

The Statute of Limitations of Criminal Lawsuit in the Jordanian and Qatari Laws

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Abstract

This article has highlighted the legal provisions in the Jordanian and Qatari laws regarding the criminal lawsuit expiration by the statute of limitations, as this article addressed the concept of the statute of limitations of the lawsuit and the difference between it and the statute of limitations of punishment, also the article reviewed the justifications used when enacting the statute of limitations system, the article also demonstrates the scope and the duration of the statute of limitations, and its calculation method, signs, and its effects, finally, the article concluded with a conclusion containing the results and recommendations.

Keywords: Statute of Limitations, Criminal Lawsuit, Expiration of the Criminal Lawsuit, Criminal Trials Principles, Justice.

1. Introduction:

The basic rule is that the criminal lawsuit expires upon issuing a final judgment ruled its subject, however, other reasons lead to an expired lawsuit, as the causes that lead to the expiry of the criminal case considered as procedural obstacles, that hinder case activation or continuing it, as It's assumed that the crime has been implemented within its main pillars, its responsibility has been defined, its punishment is due, but these obstacles will appear, resulting in blocking the judicial procedures (Jaafar, 2004).

The general reasons that cause public right lawsuit expiration, are death, general amnesty, and lawsuit period limitation, as stipulated in Article (335/1) of the Jordanian Criminal Procedure Law: (The right to claim expires by the death of the defendant, general amnesty, or by the statute of limitations), as for the Qatari legislator has stipulated all reasons for the lawsuit expiration in Article (13) of the Criminal Procedure Law No. (23) of (2004) in which the first paragraph states the following: (The criminal lawsuit expires with the death of the accused, the elapse of the period, the issuance of a final ruling in it, or general amnesty, or repealing the law that punishes the felony or the misdemeanor, or by any other reason provided by law).

This research dedicated to defining the legal provisions for the most important causes of criminal lawsuit expiration, which is the statute of limitations, by using of descriptive and analytical approaches to analyze and solve the discrepancies that contained in the relevant provisions, enhanced by judicial decisions, and applying the necessary comparison between the Jordanian and Qatari laws.

2. The statute of limitations and its justifications:

In the beginning, it is necessary to clarify the concept of the obsolescence by defining it, and distinguishing the statute of limitations of the lawsuit from the statute of limitations of punishment, then follow by demonstrating the justifications that have been used in regards to the statute of limitation of the lawsuit.

2.1 What is the statute of limitations?

The Statute of limitation³, meaning the elapse of a period of time (specified by the law) from the crime occurrence, without taking any action by public authorities toward the case, thus leading for lawsuit expiration (Hosni, 1988; Salem, 2009).

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³ The Obsolescence, time-lapses, or time passage, all indicate the same meaning (al-Fadil, 1976-1977).

The initiation of the statute of limitations of the lawsuit goes back to Roman law, then it was adopted at other legal systems, and remains used in countries that follow the Latin system⁴.

Jordan and Qatar are from those countries that adopted this law so that the criminal lawsuit shall lapse after passing a specific time specified by law after the occurrence of the crime if no action has been taken by the public authorities toward the lawsuit, according to Article (335/1) of the Jordanian criminal procedure law and Article (13) of the Qatari criminal procedures law the statute of limitations of the lawsuit is one of the reasons for the expiration of the public right lawsuit.

The difference between the statute of limitations of the lawsuit and the statute of limitations of punishment must be taken into consideration, as each of them has its dedicated legal provisions that differ from the other, the statute of limitations of the lawsuit means " lawsuit expiry after passing certain period since crime occurrence .of the crime", while the statute of limitations of the penalty is "the obsolescence period that applies to an enforceable actual issued penal judgment on a specific person who committed an occurred crime, and that judgment remains without any action to implement it against this person because he fled and continued to flee from justice without reaching or searching for him", this scenario will lead to a complete expiration of the state right in pursuing the convicted person, and the state does not have the right to implement the punishment even after finding him.

As for the statute of limitations of the lawsuit, Articles (338 to 340) of the Jordanian Criminal Procedure Law and Articles (14 to 16) of the Qatari Criminal Procedure Law dealt with it.

It is observed that the period of the statute of limitations of the sentence period is longer than the period of the statute of limitations for the lawsuit, due to the possibility of acquittal of the accused is still potential as long as a conclusive judgment did not issue yet, as the conviction is not confirmed yet, while in case of issuing a conclusive judgment, that means that the accused's commission of the crime has become confirmed, and this is the reason that made the legislator decide a longer period for the statute of limitations of the sentence⁵, as the conviction judgment entrenches in the minds and require a long time to be forgotten, as also the legislator wants to allow the public authorities to search for the fleeing convict with the aim of implementing the sentence prescribed by a conclusive judgment (Al-Zubaidi, 2014).

