



The Expiration of Public Criminal Lawsuits a comparative Study between the Saudi System and Sudanese Law

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Received: 18/04/2025

Published: 30/06/2025

Abstract

The study addresses one of the essential aspects of criminal law, which is the expiration of public criminal prosecution, as it is one of the legal manifestations that terminate the state's authority in criminal pursuit. It aims to analyse the reasons for the expiration of public criminal prosecution, through a comparative study between the judicial system in the Kingdom of Saudi Arabia, based on Sharia law, and Sudanese criminal law, which blends both statutory and religious systems. The study focused on the most prominent reasons for expiration, such as: the death of the accused, general amnesty, statute of limitations, repentance, and the issuance of a final ruling. The comparison showed that the Saudi system does not recognize the principle of the statute of limitations in had crimes and qisas crimes, whereas in some ta'zir crimes, it is a commitment to Sharia provisions, unlike Sudanese law which acknowledges the statute of limitations according to conditions set by law. It also indicated that the application of general amnesty in both systems falls under the sovereign authority of the state, with differences in scope and procedures. The study concluded with several findings, the most important of which is the need to regulate the concepts and reasons for expiration legislatively to limit the variance in judicial interpretation, and to enhance the balance between authorities. The state in punishment and guarantees for the accused. It also recommended reviewing some legislation related to the expiration of lawsuits, which contributes to achieving criminal justice and ensuring the stability of legal positions.

Keywords: Public Criminal Lawsuit, Expiration, Limitation, General Amnesty, Islamic Law, Sudanese Law, Legal Comparison.

Introduction

The public criminal action is considered the state's tool for instigating criminal liability against those who commit acts that constitute punishable crimes under the law. It is one of the fundamental means to achieve criminal justice and uphold public order. However, this action cannot remain open indefinitely; rather, the legislator has specified certain reasons that lead to its termination in order to preserve the principle of legal stability and guarantee the rights of individuals. The 'general expiration' of the criminal action is defined as the state's expiration of authority to pursue the perpetrator for legal or substantive reasons, without delving into the details of criminal liability itself. The significance of this topic lies in its legal and practical implications for the judiciary, the accused, and the victim, as the expiration of the case leads to the loss of the right to punishment and halts criminal proceedings. This necessitates a thorough examination of the reasons leading to this expiration, such as the statute of limitations (which prevents the hearing of the case in certain legal systems), the issuance of a general pardon, and the death of the accused, among others. This study will examine these general reasons within a comparative framework between the Saudi criminal procedure systems established by Royal Decree No. (M/2) dated 22/1/1435 AH, and the Sudanese Criminal Procedure Law of 1991, with reference to some provisions of Egyptian law and relevant legal and Sharia jurisprudence. This paper aims to analyse these reasons from both legal and practical perspectives and review their legislative framework in national law, while also referring to some related judicial applications.

Research Problem: The reasons for the general expiration of public criminal cases raise a number of legal questions in general, the most prominent of which are: What is the foundation upon which these reasons are based? Do they achieve a balance between the state's interest in punishment and individuals' rights to safety and stability? The problem of defining the scope of these reasons and how they are applied by the judiciary is also highlighted, especially in light of differing concepts between legal systems and analyzing the similarities and differences between the Saudi criminal procedure system and the Sudanese criminal procedure law regarding the reasons for the general expiration of public criminal cases. The study seeks to answer specific questions such as: How does each system organize the effect of the defendant's death on the criminal case and the related civil case? Does Sudanese law recognize the statute of limitations for criminal cases, and what are its conditions and durations, and what is the Saudi system's position on this principle? What are the conditions and



controls for accepting repentance as a reason for expiration in the Saudi system and is there a general text for it in Sudanese law? How is a general amnesty defined and what are its effects, conditions for issuance, and the competent authority in both systems?

Research Objectives: This research aimed to:

1. Clarify the concept of the general extinction of public criminal proceedings.
2. Analyze the legal reasons leading to the extinction of proceedings.
3. Outline the consequences resulting from the extinction.
3. Highlight judicial positions and practical applications of these reasons.
5. Propose some recommendations that may contribute to improving legal understanding and judicial application in this field.

Research Methodology: This research relies on the legal analytical methodology, by analyzing the legal texts related to the extinction of criminal proceedings, in addition to the comparative methodology, by referring to some judicial or legislative experiences in other Arab laws where appropriate.

Research Scope: This research is limited to the framework of the Saudi Criminal Procedure System of 1435 AH and the Sudanese Criminal Procedure Law of 1991, with comparative references to Egyptian law and relevant jurisprudence. It aims to study and analyse five specific general reasons for the expiration of public criminal claims, which are: death, statute of limitations, repentance, and general amnesty. The issuance of a final and conclusive judgment will be addressed in a simplified manner since it has been detailed in a previous paper titled Reasons for Special Expiration of Criminal Claims published in the Tabuk University Journal.

