and the nature of inheritance in Iraq, Morocco, Algeria and Arab Egypt and we discussed in determining the law applicable to inheritance with different nationality deduced the rule of reliance applicable to inheritance issues. And we dealt with the subject of the research divided into three sections with the introduction and conclusion and as follows : the first is the subject of the introduction and we touched on the subject of inheritance and its provisions in the law, while we dealt in the second section the rule of attribution related to matters of inheritance and will, either the third section has been specialized in The role of the national judge in the application or exclusion of foreign law relating to inheritance and probate matters.

Keywords

Inheritance – Conflict of laws – Rule of attribution –Assignment - Adaptation – Foreign law

Introduction

One of the reasons for choosing the subject of the research is that it is not free from cases of submission before the national judge disputes of an international character in matters of inheritance or will and he has to seek the help of what his national legislator has set of the rules of attribution guided by them to know the law that he must apply to those disputes and regulate inheritance and inheritance issues like other issues, which he must identify the scope of those ideas in terms of what they enter into and what they enter from the issues or There is no doubt that the scientific and theoretical importance involved in the research on these issues in order to properly apply these rules and to alert to the shortcomings of the legal regulation in the legislation under study and the justification justifying the choice of topic.

Inheritance and conflict of laws are among the most important topics of private international law, regardless of the controversy over these two terms, which the prevailing jurisprudence adhered to.

In view of the inheritance in terms of its importance in the relations of internal law, each legislator organized the rules governing them in organizing them in the internal law on religious and social bases so that the existing ideology in one society is affected, and this has led to the difference in its provisions from one country to another and from one legislation to another, which was necessary with him to look at those issues in their international concept and find a special regulation in this context determined by the law applicable to disputes of international character on them.

As for the conflict of laws that deal with those legal relations tainted by a foreign element and located within the framework of private law because of the difficulties raised by this relationship regarding the selection of the most appropriate law to govern them.

Hence the need to develop rules according to which the law applicable to those relations is specified, which the national judge is obliged to apply in accordance with what these rules refer to because of their national character or to ensure that the national legislator to put them based on the relationship subject of the dispute to the law most appropriate to govern them, and these are the rules of conflict of laws or what has been termed in the jurisprudence of international law as the rules of attribution.

Based on the foregoing, the resolution of the conflict of law in matters of inheritance with different nationality and according to the approach of the rule of attribution in the laws under study is the subject of research.

Section One: Introduction to the research

inheritance and its provisions in Sharia and law

Definition of inheritance: It is a name for what the heir deserves from his heir because there is one of the reasons for inheritance or it is the transfer of money from one person to another person through succession. (1)

The science of obligation: It is the jurisprudence of inheritance and arithmetic that is connected to know what belongs to everyone who has the right to his right from the estate

The three pillars of inheritance are (the heir - the inheritor - the inheritor)

The conditions of inheritance are three

1- The death of the testator or the death of the deceased shall be achieved by judgment or assessment in the fetus separated by a felony from its mother.
2- The life of the heir achieves a stable life after the death of the testator or joining the living as a rule such as pregnancy
3- Judiciary with knowledge of the party in which the inheritance and the degree to which they met) (2).

Inheritance is the transfer of ownership from the deceased to his living heirs, whether the abandoned is money, real estate or a legitimate right (3).

Reasons for inheritance

The reasons for inheritance under which a person inherits are three as follows:

a- True kinship (kinship bond): They are parents, children, brothers and uncles.
b- Marriage: It is the valid marital contract that exists between the spouses, even if there is no entry or seclusion after it, and corrupt and false marriage is not inherited in the first place.
c- loyalty: is kinship judgment and called (loyalty manumission) and (loyalty grace) and caused by the grace of the freed on the antique, if freed Mr. slave and owned thus gained a link and a link called (loyalty manumission) inherits because of it because he blessed the slave and individual to him his freedom (4).

Pillars of Inheritance

The pillars of inheritance are three:

1- Heir: He who deserves to inherit by relative or marital kinship
2- Inheritor: It is the deceased who deserves to inherit from him what he left after death
3- Inherited: It is the money left by the deceased from money, real estate or others, and is called inheritance, heritage and inheritance, all of which are

names for the thing that the deceased leaves to the heirs (5).

