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Pragmatism and Perfectionism in the Development of the Rule of Action in Criminal Law with a Focus on Judicial Practice

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ABSTRACT

The jurisprudential rule of action (*qa'idat al-iqdam*), which emphasizes an individual's responsibility for knowingly undertaking an act to their own detriment, has traditionally been applied within the domain of civil liability. This article aims to extend the scope of this rule into criminal law by examining its capacities across three domains: substantive law, procedural law, and judicial practice. In the substantive domain, the influence of the rule of action on the reduction of criminalization (such as euthanasia), the redefinition of barriers to criminal responsibility (including self-defense and consent), and the mitigation of liability at the post-offense stage is analyzed. In the procedural domain, the relationship between this rule and institutions such as statutes of limitation, criminal precautionary measures, and sanctions associated with non-compliance with procedural deadlines is clarified. Finally, through the analysis of judicial decisions, it is demonstrated how Iranian judicial practice has developed or limited this rule through a delicate balance between two approaches: "pragmatism," aimed at enhancing efficiency and combating fraud, and "perfectionism," aimed at preserving fundamental values and protective rights. The findings indicate that the rule of action, as a rational legal principle, possesses significant potential for transforming the criminal justice system, promoting a more equitable distribution of responsibility, and enhancing procedural efficiency, provided that its development remains aligned with fundamental legal principles and public interests.

Keywords: *Rule of action, criminal law, development, judicial practice, pragmatism, perfectionism.*

Introduction

The jurisprudential rule of *action* (*qa'idat al-iqdam*), as one of the fundamental and widely applied principles in Imami jurisprudence, plays a central role in determining the scope of liability and responsibility. The core of this rule, rooted in established religious principles and rational foundations, is based on the proposition that "whoever knowingly undertakes an act to the detriment of their own property or life, no other person bears civil or criminal liability in their favor with respect to that act." This rule seeks to answer the fundamental question of whether a person who knowingly and voluntarily causes harm to themselves may hold another party responsible for



compensating that harm. The evidentiary foundations of this rule are supported by authoritative sources such as the Prophetic tradition, “the property of a Muslim is not lawful except with their willing consent,” and by rational custom (*bina al-uqala*). Rational custom recognizes that an individual who knowingly exposes themselves to harm is not entitled to compensation, because their own *action* constitutes a condition that removes the liability of others (1-3).

In jurisprudence, this rule has traditionally been applied within the domains of transactions and non-contractual liability. As Makarem Shirazi defines it, “the rule of action refers to a situation in which a person knowingly undertakes an act to their own detriment” (4). Despite this rich doctrinal background, the scope of application of the rule of action has remained largely confined to the field of financial liability, and its potential within criminal law has not been systematically and coherently analyzed. Although jurists and legal scholars have occasionally addressed the role of the victim’s action in removing the offender’s liability—for example, in cases involving refusal of medical treatment—the absence of a coherent theoretical framework for applying this rule across all dimensions of criminal law constitutes a significant research gap (5, 6).

By the “development of the rule of action,” this study refers to extending the application of this rule beyond its traditionally limited scope in civil and criminal liability and employing it as a comprehensive governing principle within the criminal justice system. This development entails a reconsideration of substantive and procedural criminal law principles based on individual autonomy and conscious assumption of risk. In substantive criminal law, expanding the rule of action may contribute to the reduction or elimination of criminalization in emerging issues such as voluntary euthanasia, the more precise delineation of barriers to criminal liability in medical and sports contexts, and the mitigation of offender liability in cases where the victim’s post-offense conduct—such as refusal of treatment—has contributed to the aggravation of the harmful outcome (7-9). In procedural criminal law, this rule also has the capacity to provide a jurisprudential foundation for doctrines such as statutes of limitation, viewed as a form of negative action by the complainant in failing to pursue their claim, as well as the liability of guarantors and bail providers arising from their voluntary assumption of obligations, and the legal consequences of default judgments resulting from the defendant’s omission (10-12). Such development transforms the rule of action from a principle confined to financial liability into a general principle governing autonomy and responsibility across the entire legal system.

