

CONDONATION (FORGIVENESS) OF THE AGGRIEVED TEAM IN JORDANIAN PENAL LEGISLATION COMPARATIVE STUDY

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Abstract

The study addressed the condonation of the aggrieved team as a contemporary pattern of restorative justice to reduce the criminal justice crisis by following the plan of the Jordanian Criminal legislator in how he addressed condonation to reach the form of the legal system of condonation adopted by Jordanian legislation and discuss the problems it raises. The study resulted in the fact that the Jordanian legislator did not adopt an integrated legal system regulating condonation, but rather mentioned some legal provisions in the Jordanian Penal Code, and concluded that the legislator expanded condonation to include all penal cases pending the claim of a personal right and pending a complaint, in addition to some misdemeanor crimes. The effect of condonation was determined by the forfeiture of the right lawsuit and the penalty imposed in non-conclusive judgments, and it stipulated that condonation is granted only in case the crime is not repeated and not to revoke the condonation, or suspend it on a condition, and all those sentenced regardless of the crime have the right to benefit from it, and it has no effect on civil obligations. It turns out that the legislator failed to make a clear condonation's legal status, as well as he did not establish a precise standard for determining what are the situations which are forgiven, It departed from several fundamental guidelines relating to judicial and legislative symmetry and failed to take the guilty party's consent into consideration, It turns out that there is a disagreement between some legal texts related to condonation and some certain texts as well as the official processes for condonation were not regulated. The study HAS provided a set of recommendations in this regard because

Keywords: Restorative Justice, Criminal Law Security, Condonation of the Aggrieved Team, Jordanian Penal Legislation.

INTRODUCTION

The modern criminal justice system developed the system of condonation of the aggrieved team as a pattern of restorative justice to decrease the crises of criminal justice, as a result of this pattern, states and the modern world want to escape the criminal justice issue. Some countries hastily rushed to enshrine the system of condonation in their legislations and this situation creates legal texts without enough quality assurance for the legal foundation and without taking into consideration the balance between applying the principles of restorative justice and the requirements of criminal law for security. The goal of this study was to emphasize the characteristics of Jordan's system of compensating the victimized party, analyze how it affects punishment and public rights lawsuits, and identify the most pressing issues it poses.

This study is significant because it sheds light on an issue that has not gotten the attention it merits in Jordanian legal studies or even in the works of the country's criminal jurisprudence from both a substantive and procedural perspective.

The significance of this study is that it sheds light on a subject that has not received the attention it deserves in Jordanian legal studies, not even in books of Jordanian criminal law jurisprudence, both substantive and procedural, despite the fact that the Jordanian Penal Code approved the system of the condonation of the aggrieved party since the early development of Jordanian legislation in 1951 AD, and for its importance, it was introduced successive amendments worthy of attention, as the legislator expanded the scope of forgiveness, and from another angle, the significance of the study is evident in that it deals with a topic that raises many previously unmentioned problems. On the obvious conflation of the condonation system and other similar systems. This study aims to scientifically root the system of forgiveness of the aggrieved party and examine its problems by following the evolution of the legal texts regulating the issue of forgiveness for the aggrieved party in Jordanian penal law to show the navigation of this system and criticize it with scientific and constructive criticism in which we perceive the well and wrong points.

Regarding the scientific methodology applied in this work, its nature necessitates follows two strategies:

First: The descriptive method, which follows the forgiveness system's evolution and clarifies the fundamental ideas involved, which bases it in Jordanian penal law.

Second: The analytical method involves examining the general and legal laws controlling the question of forgiveness of the party who has been victimized, as well as the position of Jordanian criminal law jurisprudence on it.

The study's primary issue is the lack of clarity in the legislative structure for compensating the aggrieved party in Jordanian penal law. Naturally, this primary issue raises several inquiries, the most crucial of which are:

- 1) What is the legal method of the laminate system of the affected team?
- 2) What affected the forgiveness of the aggrieved party on the public right claim and on the penalty?
- 3) What is the difference between the forgiveness of the aggrieved team and other regulations such as waiver of the complaint, and the forfeiture of personal right?
- 4) To what extent does the Jordanian criminal legislator take into account the security standards of the criminal law when introducing the system of forgiveness of the aggrieved team?

