ELIGIBILITY OF BELONGING: NATIONALITY, CONFLICT OF LAWS, AND THE STATUS OF ALIENS

A Comparative Applied Study between Egypt, Algeria, and France

AUTHOR
Dr. Mohamed Kamal Arafa
ElRakhawi
Independent Researcher

FIRST GLOBAL ACADEMIC EDITION
September 28, 2026

DIGITAL OBJECT IDENTIFIER
10.5281/zenodo.23003147

PERMANENT URL
https://doi.org/10.5281/zenodo.23003147

GLOBAL MULTILINGUAL KEYWORDS

English: Eligibility of Belonging, Nationality, Conflict of Laws, Status of Aliens, Comparative Law, Jus Sanguinis, Jus Soli, Closest Connection Theory, Non-refoulement, Jus Cogens, Dual Nationality, Statelessness.

Arabic: أهلية الانتماء، الجنسية، تنازع القوانين، مركز الأجانب، القانون المقارن، حق الدم، حق الإقليم، نظرية أقرب صلة، عدم الإعادة القسرية، القانون الآمر، ازدواج الجنسية، انعدام الجنسية.

French: Éligibilité d'Appartenance, Nationalité, Conflit de Lois, Statut des Étrangers, Droit Comparé, Jus Sanguinis, Jus Soli, Théorie du Lien le Plus Étroit, Non-refoulement, Jus Cogens, Double Nationalité, Apatridie.

Spanish: Elegibilidad de Pertenencia, Nacionalidad, Conflicto de Leyes, Estatuto de los Extranjeros, Derecho Comparado, Jus Sanguinis, Jus Soli, Teoría de la Conexión Más Estrecha, No Devolución, Jus Cogens, Doble Nacionalidad, Apatridia.

German: Zugehörigkeitsfähigkeit, Staatsangehörigkeit, Normenkonflikt, Ausländerstatus, Rechtsvergleichung, Jus Sanguinis, Jus Soli, Theorie der engsten Verbindung, Non-Refoulement, Jus Cogens, Doppelte Staatsangehörigkeit, Staatenlosigkeit.

Chinese: 归属资格，国籍，法律冲突，外国人地位，比较法，血统主义，出生地主义，最密切联系理论，不推回原则，强行法，双重国籍，无国籍状态。

Russian: Принадлежность к гражданству, Гражданство, Коллизия законов, Статус иностранцев, Сравнительное право, Право крови, Право почвы, Теория наиболее тесной связи, Принцип невыдворения, Императивная норма, Двойное гражданство, Безгражданство.

EXECUTIVE SUMMARY

This comparative study examines the intricate legal frameworks governing nationality, conflict of laws, and the status of aliens across three pivotal jurisdictions: Egypt, Algeria, and France. Utilizing a functional comparative methodology, the research analyzes how these legal systems balance national sovereignty with international human rights obligations. Key findings highlight the evolution of the Closest Connection Theory as a modern judicial standard in Egypt, the distinct constitutional emphasis on national and linguistic identity in Algeria's 2020 Constitution, and the stringent integration requirements introduced by France's recent immigration reforms. Furthermore, the study addresses critical gaps in refugee protection, notably Algeria's reliance on regional frameworks rather than the 1951 Convention, and proposes the establishment of a unified Arab digital observatory to combat statelessness. This work serves as a foundational reference for legal scholars, judges, and policymakers aiming to harmonize private international law in an increasingly interconnected world.

LIST OF ABBREVIATIONS

PIL: Private International Law
UNHCR: United Nations High Commissioner for Refugees
OFPRA: French Office for the Protection of Refugees and Stateless Persons
CESEDA: Code on the Entry and Residence of Aliens and the Right of Asylum (France)
Jus Cogens: Peremptory norm of international law
APA: American Psychological Association (referencing style applied for in-text citations)

FOREWORD

In a world where the movement of individuals across borders is constantly increasing, and where the intertwining of interests between nations is becoming more complex, issues of nationality, conflict of laws, and the status of aliens emerge as one of the most important axes of private international law. Nationality is not merely an administrative document; it is a legal and political bond that links an individual to a state, granting them rights, imposing duties, and defining their identity within the international community.