4- **Section Two**: **The rule of attribution related to inheritance and will issues**

The attribution rule consists of three elements (the idea of attribution, the attribution officer and the law assigned to him) The idea of attribution: is the relationship or accountability subject of the dispute and reveals its nature through the mechanism of adaptation represented by capacity, marriage, divorce, alimony, inheritance, will and financial actions related to real estate or movable contract and possession.

And the attribution officer: it is the means that connect the idea of attribution to the law assigned to him and this officer derives his existence and nature from the center of gravity of the relationship (6).

The first requirement: The attribution officer and the law assigned to him related to inheritance and will

The rule of attribution is the positive legal rule of a technical nature applicable to private international relations, so it selects the most appropriate and appropriate laws to regulate those relations when there are many laws applicable to them, which is the legal rule set by the national legislator through which he aims to guide the judge to the law applicable to the legal issue with a foreign element (7).

With regard to the relationship of the rule of attribution to inheritance issues, it is determined by the law applicable to inheritance issues at the level of comparative law, as the applicable law varies from one country to another, the countries that calculate inheritance and wills on matters of in-kind status determine the jurisdiction to calculate the regional law on matters of real status if the money is real estate be competent law location of the property, and to calculate the domicile of the deceased, and in the opposite direction all Arab countries went to treat issues of inheritance, will and endowment as matters of Personal status., so we will divide this requirement into the following two sub-sections:

Subchapter One: The Support Officer Governing Inheritance

Inheritance is one of the cases of personal status down to many of the requirements, as it is related to the life and death of the person, which is the natural result of that death, so inheritance is subject to the legal system to which the person himself is subject, whether it is the nationality law or the law of domicile, and the law did not take the domicile of the deceased except Western laws such as Norwegian law, Danish law, Argentine law and the former Soviet Union.

There are Arab laws that blessed the subjection of inheritance to the nationality law and on the basis of the close link between it and family ties,

inheritance leads to the transfer of the deceased's money to those with whom he is linked because of the existence of a social bond, including marital ties or kinship bond (8).

Subchapter Two: The Support Officer Governing the Will

Before delving into the attribution officer who governs the will, the will must be explained from a legal point of view, as we find that the laws when they define the will have developed many and varied definitions that differ in their clarity and invisibility, and the difference in laws is due to the way the phrase is formulated and the style is more than determining the meaning.

In terms of the law applicable to the will in Arab laws, in Egyptian law, we see that the Egyptian legislator has stipulated in the second paragraph of Article 17 of the Egyptian Civil Cod law e No. 131 of 1948 that (the law of the testator at the time of the will or the law of the country in which the will was made shall apply to the form of the will, as well as the ruling in the form of actions added to after death). In order for the will to be valid, this is in the event that it is made in the form prescribed in the law of nationality of the testator at the time of the testament. Or the law of the country of conclusion, since this article laid down the rule in the law applicable in the field of international conflict of laws in the statement of the law governing the form, and that the legislator's reliance on the nationality of the testator at the time of the recommendation is a course worthy of support in determining the law governing the form of the will (9).

As for the formal conditions of the will is in order to show the will to the outside world, and may be limited by the testator or official documentation with the notary of contracts (notary public), and may be limited to publicity in the presence of witnesses, so its provisions vary from one country to another and it works on 3 types (the official document of the notary, or the customary form written and signed in the testator's handwriting or saying orally in front of witnesses) (10).

On the basis of the foregoing, the Moroccan legislator stipulates that the validity of the will shall be issued by a public witness or by any official authority in charge of notarization, as stipulated in Article 296 of the new Personal Status law in Morocco issued on 3/2/2004 as follows:

(The validity of the will is required to be issued by a judicial certificate or the testimony of any official authority in charge of notarization, or written by the testator in his handwriting with his signature) (11).

The amended Algerian Civil law of 1975 stipulates that the law applicable to wills is the law of nationality of the deceased or testator, article 16 of which stipulates the following:

(The law of nationality of the perishing person, the testator or the person who acted at the time of his death shall be subject to inheritance, wills and other acts carried out after death) (12).

Article 19 of the same law also stipulates the following:

(Legal acts shall be subject in their formal aspect to the law of the place where they took place, and may also be subject to the law of the common domicile of retirees, their common national law or the law applicable to their substantive provisions) (13).

With regard to the foregoing of Algerian law, we believe that in order for a will to be valid from a formal point of view, it must take into account one of the following things:

1- The formal conditions of the will are subject to the law of the place of its conclusion.
2. The formal conditions of the will shall be subject to the law of the common domicile of the testator or the testator.
3. The formal conditions of the will shall be subject to the law governing the substantive conditions.

