

Specialty: Humanities

# Check Criminal Liability without Fault in the Iranian Judicial System and the UK

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## Abstract

Without a doubt, one of criminal liability, criminal fault. If criminal responsibility to “bear the consequences and legal effects of criminal behavior,” defined, with clear that the legal Mshghvlh always and at different times, nature and not consistent basis. In the early stages of human social life, criminal liability is based on a materialistic and immoral writing and commit only to inflict harm and suffering on others were punished. But, gradually and in the light of divine teachings and ideas of thinkers and reformers, on the one hand, the nature of criminal responsibility simply lost their material and on the other hand, moral and humanitarian basis was also found. Accordingly, in determining criminal responsibility, psychological evaluation or Mqsranh committed in noticeable effects of treatment considered material. With reference to the historical sources and ideas of this fact becomes apparent that Sh criminal law for the teaching of philosophical, moral and religious, kind of “morality” was the basic features necessary interrelationship (Mfsranh) commit the prohibited conduct criminal prosecution by the authorities to establish such a relationship. Accordingly, not only must prove the defendant is guilty, but on loan to sin, taking Tqzyr him a fair hearing and humane process, the legal pursuers. The author of the leading research Tdfyq the criminal law of England and comparison with Iranian law, in explicating the criminal liability in the judicial system is the responsibility without fault and achieved malice and intention to commit the previous no.

**Key words:** Criminal liability, Criminal offense, Criminal law, The legal system

## INTRODUCTION

Human sciences are resulted in investigative efforts that have done during years and many centuries and are continued likewise. Without a doubt, the dynamics and human sciences and inhuman meet to the needs of individual and social life is thanks to illuminating LED luminosity of scientific research by scholars and thinkers that feels human critical and thinking issues more than others and have taken steps steadfast in this direction.

So, it can be said that man during each period of history is aware of a part of his requirements and special aspects of his life by applying concentrations and material and mental facilities and thereby has made amazing evolution process.

Professional issue of “criminal liability without fault” is a small step that is the decoding part of the criminal philosophy, which is justifiable in this direction. In this study, it is effort to being open up an ambiguous and close in the extent of Iran’s penal system as much as possible. For this topic, writer has used from all resources, works and others’ valuable experiences to recognize issue exactly and its clear and hidden aspects in the justice system of England and Iran.

## Study Hypothesis

In answering to above questions, the following hypotheses come to mind which is including:

1. Criminal responsibility without fault is applicable in both traditional and new crimes and intentional and inadvertent crimes in both justice system of Iran and England.
2. In criminal systems of Iran and England, laws have been passed that are not considerable and punishable through traditional thoughts.
3. It has seems that social and industrial changes in new centuries and compliance the public interest and support from harmful people and consumer

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rights are some of the reasons of acceptance of responsibility without fault in justice system of Iran and England.

### Study Literature

It has been work a lot of articles in the context of criminal responsibility without fault and compensation, especially in the field of private law, but due to its importance in criminal law should require further study. Including books and theses about related work in this area

1. Mir Saiedy, Seyed Mnasour, (1998), criminal responsibility, first volume, first print, Tehran, Mizan publication.
2. In this book, writer describe criminology rights by provision a criminology responsibility; it means that explain crime and criminology and not why and causes about type and rate of crimes.
3. Validim, Mohammad Saleh, (1990), criminology responsibility – crime right, Tehran, Amir Kabir publication. Dr. Saleh Validi is one of well-known lawyers and familiar in criminal and criminology trends. The author in his works as a general explanation of criminal responsibility and explain well to those who commit criminal acts or behavior without fault.
4. Bazgir, Abdol-Reza, (Feb. 1998), responsibility without fault, M. A thesis of law colleague of Tehran University.
5. Seyed Zadeh, Rahman, (2009), crime responsibility without fault of industrial manufacturers, Payam\_Noor Tehran.
6. Karimi Zarchi, Mahmood, (2009), Comparative study of the spiritual element murder in the Iranian legal system and the UK, M. A thesis of Payam\_Noor university of Tehran.

### METHODOLOGY

In the present study, method and type of research is library and descriptive form and data analyze. But may be required to prove some of the other methods are also used for things and ideas.

### Criminal Responsibility without Fault

Certain broad concept or unlimited of criminal liability without fault was not currently tenable in penal system, both divine and human. It remains to be seen, in other words, the concept of limited contemporary statement what lies conceive or perceive and how it can be introduced and reflected about criminal theories. For this purpose, we can draw two level or two levels as minimum and maximum, at some point long history of criminal law, criminal responsibility without fault has been in the sense of the theory and practice in maximum

concept and in a grade, above compound, although as modal form scientific and practical discussions that for the best of our knowledge, we describe it as minimum concept.