2.2 What are the justifications for the statute of limitations

Jurisprudence tried to justify the statute of limitations of the lawsuits, or in other words, he tried to answer the following question: Why does the lawsuit expire due to obsolescence? To answer this, several justifications were said, the most important of which are:

2.2.1 Forgetting:

Most jurists -The Egyptian judiciary provisions as well (Sidqi, 1991-1992) adopt the concept of that the passage of time after the occurrence of the events that gave rise to the cause of action without taking any action around it will certainly lead that the community will forget it, and it is not in the interest of society to revive a crime that has forgotten its material and moral effects, but that the passage of time itself makes the punishment of the perpetrator without a subject do not achieve general deterrence⁶.

⁴ Iraq and Sudan are part of the Arab countries that do not adopt the statute of limitations (Al-Qahwaji, 2002).

⁵ As others state that the relation between the statute of limitation duration and the degree of certainty of the occurrence of the crime is positive, so that it will be prolonged if the right becomes certain of it, and shortens if this right is in doubt (Al-Saifi, 2004).

⁶ The social retribution and atonement of the criminal for his crime is the same as the individual vendetta of dishes that are eaten only hot (Abu Amer, 2005).

In his book, Baz (1905) says the following:

"The punishment was only legislated to consolidate public security and preserve tranquility in the human community with what is happening to it from reforming the criminal and terrorizing someone like him. So when he learns that the punishment does not come with this required purpose, he must amend it, as there is nothing left of it except for harm and the law does not dare. The culprit reluctantly scourge if there is no hope or interest that matches hope.

A person's assault on the people of his gender disturbs the public's comfort and disturbs its system, but if the duration and length of days and months exceeds it, its effect weakens and the hearts' hostility subsides and the causes of hostility are lost and perhaps its effects are forgotten and the crime becomes forgotten and reconciles the aggression and is clear and sincere affection for each other, so if the perpetrator is punished for that crime. The intended purpose of the punishment was not reflected and hatred and grudges erupted after it extinguished its fire and its lair, and the ideas of the public were related to the spark of those hatreds and the fissures were broken by the nervousness that leads to the victory of the oppressor and the oppressed, so wisdom required that he abstain from the punishment if the crime has passed since then.

Accordingly, the legislator considers the passage of a specific time determined by law as a confident legal evidence that the community has forgotten the crime, and it is an evidence that does not accept proving the opposite because it is for the interest of society (Al-Qahwaji, 2002).

Some have criticized the justification of the statute of limitations by forgetting, as they consider that determining the length of time for forgetting by the legislator is an arbitrary determination that may not be fair in fact, as there are many crimes which its impact remains on the minds of society and not erased within days due to its awful and ugliness (Mahdi, 2008; Al-Zubaidi, 2014).

2.2.2 Loss of Evidence

Some of the Jurisprudence holds that time passage leads to the weakness or crime evidence erase, and by over the years, it will be difficult to find witnesses or at least rest assured that they remember the facts of the lawsuits, for as remain evidence became less in certain in front of the judiciary (Namur, 2005), However, evidence loss's and its weakness cannot be considered as justification for legalizing the statute of limitations, as this kind of justification may not be valid with many of lawsuits, since not all evidence getting weaker by time passage .

2.2.3 The Neglecting

A portion of old jurisprudence adopts to link the statute of limitations to the negligence of the public authority, accordingly, their point of view builds upon that the lawsuit that expires due to time passage, shall be considered as a penalty for the negligence the staff of public authority by pursuing of the crime, and the same concept shall apply by measurement to civil lawsuits that expire due to time passage because the neglecting the right holder in raising lawsuit for a long period (Al-Ahwal, 1964).

This type of Justifications is not accurate, as considering the statute of limitations as a penalty imposed on the public authorities for their indolence and fail to take the necessary actions is a contradiction with the logic and thoughts of the legislator, since the legislator considers the counting point for the statute of limitations period start after the occurrence of the events that gave rise to the cause of action, not the day of the public authorities knowing about it (Sidqi, 1991-1992).

2.2.4 The Moral Punishment

Some justify the statute of limitations by saying that the passage of the obsolescence period, while the offender is fleeing and hidden, indicates that he was in a state of fear and anticipation, so the turmoil and fear status that occurred to him is a similar effect to what the punishment will cause him (Al-Saifi, 2004), and in this type of punishment continues throughout the obsolescence period and is sufficient to atone for his committed crime against society (Jukhdar, 1992).

However, the Jurisprudence criticized this type of justification and described it as fictional, as it is an exaggeration to believe that the failure to punish the crime could be in itself a reform of the perpetrator, or a reason to move him away from dangerous behaviors, but that may be a reason to encourage him to criminalize (Abu Amer, 2005).