In order to fulfill the subject of the study and achieve its objectives, and to try to answer its main problem and questions that raises through a critical evaluation study, the researcher decided to divide the study as follows:

The First Requirement: The forgiveness of the aggrieved team in the Jordanian legal system.

The Second Requirement: The legal provisions governing the forgiveness of the aggrieved team.

The First Requirement:

Forgiving the Aggrieved Team in the Jordanian Legal System.

The definition of the legal system of the affected group is very difficult because of the different view from which it is perceived, each country has its own legislative system in dealing with this subject, which has produced many different legal systems for forgiveness, and because of its difference in the scope of the same legislation from one period of time to another due to the successive legal amendments made by the legislator to the legal provisions governing the subject matter of forgiveness. So, the study will discuss the clarity of forgiveness in the Jordanian legal system by tracking the position of Jordanian legislation and the position of Jordanian criminal jurisprudence on forgiveness (section I), and the scientific necessity requires evaluating the position of the Jordanian legal system on forgiveness (section 2).

Section I: Position of Jordanian Legislation and Penal Jurisprudence on Forgiveness:

First: The Position of the Jordanian Penal Legislation on Forgiveness:

Regardless of the newness of the system of forgiving the aggrieved party or the victim's forgiveness, or whatever the name is - there is no question of terminology - Jordanian penal legislation defined forgiveness as one of the types of restorative or consensual justice systems from the early enactment of Jordanian criminal legislation, and it was introduced to the governing legal texts, The position of forgiveness has undergone many successive amendments, which represent the overall development of the system of forgiveness for the aggrieved party in Jordanian criminal policy, as shown in the stages below: Permit No. (85) For 1951 AD (), under which Article (43) states that: (The reasons for dropping verdicts Penal punishment or preventing its implementation or postponing its issuance are: consecrating forgiveness in the Jordanian Penal Code

1. Consecration Phase:

- 1) Death of the sentenced person.
- 2) General amnesty.
- 3) Special amnesty.
- 4) Forgiveness of the aggrieved team.
- 5) Limitation.
- 6) Postponement of the issuance of judgments.

The article (47) stipulates: "The forgiveness of the victim team suspends the execution of the sentence imposed if the institution of the case depends on the taking of the status of a claim of personal right", and Article (48) stipulates that:

- 1) Forgiveness does not rebuttal or suspend on condition.
- 2) Others involved in the litigation are included in one of the sentence's forgiveness.

- 3) Forgiveness shall not be considered if there are multiple claimants of personal rights unless all of them are issued.

Then the Jordanian Penal Code No. 16 of 1960 was established, according to the Penal Code No. 85 ¹of 1951 was repealed, and this law preserved the above legal texts with a change in their coding and a slight change in the text of Article (52), which stated: (The forgiveness of the victim team stops the case and stops the lawsuit. Execution of the sentence imposed and which has not acquired the final degree if the lawsuit depends on the taking on the status of a claim of personal right).

2. First Amendment Phase:

The Jordanian Penal Code introduced an amendment to the Jordanian Penal Code in 2011, where it worked to repeal the text of Article (52) on forgiveness and replaced it with the following text: "The forgiveness of the victimized party drops the claim of public right and the penalties sentenced that have not acquired the final degree if the filing of the lawsuit depends on a complaint, taking the status of a claim of personal right or filing a complaint." ²

3. Second Amendment Phase:

The Jordanian Penal Legislator introduced an amendment to the Jordanian Penal Code in 2017AD³, where he repealed the text of Article (52) on forgiveness and replaced it with the following text: "The forgiveness of the victimized party drops the claim of public right and the sentences imposed that have not acquired the final degree in any of the following cases:

- 1) If the initiation of a lawsuit depends on a complaint, or taking the character of a claim of personal right or the filing of a complaint.
- 2) If the subject matter of the case is one of the felonies provided for in Articles (221), (227), (333), (349), (350), (374), (282), (408), (409), (410/1), (412/1,2), (444), (446), (447), (448), (449), (450), (451), (452), (453) and (465) of this Law unless one of the cases of repetition is achieved).