Termination of the Public Criminal Case by the Death of the Accused Generally

A criminal case terminates and comes to a close with the issuance of a final judgment of acquittal or conviction, as this is considered the natural end of criminal litigation. However, legal systems have provided other reasons for the termination of a criminal case before reaching that conclusion, one of the most decisive of which is the death of the accused. The occurrence of death is closely linked to the principle of personal punishment and criminal responsibility, and it raises significant legal implications that vary according to the stage the case had reached at the time of death. This chapter discusses the termination of the criminal case due to the death of the accused, analyzing the legal and logical basis for this reason, its various implications, and the stance of both the Saudi system and the Sudanese and Egyptian laws on this matter.

First Requirement: The Legal and Logical Basis (The Personality of Punishment and Responsibility)

A criminal case is terminated upon the death of the accused, and the rationale for this termination is based on fundamental principles in criminal law, the most important of which are: Principle of Personal Criminal Responsibility: Responsibility for a crime rests on the individual who committed it personally and does not extend to others. With the death of the accused, the basis for this responsibility ceases to exist, and there is no longer a person who can be criminally prosecuted for the act committed. Principle of Personal Punishment: Punishment is the legal consequence resulting from the establishment of criminal responsibility, and it is also personal, aimed at rehabilitating and deterring the offender, and it can only be imposed on someone whose guilt has been established. With the death of the accused, the rationale for imposing physical punishment is nullified because it becomes impossible to execute due to the lapse of its subject.(Dr. Mohammed Ismail, 2015, p. 27.) Requirements for a fair trial: Criminal proceedings assume the accused's personal participation in their defense, challenging the evidence presented against them, questioning witnesses, and calling upon exonerating witnesses. All of this presupposes that the accused is alive and able to contribute to the proceedings.(Dr. Ashraf Shams Al-Din, 2015, page 95). If he passes away, it becomes impossible to continue these proceedings fairly and productively, and thus the death of the accused is considered a compelling and logical reason to terminate the criminal prosecution against him, due to its close connection to the foundations of liability, punishment, and legal procedures. The principle is that one who did not contribute to the commission of the crime as a perpetrator or accomplice remains exempt from its punishment (Al-Hamshari., 1st edition 1969, page 1). Responsibility requires a material and causal relationship between the act committed by a person and the criminal outcome. With the death of the perpetrator, this link is severed and the interest in criminal prosecution against them ceases (Surour., 1st edition 2015, p. 27).

The second requirement: The effects of death in the different stages of a lawsuit(before initiation, during the trial, after the ruling) The consequences arising from the death of the accused vary depending on the stage of the criminal proceedings at the time of death: Death before the initiation of criminal proceedings: If death occurs before any procedure in the case is initiated (whether preliminary investigation or filing the case), the public prosecutor (or the relevant investigative authority) issues a



decision to close the case or to terminate proceedings due to the death of the suspect, as there would be no basis for the case (Article 37(1)(a) of the Sudanese Criminal Procedure Law of 1991). Death during the hearing of the case (before the final judgment): If the accused dies during the trial and before a final (binding) judgment is issued, the competent court rules that the criminal case is extinguished due to death. This decision must be issued without addressing the subject of the case or discussing guilt or innocence, even if the death occurs just before the judgment is pronounced. Death after the issuance of the preliminary ruling and before it becomes final: If death occurs after a conviction has been issued but before that ruling becomes final (i.e., during the appeal period or while the appeal is being heard), Egyptian law, which is frequently referred to in explanations, considers that the ruling is annulled by the extinction of the case, and fines that have been executed and confiscated items (except naturally prohibited tools) must be refunded (Egyptian Cassation). That is, death at this stage cancels the preliminary ruling and its effects. Death after a final ruling: if death occurs after the conviction has become final and enforceable (Article 345 Sudanese Personal Status Law for Muslims of 1991). It does not affect the ruling itself in terms of its legal existence, but it results in the annulment of corporal penalties (such as imprisonment or flogging) due to the impossibility of carrying them out as their occasion has passed. As for financial penalties (such as fines) and compensations, as well as amounts owed and expenses, they do not lapse upon death, but are enforced against the estate of the deceased convicted person as a civil debt (Egyptian Cassation).

Special cases: The appearance of the accused alive after the judgment of the case being closed due to death: If the court ruled that the case is closed due to the accused's death based on incorrect information, and it later turns out that he is still alive, this ruling does not have the authority of a final judgment because the subject was not adjudicated, and the error can be corrected and the case resumed (according to the provisions of Egyptian judiciary). Issuing a default judgment without the court being aware of the accused's death: If the court continued to hear the case and issued a default judgment without being aware of the accused's death that occurred before the judgment was issued, then this judgment is considered null and void due to the case legally closing upon death before its issuance (according to the provisions of Egyptian judiciary).

