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A Comparative Study of the Conditions in Helping Others with the Assumption of No Obligation and Contract

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Abstract

Nowadays, human life is full of incidents that have greatly increased the risk. In a society based on altruism, morality dictates that every person who can help others should do so. This point has been descriptively and analytically accepted in the examination of the legal system of Iran and the duty to help has been accepted with all the conditions. The obligation to help is established when a person is exposed to a life-threatening danger and the helper can prevent that or the aggravation of its outcome or the injured person asks for help in an emergency and the helper understands that. In the present study, the importance of the duty to rescue was investigated regarding the legal system of other countries especially those with common law. It is necessary to amend laws in Iran to expand the scope of the duty to rescue by reducing the conditions of that considering the increase in accidents in society.

Keywords: Criminalization; Injured; Refusal; Relief; Rescue

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Introduction

Intellectuals acknowledge that man is a social being and social order is one of the important elements of the evolution and continuity of life in society, whose preservation depends on the unity and cooperation of all members of that society. Unfortunate events such as natural and human disasters and various diseases cause death and injuries around the world. Governments have devised measures such as establishing fire departments and relief and rescue organizations to guarantee human lives and rights and to deal with the negative effects of such incidents (1). The existence of relief and rescue organizations, regardless of the level of their facilities, does not mean that the relief will be done at its best level. Since, due to some reasons, individuals and organizations that are required by law to carry out rescue operations fail to help the injured in time or may refuse to help. In some cases, the number of helpers is limited, and even the situation created for rescue is such that these people fail to be present immediately and effectively or the rescue is done by those who have no duty. In such cases, there is less responsibility for one case, and some legal requirements are raised if the person refuses to help. The relief means consecutively providing help (2, 3) and helping means providing service and being altruistic (4, 5). In such a situation, altruistic people will likely rush to help their injured fellows. The importance and necessity of this issue increase when we know that when the person who decides to save another person, may lose their life by getting physically and financially hurt in that dangerous situation. According to the single article approved in 1975, helping others is a common duty. Now the issue is whether the helper who is obliged to help according to the mentioned article will lead to the fault of the helper despite the limitations and violating this obligation. Is this a difficult task for the person? Are there any special conditions to create a duty for potential helpers to rescue others? Are the existing special conditions comprehensive and hindering the

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balance between individual freedom and preserving the lives of others? In a system where one of its goals is to preserve the right to freedom, one of the fundamental and natural rights of human beings, it does not consider the task to be difficult or extensive. A system that considers the right to freedom as one of the basic and natural rights of human beings does not consider the task difficult. However, there are still gaps in the existing conditions in the single article.

The present study aimed to examine the conditions that are considered for the reference of assistance and also the existing challenges that limit the conditions derived from the single article. Although traces of them can be seen in the books and articles regarding these challenges, to the best of our knowledge, gaps have existed that need to be investigated, because the helpers should do the least effort while protecting others from danger. The present study is in line with those of Sadeghian et al. (25), and Ghafari Farsani (8); however, no separate conditions exist for creating a duty for potential helpers in the mentioned articles. In addition, this study is consistent with those of Abbasi et al. (6) and Bahrami (7).

Methods

The present descriptive-analytical study is conducted based on objective data and using library resources, articles, and virtual space in the form of surveys.

1. The legal system of rescue and relief in the subject law of Iran: Scattered manifestations of criminalization of refusing to help those at risk, in the regulations related to the "penal law for refusing to help the injured and eliminating life risks".

Single Article (Penal law for refusing to help the injured and eliminating life risks)

A legal gap existed until the article was approved in 1975. The legislator seems to criminalize the act by approving the mentioned law. Every person of any religion and nationality knows that they should help their fellows in accidents as a common duty; however, the prevalence of some abnormal behaviors has diminished this duty in society. The criminal laws were slightly revised according to Islamic standards after the Islamic revolution in Iran.

