

THE ROLE OF THE STATUTE OF LIMITATIONS IN CRIMINAL LAWSUITS: COMPARING IRANIAN AND AMERICAN LEGAL SYSTEMS

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Abstract

In criminal proceedings, "statute of limitations" refers to the date after which it is no longer possible to file a complaint, prosecute the defendant, impose a sentence, or carry out the sentence. Therefore, the statute of limitations under criminal law is divided into three categories: prosecution, complaint, and punishment. The statute of limitations is fifteen years for crimes of the first through third degrees; ten years for crimes of the fourth degree; five and seven years, respectively, for crimes of the fifth and sixth degrees; and three years for crimes of the eighth degree. After these deadlines, the lawsuit or offense has no further criminal repercussions. If a victim of a crime does not file a complaint within one year of discovering the crime, he forfeits his right to do so, unless he was under the control of the defendant or was prevented from filing a complaint for other reasons beyond his control. In this instance, the deadline will be determined based on the date of removing the related reason. In addition, the common law legal system anticipates this issue. In the United States of America, for example, the legal statute of limitations is the time after which a lawsuit or complaint cannot be heard or filed. Regarding the effects of crime in this country, one must also consider the applicable statute of limitations. However, these dates vary due to the number of states and legislators in the United States.

Keywords: *Crime, Effects of crime, Criminal litigation, The statute of limitations, Iran, and America*

INTRODUCTION

The statute of limitations in criminal lawsuits is one of the seldom-discussed topics in legal circles today, possibly as a result of the legislative approach to this category. For some crimes, there is no legal definition of the term "statute of limitations," and the theoretical issues are typically subject to the opinions of the affected parties. The length of time that must elapse between the commission of a crime and the criminal's prosecution, sentencing, and punishment varies according to the country's criminal law. Consequently, criminal proceedings in various nations are typically distinct. In reality, the classification of crimes in national laws complicates the implementation of legal provisions. Crimes are not always classified as forgivable or unforgivable, binding or compound, sterile or impossible, military or civilian, and so on. Even though some criminal principles have become uniform and universal, crime and its scope and territory continue to be influenced by geographical, national, political, and religious factors, resulting in differences or similarities between criminal systems.

Examining the intentions and goals of legislators based on the implementation of criminal justice in a society is a good way to gain a better understanding of criminal concepts. This can be done by looking at the laws that have been passed in that society. Both criminal law and criminology have as one of their primary goals the rehabilitation of those who have committed crimes as well as the pursuit of justice for those who have committed them (Shahmars, 2022). The robustness or fragility of the perspectives held by legislators in a society can be traced back to the social and political climate of that society. The purpose of this research was to develop hypotheses about factors that have had an impact on the academic disciplines of criminology and criminal law. In addition, the statutes of limitations regarding crimes and punishments in the Islamic-penal system of Iran as well as the common law system of the United States were taken into consideration and compared using a common law approach.

1. PHILOSOPHY OF THE STATUTE OF LIMITATIONS UNDER CRIMINAL LAWS

Criminal, civil, and business time limits are the most common types of statutes of limitations. The statute of limitations is essentially a legal issue, but it is subject to judgment; in other words, it is brought up when

the case is being handled and the verdict is being given. Due to the statute of limitations, no school agrees that public lawsuits or criminal punishments should be put on hold. Since the statute of limitations is one of the laws governing public order in criminal cases, it cannot be revoked by the beneficiary, unlike in legal cases where it can be done after the claim has been established and the court must deal with the private claim.

2. IRANIAN AND AMERICAN LEGISLATORS' POINTS OF VIEW REGARDING THE PUNISHMENT OF CRIMINALS


By determining punishment and sentencing, multiple goals are achieved. One of them is the remedy for society's problems. The occurrence of crime causes confusion and anxiety in society, but it is assumed that pursuing and punishing the perpetrator will restore order and normalize the situation. Assume that a significant amount of time has passed since the commission of the crime; if the criminal is prosecuted and punished again, anxiety and concern will return to society, thereby rendering the punishment ineffective. After a certain amount of time has passed since the commission of a crime, the statute of limitations in many criminal systems prohibits re-litigation. (Van den Haag, 1974: 627).

If for some reason the criminal is not prosecuted and the issue is forgotten, the re-prosecution of the case 10 or 20 years later will reawaken societal anxiety. It is in the best interest of society not to prosecute because the potential harm of doing so would outweigh the potential benefits in this scenario. Regarding the statute of limitations for carrying out the punishment, the same argument is made. The current version of the Criminal Procedure Law contains provisions regarding the applicable statute of limitations for punishment. In contrast, the statute of limitations has been modified somewhat as a result of the implementation of the new Islamic Penal Law.

In other nations, the statute of limitations on a crime and its repercussions is subject to the conditions and varying interpretations of the legislators and the approved aims of a society's laws. Iran and the United States serve as examples of the studied society in this case. Several crimes, such as intentional murder, treason, espionage, terrorism, etc., are punishable by death under United States law. This practice can be observed in the majority of democratic nations around the globe, such as the death penalty or life imprisonment in Japan, India, China, etc. To determine the extent to which the statute of limitations has been predicted in this country, extensive research is required.