The challenge faced by the modern judge is profound: when confronted with a case containing a foreign element, which law applies? The law of nationality? The law of the domicile? The law of the place of contracting? Or the law of the place where the act occurred? These questions form the core of this science, which balances state sovereignty with the necessity of international cooperation.

As for the status of aliens, it reflects the extent of a society's openness and its commitment to international human rights standards. The balance between legal protection and security restrictions, conditioned by the principle of national treatment and reciprocity, outlines the legal framework of a state towards non-nationals residing on its territory.

This book presents a deep comparative study among three legal systems: Egypt, representing the leading model in Arab legislation; Algeria, bridging the Arab and Islamic worlds with its unique historical and legal characteristics; and France, as the founder of many theories of private international law. Through this comparison, we aim to identify the best practices, uncover shortcomings, and propose avenues for development that serve the common Arab interest.

This work is directed to researchers in private international law, judges, lawyers dealing with cases of an international nature, and policymakers planning the development of nationality and immigration legislation. It is hoped that this book will be a valuable addition to the Arab legal library and contribute to building a unified legal awareness regarding issues of belonging and identity in a changing world.

PART I: NATIONALITY BETWEEN NATIONAL SOVEREIGNTY AND HUMAN RIGHTS

Chapter 1: The Concept of Nationality and the Foundations of its Acquisition in Comparative Legislations

Definition of Nationality and its Legal Nature
Nationality is a legal and political bond linking an individual to a specific state, entailing reciprocal rights and obligations. While it falls within the domestic jurisdiction of states, this jurisdiction is not absolute; it is constrained by international agreements and the principles of international law.

Foundations of Original Nationality Acquisition
First: Jus Sanguinis (Right of Blood)
This principle is based on the child's affiliation to their parents, regardless of their place of birth. It is the predominant principle in Arab and European legislations.
In Egypt: Article 3 of Law No. 26 of 1975 on Egyptian Nationality grants Egyptian nationality to anyone born to an Egyptian father or an Egyptian mother, regardless of the father's nationality or statelessness.
In Algeria: Article 6 of the Algerian Nationality Code, harmonized with the 2020 Constitution which explicitly enshrines the Amazigh language as an official and national language, grants Algerian nationality to anyone born to an Algerian father or an Algerian mother.
In France: Article 18 of the French Civil Code stipulates that a child is considered French if at least one of their parents is French.

Second: Jus Soli (Right of Soil)

This principle grants nationality to anyone born in the territory of the state, regardless of their parents' nationality.
In Egypt: The Egyptian legislator does not adopt absolute Jus Soli. However, Article 4 grants nationality to anyone born in Egypt to an Egyptian mother and a foreign father. Recent administrative reforms have significantly streamlined this process, transforming it from a complex judicial procedure into a more accessible administrative right of choice upon reaching the age of majority.
In Algeria: Article 7 grants Algerian nationality to anyone born in Algeria to foreign parents who were also born in Algeria, or to foreign parents, one of whom was born in Algeria.
In France: The French system combines Jus Sanguinis and Jus Soli. Article 19-3 automatically grants French nationality to anyone born in France to foreign parents, provided they reside in France upon reaching the age of majority.

Acquisition of Nationality by Naturalization
Naturalization is the granting of nationality to a foreigner based on their request and fulfillment of specific conditions.
In Egypt: The law requires ten consecutive years of residence, good conduct, the ability to earn a living, proficiency in the Arabic language, and renunciation of the original nationality if required.
In Algeria: It requires ten years of residence, good conduct, good health, and proficiency in the Arabic or Amazigh language, reflecting the constitutional recognition of linguistic diversity.
In France: Following the recent Immigration and Asylum Law enacted in 2023-2024, naturalization requires five years of residence, reinforced by stricter republican integration criteria, higher certified proficiency levels in the French language, and the absolute absence of any criminal record.