The article was approved by the Senate in May 1975, which acts as a mother law regarding the refusal to help those in danger of death. The article states: “Anyone who encounters a person in danger and can prevent it or the aggravation of its outcome by taking immediate action, asking for help or immediately informing the competent authorities, without causing any danger to the person or others and refusing to do, that person will be sentenced to a misdemeanor of up to one year or a fine of fifty to one thousand Rials. In this case, the perpetrator will be sentenced to a misdemeanor of three months to two years or a fine of ten thousand to one hundred thousand Rials, if the person could help according to his profession. The executive regulations of the mentioned article were prepared and approved by the government in 1985 after ten years following the death of a patient due to the refusal of a hospital in Tehran to admit that person.

This single article is one of the important legal sources regarding the discussed topic. Furthermore, this law is addressed to the general society and those who provide aid according to their profession. The first part of the first paragraph is addressed to the general public and obligates everyone to help the victims. The legislator has started with "everyone" which means the public and is addressed to all individuals who are responsible and present in society. The most important legal example of acting against social indifference in The Islamic Penal Code of Iran is this single article. In the mentioned law, the legislator obliged all the members of the society to help each other and stated it as a legal obligation like the French Penal Code. In addition, the Holy Qur'an encourages individuals to rush to the aid of their fellow man in danger and considers saving one human life equal to saving all human beings (6).

The necessity of helping those at risk has been emphasized directly and indirectly in other regulations, which are as follows:

Traffic code approved on June 8, 2005

This code establishes regulations regarding road traffic injuries and the responsibilities of traffic officers regarding the management of the accident scene and the transfer of the injured to medical centers. Article 78 of the code states: “The driver of any vehicle who commits an accident resulting in injury or death is obliged to immediately stop the vehicle at the accident

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scene and inform other drivers by installing warning signs following Article 71 of this code and refrain from changing the position of the vehicle or the scene of the accident until the investigation is finished by the traffic officers, and immediately take the injured to medical centers. These codes were formal and failed to determine the punishment for the violators, therefore, in case of refusal to help the injured, the violator will be punished according to the single article.

Article 719 of the Islamic Penal Code

The obligation to help is not limited to a single article. For example, Article 719 states: "When the injured person needs immediate help and the driver refuses to do so despite the possibility of taking the person to medical centers or seeking help from police officers, or leaves the scene of the accident and abandons the injured person to escape from the pursuit, the person will be sentenced to more than two-thirds of the maximum punishment mentioned in articles 714, 715 and 716 depending on the case. The court fails to apply attenuating circumstances to this article."

The cases mentioned in this article are related to traffic accidents, and the reason for not allowing the court to apply attenuating circumstances is the violation of that driver to help the injured. Therefore, the generality of Article 54 has been assigned to the driver, while the punishment has also been intensified. This is because the driver caused the accident for the victim. In the assumption of Article 716, the prescribed punishment is two to six months of imprisonment, which increases to four to six months if the maximum two-thirds of it was applied according to Article 719, and it is less than the prescribed imprisonment. If the driver's refusal to help the accused is an act that is prohibited according to two legal texts and as a result of moral plurality, the act is not included in "multiple titles of crime" to implement the moral plurality rather, it is under the criminal title of abandonment of assistance. As a result, according to the general and special codes: the general rule of a single article has been assigned by Article 719, in the case of drivers who themselves cause injury to a victim in need of help, partial abrogation has been implied (8).

Article 295 of the Islamic Penal Code approved in 2011

This article states: If a person abandons a special duty assigned to him by the law and consequently a crime occurs, he is found guilty and the resulting crime is an intentional, quasi-intentional, or pure error depending on the case. In this article, the legislator has criminalized the abandonment of an act leading to a crime despite the existence of conditions. Refusal to help may be due to the individual's indifference and lack of common feelings towards fellow men and social responsibility. In any case, the legislator considers the indifferent person to be responsible for an intentional or unintentional crime despite the circumstances.

From the statutes of the Red Crescent Society of the Islamic Republic of Iran approved on April 28, 1988

Some legal institutions have been formed to realize the issue of helping those in danger such as the Red Crescent Society, which was formed to alleviate human suffering, with no discrimination between them. This organization works on relief and health issues within and across borders which indicate that respect for human life is not limited to the borders of a country, and helping the injured everywhere is a human duty.