The Confederate system was used to govern the United States between 1781 and 1787. However, due to flaws in this system, the Americans created the federal form (state-country) for the first time at the Philadelphia Conference in 1787. A political term used to describe a system of government in which a collection of units (such as states, provinces, countries, etc.) are devoted to one another and exist on behalf of a central authority is "federal." In other words, the central government and its constituent political units share property right, according to the constitutions of nations with a federal system. One of the oldest laws in the world, the US Constitution, has been in effect for more than 220 years. (Alexei Dutokoil, 1995: 55) In actuality, only amendments have been added to the US Constitution, and it has never been altered. As a result of this, the constitution of this country possesses a great deal of consistency and coherence, and it is regarded as a national heritage among the people of the United States. Seven chapters make up the principles of this law, and each chapter is broken down into several sections. The public has the right to participate in decision-making within government organizations, as the law stipulates, and the public will be followed and considered by the government as the ultimate authority. Both the United States' political and legal systems can be described as democratic. Despite the existence of a central government, power is decentralized throughout the United States of America. It can be found at all levels, including the local, regional, and national levels, and it is not held by a single organization. In this country, matters of law and crime are heard by the state, federal, district, appeals, and Supreme Courts.

In the United States, different states have different laws and policies regarding how criminals should be punished for their actions. Since the 1970s up until the present day, the death penalty has gone through a process of both strengthening and weakening depending on daily events such as the situation of immigrants, the situation of natives living in this country, and the developments that have occurred internationally. The current system of criminal procedure has resulted in a reduction in the number of people being put to death as well as an increase in the rate of decriminalization and rehabilitation of criminals. However, the death penalty has not been completely done away with. It can still be seen in certain crimes that carry the death



penalty, imprisonment, or exile, such as crimes related to suicide, which include: murder related to human trafficking; destruction of aircraft or motor vehicles; drug-related murder; murder at the International Organization airport; killing a family member of a law enforcement official as a form of revenge; and killing a family member of a law enforcement official because of vengeance; crimes against civil rights that result in death; the assassination of a member of Congress, an important executive official, or a justice of the Supreme Court; the death that results from crimes involving the transportation of explosives, the destruction of public property, or the destruction of property connected with foreign or interstate commerce; a homicide that was committed with the assistance of a firearm in the course of the commission of other violent crimes or drug trafficking crimes; a homicide that took place inside of a building that is owned or operated by the federal government; genocide, which is defined as the "deliberate and systematic killing of a nation or ethnicity," first-degree murder, which is defined as the "murder that was intentional and self-inflicted or was done with extreme disregard and disrespect for human life," the murder of a federal judge or law enforcement officer; the murder of a foreign official; the murder of a federal prisoner, and the murder of an American citizen in a foreign country are all examples of crimes that fall under this category. Homicide committed by an escaped federal prisoner serving a life sentence; homicide of a state or local law enforcement officer or other person assisting a federal investigation; homicide of a state prison officer; homicide committed during kidnapping; homicide committed during the taking of hostages; homicide committed against a court official or member of a jury; homicide committed by an escaped federal prisoner serving a life sentence; homicide committed for the purpose of preventing a witness (witness, victim, or informant) from testifying as a result of seeking revenge; sending poisonous substances with the intention of causing death or killing someone; committing murder for financial gain; carrying out an assassination or kidnapping that results in the death of the President or Vice President; homicides committed in connection with extortion schemes; destruction on purpose of a train that was carrying passengers to their deaths; homicides connected to bank robberies or kidnappings; homicides connected to automobile thefts; homicides committed in connection with the rape or sexual abuse of children; a homicide that takes place during an attack on a naval fleet; a homicide that takes place during an attack on oil docks; an act of terrorism that takes place in a foreign country and results in the death of an American citizen; a homicide committed with weapons of mass destruction; a homicide committed through the use of torture; a homicides committed by members of the Mafia or homicides in which a federal, state, or local law enforcement officer was involved; death as a result of hijacking are crimes that have to be accompanied by murder in order to issue a death sentence for the offender (Delfino and Mary, 2007: 2-4).

Each state sets its punishment guidelines and has different deadlines for investigating these crimes up until sentencing. First-degree to third-degree intentional homicide, which is considered a maximum of 40 years in prison, are the three types of penalties for crimes like murder (Satushieva, 2021). Killing someone while committing another crime is one aggravating factor, as is having a prior conviction for a violent crime involving a firearm. Extenuating factors, on the other hand, refer to circumstances that do not excuse or justify criminal behavior but are thought to be fair and helpful to the offender and can lessen the severity of the punishment, for instance, circumstances like being under duress, having little involvement, or having equally guilty defendants. The perpetrator of a serious crime may receive a death sentence or a life sentence without the possibility of parole if the judge or jury determines that the aggravating circumstances outweigh the extenuating circumstances. The trial judge, as the thirteenth member of the jury, is responsible for finding evidence that can confirm the death sentence. If the jury recommends a sentence of life imprisonment, the US Supreme Court announced, the judge can overturn the jury's recommendation and impose a death sentence.

