



Position of the Causality Relation in the Turkey with the Approach of Judicial Procedures of Iran, France, Germany, UK & US

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Abstract: *One of the disputes in criminal law and judicial practice is the possibility or impossibility of crimes as a result of the abandonment of the verb; in other words, there is a controversy about the realization of physical behavior in the form of the detention of the act. This difference arises from the complexity of the verb trap, especially The gravity of establishing the causality relation is that the separation of positive crimes from criminal offenses leads to the conclusion that the material pillar of some crimes is a positive action, that is to say, committing, and is a material pillar of some of the other crimes committed, ie refusing or abandoning the verb. Unlike the verb, the absence of the act is devoid of scientific power and does not impose any domination on material events. The effect of the abstention on absolute crimes and of the various offenses is different, and the material element in absolute crimes is obtained by mere abandonment, but it must be abandoned in its tangible crimes. The verb is followed by the result of a criminal conviction. The Islamic Penal 2013 briefly outlines the issue of the termination of the verb, but it does not diminish the complexity of the matter with regard to the conditions mentioned in the article, in particular the establishment of the causality relationship and without mentioning the bases for proving this relationship. The judicial process of countries is different in this regard.*

Keywords: *Causality Relation, Leaving the Verb, Jurisprudence.*

INTRODUCTION

The present discussion focuses on the quality of the impact of torture on the occurrence of crime and its importance in criminal responsibility. Existing facts, based on criminal laws and judicial procedures, show that most crimes in the penal system of the world are based on positive verbs or what are simply acts of action, and that the number of offender offenses is limited. In the relation of causality in committed crimes, what is construed as the cause is the same behavior that is usually the verb or the termination of the verb, and, on the other hand, it is necessary to end this behavior to the banned person. In other words, the causality relation in committed crimes relies on three pillars: first, prohibited behavior, whether from the verb or the abandonment of the verb, the second pillar, the criminal loss (damage); the third pillar is the same as the causality relation between the verb and the interruption. The basis of the causal effect of the verb in the event of certain damage, we say in its proclamation that the causal effect of the remainder of the verb is doubtful and we can only describe it as a kind of (letting something happen). This is due to the fact that the legal

application of the concept of causality is associated with existential issues, and in general, it is a matter of rejecting the subject of intercession. (Quoted by Taheri Nasab: 2009: 200)

In French law, the principle is that murder cannot be achieved by leaving the verb unless it is expressly stated in the law and the Italian law does not distinguish between a positive verb and an act of abandonment. (Fotouh Abdullah al-Shazali: 2010: 551) Some lawyers, in addition to the conditions for banned conduct and criminal offenses, consider the existence of a direct causal relationship between the verb and the outcome as terms. In other words, leaving the verb is considered to be the physical behavior of the murder, which is the direct and primary factor for the outcome (Omar Sa'id Ramadan: 2007: 321). The author does not agree with this view, and this view is rejected because the causality relationship is a matter of the subject and requires that it is customary for all crimes and cannot be determined for that degree.

Criterion of the causality relation in the crack of the verb

Leaving a verb in its general sense is called the inability to do work. Leaving the verb, although materially, is in a state of affairs, but is legally a legitimate point of view (Mahmud Najib Hasani, 1977, 376). Regarding the fact that any current departure causes responsibility for its development, it should be distinguished between leaving pure verb and conditional verb.

Leaving a verb alone and without being accompanied by another cause cannot be harmed and does not cause crime. Therefore, if someone who dies in another person and can save him and do this; his refusal to commit a crime is not considered a crime and will not be punishable by the crime. Crime is an existential matter, while leaving is a vacuum, and crime as an existing phenomenon can be exclusively derived from an existential matter, because the existence never results from lack of (Khoi: C 2: 60) The relationship between behavior and outcome A causal relationship is material and not a contract or a contract, therefore, according to the custom or law, cannot be regarded as a non-reality and attribute an existential, such as crime, to a person who has not committed a current crime. . Therefore, since leaving is not effective, its intervention in the crime of crime will be as much as possible conditional rather than the steward or the cause, because neither it nor its effect will be effective, but the effect of the effective factor, such as cause or cause, on it is. That is, if the absence of the verb is missing, then there is no crime. Imam is the crime of another factor. Accordingly, the causality relationship and, consequently, the fixation of the guarantee, which is subject to the effect, are subject to the exclusion and deductible, and never entail any liability for the damage to the injured person. Because of the outcome is documented by another factor that interferes with the cause or the steward.

