

Force Majeure and Emergency Factors in Iranian and British Law

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Abstract

Force Majeure and Emergency are the conditions where the boundary between them is set. Force Majeure is derived from French literature and covers uncontrollable events such as floods, earthquakes, war and outbreaks in Iranian and British law that will be responsible for And it can lead to the cancellation of contracts and non-fulfillment of obligations, a condition that is recognized as a liability in Iranian and British law and leads to wrong doing in the face of intimidating and intolerable conditions, and The distressed person commits an act that if he or she fails to do so, dies or is harmed. For Force Majeure Conditions: 3 Conditions Required 1- The accident must be inevitable, force majeure is considered to be unavoidable and in other words non-reprehensible 2- Accident Must be unpredictable Force majeure events are unpredictable and this will be a liability if the accident is predictable except for force majeure conditions, of course there are different theories about this. 3- The accident must be external It is usually said to be a force majeure event that falls outside the scope of responsibility. The first condition required for the realization of an emergency is 1- the existence and occurrence of severe danger, and the other conditions for the realization of the emergency include that the risk 2- is not intentionally "caused" or not due to the fault, and 3- the act of committing the hazard is proportionate And 4- the act or action necessary to dispose of the risk is necessary; and 5-the threat is not in accordance with the duty or law required to deal with the risk. Also, force majeure and emergency in Iran and the UK may affect many contracts and may cause Suspension and termination of contracts and non-compliance with threats in law Conditions such as the new Coronavirus (COVID-19) outbreak originating in Wuhan, China It has spread to all countries around the world, including Britain and Iran. It can be one of the most critical emergencies and force majeure that has occurred in the UK, Iran and the world over the last few decades. And Iranian and British support associations work to develop and control policies to develop and control the disease.

Keywords: Emergency, force majeure, accident, Coronavirus (COVID-19)

INTRODUCTION

Definition of force majeure in Iranian and British law

Force majeure are events that, if fulfilled, will exempt the person who has undertaken obligations.¹ Force majeure is a word from France as a superior force. In English, the term is often used in accordance with its French literal meaning, but it has other uses, such as sentences that are rooted in a French law principle. ^[1] In business circles, the force majeure describes uncontrollable events (such as war, work stoppage or outbreak) that are not the fault of any party, making it difficult or impossible to carry out normal activities. The Force Majeure incident is used as an equivalent of Cairo's power to discuss the barriers to civil liability and claim damages for non-compliance. Some explicitly put the force majeure equivalent to that of the Cairo branch and write: "The term Cairo force or force majeure is not merely coercive and natural events such as floods, earthquakes and storms, and has a broader meaning. In fact, the Cairo branch is an incident that is external and cannot be committed or committed, 1-

unpredictable and the person does not expect it to happen by habit, 2- unacceptable and the person cannot avoid it. ^[2] Force majeure is an unexpected and unexpected event and one of the most prominent examples is natural disasters such as floods, earthquakes and the like. ^[3] These unanticipated events are barriers to civil liability. In other words, the intervention of the Cairo power cuts off the causal relationship between the read and the loss. Therefore, when

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the accident is not attributable to the Reader, the Reader is not responsible for being liable for damages. Force Majeure is a completely unforeseen event that cannot be prevented, in other words an unavoidable event that can lead to liability and sometimes cancellation or suspension of contracts. For example, declared war or not, General strikes, outbreaks of contagious diseases, earthquakes, floods and anomalies, unprecedented droughts, widespread wildfires, storms and the like are among the major force majeure cases. Even if all the necessary care is taken, the Force Majeure French Terminology Force cannot be prevented. Majeure), which is referred to in the English terms as "superior force" in the contract, which allows the parties to suspend or terminate the performance of their obligations when certain circumstances arise out of their control. That should be stated and how compensation is negotiated between the parties. A list of force majeure events that may include war, riots, fires, floods, storms, earthquakes, lightning, explosions, strikes, sieges, deceleration, long-term power shortages, illness outbreaks, so if a storm It has closed a port, the seller intends to ship its goods through that port, and will not be responsible for late delivery.²

Definition of Emergency in Iran and UK Law:

Emergency is a trait that drives the perpetrator to the wrong verb due to intolerable and unbearable conditions Emergency In the Arabic word, the root of the verb means to be in need, helpless and inevitable. And being forced to come. Emergency means helplessness, inevitability, helplessness. Anxiety is something we can't wait for like when we are hungry.

Emergency, according to Dr. Jafari Langroudi, is a situation in which there is no threat, but the situation is an act in which one, despite his lack of satisfaction and willingness to do so, records that situation in spite of his innate desire to do so. By a specific intent and consent (called interactive satisfaction in civil law) he or she performs that transaction or work, and this amount of satisfaction is the minimum satisfaction that is a condition of contractual influence.

