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Criminal Liability for other Behavior by Looking at Vote in Courts

Fatemeh Karimi[1]; Mohammad Ali Ardebili[2]

[1] Ph.D. Student in Criminal Law and Criminology, Islamic Azad University, Tehran Center Branch, Iran

[2] Ph.D. in Criminal Law and Criminology, Faculty Member of Shahid Beheshti University, Iran

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Abstract

Despite the fact that crime and punishment are personal, in answer to the question of whether other persons besides the perpetrators of the crime are responsible? According to the circumstances, a positive answer can be given. Over time, with the qualitative growth of laws, Vicarious liability was formed. Until 2013, the criminal liability of legal entities existed exceptionally in scattered laws. Legal doctrine has proposed different theories in this regard, which in general can be divided into two categories: "Fault doctrine" and " Risk doctrine ". Iranian law, according to the votes of the courts before and after the Islamic Revolution, is more inclined to the first theory; At the same time, in a few votes, the opposite opinion can be seen. The purpose of this study is to investigate the status of the principle of criminal liability due to other behavior in Iranian law which is obtained based on the method of describing and analyzing legal materials and judicial opinions.

Keywords: *Vicarious Liability; Court Votes; Risk Theory*

Introduction

Today, the necessities of life in the social, economic or judicial spheres have put us in danger; So not only do we have to accept the personal responsibility of individuals within the framework of the law, but in certain circumstances, we have to accept the principle of criminal responsibility due to other behavior. In answer to the question, what is the use of the issue of criminal liability due to other behavior in creating liability? It can be said that by accepting only the principle of personal punishment in Article 141, many persons who have played a marginal role in causing harm to others, Unpunished and, as a result, the important purpose of punishment to prevent criminals from escaping the clutches of justice will not be achieved. The principle of individuality is different from the principle of individuality of punishment, and its executive territory is in the stage of prosecution, reprimand and execution of the sentence. Vicarious liability has been considered by the Iranian legislature in Article 142 of the Islamic Penal Code adopted in 2013. Some scholars consider its background in Iranian law with the approval of Article 48 of the Press Law approved in 1326 AH. In which the editor-in-chief of the journal is held responsible for the untrue or insulting content of the author of the article in the journal; So that Dr. Ardabili, regarding the first law that deals with this principle, writes:

"It is not a claim that if it is said that the first law that established criminal liability for the actions of others was one of the first approvals of the National Assembly, namely the Press Law (approved on 5 Muharram 1326 AH)." In the discussion of legal liability, we can refer to Articles 7 or 12 of the Civil Liability Law approved in 1339 regarding the liability of parents and employers. Also, according to Article 24 of the general conditions of the contract, the labor contract can be considered responsible for all acts committed by the contractors. During these years, we are faced with numerous votes in the courts that do not provide a precise basis for the exercise of this type of responsibility. Recent responsibility is one of the changes in Iranian legislation. Contrary to the new law, which uses the word "conduct", the word "act" as a criminal liability for a non-act in the past left the courts free to extend this type of liability, including omission. This caused judges to face practical difficulties in interpreting the law. Regarding the acceptance of responsibility of legal entities, with a brief look at the legislative policy before the Islamic Revolution, we see that the legislator of that period, with the exception of a few special cases, did not show much interest in the criminal responsibility of these individuals. For example: Paragraph 2 of Article 11 of the Law on Certification of Inheritance Monopoly approved in 1309, the person responsible for the implementation of the provisions of Note 6 of this law, according to which commercial and exchange institutions, etc., which have the property of unknown heirs, It is obligated to hand over the property of any place in the park or pay it to the government. In the cases mentioned in this law, if it is committed by a legal entity, the managing director or those who were in charge of the legal entity. In some cases, the pre-revolutionary legislature considered the property of a legal entity as compensation for private plaintiffs. Of course, in exceptional cases, this procedure changed and in dealing with people whose actions harmed the security of the country and the political situation, they were treated more seriously. Such as: the single article related to the confiscation of property belonging to the disbanded parties approved in 1328 AD after the Islamic Revolution, a major change in the nature of laws occurred. It is clear that Iran's criminal policy in accepting this type of responsibility, in addition to theoretical foundations, relies on certain and valid jurisprudential rules and can be justified on this basis. (Kanaani, 2005: 112). In the jurisprudence, based on the criminal regulations of the country, it has sometimes been observed that the judge explicitly assigns the responsibility of material stewardship to another person by expressing the term "strong cause of the perpetrator" without defining the criterion of being strong in the commission of the crime. This is not a new principle among the laws of European countries, but its criminal history goes back to Roman legislation. The Romans were under a system called " La noxalité ". According to this system, if the child of a family or a slave committed a private crime, the victim of the crime would ask the perpetrator's family, whether his parents or guardian, to pay the membership fee as his guardians or demand the extradition of the perpetrator. The choice of the first way was the same criminal responsibility due to another behavior. Since this principle was established in the Islamic Penal Code adopted in 2013 with the establishment of French law, it has many similar bases to the law of this country and is somewhat groundbreaking. Regarding legal entities, Article 143 of the Islamic Penal Code explicitly mentions their criminal responsibility. Since criminal acts are committed by natural persons, the legislator has considered managers as the manifestation of the will of a legal person. In this research, it is tried that according to the principles and rules in accordance with it, with an analytical and sometimes critical look at the existing legal materials and judicial opinions, it is possible to prevent the issuance of contradictory opinions as much as possible and apply the ground for a fair trial. Based on this, the issues to be examined will be classified and addressed as follows;

- Conditions for committing a crime are essentially criminal liability for other conduct
- Legal basis of criminal liability for other conduct
- Court voting

Conditions for committing a crime are essentially criminal liability for other conduct

Article 142 of the Islamic Penal Code deals with the principle of criminal liability for other conduct and states:

"Criminal liability for another conduct is established only if the person is legally liable for other acts or as a result of another act of guilt."