The Second requirement: problems of application of the rule of attribution related to inheritance and wills (assignment and adaptation)

Problems may occur when applying the rules of attribution related to inheritance and will to an inheritance dispute or will in which one of the parties is a foreign element, then it requires determining the law applicable to the dispute to resolve it through the judge's reference to the rules of attribution in his national law, but in the event that the judge returns to the rules of attribution, it may result in problems when applying the rules of attribution, so this requirement is divided into the following:

Subchapter One: Adaptation of private international law to determine the competent law

The adaptation is necessary in naming certain rules for each branch in the law, within the framework of civil law is the adaptation of the relationship through its integration into the civil category such as sale and rent, and within the framework of criminal law is the adaptation of the relationship in the criminal category such as murder and theft, but in the framework of conflict of laws, the adaptation is to introduce the legal relationship in a certain category, especially the category of personal status or in kind (14).

Adaptation is defined as: It is the mental process carried out by the judge to determine the legal nature of the human rights issue containing the foreign element in order to include it within one of the legal denominations known to him in order to reach the rule of attribution and apply it to it in search of the applicable law (15).

As for the law to which adaptation is subject in disputes in matters of inheritance and wills, private international law scholars have divided into three opinions, as follows:

First opinion: Subjecting adaptation to the competent law

The owners of this view believe that the law to which the adaptation is subject is the law that refers to its competence national attribution rule to rule the subject of the dispute on inheritance and will, and this idea has been led by both (Depanier) French and (Bakchioni) and (Wolf) German, and their argument in that in the event that the rule of attribution in the law of the judge to the application of a particular law, this law must be applied within the limits that regulate that relationship because each law adaptations its own (16).
This view has been criticized for being confiscative because adaptation precedes the determination of the relevant law.

Second opinion: Subjection of adaptation to comparative law

This view appeared on the impact of criticisms of the previous opinion, and the owners of this opinion believe that adaptation in matters of inheritance and will is subject to comparative law, and this idea has been claimed by the German jurist (Rabel) and their argument that the rules of attribution regulate private international relations and that the determination of the legal descriptions that regulate them must be unified by relying on abstract global ideas prevailing in comparative law (17), If the rule of attribution in matters of inheritance refers to the application of the law of the State of nationality of the testator at the time of his death, according to this view, what is meant by inheritance must be determined in the light of comparative law and not as intended by the law of a particular State, although this view is ideal, it is difficult to implement in practice because it is time-consuming, as well as the difficulty of avoiding the inclination of judges to the provisions of their national laws.18

Third opinion: Subjecting adaptation to the law

The owners of this view believe that the judge should follow the provisions of the laws of his country when conducting the conditioning, and this idea has been led by the French jurist (Barton) and their argument based on the idea of national sovereignty, as well as that the adaptation process cannot be subject to another law for lack of clarity of the law applicable to the issue presented, the adaptation is complementary to the rule of attribution is interpreted in preparation for the process of attribution to the competent law (19).

The most correct opinion: From our point of view, the third opinion is the closest to the right, considering that the state before which the dispute is presented is the state that applies its law to matters of inheritance and wills.

Subchapter Two: Assignment in Private Law to Determine the Competent Law

In the event that the law applicable to matters of dispute in inheritance and will refers to the application of the law of the judge, there is no problem in their application as the judge will apply the substantive rules in his law and decide on the dispute in accordance with the provisions of his law, but the real problem lies when the law applicable to matters of inheritance and will refers to the application of foreign law, in this case does the judge apply the substantive rules of foreign law directly that he will return to the rules of attribution? The solution shall be according to the extent to which the referral is accepted or rejected by the judge.

Assignment is defined as: the idea that the rules of attribution are applied in foreign law competent by virtue of the relationship and under the national rules of attribution when they differ with the latter and the conflict between them is negative (20).

Therefore, an assignment can only occur if the following conditions are met:

The first condition: the difference between the attribution rule in the judge's law and the attribution rule in the competent foreign law.

The second condition: that both the judge law and the competent foreign law abandon the negative conflict, the referral aims to overcome the obstacle of the lack of jurisdiction of the foreign law assigned to him according to the law of the judge (21).

Referral is divided into three types

Single-degree referral: That is, the application of the rules of attribution stipulated in the competent foreign law entails a new reference to the judge's law and its application in its substantive rules.