Some crimes are not punishable in the United States, even though such crimes are punished severely in other countries, such as Iran, including by the death penalty, lengthy prison sentences, and public floggings. Espionage, treason (attempt to overthrow the government), drug trafficking on a large scale (distribution, sale, exchange), attempt, permit, or recommend the murder of an agent, juror, or witness in a Mafia case, regardless of whether or not the murder occurred, perjury resulting in death (only applicable in California and Idaho), rape (only applicable in Louisiana), sexual assault (only applicable in Florida), and serial rap. Since 1964, none of the prisoners who were found guilty of these offenses have been put to death; instead, they have only been given prison sentences. Consultation, assistance, and complicity in a murder are



examples of the types of crimes that can result in a sentence of life imprisonment without the possibility of parole. (Foroutan, Vahabi, 2017: 77)

Many legal professionals in the United States think that the use of the death penalty does not significantly cut down on the number of violent crimes and may even make the problem worse. Since 1971, a new procedure in the American criminal system has been accepted by the courts of this country to reduce the amount of punishment inflicted for certain crimes that can be pardoned. This procedure allows for a greater degree of mercy to be extended. The statute of limitations applies to certain types of criminal offenses. In addition to these, the concept of entering into a "plea bargain" with the prosecutor to avoid criminal prosecution was also suggested. A plea bargain is a contract between the prosecuting authority and the accused that both parties are required to comply with. Its provisions state that if the accused confesses to the crime, the aggravating factors are ignored.

For example, burglary is considered harassment, simple burglary, or robbery; either other charges against the accused are ignored or only the confessed crime is dealt with. If only one charge is investigated, the accused's confession will reduce the amount of punishment. Such a legal establishment is not visible in Iran's legal system.

In the majority of nations, the sentencing for reforming the offender over time is subject to a variety of penal models, including determinate, indeterminate, voluntary, or advisory sentencing models. In these models, particularly the voluntary model, the judge has greater discretion and authority in determining the sentence, and judges are permitted to choose from a variety of sentences. They are not, however, binding on the judicial authorities. In this type of sentence, the legislature does not establish a specific and fixed term for the punishment and instead leaves the determination of the sentence up to the discretion of the court. The minimum and maximum periods are specified by law, and the judge is permitted to determine the length of the sentence based on the specifics of each case. In his sentence, for instance, the judge determines the minimum and maximum applicable sentence (one to two years of imprisonment) rather than a specific period of sentence. For several decades, indeterminate sentencing has dominated the criminal justice system, particularly the common law system. This system of punishment is based on the reform and treatment philosophy of sentencing. This strategy is based on the optimistic premise that the prison term can play a significant role in the offender's reintegration. In this approach to sentence, the powers of non-judicial authorities, such as psychologists, counselors, and psychiatrists, play a significant role (Struve, 2010: 603).

In the United States, for instance, the parole board determines when the offender will be released during this period. In addition, this strategy is primarily intended to protect society from the threat posed by criminals. This model bases the prisoner's release on his behavior while incarcerated. As a result, a prisoner's good behavior will be rewarded with an early release, whereas bad behavior will result in serving the full sentence (Makhdoom, 2021). In the majority of U.S. states, the effect of the crime on one's life after serving a prison sentence is evident for years after the prison sentence has been served.

In Iran's legal system, to reduce the number of criminal cases, certain crimes lose their legal and criminal effects after the expiration of the legislatively mandated deadlines. The concept of crimes subject to the statute of limitations, which is stipulated in the Islamic Penal Code and the Iranian Criminal Procedure Code, has a distinct meaning in the American criminal justice system. In other words, crimes in the United States fall into three categories: intentional, unintentional, and quasi-intentional, presumably due to the adoption of common law regulations. There is a statute of limitations in Iran's criminal justice system for crimes whose legal punishment is "deterrent punishment or security and corrective measures." These offenses are distinguished by the fact that Sharia law does not specify the nature and severity of their punishments (Dehaghi, 2022). Consequently, the statute of limitations does not apply to serious offenses such as adultery, retribution, and dower. Therefore, if a person committed these offenses as a youth but access to him was not established until he was an adult, he could still be arrested and punished. Therefore, the statute of limitations differs for filing a complaint, prosecuting a crime, and carrying out a sentence. In the Criminal Procedure Law, only deterrent crimes and security and corrective measures were subject to the statute of limitations, whereas the Islamic Penal Code of 2012 recognized penal crimes as being subject to the statute of limitations. According to Article 104 of the new Islamic Penal Code, the statute of limitations suspends the prosecution of crimes that lead to discretionary correction if no final verdict has



been rendered between the date of the last prosecutorial or investigative action and the expiration of these deadlines.

The court may commute a sentence under American law, and the sentence's execution may be suspended or postponed depending on the character of the accused or criminal, their age, and their criminal history. To put it another way, the state courts may base the prosecution and the imposition of the sentence on the criminal record or the evidence of the criminal's reformation. Then, after a set number of deadlines, the impact of the criminal case will be over, depending on the character and capacity of the offender. Consideration of the criminal's personality is referred to as a specific sentence model, and courts, particularly the Supreme Court of the United States, have used it to lessen punishment in some American states. The Iranian legislature has anticipated this pattern in several criminal cases. For instance, in terms of the sentence for the crime of kidnapping, the judge is required to determine the maximum sentence, and judicial discretion does not interfere in determining the amount of sentence if the victim is under the age of fifteen or the kidnapping is carried out by vehicles.