The third requirement: The effect of death on the subsidiary civil lawsuit and on the other defendants: The effect of the defendant's death is not limited to the criminal case brought against him personally, but may extend to the civil case related to the crime and to the other defendants in the same incident: The effect of death on the subsidiary civil case: In Sudanese law, if the criminal court has begun to consider the subsidiary civil case and has questioned the deceased defendant, then his death does not prevent it from continuing to consider the civil aspect and ruling on it according to civil procedures (98(1) S C P Law 1983). However, if the accused dies before being questioned, the criminal court cannot continue to hear the civil case, and the injured party must resort to the civil judiciary to file a new lawsuit against the deceased's heirs. In Egyptian law and the Saudi system, the general rule is that the expiration of a criminal case due to death does not affect the progress of the civil case filed in conjunction before the criminal court, and it remains valid, with the court continuing to hear and rule on it. The Saudi system has affirmed that the private right claim is not affected by the expiration of the criminal case for any reason, including death (22 Saudi P Law 1435). The effect of death on the other defendants (participants): The death of one of the defendants (whether the principal actor or an accomplice) results in the termination of the criminal case as to that defendant only. His death has no effect on the proceedings against the other defendants who participated in the commission of the crime, because the reason for termination here (death) is a personal reason related to the deceased defendant, and not an objective reason related to the crime itself. In this case, the court may separate the trial of the deceased defendant (to rule that it is extinguished due to death) from the trial of the other present defendants and continue the proceedings against them (Sudanese Judicial Rulings Magazine 2012 - P 81). Exception: The matter may be complex if the nature of the crime necessarily requires the involvement of multiple contributors for it to be legally constituted (such as crimes that require the participation of more than one person by law); in this case, the death of one of the necessary partners may render it impossible to prove the crime against the remaining ones or to extinguish the case against them as well, depending on the circumstances.

The fourth requirement: A comparative study between the Saudi system and the Sudanese and Egyptian laws: Both the Saudi Criminal Procedure System and the Sudanese Criminal Procedure Law along with Egyptian law agree on the general principle that the death of the accused is a cause for the termination of the criminal proceedings against them, based on the principles of personal punishment and liability. However, there are some points of similarity and difference in the details and applications: General Similarity: All systems consider death as a general cause for termination that ends criminal prosecution against the deceased, and they agree that the effect of death is personal and



does not extend to other co-accused in the crime, thus proceedings against them continue. Stages of the Case: The Saudi system and Egyptian law follow a similar approach in determining the effects of death depending on the stage at which it occurs (before initiation, during trial, after the preliminary ruling, after the final ruling), especially concerning the cancellation of physical punishments but not financial ones after the final ruling. Sudanese law, however, focuses on termination as a general effect of death without detailing its impact after the final ruling in comparison to Egyptian law and the Saudi system, which often follows stable practices drawn from jurisprudence and comparisons. Subsequent **Civil Action:** The Saudi system and Egyptian law are more flexible in continuing the civil case before the criminal court despite the defendant's death. The Saudi system explicitly states that the private right claim will not be affected (22 Saudi.C.P.L.1435). Sudanese law restricts the continuation of civil proceedings before the criminal court on the condition that the accused is interrogated before their death; otherwise, it must be raised before the civil judiciary. Investigation and confiscation: The Saudi system is characterized by its explicit provision that the death of the accused does not prevent the investigation authority from completing the investigation if there is a justification for this (such as the existence of other accused individuals or private rights). The Saudi system agrees with the practice in Egyptian law regarding the continuation of procedures for the confiscation of items that are considered a crime in themselves or that were used in the crime, even after the accused's death. Summary of comparison: While the three systems agree on the basic principle (the lapse of criminal proceedings upon death and its personal effects), the Saudi system and Egyptian law show a greater proximity in detailing the effects of death in different stages and in dealing with civil claims and confiscation, while Sudanese law places a procedural restriction (interrogation) on the continuation of civil proceedings before the criminal court (Salem - 1990 - p. 142).

Section Two: Expiration of the Criminal Action by Limitation (as an obstacle to filing the case):

In addition to the reasons that directly terminate criminal proceedings, such as death or a final judgment, there are other mechanisms that may prevent the continuation of criminal prosecution or prohibit its initiation altogether. One of the most prominent of these mechanisms is the statute of limitations, which means that a legally defined period has elapsed since the commission of the crime or the issuance of the judgment without certain actions being taken, potentially affecting the case or the penalty. The stance of legislations on the acceptance of the statute of limitations as a reason for the termination of criminal proceedings varies; while Sudanese law considers it a bar to bringing a case in certain circumstances, Saudi law has included it in several regulations but did not specify it in the criminal procedure system as a general reason for termination. This section discusses the concept of the statute of limitations and its justifications, the position of Sudanese law on it, its conditions and scope, compared to its absence in the Saudi system, based on what is stated in the texts under study.