2.2.5 Legal Stability

Al-Ahwal (1964) went by justifying the statute of limitations with the idea of legal stability, as stated by the jurisprudence:

“In our opinion, the principle of legal stability is the reference that dictates the legislator to reliance on the idea of the statute of limitations in punishment, as leaving the individuals' interests without a solution for a long period of time shall spread the turmoil's that disturb the individuals' interests, causes them permanent anxiety and deny them from the quiet life that granted by the law against surprises or dangers.

Legal stability requires that the state put an end to the conflict between it and the individuals, so it does not remain life-long, however long, in which the obsolescence put its effect on the punishment authority as if the law act in order to achieve the stability that is within its text envisage, the state must use its authority to punish during a specific period, otherwise this authority will expire in term of achieving the principle of stability”

However, this opinion was criticized on the basis that it is not valid for justifying the statute of limitations since in the event the legal stability and constancy succeed to justify the effect of the statute of limitations within a special law, but is not totally valid to justify the statute of limitations of the criminal lawsuits, on the contrary, legal stability requires extirpation for the concept of obsolescence (Salama, 2007-2008).

2.2.6 Expiration the goal of Penalty

A part of the jurisprudence believes that the justification for the statute of limitations through the envisaged objectives of the criminal policy in term of the penalties, so if the first aim of the punishment is to reform the perpetrator to convert him to a valid member in the society, so that passage of a certain period of time without taking any action regarding the crime that occurred, have imposed the legislator to balance the society's interest in punishing the perpetrator and the consequences of not punishing him, accordingly the legislator found that the trial of the perpetrator after the lapse of the limitation period will not provide its effects in terms of reform, therefore he decided to expire the lawsuit due to the obsolescence, as for the fact that the community interest requires to reform the perpetrator so that call for closing the committed crime chapter after the passage of prescription period (Salama, 2007-2008).

3. Scope of Statute of Limitation, and duration:

Within this topic the scope of the statute of limitation will be addressed in order to determine the felonies and misdemeanors that expire by time passage, then we address the issue of the obsolescence, to review the periods that decided by the legislator in term of lawsuit expiration and clarifying the calculation method of this period.

3.1 Scope of Statute of Limitation

The statute of limitation applies to all types of crimes (felonies, misdemeanors, and offenses), as the statute of limitation considered a basic rule that applies to all crimes, the legislator did not distinguish between the discovered or the undiscovered crimes, meaning that statute of limitations applies even for undiscovered crimes, also the legislator did not differentiate between the crimes mentioned in the Penalties law or contained in the special laws (Obeid, 2005).

As that the rule that the statute of limitations applied for all crimes, but there are some crimes that the statute of limitations does not apply to it, either due to international agreements or by internal laws, as follows:

3.1.1 The excluded crimes from the statute of limitations in international law:

The statute of limitations does not apply to some international crimes, regardless of the time period that passes, that is as a result of the international agreements, By reviewing the international agreements, it will be observed that there is an agreement that the statute of limitation principle not be considered within war crimes and the humanity crimes in 1968, in which accordingly states agreed that the statute of limitations stipulated in the local laws does not apply to war crimes and crimes against humanity.

In addition, the Rome Statute of the International Criminal Court (1998), Article (29) of it stipulated that (crimes within the jurisdiction of the Court shall not be subject to the statute of limitations, whatever its provisions).

This principle was affirmed by Article 46 of the Jordanian Military Penal Law No. (58) of (2006) , that stipulates by: (The statute of limitations shall not apply to the general right lawsuit in term of war crimes, genocide crimes, crimes against humanity, and aggression crimes, nor to the prescribed penalties toward these crimes).

3.1.2 The excluded crimes from the statute of limitations in local law:

The national legislator may deviate from the rule of the validity of the statute of limitations for all crimes, by excluding a certain group of crimes, Examples of these crimes in the Jordanian legislation as follows:

- a- The statute of limitations does not apply to the economic crimes that mentioned in the Economic Crimes Law No. (11) of (1993), as stated in Article (10) as the following: (The provisions of the statute of limitations do not apply to crimes committed in violation to the provisions of this law and this statute of limitations does not apply to the prescribed penalties for these crimes).
- b- The Jordanian legislator also excluded Graft lawsuits from the statute of limitations, as Article (11 /C) of the Graft Law No. (21) of (2014) stipulated that (The provisions of the statute of limitations shall not apply to the Graft lawsuits).
- c- The criminal environmental crimes are also exempted by the Jordanian legislator from the statute of limitations, as Article (17 / A) of the Environmental Protection Law, No. (6) of (2017) stipulated that: (The provisions of the statute of limitations shall not apply to felonies committed in violation to the provisions of this law as well the criminal prescribed penalty).