The two accepted conditions for the criminal responsibility of the material manager of the mentioned crime are violation of the regulations and non-intentional violation of the regulations. In the case of the first condition, the violation of the regulations, which in some cases is interpreted as non-compliance with government regulations, is a violation of all by laws, instructions and recommendations on how to work and manage it in all firms, workshops, factories and units. The guild system is ruling. (Ardabili,2013: 17). In this case, if individuals from this group commit the mentioned violation in these systems, the responsibility of the director of these institutions is fixed. Regarding the second condition, it seems that intentional violation of the regulations can also cause the employer to be liable. As in some crimes, the psychological element is assumed due to the sensitivity of the issue and it seems rationally impossible to accept guilt.

A clear example in this regard is Article 21 of the Press Law Bill adopted in 1979, which reads as follows:

"Whenever in the newspaper or magazine or any other publication any articles that are insulting or defamatory or contrary to the truth and truth, whether in the form of composition or quotation, are imitated by certain authorities, the editor-in-chief and the writer will both be sentenced to one to three years in prison each."

Other conditions related to the criminal responsible are other behaviors, both real and legal, which include five cases of fulfillment of direct criminal responsibility, lack of reasons for eliminating criminal responsibility, existence of an obligation under the contract, committing an unintentional crime and committing a crime while on duty. Criminal liability is conceivable when the perpetrator meets all the requirements of criminal liability. In the second condition, the hypothetical perpetrator, with the exception of a mistake, which is considered an instance of misconduct and as a result of possible negligence, should not be liable for criminal liability. The offense must be related to regulations that the person has personally committed to respect and fulfill. For example, if the head of a workshop has not personally made a commitment to run the workshop in any way and the managers of each section have full authority separately, the head of the workshop or store can not be held responsible for crimes committed in the area of duties of managers of different departments. (Shambiyati, 2014: 124). Regarding the fourth condition, it is difficult to assume that someone else is responsible for intentional crimes, because the perpetrator herself has criminal responsibility. One of the opposing views, according to Dr. Nourbaha, is that: "The presumption of criminal liability resulting from another act in intentional crimes is also conceivable. For example, workers in a clothing store who sell clothes at a higher price than usual and commit the crime of intentionally selling expensive clothes. In principle, their responsibilities should be limited to themselves, and their owners, who in the opinion of the company or the deputy are not due to the non-fulfillment of the conditions of these titles, may be prosecuted as responsible for the actions of their workers. They look at it with skepticism, because proof to the contrary may also be in such a way that the worker or seller claims that she did not take the necessary precautions at the time of selling the clothes and made a mistake in determining the price. Even if it was intentional in overselling. The history of proxy liability shows that, in principle, this type of liability could only be exercised in unintentional crimes. This principle, known as the "legal attribution of acts", applies exclusively to absolute or purely material offenses in which the material conduct committed by the employee is attributed to the employer. In such crimes, which do not require a psychological element in principle, the act committed is attributed to the employer. Usually, such issues may occur regarding the regulations in sale and use of some devices. (Jafari, 2017: 185 and 184). Recent criminal liability in the late 20th and early 21st centuries, the realm of intentional crimes also required proving the psychological element, and judicial rulings were issued based on it. According to the fifth condition, in order to fulfill the criminal responsibility of the employer, the main offender must be allowed to take over the affairs on her behalf. The purpose of the duty is all the time when the insured is working in the workshop or affiliated institutions or buildings and its premises or is responsible for carrying out a mission outside the workshop by the order of the employer. In this regard, the order of the honorable professor Dr. Ardabili is as follows:

"From the explicitness that the legislator has sometimes used in enacting some regulations, it is inferred that in case of negligence in the implementation of government systems, the mistakes of employers

and responsible managers are assumed to be positive. Some jurists, because the act against them confirms the violation, consider the judicial authority without the need to prove it. In other words, by proving criminal behavior, the offense will be proven. Although this promise is inherently true for some crimes, it should be noted that proving the absence of offense is not the same in all circumstances. For example, in Article 95 of the Labor Law, which places the responsibility for the implementation of technical and occupational health rules and regulations on the employer or the officials of the units mentioned in Article 85 of this law. In the second part of the article, whoever has the duty to protect, supervise the actions of others and is negligent in performing his duty, is responsible even if the guilt of the perpetrator or a third party is also effective in the occurrence of the crime. Regarding legal entities, Article 143 of the Islamic Penal Code adopted in 2013 states:

"A legal person is criminally liable if a legal representative of a legal person commits a crime in the name of or in the interests of ..."