The first requirement: The concept of prescription and the justifications for adopting: In legal terminology, limitation is defined as the passage of a certain period of time, either after the commission of a crime or after a sentence is pronounced without its execution, leading to the court abstaining from imposing the penalty or the authority refraining from executing it. Limitation of criminal action is also defined as its expiry after the lapse of a time period specified by law, calculated from the date of the criminal act, provided that no action has been taken that would interrupt this period. The direct effect of the expiration of criminal action due to limitation is the forfeiture of the state's right to utilize this action as a means of exercising its right to punishment. Limitation does not legalize the unlawful act, but it results in the expiration of the defendant's criminal liability for the crime, and indirectly affects the state's right to punishment, as there can be no penalty without an ongoing criminal dispute (Abdul Sattar - 1975 - p. 190).

The second requirement: The position of Sudanese law regarding prescription, its conditions, and its scope. The Sudanese Criminal Procedure Law of 1991 did not include the statute of limitations among the general reasons for the expiry of criminal proceedings previously mentioned; however, it was mentioned in Article 38 as a bar to initiating the criminal action if the specified period has expired. This statute of limitations is considered a new provision in the current law, as previous laws recognized the statute of limitations for penalties without acknowledging a statute of limitations for the lawsuit. Conditions and scope of the statute of limitations in Sudanese law: 1. Scope: The application of the statute of limitations that prevents initiating a lawsuit is limited to crimes with "discretionary penalties" only. It does not include boundary crimes and retribution crimes that require predetermined penalties by law. 2. Commencement of the period: The statute of limitations begins from the date of the crime's occurrence. 3. Effect: If the legally specified period expires before the criminal lawsuit is initiated, "it may not" be opened. This provision is considered a matter of public order, which means that the court must apply it ex officio, even if not raised by the defendant, and the defendant cannot waive it. Sudanese jurisprudence has affirmed that the statute of limitations for criminal lawsuits is a matter of



public order. 4. The statute of limitations does not stop the ongoing case: If the criminal lawsuit is initiated. Before the completion of the limitation period, it remains valid and does not lapse due to limitation even if the proceedings last for a long time exceeding the original limitation period. The limitation only prevents the initiation of a lawsuit and does not stop a lawsuit that has already been filed before it came into effect. This differs from Egyptian law, which may allow the start of a new limitation period if the proceedings of the opened lawsuit are halted for a certain period (Fouda - 2005 page 50).

The third requirement: The Saudi regime's position on prescription, its conditions and scope: Scholars agree on the permissibility of the expiration of discretionary punishments due to the passage of time, if the authority deems it necessary for the public interest; the reason for this is that the punishment is left to the authority, who chooses from the discretionary penalties what he deems appropriate according to the seriousness of the crime and the criminal, and what achieves both purposes of punishment in general deterrence and individual deterrence. The legislator has addressed the idea of expiry in several discretionary systems, such as the trademark system where Article 47 states that 'the public right of action is extinguished after five years from the date of the offense without any investigative or trial procedures being taken, and the expiration of the public right of action does not affect private rights and it is stated in the commercial papers system that 'the carrier's claims against the drawee, the drawer, the endorser, and others liable are not heard after six months from the date of the expiration of the cheque submission deadline, and claims for recourse among the debtors concerning the cheque are not heard after six months from the day the debtor fulfilled his obligation or from the day of the lawsuit against him.(Saudi Disciplinary Regulation)' The text in the disciplinary system states that a violation or lawsuit will lapse, depending on the situation, after two years from the date of discovering the violation without taking any investigative or prosecution measures, or after two years from the date of the last action taken. If there are multiple defendants, the interruption of the time period for one of them results in its interruption for the others. From the above, it is clear that the nature of the plea of limitation relates to the rules of limitation of public lawsuits in public order. Consequently, all parties are entitled to plead the lapse of the public lawsuit due to limitation at any stage of the lawsuit, even for the first time before the Supreme Court. Both the investigator and the court must declare the lapse of the public lawsuit due to limitation on their own initiative, even if no party has raised this plea. If the court rules on the lawsuit without addressing one party's plea of lapse due to limitation, its ruling is considered void. It is also clear that limitation is an objective condition related to the criminal act. If the limitation on the criminal act is interrupted due to any action taken in the public lawsuit against one of the offenders, it is interrupted for the remaining offenders even if the lawsuit has not been initiated against them. If a court ruling is issued declaring the crime lapsed due to limitation concerning the defendant, and it has attained finality, the partners in crime can invoke the authority of this judgment even if they were not challenged, and even if no charges were brought against them regarding the same incident. Effects of limitation: We find that the effect of limitation on the public case occurs if the specified period in the system elapses before the public case is initiated, which means the extinguishment of the state's right to prosecute and punish; the investigator decides to file the papers. If it is in the stage of criminal investigation, the investigator must dismiss the case due to the statute of limitations; if it is in the trial stage, the court decides to dismiss the case rather than acquit. As for the private right claim, there is no effect of limitation on private rights.