Chapter 2: Loss of Nationality, its Withdrawal, and its Reinstatement

Loss of Nationality by Individual Will
A citizen is permitted to renounce their nationality in specific cases.
In Egypt: An Egyptian may renounce their nationality after obtaining permission from the competent minister, provided they are not wanted for justice or sentenced to a penalty.
In Algeria: An adult Algerian may renounce their nationality if they reside abroad and have acquired another nationality.
In France: A French citizen may renounce their nationality through specific administrative procedures.

Withdrawal of Nationality as a Sanction
Withdrawal of nationality is an exceptional measure taken in specific cases.
In Egypt: Nationality may be withdrawn in cases of working in a foreign army without permission, or causing harm to the state's interests.
In Algeria: Nationality is withdrawn if a conviction is issued for a felony or misdemeanor dishonoring the national security.

In France: Withdrawal of acquired nationality is permitted in cases of conviction for a crime or misdemeanor constituting a serious attack on the fundamental interests of the nation, while respecting the principle of non-deprivation of nationality if it leads to statelessness.

Reinstatement of Nationality
In Egypt: A person who lost their nationality may have it reinstated by a decision of the competent minister if they meet the conditions of naturalization.
In Algeria: Algerian nationality may be reinstated upon request submitted to the Minister of Justice.
In France: French nationality may be reinstated by decree after fulfilling specific conditions.

Chapter 3: Dual Nationality: Consequences, Solutions, and Statelessness

Concept and Consequences of Dual Nationality
Dual nationality means a person possesses two or more nationalities simultaneously.
Positive consequences: Expansion of the scope of diplomatic protection, freedom of movement and residence, and broader work and education opportunities.
Negative consequences: Conflict of military obligations, complication of the legal status, and the possibility of conflict of laws.

Position of the Three Legislations
Egypt: Generally permits dual nationality but prevents dual nationals from holding sovereign positions. This prohibition is reinforced by Article 78 of the Egyptian Constitution and relevant provisions of the Civil Service Law and Penal Code, which criminalize the provision of false or incomplete data in security clearances regarding foreign affiliations.
Algeria: Recognizes dual nationality but requires its declaration in certain professional capacities.
France: Does not prohibit dual nationality, and a French citizen who acquires another nationality does not lose their French nationality.

Statelessness as a Legal and Human Problem
A stateless person is someone whom no state recognizes as a national under its laws.
Causes of statelessness: Conflict between nationality laws, loss of nationality without acquiring another, or the dissolution of states.
International solutions: The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
In national legislations: Egypt, Algeria, and France grant facilities for the acquisition of nationality to stateless persons residing in their territories to prevent the perpetuation of this legal anomaly.

PART II: CONFLICT OF LAWS IN TIME AND SPACE

Chapter 4: Theory of Conflict of Laws: From the Territorial School to the Personal School

Development of Conflict of Laws Theories
The Territorial School: Believes that the law of the territory is obligatory for all facts occurring within it.
The Personal School: Prefers the application of the law of nationality to matters of personal status.
Theory of Party Autonomy: The law chosen by the parties applies in contracts.
The Closest Connection Theory: The law most closely connected to the factual situation applies.

Position of Comparative Legislations
Egypt: Articles 13 to 24 of the Egyptian Civil Code regulate conflict of laws. The law of nationality is preferred in matters of personal status, the law of the place of contracting in contracts, and the law of the place of the tort in civil liability. Furthermore, Egyptian jurisprudence, particularly through the rulings of the Court of Cassation, has increasingly adopted the Closest Connection Theory as the Modern Golden Standard. This allows judges to overcome the rigidity of traditional rules by applying the law that has the most substantial and genuine link to the dispute.
Algeria: The Algerian Family Code and Civil Code regulate conflict of laws, with a strong emphasis on the application of Algerian nationality law for family matters of residents in Algeria.
France: The Civil Code and the Code of Private International Law regulate these rules, with a strong influence from the unified European law and the principle of closest connection.

Chapter 5: Rules of Reference and the Application of Foreign Law

Concept of the Rule of Reference
The rule of reference is the rule that determines the law applicable to a legal relationship with a foreign element.
Types of reference rules: Unilateral reference rules (which designate only the national law) and Bilateral reference rules (which provide a neutral criterion, such as nationality or domicile, to determine the applicable law, whether national or foreign).

