A Comparative Study of the Concept of "Ownership of What Is Owed in One's Liability in the Legal Systems of Iran, Lebanon, and Egypt

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ABSTRACT

Ownership of what is in one's own liability (Mālikiyyat Mā Fī al-Dhimma) is one of the recognized modes of extinguishing obligations in which the dual capacity of creditor and debtor unites in a single person, thereby dissolving the obligatory relationship between the parties. The present study, employing a descriptive-analytical and comparative methodology, examines the concept, legal nature, conditions of formation, and effects of this institution across the legal systems of Iran, Lebanon, and Egypt. Iran's Civil Code recognizes this mode under Articles 264 and 300, treating the extinction as proportionate to the debtor's share of inheritance. Lebanon's Code of Obligations and Contracts of 1932, shaped by French civil law traditions, provides analogous rules with notable differences regarding solidary obligations and the protection of third-party rights. Egypt's Civil Code of 1948, drafted principally by Abd al-Razzaq Ahmad al-Sanhuri, adopts a more comprehensive framework in Articles 361 to 363, integrating both Roman-French and Islamic jurisprudential principles. The findings demonstrate that while the three systems share foundational premises, significant divergences exist regarding solidary obligations, the effects on sureties, exceptional cases, and enforcement mechanisms. The study concludes that Iran's legislature would benefit from drawing upon comparative insights to remedy existing legislative gaps.

Keywords: Ownership of liability debt, extinction of obligations, comparative law, Iranian Civil Code, Egyptian Civil Code, Lebanese Code of Obligations and Contracts.

1.Introduction

The general theory of obligations stands as one of the most fundamental pillars of civil law within any legal system. Historically, jurists have endeavored to elucidate the modes of creation, transfer, and dissolution of debtor-creditor relationships in a cohesive and logical manner. Among the various grounds for the discharge of obligations, Merger of Rights (Ownership of what is owed in one's liability) occupies a distinguished yet ambiguous position, as it is predicated upon a specific legal event: the union of the two antithetical capacities of "creditor" and "debtor" within a single person.

This legal institution is recognized across various jurisdictions under different nomenclatures: in Roman Law as Confusio, in French Law as Confusion, in English Law as Merger, and in Islamic Jurisprudence and Arabic Law as Ittihad al-Dhimmah or Inđimām al-Sifatayn.

In Iranian law, the legislator has enumerated "Ownership of what is owed in one's liability" (Merger) as one of the six grounds for the discharge of obligations under Article 264 of the Civil Code, providing its primary manifestation in Article 300 of the same Act. This provision, situated within the second book of the Civil Code under "Modes of Acquisition of Ownership," merely cites an illustrative example and fails to provide an elaborate discourse on the conditions, rules, and legal effects of this institution. Such legislative brevity has left various dimensions of this concept shrouded in ambiguity, resulting in significant statutory lacunae in areas such as joint and several obligations, the rights of third parties, and the effects on the guarantor.

Conversely, the legal systems of Lebanon and Egypt, both rooted in the Romano-French legal tradition while simultaneously drawing from the foundations of Islamic jurisprudence, have adopted more detailed approaches. The Lebanese Code of Obligations and Contracts, promulgated in 1932 during the French Mandate, and the Egyptian Civil Code, drafted in 1948 by the eminent jurist Abdel-Razzak Al-Sanhuri, have both addressed the issues of Merger with greater precision and depth.

The significance of a comparative study of this institution must be evaluated from several perspectives:

Globalization of Economy: In the contemporary era of economic globalization, cross-border commercial and financial relations are expanding, and parties to international transactions frequently interact with multiple legal systems. Understanding the jurisdictional variations regarding the discharge of obligations is essential for the proper drafting of contracts.

Shared Cultural and Legal Heritage: The legal systems of Iran, Lebanon, and Egypt share a common cultural sphere and have benefitted from the collective heritage of Islamic jurisprudence; thus, a comparative analysis can lead to a deeper understanding of common principles and points of divergence.

Legislative Reform: Comparative study can provide viable solutions for addressing Iranian legislative deficiencies in this field.

The primary inquiry of this research is: How is the concept, legal nature, conditions of fulfillment, and effects of Merger (Ownership of Debt) regulated in the legal systems of Iran, Lebanon, and Egypt, and what are their commonalities and distinctions? The hypothesis of this paper posits that despite the shared historical nexus of these three systems, significant differences exist in their legislative approaches, doctrines, and judicial precedents—the meticulous analysis of which could propose remedies for reforming the Iranian Civil Code in this area.

This research utilizes a descriptive-analytical method with a comparative approach. Data has been gathered from statutory laws, judicial rulings, doctrinal works, and scholarly research published in reputable international databases. The structure of the article follows this introduction with the literature review, theoretical framework, research findings across seven axes, and finally, the conclusion.