If public helpers refrain from helping the injured while performing their duty, they will be subject to paragraph 2 of the single article and will be sentenced to a misdemeanor of six months to three years, and if they refuse to help outside office hours, they will be sentenced to misdemeanor imprisonment of up to one year or a fine of up to fifty thousand Rials, just like ordinary individuals (9).

The position and conditions of the duty to rescue in the common law

The common law is mainly the ruling system in English-speaking countries. Although the common law originated in England, today the United States is a clear example of this system so the answers it concerning new issues should mostly be found in the opinions of the courts of this country. The theorists of this country have addressed the issue of the duty to rescue in the common law and discussed its various aspects. In the United States, legal rules are mainly adopted from the judicial procedure and the decisions of

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the judges in the common law, although, the subject laws are also one of the main sources of law besides the judicial procedure. The issue of saving those in danger and abandoning it has almost the same position in the jurisprudence of all common law countries. In general, the duty to save the life of another is not imposed on potential helpers in the common law even if they can do it easily without any risk or cost, and even if the situation is completely emergency and the victim will immediately perish if the helper does not intervene (10).

The main reasons for the supporters of this rule are individualism and freedom. Some reasons have been stated to demonstrate why common law is unwilling to establish a law or a procedure to impose such a duty on individuals. Some have believed that “rights” is a keyword in the legal system of the United States and the reason for this unwillingness is freedom and independence which are the principles of "social contract". Although humans have voluntarily exchanged a share of their independence and freedom with a certain amount of collective security due to their vulnerability; however, "individualism" and "individual rights" are the most basic concepts. In fact, a legal system is mainly based on the "social contract", and negative duties, such as the duty not to harm others can be generalized, however, positive duties, such as the obligation to help should be placed in the field of ethics or charity, except for exceptional cases (11).

Therefore, in the legal system of common law, abandoning the rescue of individuals fails to result in civil or criminal liability (12) which is an obstacle to creating a legal reason to save another life in this legal system and forcing the courts in the United States to repeatedly emphasize that this is only moral and not legal. Five situations exist in the jurisprudence of the common law countries, especially the United States, which obligates the helper to help and if he resists doing so considered him responsible. This responsibility is both civil and criminal (13). However, criminal responsibility is where the refusal to rescue under the specific circumstances of each case can be included among the examples of murder. Abandoning the act and having a mental state is necessary for criminal responsibilities (8). These five situations are: 1) The duty may be imposed by law, such as "hit and run charges" that most states have approved that a person is required to help the injured whether he is guilty or not. 2) Courts have established the duty to assist those who have a certain relationship with the individuals at risk such as parent-child and spousal relationships. The one who owes a duty need not be responsible for causing danger to the victim. Courts have recognized this duty only in relationships of greatest dependence or in cases where some economic interest exists to the party under pressure. 3) The duty may be due to a contract. Lifeguards agree to rescue swimmers as a condition of their employment. 4) A person who negligently injures or endangers another has to render reasonable assistance. Many courts have placed this duty on anyone whose conduct has caused an unreasonable risk whether innocent or negligent. 5) A person who volunteers to help has to exercise reasonable care. The person may abandon the attempt while the condition of the victim does not worsen.

Vermont and Minnesota, have enacted laws that impose a duty on the public to assist those in need. The law of Vermont was approved in 1967 which obliges everyone to render reasonable assistance unless the effort endangers the helper or interferes with the "important duties we owe to others." The law grants civil immunity for all but "gross negligence" and, in apparent contradiction to the "reasonable assistance" requirement, imposes a criminal penalty of a $100 fine (14). The influential events that caused several American states to pass laws related to the punishment of bad helpers to prevent accidents should be mentioned in addition to the mentioned exceptional cases. One of the shocking incidents is the murder of Catherine (Kitty) Genovese in March 1964 in New York. The incident had a lot of repercussions and caused a serious discussion about the obligation or non-obligation to save those at risk. Therefore, various conferences regarding this issue were held at universities in the United States. Kitty was brutally stabbed to death within 35 min while crying for help and crawled towards the door of her apartment. Her neighbors witnessed the murder from their apartments, but none of them even called the police. The incident was so sad that legal commentators demanded to amend the law, although her neighbors have not violated any law. The incident is still being analyzed by theorists after more than 50 years. Another incident “New Bedford” occurred in Massachusetts in 1983. A