Application of Foreign Law in Judicial Practice
In Egypt: The judge must apply foreign law ex officio if the rule of reference points to it, and may resort to experts to prove its content.
In Algeria: The judge applies foreign law upon reference and may request information from the Ministry of Justice.
In France: The judge is committed to applying foreign law, and assistance can be sought from the Center for Information on Foreign Law attached to the Ministry of Foreign Affairs.

Proof of Foreign Law
Whoever invokes the application of foreign law must prove its content. If proof is impossible, the judge resorts to national law as a substitute.

Chapter 6: Public Policy and Fraud on the Law as Limits to the Application of Foreign Law

Concept of Public Policy in Private International Law
Public policy is the set of fundamental principles that may not be violated, even if the rule of reference points to a foreign law.
In Egypt: Includes Islamic Sharia principles, fundamental moral values, and the Egyptian public order.
In Algeria: Linked to Arab-Islamic identity and constitutional values.
In France: Linked to the values of the Republic and international public policy.

Fraud on the Law
Fraud on the law is the manipulative use of conflict of laws rules to evade the application of a law that should have been applied.
Conditions: Intentional creation of a foreign element, and the result being a violation of the law that would have applied.
Effect: Nullification of the legal effect of the fraudulent act.

PART III: THE STATUS OF ALIENS BETWEEN PROTECTION AND RESTRICTIONS

Chapter 7: Civil and Political Rights of Aliens

Civil Rights of Aliens
Include the right to litigation, the right to own property, the right to contract, and the right to inheritance.
In Egypt: The alien enjoys civil rights on par with the Egyptian, with restrictions on owning agricultural land and real estate in specific areas.
In Algeria: Civil rights are fully granted to legally resident aliens, with similar restrictions on real estate ownership.
In France: The principle of equality in civil rights applies, with some exceptions in regulated professions and public functions.

Political Rights and their Restrictions
Political rights, such as voting and running for office, are generally restricted to nationals.
In Egypt and Algeria: The alien does not enjoy any political rights.
In France: Citizens of the European Union may vote in local elections, and voting in some local elections is open to aliens after a long period of residence, based on reciprocal agreements.

Chapter 8: Economic and Social Rights and the Principle of National Treatment

Right to Work and Residence
In Egypt: The alien needs a work permit, and preference is given to Egyptian workers, with exceptions for expertise.
In Algeria: A policy of preferring national labor; work permits are conditional on the absence of national competence.
In France: A work permit system with priority for the European market and facilities for high-level expertise.

Social Rights: Education and Health
In Egypt: Free education for legally resident aliens, and healthcare is available at reduced fees.
In Algeria: Free education for resident aliens and accessible healthcare.
In France: A comprehensive social protection system covering legally resident aliens after a waiting period.

The Principle of National Treatment
National treatment means granting the alien the same rights that the host state grants to its own nationals.
In Egypt: Applied in some areas like liberal professions and real estate ownership.
In Algeria: Conditioned in some economic rights.
In France: Applied in a limited manner within the framework of bilateral agreements.

Chapter 9: The Status of Refugees and Stateless Persons in Comparative Law

Definition of Refugees and International Protection
A refugee is someone who has fled their country due to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group, or political opinion. The 1951 Convention and the 1967 Protocol are the main references.
In Egypt: Hosts large numbers of refugees, particularly from Sudan and Syria, cooperating with the UNHCR.
In Algeria: Receives refugees from neighboring countries within a national humanitarian framework and regional African agreements. Notably, Algeria maintains a distinct legal position as it is not a full state party to the 1951 Refugee Convention and its 1967 Protocol, relying instead on bilateral solidarity and regional mechanisms.
In France: Has a sophisticated asylum system with the French Office for the Protection of Refugees and Stateless Persons (OFPRA).

Rights and Obligations of Refugees
Rights: Non-refoulement, the right to work, education, healthcare, and travel documents.
Obligations: Respect for the laws of the host state.
Crucial Legal Enhancement: The principle of Non-refoulement is not merely a treaty obligation; it has evolved into a rule of Jus Cogens (peremptory norm) in international law. This means it is absolute and non-derogable, and a state cannot invoke narrow domestic public policy exceptions to justify the return of a refugee to a territory where their life or freedom would be threatened.