This article to some extent defines the scope of responsibility attributed to legal entities, but refrains from mentioning its examples. In fact, the legislature has vaguely used the term "interests", which will lead to different interpretations of it in court vote. From the application of the mentioned article, we can know the benefits, both material and spiritual. Perhaps it can be said that the difference in the name and in the direction of interests is the direct or indirect benefit, so that being in the name means direct profit and benefit and in the direction of interests means the indirect benefit of the legal person (Abdi, 2015). The legislator also stated the criminal responsibility of legal entities in general without mentioning specific crimes, which is not without its drawbacks. However, in the discussion of punishment, it states the punishments prescribed for legal entities separately. In fact, the courts in these cases must examine the issues separately in each case. (Farajollahi, 2010: 98 and 97) .The responsibilities of legal entities are numerous here. This is similarly stated in both Article 143 of the Islamic Penal Code and Article 2-121 of the French Penal Code, in the sense that:

"Criminal liability of legal persons does not preclude criminal liability of natural persons." The term "in the name" means that the representative has committed the crime directly in the name of the legal person. For example: the company has sold directly in order to increase profits. If the manager commits a crime through another person by abusing his / her power, he / she is considered as a deputy in crime. However, it seems that in the non-mentioned case, and since the legislator did not refer to scattered laws as a special law for this case, the case of directing or ordering to commit a crime does not fall under the title of deputy. By examining some legal materials, we will find that the legislator does not specify this issue and there is a need for a fundamental review in each case. Therefore, according to the examples of the deputy in Article 126 of the Islamic Penal Code, due to the special case of committing this type of crime under the group of legal entities that are held responsible by the person ordering without determining the direct punishment that can be considered as the aggravating factor of punishment, the behavior of the perpetrator can be considered as the spiritual steward of the crime. Perhaps it can be said that the title of spiritual stewardship of a crime was committed to create punishment for a crime, not the title of spiritual stewardship in the literal sense. For example, Article 2 of the bill to eliminate the encroachment of the Ministry of Water and Electricity Installations, approved on 3/4/1980, states as follows: "If the use or interference is for the benefit of legal persons, the punishment provided in Articles 20 and 143 of the Islamic Penal Code adopted in 2013 will be applied to the responsible manager of the legal entity. "Unless Masharalieh proves that the person who ordered was someone else, in which case the punishment imposed on the person who ordered it will be applied." Or Article 568 of the Islamic Penal Code approved in 2013. We see that when the directorate is in place, the legislator addresses her as the beginning of the current of thought and, in a way, deems her deserving of a severe state of punishment. Another issue that is ambiguous in the law is the criminal liability of subsidiaries. Occasionally a subsidiary in the parent group or affiliated with the parent company commits criminal behavior. It seems that citing Article 694 of the Iranian Code of Criminal Procedure, two cases can be considered for the criminal liability of the company's branches. According to this article, if a subsidiary that operates under a parent company commits a crime, it will be criminally liable. However, if by the decision of the main headquarters of the company, it is obliged to perform a responsibility that has led to the commission of a crime in line with the assigned duties, here the

parent company will also have criminal responsibility. Another relevant legal article regarding the criminal liability of legal entities is Article 19 of the Computer Crimes Law or Article 747 of the Fifth Section of the Islamic Penal Code. The legislator has used the phrase "in the name and in the interests of the legal person." Article 19 provides: "In the following cases, if a computer crime is committed in the name of a legal entity and in the interests of it, the legal entity will be criminally liable ..." Among the necessary conditions for the application of the latter article, first, is the computer being a crime, whether the crime in question is a purely computer crime, such as hacking or viralization. Or that the computer and its equipment are the subject of traditional crimes such as fraud, theft, espionage, etc. Secondly, the commission of a crime should be in the name of and in line with the interests of a legal person. The legislature has followed the secondary personality by stipulating the condition of being the personal director of the perpetrator. The legislature should have clarified the task of entrusting the management of a legal entity to more than one person. It seems that according to the criterion of "decision-making authority", assuming the multiplicity of managers, if each of them has the authority to decide individually, the commission of a crime by one of them is sufficient to fulfill the criminal responsibility of a legal entity. (Mohsen Sharifi, Mohammad Jafar Habibzadeh, Mohammad Issaei Tafreshi, Mohammad Farajiha, 2013: 25). Third, the commission of an offense by an employee on the basis of the knowledge or lack of supervision of the manager from the perspective of the legislator (paragraph c of the articles in question). One of the ways to attribute a crime to a legal entity is provided that the crime was committed with the knowledge of the manager or due to her lack of supervision. Clause D is a case in which all or part of the activity of a legal entity is dedicated to committing a computer crime. It seems that the theory of organizational responsibility has been used in the last paragraph and has a different basis from other sections of this article. Regarding the spiritual element, we can refer to Articles 2-121 to 7-121 of the French Penal Code and Article 143 of the Islamic Penal Code, as well as Article 589 of the Iranian Commercial Code. The representative, agent or officials who have the authority to make decisions according to the law or the articles of association have a psychological element and this seems to be sufficient for the realization of criminal liability of legal persons.