Second-degree assignment: that is, the foreign attribution rule relinquishes the jurisdiction held for it under the national attribution rule, but this time it returns jurisdiction to the law of the third instance and not to the law of the judge.

Multiple degree assignment: The application of the foreign attribution rule leads to the application of the

attribution rule in the law of a third State, then the application of the attribution rule in the fourth State pursuant to this attribution rule, and so on until we reach a law whose substantive rules apply (22).

Section Three: The role of the national judge in the application or exclusion of foreign law related to inheritance and wills matters

The rule of attribution may refer to the application of foreign law to disputes related to inheritance issues and the will containing the foreign element, which may lead to many problems when applying foreign law, including how to determine the nature of foreign law, competent to resolve the inheritance

dispute, and for the foregoing, we will divide the section into two requirements:

The first requirement: application of foreign law by the national judge in matters of inheritance and wills

If foreign law is competent under national rules of attribution and the judge is obliged to apply it, the problem is, will the national judge treat foreign law as a mere fact before him? Or will foreign law retain its nature and be treated the same as national law? This requirement is divided into the following two subsections:

Subchapter One: Dealing with Foreign Law as a Fact

Foreign law is treated when applied to the territory of the judge's state as a fact, that is, the law on which the jurisdiction was based loses its mandatory legal status when crossing the border into the state of the dispute judge, and thus the court does not apply the foreign law on its own, but to the request of the litigants, and that the search, investigation and proof falls on the litigants and not on the court (23).

As for the jurisprudential side, the jurists have differed in the legal basis of foreign law, as there is an opinion that goes to the loss of the foreign legal base of the element of the order to deny the legal nature of foreign law, which referred to the national attribution rule, and this opinion is led by the French jurist (Batifol) as the national judge applies foreign law as a fact only because of the inability of foreign law to keep its mandatory outside the borders of his state, and according to this trend, each legal rule consists of two elements:

Material element: the content of the legal norm is that it is general and abstract.

The moral element: the order is represented in the implementation and obligation, from which the legal rule derives its binding force.

If a national legal norm enjoys these two elements within the limits of the issuing State, once it transgresses the boundaries of that State, it loses the element of obligation and becomes a fact like other facts, thus losing its status as a legal norm (24).

However, this view has been criticized as being based on fiction and metaphor because once foreign law is applied, it strips the legal base of its legal character and turns it into reality, and that this view is inconsistent with the nature of private international relations and the interests of individuals, which recognize the idea of sovereignty only within narrow limits (25).

Subchapter Two: Dealing with Foreign Law by the National Judge as Law

When the judge applies foreign law to matters of inheritance and will, the judge deals with considering foreign law as a law and not an incident before him,

in this area several legal theories have emerged that explain the judge's treatment of foreign law as a law, namely:

First: The theory of acquired rights

This theory is based on the fact that the judge applies foreign law in his country out of respect for the acquired right arranged by the law for the right holder, and thus the judge does not apply the reality of foreign law, if one of the parties acquires a right through inheritance or will and this right arose under a particular foreign law, in this case the judge recognizes this right and applies the foreign law in respect of the right acquired under this law.

However, this theory has been criticized as non-exhaustive because the application of foreign law is not limited to cases of respect for acquired rights, but also in the case of the creation of new rights and legal centers in the State of the judge of that right and the application of foreign law in respect of the right acquired under foreign law.

It was also criticized for considering recognition of a right acquired abroad in accordance with foreign law to mean recognition of foreign law itself.26

Second: The Theory of Reception of Foreign Law

Foreign law, after being included in the national attribution rule, becomes part of the national attribution rule, and takes into account its nature, and since it is national, the foreign law sacrifices the act of its merger, where it receives it after it is empty of content, and thus the foreign law is treated as national law.27
According to this theory, the reception of foreign law is as follows:

1- Material reception: in which the national attribution rule loses its foreign utility and its content is materially integrated into the law of the national judge.
2- Formal reception: According to which foreign law is integrated into the judicial law, but it retains its value and significance that is imbued by the foreign legislator who drafted the provisions of this law (28).

Third: Delegation Theory:

Most German and French jurists believe that the judge applies foreign law by virtue of the authorization of the foreign legislator dictated by the rule of attribution in the law of the judge, and the foreign law maintains its foreign character and applies with mandatory force as an order issued by the foreign legislator based on the authorization or delegation issued by the national legislator.