4. Fourth Amendment Phase:

The Jordanian Penal Legislator introduced an amendment to the Jordanian Penal Code in 2022, where he worked to repeal paragraph (2) of Article (52) related to forgiveness and replaced it with the following text: (2. If the subject matter of the case is one of the misdemeanors provided for in Articles (83), (221), (227), (271), (272), (281), (333), (349), (350), (374), (282), (408), (409), (410/1), (412/1,2), (417) and (418) (444), (446), (447), (448), (449), (450), (451), (452), (453) and (465) of this Law unless one of the cases of repetition is achieved).

Second: The position of the Jordanian penal jurisprudence on forgiveness:

Within the limits of the researcher's knowledge of the explanations of the Jordanian criminal jurisprudence of the Penal Code, it was found that most of it deals with forgiveness as one of the reasons for the expiration of the sentence, except for Dr. Kamel Al-Saeed, who considered it one of the reasons for suspending the execution of the sentence, where the jurisprudence dealt with the subject of forgiveness under the Penal Code before the amendments of 2017,

and their explanations came according to modest pages that did not define. Instead, the conditions of forgiveness dealt with taking a position in favor of the public right litigation and against the fines imposed, unless the peremptory degree was attained in the lawsuits still outstanding on taking the stance of asserting the personal right., that in the case of many claims, forgiveness does not have an impact unless it is granted by all plaintiffs, and that forgiveness does not revoke or suspend on a condition that favors all defendants..⁴

As for the explanations of Jordanian criminal jurisprudence to the Code of Criminal Procedure, it has been addressed on the basis that it is a special reason for the lapse of a public right claim noting that the Jordanian Code of Criminal Procedure did not provide for forgiveness as⁵ one of the projected reasons for the claim of public right. In fact, the position of Jordanian procedural criminal jurisprudence is no different from that of substantive criminal jurisprudence, as it dealt with the issue in the light of the Jordanian Penal Code before the amendments of 2017, and it also dealt with forgiveness in a few paragraphs and concluded, but the forgiveness drops the claim of the public right in limited crimes are those in which the initiation of the right lawsuit depends on taking the status of a claim of personal right⁶.

Section 2: Estimating the Position of the Jordanian Legal System on Forgiveness:

After the study was subjected to the rooting of the position of the Jordanian legal system on forgiveness, the researcher can stand by the law and examine that without being bound to criticize the issues it brings up, which the researcher summarizes as follows:

First: The researcher reached the following conclusions through his examination of the proposal put forth by the Jordanian lawmaker during the stage of devotion to the forgiveness system:

- 1) The Jordanian legislator did not address the definition of forgiveness and this is a good approach for the legislator because the definition is the responsibility of jurisprudence and not legislation.
- 2) The Jordanian legislator has taken the forgiveness clearly under the name of forgiveness of the aggrieved team, and the legislator here means the victim aggrieved team.
- 3) Restricting the scope of forgiveness to criminal proceedings whose movement depends on taking on the status of a claim of personal right according to it.
- 4) The effect of forgiveness is the suspension of the proceedings and the suspension of the execution of the sentence imposed, and it is also stated that the forgiveness has no effect on⁷ civil obligations, such as restitution, confiscation, expenses, malfunction and damage⁸.
- 5) The systems of substantive provisions for forgiveness are: not to revoke (reverse) the forgiveness, not to suspend on a condition, and in the event that it occurs, its effect applies to all those sentenced to it, and if there are multiple claimants of personal right, there is no legal value to the forgiveness if not all of them are issued.

- 6) It did not regulate the formal provisions of the forgiveness proceedings, it did not indicate the formality of the forgiveness, whether it was written or oral, whether it was explicit or implicit, nor did it indicate the procedures for proving the forgiveness, whether it was proved on the trial records, or under an official deed certified by a notary, or under an ordinary deed.

Second: The first modification proposed by the punitive legislator makes it evident how much the legislator's original idea has changed, and it does so in two ways:

The legislator has expanded the scope of the forgiveness to include, in addition to the public right action that depends on the claim of a personal right, all public right claims that are contingent on a complaint, and this is a clear confusion between two distinct systems: the system of claiming a personal right, which is a system related to the civil action of the public right lawsuit through which the injured person of the crime claims reparation for the damage he suffered from the crime, which is a system related to civil rights, and the complaint system, which is merely a procedure for initiating a claim of right so that the prosecution can track down the crime and demanding in the name of the community to impose the criminal penalty on the perpetrator of the crime.

