

قانون مدنی ایران به انگلیسی

## **IRANIAN CIVIL CODE**

### **SUB-SECTION II**

**Concerning the rights and privileges  
appertaining to a property in relation  
to adjacent property.**

#### **Article 109.**

A wall situated between two properties is considered as common property of the owners of the two properties, unless there is an indication or reason to the contrary.

#### **Article 110.**

Building by placing marks and pavement or the placing of a beam, are among the indications which denote occupation and exclusive rights.

#### **Article 111.**

Wherever there are buildings adjoining the wall in a permanent manner on both sides, or beams are placed on the wall is on both sides, the wall deemed common property unless the contrary is proved.

#### **Article 112.**

Wherever there are circumstances of exclusive right on one side only, the whole wall is deemed to belong to the owner of that side, unless the contrary is proved.

#### **Article 113.**

**Expenses** in connection with a common wall are a charge upon those who have a share in it.

**Article 114.**

Neither of the partners can oblige the other to build or repair a common wall, unless there is no other method of avoiding loss.

**Article 115.**

In a case where a common wall is damaged and one of the partners refuses to repair it or to allow it to be taken in hand for common building operations, the other partner can repair his own special part of the wall.

**Article 116.**

If one of the partners agrees to the other taking the wall in hand for building operations, but declines to bear the expense, the other partner can repair the wall, and in this case, if the new fabric is made with common materials, the wall will be a common wall, otherwise it belongs to the partner who has repaired it.

**Article 117.**

If one of the partners damages a common wall and the damaging of it was unnecessary, he must rebuild what he has destroyed.

**Article 118.**

Neither of the two partners has the right to raise a common wall, or to impose a structure or place a beam on it, or to open a window or a niche in it, or make any kind of change, except with the permission of the other partner.

**Article 119.**

If one of the partners has beams on a common wall, he cannot change their position and place them on another part of the wall without the consent of the other partner.

### **Article 120.**

If the owner of a wall gives his neighbour permission to place a beam upon his wall or to build on it, he can withdraw his permission whenever he pleases, unless he has bound himself to forego this right.

### **Article 121.**

If someone has placed a beam upon a wall with the permission of the owner of the wall, and then removes it, he cannot replace it except with fresh permission from the owner of the wall; and the same applies to other encroachments.

### **Article 122.**

If a wall is leaning over towards another property or a highway, or the like, in such a way that it is near to collapsing, the owner of it is obliged to pull it down.

### **Article 123.**

If a house or a piece of land is divided between two persons, one of them cannot oblige the other to join with him in erecting a wall between the two parts.

### **Article 124.**

If a beam of a building has in the past rested on a neighbour's private wall and the past history of this occupation is unknown, it must remain in its former state, and if by reason of the decay of the building, the beam is removed, the owner of the building can renew it, and the neighbour has no right to prevent him from doing so, unless he proves that the former state of affairs had been brought into being solely by his permission.

### **Article 125.**

If a lower storey belongs to one person and an upper storey to someone else, each of the owners can make normal use of his

own special part, but as regards the ceiling between the two storeys, each of the owners can use the floor or ceiling of his own special part only in such normal way as not to interfere with the rights of the other.

#### **Article 126.**

The owner of a lower apartment and the owner of an upper apartment are acknowledged as the sole possessors of the walls of the lower and upper apartments respectively, and as the joint possessors of the ceiling between the two apartments.

#### **Article 127.**

An upper staircase is accounted the property of the owner of the upper storey, unless the contrary is proved.

#### **Article 128.**

Neither of the owners of an upper and lower storey can oblige the other to repair, or help to repair, their walls and ceiling.

#### **Article 129.**

If a ceiling between an upper and lower apartment is damaged and the two owners do not agree as to its repair, and no binding agreement between them has formerly existed, and if one of the owners repairs the ceiling as a pious act, the ceiling is a common one if it has been made with common materials, and belongs to the person who has built it, if made with private materials.

#### **Article 130.**

No person possesses the right to put up a projecting porch on his house overlooking his neighbour's courtyard without the latter's permission; and if he has put up such a porch without permission, he will be obliged to remove it.

#### **Article 131.**

If a branch of someone's tree enters the courtyard of his

neighbour's house or into his land, the owner must bend it back, and if he does not, his neighbour can bend it back, and if this does not succeed, he can cut it away from the boundary of his property; and these provisions apply also to roots of trees which enter another's property.

#### **Article 132.**

A person cannot make use of his property in such a manner as necessarily to involve a neighbour in loss, except such use as is customary and is required in order to satisfy his needs or to avoid loss.

#### **Article 133.**

A person cannot put a door in a wall of his house leading to a neighbour's house, even if the wall is his private property; but he can make an aperture or a lattice in his own private wall, and his neighbour has no right to prevent him, but can put up a wall or a curtain in front of the aperture or lattice to prevent his seeing through it.