Legal basis of criminal liability for other behavior

In many labor laws of the country, the employer is responsible in certain cases if an accident occurs as a result of work that leads to the murder, injury or amputation of a worker's limb. Therefore, criminal responsibility did not remain only personal and became more widespread. Accordingly, jurists expressed different theories about the basis of criminal responsibility due to other behavior. Including theories of danger and error about natural persons. There are other theories in this field among jurists, such as the theory of "leaving the legal duty" and the theory of "representation", both of which have faced many criticisms. (Shambiani, 2014: 121)

1. Real persons

1.1- Theory of Risk or Danger

Equivalent to the theory of " Fault doctrine ", this view holds that big capitalists, managers, employers of industrial enterprises and factories, each according to the position and power they have and depending on the situation and position that they have in relation to their workers, employees or software in order to gain more benefits and advantages, they must also accept the risks of enjoying these benefits and privileges. The latter view cannot be a valid legal basis due to the mandatory imposition of liability on persons who have not committed any fault or negligence in the performance of their legal duties. Accepting it violates the principle of personal punishment, and as a result, the principle of criminal responsibility for other behavior will not be enforceable.

2.1- Fault Doctrine

This theory states that the criminal responsibility of employers and those in power towards their subordinates is basically due to their own guilt in committing a criminal act. Regarding this type of crime,

just as the deputy of the crime takes the material element from the main steward, the criminal officer also borrows the material element from her worker and subordinate who is under her authority; because, in fact, the worker or the agent acted instead of the employer or the manager, and the psychological element required for the crime to occur has come from both. Perhaps this is why it is believed that the principle of criminal responsibility is not exceptional due to another behavior on the principle of personal criminal responsibility. This is the theory of the "fault doctrine" and it seems that in the last part of Article 142 of the Islamic Penal Code, the legislator has also mentioned it. Paragraph 3 of Article 121 of the French Penal Code also tends to the theory of fault. At the end of the last article, we see a situation that has arisen as a result of the behavior that caused the accident. Behavior that has either occurred intentionally or knowingly as a result of a violation of approved laws or regulations, or as a result of carelessness or negligence that has caused the said incident, which the legislator has also considered the second case knowingly. In fact, it seems that the legislator means that this action is aware of the obvious violation of the laws and regulations; because if this issue is addressed in the labor laws, basically, with the knowledge of special laws or regulations, a person is active and can not be unaware of violations. It seems that the final part of Article 142 of the Islamic Penal Code adopted in 2013 corresponds to the last article of the French Penal Code. The aforementioned article, in its applicable form, expresses the culpable conduct of the responsible person in the performance of its legal or contractual duties, without mentioning whether it is conscious or unconscious.

2. Legal entities

The basis of criminal liability of legal entities was created with the expansion of the scope of activity of legal entities in the middle of the twentieth century in order to accept the criminal liability of these entities. In Iran in particular, first in cybercrime approved in 2009 and later in general with the passage of the Islamic Penal Code adopted in 2013 for all "criminal offenses" this criminal responsibility was accepted. However, this acceptance does not mean that it is not possible to fully extend the criminal liability of legal persons to other types of crimes. Examples of these cases are mentioned in the vote of courts.

2.1-Vicarious liability

According to this theory, company managers are representatives and agents of legal entities. As a result, both legal entities and their representatives will have criminal liability. Succession is the most common model of criminal liability of legal persons in the customary law system, which was first used in English law as a measure to oblige employers to compensate individuals (Ranjbar, 2013: 17) Succession liability can be exercised in the field of absolute or material crimes only or in cases where the legislator does not explicitly mention other criminal liability in the law but arises from its circumstances.

2. 2-Delegated Management Theory

According to this theory, if the employer delegates a legal duty to one of her employees, she is still directly responsible for any crime that the employee commits while performing the duty. Even if the crime committed by the employee is one of the crimes that requires a psychological element. (Hassani, 1995: 37). It seems that this theory can be accepted only in one case, and that is if the employer did not follow the principles required to select the right person. In this case, she herself will be prosecuted as a perpetrator.

2.3-Equivalence Theory (Identification)

This theory is based on the hypothesis that legal entities are hypothetical and does not impose criminal liability on legal entities by itself and directly. And it is based on the assumption that legal entities commit a crime through their individual representatives, so it seeks to establish an individual criminal guilt and attribute it to a legal entity.

2.4 - Theory of Aggregation or Accumulation

In this theory, the mistakes of two or more people related to the company may be aggregated or accumulated and attributed to the company. Assigning a crime that requires awareness does not require only one person to be fully aware, but the collective awareness of employees can be attributed to a legal entity. In Iranian criminal law, it may be possible to put the theory in the form of multiple causes, according to which each of the causes of crime in legal entities will be criminally liable.

2.5- Failure Management Theory or New Theory

According to the British theory, if the company's actions result in the death of someone and the death is the result of a failure to ensure the health and safety of employees or others affected by those actions, the murder has occurred by the company. According to the Islamic Penal Code of Iran, the imposition of such crimes and impositions on legal entities is not accepted, and the specific punishment that can be applied by the Iranian legislature to hypothetical and credit persons is determined separately.