One of the criticisms of this method of sentencing is that it ignores the personality of the offender and the corrective effects of the sentence on the offender's personality. In this model, boards like the parole review board or the prison administration play no part in the prisoner's release. In reality, if a convict behaves well and demonstrates signs of reform, he can earn a certain number of "good days" every month, the sum of which can hasten his release. This is done to remove this criticism, lessen the negative effects of imprisonment, and motivate the prisoner to make amends and make up for the harm caused by the crime while he is behind bars. These good days are influenced by things like not creating issues in prison, changing the offender's behavior, and taking part in work projects, educational programs, and self-improvement activities while incarcerated, among other things.

This issue is also foreseen in Article 520 of the Criminal Procedure Law (1392) so that convicts can receive three days of furlough each month if they comply with the rules and regulations of the prison and participate in corrective and educational programs and obtain the necessary privileges after depositing the appropriate security. The time during which the statute of limitations for the sentence applies is distinct from the time during which the statute of limitations for the complaint, prosecution, or sentence issuance applies. It would appear that the Iranian legal system adheres to a different interpretation of the statute of limitations than what the American legislators infer.

There is also a third model, which is known as presumptive sentencing or guideline-based sentencing, and it is the product of the combination of the first two models. In this form of sentencing, the legislature decides on a standard amount of punishment to be imposed for each type of crime. The courts are given the authority to deviate from this rule, but they can only do so if certain conditions or characteristics are met. In this form of sentencing, the judge has discretion over the sentence, which is specified based on predetermined sentencing guidelines. These guidelines were originally developed as a means of monitoring judicial discretion without, however, overriding judicial discretion, and as a means of correcting the inconsistency that results from individual sentences. The sentencing guidelines are predicated on the idea that offenders have committed a pattern of offenses, and that serious offenders ought to be subject to a more severe sentence. These regulations state that "punishability" is based on the "severity of the crime" and the "criminal record" of the offender. (Struve, 2010: 601)

In recent years, a fourth model known as the "mandatory sentencing model" has gained popularity. The goal of this model is to impose prison sentences of a specific length of time for specific crimes or a specific class of criminals. In this configuration, the authority to postpone and suspend care, to place the offender on suspension, and to review the offender's eligibility for parole is lacking. For instance, in the United States of America, only a select few states like California, Hawaii, Kentucky, Michigan, and Illinois have passed laws that are based on this kind of modeling (Doyle, 2017: 17). In addition, if the offender used a dangerous weapon while committing the crime in Michigan, he is required to serve an additional two years in prison without being eligible for parole. This is a mandatory minimum sentence. In the system of mandatory sentencing, the judge is responsible for determining the precise length of the sentence, such as ten years in prison, and the offender is required to serve the full term. This amount is predetermined by the legislature, and the judge does not have the authority to change it in any way. This model has also been criticized regarding the question of whether there are any other choices and solutions available to avoid

mandatory sentencing that is more effective as a deterrent than the laws that govern mandatory sentencing. The legislative evolution of Iran's criminal system demonstrates that criminal law sentences have not adhered to a single classification. Therefore, the five legislative periods do not share the same classification (1926 General Penal Law, 1974 General Penal Law, 1983 Islamic Penal Law, 1992 Islamic Penal Law, and 2014 Islamic Penal Law). Before 1979, the majority of sentences were divided into three categories: felonies, misdemeanors, and minor offenses. The laws were then classified based on their conformity to jurisprudential standards as hudud, qisas, diat, and ta'zirat. In 2014, the eight-tiered classification of Ta'ziri punishments represents the most significant modification to the applicable law. It is not possible to identify a clear distinction between Ta'ziri punishments based on a cursory examination of how they are divided. These divisions do not appear to be disproportionate to the severity and type of crime. Specifically, the distinction between these types of punishments is their division based on the gravity of the crime and the type of punishment. The legislator has also specified the types of punitive punishments in this section, which include imprisonment, flogging, and fines. The law in question grants the judge broad discretion in determining the nature of punishments. The judge plays an active and effective role in realizing the principle of individualizing punishments and establishing their proportionality with the crime committed.

3. THE STATUTE OF LIMITATIONS

"The statute of limitations" is described as the time that, under the law, passes after which the lawsuit is not heard in Article 731 of the former Civil Procedure Law. This definition states that a lawsuit will not be heard if it is filed in court after the deadlines specified by the law. These times were specified in detail in Articles 737 through 743 of the previous Civil Procedure Law.