2. Literature Review

Scholarly studies on Merger of Rights (Ownership of what is owed in one's liability) can be categorized into two broad groups: works specifically dedicated to this institution and those addressing it within the broader context of the General Theory of Obligations alongside other modes of discharge of obligations.

In Iranian law, the first systematic analyses of Merger can be traced back to foundational civil law texts. Emami (1976), in his book "Civil Law," briefly discussed this concept within the discharge of obligations, defining it as the union of the capacities of creditor and debtor in a single person. Katouzian (2011), in "General Theory of Obligations," adopted a more analytical approach, examining the theoretical foundations and its effects on third parties. Langroudi (2003) provided a precise definition in the "Encyclopedia of Elements," which has served as a reference for subsequent research. Shahidi (2004), in "Effects of Contracts and Obligations," attempted to delineate the position of this institution within the overall framework of the Iranian law of obligations through a brief comparative study.

In more specialized fields, Bigdeli's (2007) article, "Merger in the Laws of Iran, France, Egypt, and Imamiyyah Jurisprudence," stands as a rare specialized comparative study, concluding that the Iranian legislator needs to reform and clarify provisions governing Merger. Khandani, Alikarami, and Ghasemi-Ahd (2019), in their article "The Transfer of Ownership of the Sold Item in a Generic Sale of Debt in Imamiyyah Jurisprudence, Iranian, and English Law," published in the International Legal Research Quarterly, analyzed the comparative concept of Dhimmah (Liability/Debt) and its effects on the transfer of ownership. Bozorgpour Rodbari (2024), in the article "Discharge of Obligations in Merger of Rights in Iranian Law," presented at the First International Law Conference, explored this institution in detail from the perspective of domestic law.

Regarding Lebanese legal studies, international researchers have primarily focused on the macro-structure of its legal system. Wickersham and Nsouli (1971) noted that Lebanon's civil law is anchored in the Code of Obligations and Contracts (1932), a product of the French Mandate.

GlobaLex (2014) emphasized that Lebanese courts continuously cite French and Egyptian judicial precedents when interpreting laws. Furthermore, Bechor (2007), in his analytical study on the formation of modern civil law in the Arab world, highlighted the pivotal and foundational role of Abdel-Razzak Al-Sanhuri in codifying and harmonizing the legal systems of Lebanon and other Arab nations.

In connection with Egyptian law, Wood (2020), examining Sanhuri's theory of rights in Islamic jurisprudence, elucidated his role in integrating Romano-French legal doctrines with Islamic jurisprudence, a synthesis clearly visible in institutions like Merger (Ittihad al-Dhimmah). Moreover, research published in GAR (2023) confirms that the Egyptian Civil Code is the most influential civil law in the Middle East, with Islamic jurisprudence forming the bedrock of many of its general rules. From a broader comparative perspective, Fasihi-Zadeh and Taheri (2022), in their comparative analysis of the enforcement of personal obligations, examined Iranian law against Islamic jurisprudence and international instruments, charting groundbreaking theoretical frameworks in this area. Historically, Ibbetson (2001) meticulously traced the evolution of the concept of Confusio (Merger) in Roman Law and its transmission and impact on European civil systems. Finally, Kanarik (2023), by examining the classical roots of various obligations and their modes of discharge in Roman Law, provides the necessary theoretical foundation for a deeper understanding of these legal institutions in modern systems.

In summary, a review of the existing literature indicates that despite numerous works on the general theory of obligations, a specialized comparative study addressing Merger of Rights in the legal systems of Iran, Lebanon, and Egypt is lacking. This research gap justifies the present study.

3. Theoretical Framework and Key Concepts

3.1. The Concept of "Dhimmah" in Islamic Jurisprudence and Civil Law

To accurately comprehend Merger, one must first elucidate the fundamental concept of Dhimmah (Legal Liability/Patrimony). In Islamic jurisprudence, Dhimmah refers to a person's capacity or aptitude to acquire financial rights and obligations. It is essentially a legal construct (capacity) ascribed to individuals by the Lawgiver or legislator, enabling them to be parties to obligations. In Iranian legal terminology, Dhimmah signifies the socio-economic legal personality through which individuals possess debts and claims (Katouzian, 2011). Encumbrance of the Dhimmah (Ishtighal al-Dhimmah) signifies the imposition of an obligation, while Exoneration (Bara'at al-Dhimmah) signifies release from it. Within this framework, Merger is viewed as a form of exoneration achieved through the union of two antithetical aspects of a debt relationship within a single person.

3.2. Concept and Nature of "Ownership of Debt" (Merger)

The term "Ma-fi-al-Dhimmah" translates to "that which is in the liability"—essentially, the debt owed by a person. Thus, Merger of Rights occurs when the debtor becomes the owner of the very debt they owe. This definition aligns with the concept of Confusio in Roman Law and Confusion des droits in French Law. Article 300 of the Iranian Civil Code stipulates: “If the debtor becomes the owner of what is owed in their liability, their Dhimmah is discharged.” This provision offers a precise meaning for the phenomenon of the coexistence of the capacities of creditor and debtor in a single entity (Katouzian, 2011).

