Political Immobilisation of Iranian Diaspora Property: Lex Situs, Human Rights and Public Policy

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Iran’s use of property measures against critics abroad is no longer hypothetical. In March 2026, Iran’s Prosecutor-General’s Office warned Iranians living abroad that support for, or cooperation with, states regarded by Iran as hostile could result in confiscation of their property. Reuters reported the warning on the basis of statements carried by Iranian state media.

The policy has since acquired a more concrete form. In May 2026, Amnesty International reported judicial orders to identify, freeze and seize bank accounts, properties and other assets belonging to persons accused of cooperating with “enemy states” or “hostile media”. Iranian authorities had reportedly announced measures affecting more than 750 persons inside and outside Iran, including journalists living abroad.

Administrative measures adopted in 2026 have also brought security screening into the use of consular powers of attorney. A circular concerning power of attorney issued abroad required inquiries where such instruments were presented in Iran and contemplated prosecutorial action where the grantor was identified as an opponent of the Islamic Republic abroad.

For present purposes, this situation can be described as political immobilization. Ownership may formally remain intact, while access to the legal mechanisms required to sell, mortgage, partition or administer the property is conditioned by political or security considerations.

The immediate concern is one of human rights. A separate question arises in private international law once the consequences of such measures are relied upon before courts outside Iran.

Property and the Lex Situs

The conventional starting point is the lex rei sitae. Article 966 of the Iranian Civil Code provides that possession, ownership and other rights over movable and immovable property are governed by the law of the country in which the property is situated. Proprietary questions concerning land situated in Iran therefore fall, in principle, under Iranian law.

That rule does not dispose of every dispute connected with Iranian property. A transaction involving land in Iran may also generate questions of contractual liability, restitution, succession, matrimonial property or insolvency before a foreign court. Those questions require separate characterization and may be governed by a law other than the law governing title itself.

Suppose, for example, that an Iranian resident abroad contracts to sell property in Tehran but cannot complete the transaction because the authorities prevent the use of a power of attorney on security grounds. Proceedings may subsequently be brought abroad for repayment or damages. The foreign court would first have to determine the nature of the claim and the law applicable to it. An Iranian administrative instruction addressed to prosecutors, consular authorities, notaries or registries does not automatically govern contractual liability in another legal system.

An additional distinction is important. The Iranian restriction might appear before the foreign court simply as a fact explaining why performance could not occur. In that situation, public policy cannot make the factual impediment disappear. A different problem arises where a party asks the forum to attribute legal effect to the measure itself, whether through the applicable foreign law, a claimed proprietary consequence, or recognition of an Iranian decision.

Human Rights and Public Policy

Human rights do not replace ordinary conflicts rules, nor do they ordinarily operate as connecting factors permitting a court to disregard foreign law merely because its application produces an objectionable result.

Their influence is nevertheless visible within established mechanisms of private international law. A useful contemporary restatement appears in the Institut de Droit international's 2021 Resolution on Human Rights and Private International Law. Article 8 provides that, in assessing whether the application of foreign law designated by conflicts rules complies with international public policy, due consideration must be given to human rights, notably the principle of non-discrimination. Public policy therefore remains an exceptional control mechanism, not a competing choice-of-law rule. It may permit the forum to refuse effect to a consequence of otherwise applicable foreign law that is incompatible with its fundamental principles.

The distinction between territorial effectiveness and legal effect abroad is familiar in conflicts jurisprudence. In Luther v Sagor, English courts accepted the proprietary consequences of Soviet confiscatory legislation concerning property situated within Soviet territory. *Oppenheimer v Cattermole* demonstrated that such deference was not unlimited where foreign legislation was fundamentally incompatible with public policy. In Kuwait Airways v Iraqi Airways, the House of Lords likewise began from ordinary choice-of-law principles concerning proprietary rights but refused effect to Iraqi confiscatory legislation on public-policy grounds. Belhaj v Straw subsequently discussed *Oppenheimer* and *Kuwait Airways* within this public-policy line of authority.

The comparison is doctrinal, not historical. The Iranian measures are not equated with Soviet nationalization, Nazi persecution or Iraqi confiscation. These authorities instead illustrate that the territorial operation of foreign law and the legal consequences accorded to it by another legal system are separate questions.

Iranian law will ordinarily govern proprietary rights in assets situated in Iran. The private international law issue arises only when a consequence of the Iranian measure is invoked before a foreign court. The forum must first characterize the issue, determine the applicable law and establish the scope of the relevant foreign rule. Only then can public policy become relevant. Where the consequence for which legal effect is sought rests on discrimination based on political opinion or opposition activity, human-rights considerations may properly enter that assessment.

Political immobilization thus becomes a private international law problem when a measure effective within Iran is invoked as the basis for legal consequences outside Iran.