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young woman was raped by several men for more than an hour at a tavern. Although the customers could have easily prevented this crime, they did nothing. Recently, a series of incidents related to cruel supervisors caused interest in creating the duty of "rescue" in some American states and caused the legal community and the general public to focus more on this issue (14). As previously mentioned, following these tragic incidents, five states of the United States passed laws that obliged all citizens to help those in danger without being subject to a "special relationship" and criminal penalties were considered for violating this obligation. The law of Minnesota which was approved in 1983 in response to a rape near Boston, is different from the law of Vermont in two ways. 1) Minnesota imposes a duty of rescue only on those "at the scene of an emergency," while Vermont places it on anyone with knowledge of the danger. 2) Minnesota fails to expressly suspend this duty when third parties are assisting. Otherwise, the laws are the same, with Minnesota granting the helper civil immunity for anything but intentional or unintentional conduct and considering a fine of more than $100 (14).

According to this law, five conditions are necessary to provide conventional and reasonable assistance: 1) The person is present at the scene. 2) The helper should be aware of the danger. 3) It is an emergency and the victim is in danger or has endured it. 4) The victim is exposed to a severe physical danger or has endured it. 5) The helper should not be in danger while helping others. The most important drawback of such laws is that the exact nature and extent of the danger are not clearly defined. It should be noted that the same important question exists in discussing the conditions of creating a duty to save the life of a person in danger related to the single article approved in 1975. Even in the legal system of Russia and Belgium, the word "serious" should be used to describe the danger to potential helpers, and in Germany, the word "significant risk" is used, however, the law of Romania is stricter and only the risk of death is the justification for not saving others, while in the laws of France and the Netherlands, it is mentioned as "danger" for helpers.

3) The conditions of helping others in the absence of a contract and obligation

In the law of Iran, the helper is obliged to help and the freedom of helpers is not unacceptably limited and the right to save the life of others and the freedom of the person is well-balanced which is contrary to common law. However, conditions exist for creating this duty in a single article, which we will mention in detail. The first paragraph of this article begins with "everyone" which refers to the public and is addressed to all those who have accepted duty and are present in society. It should be noted that enumerating these conditions to limit the cases of liability for helpers is not bad, but we are still subject to the general rules of civil liability and compliance with the standard of fault. The prescribed conditions for creating an obligation to helpers are as follows:

Being exposed to a life-threatening situation

When is there a duty to save a person from danger? First of all, someone has to be in danger. The existence of a helper depends on the existence of a victim. To what extent are we allowed to interfere in the lives of others through the guarantee of criminal executions (15)?

According to the law in Netherlands, Italy, and Spain, the victim is defined as a person in need of assistance, a person incapable of taking care of himself, and a helpless person. A quantitative reason exists to logically introduce "helplessness" as a separate requirement. A person who can save himself from a dangerous situation is not in serious danger (15). The first part of the single article states: "Whoever observes a person or persons in danger..." Therefore, minor injuries are excluded from the scope of this article. One should understand the concept of person and risk in examining this condition. When we say a person, we mean a living human being, and the concept of life is considered from birth to death. However, does this law include the fetus? There is no difference between the criminality of refusing to help the fetus and the mother. However, the issue is when the mother is dead, but the fetus is still alive or outside the womb. The French judicial procedure found the doctor guilty as he refused to perform a cesarean section on the mother (16), but can the same procedure be adopted in our criminal regulations?