The fourth requirement: Comparison between the Saudi system and the Sudanese law: Both the Saudi Code of Criminal Procedure and the Sudanese Criminal Procedure Law along with Egyptian law agree on the general principle that the statute of limitations serves as a reason for the expiration of public criminal proceedings and has no effect concerning hudud or qisas crimes; in some cases of discretionary crimes in the Saudi system, however, the Sudanese law adopts the principle of limitation as a barrier to filing claims in discretionary crimes in pursuit of a benefit perceived by the legislator. In summary, Sudanese law adopts the principle of limitation as a barrier to filing claims in discretionary crimes for a benefit deemed appropriate by the legislator, while this principle is not stated in the Saudi Code of Criminal Procedure but is mentioned in some regulations, reflecting a fundamental difference in the philosophy of addressing the impact of the passage of time on the right to criminal prosecution between the two systems. The limitation that prevents hearing a claim under Saudi regulations means that if you delay in filing a claim for a right, for a certain period specified by the system, this delay deprives you of your right as the court will not accept hearing the claim after that time has passed, given that the right holder's delay in presenting their claim before the court leads to such a consequence. It is considered as the waiving of the right holder's right to claim it, and in this case, the statute of limitations is the extinguishment of the right to claim before the court and to file a lawsuit. The regulations in the Kingdom of Saudi Arabia have pointed out the statutes of limitations that



prevent the hearing of the case, such as the commercial courts system, companies law, labour law, financial market law, and the Board of Grievances law, in addition to the maritime commercial law, civil aviation law, competition and procurement law, commercial papers law, as well as the trademark law.

The Termination of Criminal Proceedings by Repentance: Repentance is considered one of the profound religious and ethical concepts, particularly in Islamic law which encourages it and opens doors for it as a means of return and forgiveness. This concept has been reflected in some legal systems, where repentance, under certain conditions and provisions, is regarded as a reason for the termination of criminal proceedings or the lifting of penalties, especially in crimes that primarily affect public rights. The aim of this research is to review the concept of repentance and its legal conditions as a reason for the termination of proceedings, and to examine the position of both the Saudi system and Sudanese law regarding the acceptance of this reason, highlighting the similarities and differences between them in this regard.

The first requirement: The concept of repentance and its legal controls as a reason for termination: Repentance, in its essence, is the turning away from sin, regretting its commission, and the determination not to return to it. Islam has strongly encouraged and urged it, considering it a means of erasing sins and attaining God's forgiveness and mercy, and even transforming bad deeds into good ones for those whose repentance is sincere and who believe and do good deeds. This is supported by noble Quranic verses such as His saying: (Except for those who repent, believe and do righteous deeds. For them Allah will replace their evil deeds with good ones, and Allah is ever Forgiving Merciful. Surah Al-Furqan – verse 70.) And His saying: (Say, O MY servants who have believed, fear your Lord. For those who do good in this world is good, and the earth of Allah is spacious. Indeed, the patient will be given their reward without account.)(Surah Az-Zumar - verse 53) Accepted repentance in Sharia, which may have a legal effect such as the dropping of public rights, includes aspects of divine forgiveness for sins. Islam encourages the offender to refrain from their crime and acknowledges the concealment of public rights. The effect of repentance is clearly visible in the cancellation of punishment for certain crimes such as highway robbery, where Allah says about the robbers: "Except for those who repent before you overpower them; then know that Allah is Forgiving and Merciful." The apparent meaning of this verse, as understood by the companions, entails the abolition of all penalties (related to public rights) if repentance is achieved before the offender is apprehended. Furthermore, the noble prophetic tradition is replete with stories of accepted repentance from sinners, no matter how grave their sins, such as the hadith of the man who killed ninety-nine souls and then completed the hundred, and his repentance was accepted. Based on this, it can be said that the fundamental Sharia criterion for considering repentance as a reason for the dismissal of cases or the dropping of penalties concerning public rights is the sincerity of repentance and its occurrence before the ability to apprehend the offender or before the matter is raised to the ruler in some crimes such as the prescribed punishments (according to detailed jurisprudential specifics). Other detailed conditions for repentance (such as regret, cessation, determination, and restitution of rights to their owners) If found, they are derived from the objectives and general rulings of Sharia. (Ibn Kathir - Page 102).

The second requirement: The position of the Saudi regime on repentance as a reason for termination: The Saudi system is considered one of the systems that regard repentance as a reason for the termination of public criminal prosecutions. Repentance has been mentioned with its legal conditions as one of the causes for the cessation of punishment or termination of the case in the context of discussing the reasons for termination in the attached research. However, the research indicates that the Saudi Criminal Procedure Law has not provided precise details regarding the nature of legally acceptable repentance, its specific conditions, and its defined impact on the course of public prosecutions for various crimes. Instead, the system has left the application of the rules of repentance to the "discretion of the criminal judge as stated in Islamic jurisprudence." This means that it is the judge who assesses the fulfillment of the conditions of legal repentance in each individual case and its impact on the prosecution according to the principles and rules derived from the recognized Islamic jurisprudence.