2.6- Theory of Organizational Responsibility

This theory is a different version of the previous theories. The idea traces the origin of the crimes committed in the chain of activities of the legal person more than a certain person or persons in its procedure and policy. Accordingly, in preventing the occurrence of crimes beyond individuals, the so-called criminal culture of the legal person thinks. Of course, this does not mean that the theory of organizational responsibility abandons the criminal responsibility of different people and does not believe in punishing them, but believes that until the organization does not correct the defective structure of the legal entity, the resulting organizational pressure will always put its members on the path to crime, and changing managers will not be fruitful. This theory, in a logical framework, considers the legal person as an independent agent and in itself the addressee of criminal law. With this approach, the judge of the case, instead of searching the cases of individuals of the legal entity, is directed to explore its policy. Organizational components allow the trial judge to convict the legal entity regardless of the conviction of the natural person. (Hafizi Bashardoost, 2015: 92) In the case of legal persons, since Article 143 of the Islamic Penal Code adopted in 2013, accepts the responsibility of a legal person on behalf of the representative in the name of or in the interests of its interests, is inclined to the theory of succession responsibility. Article 121 of the French Penal Code is very similar to Article 143 and has accepted the latter responsibility by committing it at the expense of a legal entity. Although this responsibility can be accepted on the basis of the principle mentioned in English law, which is the origin of it, because the Vicarious liability is more applicable in the field of unintentional crimes in the form of omission, it must be done separately in each case. Reviewed and accepted in accordance with the existing principles. For example,in many cases, we encounter the criminal culture of legal entities whose employees or workers, without the slightest fault or violation of their contractual duties, are exposed to crime under organizational executive pressure. And this is a legal entity that must be held accountable for breaches of legal obligations. The criminal liability of natural persons, together with the criminal and punishable policy of a legal person, can be combined if it is done in line with the interests or organizational policy of the legal person. For example, assuming equal labor law, employers must deliver and train all safety equipment and devices to their workers. Now, if one of the employers has not given a helmet to his worker and the worker loses his life by accidentally throwing a brick from the top of the building, the employer will be responsible. (Ranjbar, 2013: 168). This violation of the employer can be intentional or unintentional, which in both cases will lead to criminal liability. In other words, there is a causal relationship between the behavior of a natural person as a legal person and the violation of government systems which has been committed in the name of or in the interests of a legal person. Note to Article 143 excludes the state and legal persons from public law from the latter liability in cases of exercising sovereign duties.

Court Voting

If we look at the history of Iranian judicial decisions, we will see that in cases without a legal text, the punishment for the crime is committed by a third party whose criminal responsibility was not the cause of the punishment. One of these cases is the possibility of paying a fine by an irresponsible person. The payment of a fine by a third party is inconsistent with the philosophy of the legislation as well as the principle of personal punishment so that it can be considered an exception. It may be said that the purpose of the third party here is to assist the defendant in cases of financial distress which do not interfere with the legal process. But when it comes to fines as a punishment, it contradicts the philosophy of punishment. This is why many judges find it useless to impose fines on juveniles. The same is true of the responsibility of the wise and the government, because in many cases we see that the perpetrator, by deliberately fleeing and making himself inaccessible, tries to impose punishment on other persons who have no criminal behavior in committing a crime .However, if the third party, by confirming the principle of individualization of the punishment, pays the compensation imposed on the convict, whether lending his property to the convict or lending to him or actually repaying his property, it does not interfere with the legal purposes of punishment, and in addition, such an action is a big step towards preventing the conviction of convicts as a result of criminal injuries. There are several examples of judicial judgments regarding unintentional crimes related to the passage of the new Islamic Penal Code adopted in 2013, which show that a legal person has been convicted of crimes punishable by atonements. For example, in the case filed in Branch 104 of the General Criminal Court of Ardabil, based on the charge of aggravated murder of Mr. A. C due to non-compliance with government systems and negligence of the percentage and contents of the file. Finally, the court issued a verdict and the defendant, according to Articles 316, 306, 302, 299, 295, 294, 318 of the Islamic Penal Code approved in 1991, paid 20% of the full atonement of a Muslim man and one third of the concentration of the atonement due to murder in the month of Rajab, which is one of the forbidden months, has been condemned by the guardians of the tail, who are responsible for paying the ransom to the management of the company. . . Khalkhal is an independent legal entity and also according to the lawsuit 2571 dated 11/27/1382 issued by Branch 9 of the General Court of Isfahan and the lawsuit 676 dated 2000 issued by the third branch of the Falavarjan General Court, respectively. Isfahan Electricity Distribution Company and Iran Steel Raw Materials Production Company were sentenced to pay a full ransom to the parents.

In the case of crimes punishable by atonement, there may be a belief that only in ta'zir crimes, according to Article 20, it is not possible for legal persons to commit a crime. In the case of crimes, the situation is slightly different. In criminal liability for unintentional crimes resulting from work accidents or any bodily injury caused by a malfunction of work tools, other factors are involved, such as the facilities or the unhealthiness of the products or the non-observance of the necessary standards, so that the imposition of part of the mentioned punishment on legal entities does not seem unjust. This does not include cases where compensation is considered a financial guarantee, such as a rational or government guarantee. The following are examples of the votes of the Iranian courts related to the pre-enactment of the Islamic Penal Code adopted in 2013, which show that the courts have not only not been exposed to the principles of proxy responsibility. They have also issued a verdict in this regard, and as we mentioned earlier, the liability created due to the lack of a proper legal title in the law is inevitably due to causation. Branch 12 of the Mazandaran Court of Appeals announced the appeal of the Mazandaran Regional Water Company on the grounds of involuntary, unjustified and convicted murder.