Nevertheless, the expansion of the rule of action faces significant theoretical and practical challenges. The primary challenge lies in the absence of a developed framework recognizing this rule as a general principle within modern criminal law. In substantive criminal law, the central tension arises between individual autonomy—the foundation of the rule of action—and fundamental principles such as the right to life and bodily integrity. For example, in the context of euthanasia, the question arises whether a person’s voluntary action toward death can challenge the fundamental prohibition against deprivation of life. Another challenge concerns determining the precise boundaries of legally effective consent in removing liability, particularly in cases involving severe intentional harm outside established contexts such as medical treatment (13-15). In procedural criminal law, the principal challenge lies in balancing the legal consequences arising from individual action or omission—whether by the complainant or the accused—with the preservation of fair trial guarantees and the protection of vulnerable victims whose capacity for informed and voluntary action may be impaired (16-18).

In this context, the development of the rule of action encounters two competing approaches: pragmatism and perfectionism. Pragmatism emphasizes judicial efficiency and social interests, such as legal certainty and the

prevention of abuse, whereas perfectionism seeks to maximize individual autonomy and substantive justice, even when such objectives may conflict with broader social interests. This article seeks to address the following fundamental questions: What are the meanings of pragmatism and perfectionism in the development of the rule of action in criminal law? And what role can judicial practice play in this development? Using a foundational-developmental analytical method, this study first examines the jurisprudential foundations of the rule of action in depth and then, through comparative and interpretive analysis, extends its scope into emerging areas of criminal law. Finally, through a descriptive-analytical approach, existing judicial practice is examined to determine how courts have applied the logic of this rule in their decisions (19, 20). Following this introduction, the article is organized into three main sections: first, the conceptual analysis of the rule of action and its development; second, the capacities for expanding the rule of action within criminal law; and third, the role of judicial practice in developing the rule of action from the perspectives of pragmatism and perfectionism.

Conceptual Framework

It is essential first to carefully examine its conceptual foundations. This section adopts an analytical approach and addresses this objective in two stages. In the first stage, the conceptual meaning of the rule of action is analyzed. In the second stage, the conceptual meaning of the development of the rule of action in criminal law is examined.

Conceptual Analysis of the Rule of Action

The rule of action is one of the well-known and fundamental principles in Imami jurisprudence, functioning as a guiding principle primarily applied in the domains of liability, contracts, and unilateral legal acts. The essence of this rule is based on the proposition that whenever a sane and mature person, with full awareness and volition, undertakes an action detrimental to themselves or consents to a harmful obligation, they lose the right to claim compensation or invalidate that obligation. In other words, this rule operates as one of the factors extinguishing liability, removing responsibility from others because the individual, through their own action, has relinquished the legal protection of their property or rights (21, 22).

To properly understand this rule, it is necessary to examine its constituent elements. In jurisprudential terminology, the term “rule” refers to a general and universal legal principle derived from authoritative religious sources and applicable across various domains of jurisprudence (23, 24). This generality distinguishes the rule of action from specific jurisprudential rulings and grants it substantial flexibility in resolving disputes across different legal contexts.

Literal and Technical Meaning

The term “action” (*iqdam*), derived from the root meaning to advance or to act with initiative and courage, denotes the element of voluntary initiation and intentional engagement in conduct (25). This conscious and voluntary entry into a situation constitutes the essential core of the rule and distinguishes it from cases involving involuntary harm or accidental damage.

In jurisprudential terminology, action manifests in two principal forms, which, although producing the same legal consequence—the extinguishment of the right to claim—differ in nature:

Action leading to harm (action extinguishing liability): This refers to situations in which an individual, through their own conduct, directly causes harm to themselves or exposes their property to destruction. For example, if a person sells their property despite knowing of a substantial disadvantage or purchases defective goods with full awareness of the defect, they lose the right to rescind the transaction because they knowingly acted to their own detriment (2, 4).

Action leading to obligation (action assuming liability): This refers to situations in which an individual voluntarily consents to assume a financial obligation or guarantee, even if they are not directly responsible for the harm. A clear example is the voluntary acceptance of a contractual obligation at a disadvantageous price, whereby the individual relinquishes the right to claim compensation due to their voluntary consent (26, 27).