The complaint just reacts to the Public Prosecution's freedom by imposing an extraordinary, procedural, temporary, and incidental constraint that prevents it from bringing a claim for a public right, and once the complaint is filed, the restriction has risen and the Public Prosecution has regained its right to prosecute the crime⁹ a procedural system enshrined in the Code of Criminal Procedure and whose provisions have been precisely regulated by the legislator because of the departure from the general principles of the public right claim of the principle of appropriateness, generality and non-waiver¹⁰.

The researcher supports this strategy out of necessity if the goal of extending the scope of forgiveness is to keep up with the modernization of criminal justice systems, the approach the legislator took in the manner described above, though, results in a sort of conflict between the legal provisions. The legislator intended that the subsequent waiver of the complaint would not eliminate all of the crimes that were originally related to the complaint when he specified the crimes that are related to a complaint and also regulated the effect of waiving this complaint, and he intended that the subsequent waiver of the complaint does not extinguish all the crimes that he initially commented on a complaint, for example. Article¹¹ 235 stipulates that: "Prosecution shall depend on the complaint of the aggrieved party...", and did not provide for the extinction of the right action for this offence upon waiver of the complaint, whereas in the offence of unintentional harm¹², this offence is pending on a complaint initially and in the event of waiver of this complaint the claim of public right is extinguished, as stated in Article (334/2) that: (... The case may not be traced without the complaint of the aggrieved person in writing or orally, in which case the complainant has the right to waive his complaint until the judgement acquires the final degree, at which point the claim of public right is extinguished).

It is understood that the intention of the legislator is not to give rise to doubt that the claims of public right pending on a complaint should not be extinguished unless a special provision is

received stating that they have lapsed following the waiver of the complaint, in the sense that the will of the legislator is that the pardon of the victim or victim does not extinguish the case except in rare cases mentioned exclusively and exceptionally by the legislator¹³, namely: The crime of adultery provided in Article (284), the crime of simple intentional and unintentional harm provided in Article (334/2) and Article (344/2) of the Penal Code and unintentional, and the crimes of libel, defamation and contempt stipulated in Article (334) of the Penal Code.

It is clear how much conflict exists between the text of article (52) contained in the general provisions and some special provisions in the Penal Code itself, and if we go to the method of resolving the conflict between the legal texts, we find that it is stable that the private restricts the general, and the subsequent restricts the former, and therefore the text of article (52) loses a large area of its effectiveness due to the restriction.

The legislator has modified the effect of forgiveness to become the projected effect of the public right claim and the Muscat effect of the sentenced penalties after its effect was a position of the public right claim and the sentence imposed, Due to the fact that it integrated two forms into one, this strategy would muddy the legal definition of forgiveness. This method believes that it is impossible to discern between forgiveness's procedural and objective aspects Because the common right litigation is governed by procedural norms, when the legislator provides that pardon dismisses the public right lawsuit, it is endowed with a procedural method, and in the same text the legislator punishment. This strategy makes it difficult to distinguish between the legitimate forgiveness processes in practice. It is well recognized that the effects of a legal rule's procedural nature and its objective status are two entirely different things.

Third: In view of the amendments introduced by the Jordanian legislator in the third and fourth phases:

The extent of the Jordanian legislator's impulse to expand the scope of the page is clearly evident, as the legislator has not only included crimes pending on the claim of personal right and pending on a complaint, but he also introduced within the scope of the page some crimes that are not pending on a complaint, which are approximately twenty-four crimes, all of which are of the type of misdemeanor crimes, which are diverse, including those related to crimes that violate the judicial administration, violate public trust, harm the family, affect persons and property, and attack on the property of the State and individuals.

The researcher believes in this approach to the Jordanian legislator that it is necessary to criticize it for the problems it raises, because by expanding the scope of the forgiveness weights the right of the victim over the public right and in it violates the established principles related to the claim of the public right, as it is known that the claim of the public right is the means of society to claim the right to impose the penalty on the criminal and is related to public order, and one of the requirements for maintaining public order is the inadmissibility of waiving the claim of the public right or to stop its course, disable it or reconcile it because it is related to the interest of society⁽¹⁴⁾.