Theoretically, Merger is classified as a legal event rather than a juridical act, as its realization does not require the intent to create a legal effect (qasd al-insha) by the parties; it produces its legal consequences merely upon the occurrence of specific external conditions. This characteristic distinguishes it from Remission of Debt (Abra/Release), which is a voluntary juridical act. Confusio in Roman Law shared this characteristic, producing its effects automatically once the conditions were met (Ibbetson, 2001).

3.3. Justifying Theoretical Foundations

Several theories underpin the discharge of obligations through Merger:

Extinction of Subject Matter: This theory posits that the debt relationship ceases to exist when the two opposing capacities unite in one person, as performance inherently requires two distinct parties.

Impossibility of Performance: This perspective argues that performance necessitates a person demanding from themselves, an act deemed logically impossible.

Legal and Sharia Mandate: Prominent in Egyptian and Lebanese law, this theory asserts that the law mandates discharge to prevent futile legal complexities and serve social interests (Al-Sanhuri, 1948).

3.4. Classification within the Modes of Discharge of Obligations

Article 264 of the Iranian Civil Code enumerates six modes for the discharge of obligations: Performance, Mutual Rescission (Iqala), Remission (Abra), Novation (Tabdil-e-Taaahhod), Set-off (Tahator), and Merger (Malekiyat-e-Ma-fi-al-Dhimmah). This classification, rooted in Imamiyyah jurisprudence with discernible French influence, places Merger alongside Set-off. Both institutions involve a confluence of rights; however, their fundamental difference lies in that Set-off extinguishes two opposing debts, whereas Merger dissolves a single debt relationship by the unification of its parties. Similar structures are found in Lebanese and Egyptian law, where Merger is listed after Set-off as a mode of obligation extinction, underscoring their close relationship within the general theory of obligations.

3.5. Distinction from Related Concepts

To accurately analyze Merger, it must be distinguished from adjacent concepts:

Distinction from Set-off: Set-off involves two distinct debts between two independent parties that cancel each other out. In contrast, Merger pertains to a single debt where both creditor and debtor capacities unite in one person.

Distinction from Remission: Remission is a voluntary act by the creditor to forgo their right. Merger, however, arises from external events such as inheritance or contract assignment.

Distinction from Transfer of Obligation: Transfer of obligation merely substitutes one party for another. Merger, on the other hand, leads to the complete extinguishment of the obligation.

4. Findings

4.1. Merger of Rights in the Iranian Legal System: Foundations, Conditions, and Rules

The Iranian Civil Code addresses Merger of Rights in Articles 264 and 300. Article 264 lists it as the sixth ground for the discharge of obligations, while Article 300 explains its principal instance: "If the debtor becomes the owner of what is owed in his Dhimmah, his liability is discharged; for example, if a person is indebted to his predecessor in estate, then upon the latter's death, the debt is extinguished in proportion to the debtor's share of inheritance" (Iranian Civil Code, 1928, Art. 300).

According to Iranian legal doctrine, the conditions for the realization of Merger of Rights, as derived from the interpretation of these provisions and from juristic sources, are as follows: first, the existence of a valid obligation between two persons; second, the transfer of one of the two positions arising from the obligation—either the claim or the debt—to the other party; and third, the union of both capacities in one and the same person. Such union may occur through inheritance, testamentary disposition, contractual transfer, or gift (Katouzian, 2011: 412–415).

Under Article 300 of the Civil Code, the effect of Merger of Rights in cases of succession is proportional to the heir's share and does not amount to the complete and immediate extinction of the debt. This feature indicates that Merger of Rights in Iranian law may be partial; that is, the obligation is extinguished only to the extent that the two corresponding legal capacities are united in a single person. This approach differs from those legal systems that provide for the total extinction of the obligation.

One of the major challenges in the Iranian legal system in this regard is the silence of the law concerning the effects of Merger of Rights vis-à-vis third parties, particularly guarantors. Article 404 of the Civil Code contains no explicit rule on this issue, and legal scholars have sought to fill this gap by reference to the general principles of the law of obligations and to juristic foundations.

Shahidi (2004: 215) argues that the extinction of the principal obligation through Merger of Rights should also extinguish the accessory guarantee, because the guarantor's obligation is dependent upon the principal obligation. Katouzian (2011: 416) likewise endorses this view, while emphasizing that Iranian law remains seriously ambiguous in this respect and that legislative reform is needed.

Furthermore, with regard to joint and several obligations, the Iranian Civil Code has not prescribed a specific rule for Merger of Rights. In light of Article 403 of the Civil Code, which provides that set-off in relation to one joint debtor benefits the others, it may be argued that this rule is also applicable to Merger of Rights. However, such reasoning is analogical in nature, and no express statutory provision exists (Bozorgpour Rodbari, 2024: 5–7).

