

Inevitable Transfer of Ownership

Like Inheritance: As stated earlier, an individual may engage in using and transforming raw materials of nature into other objects of different utility with full entitlement to the same as long as the raw materials are not scarce. This kind of entitlement and ownership could have no limitation.

Likewise, through the instrument of *Hiazat*, an individual may acquire his and his family's share from the aggregate share in his surroundings. Throughout this process, his actions are prompted by consideration for his family and relatives' needs. Hence, after his death his aggregate wealth, in the form of diverse goods, accumulated by him through productive activities, services or *Hiazat* and receipt of goods, etc., is automatically transferred to his heirs who served as an inspiring factor for engaging in greater activity. Such practice is advocated and defended by innate logic.

The issue of inheritance, following a vicissitude of controversy, has explicitly been given its respective place in the Soviet and Chinese constitutions. Inheritance, so long as it has relevance to the immediate and rightful properties of the deceased, is acknowledged and tolerated. However, if the accumulated property so inherited is of dubious nature and origin, then all the legal enquiries into its origin can be made. We have another type of inevitable transfer, which is distinct from inheritance and in the form of partnership.

If you mix your 50 man (man is a measurement of weight in Iran equivalent to three kgs.) of wheat with your neighbor's 25, on the basis of mutual consent, then you will get a two-thirds share of the aggregate, against the one-third share going to your neighbor. This situation will persist unless and until you and your neighbor separate previous shares of wheat; and if this is not done, then your respective shares in each seed would be $\frac{2}{3}$ and $\frac{1}{3}$ respectively. The above principle is perhaps consistent with common jurisprudence.

Thus, we have concluded introduction and discussion of the types of origin of ownership which are in absolute conformity with innate and natural logic.

Notes

Services cannot be bequeathed; but property or money engendered through services can be treated as inheritance.

Nafagheh comes under the category of Exchange of Value. It is the act of obligatory grant of something which is in rightful possession, and thus it is distinctly different from the voluntary donation of goods. It is also different from barter. Wills and *infaga* come under the head of bestowal and donation.

War booty is treated as a reward for service or *Hiazat*. The concept is, in fact, more appropriate in respect of services. It may be determined by the army commander, the government or society whether soldiers can partake in war booty as remuneration for their active service. (Islam prohibits possession of war booty in case of aggression). In Islamic countries where the army is paid a salary by the government, military men are not entitled to a share of war booty.

Islamic wills stipulate that only 1/3 of the wealth of the deceased could, according to his predetermined instructions, go to individuals other than his heirs. In other words, 2/3 of his wealth is automatically apportioned to his heirs, and only 1/3 of it falls within his discretion with regards to its allocation to others.

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