Shall be noted that the expiration of the lawsuit due to the statute of limitation is rare unless the lawsuit has not been raised to the judiciary, as it is not logical that the lawsuit will expire by time passage after its referral to the judiciary, since any procedure by trial is an interruption for the statute of limitation period, so it is not conceivable that the statute of limitation period shall be completed between trial procedures, unless the case is postponed indefinitely of a prolonged period so that the period of limitation will be completed (Obeid, 2005), as an implementation of this, the Jordanian Court of Cassation ruled that: (If the complaint was filed against the accused on (June 19, 1996), as soon as the theft and embezzlement occurred, and that the accused's trial was not interrupted and still ongoing, then the lawsuit would not have fallen by time passage in accordance with the provisions of Article (338) of the Criminal Procedure Law, because the prosecution of the accused is still ongoing) (Criminal Cassation 603/2017 Date 3 April 2017). On the contrary, Sorour (2014) sees that:

"The principle of statute of limitations should not be hindered by initiating procedures to cut its duration, but rather a maximum must be set for the criminal case to end, no matter how long it has elapsed since its last procedure. And the interest of the accused, who meet, is important for legal security".

3.1.2 The Statute of limitation Duration

The Jordanian and Qatari legislators linked the statute of limitation duration with crime type, as the relationship between the type and the duration is direct, therefore, there is a gradual levels' of statute of limitation period between felonies, misdemeanors, and violations, and justification for that is, the symmetrical period for all types of crimes is not logical, as it is necessary to take into account the crime severity as a guide for disclosing the willingness and criminal seriousness of the accused (Salama, 2007-2008).

Some have considered that the linkage between the statute of limitation duration and the crime severity is logical and in line with the reason that caused the legislator to take into consideration the statute of limitations, which is forgetting, and "The more severe the crime, the longer will be remembered, and the less severe it is, the more quickly it forgotten" (Salem, 2009).

Therefore, the Qatari Criminal Procedure Law in its the first paragraph of Article (14) stipulated that: (The criminal lawsuit shall expire by the passage of ten years in terms Articles of felonies, and will expire by the passage of three years in terms the Articles of the misdemeanor, and in the Articles of violations by the passage of one year, unless the law stipulates otherwise, the period begins from the day the crime occurred.)

As for the Jordanian Criminal Procedure Law, Article (338) stipulates that the general right lawsuits and the personal right lawsuits shall expire by the lapse of ten years from the date of the felony, subject to no prosecution has been committed in that regard during that period, also the two mentioned type of lawsuits shall expire by the lapse of ten years from the date of last procedure if a lawsuit raised and investigations were conducted but no trial decision issued.

Article 339 stipulates that the public right and the personal right to misdemeanor lawsuits are dropped after the lapse of three years, while Article 340 stipulates that the violations lawsuits of the public right and the personal right shall be forfeited by the lapse of one year from its occurrence without a judgment being issued by the court and even if a case was organized, and an investigation was conducted during the aforementioned year.

The foregoing periods represent the general rule, while the legislator has stipulated other statute of limitation duration that specific to other types of crimes, for example, the Jordanian legislator limits the statute of limitations for all electoral crimes, whether it was criminal or misdemeanors, to three years from the date of the announcement of the final results of the elections, as Article (63) of the Election Law of the Jordanian House of Representatives No. (6) of (2016) stipulates: (The statute of limitation duration shall pass after three years from the date of the announcement of the final results of the elections of all election crimes stipulated in this law).

As for how to calculate the statute of limitation duration, there are basic rules that must be observed, as follows:

a. Calculation by the Gregorian calendar:

The Gregorian calendar is the reference for calculating the statute of limitations period, not the Hijri calendar, and that is a general rule for calculating periods and dates, as Article (368) of the Jordanian Criminal Procedure Law stipulated that: (All periods indicated in this law are calculated in the Gregorian calendar), and Article (406) of the Qatar Criminal Procedures Law stipulate by (All periods indicated in this law shall be calculated in the Gregorian calendar.)

b. Counting starts from the day after the crime took place:

According to the explicit provisions, the criterion for counting the statute of limitation duration is the day that the crime took place, thus, from the moment it was committed, and not from the date of its getting known or discovered, accordingly, this concept was affirmed by the Jordanian Cassation Court in its decision: (Calculating the duration of limitations for the purposes of the expiration the general right lawsuit start from the date of the crime occurs, subject to no prosecution has been committed in that regard or from the date of last procedure as a lawsuit raised and investigations were conducted but no trial decision issued, as stipulated in Article (338) of the Criminal Procedure Law... and not From the date of the customs department captured the documents that indicate the occurrence of the act) (Criminal Cassation 950/2004 Date 10 October 2004; Criminal Cassation 2117/2011 date 21 February 2012; Criminal Cassation 62/2011 Date 20 February 2011).