#### **Article 134.**

None of the partners in a ferry or a water-course can prevent the other partners from crossing it or taking water away.

#### **Article 135.**

Trees, pits and the like, which separate properties will be subject to the same provisions as party walls.

### **SUB-SECTION III**

### **CONCERNING THE "BORDERS" (HARIM) OF PROPERTIES**

#### **Article 136.**

The borders (harim) of a quantity of land are the boundaries of the property, the water channels, the streams and the like, which are necessary for the complete exploitation of the land.

#### **Article 137.**

The "borders" of a well are 20 *gaz* for drinking water and 30 *gaz* for cultivation.

### **Article 138.**

The "borders" of a spring or a water channel (*qanât*) are 500 *gaz* on all sides in loose earth, and 250 *gaz* in hard earth; but if the distances mentioned in this and the preceding article are not enough to avoid loss, distances to the extent required to prevent loss shall be added to them.

### **Article 139.**

"Borders" are governed by the provisions applicable to the property of the owner of the "borders" and any occupation or use of them which is contrary to the purpose of the "borders" is invalid without permission from the owner; and therefore nobody can dig a well or a water-channel (*qanât*) within the borders of another spring or channel. but activities which do not cause loss are permissible.

## **BOOK 2**

### **CONCERNING THE CAUSES OF ACQUISITION**

#### **Article 140.**

Ownership is acquired:

- (1) By the cultivation of waste land and the annexation of unclaimed things.
- (2) By means of contracts and agreements.
- (3) By acquisition in virtue of a right of pre-emption.
- (4) By inheritance.

#### **Part I**

### **CONCERNING THE CULTIVATION OF WASTE LAND AND THE ANNEXATION OF UNCLAIMED THINGS**

#### **CHAPTER I**

### **CONCERNING THE CULTIVATION OF WASTE & UNCLAIMED LANDS**

#### **Article 141.**

Actions directed towards the reclamation of land are

those which make waste and unclaimed land profitable by means of operations which are included by custom under the heading of cultivation, such as husbandry, tree-planting, building etc.

#### **Article 142.**

To begin to cultivate land e.g. by arranging stones round a plot or by digging a well etc., is called (tahjír) and does not bring about ownership; but it creates for him who has performed the tahjír, a prior right to carry out the cultivation.

#### **Article 143.**

A person who cultivates with the intention of taking possession thereof, a part of a stretch of waste and unclaimed land, becomes the owner of that part.

#### **Article 144.**

The reclamation of the boundaries of a piece of land involves the ownership of the middle of it also.

#### **Article 145.**

The cultivator must observe in every respect the other laws relating to this subject.

### **CHAPTER 2**

### **CONCERNING THE ANNEXATION OF UNCLAIMED THINGS**

#### **Article 146.**

“Annexation” means occupation and laying hands upon a thing, or the preparation of the means of annexation or occupation.

#### **Article 147.**

A person who annexes unclaimed goods and observes the relevant laws becomes the owner of them.

#### **Article 148.**

A person who digs a canal in a piece of unclaimed land and joins it to a river has made that canal and becomes the owner of it; but while it is still separate from the river it is counted as "tahjir".

#### **Article 149.**

If a person digs a stream or a channel for the purpose of annexing unclaimed water, the unclaimed water which flows into this stream or channel belongs to the owner of the channel, and another stream cannot be opened from it, or land watered by it, without the owner's permission.

#### **Article 150.**

If several persons are partners in the digging of a channel or a well, they become the owners of the water in proportion to the labour and expense which has been effective in bringing about improvements, and the water will be divided between them in the same proportion.

#### **Article 151.**

None of the partners can open up another channel from a common channel, or broaden or narrow the mouth of a stream or build a bridge or a mill over it, or plant trees beside it, or make any use of it, except with the permission of the other partners.

#### **Article 152.**

If the appointed share of water of one of the partners in a common stream flows into a private channel belonging to him, that water becomes his private property, and he can use it in any way.

#### **Article 153.**

If a stream is common to a number of people, and there is a dispute about the size of each man's share, they shall be

judged to have equal shares, unless there exists a reason for the share of some of them to exceed others.

#### **Article 154.**

A person cannot carry water to his property across the property of another person without the latter's permission, even if there is no other route.

#### **Article 155.**

Everyone has the right to irrigate his land from an unclaimed stream or to open up another stream from it for his land or his mill or his other needs.

#### **Article 156.**

If the water of a stream is not enough to irrigate all the land round it and the owners of the land are in dispute about priority and non-priority, and none of them can prove a right of priority, every piece of land which is nearer to the source of the water shall, in due order, have right of priority over land which is lower down, to the extent of its needs.