The legal statute of limitations in French civil law is distinguished between acquisitive prescription and extinctive prescription. Acquisitive prescription, also known as "possession begets right", occurs when a person is recognized as the actual owner of something in his possession after having it for a specific amount of time and under specific circumstances. Alternatively, the statute of limitations grants a person the right through continuous possession (Jaafari Langroudi, 1992: 585). The extinctive prescription, on the other hand, is "the period during which the claimant's right to bring a lawsuit is forfeited, or as a result, the creditor's right is forfeited due to silence for a specific time and causes the forfeiture of the right" (ibid). The legal statute of limitations in Iranian law, according to its effects, results in the loss of rights for one party to the lawsuit and the creation of rights for the other party, as can be seen, if we pay attention to the definition of the term provided in Article 731. The division of French civil law is not therefore a unique innovation. Unlike in Iran and France, American law does not define the term "statute of limitations" explicitly.

4. DIFFERENCE BETWEEN PUNISHMENT PRESCRIPTION AND PROSECUTION PRESCRIPTION

The retributive or penal time limitations are, in a special sense, "the passage of a time after which, according to the law, the prosecution of a crime or the execution of a final criminal sentence is suspended. In other words, if the investigation of a crime or the execution of a final criminal sentence is delayed for a certain amount of time, the crime is no longer investigated and the final sentence is not carried out on time. In this instance, the crime is said to be subject to the statute of limitations (Akhundi, 1990: 246). Therefore, if some time passes after the crime and no prosecution or complaint is filed against the accused or to uncover the crime, or if some time passes after the last prosecution and the sentence is not carried out, or if a portion of the sentence is carried out but the remainder is not, there will be no further prosecution and no punishment will be imposed. In this manner, the laws of the majority of nations stipulate three types of statutes of limitations: complaint, prosecution, and execution.

It is important to distinguish between the prosecution prescription and the punishment prescription. The prosecution prescription states that the accused cannot be prosecuted if the charge against them has not yet resulted in a conviction and the statute of limitations has not yet run. This matter has to do with the legal system. (2007) (Aliabadi, 377). Additionally, it has two types: prescription for prosecution in a particular sense and complaint limitation. Its origin is the date of the crime, and when the crime is being prosecuted, the origin is the most recent prosecution action. However, the statute of limitations for carrying out the sentence is final once it has been issued, and this matter is connected to general criminal law

because the punishment is canceled. The penal prescription is the total of the criminal statute of limitations and the punishment statute of limitations. (Jaafari Langroudi, 1992: 639)

5. THE DIFFERENCE BETWEEN LEGAL AND PENAL PRESCRIPTIONS

The most significant distinctions between legal and penal prescriptions are:

- A) The provisions associated with penal prescriptions refer to public order. Therefore, it is unaffected by the beneficiary's will, which is the accused or defendant, and he cannot ask for its cancellation. Therefore, even in the absence of the accused's objection, the criminal authorities must pay attention to this matter. However, the statute of limitations in legal matters can only be waived by an individual, and it will only be valid and recognized based on the mention of beneficiary parties in legal claims. (2014) (Zeraat, 479). In its decision No. 2501 dated December 1939, the High Disciplinary Court of Judges states: "It is not possible to ignore the fall of the criminal case due to lapse of time and keep the accused in custody, even if the accused explicitly waives the lapse of time and insists on prosecuting and punishing himself. (Deputy for Judicial Education, 2010: 100)
- B) The statute of limitations in civil matters, particularly for creditor claims, is predicated on the assumption of payment by the debtor or forgiveness by the creditors (Hoang HTT, et al., 2023). The statute of limitations is based on multiple factors, with social benefits being the most important. (Aliabadi, 2007: 377)
- C) The objection to the statute of limitations may be raised at all stages of the proceedings, and it may be heard even after the verdict has been rendered. However, legal time can only be utilized in the initial phase. (Akhundi, 1368: 252-251; Shamani, 1991: 35)
- D) In legal matters, the statute of limitations must be proven. In other words, if there is uncertainty regarding the inclusion of the statute of limitations and whether the case is still pending or whether the statute of limitations has expired and the case can no longer be handled, the verdict should not include the statute of limitations. Nonetheless, according to the principle of interpretation in favor of the accused, we should render a verdict that includes the statute of limitations in criminal cases where there is uncertainty regarding the date of the crime and we hesitated between two or more possible dates. In cases of uncertainty, the reason for not including the statute of limitations in legal matters is that in legal matters, we are dealing with the rights of the people, so we cannot disregard their rights.
- E) The factors that affect whether the legal statute of limitations applies or does not apply are different for a penal prescription than they are for the other.
- F) Cases that cause the statute of limitations to be interrupted or suspended in legal matters will not apply to penal matters, and vice versa.