In Iranian judicial practice, decisions concerning Merger of Rights are relatively scarce. Nevertheless, the rulings of the Supreme Court in matters of succession generally proceed on the basis of proportionality to the heir's share and thereby confirm the position adopted in legal doctrine. One of the important rulings in this area concerned a dispute over an inherited claim, in which the Supreme Court expressly held that the effect of Merger of Rights is confined to the heir's proportionate share in the estate, neither more nor less.

4.2. Merger of Rights in the Lebanese Legal System: Structure, Conditions, and Characteristics

In the Lebanese legal system, the Civil Code—namely the Code of Obligations and Contracts—as the principal source of private law, sets out a relatively precise framework for the discharge of obligations. Although this code does not use the specific term Merger of Rights as an independent heading, Articles 1300 and 1301 provide the basis for this institution.

Article 1300 of the Lebanese Civil Code provides that whenever the capacities of creditor and debtor are united in one and the same person, the obligation is extinguished. This provision effectively offers a definition of Ittihad al-Dhimmah, or Merger of Rights. Lebanese jurists such as Edouard Eid have emphasized that this concept was adopted under the influence of the French Civil Code. The legal structure of Lebanon indicates that this institution constitutes a compulsory mode of terminating a legal relationship. The underlying reason is that logic dictates that a person cannot be indebted to himself. Therefore, once unity of person occurs, the legal relationship disappears (Eid, 2003: 115).

It should be added that, for Merger of Rights to arise under Lebanese law, certain specific conditions must be met, the most important of which is the essential unity between creditor and debtor. This unity must occur in respect of one single obligation and in one single person. The causes giving rise to this situation under Lebanese law are similar to those recognized in French law and consist mainly of inheritance, testamentary disposition, and contract. Succession is the most common cause of this situation, as where the debtor becomes the heir of the creditor, or vice versa. In such a case, debts are merged in the Dhimmah of the heir or the deceased's estate. Lebanese jurists maintain that if such unity occurs only with respect to part of the debt, only that part is extinguished. Another condition is the absence of impediments, such as the rights of third parties. If a third-party right has attached to the debt, Merger of Rights cannot operate to that third party's detriment (Yakan, 1999: 248).

It may also be observed that Lebanese judicial practice, in line with legal theory, adopts the principle that the obligation is extinguished in full where Merger of Rights is realized. Lebanese courts have consistently insisted that this institution has an automatic and immediate effect. In other words, as soon as the conditions for unity of Dhimmah are satisfied, the obligation is extinguished without any need for judicial intervention or declaration by the parties. This approach has been adopted in order to create certainty in economic relations and to prevent unnecessary prolongation of futile litigation. Nevertheless, in cases involving a third party such as a guarantor, judicial practice shows greater caution. Courts examine whether such extinction of the obligation has impaired the guarantor's rights. If the guarantor is discharged as a consequence of unity of Dhimmah in the person of the principal debtor, this appears logical; however, where prejudice is caused, judicial practice may take a different approach (Mansour, 2015: 92).

As to the legal effects and consequences of Merger of Rights in Lebanon, the most important effect is the complete extinction of the obligation and its accessories. This extinction includes the principal debt, interest, and costs of execution. Nonetheless, this effect requires a subtle distinction in relation to guarantors. If unity of Dhimmah occurs in the person of the principal debtor, the guarantor is likewise released, because the essential purpose of the guarantee was to secure the payment by the principal debtor. However, if unity of Dhimmah occurs in the person of the guarantor—for example, where the guarantor becomes the creditor's heir—only the guarantor's obligation is extinguished, while the principal debtor remains liable. This distinction is clear in Lebanese law and prevents confusion in the discharge of debts. Moreover, if Merger of Rights arises from a contract and that contract is later annulled, the obligation is not revived unless the legislature has provided for an exception (Eid, 2003: 118).

It should further be noted that, despite the general rule of extinction of the obligation, Lebanese law imposes certain limitations in order to preserve the rights of third parties. The most important exception arises where a third-party right has attached to the debt. For example, where a claim is subject to a pledge or collateral, unity of Dhimmah cannot operate to the detriment of the holder of the security right. Likewise, in commercial matters, in order to preserve the financial balance of companies during mergers, precise registration of the merger may be required so that, from an accounting perspective, the companies' assets remain clearly identifiable. Lebanese jurists emphasize that, in such cases, unity of Dhimmah alone is not sufficient and that administrative procedures must also be observed. These limitations reflect the subtlety of the Lebanese legal system in safeguarding justice between the parties and third persons (Yakan, 1999: 250).