### Criminal Responsibility without Fault in UK

The review and evaluation of the six definitions, if the regulations and the judicial records, especially put standard in the Anglo-American criminal justice system, this result is obtained that some of the definitions set forth, though no fault on the side of truth and the nature of their crimes, but they are not acceptable as real definition of such crimes. In fact, such applications of certain so-called “no-fault”, rather than the principle of fault or necessary, it may be associated with, governing principles and sources of crime and the material element of the crime. This topic that the mass of the damage is less or have rooted in moral and spiritual judgments people or, on the contrary was caused based on considerations of public welfare, they will be the maximum foreign affairs debate or indirectly related to the topic.

### Principles of Criminal Responsibility without Fault

The term “principles” in this debate means the reasons for the need to review the necessity or criminal responsibility without fault in the light of fundamental ideas. Analysis of this issue is closely linked to issues such as root-like “because criminal law? And “Why crime?”. Criminal law is as one of the basic mechanisms of government, enjoys the backing of a strong theoretical and practical and is institutionalized; the principles and ideas that arise from this law and any legal effort that needs systematically. A glimpse into the criminal history of ideas, two bases differs more or less personal and social factors can be showed in the context of the justified criminal law. Regardless of the old ideas, the teachings of the contemporary confrontation or conflict between the principles of person-centered and pragmatism are seen collectively. The social contract based on individual freedom of mind Cesare Beccaria and other classical thinkers to measure “dangerous” to the teachings realization are account into effects of the above-mentioned principles.

### CONCLUSION

In this study, researchers Consistent with this hypothesis and prospects mind that “the need to maintain a social life and meet the common needs of” the most basic element of influence in the process of emergence, evolution and development rights in general and criminal law and institutions in particular, was to explain the nature and real principles of way of criminal responsibility without fault. As mentioned above and the history of religious

thought and scientific intended to verify, the material world, the world is “becoming” and in the words of the philosopher’s chock-full of the gradual withdrawal of objects from potentiality to actuality. Social events and teachings of human history, past and present, forecasts and prejudices about the future under “certain conditions or requirements” made it possible.

So, in the field of human sciences, the humanities, naturally a lot of dogmatic thinking and new approaches resistance is subdued and lacking in rational justification. Because not past observation and its events have such a contingency and convince people that get caught in narrow-mindedness and scientific fence and deny yourself the possibility of “becoming” and “evolution”, a host of potential future needs that are decisive, but the appearance and actuality they require the creation of “change” and the emergence of new circumstances and mental release their platform, allows passive attitudes and behavior.

If change the mental element or fault studied in three stages: before and after the advent of contemporary and period, the result is that sometimes criminal law as well as before and after the advent of the mental element, assuming it does not consider essential, The difference is that criminal liability without fault contemporary, regardless of its limited scope, foundations have reasonable and prudent and essentially fixed and has caused in space and absolute sovereignty a psychological element.

Therefore, criminal law had begun through the mental element of the crime, long before the “moralists and human” in the context of an individualistic philosophy, now experience under the influence of new ideas, especially ideas of fulfillment and welfare, the next phase of his life called “pragmatism” that is the most important feature of the overall vision and priorities of the public interest in regulations and judicial decisions. This is a new look at the outcome of the struggle between two criminal philosophy moral (individual) and utilitarianism (collective) and finally excellence and the application of public interest in the process of criminalization and punishment.

Carefully Howsak approach turned out that it does not exist be basically in his opinion clear boundary between criminal liability without fault and no-fault and it seems that the qualities and milder fault guilty of criminal liability, as an abstract approach, unusual, broad and even criminal liability without fault is irrelevant in the field. Regardless of whether accepting Howsak qualitative approach requires mental abstraction, a symbol of “criminal type” that accurate and complete account of all aspects of the structure and it is very difficult and effectively expand the

scope of criminal liability without fault in the extreme, but in terms of substance and form have nothing to do with perception, not the usual judicial procedures and regulations.

The fact is that crime and criminal responsibility without fault rooted in specific conditions and needs that the most important effects is the transformation or changes the court proof of the chase. While according to the analysis Howsak the burden of proof rests heavily official. Thus, we can conclude that attitudes Howsak of criminal liability without fault than it is to establish the position and existence would be to deny it.

According to Green’s analysis assumes that each element material and psychological of a crime has the components. The usual rule, the burden of proof rests with the simultaneous and harmonious is cope with elements of the chase. But in an offense with criminal liability without fault, it is possible motives and different ways the burden of proof to be removed. Thus, according to Green’s approach which is descriptive as a quantitative approach compared to the approach described Howsak, criminal responsibility without fault will be advanced at least one of the components of material element of the offense is not required to establish fault, even if the burden of proving the guilt of the other components responsible authorities have prosecuted.

Although the above approaches mainly crimes against public welfare and clarify the facts and their substantive and procedural structure, however, due to a combination approach to in this article, In addition, inclusion, adaptation and implementation of new practices criminal liability without fault in crime, some are traditional crimes also are consistent with this concept.

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