In the lawsuit No. 101 dated 12/12/2008, it is stated:

"Regarding the appeal of Mazandaran Regional Water Joint Stock Company regarding the lawsuit issued by the First Branch of the Sari General Court on 11/05/2006, it is not of a quality that would damage the principles and basis of the court's diagnosis and inference and its violation require, because in Manhanfieh, by examining the case files and the collection of the plaintiffs' statements as reflected in the preliminary bills, it indicates that the deceased died due to drowning in the water canal constructed by the regional water company of the province. Which in different stages of expertise is the consensus of experts based on the negligence of the company in causing the accident. What is more, the mentioned company did not install a warning sign and create protection in the canal constructed with the description of unfortunate

events and similar occurrences, and this action indicates and positively the existence of a causal relationship in the death of the deceased. For this reason, the company is the guarantor of the amount of fault contained in the report of the Board of Experts. According to the above case, the crime that occurred as a result of leaving the act was the failure to install a warning sign by the regional water joint stock company. The company, which is considered the employer, has the duty to monitor the work of employees in the installation of warning signs, which unfortunately carelessly caused the crime to be committed by the employees of the company in the form of omission, which is the same negative behavior. Therefore, the company can be blamed in this case for interfering in the occurrence of a crime, which is inherently the same as representative liability in an unintentional crime.

Branch 101 of the Ramsar Criminal Court has announced during the lawsuit No. 8909971922700469:

Regarding the complaints against the first-degree and second-degree defendants regarding the non-observance of safety principles in the workplace leading to the unintentional murder of the deceased, he explained that the first-degree defendant has the privilege of selling oil and selling kerosene in the villages of the region. By equipping Simorgh's car with a tanker, during an agreement with the second-degree defendant, he provided the car to him to distribute kerosene as a driver. According to the routine of previous years, the deceased requested oil supply from the second-degree defendant and to transfer oil to a residential house, according to the geographical location of his house, provided a plastic pump and hose and tried to transfer oil through an oil source located on the car is. Due to the unsuitability of the hose, measures such as inserting hot water into it and due to the shortness of the hose and their diameter, the transfer operation in the hose by a metal pipe and heating the two ends of the hose by heat sources without using clamps and connections. The hose was installed due to the difference in height and pressure caused by the obstruction and pressure of the kerosene pump, it is sprayed at the joint and causes the clothes of the deceased and the surrounding area to be soaked. Despite the heat and fire sources, she suffered from fire and burns and died after being transferred to the hospital. "According to the expert, the court will find the report of the disciplinary authority guilty and sentence each of the defendants to pay a ransom." According to the above-mentioned lawsuit, since the first-degree defendant was a regional oil sales agent and was responsible for transporting oil to the intended destination. The driver's negligence and non-observance of the rules do not include her full responsibility. The agent is obliged to provide the transfer vehicle to the driver by warning and teaching safety tips, which is done by leaving the act, she has a percentage of guilt and in addition to the latter, the agent is responsible as a proxy for unintentional homicide. In another case, the contractor of the Telecommunication Office digs a pit to pass the fiber optic cable through the entrance of the Korea Pine River without filling the pit in time. A few days later, due to the flood, the pit was filled with water and two children who were playing around fell into the pit and drowned. The court of first instance, after hearing the case in the lawsuit No. 279 dated 02/30/2009, convicts the contractor and the employee of the Telecommunication Office on the charge of involuntary manslaughter resulting from the payment of a ransom by a Muslim man to the parents of the deceased. The Court of Appeal of Golestan Province also upholds the issuance during the lawsuit No. 800828 dated 24/06/1388. In the aforementioned vote, the employee of the Telecommunication Office has the position of representative in the assigned duty and the actions performed by the employee can be attributed to the relevant office; Because each body has a framework of regulations that must be observed by a subordinate. Therefore, it would have been better for the telecommunications department, with carelessness on the part of the employee, to have a proxy criminal liability for leaving the act.

Branch 15 of the Court of Appeals of Tehran Province, during the lawsuit No. 1107-23 / 12/2011, Branch 107 of the General Court of Tehran has announced:

"In the part where the appellants have been sentenced to pay damages to the appellant car as a result of encountering obstacles in the street, taking into account the damages of the lawsuit against the appellant," It does not include the reasons and directions that require the violation of the lawsuit, and there is no damage to the verdict. Because, contrary to the defenses of the representative of the appellants, the municipality is in charge of carrying out construction operations in the city, and entrusting the mentioned operations to the

contracting companies does not relieve the municipality of its responsibility towards the citizens. And if there is negligence on the part of the contractors in connection with the contract with the municipality, it will be liable to the municipality in accordance with the terms of the contract, which will withdraw from the subject of the case. "However, by rejecting the objection based on Article 358 of the Code of Civil Procedure of the General and Revolutionary Courts in Civil Affairs, the judgment will be approved. This verdict is final." In a recent verdict, the municipality, which is the same legal entity, was sentenced to pay damages, fines and other court costs due to fault in the performance of duties assigned by employees or through an employment contract with contractors as the cause of the accident. In the case of public law entities such as the government, we have already explained that non-sovereign acts may be prosecuted and reprimanded, and that prosecution in the exercise of sovereign duties is contrary to their philosophy of service.