The third requirement: Comparison with Sudanese law (absence of general text and specific references) In contrast to the situation in the Saudi system, repentance is not included among the explicitly stated cases as a general reason for the termination of criminal proceedings in the Sudanese Criminal Procedure Law of 1991. Despite this absence in the procedural law, some other substantive Sudanese laws have referred to the effect of repentance in specific and defined cases, whether by preventing the initiation of criminal proceedings altogether or by granting exemption from punishment: 1. The Narcotics and Psychotropic Substances Law of 1994: Article 20(2) stipulates that no criminal case shall be brought against a drug addict or user of psychotropic substances if they



voluntarily seek treatment or request it before being brought to trial. This can be considered a form of encouragement for practical repentance.2. The Penal Code of 1991: Article 169(1) states that the penalty for robbery is extinguished if the criminal voluntarily abandons the act of robbery and declares their repentance before being able to do so. Article 172(e) states that the penalty for theft is extinguished if the criminal returns the stolen property and declares their repentance before being brought to trial (subject to other conditions related to non-recidivism). Summary of the comparison: The difference is clear between the two systems; the Saudi system recognizes repentance as a general reason for the termination of criminal proceedings (leaving the details to the discretion of the judge according to Islamic jurisprudence), while the Sudanese Criminal Procedure Law lacks a similar general provision, contenting itself with addressing the effect of repentance in specific provisions within certain substantive laws for particular crimes. The research pointed out in its findings that the absence of repentance as a general ground for termination in Sudanese procedural law is a deficiency, despite the fact that Sudanese legislation is based on Islamic law as a legislative source (Joukhadar – 1993 – P 117).

The termination of criminal proceedings by general amnesty: In the context of the state's pursuit of higher public interest, calming disturbances, and strengthening national unity, the competent authority may intervene to terminate criminal prosecution for certain crimes committed under exceptional circumstances, through the mechanism of general amnesty. General amnesty differs in nature, scope, and effects from other forms of amnesty or penalties being lifted. This chapter discusses the concept of general amnesty and distinguishes it from similar concepts, identifies the competent authority for issuing it, its conditions and scope, and then compares the positions of the Saudi system, Sudanese law, and Egyptian law in this regard, based on what is stated in the accompanying study.

The first requirement: The concept of general amnesty and its distinction from private amnesty and the cancellation of punishment. General amnesty is defined as a measure taken by the competent authority in the state (whether legislative or executive according to the legal system) aimed at removing the criminal nature from certain acts committed prior to its issuance, and considering them as if they never occurred from a criminal perspective. It acts as a curtain of forgetfulness over some crimes, erasing their criminal effects either before the lawsuit is raised, during its consideration, or even after a ruling has been issued regarding it, so that the act covered by the amnesty is treated as if it were an act that the law did not criminalise in the first place (Hosni – 1998 -P203). The general pardon is distinguished from the following similar concepts: Special pardon (or the waiver of penalty/conviction): While the general pardon erases the crime itself and removes its criminal nature, the special pardon (which may include waiving the conviction or penalty as in Sudanese law - Article 208) does not affect the criminal act itself nor remove its criminal nature, but rather pertains to the penalty imposed after a final judgment, deciding to waive it entirely or partially or to replace it with a lighter penalty. The special pardon presumes the existence of a conviction that has become final, while the general pardon (especially in the context of Sudanese and Egyptian law) may be issued before the final judgment or even after it to erase the crime and its effects. 2. Suspension of penalty execution: This is a legal procedure that does not affect the conviction or the penalty itself, but rather limits its effect to suspending the execution of the penalty for a specified period under certain conditions; if the convicted person adheres to them, the penalty is considered fulfilled, otherwise it will be executed. 3. Pardon or special waiver by the victim: This concerns the private right in crimes where waiver is permissible and is issued by the victim or their heirs, leading to the termination of the lawsuit in its private aspect and may affect the public aspect in some cases, but it is completely different from the general amnesty issued by the state, which primarily affects public rights. The philosophy of general amnesty often aims to achieve higher political and social objectives, as a means to calm disturbances and conflicts, promote national reconciliation, and overcome difficult phases the country has gone through, where the interest and stability of society take precedence over individual punishment considerations in certain circumstances (Al-Saraj - 1997 - p. 475).