Three different opinions can be evaluated. 1) Since the legislator used the word "person" and a fetus is not customarily considered a person, the fetus cannot be the subject of this crime. 2) The fetus should be supported considering the

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philosophy of criminalizing this act, which is to strengthen the spirit of cooperation at the community level. 3) Details should be considered based on the stages of fetal development which means the fetus can be the subject of the crime if it has a soul (17).

The concept of "danger" means a real danger that threatens the body of the victim. In this case, the legislator has used the expression of life, which can be obtained from Article 1 of the Executive Code of the Penal Law of refusing to help the injured and eliminating life risks that can be life-threatening or nonlife-threatening. Therefore, a crime is still committed if the refusal of possible help cannot lead to death, but causes one of the mentioned damages (18). In addition, this article mentions “a person or persons in danger” which means religion, beliefs, and other personal characteristics are not important in helping those in danger (9).

The helper is aware of the danger

“Observation” which is mentioned in the article refers to the awareness of the helper and is the basis for establishing criminal responsibility. The interpretation of observation is in favor of the accused, the principle of acquittal, and the legality of the crime and punishments which induces that if a skilled swimmer is sunbathing and closes his eyes while hearing the drowning person calling for help in that pool, he has no duty to save since he did not see the person in danger. This conclusion is completely illogical. On the contrary, the logical interpretation requires that “observation” be interpreted as “being knowledgeable” to avoid such unreasonable results, which are against the philosophy of establishing a single substance and legitimizing the obligation to rescue (8).

This issue has been discussed in the laws of other countries, however, in some duty is more limited, for example, the criminal justice system of the Netherlands limits the persons on whom the duty of rescue may be imposed to those present at the scene of danger. There is no punishment for anyone who refuses to go where someone is in danger. Anyone who refuses to go where someone is in danger is not punished. However, in recent years, the scope of this statement has increased with the judicial interpretation of the word "witness". Most modern criminal laws do not require presence but only physical proximity to the danger (Italy, Spain) (15).

If the helpers are obliged to rescue only by awareness, they may resist because it restricts their freedom, and morals and customs do not punish them. If it is possible to "remove the distance" with tolerable labor and limited time and cost, morals and customs consider the person obligated to save the victim. Therefore, if the potential helper is being aware of the danger for the other and a small distance between them and fails to help the person due to other conditions, then the helper committed a fault. However, the question is if the potential helper is not aware of the danger, can he be considered guilty? The answer to this question is not simple. Violation is a behavior of a normal person, but also imposing responsibility on a person does not seem fair because the principle is that there is no such obligation, and the obligation should be considered in cases of doubt. As a result, for any reason, even unintentional failure to know about another's exposure to danger, this awareness is distorted and the helper has no duty (7)

The ability to prevent the risk or exacerbate the outcome

The ability to help is the basic condition. In the single article, the legislator has used the word "ability". Therefore, a person is obliged to help if he can do it (19). For example, if the passerby refuses to help a person who suddenly falls due to an accident or illness, he will be sentenced to imprisonment for up to one year or a fine. The standard of ability is the ordinary people of society. Therefore, according to verse 286 of Surah Al-Baqarah, a general practitioner who fails to save his patient due to the inability or lack of access to someone to ask for help, will not be held responsible (6).

A similar condition also exists in other countries the legislator does not oblige anyone to exceed his ability. Therefore, if someone is drowning and a disabled person is watching the scene by the pool, the legislator does not expect that person to jump into the water and save the drowning person. Some authors have considered someone capable and obligated to rescue who is close to the place of danger, aware of the danger, and able to effectively act (15).

A person's ability is not limited to personal action, but he is required to take action if he can save another's life by asking for help from others

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or urgently calling authorities. "Others" in this legal expression are considered the closest people to the scene, but if someone, despite the ability to take personal action, asks for help from others and does not take action, is that person guilty or not? Helping personally precedes asking for help from others (20).

Therefore, if the person or those who are asked for help resist help, they are all guilty. In addition, if several people are present at the scene and can save, the group whose help is their legal or contractual duty has priority over others, and if they all refuse, they are all responsible for compensation. However, the group with a legal or contractual duty who refused to help bear more burden in compensation.