While, the Jordanian Cassation Court decided in one of its judgments that the duration of the statute of limitations begins from the date the crime was discovered, as stipulated : (As the Public Prosecution is the authorized department to investigate the crimes, prosecute its perpetrators, and refer the perpetrators to trial, it was unable to raise the public right lawsuit against the perpetrator except on the date he confessed to committing this crime, as the previous period was searching for the miss casualty only with no knowledge that the murder case occurred, accordingly, the counting for the duration the statute of limitations for this crime started from the date of discovering) (Criminal Cassation 506/2013 date 23 June 2013).

Actually, this decision is subject to argument, further that it contradicts what was decided by the Cassation Court in this regard, it also violates the explicit law provisions that the date of calculation of the statute of limitation duration is the date of the crime, but not the date of discovery or date of knowledge.

Whereas it is a constant (as indicated foregoing) that the period of the statute of limitations starts from the crime date, but what compatible with it that the first day does not count into the period, as the correct calculation begins from the following day of the crime date, as Article (349/1) of the Jordanian Criminal Procedures law stipulated: (the duration of the statute of limitations is calculated from the next day, not the first day), and Article (404) of the Qatari Criminal Procedures Law stipulates that: (If an appointment that estimated by days, months, or years was designated by law for the purpose of attendance or procedure, the counting for this appointment shall not start from the announcement or the occurrence date of the matter, which the law consider it as part for the date, and the deadline expires at the end of the official working hours on the last working day).

This is a logical procedure, as the public prosecution's right to raise the criminal case start from the day after the crime occurred because the legislator calculates the statute of limitation duration in days, therefore it was necessary to calculate the period from the day after the crime occurred as if starting from the day of the crime, the state's right to punishment arises, the principle is that the duration of the statute of limitations is counted only from the day after the crime took place (Khalil, 2017).

c. The Flexibility in starting the duration of the statute of limitations:

The general rule is that the duration of the statute of limitations is calculated from the day after the commission of the crime, while the legislator may deviate from this rule and decide another counting start point to calculate the period of the statute of limitations, and this is what the Qatari legislator adopt by the stipulated in the second paragraph of Article (14) of the Criminal Procedure Law that: (. ... the statute of limitation period for the expiry of a criminal case does not begin in felonies that occur from a public servant, and as stipulated in Articles (148), (149), (150), (152), (153), (154), (155), (156) (157) of the Penal law, except after the date of his service termination, or the demise of his job capacity, unless investigation starts before that. And there is no such similar provision in the Jordanian law.

It is observed from the above provision that the beginning of the statute of limitations period in the felonies committed by the public servant, and that is to say the crimes of embezzlement, aggression, and treachery of the public fund (Ghannam, 2017), is not from the date of the crime, but from the date of the employee's service termination or the demise of his job capacity, the reason for this is that as long as the employee occupy his position, there is a high possibility that he can hide his crime, and if the duration of the statute of limitations remains valid based on the general principle, then the duration may expire before the public authorities got knowledge about the crime, therefore, the legislator estimated that the period shall start from the date that the authorities can take the measures (Hosni, 1988).

This is the reason that led the legislator to not apply the principle of flexibility if the investigation started, as it was stated at the end of the provision: (... unless investigation starts before that), as starting the investigation means that the authorities have got knowledge about the employee's crime after the crime discovered before that date, which interrupts the suspicion concept that the public employee may conceal his crime, and thus the reason for applying the ruling of flexibility for the time limit of the case has disappeared (Al-Dhafiri, 2009).

d. Determine the date of the crime commission:

The date of the crime commission will not be an issue if it was known, while if the crime is known to have been committed, then the court that is looking after this lawsuit has the power to determine the date of its commission, even if approximately, this is a discretionary power of the judge according to the evidence that convinced him.

e. Determine the crime type:

Determining the crime type (felony, misdemeanor or offense) is according to the original punishment prescribed in law, according to the definition that the court gives to the incident, as the legal definition is the court scope, therefore, the definition that attributes by the public prosecutor or by the complainant to the incident shall not be considered, but what decided by the court.

It should be highlighted that the existence of excuses or obligatory circumstances may change the crime definition, while the judicial possibility conditions are not taken into account when determining the crime nature (Khalil, 2017).

f. Variance in determining the time of the crime due to crime nature :

As of some crimes, there is a difference in determining the starting of the statute of limitations duration, due to the time variance from the occurring time of the crime until the results were achieved.

In the immediate crimes (Crimes by a temporal factor), the duration of statute of limitations duration starts from the day after the occurrence⁷, as for the continuous crimes, the crime commission considered to be from the day on which the state of continuity is interrupted, and then the statute of limitations duration of the case starts from the day after it. As for the cumulative offense (The Repeatable Crime), the statute of limitations duration starts from the day on which the last act of commission took place, but if the crime is habitual offense, then the crime shall not be considered as a case unless the second act took a place, therefore the period starts from the day following the commencement of the last act that enters the formation of the crime.