On the other hand, we see a risk in the principle of a fair trial, since by following and analyzing the plan of the Jordanian criminal legislator, As he gave the victim the right to pardon, who

only signs it with his own free will and arranges for its implementation by the power of law, we discover that he is unconcerned with the convict's agreement to pardon, knowing that the consent of the sentenced person is of great importance within the scope of criminal proceedings and is considered one of the contemporary types of consensual justice. It is considered one of the guarantees of a fair trial, and although it seems that forgiveness in this way is in the interest of the convict, it ends the litigation without allowing the convicted person to prove his innocence, especially in the light of malicious cases, in addition to not robbing the prosecution of its main role as a representative of the public right. The victim is merely an individual affected by the crime who can claim reparation for the damage suffered as a result of the crime and is merely a witness to the public right and does not have the right to waive this sentence as a public asset, and forgiveness as such deprives the court of the assessment of the appropriateness of forgiveness with the considerations of special deterrence related to the rehabilitation and reform of the sentenced person as it reveals to it the extent of the criminal gravity inherent in the person of the sentenced¹⁵ person.

Moreover, forgiveness according to the approach of the Jordanian penal legislator was disciplined at the beginning of his matter - although it was not safe from the defect - he achieved legal equality within the legal system by generalizing the forgiveness to include all crimes pending on a claim of personal right or on a complaint, and this is somewhat equal within the legal system and does not distinguish between the owners of the same legal positions, but when the legislator expanded the scope of the forgiveness to include misdemeanor crimes Without criminal offences and offences, and the manner in which he selects some misdemeanor offences and not others , and without adopting a clear criterion in this selection, this would not determine the wisdom of the legislator from this approach, and may be a kind of disregard for the system of legal and public equality and abstraction, which are fundamental resistances to the legal text, and may be a form of prejudice to the security of the criminal law¹⁶.

In addition, forgiveness according to the plan of the Jordanian legislator violates the principle of harmonization between considerations of public interest and considerations of personal interest, as it stipulates that forgiveness includes some types of cases in crimes that are more harmful to society than to the individual, notably those offences that show a criminal threat inherent in the offender.

Second requirement

The concept of forgiveness and its legal provisions

After the study dealt with the position of the Jordanian legal system on forgiveness and its clarity of features, the study deals with the concept of forgiveness through its definition and statement of its legal method (section I), and the statement of the legal provisions that regulate it (section 2).

Section I: Definition of the forgiveness of the aggrieved team and its legal nature:

First: Definition of Forgiveness:

The Jordanian penal legislation did not establish a definition of forgiveness and this is a commendable approach because addressing the development of a definition of a subject that is the responsibility of jurisprudence and not legislation, and through the study of the position of Jordanian penal jurisprudence it was found that it did not address the development of a definition, which led the researcher to *ijtihad* in this matter and took upon himself this task on the hope of conciliation, According to the researcher, forgiveness is defined as a legal tool provided by the penal legislator to the victim that allows him to conclude the criminal case on his own volition by abandoning the claim for a violation of a public right and the associated consequences, This applies to criminal cases where the only offences at issue were those that met certain legislative requirements and were specifically specified by the legislature.

Second: The legal nature of forgiveness:

Knowing what is the legal nature of the laminate requires determining whether the forgiveness is of an objective or procedural nature in the sense of distinguishing whether the legal rules governing forgiveness belong to the Penal Code or the Procedural Code, and if we look at the plan of the Jordanian legislator we find that he listed the legal texts of the forgiveness in the Penal Code, and if we look at the impact of the occurrence of forgiveness, it has an effect on the claim of public right and the projection of the penalty, and it is known that the legal rules related to The criminal case is the procedural rules of procedure, the legal rules related to punishment in substantive legal rules are, and the fact that this approach of the Jordanian legislator creates a state of confusion and ambiguity and generates a problem related to determining the legal case of the pardon, as evidenced by the fact that Jordanian criminal jurisprudence deals with forgiveness as a ground for the projection of punishment, as well as forfeiture of the criminal punishment reason for the claim of public right.

In the face of this surprising approach of the Jordanian legislator, it was necessary to refer to the position of jurisprudence on how to distinguish between substantive and procedural rule, where we find that jurisprudence is stable on adopting the criterion of the subject matter and content of the rule, the rule being substantive if it focuses on the right of the State to punishment, and entails either the creation of the right or its modification or its termination, while the legal rule is procedural if it regulates the ways and means of requiring this right¹⁷.