Second Requirement: The authority responsible for granting amnesty, its conditions and scope The authority responsible for issuing the general amnesty, as well as its conditions and scope, varies according to the legal system: Firstly: According to Sudanese law:1. The responsible authority: The President of the Republic holds the power to issue the general amnesty, according to Article 211(1) of the Criminal Procedure Act of 1991.2. Conditions' It is issued by a presidential decree. It can be with or without conditions (the text does not clearly specify the consequences of violating the conditions).o It must be issued before a final judgment is issued in the case, as the law states it covers "cases of suspicion or accusation of crimes for which no final judgment has been issued."o The crime included in the amnesty must not be from the Hudud crimes.3. Scope It covers crimes (non-Hudud) for which no final judgment has been issued. It may include crimes related to public or private rights, but if it is



issued for a crime related to a private right, it may be subject to constitutional challenge for interfering with the right to litigation (Fikri - - 2004 - P 138). Secondly: In the Saudi system: 1. The competent authority: The guardian is the one who has the power to grant clemency in public criminal cases, and this clemency is considered a cause for its termination according to Article 22(2) of the Criminal Procedure Law. 2. Conditions: o there must be a public interest in its issuance that benefits the society or the convicted person. It often pertains to political crimes or those whose trial may provoke security disturbances. o The crime included in the clemency should not be a boundary crime, as clemency is limited to discretionary penalties according to Islamic law and established practices (Interior Minister Circular No. 3152). The clemency must not contradict the principles of Islamic law (such as making unlawful what is lawful or prohibiting what is permitted). 3. Scope: o It includes the public criminal case for discretionary offenses. The procedural text does not explicitly state a specific stage for the issuance of clemency (before or after the final ruling), which may suggest the possibility of it being issued at any stage, to erase the effects of the crime or penalty. It seems that the system does not clearly distinguish between general clemency that ends the case and later suspension of the penalty in terms of the terminology used "clemency."(22 Saudi.C.P.L.1435). Thirdly: In Egyptian law: 1. The competent authority: The legislative power is the one that issues the general amnesty in the form of law. 2. Conditions and scope: It aims to remove the criminal nature of the act and erase its effects at any stage of the case. It usually aims to calm political and social unrest (Kathir -2001- P 102).

The third requirement: A comparative study between the Saudi system and the Sudanese and Egyptian laws. The comparison between the three systems, based on what was included in the attached research, reveals the following points: The issuing authority: The Saudi system and the Sudanese law agree that a general amnesty is issued by the highest executive authority (the ruler/President of the Republic), while the Egyptian law (according to the description in the research) assigns it to the legislative authority. 2. The subject matter (types of crimes): The three systems agree on excluding hadd crimes from the scope of general amnesty, often limiting it to discretionary crimes or other crimes defined by the issuing authority based on public interest. 3. Timing and effect of the final ruling: o The Sudanese law clearly distinguishes, as the general amnesty (Article 211) is limited to before the final ruling is issued, while the annulment of conviction or punishment after the final ruling is regulated in another article (Article 208). o The Saudi system, according to the research analysis, uses the term "amnesty" more broadly, without explicitly restricting it to the pre-final ruling stage in Article 22(2), which may imply the possibility of including the post-ruling stage as well, thus somewhat blurring the terminological distinction. The functional distinction between general amnesty and the subsequent annulment of punishment according to the law appears broad in its impact, as it removes the criminal nature of the act even if a judgment has been issued against it. The distinction from particular amnesty/annulment of punishment seems clear in Sudanese law (Article 211 versus Article 208). In the Saudi system, the two concepts might overlap under the term "general amnesty" issued by the ruler, although the practical effect may differ (amnesty for the case versus amnesty for the punishment). The impact on private rights: Sudanese law raises an important point regarding the possibility of appealing general amnesty if it affects private rights without compensation or the consent of their owners, a matter that could also be relevant in other systems that adopt general amnesty. In summary, the systems agree on the essence of general amnesty as a mechanism for public interest and the exclusion of limits, but they differ in the issuing authority and the clarity of distinction between it and the subsequent annulment of punishment, especially between Sudanese law and the Saudi system.

Termination of Criminal Proceedings by Issuance of a Final Judgment: The issuance of a final judicial ruling on the subject of a criminal case is considered the natural and most common way for it to end. After the court completes its procedures, examines the evidence, and listens to the parties in the dispute, it issues its final decision either acquitting the defendant or convicting them with an appropriate penalty. This judgment, once it meets the conditions of finality and acquires the authority of *res judicata*, draws the curtain on the criminal dispute and prevents revisiting it concerning the same incident and the same parties. (Allam, 1991 - p. 764.) This principle is based on essential considerations related to achieving stability in legal positions, preventing individuals from being tried twice for the same act, and enhancing trust in judicial rulings. This chapter addresses the concept of the final judgment and its authority, and its applications in the Saudi, Sudanese, and Egyptian legal systems, leading to the important exception to this finality represented in the system of retrial of judgments. This chapter is divided into three sections as follows: Section One: The concept of final judgment and the authority of *res judicata*: Criminal proceedings come to an inevitable end with the issuance of a final judgment that resolves the subject matter, whether it results in acquittal or conviction. This situation reflects a fundamental principle of justice and the rule of law, which is enshrined in most constitutions and laws of the civilized world, known as the principle of *res judicata*. The Sudanese Criminal