As for the negative (The Refrain Crimes) crimes, a distinction must be made between the simple refrain crimes (which are carried out simply by refraining, That is, it is not required for it to achieve a certain result, such as refrain to submit a tax declaration) and the crimes of refrain that causes a result (That assumes a refrain which leads to a related casual result, such as the nurse's refrain to treat the patient, so this leads to his death), in the simple refrain crimes, the duration of a statute of limitations does not start unless the deadline set by the legislator for the positive action that he refrain to commission it⁸, while in the crimes of refrain that causes a result, the duration of a statute of limitations does not start until the result occurs (Hosni, 1988).

4. The interruption of the Statute of Limitations:

There are two barriers that object to the statute of limitations duration passing: "suspension and interruption". The suspension means suspension for the effectivity of the statute of limitations duration passage for the duration of the validity of suspension cause, so this period will be considered out of the duration of a statute of limitations, as the previous period, that was prior the suspension, will be counted from the duration of the statute of limitations, the duration calculation to be completed after the causes of the suspension have ceased (Al-Qahwaji, 2002).

⁷ As implementation of this, the Jordanian Cassation Court decided the following: "Whereas the offense attributable to the two suspects is a failure to submit the registration application for sixty days from the date of expiry of the period according to Article (13) of the General Sales Tax Law, and that this failure does not end except with registration (If the offense is proven to be correct) and since the suspects did not attend at trial and did not provide any evidence that he had registered, the offense is considered a continuous crime - which does not end if it is proven, except by registration (Criminal Cassation 688/2011 date 16 August 2011).

⁸ Therefore, the Jordanian Cassation Court ruled that the statute of limitations for tax evasion crimes is calculated from the date of the expiry of the period for submitting the tax return for each period (Criminal Cassation 718/2013 date 6 January 2014).

While the statute of limitations interruption means the invalidity of the previous period of the statute of limitations duration due to the occurrence of a specific procedure, which means that the counting of the statute of limitations duration shall start initially from the moment of the categorical procedure without any consideration of what has passed from a previous period, this means that the interruption leads to corruption of what has passed of the statute of limitations duration and calculation of a new period from the date of the interruption of the limitation procedure (Salama, 2007-2008).

With regard to the stoppage of the statute of limitations duration, it is certain that stoppage cannot be applied to the statute of limitations duration of the lawsuit (Behnam, 1985), so the Qatari legislator was explicit in Article (16) of the Criminal Procedure law when he stipulated that: (The statute of limitations duration for the criminal lawsuit to expire shall not be suspended for any reason), while for Jordanian law, there is no such text, and although Article (349/2) of the Jordanian Criminal Procedure law stipulates that (The statute of limitations shall supersede every legal or material barrier that prevented the execution of the penalty or the measure, and did not arise from the will of the convict), as the Jordanian jurisprudence agreed that this article applies to the statute of limitations for punishment, not the statute of limitations for lawsuit (Jukhdar, 1992; Namur, 2005).

As for the interruption of the duration of a statute of limitations of the lawsuit, it was stipulated in Article (15) of the Qatari Criminal Procedures Law, by the following:

(The statute of limitations duration in which the criminal lawsuit lapses shall be interrupted by an investigation, accusation, trial procedures, a criminal order, reasoning procedures that are taken against the accused, or official notification, and the period shall be re-counted again starting from the day of interruption.

If there are multiple procedures that cut off the period, then the validity of the period, again, starts from the date of the last procedure.

If there are multiple accused in the crime, the interruption of the period for one of them shall result in the interruption of the period with respect to the rest, even if there are no taken conclusive measures against them the interrupt its statute of limitations period.)

As for Jordanian law, in Article (349/3) of the Criminal Procedure Law, stipulate regarding the reasons for the interruption as follows:

(The interruption causes for the Obsolescence period are:

1. Investigation procedures and lawsuit procedures in which issued by the competent authority of the same crime.
2. Any action to be taken by the authority with the purpose of implementation.
3. The convict commits another crime equivalent to the crime that necessitated the punishment or the measure or to commit a crime more important than the current case, provided that the duration of a statute of limitations for any case cannot exceed more than double it.

It is observed from the foregoing text that the interruptions came without allocating the statute of limitations type either as a statute of limitations for lawsuit or statute of limitations for punishment, so does this mean that these three reasons are to interrupt the statute of limitations of both the lawsuit and the penalty?