The causality relation is necessary in all instances of the crime that is bound to the result, but this relation is more problematic than intercession, and in fact the proof of the relationship between a non-existent (existential) and an existential (crime), especially if the causes and There is no other simple thing to do, such as the fact that the mother does not breastfeed her baby and the child dies, in this case, causality relationship will not be a problem. But sometimes it's a toy and the Italian law does not distinguish between positive and absent verbs. (Fotouh Abdullah al-Shazali: 2010: 551) Some lawyers, in addition to the conditions for banned conduct and criminal offenses, consider the existence of a direct causal relationship between the verb and the outcome as terms. In other words, leaving the verb is considered to be the physical behavior of the murder, which is the direct and primary factor for the outcome (Omar Sa'id Ramadan: 2007: 321). The author does not agree with this view, and this view is rejected because the causality relationship is a matter of the subject and requires that it is customary for all crimes and cannot be determined for that degree. But sometimes other things are done by leaving the verb to determine their role in determining the causality relationship between the verb, the death or the damage (Hart, Honore, 2014, 121: 139).

Therefore, in crimes, it is a condition that the causality relationship between the cracked act and the crime should be interrupted by a criminal against another person.

The Left Action in the Islamic Penal 2013

Iran's penal code has been silent since the year 1925 to 2013, and this has led to different perspectives.

Opponents of the implementation of the crime by leaving the verb, while claiming the lack of a legal letter on this matter and defining the law in the term work, refer to the single article of the law refusing to provide assistance to injured persons and to eliminate the dangers of life in 1975, and believe that if the verb trait leading to the occurrence The offender shall be liable to the punishment prescribed in the law. Proponents either referred to the sources of jurisprudence with the general and the lack of a narration in the ban on quitting the verb and using examples from the mother, the prisoners, in order to prove their claim to Egypt, for example, to deny access to food as an adequate documentary evidence of the crime. Agha Bani: 53: 2016)

Leave the verb in the Islamic Penal 2013

Regarding the possibility of occurrence or non-occurrence of a crime by the termination of the act of the legislator in the Islamic Penal 2013, the disputes between the experts cease or the provisions of Article 295, which is in fact the Supplementary Material of Articles 290 to 291 of this law, explicitly permits the realization of the element of the crime in Accepted crimes in the form of abandoning the verb, and no difference between the verb and the verb, but to achieve the conditions for realizing the termination of the verb as the cornerstone of the crimes. The Iranian Criminal Law Entity recognizes the responsibility for the verb in certain circumstances, and it seems that, in the light of the provisions of Article 295 of the Islamic Penal 2013 and other legal principles, it will be time for a criminal offense to be instituted in a criminal offense, firstly: the possibility of committing a crime from The way to leave a verb is specified in the law. Secondly, there is a causal relationship between the offender and the crime. Thirdly, leaving the verb or conspirator to accept the obligation or duty or the legal responsibility of the particular contractor. Fourth, the need to take responsibility for action is to have the ability and ability to do things. Khamsa: leaving the verb is punishable and punished with misconduct and criminal error (Najafi Mighty and Mikhaili 2014: 260 1258)

Types of Verbs

Considering the importance of discussing and studying the various aspects of the subject and the legal provisions, it follows that while dividing the cases and the general examples, the verbs are divided into three categories of single verb abnormalities, the remainder of the verb to the positive verb, and the remainder of the act in accordance with the existence of the obligation.

Leave single verb

Leaving a single or a single act is the departure of the current one that the person is morally obligated to do, but refuses to do so. In this vein, leaving the verb that the verb is leaving in its exact philosophical sense, it is beyond doubt that the verb tark cannot be held responsible. In this part of the sentence, Tark can prevent his crime from occurring, for example, a person who is watching a person drowned in a lofty place and intended for murder, for example the operation does not stop, and eventually the person dies, he has committed the abjection of the verb. Therefore, if someone makes a crime in the presence of another and the person present with the possibility of preventing the crime, silence, the silence of the present person does not cause any punishment. (Divine Manesh and Moradi Hejaghar: 2013: 55 54) Vote No. 2504- 26/01/1939 Branch 5 of the Supreme Court confirms this point.

The following is said: "(Silence or non-action to prevent the commission of a crime cannot be regarded as a deputy. Therefore, if someone committed another crime in another's presence and the person present with the possibility of staying silent, the silence of the present person causes no punishment is not.)

Therefore, according to the legal documents and existing laws, the abandonment of a single act in crimes such as crimes is not a basis for the guarantee, although in some cases the legislator, under the independent law of crime, anticipates it under conditions independent of the crime, criminal liability for the act of transgression.