6. THEORY OF THE STATUTE OF LIMITATIONS AND PRINCIPLES OF DETERRENCE

Based on recent advances in criminology, Iranian criminal law lawyers believe that applying the statute of limitations to some crimes and criminals is useful if the objective of the modern penal code is to reduce the number of crimes under the heading of deterrence. Theoretically, fewer crimes would occur in society for the following reasons, which are mentioned in more than one place:

- 1) The statute of limitations affects the offender's penitence and willingness to make amends
When a person goes relatively long without being punished, the prolonged fear of punishment causes him to consider his actions. As a result, he makes amends and never violates the law again to avoid being prosecuted and punished again. Punishing such a changed person serves no useful purpose. Consequently, it is preferable to not punish such a person (Akhundi, 1990: 253-254). The first theory put forth by proponents of the statute of limitations is that as time has passed, the offender has grown repentant, and some of them may have even altered their behavior or even started a family. Therefore, bringing charges against and punishing them will be damaging to their family and reputation, which will have other unfavorable consequences.
- 2) Loss of Evidence of a Crime's Committal
Due to witness deaths, migration or travel, the disappearance of the crime's traces, and other factors, it will get harder to find evidence against the accused as time goes on. Remaining intuition may forget many details of the incident as a result of aging, illness, or the passage of time. The prosecution of the accused

will therefore either be unsuccessful or demonstrate his innocence, or, if a sentence is imposed, it will likely be unfair and based on shaky evidence, placing the investigating judges under moral and ethical obligation.

3) The theory of societal forgetting and forgetfulness

The memory that the crime left in the public mind of society is forgotten after a significant amount of time has passed and the conviction is certain. Therefore, carrying out the punishment will not serve to intimidate or stop the crime from being committed; rather, it will only serve to bring back the painful memories of the crime in the minds of the public. (Sanei, 2004: 825)

4) Establishing rights for criminals

If an accused person is not continuously prosecuted, he or she has the right to be exonerated and is not responsible for the judicial system's shortcomings, negligence, or the plaintiff's error. So that whenever the plaintiff or the investigating judge did not want to leave the case pending, the accused should not be accused of being played by the judiciary and the plaintiff's desire or will. Because of this, the accused has the right to be freed from the unwarranted abuse and harassment of the legal system and the plaintiff after a certain amount of time, and if prosecution is not carried out within the time frame that the legal system and the plaintiff have the right to prosecute, this right should be revoked to protect the accused. (Kayani, 2005: 35; Babaei, 2010: 53)

5) Conflict with justice

The fairness of punishment depends on how close it is to the date of the crime; otherwise, the offender will be living in constant fear of being caught and punished. It would be against the principles of justice to punish him again after he has already suffered this mental anguish and hardship as a form of atonement. (Bahri, 2003: 353-352) If the pursuit of the accused does not achieve its goal and results in his acquittal, then the same pursuit, arrest, and imprisonment cause anxiety and worry in him again, which is punishing twice for the same act and against justice.

6) Encouraging the prosecuting institutions to deal with crimes as soon as possible:

The prosecution institution tries to stop criminals from going unpunished because of the institution of the status of limitation, which makes them responsible to society. The government and law enforcement organizations both put great effort into apprehending and locating criminals. Additionally, it is important to investigate and prosecute crimes as soon as possible to avoid accountability in front of regulatory institutions. This will save both the defendant and the suspect time, and it will also lessen the delay of the proceedings.

It appears that the statute of limitations applies to both the plaintiff's complaint and the suspension of the punishment, in addition to the former. The criminal legislator also became aware of this problem in 2014. After a certain amount of time has passed since the crime was reported and the victim of the crime has not filed a complaint, the criminal complaint will no longer be heard (Jazairi, Mahdavi Nasab, 2021: 52). This is provided for in Civil Law Article 106: If the victim of a forgivable discretionary crime fails to file a complaint within a year of being informed of the crime, his ability to file a criminal complaint is lost. Unless he is under the defendant's control or is prevented from filing a complaint for a reason outside of his control, in which case the deadline is based on the date the obstruction was removed. Each of the victim's heirs has the right to file a complaint within six months of the date of death if the victim passes away before the end of the time frame mentioned, and he has no grounds to withdraw from filing one.

7. THE STATUTE OF LIMITATIONS AND THE ARGUMENTS MADE BY THE OPPONENTS AND PROPONENTS

The main opponents of the legal statute of limitations are those who think that European law, not Islamic jurisprudence, is where it came from and that it should not be incorporated into our country's subject laws. They have thus opposed it, citing the importance of upholding people's rights in Islamic teachings as well as the fact that the statute of limitations renders the creditor's legal protection null and void and renders him powerless to compel the debtor to fulfill his obligation. The Guardian Council is one of those who oppose the legal statute of limitations, and in response to this council's theory that it is invalid, some jurists have attempted to defend it by citing social and judicial needs. These jurists point out that maintaining public order and preventing rights violations are the two main justifications.

Regarding the preservation of public order, it can be argued that the holder of a right cannot compel the

judicial system to hear his case and grant him his right if he voluntarily relinquishes it and does not assert it for a predetermined amount of time. The reason is that the task of the judicial system is difficult and complex in addition to the lengthy statutes of limitations and the age of these cases. Furthermore, it leads to a loss of social harmony and stability, making it difficult for people to enjoy their rights, relies on them, or obligate themselves or future generations to uphold the arguments in favor of their rights or against those of others. They find it difficult to easily turn them over to others as a result. (Shahidi, 2014: 218) Every common sense also supports another social and legal justification, which is the same rule of exemption from rights: when a person does not assert his right for a significant time despite the possibility of doing so, every common sense determines that the right has been waived and revoked. Because no sane person lets their right go unclaimed for a considerable amount of time before wanting to assert it, and as soon as they are aware that they are entitled, they immediately take the initiative to demand it.