But this theory criticized that delegation can only be made by a certain commissioner and the commissioner here is not appointed (29).

It is unreasonable for a national judge to order without legislated orders on the one hand, and on the other hand, it is inconceivable that the legislator of

the judge's state delegates his foreign legislative power to legislate instead of him (30).

The Second requirement: exclusion of the national judge for the application of foreign law in matters of inheritance and wills

The national judge's knowledge of the content of foreign law referred to by the rules of attribution in his law does not necessarily mean that foreign law is the final reference in disputes related to inheritance and wills matters, especially when the provisions of foreign law conflict with the fundamental principles on which the system of society is based, and based on the foregoing, we will address cases of exclusion of the national judge for the application of foreign law as follows:

Subchapter One: Defense of Public Order to Exclude Competent Foreign Law

One of the postulates that have been enshrined in private international law recently is that the application of the competent foreign law must be excluded if its application clashed with public order in the judge's state, and one of the difficulties facing the national judge is the lack of an agreed unified concept of the idea of public order based on it, where individual or collective attempts have been made to reach a common definition of public order (31).

The public order has several characteristics, the most important of which are:

1- The idea of public order is a variable relative idea: The public order is a standard relative idea that varies according to time and place, what is considered a public order in one country may not be considered in another country, and what is considered a public order at a certain time or era may not be considered so at another time even if it is within one country (32).

2- Public order is of a judicial and exceptional nature: The change in the public order and the speed of its development makes it difficult to limit or determine the cases in which the judge must move the public order to exclude the application of foreign law, which gives the discretionary power of the national judge to determine the extent of the conflict of public order with foreign law in his country according to each case separately, and that the judge's authority is restricted and not absolute and subject to the control of the Supreme Court (33).

3- The idea of public order is a national idea: The public order is the national system in the state of the judge competent to consider the dispute because it aims to protect the basic conditions and fundamental principles prevailing in the national legal system, and public order remains distinguished by the national characteristic and that its concept changes

from one society to another (34).

In order to achieve public order payments, the following conditions must be met:

1- The legislative competence of the foreign law shall be established by virtue of the rules of attribution in the law of the judge.

2- The applicable side law is contrary to public order in the judge's state.

3- The applicable side law is currently contrary to public order at the time of filing the lawsuit, such as the foreign law permitting inheritance to the child of adultery.

If the testator or testator was a foreigner at the time of death, his national law is applicable, but if the judge finds that the side law contradicts the provisions of inheritance and will, it is considered contrary to public order, such as allowing inheritance with different religion or for the natural or illegitimate son to inherit from his father (35).

As for Iraqi law and comparative Arab legislation on the subject of public order, we find that the Iraqi Civil law in Article 32 stipulates the following: (It is not permissible to apply the provisions of foreign law decided by the previous texts if these provisions are contrary to public order and morals) (36).

We see that the Iraqi legislator has urged that the judge exclude the provisions of foreign law applicable to inheritance and wills if the provisions of that law are contrary to public order and morals in Iraq.

Article / 24 of the Algerian law deals in its first paragraph with the following:

(Foreign law may not be applied under the preceding texts if it is contrary to public order and morals in Algeria, or if it is proven that it has jurisdiction by cheating against the law, and Algerian law is applied in place of foreign law that is contrary to public order and morals) (37).

We see that the Algerian legislator has followed the example of the Iraqi legislator by not applying the foreign law applicable to inheritance and wills in case it violates public order and morals.

As for Libyan law, the Libyan legislator has stipulated this in Article/ 28 of Part I of the Libyan Law No. 6 of 2016, which stipulates the following:

(The provisions of foreign law may not be applied under the preceding texts if these provisions are contrary to public order and morals in Libya) (38)

That is, we see that Iraqi law and Arab legislation are all agreed that the provisions of foreign law contrary to public order should not be applied to matters of inheritance and will, even if this foreign law is the law applicable to matters of inheritance and will.

Subchapter Two: Defense of cheating against the Law to Exclude the Competent Foreign Law

The parties to the relationship may change the attribution officer with the intention of transferring the legislative competence from one law to another to evade the provisions of the law originally competent, and if this deliberate change occurred to the support officer, we were in front of a case of cheating towards the

law, so the cheating towards the law is defined as (the parties to the relationship change one of the controls of attribution that is determined by the applicable law deliberately with the intention of evading the provisions of the law originally applicable to the relationship) (39).