It should be noted that the action of potential helpers is not only limited to the stage before the occurrence of the danger but it is obligatory to prevent the aggravation of the result of the danger. This is an example of mitigation (21) and the person is responsible for additional compensation (22).

Existence of emergency

"Emergency" means the danger is completely imminent or occurring and potential helpers should immediately intervene to prevent the death of the victim or the result of the danger (15). The emergency condition is well understood from the adverb "urgent" and the phrase "necessity of help" in the text of the single article. Otherwise, the helper has no obligation to help, and will not be condemned. The freedom of helpers is not unacceptably limited and the right to save the life of others and the freedom of the person is well-balanced (8).

In the laws of different countries, adverbs such as "immediate", "direct", and "imminent" are used to describe the danger that must threaten the victim which creates a duty to rescue. It is worth noting that the delay in taking an action in an emergency will cause responsibility (23). Most legal systems define this risk using "immediate" or "direct" (Ethiopia, Hungary, Netherlands) or "imminent" (Ethiopia, France, Norway). These terms generally include a degree of danger that results in the death of the person without the intervention of an outsider. A similar requirement is established by the courts of some countries that the danger should be sudden (15).

Therefore, this duty arises if a person can save another life with immediate action. This adverb can be confirmed because it well represents the exceptional nature of this task and its assignment to complete emergency cases, and with it, the balance between the freedom of the helpers and the life of the victim is better provided.

The request of the injured for help and the need to help

Another element of the realization of this crime is that the person in danger of life asks for help from the perpetrator or that the circumstances indicate the need to help. The person is considered a criminal if refuses to help or if the patient is in a state that fails to ask for help, but needs it (18).

This condition is included to respect the freedom of victims and prevent undue interference in the privacy of people under the pretext of helping them. In this way, the opposite implication is that if the victim does not ask for help and the circumstances do not indicate the need for help, then no blame falls on the helper. However, this simple adverb raises some issues that are not easy to answer. For example, if the situation indicates the need for help, but the victim does not ask for it, is the potential helper obligated to help? Some writers' state: "...if the injured ones do not request help, no responsibility will be created for others". For example, if an indigent person does not ask for food from a person who has a large amount of food and dies of hunger, the owner of the food is not guilty and responsible because he is obliged to provide food when the person asks for it (24). The application of this opinion is not acceptable. It should be assumed that if the victim is unable to ask for help due to not knowing about the danger or being unconscious, the helper is obliged to help.

In another assumption, if the situation does not indicate the need to help is the helper obligated to help when the victim asks for help? It is possible to say that the helper is obliged to help by relying on the word "or" in the text of the article, but the requirement is related to a complete emergency (8).

The helper causes no danger for oneself and others

According to the certificate for the duty to save, a person is not required to sacrifice his life to save the life of another. If a helper risks his life to save another, everyone praises him, otherwise,

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he should not be blamed for loving himself and preferring his own life. In the laws of most countries, it is mentioned that if a helper faces danger or his necessary measures lead third parties to danger, he has no duty to rescue.

Almost all laws provide a wider range of immunity for individuals in situations where a person is endangered by a rescue operation. The Law of Romania has the strictest rule which is that only the risk of death can justify the reason for the helper not acting. In Russia, serious danger leads to acquittal, which is beyond mortal danger (15).

A similar view appears to be adopted in the law of the Netherlands. In the criminal laws of Greece "danger to life or health", Poland "personal danger" which means "danger to life or health of a person", Denmark and Norway "special danger", Germany "considerable danger" and Belgium "great danger" is in the same category. In the law of other countries "danger" is mentioned without any other conditions (Czechoslovakia, Ethiopia, Finland), however, at least in the law of the Netherlands, it is clear that insignificant danger cannot justify the refusal of help. The criminal code does not have any explicit provisions in this regard, but the French legal system has ruled that no one is obliged to accept risk to save others. However, serious danger should be interpreted as physical danger. The danger that threatens the victim and that the helper may be exposed to is relative. The seriousness of an injury or risk compared to another depends on the specific circumstances of the injury at the moment of risk. In fact, the special conditions of danger can be effective.