The fundamental basis of this rule lies in the principle of individual dominion over one's person and property. This principle allows a rational and mature individual, within the limits of law and religious norms, to exercise control over their property and accept financial or personal risks. Accordingly, the rule of action represents a clear manifestation of the principle of autonomy in the domain of legal responsibility, thereby providing a strong theoretical foundation for its expansion into criminal law, particularly in areas such as victim consent and victim contribution to harm (5, 28, 29).

Grounds for the Validity of the Rule of Action

The validity of the rule of action—an inductively derived and *ijtihadi* (interpretive) rule—rests on four principal grounds. The strongest and most fundamental ground is *rational custom (bina al-'uqala)*, meaning that reasonable persons across societies agree on the proposition that whoever, with knowledge and awareness, exposes themselves to harm or waives their own right, no longer has a claim to objection or demand against another party (4, 23). This rational practice has not been repudiated by the Lawgiver; therefore, it has acquired authoritativeness and has been implicitly endorsed (22).

The second ground is *narrations (riwayat)*. Although there is no explicit report employing the label “the rule of action,” numerous narrations substantively confirm its meaning. The most important are those reports that condition any interference with another's property or life on the person's *inner consent (ṭib nafs)* and genuine willingness (3, 30). The inverse implication of these narrations is that if the person themselves, by consent, undertakes an action to their own detriment, liability is extinguished. Reports concerning the loss of the option to rescind upon knowledge of gross disparity (*ghabn*) likewise provide a clear illustration of the rule (31).

The third ground is *juristic consensus (ijma')*. Regarding the extinguishment of liability in cases where a person has themselves acted to their detriment, there is no substantial disagreement in the jurisprudential tradition, and this convergence further reinforces the rule's validity (26, 32).

Finally, the principle of *waiver of right*—grounded in the rule of dominion (*qa'idat al-taslit*: “people have dominion over their property”)—maintains that an owner may, by their own will, relinquish the right to claim liability from another (1, 21).

Overall, rational custom constitutes the principal and independent foundation for the validity of this rule, while the other grounds—especially narrations and consensus—operate primarily as corroborative and reinforcing considerations.

Conditions of the Rule of Action

Invoking the rule of action to extinguish civil liability or criminal responsibility is contingent upon five essential conditions, all of which underscore the effectiveness of informed and voluntary will.

(1) Ownership or right-holding status: The actor must be the owner of the property or the holder of the relevant right. Just as disposal of another's property without authority is unauthorized agency, the waiver of *qisas* (retaliation) or *diyah* (blood money) is only possible by the victim or the victim's heirs, because they possess dominion over that right pursuant to the rule of dominion (1, 21).

(2) Maturity (bulugh): The actor must have reached legal maturity. Because a minor lacks full volitional capacity and does not have competence to effectively exercise and waive rights, their harmful action or purported waiver of liability lacks legal effect and does not deprive them of the right to claim compensation (26).

(3) Sanity ('aql): The actor must be sane. Insanity—whether permanent or intermittent—negates meaningful will and discernment, preventing the effectiveness of legal action and, accordingly, cannot result in extinguishing liability or responsibility (33).

(4) Knowledge ('ilm): The actor must be aware of the subject matter and the harmful consequences of their act. Blind consent grounded in ignorance is not a valid "action" for the purposes of this rule (2). In criminal law as well, the victim's consent is effective only when accompanied by full knowledge of the nature and consequences of the harm (34).

(5) Non-contradiction with law and Shari'a: The person's action must not conflict with mandatory legal rules or Shari'a foundations. Consent to offenses implicating public order and *haqq Allāh* (God's right)—such as homicide or zina—does not extinguish criminal liability (9). This condition represents the red line for developing the rule of action in criminal law (35).

The Meaning of "Development" and Its Model in Relation to the Rule of Action

The development of a jurisprudential rule within the framework of modern law is not a merely mechanical process; rather, it is the product of interaction among different theoretical perspectives, each of which defines the orientation and limits of that development.