If we apply the objective criterion to the legal rules of forgiveness according to the plan of the Jordanian penal legislator, we find that on the one hand it is related to the right of the state to punishment, forgiveness leads to the expiration of the penalty, and on the other hand we find that forgiveness drops the public lawsuit, which is the state's means of requiring its right to punishment, and therefore the forgiveness is of a procedural nature, and the researcher believes that the previous criterion brought by the jurisprudence does not help us determine the legal nature of the forgiveness, and of course not Forgiveness can be considered to be of a mixed position because it is not permissible to give forgiveness two different situation because

of the special legal effects of each nature, an example of which has been shown is that it is permissible in the Rules of Procedure and is prohibited in the substantive rules.

The researcher believes that forgiveness is of a procedural form because of its association with criminal litigation, and criminal litigation is regulated by procedural rules, and its proper place is the Code of Criminal Procedure and not the Penal Code.

Section II: Legal Provisions for the Forgiveness of the Injured Group in accordance with the Jordanian Penal Legislation:

First: Substantive Legal Provisions of the Page:

1. In terms of the scope of the page:

The Jordanian Penal Code has limited the scope of forgiveness to a set of lawsuits, which we describe as follows:

- a. Claims pending on the claim of personal right⁽¹⁸⁾.
- b. Pending claims on a complaint⁽¹⁹⁾.
- c. Numbers of misdemeanor claims not pending on a complaint or claim of personal right⁽²⁰⁾.

2. In terms of the effects of forgive:

1. The impact of forgiveness on the criminal case and on the penalty:

Only if no judgement is rendered in it does forgiveness have the effect of rendering the public right claim null and void at the trial stage, and in the event of a verdict, the court must dismiss both the public rights action and the punishment, so long as the verdict does not reach the final degree, and the Jordanian Penal Code's article (52)'s operative text makes this obvious.

According to several studies, forgiveness has an impact on a public rights litigation at any stage as long as the legal requirements are completed, whether it be anterior to the public rights case being filed or during the Public Prosecution's investigation.²¹

If the pardon took place before the lawsuit was filed, it may not have been filed and the file has been preserved. If it is filed, the decision to not hear it must be made.

The researcher believes that according to the plan of the Jordanian legislator, there is no legal provision that allows the Public Prosecution to save the papers of the case file in which the forgiveness was signed nor does it have the right to drop them, as the Jordanian legislator specified the decisions that the Public Prosecution may issue during the investigation or after its completion, if the Public Prosecutor finds that the act does not constitute a crime or that he has not established evidence that the defendant committed the crime or that the evidence is insufficient or that the offence has been time-barred. Or death, general amnesty or the forfeiture of the personal right in the cases suspended on the complaint of the victim, so he decides in the first three cases to prevent the trial of the defendant and in the rest of the cases to drop the public lawsuit that is dropped by dropping, and none of the cases mentioned is forgiveness, and

²² therefore the researcher and Joe B believe that the investigation should be completed and the case submitted to the competent court, even if the criminal case is in which the forgiveness is made.

2. As for the impact of the PFH on civil obligations:

There is no effect on civil obligations, despite the occurrence of forgiveness, these obligations remain and the court rules on the victim, and this is clear from the explicit text of article (48) of the Jordanian Penal Code, which states: "The reasons for the dropping, preventing or suspending of criminal sentences do not affect the civil obligations that must remain subject to human rights provisions, and the legislator has specified the civil obligations that the court can rule, namely: Restitution, malfunction and damage, confiscation, expenses ⁽²³⁾.

3. Effect of forgiveness on the sentenced party:

If the victim party is one person and if he is forgiven, the effect of such forgiveness extends to the benefit of the sentenced party, whether it is one or several persons, regardless of the degree of his contribution to the crime, whether he is an original actor, an original accomplice or merely an intervening or instigating consequential partner, but if the victim party is more than one person, the fact that forgiveness of one of them does not have any legal effect. Unless it falls from all victims ⁽²⁴⁾.