The text of the single article has a situation similar to the laws of the mentioned countries which talks about "danger" and stipulates that the helper has no obligation to rescue if faces danger. Therefore, if the application of the single article is accepted, then the specific territory for its application is limited because an accident that has caused a life-threatening situation for another is also dangerous for the helpers in most cases. A situation with no risk to the potential helpers is rare to find in today's life. It is not clear what exactly is meant by risk; however, it should considerably threaten life, honor, or money. Apparently, the person will not act with the slightest sense of danger as he is the detection source for danger. While the application of a single article includes any risk.

Therefore, we should think of a more logical answer. Some authors have commented on this issue. One of the authors: "... the behavior of the perpetrator should be measured with a normal person in the same external circumstance to prevent abuse of responsibility unless he proves that he did not have the power or he caused a grave danger to himself or another in case of action." (24)

Another author writes: "The actions of a person who is required by law to rescue should not pose a serious danger to himself or others". (20)

The words "grave" and "serious" in the writings of these two authors are another interpretation of "unconventional risk". The interpretation of the word "danger" in the text of the single article should be confirmed according to the listed philosophical foundations, and it means a danger that no normal and reasonable person would be willing to bear to preserve the life of another (25).

Regarding the unconventional risk, some Jewish scholars said: "If an extreme danger or threat arises from it to prevent anyone from preserving their most valuable possessions, the person will have sufficient reason to excuse himself from endangering his life and the lives of his fellows if were placed in similar circumstances. If he knows that he will save his property under those conditions, then he is obliged to take necessary measures to save his fellow man." (26)

Therefore, if the danger that threatened the life of the helper is such that any normal and reasonable person would give up protecting his most valuable possessions under those conditions, the person has no duty to save the life of another human being.

In the law of Iran, according to the principles of duty to rescue and the opinions of jurists (8), if the owner is forced to give his property to another and risks his life, there is no obligation to do so. According to the abovementioned points, it can be concluded that if there is an unusual physical or spiritual danger to the helper while saving the life of the victim, he has no duty to rescue and will not be guilty.

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Discussion and Conclusion

Aid and relief are not just legal and moral duties, but are rooted in customs and society in Iran. The most important law that has been approved in Iran on the issue of saving the lives of others is the single article (26 May 1975). In this article, a person is obliged to save another in certain conditions. Before 1975, this issue was specifically mentioned in some cases. Of course, after 10 years, in 1985, the regulations for its implementation were prepared and approved by the government. The need to help those who are in danger is emphasized directly and indirectly in other laws and it has been tried to balance between the freedom of the helper and saving the life of another human being and it should be assigned to the helper. In this way, the conditions for creating this duty have been set in the single article, which is still subject to the general rules of civil responsibility and all of them are approved by custom. The conditions for creating duty exist in the legal system of other countries. In the legal system of the common law, the duty to rescue is assigned to the helper by considering some special situations. All the efforts have been made in the law of Iran so that the conditions of duty are in line with the freedom of the helper and the life of another human being, however, there are still assumptions for the established conditions that can be discussed. For example, the legislator used the word "life", but the danger may be "extreme physical danger", and only her physical integrity is threatened. The indifferent person is not responsible, and this stipulation cannot precisely clarify the duty of helpers, because "severe physical injuries" in most cases also endanger the life, it should be believed that not saving the victim from a danger that threatens a vital organ is considered a fault. Therefore, the danger that the helper may be exposed to may seem logical to oblige the helpers, but it fails to function everywhere. In the single article, the legislator tries not to make the duty difficult and extensive. Perhaps the conditions in the article are more relevant to the current state of society in Iran and many people should be under criminal prosecution. Criminal law has the possibility of persuading people to symbolically help others. Therefore, one should not seek to compensate for the weakness of other cultural and social structures with punishment. The legislator should reconsider the issue of relief and various assumptions that were mentioned in this study along with the conditions for creating the duty.

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Conflict of Interests

The authors declare that there is no conflict of interest in this study.

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