The Meaning of Developing the Rule of Action

Here, "development" means expanding the conceptual and practical scope of the rule of action from its traditional domain—civil law and financial liabilities—into the newer and more complex domains of criminal law. This development is a comparative and ijthadi process whose objective is to align a deeply rooted jurisprudential principle with the contemporary needs and challenges of the criminal justice system. The development of the rule of action can be conceptualized at two primary levels:

Development in substantive criminal law: This level concerns the influence of the rule of action on the constituent elements of crime and criminal responsibility. Examples include employing the rule to reconsider the criminalization of conduct such as euthanasia, to delineate more precisely barriers to criminal responsibility such as self-defense and consent in sports operations, and to mitigate liability for bodily harm based on the victim's post-offense conduct (e.g., refusal of treatment) (5, 15, 36).

Development in procedural criminal law: This level concerns using the logic of the rule of action to justify and explain doctrines of criminal procedure. Institutions such as statutes of limitation (premised on the complainant's inaction), enforcement mechanisms related to precautionary measures (arising from the accused's or guarantor's undertaking), and the consequences of failing to comply with procedural deadlines may all achieve a more coherent rational and jurisprudential foundation when viewed through the lens of the rule of action (10-12).

Models for Developing the Rule of Action

In comparative scholarship, legal systems confronting the impact of the rule of action (in the form of victim consent or assumption of risk) on criminal responsibility generally follow three principal models:

(1) The broad-effect model (the German model): Observed in jurisdictions such as Germany, Switzerland, and Austria, this model assigns high normative weight to individual autonomy. Within these systems, victim consent may function as a justification that negates criminality in certain offenses against bodily integrity, subject to limitations tied to public morality and public order (37). This acceptance is not absolute; in severe and atypical harms that disturb public order, consent is treated as ineffective.

(2) The no-effect model (the English model): This stricter model prioritizes the absolute protection of bodily integrity and public order over individual autonomy. Under this approach, consent to serious bodily harm is generally ineffective and does not justify the offense; consent is typically recognized only for trivial harms or fully legitimate activities such as surgery (13).

(3) The intermediate model (the French and American model): This approach—often considered the most prevalent—seeks to balance individual autonomy with public order. In systems such as France and the United States, consent is generally not treated as a full justification, but it may eliminate criminal liability in specific contexts such as ordinary medical treatment or socially accepted sports activities (38).

Iran's legal system, by recognizing the effect of consent in the decrease in *Diyah* (e.g., medical and sports activities) while not recognizing it for the *hudud*, effectively aligns with the intermediate model. Iranian legal materials—such as the provisions commonly invoked in relation to medical and sports operations—have recognized the victim's action as a factor capable of interrupting causation and extinguishing liability (8, 29). Nevertheless, further development of this rule in Iranian law depends on a broader interpretation of victim contribution as a mitigating factor in discretionary punishments (*ta'zir*) and on expanding the notion of "lawful action" to additional social domains.

The Meaning of Pragmatism and Perfectionism in Development

The development of the rule of action is invariably situated within the tension between two foundational theoretical approaches: pragmatism and perfectionism. These approaches offer different evaluative standards for determining the desirability and boundaries of such development.

Pragmatism is a realistic, outcome-oriented approach that focuses on the practical and functional consequences of a legal rule. From this perspective, developing the rule of action is desirable insofar as it increases efficiency, stability, and the practical benefits of the criminal justice system. A pragmatist analyst regards the rule of action as an instrument for achieving objectives such as:

- **Reducing caseloads:** By extinguishing responsibility in cases where the victim is the primary contributor to harm, courts are less burdened with futile litigation.

- **Preventing abuse:** The rule helps prevent individuals from using fraud and staged scenarios to turn the judicial system into a tool for illicit gain.
- **Enhancing legal certainty:** Doctrines such as statutes of limitation—grounded in the logic of omission—prevent indefinite uncertainty and promote social stability.

On this account, developing the rule of action is a functional necessity for an optimized and responsive judiciary.

Perfectionism is a value-oriented and idealistic approach emphasizing the preservation of fundamental principles, human dignity, and legal-ethical constraints, even where such commitments conflict with efficiency or instrumental social interest. From this perspective, the development of the rule of action must remain within non-negotiable values. A perfectionist analyst measures and constrains development by reference to values such as:

- **The sanctity and inviolability of life:** This absolute value restricts deploying the rule of action to fully justify euthanasia or consent to homicide.
- **Protection of vulnerable persons:** The will of persons lacking capacity (e.g., minors and the insane) is not legally effective; their actions cannot deprive them of legal protection.
- **Safeguarding public order:** Offenses that injure the public conscience (e.g., crimes against security or public morality) cannot be justified by victim action or consent, because society is also a right-holder.