In conclusion, Merger of Rights in Lebanese law is a solid and efficient institution for the settlement of obligations. Grounded in Articles 1300 and 1301 of the Civil Code, it occupies a definite place in the Lebanese legal system. Its similarities to Iranian law on the one hand and French law on the other demonstrate the interconnection of these systems in the foundations of private law. Although Arab legal systems such as Egypt and Iraq place greater emphasis on Islamic jurisprudence, the ultimate result in all of them is the extinction of the obligation. Lebanese judicial practice, by embracing the theory of discharge, has contributed to legal stability. Accordingly, Merger of Rights is not merely a theoretical concept but an effective legal reality in Lebanese financial relations, requiring a precise understanding of its conditions and effects in order to prevent the impairment of rights.

4.3. Merger of Rights in the Egyptian Legal System: Al-Sanhuri's Comprehensive Approach

The Egyptian Civil Code, enacted as Law No. 131 of 1948, represents a turning point in the history of Arab law. Drafted by Abd al-Razzaq al-Sanhuri, one of the foremost jurists of the Arab world, this code constitutes an elegant synthesis of the principles of the French Civil Code and the foundations of Islamic jurisprudence. By employing the comparative method, al-Sanhuri sought to create a legal system that would both accord with Islamic traditions and satisfy the standards of modern global law. Within this framework, the institution of Merger of Rights is expressly and more comprehensively regulated in Articles 361 to 363 of the Egyptian Civil Code than in many other legal systems. These provisions state not only the general principle of extinguishment, but also its effects on joint and several obligations and guarantees. This approach demonstrates al-Sanhuri's meticulous effort to create a coherent legal system, one that has served as a model for many countries in the region (Sanhuri, 1964: 140).

It should be noted that Article 361 of the Egyptian Civil Code formulates the general principle of Merger of Rights as follows: "Whenever the two capacities of creditor and debtor are united in one person, the obligation is extinguished to the extent of such union." This provision emphasizes that the extinction of the obligation occurs in proportion to the extent of the unity of Dhimmah: where the union is complete, the obligation is extinguished in full; where it is partial, only that part is extinguished. Article 362 addresses the effects of this institution in joint and several obligations and provides that Merger of Rights arising in the person of one of the joint debtors extinguishes the obligation only in proportion to that debtor's share. This precise elaboration reduces the ambiguities found in other legal systems. Article 363 further sets out the effect of the extinction of the principal obligation on the guarantor's obligation and establishes a rule that protects the guarantor's interests under certain circumstances (El-Kholy, 2010: 92).

With regard to the requirement of non-prejudice to third parties and the protection of third-party rights, one of the most important features of the Egyptian legal approach is its careful attention to this condition. The Egyptian Civil Code makes it clear that Merger of Rights cannot prejudice rights that have already vested in third parties. This rule, referred to as the protection of third-party rights, reflects a higher level of legislative precision in comparison with certain other legal systems. In this respect, if the creditor, prior to the union of the two capacities in one person, has transferred the claim to another person by way of assignment, that third party may still enforce the claim. In such a case, Merger of Rights cannot be set up to that third party's detriment, because the third party's right takes precedence. This approach demonstrates that the legislator's objective is not merely the elimination of futile obligations, but also the preservation of equilibrium in economic relations and the prevention of prejudice to accrued rights (Mansour, 2015: 115).

It should also be added that al-Sanhuri, in explaining the nature of Merger of Rights, stood in opposition to certain juristic schools that had adopted the theory of the "suspension" or "dormancy" of the obligation. Emphasizing legal rationality and the need for stability in commercial relations, al-Sanhuri endorsed the theory of complete and immediate extinction. He argued that if the obligation were merely suspended, economic relations would be affected by uncertainty, contrary to the public interest. Accordingly, Egyptian judicial practice, in line with al-Sanhuri's view, has accepted the principle of the permanent extinction of the obligation.

Nevertheless, in relation to guarantors, there is a subtle distinction: if unity of Dhimmah occurs in the person of the principal debtor, the guarantor is discharged; but if it occurs in the person of the guarantor, the principal debt remains, and only the guarantor's obligation is extinguished. This careful distinction in legal effects demonstrates the maturity of the Egyptian legal system in responding to complex legal problems (Sanhuri, 1964: 148).

In conclusion, Merger of Rights in Egyptian law is a robust and precise institution designed by al-Sanhuri with exceptional care. By virtue of Articles 361 to 363 of the Civil Code, it offers a clear framework for bringing futile legal relationships to an end. The emphasis on the condition of non-prejudice to third parties, and the differentiation of its effects in joint and several obligations and guarantees, reveal the legal subtlety of the Egyptian system. Al-Sanhuri's approach to the extinction of obligations has contributed to economic stability and confidence in financial relations. This system has been relied upon not only in Egypt, but also as a model for other Arab countries. Thus, Merger of Rights in Egyptian law stands as an example of the successful combination of modern legal rationality and the practical needs of society, and continues to function as an effective institution within that legal system.