4. Cases in which forgiveness is not accepted:

The legislator singled out one case, if available, forgiveness has no legal value, ²⁵ and this case is repetition ^{0,26} and repetition means: the case of a person who commits one or more crimes after a sentence of punishment for a previous offence has already been issued, which means that repetition assumes the multiplicity of crimes of the defendant but is separated by a final sentence of punishment issued for one of them.

5. Legal conditions relating to the forgiveness itself:

The legislator has stipulated two conditions for the acceptance of the pardon: the first: the irreversibility of the pardon after the fact, and the second: the inadmissibility of its suspension on a ²⁷ condition, if the occurrence of the condition has achieved its effect, and this is what the legislator expressed by saying (forgiveness does not repudiate), and this is useful if the victim returns from the forgiveness, this return has no legal value and the forgiveness remains in place and produces its effect, and this is a consecration of the legal principle that The fallen person does not return, but the second condition is not to suspend the forgiveness on a condition, if the madman comments on it a page on a condition such as performing an act or something or refraining from something, the forgiveness is not considered and does not have any legal effects, because the right produced for its effect is that forgiveness that is compatible with the provisions of the law, and the suspension of forgiveness on a condition in which there is an explicit violation of the law.

Second: The formal legal provisions of the page:

The Jordanian penal legislator did not stipulate the existence of formal legal conditions for forgiveness, which is a surprising approach to the Jordanian legislator, despite the seriousness of the effects of forgiveness, he did not provide for formal procedures that clarify the way to be taken to prove the forgiveness, and this approach of the legislator raises a problem in the applied reality and this problem raises a lot of question, whether the forgiveness is accepted orally or must it be written, and if it is accepted orally, is it required to be explicit or implicit, and if it is written, is it sufficient to prove it under an ordinary deed or must it be proved by an official deed certified by the notary, whether it is sufficient to raise it only on the trial records, and whether the court may disclose the occurrence of forgiveness from the proceedings without the need for it to occur under a request from the victim, i.e. whether the court may address it on its own.

The fact that this issue does not dare the researcher to diligently in it and it needs a clear and explicit legal text specifying the formal procedures governing the page, if the legislator's plan is clear from the beginning in determining the legal nature of the laminate and considers it of a procedural nature, then the rule of measurement in forgiveness can be worked on similar cases such as the procedure of waiving the complaint or the procedure of dropping the right of the person, Additionally, in this instance of a legislative gap, the legislator must step in as soon as feasible to fill it with jurisprudence.

The end

The study dealt with the issue of forgiveness in Jordanian penal legislation in terms of the statement of the position of legislation and jurisprudence on, and assessed this position, and worked to highlight the substantive provisions of forgiveness and the position of legislation on formal provisions, and concluded several conclusions and recommendations as follows:

Results:

1. Jordan's penal code has addressed forgiveness under a number of legal texts and has not had an integrated legal system.
2. The legislator did not indicate the legal case of the laminate.
3. The legislator departed some of the principles of legislative and judicial harmonization, and did not consider the consent of the convict to accept forgiveness.
4. There is a conflict between the legal texts that regulate the page and some special legal texts.
5. The legislator did not establish formal legal texts regulating the forgiveness.

Recommendations:

1. It is time for the legislator to adopt a complete legal system of forgiveness, the subject of which is procedural law and not substantive law, and to include this system in the chapter on the reasons for the expiry of the public right action, thus determining its case

by law, and would fill the legislative gap related to the procedures of forgiveness, so that the procedures for waiving the complaint are applied to him, and the criminal case can be dropped in the event of forgiveness at any stage at which the case is located.

2. It is necessary for the legislator to take into account the principle of legislative harmonization and to remove certain crimes from forgiveness, especially intentional crimes that cause harm to society more than harm to the victim, and on the other hand, to take into account judicial jurisdiction and suspend the acceptance of forgiveness for the discretion of the court, which are the destinies to adapt the circumstances of the crime and the offender with the requirements of special deterrence by assessing the extent of the criminal seriousness of the crime. On the other hand, the person of the offender and the extent to which it can be reformed and qualified, and on the other hand, to enable the Public Prosecution to exercise its role in this aspect as the legal representative of the public right.
3. The consent of the victim to accept forgiveness as one of the pillars of restorative justice must be taken into account, which is considered a guarantee of a fair trial.

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