Within this view, perfectionism functions as a “normative brake,” preventing a purely pragmatic expansion of the rule of action from undermining the moral and legal foundations of society.

In Imami jurisprudence and Iranian law, the rule of action may be characterized as an intermediate doctrine: by imposing conditions such as knowledge, voluntariness, and non-contradiction with Shari’a and mandatory law, it seeks to balance these two approaches. These conditions prevent pragmatism from eroding fundamental values and prevent perfectionism from disabling the operational effectiveness of the legal system.

Capacities for Developing the Rule of Action in Criminal Law

The capacities for developing the rule of action in criminal law can be examined in two parts: substantive criminal law and procedural criminal law.

Development in Substantive Criminal Law

The jurisprudential rule of action, which is premised on a person’s conscious and voluntary undertaking of conduct to their own detriment and the consequent extinguishment of another’s liability, has traditionally been applied in Imami jurisprudence within the domain of civil liability (5). Nevertheless, this rule possesses wide-ranging capacities for development in substantive criminal law, such that—operating as a jurisprudential principle—it can explicate and soften criminal responsibility in light of the victim’s will.

Developing the Rule of Action to Neutralize Elements of Offenses (Decriminalization / Reduced Criminalization)

This axis of development rests on the premise that the victim’s informed action may mitigate, or even entirely negate, the criminal characterization of certain conduct. The most salient—and at the same time most challenging—instance of such development is “euthanasia” (mercy killing).

Euthanasia—i.e., ending a patient’s life upon the patient’s explicit and informed request in order to relieve intolerable suffering—is treated in Iran’s legal system as a paradigmatic case of intentional homicide (39). Yet the

patient's *action* differentiates this conduct from ordinary homicide and generates a normative collision between the principle of the inviolability of life and the principle of human dominion over one's own person (40).

Voluntary active euthanasia: In this form, the patient, with full volition, asks the physician to terminate life through a positive act (e.g., injection). Here, the rule of action yields a distinction between *normative prohibition* (taklifi ruling) and *legal effect* (wad'i ruling):

- **Taklifi ruling (prohibition of killing):** Life is treated as a divine trust, and the human being is not its absolute owner (24). Accordingly, the patient's action does not remove the intrinsic prohibition of killing; the physician's conduct remains a prohibited act. Because this aspect is connected to public order and *haqq Allāh*, the physician may still be subject to discretionary punishment.
- **Wad'i ruling (fall of retaliation / qisas):** *Qisas* operates as a private right. The well-known tradition conditioning the permissibility of a Muslim's life and property on inner consent (*tib nafs*) makes satisfaction of the decisive criterion (41). The patient's action constitutes an archetypal instance of *tib nafs* and can therefore be conceptualized as extinguishing the right of retaliation for the patient and the heirs (40). In this configuration, legal consequences may descend to *diyah* through reconciliation (42).

Voluntary passive euthanasia: This includes refusing treatment or discontinuing life-support at the patient's request. Here the rule of action plays a deeper causal role by interrupting causation: the patient's action amounts to waiving the "right to receive treatment," and with the waiver of that right, the physician's legal duty to continue treatment is correspondingly negated. The death is then attributed directly to the natural progression of disease rather than to the physician's omission. Consequently, the material element of homicide is not realized, and the physician bears neither retaliation nor *diyah* liability—though professional or disciplinary accountability may remain.

The development of the rule of action in the euthanasia context is a prominent example of the intersection of pragmatism and perfectionism. A pragmatic approach, emphasizing patient autonomy and reduction of suffering, tends to support development—especially in passive euthanasia—on the ground that it prevents futile and costly interventions and improves systemic efficiency (7). By contrast, a perfectionist approach, emphasizing the sanctity and inviolability of life as an absolute and non-waivable value, resists this development; from this perspective, life implicates a public dimension such that individual volition cannot undermine it. The persistence of discretionary punishment for the physician in active euthanasia—despite the patient's action—illustrates the predominance of perfectionist logic in safeguarding public order.