The Cassation Court adopts that the reasons which stated in this Article apply to the two types of the statute of limitations (lawsuit or punishment), by its ruling that: (Initially, It must be highlighted that the chapter on a statute of limitations in the Criminal Procedure law has been included in Articles (338-340) the dedicated provisions on the statute of limitations for a public Lawsuit, and in Articles (341-348) it included the dedicated provisions of the statute of limitations of the punishment, and in Articles (349-352) it included general provisions related to both the statute of limitations of the lawsuit and the statute of limitations of the punishment, together, which lead to the understanding of that Article (349/3 / C) concerning the interruption of the statute of limitations in the event of committing an equivalent crime or more important shall apply to both the statute of limitations of the public right lawsuit and the statute of limitations of punishment.) (Criminal Cassation 1140/2012 date 15 August 2012).

We believe that this opinion is invalidity, as of it is decided in Paragraph (b), to suspend the statute of limitations duration by any action taken by the authority with the purpose of implementation, this condition is related to the implementation of the sentence imposed by a ruling, accordingly, this reason cannot interrupt the statute of limitations of lawsuit period, while for paragraph (c), it addresses about a convict committing another crime ... etc., and the convict definition applied to the person against whom a conviction was issued,

so there is no place to apply this reason to the statute of limitations duration of the lawsuit because the defendant during the lawsuit is a respondent (Accused or Suspect) but not a convicted⁹, and this what the High Criminal Court took, when it decided in a case related to Paragraph (c), by the following: (This case is limited to the statute of limitations period for the punishment, not the statute of limitations duration for the lawsuit, the proof of that, the legislator put a condition another crime equivalent to the punishable crime or precautionary measure or a more important crime, in the sense that the legislator is addressing here about interrupting the statute of limitations period for the punishment or the precautionary measure of the first crime by committing another crime equivalent to it or more important than it) (The Great Criminal Court decision No. 487/2012 date 22 April 2012).

Both the Jordanian and Qatari legislators agree that the statute of limitations is interrupted by (investigation procedures and lawsuit procedures issued by the competent authority that tracking the crime (according to the Jordanian text expression)), the Jordanian Cassation Court has explicated that the statute of limitations Duration is interrupted by any procedure that may take place in the lawsuit by the mandated authority, whether it is an investigation, accusation or trial procedure, part of investigation procedures is to collect evidence, search for accused, crime scene visits, delegate experts, listen to witnesses, inspection evidence, issue summonses against the accused, arrest accused , or pursue them for arresting them by the judicial police (Criminal Cassation 634/1998 Date 20 October 1998).

Dissimilar to the Jordanian legislator, the Qatari legislator considered the inference procedures as procedures in which the statute of limitations duration is interrupted, while the standard principle is that these procedures do not interrupt the statute of limitations duration, as these procedures are only preliminary actions for the lawsuit that precede the investigation and trial procedures, although thusly, the Qatari legislator considers these procedures as one of the interruption procedures of the statute of limitations duration, but not in absolute terms (Al-Waqqad and Al-Lami, 2017), rather, the Qatari legislator stipulated that these measures should be taken by the knowledge of the accused or officially notifying him as crime investigation procedure, the notification method whether it is verbally, inform him personally, or by addressing him in written (Ghannam, 2017).

It is worthy to note, that the interruption of the statute of limitations duration is characterized by its in-kind effect, as it includes all those involved in the crime, therefore the interruption of the statute of limitations duration for any of the crime contributors leads to its interruption to others because the interruption affects the acts, not the persons (Madi, 2016), The interruption of the statute of limitations duration is limited by the criminal case arising from the crime for which the categorical action takes place, so its effects do not extend to other distinct crime cases.

5. Effects of the statute of limitations:

Upon the completion of the statute of limitations duration, the criminal lawsuit shall expire accordingly, so none has the right to activate it, either against the perpetrator of the crime or on other contributors, because the statute of limitations produces its effect for all those involved in the crime, so it cannot be dropped from some without the others (Al-Hajj, 2014).

It must be clarified, that the expiry of the lawsuit due to the statute of limitations is considered a public order (Criminal Cassation 178/2008 date 12 March 2008), and it follows that:

- i. The court may refuse the request of case reactivating with it on its own accord, even if no opponents objected to it.
- ii. The accused may not waive of his right by the statute of limitations, and he cannot request the court to reactivate the merits of the case in order to obtain a patent.
- iii. The statute of limitations may be used against any legal form of the lawsuit, the statute of limitations may initially use in the Cassation Court (Al-Zubaidi, 2014).
- iv. Defending by the statute of limitations considered as one of the fundamental defenses, whereby if such defense raised within a court, the court must respond

⁹ In this regards, the Jordanian Cassation Court ruled the following: (As for the submitted appeal that the court did not prove that the person against whom the distinction was committed did not commit the date of the felony sought for another felony similar to it or more important than it, he stabbed it will not consider in this case. That is, Article (349/3/C) of the Criminal Procedure Law, on which this appeal is based, addresses the committing of the convict is another crime ... and in the presented case, we are before a defendant accused of a felony and not convicted so that this text to can activated according to to the case (Criminal Cassation 2012/2012 date 12 March 2013).