Leave the verb to the verb

Contrary to abandoning the single verb that a person does not perform a certain verb and is responsible only for leaving the act, in this paragraph the verb is initially committed and then he leaves the verb. In this case,

in fact, the crime stemming from is the verb, and leaving, the only condition of the effect of the verb is considered in the occurrence of the result. In these cases, although committed by the offender, he committed a crime, but committed the current decision before leaving the verb. For example, if someone detained a person and refuses to give him water and food, then the death of a prisoner, the crime is documented in his verdict, ie confinement, although the effect of imprisonment and death is conditional on the abandonment of innocent food. Here, the verb is the last verb, and it must be considered verb rather than the verb. The verb and subject may be the same as a pedestrian driver who does not transfer him to the hospital and the injured person dies from brain hemorrhage and may not be the subject of the verb and subject, as in the above example. The driver takes the injured person to the hospital, but the doctor does not heal the patient and dies due to lack of treatment. In this example, the doctor is accused and accused of not being treated. While the verb and subject are one, it seems that what is located is the verb. This means that the verb has performed a positive verb before leaving it, and leaving the verb is the sequence of the performed verb. This way of leaving the verb is to leave the verb to the verb.

Leave a verb to do the job or to have a commitment

In this type of Turkish verb, a duty has been given to the Tark, and he has provided the death of the victim due to lack of timely action and refusal to do so. This duty may be in accordance with law or based on contract or custom. For example, a mother who is legally obliged to breastfeed her child and refuses to give her milk for murder and the child dies, then the mother is the child's deliberate killer. The law of the Islamic Republic of Iran, in Article 295 of the Islamic Penal 2013, for the first time in criminal law, accepts the termination of an act of execution of duty or the existence of a pledge as material element He has forcibly committed a crime and has given responsibility for the action. According to the text of article 295 of the said law, the following conditions are necessary for the commission of a crime and responsible for considering a verb. a. The Necessity of Acquiring Commitment to Performing the Verb. B: The necessity of performing a special legal task. C: Ability to perform verb

Judicial procedures

By examining the judicial process, countries such as Iran, Germany, France, the United Kingdom and the United States regarding the responsibility of the verb and the causality relationship between the verb and the outcome of the case are judged that the judicial process in dealing with such issues is different in terms of We have tried to resolve these differences in judicial procedures in this paper.

Iran's Judicial Approach

In Iranian law, it is possible to commit a crime through stewardship or persecution, and one of the differences between stewardship and perseverance is that stewardship is realized only through a positive verb, but the appropriation may be made through a positive or negative verb. Thus, the crime can be realized through a negative verb (the verb). Of course, it is important to note that the existence of a correlation between the cracked act and the causal relationship is necessary and that the causality relationship must be established, for example, if the mother does not breastfeed his child, but before he died of starvation, the child died or, there is another one that has a closer relationship with the death of the child; the mother cannot be killed. Therefore, the conditions of responsibility in cases where the verb is considered to be material conduct of a massive crime are: the existence of the duty to act, to abandon, to act, to cause injury and to establish the causation (Mohseni: 2013: 139)

The dispute has arisen that a physician specializing in his work in the hospital refuses to perform the cesarean section, and as a result, the embryo is choked and the nature of the act of committing two points has been raised: some have said: The fact that the choking of a fetus is due to the absence of a verb and that it is impossible to establish a causal relationship between it and the verb of the physician is not the subject of the murder case and cannot be considered for that diya and punishment)) but the correct view is that)): In this

regard, since the doctor's deliberate act of the agent directly affects the embryo, the subject of the murder is therefore the judge must, according to the rules, Kome is slow. (Collection of Judicial Courts, Islamic Penal Code: (1 646: 2004)

In another case, the grandson of an old man is accused of having left his grandfather in the middle of a forest road to die, and he was inherited earlier, during a bug that had a defect in the light of the accident, he would crash into the old man and lead to his death. . Some people in the minority considered the girl a deliberate murderer because she had intended to kill, but the majority denied him the crime of murder and blamed her for abandoning the helpless person.

(Same: 343: 2004)

Therefore, it is seen that the judicial process of the Islamic Republic of Iran varies between different types of Turkish deviations and between the verbs leading to the result in Article 295 of the Islamic Penal Code 92 and the unified article of the law The punishment for refusing to provide assistance to the injured and the dangers of life was also differentiated from 1975, but the Turkish has accepted the verdict in the occurrence of a crime under conditions, although it was controversial before the adoption of the Islamic Penal Code 92, but by the adoption of the new Islamic Penal. These differences are over. A typical example of this difference before the Islamic law is the 92 votes in favor of the Supreme Court of the Islamic Republic of Iran on May 10, 1997, which did not accept the crime with the verb.