PART IV: JUDICIAL APPLICATION AND PRACTICAL STUDIES

Chapter 10: Judicial Effort in Nationality and Conflict of Laws Cases

Rulings of Egyptian Courts

The Egyptian Court of Cassation has affirmed that nationality is a matter of sovereignty, and that the rules of conflict of laws in the Civil Code are of public policy. In mixed marriage cases, it applies the spouse's national law in some matters while respecting Egyptian public policy.

Rulings of Algerian Courts
The Algerian Supreme Court has emphasized the primacy of Algerian Family Law for aliens residing in Algeria in matters related to public policy. In inheritance cases, it applies the law of the deceased's nationality while respecting Algerian public policy.

Rulings of French Courts
The French Court of Cassation has developed the theory of "International Public Policy," which allows the refusal to apply a foreign law even if it does not violate domestic public policy, provided it violates fundamental universal values. In nationality cases, it provides strong protection against statelessness and interprets Jus Sanguinis broadly.

Chapter 11: Applied Models for Conflict of Laws and the Status of Aliens

Case 1: A child born in France to an Egyptian father and an Algerian mother.
The Question: What is the child's nationality?
Analysis:
According to French law: Jus Soli grants French nationality.
According to Egyptian law: Jus Sanguinis grants Egyptian nationality from the father.
According to Algerian law: Jus Sanguinis grants Algerian nationality from the mother.
Result: Dual or multiple nationality. Each state's law applies to matters of personal status according to its own conflict of laws rules.

Case 2: A foreigner wishes to acquire nationality in one of the three countries.
Comparison: France requires five years of residence and strict linguistic and republican integration. Egypt requires ten years, good conduct, and Arabic proficiency. Algeria requires ten years and proficiency in Arabic or Amazigh.
Conclusion: France is more flexible in duration, but the two Arab countries require a longer period with facilities for Arabs.

Case 3: Contractual dispute between an Egyptian company and an Algerian company in France.
Rule of Reference: If the parties have chosen a specific law in the contract, that law applies. If they did not choose, the judge resorts to the closest connection criterion, which is often the place of performance of the characteristic obligation or the place where the economic center of gravity of the contract is concentrated.
Role of Public Policy: The Algerian judge may refuse to apply the chosen law if it violates Algerian public policy, even if the chosen law permits it.

GENERAL CONCLUSION

At the conclusion of this comparative study, we conclude that issues of nationality, conflict of laws, and the status of aliens constitute a complex legal and human challenge simultaneously. National sovereignty is a sacred right, but international cooperation is an absolute necessity in an interconnected world.

Through the comparison between Egypt, Algeria, and France, we observe a convergence in general principles and a divergence in practical details. The French model offers a rich experience in balancing openness and regulation, while the Arab models carry the specificity of identity and values that must be preserved.

We recommend the following:
First: Unifying Arab efforts in drafting a unified Arab agreement on nationality that facilitates the movement of Arab citizens and limits cases of statelessness.
Second: Developing conflict of laws rules in Arab legislations to be more flexible and clear, adopting the Closest Connection Theory as a supplementary interpretive standard guiding the judge toward the law most connected to the subject of the dispute, inspired by modern developments in European and Arab jurisprudence.
Third: Improving the status of aliens in Arab countries to be consistent with international standards, while maintaining the principle of national treatment as a safeguard for international relations.
Fourth: Enhancing Arab judicial cooperation in exchanging information on foreign law and facilitating the enforcement of foreign judgments.
Fifth: Establishing a unified Arab digital observatory for statelessness and cross-border legal cases, leveraging modern information and quantum data technologies to enhance secure data sharing and protect the rights of vulnerable populations.

Building a unified Arab legal system in these fields is not an intellectual luxury, but a strategic necessity to strengthen Arab integration and protect the rights of citizens in a globalized world. We hope this book is a brick in this lofty structure.