#### **Article 157.**

If two pieces of land on both sides of a stream are also situated opposite each other and the right of priority of one over the other is not established, and both owners wish to draw water at the same time, and the water is not enough for both, they must draw lots for priority in drawing water in proportion to their shares, and if the water is enough for both, they will divide it in proportion to their shares.

#### **Article 158.**

If the dates of the beginning of cultivation of lands bordering on a river are different, the land first cultivated has a prior claim to the water over land cultivated later, even though it is situated lower than the latter.

### **Article 159.**

If a person wishes to cultivate for the first time a piece of land bordering on a river, and there is a surplus of water and the owners of the existing plots will not be hampered, he can irrigate the new land with the water from this river; otherwise he has no right to draw water, even if his land is higher than the other lands.

### **Article 160.**

If a person digs a qanát or a well in his own land or in unclaimed land for the purpose of annexing it, in order that he shall reach water or cause water to flow, he becomes the owner of the resulting water, but so long as he has not struck water in unclaimed land, his activities are accounted a tahjír.

## **CHAPTER 3**

### **CONCERNING MINES**

### **Article 161.**

A mine situated in somebody's land belongs to the owner of the land, and the working of it will be subject to special laws.

## **CHAPTER 4**

### **CONCERNING FOUND ARTICLES AND STRAY ANIMALS**

#### **SECTION 1**

### **CONCERNING FOUND ARTICLES**

### **Article 162.**

A person who finds an article worth less than ten shahis can take possession of it.

### **Article 163.**

If the article discovered is worth ten shahis or more the finder must announce the find for one year; if the owner of the

article does not appear within this time, the finder is empowered to keep it in trust or to make use of it. In the event of his keeping it in trust and it is destroyed through no fault of his, he will not be responsible for it.

#### **Article 164.**

An announcement of the finding an article consists in publishing and advertising, based on the required indications of time and place, in such a way that the finding of the article is brought to the notice of the inhabitants of a place in a customary way.

#### **Article 165.**

Anyone who finds an article in a deserted or ruined place, which is uninhabited and which is not privately owned, can take possession of such an article and need not announce it, unless it is evident that it belongs to modern times, in which case it will be considered in the same way as other articles found in inhabited places.

#### **Article 166.**

If anyone finds an article on another's property or on property that has been bought from another and presumes that the article belongs to the proprietor or the former proprietors, he must inform them. If these proprietors claim the article and if there is some proof of their ownership, the article must be returned to them. Otherwise the finder must deal with the article in the manner already prescribed.

#### **Article 167.**

If an article found is not durable but is perishable, it must be sold at a reasonable price and this price will be considered as the property itself.

#### **Article 168.**

If the article found no longer exists when its discovery is

reported, through no fault of the finder, he shall not be held responsible.

#### **Article 169.**

When an article has been found, any profit accruing to it belongs to the former owner till such time as the finder has established his right to keep it: after that, the profits belong to the finder.

### **CHAPTER 4, SECTION 2. NO LOST ANIMALS**

#### **Article 170.**

A lost animal is an animal possessed by someone which is found without being in anyone's possession. Animals, however, on their grazing grounds or near a watering place or those capable of defending themselves from ferocious animals cannot be considered as lost.

#### **Article 171.**

Anyone who finds a lost animal must return it to its owner or, if the owner is unknown, he must deliver it to the judge or his substitute. If he does not do this, a finder will be held responsible for an animal, even if he has released it after taking possession of it.

#### **Article 172.**

If a lost animal is found in an inhabited area and the finder, though he has access to a judge or his substitute, fails to hand over the animal, he will not be entitled to claim eventually from the owner expenses incurred. When an animal has been found in an uninhabited area, the finder can claim any expenses from the owner so long as he has gained no benefit himself from the animal. Otherwise the expenses incurred will be brought into account against any benefit gained and only the balance will be claimable by the finder or the owner as the case may be.

## CHAPTER 5. ON BURIED TREASURE

### Article 173.

Buried treasure is that found by chance below ground or buildings.

### Article 174.

Buried treasure of which the owner is not known is the property of the finder.

### Article 175.

If treasure is found buried on the property of another person, he must inform that owner; in case the latter claims the treasure and can prove his claim, the treasure will belong to the person who claims ownership.

### Article 176.

When treasure is found buried in unclaimed land it shall belong to the finder.

### Article 177.

Jewels found in the sea belong to their finder. Flotsam and jetsam also belongs to their finder.

### Article 178.

Articles which have sunk in the sea and have been abandoned by their owner belong to the one who retrieves them.

## CHAPTER 6. ON GAME

### Article 179.

Captured wild animals belong to the pursuer.

### Article 180.

Capture of tame animals and of other animals that bear marks of ownership does not confer ownership.

**Article 181.**

If anyone prepares a hive or a place for bees, the bees and the honey shall be his property. Similarly pigeons gathered in a pigeon tower belong to the owner of the tower.

**Article 182.**

Other game laws will be laid down special regulations.