

# Legal- Jurisprudential Reading of Fetal Competence in the Iranian Legal System with an Approach to the US Legal System

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## Abstract

People are the subject of jurisprudence and in this regard it is important to identify the starting point of their personality. Undoubtedly, before the sperm coagulation, despite accepting some commitments in favor of the extinct fetus, there is no difference in the formation of the personality of individuals and the main differences about the time of onset of fetal personality are after sperm coagulation. In this regard, different theories have been expressed, the number of which reaches twenty. The selection of each of these ideas has many theoretical and practical effects. The main problem is to identify the starting point of competence otherwise it will be futile to talk about rights and duties. In addition, it is essential to identify the competence of fetus to exercise his/ her rights. Although there is no doubt that only the legal representative of the fetus can exercise his/ her rights, but there are some cases where it is not clear who his/ her parents are. In this article, after studying the legal jurisprudence of the Iranian system with an approach to the legal system of the United States of America, it becomes clear that the theory of entering the soul is defensible regarding competence of fetus to be acquired the rights (Ahliyyat e Tamatto'), and regarding the competence of fetus to exercise his/ her rights (Ahliyyat e Estifa) , with considering medical advances, it is necessary to review current regulations and set appropriate rules.

**Keywords:** competence to acquire rights (Ahliyyat e Tamatto'), competence to exercise rights (Ahliyyat e Estifa), fetus, rights, personality

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