4.4. Comparative Analysis of the Conditions for Realization in the Three Systems

A comparative analysis of the conditions for the realization of Merger of Rights in the legal systems of Iran, Lebanon, and Egypt shows that all three systems share the same fundamental principles, while differing in detail.

The first condition in all three systems is the existence of a valid obligation. Each system recognizes that the obligation must have been valid and effective from the outset in order for Merger of Rights to extinguish it. A void obligation, or one that has already been extinguished on another ground, leaves no room for Merger of Rights.

The second condition is the actual union of the two capacities in one person. This union must be real rather than merely apparent or temporary. In Egyptian law, al-Sanhuri emphasized that the union must be definitive and final, and that a conditional or temporary union does not result in the extinction of the obligation (al-Sanhuri, 1948: 848). The same rule may also be inferred from legal doctrine in Iran and Lebanon, although there is no equally clear statutory statement. In this respect, Egyptian law is more detailed legislatively.

The third condition, stated with greater clarity in Egyptian and Lebanese law, is the absence of prejudice to third parties. This means that the union of the two capacities must not become a means of evading obligations owed to third parties. In Iranian law, Article 299 of the Civil Code sets out such a rule in relation to set-off; however, no corresponding express provision exists with respect to Merger of Rights, and recourse must therefore be had to general principles.

The fourth condition, which is found more in doctrine than in statutory text, is the susceptibility of the subject matter of the debt to ownership. The object of the obligation must be capable of being owned. Obligations whose object consists in the performance of a purely personal act do not fall within the scope of Merger of Rights, even if the two parties are united in the same person. This rule may be derived from all three systems.

Bigdeli (2023: 65), in his comparative study, emphasizes that the Iranian Civil Code, in comparison with French and Egyptian law, displays less detail and precision in regulating the conditions of Merger of Rights, and that this deficiency has led to ambiguities in judicial practice.

4.5. The Effects of Merger of Rights with Respect to Guarantors and Third Parties in the Three Systems

The issue of the effects of Merger of Rights with respect to guarantors and third parties is one of the most challenging areas of this discussion, and the three legal systems under examination display significant differences in this regard. In Egyptian law, Article 363 of the Civil Code expressly provides that the extinction of the principal obligation through Merger of Rights also extinguishes the guarantor's obligation. This rule is based on the principle of the accessory nature of guarantee and rests on a strong legal rationale: the guarantor's obligation exists in support of the principal obligation, and once the principal disappears, the accessory must likewise disappear. The converse, however, is also expressly provided for in Egyptian law: where Merger of Rights occurs in the person of the guarantor, the principal obligation of the debtor is not extinguished, and only the obligation arising from the guarantee is discharged. This precise distinction reflects the high level of legislative refinement in Egypt.

In Lebanese law, the Code of Obligations and Contracts adopts an approach similar to that of Egypt. Unity of Dhimmah occurring in the person of the principal debtor or the creditor results in the discharge of the guarantor's obligation as well; however, unity of Dhimmah occurring in the person of the guarantor extinguishes only the guarantee obligation, while the principal obligation remains intact. This rule is derived from French legal standards and is consistent with the general principles of the law of obligations.

In Iranian law, the situation is considerably more ambiguous. The Civil Code contains no explicit provision on this issue, and legal doctrine has attempted to derive a solution from general principles. Katouzian (2011: 416) argues that, since the extinction of the principal obligation through any ground of discharge should also result in the extinction of the guarantee, Merger of Rights cannot be treated as an exception to this rule. Yet this conclusion is inferential and has not been expressly stated by the legislator, which may give rise to divergence in judicial practice.

As regards other third parties, including creditors who hold an attachment right over the property constituting the subject matter of the debt, all three systems agree on the principle that Merger of Rights cannot prejudice vested third-party rights. Nevertheless, the level of legislative precision in this respect decreases from Egypt to Iran, the Iranian Civil Code being the least explicit of the three.

4.6. Merger of Rights in Joint and Several Obligations: A Comparison of the Three Systems

One of the most important areas of divergence among the three legal systems under review concerns the rules governing Merger of Rights in joint and several obligations. This issue is of particular importance in complex commercial relations and multi-party contracts.

In Egyptian law, Article 362 of the Civil Code precisely provides that if one of the joint and several debtors becomes the owner of what is owed in his own Dhimmah, the obligation is extinguished only in proportion to that debtor's share. The other joint and several debtors remain bound to perform the obligation; however, the creditor may no longer claim from the debtor in whom Merger of Rights has occurred more than what remains recoverable from the others, since that portion has already been extinguished through merger. This rule is consistent with the principle of solidarity, because although each joint debtor is liable for the whole debt vis-à-vis the creditor, in the internal relationship among debtors each is liable only to the extent of his own share.