COMPREHENSIVE REFERENCES

First: Egyptian Legislation
Constitution of the Arab Republic of Egypt 2014 and its amendments.
Egyptian Nationality Law issued by Law No. 26 of 1975 and its amendments.
Egyptian Civil Code issued by Law No. 131 of 1948.
Law Regulating the Entry and Exit of Aliens and their Residence, issued by Law No. 89 of 1960 and its amendments.
Egyptian Labor Law issued by Law No. 12 of 2003.

Second: Algerian Legislation
Constitution of the People's Democratic Republic of Algeria (2020).
Algerian Nationality Code issued by Ordinance No. 70-86 dated December 15, 1970, as amended and supplemented.

Algerian Family Code issued by Law No. 84-11 dated June 9, 1984, as amended and supplemented.
Algerian Civil Code issued by Ordinance No. 75-58 dated September 26, 1975.
Law No. 08-11 relating to the protection of refugees and stateless persons.

Third: French Legislation
French Civil Code (Code Civil), specifically Articles 17 to 33-2 relating to nationality.
Code on the Entry and Residence of Aliens and the Right of Asylum (CESEDA), as updated by the Immigration and Asylum Law (2023-2024).
French Code of Private International Law.
French Nationality Code.

Fourth: International Treaties and Documents
1951 Convention relating to the Status of Refugees and the 1967 Protocol.
1961 Convention on the Reduction of Statelessness.
Arab Convention on Regulating Status of Refugees in the Arab Countries 1994.
Arab Charter on Human Rights 2004.
1997 European Convention on Nationality.

Note on Citations: All in-text references to legal articles and academic sources within the full manuscript adhere strictly to the APA (American Psychological Association) citation style to ensure academic rigor and traceability.

COMPREHENSIVE LEGAL PROTECTION AND INTELLECTUAL PROPERTY FRAMEWORK

SECTION 1: COPYRIGHT AND AUTHORSHIP
Copyright 2026 by Dr. Mohamed Kamal Arafa El Rakhawi. All rights reserved worldwide. This work constitutes the exclusive intellectual property of the author under international copyright law.

SECTION 2: COPYRIGHT AND TRADE SECRET PROTECTION
The structural architecture, comparative analytical frameworks, and specific legal formulations of this treatise are exclusively protected under International Copyright Law (Berne Convention). Any institutional application or translation requires a formal written license agreement that preserves the integrity and original attribution of the methodology.

SECTION 3: LICENSING FRAMEWORK
This work is licensed under the Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License for academic purposes. Commercial, governmental, or institutional adoption requires a formal written license agreement.

SECTION 4: ENFORCEMENT AND JURISDICTION

Primary jurisdiction for dispute resolution regarding the application or infringement of this work shall reside within the competent courts of the Arab Republic of Egypt, applying UNCITRAL Model Law principles, with the option of specialized international arbitration.

SECTION 5: AUTHENTIC TEXTS AND INTERPRETATION
This research is drawn up in Arabic, English, and French, all texts being equally authentic. In the event of divergence, interpretation shall favor the meaning that most effectively protects the coherence of comparative private international law principles.

DECLARATION OF ORIGINALITY AND INDEPENDENT RESEARCH

I, Dr. Mohamed Kamal Arafa El Rakhawi, Independent Researcher, hereby declare that this work is the product of my independent research and original intellectual creation. The comparative structural framework, the integration of modern jurisprudential standards such as the Closest Connection Theory and Jus Cogens protections, and the drafting of the practical case studies are original contributions to the fields of private international law and comparative jurisprudence.

This work was conceived and written without institutional funding, corporate sponsorship, or conflict of interest. The author maintains full independence in the presentation of scientific findings, legal arguments, and philosophical frameworks.

Date of Declaration: September 28, 2026
Place: Ismailia, Arab Republic of Egypt

END OF DOCUMENT

Dr. Mohamed Kamal Arafa
ElRakhawi
Independent Researcher
Ismailia, Arab Republic of Egypt
September 28, 2026

Digital Object Identifier: 10.5281/zenodo.23003147
Permanent URL: https://doi.org/10.5281/zenodo.23003147