Developing the Rule of Action in Grounds of Justification and Barriers to Criminal Responsibility

This axis reconceptualizes the rule of action as a jurisprudential foundation for certain grounds of justification and barriers to criminal responsibility.

Iranian criminal law recognizes self-defense as non-criminal when it repels unlawful aggression. The development of the rule of action explains this result as follows: the aggressor, by initiating an unlawful attack, knowingly and voluntarily forfeits the inviolability of their own life and property vis-à-vis a proportionate defensive response; the aggressor's action thus supplies the jurisprudential permission for defense and removes liability from the defender (33, 43). This rationale holds only so long as the defense is *proportionate*; exceeding necessity constitutes a new aggression by the defender, which is no longer covered by the aggressor's initial action (8, 15).

Consent (permission) as a direct manifestation of the rule of action: Consent in medical and sports activities can be analyzed as "informed assumption of risk." In such contexts, the patient's or athlete's action (consent)

removes the protected status of bodily integrity within the conventional bounds of treatment or sport, thereby stripping the conduct of criminal characterization (44). This assumption of risk is limited to ordinary and non-intentional harms and does not extend to gross negligence or intentional injury (45).

In property offenses, the owner's consent (action to one's detriment) can fully remove criminal responsibility in purely private-right offenses (e.g., simple property damage), because it eliminates the element of "unlawful interference." However, where the offense has a public dimension (e.g., insurance fraud), the owner's consent does not affect criminal responsibility.

In this area, pragmatism is often dominant. For society to benefit from sports and medical progress, it pragmatically accepts that individuals may, through their own action, assume ordinary risks; treating customary sports and medical incidents as non-criminal avoids paralyzing socially valuable activities (46). Perfectionism, however, operates by setting boundaries—such as requiring compliance with sports regulations and rejecting consent as effective in homicide—thereby preventing individual autonomy from becoming a vehicle for normalizing violence or undermining foundational values.

Developing the Rule of Action for the Post-Offense Stage

This axis examines the role of the victim's "inaction" or "active conduct" in aggravating the consequences of an offense.

If, after the offense, the victim—through a deliberate and active act (e.g., reopening a wound)—aggravates the injury or causes their own death, this constitutes a new, strong, and independent cause. This new cause interrupts the causal chain between the perpetrator's initial act and the aggravated outcome. In such a case, the perpetrator is liable only for the initial injury and bears no civil or criminal responsibility for the aggravated result (35, 42). This is the clearest instance of extending the rule of action into the post-offense phase.

The victim's failure to mitigate the effects of the offense—such as refusing treatment—is more complex. As a general matter in criminal law, the victim's omission does not remove the perpetrator's criminal responsibility, because the primary and initiating cause remains the perpetrator's criminal conduct (47). Nevertheless, the logic of the rule of action can be employed to mitigate civil liability (*diyah*): the portion of loss attributable to the victim's atypical negligence or unreasonable failure to mitigate may be deducted from the perpetrator's responsibility (44). This approach effectively imports the mitigation-of-loss logic from civil liability into the domain of *diyah*.

Here too, the two approaches diverge. A perfectionist stance maintains that full responsibility must remain with the perpetrator as the initiator of the causal chain, and that "victim-blaming" should not be used to shift responsibility (33). A pragmatic stance, by contrast, aims to encourage responsibility-taking and prevent abuse, contending that the victim also bears a duty to take ordinary measures to limit harm (48). Recognizing the causal-interrupting effect of the victim's *active* post-offense action represents a rational compromise between these approaches: it preserves fairness while preventing the imposition of disproportionate liability on the perpetrator.

Capacities for Developing the Rule of Action in Procedural Criminal Law

As a jurisprudential principle emphasizing a person's responsibility for consciously undertaking conduct to their own detriment, the rule of action also has substantial capacities for development in procedural criminal law (criminal procedure).

Developing the Rule of Action in Criminal Statutes of Limitation

Statutes of limitation constitute an institution by which, with the passage of time, the right to prosecute, adjudicate, or execute punishment is extinguished (10). The jurisprudential and rational foundation of this institution is closely connected to the rule of action, because the extinction of the right is the outcome of the right-holder's conscious "inaction" in pursuing it.