8. STATUTE OF LIMITATIONS UNDER CRIMINAL LAW AND THE VIEWS OF ITS OPPONENTS AND PROPONENTS

There is no consensus regarding the statute of limitations for criminal lawsuits. Some are in favor of the statute of limitations, and some have made criticisms of this criminal law, which will be reviewed separately and briefly:

A) Arguments of Proponents of the Statute of Limitations under Criminal Law Proponents of the statute of limitations under criminal law offer the following reasons for accepting this rule:

1. The statute of limitations affects the offender's penitence and willingness to make amends. When a person goes relatively long without being punished, the prolonged fear of punishment causes him to consider his actions. As a result, he makes amends and never violates the law again to avoid being prosecuted and punished again. Punishing such a changed person serves no useful purpose. Consequently, it is preferable to not punish such a person (Akhundi, 1990: 253-254). The first theory put forth by proponents of the statute of limitations is that as time has passed, the offender has grown repentant, and some of them may have even altered their behavior or even started a family. Therefore, bringing charges against and punishing them will be damaging to their family and reputation, which will have other unfavorable consequences.

2. Loss of Evidence of a Crime's Committal

Due to witness deaths, migration or travel, the disappearance of the crime's traces, and other factors, it will get harder to find evidence against the accused as time goes on. Remaining intuition may forget many details of the incident as a result of aging, illness, or the passage of time. The prosecution of the accused will therefore either be unsuccessful or demonstrate his innocence, or, if a sentence is imposed, it will likely be unfair and based on shaky evidence, placing the investigating judges under moral and ethical obligation (AlShuaibi, 2021).

3. The theory of societal forgetting and forgetfulness

The memory that the crime left in the public mind of society is forgotten after a significant amount of time has passed and the conviction is certain. Therefore, carrying out the punishment will not serve to intimidate or stop the crime from being committed; rather, it will only serve to bring back the painful memories of the crime in the minds of the public. (Sanej, 2004: 825)

4. Establishing rights for criminals

If an accused person is not continuously prosecuted, he or she has the right to be exonerated and is not responsible for the judicial system's shortcomings, negligence, or the plaintiff's error. So that whenever the plaintiff or the investigating judge did not want to leave the case pending, the accused should not be accused of being played by the judiciary and the plaintiff's desire or will. Because of this, the accused has the right to be freed from the unwarranted abuse and harassment of the legal system and the plaintiff after a certain amount of time, and if prosecution is not carried out within the time frame that the legal system and the plaintiff have the right to prosecute, this right should be revoked to protect the accused. (Kayani, 2005: 35; Babaei, 2010: 53)

5. Conflict with justice

The fairness of punishment depends on how close it is to the date of the crime; otherwise, the offender will be living in constant fear of being caught and punished. It would be against the principles of justice to

punish him again after he has already suffered this mental anguish and hardship as a form of atonement. (Bahri, 2003: 353-352) If the pursuit of the accused does not achieve its goal and results in his acquittal, then the same pursuit, arrest, and imprisonment cause anxiety and worry in him again, which is punishing twice for the same act and against justice.

6. Encouraging the prosecuting institutions to deal with crimes as soon as possible:

The prosecution institution tries to stop criminals from going unpunished because of the institution of the status of limitation, which makes them responsible to society. The government and law enforcement organizations both put great effort into apprehending and locating criminals. Additionally, it is important to investigate and prosecute crimes as soon as possible to avoid accountability in front of regulatory institutions. This will save both the defendant and the suspect time, and it will also lessen the delay of the proceedings.

B) Arguments of Opponents of the Statute of Limitations Under Criminal Law

• Rejection of the theory of the offender's penitence and willingness to make amends

After a certain amount of time has passed, it is impossible to offer concrete evidence that the perpetrator of the crime was afraid and later regretted it as a result of this fear and apprehension. For professional criminals, this is especially true. A criminal has effectively demonstrated the presence of a dangerous situation. In this way, it is impossible to anticipate that this dangerous condition will be treated and go away on its own after the statute of limitations has passed without a good reason. The execution of punishment, which is meant to be a means of identifying, reforming, and treating criminals, must, however, become impossible after a certain amount of time if we accept the statute of limitations rule. (Saenei, 2012: 826) As a result, society fails to provide the desired level of "social defense" by accepting the statute of limitations and, concurrently, by failing to recognize criminals and the causes of crime. On the other hand, if these criminals have formed a family, their arrest and punishment won't harm their family's dignity in any way because, typically, the families of these people are not of high status and they experience moral decline under the influence of these people.