The French Judicial Approach

The French judicial system is based on a legal framework that does not accept the causal relationship between refusal and the criminal outcome and does not result in incriminating crimes.

On the other hand, these procedures say that if the legislator clearly accepts a refusal to accept the outcome, it is the allocation of his own judgment; therefore, they believe that the legislator has accepted refusing offenses if he has no result intentionally; The structure of the criminal verb is expressed in broad propositions that can be said to include both positive action and refusal in the result (Najib Hosni 2006: 423)

One of the most important sentences that this general approach to French offenders has to do with deliberate offenses is the Revolutionary Court of Poitia, which ruled to abandon an adult girl who has an intellectual disorder in a room with inadequate ventilation and light. And that he will sleep in a very dirty bedridden bed, and you will not be subjected to any kind of care in such a way as to endanger his life and therefore suffer from severe illness, do not result in the commission of a crime or multiplication, or an intentional crime (according to Najib Hosni 2006: 456)

Poitiya's Revolutionary Court has ruled in a new order: A paternity who refuses to take any care of her spouse, who is a serious patient, is totally unable to take care of her; then she takes her into the darkness of the animals and does not have enough cover in the very cold air Leaving and dying, this behavior does not result in the commission of a crime or multiplication, or an offense leading to death (Article 311 of the French Penal). Because it has not been proved that the couple has committed a violent act.

Therefore, with a view to the French judiciary, we conclude that, in French law, the principle is that murder cannot be achieved by the abandonment of the verb unless expressly stated in the law, and the French judicial procedure with the occurrence of a crime by leaving the verb in the unintentional course Accepts but does not accept intentional crimes.

The German Judicial Approach

The German judiciary has identical solutions to the relationship between the causal link between the pros and cons, since in both cases it accepts the causal relationship and, in both cases, implements one viewpoint and follows a single criterion uses. The German judicial procedure in enforcing the equality of arms for incidental offenses has a problem that is related to a certain or probable degree, which should result if the obligatory action is not carried out. Whether or not to decide whether or not to reach a conclusion is enough (467). The German Supreme Court's case law on this issue has undergone a change from the beginning to the very beginning. Certainly, it was certain that the result was not achieved and said that the least doubt about

the probability of no result in the commission of the verb was the fact that the relation of causality It is sufficient that the defendant is not responsible for his self-restraint against the criminal offense unless (illegitimacy) this refusal is proven against the result. Another accepted principle is that the legality of the existence of a legal obligation lies with the defendant in order to prevent the outcome, thus, the German judicial procedure has accepted the view that it considers (the legal assignment) an element in the crime of refusing to result And the common practice is to determine the place of this assignment among the elements of this crime, not a separate pillar, that is, an assignment, an element in (consistent with the lawfulness of a crime), as the supreme view in German law also accepts this basis And this assignment is an element of irregularity (ibid .: 464) Judicial rulings on procedural offensive criminal offenses Judiciary issued by Germany. As an example, the mother of a young woman giving birth at her house is obliged to keep her grandchild and she must take care of the child so that the child survives and if the mother refuses to do so and the child dies He is responsible for the unintentional death of a baby (quoted by Najib Hosni: 2006: 465) So we see that the German lawsuit is similar to the law of our country, which accepts the responsibility for the verb if the person has a duty to do so, but this assignment must be legal, and if the law abusive is an obligation to prevent Is not responsible, but only morally responsible, is not liable to the outcome, and the accused is not liable for his refusal to take a criminal offense unless the illegitimacy of this refusal has been proven to be a consequence, The legality of the existence of legal liability lies with the accused in order to prevent it Eden is the result.

The United Kingdom and US Judicial Approach

The unequivocal principle in the English and American legal proceedings is to refuse to accept a positive action in terms of competence for the realization of the material peculiarities of the crime and the existence of a causal relation between it and the result, but this equality is not absolute, since any positive verb can be the basis of the pillar Material misconduct; but any refusal cannot be this, but there must be a fundamental condition: the violation of the legal duty charged by the accused with refusal; hence, necessarily, if the refusal is only opposed to moral duty, It is impossible that the material element of the crime can be realized. Therefore, if the refusal is solely opposed to a moral duty, then it will not lead to criminal liability. Therefore, the English and US judicial procedures do not necessarily reflect any refusal to enforce criminal liability against the outcome sought, but also requires a provision. The most important of these conditions is that the legal guardianship must be held by the referee. In addition, the absentee must have the ability to do the work and be aware of the condition that this assignment is and it will be between the refusal and the result, the causal relationship.