Article 106 of the Islamic Penal Code provides that, in complaint-based offenses, if the victim does not file a complaint within one year from the date of becoming "aware" of the commission of the offense, the right to complain is extinguished (17). The complainant's "inaction" in filing within the legally prescribed period is a voluntary and knowing omission. The "awareness" requirement in this provision is functionally equivalent to the "knowledge" condition in the rule of action: the complainant, being aware of their right and acting by choice, waives it and thereby deprives themselves of the right to criminal prosecution. This loss of the right is a paradigmatic instance of the rule of action in operation (3).

From a pragmatic standpoint, limitation of complaint is an instrument to enhance judicial efficiency and legal certainty: the judiciary should not remain indefinitely waiting for a complainant who is indifferent to their own right (12). This prevents the accumulation of stale cases and also provides the accused with a degree of legal reassurance.

A perfectionist approach, emphasizing victim protection, prevents the absolute operation of the rule of action. For this reason, the legislature recognizes circumstances such as being under the defendant's domination or lack of legal capacity (minority and insanity) as impediments to limitation. In such circumstances, because the "voluntariness" or "knowledge" condition of the rule of action is not satisfied, the victim's right remains preserved.

With respect to limitation of prosecution (Article 105) and limitation of execution of sentence (Article 107), the "inaction" of public authorities (the prosecutor and judicial officers) results in the extinguishment of society's right to punishment (16). Here, "society" or "sovereignty," as the right-holder of punishment, loses its right to prosecute or execute through the omission of its representatives. Although this is not directly reducible to the will of a private complainant, it follows the general logic of the rule of action—namely, the loss of rights through failure to pursue them.

In these forms of limitation, pragmatism predominates. Limitation of prosecution and execution is designed to serve purposes such as social forgetting, offender rehabilitation (where the person has returned to ordinary life after many years), and preventing perpetual uncertainty. Perfectionism, emphasizing justice and the certainty of enforcing judgments, resists limitation in serious crimes (e.g., offenses against security) and in offenses primarily involving private rights (such as retaliation and *diyah*). For this reason, such offenses are typically excluded from limitation.

Developing the Rule of Action in Criminal Precautionary Measures (Bail and Security Orders)

Security orders are undertakings that the accused, a guarantor, or a surety provider voluntarily accepts through "informed action." Breach of these undertakings activates enforcement mechanisms that can be justified through the rule of action.

By signing acceptance of the security order, the guarantor or surety provider knowingly and with awareness of consequences undertakes to ensure the accused's appearance or to pay the surety amount / suffer forfeiture of the

pledged security (12). Their initial “action” is the acceptance of a “potential financial detriment.” Their subsequent “inaction” in producing the accused after notice renders that detriment actual. Accordingly, forfeiture of the security or collection of the surety amount is the direct result of their initial assumption and subsequent omission, and they cannot plausibly object, because they are responsible for this detriment by their own undertaking.

The accused’s breach of bail conditions or judicial supervision orders constitutes a paradigmatic instance of acting to one’s own detriment. By unjustified non-appearance or violating supervision directives, the accused breaches a conscious undertaking. This “action” extinguishes the accused’s entitlement to a lighter measure and authorizes the judicial authority to intensify the security order or issue an arrest order (11).

Enforcement mechanisms such as forfeiture and intensification are efficient tools for securing the accused’s presence and maintaining procedural order. This orientation emphasizes the efficiency and authority of the judicial system and reflects pragmatist logic. From a perfectionist standpoint, emphasis on the accused’s defense rights and proportionality constrains overuse of these measures. Hence, the law recognizes the right to challenge forfeiture orders and to present a “valid excuse” for non-appearance, preventing rights violations where individuals lacked genuine free will (16, 49).

Developing the Rule of Action in Observance of Procedural Deadlines and Court Orders

Criminal procedure comprises a set of duties and deadlines, where “inaction” in compliance may result in the forfeiture of litigants’ procedural rights.

Article 406 of the Code of Criminal Procedure contemplates default judgment where the accused and counsel fail to appear and no written submission is filed. Through deliberate omission and failure to use the opportunity to defend, the accused knowingly forfeits the right to an in-person hearing; the default judgment is the direct outcome of that action, and the accused thereby assumes the additional burden of contesting the judgment through a distinct remedial stage (49).