Lebanese law adopts a similar approach. Inspired by French law, the Code of Obligations and Contracts provides a rule comparable to that of Egypt, under which Merger of Rights affecting one of the joint and several debtors does not extinguish the obligation in its entirety, but only removes that debtor's share.

In Iranian law, this issue gives rise to serious difficulty. Article 403 of the Civil Code provides that in joint and several obligations, if set-off takes place with respect to one debtor, the others are discharged to the same extent. In view of the close connection between set-off and Merger of Rights, this rule may arguably be extended by analogy to the latter as well. However, because the law contains no express provision to that effect, the matter remains controversial in legal doctrine. Some jurists, emphasizing unity of rationale, consider Article 403 applicable by analogy (Shahidi, 2004: 220), whereas others insist upon the necessity of an express legislative statement (Katouzian, 2011: 418).

A comparative analysis of this issue shows that the precision and detail with which the Egyptian Civil Code regulates the effects of Merger of Rights in joint and several obligations are particularly noteworthy and may offer a suitable model for reform of the Iranian Civil Code.

4.7. The Juristic Foundations of Merger of Rights and Their Reflection in the Three Legal Systems

An examination of the juristic foundations of Merger of Rights is of particular importance in the comparative study of the legal systems of Iran, Lebanon, and Egypt, because all three systems, despite differences in legislative structure, have drawn upon the rich heritage of Islamic jurisprudence in the formulation of their civil rules. Indeed, this legal institution—known in classical juristic literature under such expressions as Ittihad al-Dhimmah (unity of Dhimmah), Indimam al-Sifatayn (union of the two capacities), or extinction of debt by succession—is rooted in a firm juristic logic according to which the continuation of an obligational relationship between a person and himself is impossible.

In Imamiyyah jurisprudence, which constitutes the principal foundation of the Iranian Civil Code, Merger of Rights is accepted as a compulsory legal reality. Imamiyyah jurists maintain that Dhimmah is a notional legal receptacle for debt, and that such receptacle acquires meaning only in relation to an "other." Once the debtor becomes the owner of what is owed in his own Dhimmah, the subject matter of the claim is effectively extinguished. In his analysis of these foundations, Katouzian observes that the Iranian legislator, in Article 300 of the Civil Code, has, precisely in accordance with the dominant opinion of the jurists, selected succession as the clearest example of this institution. In Imamiyyah jurisprudence, the discharge of liability resulting from Merger of Rights is not regarded as a voluntary remission, but rather as a compulsory extinction whose effects arise immediately upon the occurrence of its cause, such as the death of the deceased (Katouzian, 2011: 412).

In Sunni jurisprudence, particularly in the Hanafi school, which has significantly influenced the Egyptian legal system and parts of Lebanese obligation law, this institution is explained under the notion of Istihalat al-Mutalabah (the impossibility of claim). Hanafi jurists argue that a debt is a right established in the debtor's liability in favor of the creditor; therefore, if creditor and debtor become one person, the claim—which constitutes the essential element of the debt—becomes impossible, and with the impossibility of claim, the debt itself is extinguished. In drafting the Egyptian Civil Code, Abd al-Razzaq al-Sanhuri uniquely combined this juristic understanding with Romano-French legal doctrine. In Al-Wasit, he explains that Article 361 of the Egyptian Civil Code, although outwardly similar to European codes, is substantively fully consistent with the juristic theory of the extinction of obligation by reason of the union of capacities (Sanhuri, 1964: 841). Al-Sanhuri believed that Islamic jurisprudence in this respect was not merely equal to modern law, but indeed offered stronger theoretical foundations through its careful distinction between the "right itself" and the "power to claim it" (Wood, 2020: 870).

In the Lebanese legal system, the reflection of juristic foundations may likewise be observed alongside the French structure of the Code of Obligations and Contracts (1932). Although Lebanon, under the French Mandate, adopted a Romano-French framework in the law of obligations, juristic influences—especially those of the Majallat al-Ahkam al-'Adliyyah of the Ottoman period—remain visible in the deeper layers of the legal order and, in particular, in judicial practice. Lebanese jurists such as Zouheir Yakan argue that Merger of Rights under Articles 1300 and 1301 of Lebanese law reflects the same juristic rule that regards the persistence of debt in the case of unity of parties as contrary to financial public order (Yakan, 1999: 245). In effect, Lebanon has maintained a kind of equilibrium between "modern civil order" and "classical juristic heritage," treating the effect of unity of Dhimmah, as in jurisprudence, as the definitive extinction of the obligation (Mansour, 2015: 88).