- v. positively or negatively to this defense, and it is not permissible for the court to neglect it, otherwise, it is considered as failure in the cause (Al-Zubaidi, 2014).

As for the effect of the statute of limitations on the personal right lawsuit (the subordination civil lawsuit), it is observed that there is a difference between Qatari law and Jordanian law, whereby the Qatari law adopts the principle of independence of statute of limitations in both cases so that applying the statute of limitations of the criminal case does not result by the drop of the civil lawsuit, The matter of the statute of limitations for the civil lawsuit shall be carried out by the civil law provisions (Ghannam, 2017), so If the criminal court finds that the statute of limitations applies on the criminal case, then, in this case, it must refer the civil lawsuit to the competent civil court for review (Khalil, 2017).

While for the same topic, the Jordanian law adopts the solidarity principle, in which the lapse of the statute of limitations duration leads for the expiration the public right lawsuit in addition to the personal right lawsuit, as the same period applies for both lawsuits, and this is clear from the legislator statement (to expire the public right lawsuit and the personal right lawsuit ...), the reason for adopting Jordanian legislator this principle is a historical reason, as this principle belongs to the old French law legalized by the year 1810 law, then adopted by the Ottoman law, transferred later to the old Lebanese law, which is the basis of the Jordanian law, the Jordanian legislator remain adopting this principle although that both French and Lebanese laws retracted it out and decided to separate the two cases (criminal and civil) from one another regarding the statute of limitations.

This principle is justified by jurisprudence, as it prevents the contradiction between penal provisions and the civil provisions, and avoids the possible negative impact if the offense proven by the civil court after it was dropped within the public right lawsuit (Al-Naqeeb, 1993).

However, this justification loses its importance due to the negative aspects of this principle, what is considered negatively against this principle is that it leads to "The crime perpetrator becomes in a better position than the one who committed a civil violation only, or even better than the ordinary debtor, as the obligation of the crime perpetrator to compensate for the damage arising there from the crime, expire in a more short period than that in which the debtor's obligation expires, and this result is harm toward most simple principles of justice, and as if it were a reward for the perpetrator crime"(Abd Al-Sattar, 1975)

6. Conclusion:

This research is an effort to address the theory of statute of limitations in both the Jordanian and Qatari laws, and by the conclusion of this research, it will be more useful to present the most important results derived from the research and submit proposed necessary recommendations.

6.1 Results:

- i. Both the Jordanian and Qatari laws adopt the statute of limitations for criminal lawsuits so that the lawsuit is expired after elapsing a period of time since its commission, which is ten years for felonies, three years for misdemeanors, and one year for violations.
- ii. Although the two legislators did not clarify the basis that leads them to adopt the principle of the statute of limitations, the jurisprudence tried to justify this according to multiple points of view, and several justifications for the statute of limitations appeared, and it seems that the most legal weight among the justifications was the principle of forgetting.
- iii. The general principle is that statute of limitations applies to all crimes except what the legislator excludes by a special provision, in addition to the crimes that international agreements have excluded.
- iv. The Qatari legislator adopts the principle of flexible calculation of the statute of limitations period so that the period for the expiry of the criminal case does not start in the crimes which defined by the legislator and done by a government employee except after the date of his service termination, or the demise of his job capacity unless investigation starts before that. And there is no such similar provision in the Jordanian law.
- v. Both the Jordanian and Qatari laws recognize that the limitation period accepts interruption but does not accept a suspension, as the two legislators correspond that the statute of limitations of the lawsuit is interrupted by (investigation procedures and lawsuit procedures by the authority competent that handling the crime), and according to the Qatari law, the duration of a statute of limitations in certain cases is interrupted due to reasoning procedures, which is not considered by the Jordanian legislator.
- vi. The elapse of the statute of limitations duration without raising any legal action will expire the public right lawsuit. As for the civil lawsuit, the two legislations differ in their stance towards that, whereby the Qatari

legislator adopts the principle of independence of the two cases in terms of the statute of limitations duration, while the Jordanian legislator lays rely on the principle of solidarity between them.

6.2 Recommendations:

- i. The Jordanian legislator is advised to follow what the Qatari legislator has adopted in term of the flexibility of the statute of limitations duration for crimes committed by a government employee, due to its justice achievement, as the government employee, by virtue of his position and authority, can hide his crime for a period that may not appear until the elapsed the statute of limitations period has passed.
- ii. The Qatari legislator is advised to exclude the concept of interrupting the statute of limitations duration due to the reasoning procedures, as these procedures are not from the criminal lawsuit procedures.
- iii. Finally, the Jordanian legislator is recommended to follow what the Qatari legislator has relied on regarding the independence of the public right lawsuit and the personal right lawsuit in terms of the duration of limitations so that the personal right lawsuit remains subject to the civil law provisions concerning the obsolescence duration.

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