Regarding the intentionality of criminal behavior, we can refer to the issue that we have recently witnessed in the country; Vote of Branch 1091 of Ershad Judicial Complex against a schoolteacher teacher in the west of Tehran on the 7th of Khordad 1397, news was published about the harassment of a number of male school students in the west of Tehran by the school administrator. From the very beginning, the parents sought to deal decisively with the school administrator and the founders by filing a complaint. The accused was immediately arrested by the police and handed over to the prosecutor's office. The latter was the disciplinary deputy of the school students. Finally, with reference to psychoanalysis, it was discovered that he repeatedly forced junior high school students to commit immoral acts with each other and, by showing pornographic films, exposed them to committing a forbidden act. Finally, after the forensic examination, the prosecutor's office was notified and finally the defendant was sentenced. The judge sentenced the defendant to one to ten years in prison and eighty lashes on two counts: "child abuse" and "encouraging corruption and prostitution." Critically, since the school is an educational environment and a place of education for the next generation, great care must be taken in the implementation of its educational regulations. It is necessary for teachers to pass three tests to enter the educational system; That is, in addition to the scientific and ideological skill test, a psychological test or test should be performed to identify the individual's personality so that we do not face any problems in the implementation stage. Since the relevant doctors in the recent case had not removed the effects of sodomy from the disciplinary deputy, the death penalty can be removed from her in a state of violence. But this person is the judge who started the case with the plaintiffs' complaint and is aware of the aspects of the matter. It seems that in this case the judge should have been more strict and according to Article 23 of the Islamic Penal Code with the conditions and in accordance with the characteristics of the crime committed, he was given one or more additional punishments. He condemned that it is not seen in the recent vote. Regarding the accuracy in appointing the qualified persons mentioned at the beginning of the discussion, if we believe that the hand of the principal or the head of the mentioned school is closed; As the main appointment was made by the district education department and notified to the principal by decree, here the department can be considered as a legal entity with a "organizational responsibility" on the basis of punishable, both criminal and administrative; Because, as mentioned earlier, the relevant organizational set imposes its inefficient policy on its employees and exercises power. This does not negate the criminal responsibility of the school principal and she can be held liable for negligence in accepting an illegal imposition outside the rules of selective education. Conversely, if we believe in a hierarchical policy with separate powers, the headmaster or principal of the school can be considered as a representative of a legal entity in selecting or rejecting a qualified person due to failure to select and consciously monitor the behavior of the deputy in accordance with the last part of Article 142 of the Islamic Penal Code as "representative in charge". Depending on the opinion of the judge hearing the sentence, the punishment applicable to her varies according to the charge.

- Another example in this regard is the case of violent behavior of a kindergarten teacher in the eighth district of Tehran in December 2016, which lifted a three-year-old child and threw her into a corner, breaking her clavicle bone. After being informed of this incident and announcing it to Tehran Welfare, the occurrence of "child abuse" was confirmed. Following the investigations, it was found that the kindergarten had illegally used a trainee instructor who, while expelling the offender from the kindergarten, filed a case with the Non-Governmental Welfare Centers Supervision Commission in Tehran province to deal with the

kindergarten legally. Simultaneously with the expert examinations, the kindergarten was obliged by the welfare to pay all the child's medical expenses. In this case, we see that the kindergarten caused the accident by failing to use a trainee instructor. An educator who did not have the necessary training to establish a proper behavioral relationship with children and was working informally under the supervision of the relevant kindergarten. In this regard, the kindergarten can be considered as a punishable representative on behalf of the representative. Also, in the payment of medical expenses, he can be sentenced to pay all damages to the child, both material and prestigious. In many cases, due to the seriousness of the matter and the administrative violations committed in the case, the institution can be closed down with the opinion of the relevant judge. Regarding the typically dangerous behavior of the trainee instructor as the material manager of the crime, according to the amount of fracture according to the chapter on atonement, the guardian can be sentenced to pay a percentage of the atonement and according to the intentional behavior of the relevant behavior, according to Article 614 of the Penitentiary Division sentenced him to two to five years in prison. Two years before the recent case (July 2014), an almost similar case occurred in a kindergarten in Ardabil. Such legal behavior shows there is not enough attention has been paid to the types of crimes committed against children and adolescents, because over time, we see the recurrence of these crimes. Therefore, we need a specific and complete law to protect this very vulnerable group. It should be noted that in 2018, the legal bill for the protection of children and adolescents was reviewed, which has not yet been finally approved!

- The verdict of a branch of Ardabil General Court in the case of murder in Sanshou sport on 12/23/1376, coinciding with the 14th of Dhi Qada 1417 AH