Article 354 authorizes the presiding judge to remove a disruptive person (whether the accused, the complainant, or counsel) from the courtroom and even impose short-term detention. The disruptive individual, by actively and knowingly undermining order, renders themselves subject to disciplinary sanction (a detriment) and cannot attribute responsibility for the temporary deprivation of liberty to the court.

On a pragmatist rationale, these sanctions function to preserve the authority of the court, ensure the speed and orderliness of proceedings, and prevent procedural delay. Perfectionism, however, emphasizes the right of defense as a foundational principle. For this reason, even after default judgment, the right to challenge remains preserved, and courtroom disruption should not result in a total deprivation of the right to attend subsequent sessions.

Ultimately, developing the rule of action in procedural criminal law entails accepting the rational proposition that the judiciary is not obliged to protect a right that its holder has undermined through voluntary “action” or “omission.” This approach enhances the efficiency and authority of the adjudicative system while, through justice-based exceptions, preventing infringement of individuals’ fundamental rights.

Conclusion

This study, conducted with the aim of assessing the feasibility of developing the jurisprudential rule of action within Iranian criminal law, examined the capacities of this rule across three domains: substantive criminal law, procedural criminal law, and judicial practice. The findings demonstrate that the rule of action, as a rational principle

grounded in individual responsibility, possesses substantial potential to transform and enhance the efficiency of the criminal justice system. However, this development is not absolute and must always remain balanced with fundamental legal principles and public interests.

In substantive criminal law, the development of the rule of action exerts its most significant influence in mitigating criminal responsibility. In the context of euthanasia, the rule, by distinguishing between normative prohibition and legal effect, creates the possibility of extinguishing retaliation (in active euthanasia) and interrupting causation (in passive euthanasia). Furthermore, the rule provides a strong jurisprudential foundation for well-established doctrines such as self-defense—where the aggressor’s action removes the defender’s liability—and consent in medical and sports activities, where consent represents the conscious assumption of risk. The most operationally significant development of the rule appears at the post-offense stage, where the victim’s active conduct in aggravating injury constitutes a stronger and independent cause, thereby interrupting the causal chain and limiting the perpetrator’s responsibility to the initial harm.

In procedural criminal law, the logic of the rule of action operates as a principle governing the forfeiture of procedural rights through negligence or voluntary omission. The doctrine of limitation periods, particularly limitation of complaint, is based on the principle that the complainant’s failure to act within the prescribed time constitutes a waiver of the right to prosecution. In criminal precautionary measures, the liability of guarantors and sureties, as well as enforcement mechanisms such as forfeiture of security, arise directly from their voluntary assumption of a potential financial detriment. Likewise, procedural consequences such as default judgments or arrest warrants represent responses to the accused’s failure to fulfill procedural obligations.

Judicial practice, as the most dynamic arena, has played a decisive role in this development. Analysis of judicial decisions shows that courts have approached the rule through two primary lenses. On the one hand, adopting a pragmatist orientation, courts have employed the rule to combat fraud (such as staged accidents), to ensure fair distribution of responsibility (in cases involving refusal of treatment), and to impose accountability on public institutions (in cases involving omission leading to loss of public property). On the other hand, from a perfectionist perspective, courts have resisted expanding the rule whenever its application conflicted with fundamental values such as the sanctity of life, protective rights (such as a spouse’s right to divorce based on hardship), or professional safety obligations, thereby limiting its scope.

Ultimately, it can be concluded that the rule of action is a dual-aspect doctrine, situated between individual autonomy on one side and public interests and fundamental values on the other. The successful development of this rule within criminal law depends on maintaining equilibrium between these two dimensions. The rule should not become a tool for blaming victims or evading legal responsibility; rather, it should function as a rational principle aimed at promoting fairer allocation of responsibility, enhancing judicial efficiency, and encouraging individuals to assume responsibility for their own actions. The future development of this rule requires clearer legislative articulation, the establishment of coherent judicial practice, and precise delineation of its boundaries in light of justice and equity.

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Authors' Contributions

All authors equally contributed to this study.

Declaration of Interest

The authors of this article declared no conflict of interest.

Ethical Considerations

All ethical principles were adhered in conducting and writing this article.

Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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