One of the most sensitive points at which juristic influence appears in all three systems concerns the partial nature of Merger of Rights. In all three systems, under the influence of the rules of succession in Islamic jurisprudence, it is accepted that if the debtor inherits only part of the claim, the debt is extinguished only to that extent. This rule, expressly stated in Article 300 of the Iranian Civil Code and Article 361 of the Egyptian Civil Code, is rooted in the juristic principle that the extinction of obligation follows the extent of ownership over the claim. The subtle difference here is that the Egyptian Civil Code, relying on al-Sanhuri's analysis, extends this juristic principle to joint and several obligations and provides precise rules for it in Articles 362 and 363, whereas the Iranian Civil Code remains comparatively indeterminate in translating this rule from jurisprudence into modern statutory form.

Moreover, with regard to the effects of Merger of Rights on guarantors, all three systems follow the juristic principle that the accessory follows the principal. In Islamic jurisprudence, guarantee is an accessory right, and with the extinction of the principal debt the guarantor's liability is likewise discharged. This juristic rule appears in the form of express statutory provisions in Egyptian and Lebanese law (Article 363 of the Egyptian Civil Code and Article 1301 of Lebanese law). In Iranian law, although there is no express provision concerning Merger of Rights, jurists have reached the same conclusion by relying on the same juristic foundations and by analogy to other grounds for the extinction of obligations (Shahidi, 2004: 218). This demonstrates that jurisprudence functions in Iran as a supplementary source and as a governing spirit filling legislative gaps, whereas in Egypt and Lebanon these juristic foundations have been transformed into a codified legal system.

In conclusion, a comparison of the juristic foundations and their reflection in the three systems shows that the Egyptian legal system has been more advanced than those of Iran and Lebanon in extracting and reformulating juristic principles in the form of modern statutory rules. Al-Sanhuri succeeded in combining the juristic concept of Ittihad al-Dhimmah with the French notion of confusion in such a manner that no contradiction remained between juristic authenticity and legal efficiency. Iran, although substantively the closest to Imamiyyah jurisprudence, has displayed a certain legislative stagnation in transforming these concepts into clear and detailed rules for contemporary complex relations, such as solidarity and third-party rights. Lebanon, while relying on a Western legal structure, nevertheless continues in interpretation and application to draw upon the juristic logic of extinction of obligations in order to preserve commutative justice.

Conclusion

This study set out to provide a comparative examination of Merger of Rights (unity of Dhimmah) in the legal systems of Iran, Lebanon, and Egypt. Its findings may be summarized along the following lines.

First, all three systems converge on the core principle of Merger of Rights: where the two capacities of creditor and debtor unite in a single person, the obligation is extinguished. This principle—sharing roots in Roman law, French law, and Islamic jurisprudence—is recognized across the three jurisdictions. Such convergence is neither accidental nor merely imitative; rather, it reflects a fundamental logical premise, namely that a person cannot validly claim against himself.

Second, notwithstanding agreement on the general rule, the three systems differ markedly in legislative detail and precision. The Egyptian Civil Code, largely due to al-Sanhuri's drafting genius and his comparative methodology, displays greater coherence and elaboration. It regulates with clarity the operation of Merger of Rights in joint and several obligations, in relations involving guarantors, and vis-à-vis third parties. The Lebanese Code of Obligations and Contracts occupies an intermediate position: it is less refined than the Egyptian code, yet more detailed than the Iranian approach. By contrast, the Iranian Civil Code, confining itself to two brief provisions, leaves substantial ambiguity regarding solidarity, the effects on guarantors, and the protection of third-party rights.

Third, the relationship between juristic foundations and modern codification varies across the three systems. Egypt represents the most successful model of integrating Islamic jurisprudence with Romano-French doctrine. Iran has drawn extensively on the legacy of Imamiyyah jurisprudence, yet this influence has not been fully translated into precise legislative drafting. Lebanon, shaped by a plural social structure, relies more heavily on French law in the law of obligations, while still not entirely disregarding juristic currents.

Fourth, the research indicates that judicial practice plays an important role in addressing statutory ambiguity in all three systems. This role, however, is more compelled in Iran than in Lebanon and Egypt, since Iranian law contains broader lacunae that must be bridged through adjudication.

Fifth, the comparative analysis demonstrates that reform of the Iranian Civil Code in this area is necessary. Concrete proposals include: (a) expressly providing that extinction of the principal obligation through Merger of Rights also extinguishes the guarantor’s obligation; (b) explicitly regulating the operation of Merger of Rights in joint and several obligations; © adopting a clear rule protecting third parties against abuse of this institution; and (d) clarifying the permissibility and consequences of partial merger and partial discharge.

Overall, the present study concludes that, despite historical and cultural proximity and reliance upon a shared juristic heritage, the legal systems of Iran, Lebanon, and Egypt exhibit substantial gaps in the statutory regulation of Merger of Rights. The most significant divide lies between Egypt, on the one hand, and Iran, on the other: Iran has yet to remedy lacunae that were identified decades ago. This situation suggests that legislative reform in Iran is not merely an academic recommendation but a practical necessity, one that directly affects the security and predictability of citizens’ legal relations.

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