In one of the British lawsuits, it has been said: "If someone sees a two-year-old child walking through the street and seeing the car comes to him quickly, but that he can threaten him, he can save him: what The minimum human consciousness is obligatory on him: but he does not do this and the child crashes and dies with the car, he is never responsible for the child's death. (Quoted by Najib Hosni: 2006: 473)

The US judicial process is similar to the English case law. One of the undisputed principles of the English and American judicial procedures is that the crime of refusing does not result in a result, unless there is a causal relationship between the refusal and the outcome. The laws and legal practice of these countries in the conception of the relationship between the refusal and the outcome and the merits of refusal to cause the outcome are void, so there is no difference in the English and American law and procedure of the judiciary. The jurisprudential law and jurisprudence of these countries rely on the same criteria as regards the relationship between the causal relationship between the positive and the criminal consequences for determining the benchmark for the relationship between the refusal and the outcome. One of the most important criteria in which legal procedures to prove the relationship between causality and non-criminality are the result of them is that it must be proven that the general attitude to providing the living needs - which the accused has refused to do in violation of the legal obligation - Therefore, if the woman is reluctant to provide food or clothing to her servant and it is proved that the servant has been incapable of providing these

needs because of his lack of age or reluctance, and because of his death or damage. The causality relationship is counted according to the existing pre-existing criterion the accused and the criminal result do not prevent him from proving that he has been in charge of this assignment and has refused to do so, and that if he did his or her duty, then the result would not occur. In other words, one can imagine the two behaviors are regularly contributing to the failure to create a criminal offense. (Najib Hosni, 2006: 479)

The US judicial process is similar to the English judicial procedure. One of the principles of British and American judicial procedures is that a refusal penalty does not result in an outcome unless there is a causal relationship between the refusal and the outcome. The law and judicial practice of these countries is the perception of the link between the refusal, the outcome and the merit for causing the outcome to be voters, so there is no difference in the laws and practice of the United States and Britain in this regard. The jurisprudence and jurisprudence of these countries rely on the same criteria as regards the relationship between the causal relationship and the criminal outcome to determine the criterion of the relationship between the refusal and the outcome. One of the most important criteria in which judicial procedures to prove the relationship between causality and the outcome of their involuntary offenses is to prove that the victim is incapacitated for the purpose of providing the living needs of the accused, contrary to the legal obligation to do so. Therefore, if the woman does not want to give up her food or clothes to her servant, then she is fixed If the clerk has been unable to provide these needs due to his age or reluctance to the employer, and as a result of which he will die or be harmed, the causal relationship will be counted according to the previous standard. The acceptance of the causal relationship between the defendant's refusal and the criminal outcome does not preclude any other person from committing this assignment and has failed to do so, and that if he did not act on his duties, the result would not have happened, in other words. It can be assumed that two behaviors, each one, contribute to the refusal to make a criminal offense. (Najib Hosni: 2006: 479)

Therefore, with a view to the British and American judiciary, it can be concluded that the judicial procedure of these countries is based on the equality between a positive act and a refusal, provided it is opposed to the law. Judicial action has derived this equality by accepting the causal relationship between refusal and outcome. The judicial process of these countries does not encounter any problems in determining the criterion of the relation between causality between the verb and the outcome, since it accepts the same criterion as in the relation of the positive verb to the result.

Conclusion

Judging by the laws and procedures of the judiciary, countries such as Iran, France, Germany, Britain and the United States are seen to have refused to accept the abstention of the crime of the transgression of the state of the Islamic Republic of Iran, and in the intentional crimes of the principle of non-occurrence of the crime. In the law of Iran and Germany, Britain and the United States have accepted this criterion under the terms. With the enactment of the Islamic Penal 2013 and the inclusion of Article 295 of this law, the legislator of the Islamic Republic of Iran has committed a criminal offense with the termination of the act of refusing to perform a duty or obligation under conditions and has terminated previous conflicts and judicial proceedings are also in the same But the principled position of Iran's criminal law on the ability to quit the verdict is based on the outcome of and the imposition of the burden of criminal responsibility on different types of offenses than the rights of the United Kingdom and the United States, and more closely resembles German law. If the causality relation between the verb) and the criminal result is proved. The possibility of assigning a crime to a verb is possible France's judiciary has been hesitant in accepting a causal connection with abusive crimes and has been accepted under German-British and American judicial procedures. Therefore, in order to hold the verb in the judicial procedures of all countries, it is necessary to establish the relation of causality in committing a crime by leaving the verb.

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