Ardabil Martial Arts Board will hold a Sansho competition during the official invitation and announcement of the relevant federation. After the start of the match and the quality control of the safety equipment by the referee and the permission of the game by Masharalieh, one of the opponents tries to make consecutive hand blows to the opponent, which is considered an error. Unfortunately, the referee, who was responsible for controlling the game and giving the necessary warnings to the offending opponents, she refused to perform this legal duty and as a result of these blows to the opponent's head, it resulted in an injury to her head and she died two days after the accident. The forensic report also determined that the main cause of death was a head injury. Experts put the responsibility of the organizer at 40 percent, the supervisor of the federation at 50 percent and the referee at 10 percent. According to the contents of the case file and the complaint of the victim's parents and the ineffective defense of the defendants, the occurrence of the crime of causation in unintentional murder was found in the quasi-premeditated sentence of the defendants in the opinion of the court. And the court, citing Articles 316 and 318 of the Islamic Penal Code, which considered the perpetrator of the crime as a guarantor, and the liability of the perpetrators in the crime of unintentional murder as a quasi-premeditated crime, including directing and interrogation, was busy with blood money. In this incident, by not paying attention to the instructions and regulations of the Sanshou Sports Circular, in accordance with paragraph 4, suspension from the competition in case of not having full sports coverage, Clause 6: Confirmation of the mood of each player by the doctor before the start of the match and Clause 11: Continuous presence of the medical team during the match and as a result the killing of the opponent by successive blows to the head by one of the players, Each of the above-mentioned officials was sentenced to pay a percentage of the ransom as a criminal of other conduct. In fact, any of the officials can be held responsible as a result of the recklessness resulting from the omission of the act, citing Article 295, as well as committing a crime under Article 506 of the Islamic Penal Code. Regarding the behavior leading to the murder of the opponent, who was considered the main perpetrator of the crime, it seems that he did not behave out of the ordinary of the match, and since he was in charge of defending himself during the match, it was intentional murder. It does not count according to paragraph A of Article 291 of the new Islamic Penal Code adopted in 2013, murder can be considered quasi-intentional and can be punished according to the degree of impact.

Conclusion

Contrary to many jurists' beliefs, the principle of proxies is not an exception to the principle of personal punishment. This principle does not have a long legislative history in Iranian criminal law, so that we have always faced cases in the judiciary that due to the lack of proper legislation, different punishments were applied to individuals at the discretion of each judge.

The 2013 Islamic Penal Code is the first criminal law to regulate this principle in order to prevent various criminal judgments. Many of the voting issued by Iranian courts were usually issued on the basis of a strong reason from the trustee, and despite the history of punishment of legal persons. The criminal responsibility of this group of people was not accepted in many cases; however, the Islamic Penal Code adopted in 2013 in Article 143 dealt with the criminal responsibility of legal entities and solved this problem. The latter article considers a legal person to be liable under one of the two conditions named or in the interests of her. Some may believe in both of these conditions, as in Article 19 of the Cybercrime Law of 2009, but it seems that one of the two conditions opens the way for legal persons to be held responsible and the need to prove both. There is no condition in the courts. The realm of criminal liability of legal persons includes all legal persons of private law, such as political organizations, Cultural, social, trade union and professional and commercial companies as well as legal entities of public law who are engaged in public duties and tenure. This and the last part of Article 143 are very similar to paragraph 2 of Article 121 of the French Penal Code. Therefore, in cases of administrative ambiguity in the liability of legal persons, the French Penal Code can be used. There are different basic theories about legal entities, which in this respect are common to the law of many countries, including France and the United Kingdom. And among the proposed theories, the theory of proxy responsibility seems to be the most acceptable theory for holding legal entities liable. However, in many cases, organizational responsibility can also be accepted because some crimes committed by agents occur in the direction of institutionalized policies of a company or institution, and real persons do not play a significant role in this regard. Article 142 consists of two parts, which the legislator seems to mean from the initial part; That is, legal liability is all outdated legal material, both general and specific, that deals with criminal liability for other behavior and is a guide for courts to refer to these laws, such as:

Health Food and Beverage Law approved in 1967, Trade Law approved in 2009, Labor Law approved in 1990, Islamic Penal Code and other laws, Otherwise, according to the last part of the article, one should be inclined to the risk doctrine and base it on the negligence of the responsible person. In explaining the latter sentence, criminal liability for other behavior is largely influenced by the basis of French criminal law. In the final part of paragraph 3 of Article 121 of the French Penal Code, two cases are provided for the fault of the offender; One with a clear will to violate a special obligation under the law or regulation, and the other names a specific error that occurs in the event of damage to another. The first part of the latter article falls outside the scope of unintentional crimes. The second part of the article refers to an offense committed as a result of a foreseeable error because the French legislator states in the last part of the last sentence: Nor could she have been unaware of it, which can be interpreted as gross negligence or fault. At the same time, the legislator has established the principle of criminal responsibility and the latter case needs to be proven. With this interpretation, the esteemed judges of the Iranian courts can be led to, in case of ambiguity in the interpretation of the meaning of the Iranian legislator, with the help of the last part of paragraph 3 of Article 121 of the French Penal Code, a more accurate interpretation of the word "fault" to create .Having the responsibility of the accused Article 142 of the Islamic Penal Code uses the term "behavior", which includes an act, omission, conduct, and a specific criminal case, which the majority of jurists believe is more in the form of omission due to unintentional fault in the present case. But it can be in the form of acts and even intentional crimes as a result of malice and material acts of crime by another person. This is more possible in the case of intentional crimes of legal entities and the execution of the crime by the agent or her employee natural persons, which seems a little difficult to prove in the courts. It would have been better for the Iranian legislature to clarify the scope of the crimes committed by determining the instances of the crime. Since the subject of the present study is more related to legal entities and in the field of property and persons and in a way legal entities facilitate the occurrence of crime, they

are often prosecuted as deputies. But we are witnessing lawsuits that also result in criminal liability as accomplices to the crime; As the employer, with the legal permission of the company, as the representative of the legal entity, together with her subordinate employee, as the material manager of the crime, commits the crime of fraud in order to further benefit the company. As a result, it would have been better for the Iranian legislature to define the different modes of criminal conduct in this area as a separate article in order to avoid different interpretations and fragmentation of court voting.

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