Procedure Law of 1991 used the term "final judgment", which is the same term adopted by the Saudi Penal Procedure System in 1435 AH. Conversely, Egyptian law does not mention the final judgment as a direct and independent reason for the termination of a criminal case in the section designated for that, either because it is not subject to appeal at all, or due to the exhaustion of all legal avenues of appeal, or because the time limits for appeal have lapsed without being exercised. In these cases, the judgment acquires absolute authority that prevents not only the issuing court from reconsidering it but also prevents any other court, including higher appeal courts, from reintroducing the same dispute, thus the criminal case is concluded definitively. Regardless of the terminology used, the essence of the principle is the same: that the judgment which decides the subject of the case and acquires finality (in the sense of being immune to ordinary appeal or exhaustion) possesses a strength that prevents the reopening of the trial on the same facts against the same accused. Regarding the applications of the authority of the final judgment in the Saudi system and Sudanese and Egyptian law, and the exception to finality, the reconsideration of judgments (a comparative study), this has been addressed in a research paper we authored, published in the Journal of Tabuk University in volume five, issue four for the academic year 2025.

Conclusion

In closing this research, which addressed the reasons for the expiration of the criminal case - represented in the death of the accused, statute of limitations, repentance, general pardon and the issuance of a final judgment - in a comparative study between the Saudi criminal procedure system and the Sudanese criminal procedure law, it is clear that both systems agree on some of these reasons derived from general principles or Islamic law, while they differ fundamentally in adopting or applying other reasons. Regarding the expiration of the case due to the death of the accused, the study showed full agreement on the principle based on the individuality of punishment and responsibility, with a significant convergence in dealing with the consequences of death at various stages of the case and concerning other defendants, although Sudanese law imposes a procedural condition (prior interrogation) for the continued consideration of the related civil case before the criminal court. As for the statute of limitations, it represents a key point of difference; the Sudanese law considers it a barrier to filing a case in discretionary crimes after a certain period (considering public interest), whereas this principle is absent as a general reason for expiration or a barrier to prosecution in the Saudi criminal procedure system. Regarding repentance, the Saudi system considers it a general reason for the termination of criminal proceedings (leaving details to the judge's discretion according to jurisprudence), whereas Sudanese criminal procedural law lacks a general provision in this regard, relying instead on specific references in certain substantive laws. Finally, both systems agree on the principle of a general amnesty issued by the head of state as a reason for termination (excluding hudud), but they differ in some details such as the time frame (the Sudanese law specifically restricts it to before the final ruling more clearly) and the clarity in distinguishing it from the post-ruling pardon. This study emphasizes the importance of legal and historical factors and the influences of comparative laws in shaping the characteristics of each procedural system, highlighting how comparison can reveal differing legislative philosophies regarding the balance between society's right to punish and individual rights and public interest considerations. Through the comparative study of the general reasons for the termination of criminal proceedings in the Saudi system and Sudanese law, the following results and recommendations directly related to the research topic can be drawn:

Results

1. Both the Saudi criminal procedure system and the Sudanese criminal procedures law use the term "death of the accused" as a cause for termination, a term that may not accurately encompass all the descriptions a person may have (suspect, accused, convicted) at the time of death during various stages of the case.
2. The principle of prescription as a general cause for termination of criminal proceedings or as an obstacle to their initiation is absent in the Saudi criminal procedure system and appears sporadically in some regulations.
3. The Sudanese criminal procedure law lacks a general procedural provision that considers repentance as a cause for the termination of criminal proceedings, despite its applications in specific substantive texts and the reliance on Sharia as a source of legislation.
4. The Saudi system's application of repentance as a cause for termination relies on "the judge's discretion according to Islamic jurisprudence," which may lead to variations in application due to the absence of specific procedural or regulatory controls.
5. The Saudi criminal procedure system does not sufficiently distinguish between "general amnesty" that ends proceedings before or during trial, and the suspension or pardon of punishment after a final judgment, using the term "amnesty" in a way that may include both cases.



Recommendations

1. To consider amending the wording in both systems (Saudi and Sudanese) to use a more comprehensive and precise expression than "the death of the accused," such as "the death of the person attributed with committing the crime" or something similar, to cover all stages of the lawsuit.
2. To encourage the Sudanese legislator to add "repentance" with its conditions and legal controls as a general cause for the termination of the criminal case in the 1991 Criminal Procedures Law, to achieve consistency with the legal sources and substantive applications.
3. To establish guidelines or criteria in the Saudi system for applying repentance as a cause for termination, to help unify judicial reasoning as much as possible and ensure fairness in its application.
4. To clarify the scope and limits of "general amnesty" referred to in Article 22(2) of the Saudi Criminal Procedures Law, distinguishing it more clearly from private amnesty or the waiver of punishment that may be issued after the final judgment, perhaps through additional texts or an executive regulation.
5. That the Sudanese legislator considers adding provisions to the Criminal Procedure Law of 1991 that allow for the reconsideration of final criminal judgments in specific and justified cases, similar to the Saudi and Egyptian systems and the Sudanese Armed Forces Law.

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