• Rejection of the theory of loss of evidence of a crime's committal

This theory seems reasonable on the surface, but it is unworkable in reality. First off, due to the time limitation, many traces and all the causes of the crime's evidence still exist. Therefore, it is unacceptable to abandon the prosecution or punishment due to the difficulty of gathering the reasons and evidence, and the criminal's wrongdoing cannot be forgiven in any way. Second, the causes of one crime that is similar to another may change while the causes of the other crime stay the same. Thirdly, the statute of limitations for the punishment is not mentioned in the reasons given. (Ardabili, 2012: 70-74)

• Rejection of the theory of societal forgetting and forgetfulness


Even though the passage of time frequently erases people's memories, certain memories have such a profound effect on the soul that they remain in people's minds until their last breath, and their bitter memories are never forgotten. The commission of a crime is one of the most significant memories that will never be forgotten. On the other hand, a person may commit a crime out of the public's view and no one will learn about it. In such instances, society is unaware of the crime until it is reported, and then it is forgotten.

• Rejection of the theory of establishing rights for criminals

This theory is also unjustifiable because of the possibility that the plaintiff or the judicial system will be unable to prosecute the crime and deal with it as a result of current issues. Being prohibited from this work after being able to do so does not make sense. However, as representatives of society, the legal and law enforcement systems pursue criminals. Since society is unable to directly prosecute and punish criminals, even if there is negligence or guilt on their part in the prosecution of crimes, the burden of this negligence or guilt and the harmful result cannot be placed on society. This is especially true for crimes whose public aspect overrides their private aspect. Because of this inability, he has relied on the legal system to resolve this; as a result, society is mistrustful of judges because they accept the statute of limitations.

• Rejection of the theory of conflict with justice

The theory of criminal's remorse, according to the opponents, is not valid in the case of career criminals because, to start, they are accustomed to prison and the prosecution system because they routinely commit other crimes, and they have no fear of being charged, imprisoned, or confronted by law enforcement or



judicial institutions. Second, a trait of career criminals is their ability to conceal their crimes from the view of law enforcement, or at least ensure that the prosecution of those crimes does not result in their detection, which makes them unafraid of being apprehended and punished. The Assertoric school representatives have suggested separating occasional offenders from career offenders for these reasons. In other words, career and incorrigible criminals are denied the benefit of the statute of limitations while occasional criminals receive it. Criminals who have the predisposition to commit crimes are exempt from the statute of limitations, according to Article 172 of the Italian Penal Code.

We conclude that the supporters' arguments are more compelling and logical than the opponents' after examining and debating both sides' arguments for and against the existence of the statute of limitations under criminal law. However, this institution also complies with social requirements. Because of this, the statute of limitations is recognized in the criminal laws of many nations.

In addition to these instances, the legislator raised a few issues with the statute of limitations in the Islamic Penal Code. Some crimes, including those against the nation's internal and external security, economic crimes like fraud, crimes subject to the note of Article 36 of this law (subject to the amount stipulated in that article), and crimes under the Anti-Narcotics Law, are not subject to the statute of limitations for prosecution, sentencing, and execution of punishment, according to Article 109 of Iran's Islamic Penal Code. The right of a private plaintiff is one thing that needs to be mentioned concerning the statute of limitations. According to Article 113 of the Islamic Penal Code of 2014, the victim of the crime is entitled to file a private lawsuit with the appropriate authority even if the prosecution has been suspended, a judgment has been rendered, or punishment has been carried out. The exceptions to the statute of limitations for criminal lawsuits in the American criminal laws that were examined are comparable to this issue.

CONCLUSION

The statute of limitations is defined as "the expiration of a time from the date of the crime occurrence or the date of finality of the sentence, after which the defendant can no longer be prosecuted or the sentence can no longer be enforced," is a relatively new institution in international law. This institution was not given much consideration by the legislators of that era, and they only accepted it in a limited way in their criminal laws, according to an examination of these provisions in previous laws from earlier periods in human history. Therefore, a lot of attention has been given to this development in criminal law, and most of the recent centuries have seen jurists discuss and research it. In Iran's criminal code, the first articles recognize 105 and 107 degrees of legal punishment for crimes without taking into account the aggravating and mitigating circumstances including the statute of limitations for the prosecution or the execution of the punishment for a crime. Given the statute of limitations, this is acceptable since the offender has not yet been found guilty and his status is unknown. The execution of the sentence imposed against the offender is not permitted under the statute of limitations, though.

The statute of limitations for filing a complaint is described in Article 106 of the Islamic Penal Code as follows: "In forgivable discretionary offenses, the victim's right to file a criminal complaint is forfeited if he does not do so within one year of the date of notification of the crime unless he is under the control of the accused or is unable to do so for reasons beyond his control. The deadline in this situation is determined by starting with the day the obstacle was removed. Each of the victim's heirs has the right to file a complaint within six months of the date of death if the victim passes away before the deadline has passed and there is no valid reason for him to waive the complaint.

The Islamic Penal Code's Article 109 states that certain crimes are exempt from the statute of limitations. These crimes include offenses against the nation's internal and external security, economic offenses like fraud, offenses covered by Article 36 of the Islamic Penal Code with the payment of the fines outlined in that article, and offenses covered by the Anti-Narcotics Law. Other optional crimes are still covered by the statute of limitations thanks to the legislator.

As a result, the justifications offered by those who favor the criminal law's statute of limitations are more palatable and make sense. Therefore, the establishment of the statute of limitations under criminal law can be regulated by criminal laws from a purely legal perspective.



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