As for Islamic jurisprudence, he has the credit for the first time in knowing the theory of circumvention, the jurists have talked about tricks, they defined and divided them and showed their provisions and effects on the provisions of Sharia, considering that the trick is a special type of action and behavior that turns its actor from case to case (40).

Conditions for cheating towards the law:

In order to achieve the issue of cheating towards the law, two basic conditions must be met:

First: The material condition: It is required to push cheating towards the law that the material element is available, which is to make a voluntary change in the support officer, and this is done through two ways:

A- Change of nationality: The change of nationality results in changing the personal law on personal status issues, especially in countries where personal status issues are based on the nationality law, as in the case of the testator or testator changing his nationality before his death to evade the provisions of the old nationality law and benefit from the provisions of the new nationality law, especially if it achieves his interests other than the old nationality law, such as allowing his non-Muslim wife to inherit from his money or allowing him to recommend everything he owns. For whoever wants.

B- Change of domicile: The change of domicile results in a change of personal law in the laws of countries where personal status issues are based on the law of domicile, as in the case of countries that differentiate in inheritance between movable or real estate, as inheritance or will in the movable is subject to the law of domicile (41).

Second: the moral condition: The moral condition is the availability of the intention to cheat towards the law, as the intention to cheat in practice is to defraud the law, assuming that the voluntary change of the support officer, which is done legitimately, does not reveal cheating alone and the judge has the authority to search and investigate the intention to cheat through the facts before the judge and extract the intention to cheat from the circumstances of the case, which is a matter of fact subject to the discretion of the judge (42).

Effects of cheating towards the law:

Legal scholars differed on the effects of pushing cheating towards the law whether the penalty goes to the result and the means together or includes the result only, and thus two opinions have emerged:

The first opinion: They are French jurists, including the French jurist

(Batifol), where the owners of this opinion believe that the impact of cheating affects both the result and the means, so the procedure by which the attribution officer was changed must be invalidated, as in the case if a person naturalized a new nationality with the intention of benefiting from its provisions, such as the settlement in inheritance between male and female, the effect of cheating must not be limited to the non-enforcement of the new nationality law, but the penalty must also extend to the means used by the person To change his nationality (43).

The second opinion: The proponents of this opinion believe that the penalty should be limited to the non-enforcement of the result to be achieved from cheating without the means, and that the result is illegal and not the means used by legitimate means, and the exclusion of the law to which the jurisdiction has been transferred with the intention of cheating and the application of the provisions of the law to which the attribution rule referred to for the first time within the limits of the dispute for which the cheating was paid, but outside this limit, the new attribution officer must be implemented, as long as the officer did not lead to determining the result that The aim of the circumvention is initially, as if a person changed his nationality in order to benefit from its provisions, so that the law of his first nationality does not allow benefiting from those provisions stipulated in a new nationality law (44).

The most correct opinion: We believe that the second opinion is the most likely and closest to the right and that the penalty is limited to the result only without the means used, because the person may have used the legitimate methods correctly.

Conclusion

After completing the writing of the research on inheritance and conflict of laws, we reached the following conclusions:

1. The relationship of the attribution rule to inheritance matters is determined by the law applicable to inheritance matters at the level of comparative law, as the applicable law varies from one State to another.
2- All Arab countries have tended to treat matters of inheritance, wills and endowment as matters of personal status, and that there are Arab laws that blessed the subjection of inheritance to the nationality law and on the basis of the close link between it and family ties.
3- Adaptation is the intellectual process carried out by the judge to determine the legal nature of the human rights issue containing the foreign element in order to include it within the known legal denominations in order to reach the rule of attribution and apply it to it in search of the applicable law.
4. Assignment is that idea that the rules of attribution are applied in the foreign law competent by virtue of the relationship and under the national rules of attribution when they differ with the latter and the conflict between them is negative.
5- Foreign law is treated when applied on the territory of the judge's state as an

incident, that is, it loses its mandatory legal status when it crosses the border into the state of the dispute judge, and one of the postulates that have been enshrined in private international law recently is that the application of the competent foreign law must be excluded if its application clashes with public order in the judge's state.

5- Cheating towards the law is defined as the parties to the relationship deliberately changing one of the attribution controls determined by the applicable law with the intention of evading the provisions of the law originally applicable to the relationship

Margins

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