Dr. Mehdi Shahidi, Professor of Civil Law and Author of Law also states that stress may be caused by economic, social, physical, emotional, emotional, or natural and unexpected events. As it is possible that an emergency is a result of pressure and a threat posed by someone else, the threat is not directly an emergency, but it is inevitable to avoid the effect of the threat. It works out.³

Public jurists have also said in the definition of an emergency: "An emergency is to reach a level where one would not die if something was not forbidden."⁴

In UK law, an emergency is an unexpected, difficult or dangerous situation, or a sudden, generally unexpected, or set

of circumstances that call for urgent action. In the UK, an emergency is a situation in which a government is authorized to take actions or policies that Usually not allowed to do so. Emergency Hazardous or serious situations, such as an accident, occur suddenly or unexpectedly and require immediate action to avoid harmful consequences

Force Majeure Conditions

In order to fulfill the force majeure requirements, both Iranian and British law have usually stated three conditions:

1. The accident must be inevitable:

An accident is considered a force majeure that is unavoidable and in other words unavoidable. In fact, fulfillment of the obligation becomes impossible with such an event, and no one is bound to do the impossible. In Iranian law, Article 229 of the Civil Code and in French law is said to mean impossibility, not absolute or personal impossibility. It means a force majeure event that makes it impossible for anyone to enforce the obligation, not just for the commitment and due to his weaknesses and abilities in American law, it seems to have been accepted as well, for example by some votes. That a loss or bankruptcy which is one of the personal impossibilities will not cause him or her to be justified. But in some jurisdictions, relative impossibility may also be a force majeure; for example, in German law, Article 221 of the Civil Code provides for a relative and personal impossibility if it is not attributable to the person liable and foreseeable at the time of the marriage. The ruling knows that impossibility is absolute. The UN Secretariat's report on Cairo's power in international law also views extremism as a theory that considers absolute and objective impossibility to be a major force, especially if it is general in scope. The impossibility may be physical, such as the case of floods and earthquakes impeding the implementation of the obligation, or legal, such as the impossibility of a new law or administrative decision prohibiting the export or import or expropriation or nationalization of the undertaking.

2. The accident must be unpredictable:

In some countries law is considered a force majeure event that is unpredictable to the person at the time of the contract; if it is foreseeable, it is obliged to take more precautionary measures and eventually it must Refusing to enter into a contract will not disclaim liability. Of course, being unpredictable does not mean that the event has never happened before. All unforeseen events are predictable in the same sense. The predictability of the whole is not unexpected here. When unpredictable, the event is unpredictable. For example, an earthquake in a non-earthquake-prone area is considered an unpredictable event, in other words, an unpredictable event that is unusual, sudden, and rare. It is unpredictable in most countries; the difference with British law is that Lice does not consider it necessary. In this country, a foreseeable event may also lead to contract expiration and a fall in commitment, although the event is unpredictable in

² United Nations Secretariat Report (footnote 1): Ex 18, p. 27. Cairo Force Majeure

³ www.collinsdictionary.com/dictionary/english/state-of-emergency

www.contractstandards.com/public/clauses/force-majeure

⁴ See Civil Rights Lessons: Vol 2, Part 1, p. 122. United Nations Secretariat Report: p. 11

proving that a fundamental change in contract has occurred at the will of the parties. As a result, the first contract has been canceled, the UN secretariat report said: The incident should be unpredictable or predictable but unavoidable or unavoidable, and "one must emphasize that one is enough. There are two conditions." In the case of international commerce, too, the foreseeable event of a major force realization is not predictable. In Iranian law, both of these theories can be defended. It may be said that since Iranian civil law in the field of Cairo is inspired by French law, it cannot be said to be "outside its jurisdiction" if it can be foreseen, or failure to comply with the obligation arises because "It cannot be relied upon" and since the principle is the survival of the pledgee's liability in case of doubt, so an event that is predictable is not considered a force majeure and will not cause the pledgee to be liable. And it may also be said that such a condition has not been provided for in civil law and should not be added to the conditions provided by law.

3. The incident must be external:

It is often said that the incident is considered a Cairo branch that is external to, and more accurately, outside of its area of responsibility. Therefore, the fault of the raw materials or the fault of the committed staff is not considered to be Cairo's power, although it is unpredictable and unavoidable. Article 228 of the Civil Code of Iran stipulates that it "violates the obligation to do so when it is convicted of damages for failing to prove that the failure to do so was due to an external cause which cannot be exercised". French civil law, which has the same wording as Article 228 of the Iranian Civil Code, is useful in saying, "Foreign cause which cannot be attributed to a pledge". Thus the concept and territory of the condition is debatable, and some French scholars have been particularly skeptical of French law. "They might say that failure to do so may be due to an external accident," Weil said. But the condition of being an outsider accepted in the field of out-of-contract liability is in the context of an untrustworthy contract. Undoubtedly, the flaw of what is used to execute the contract does not justify a commitment. The agreement is tranquil; but it is the condition of being external when problems arise from one's behavior, and to a lesser degree. Of course, the fault of the committed worker arising out of another but non-foreign person will never result in the employer being exempted from responsibility because, as we know, the employer is responsible for the work of those persons who have fulfilled his obligations, but this rule does not prevent The strike of the wage earners is the reason for the exemption while it is happening inside the committed firm. In fact, once a person clearly plays a mediating role, it is difficult to distinguish between internal and external. Bearing in mind that committed unemployment is the justified reason for not practicing religion and restricting this foreign condition, it can be argued that the condition of being foreign is a matter of debate, and perhaps this is why in the report of the UN Secretariat after It should be noted that "the incident must be out of control and not committed by the

controller": the first condition does not mean that the event or event constituting the force majeure must be completely outside of the person and activities involved; The key element in a force majeure event is not whether the verb or abandonment of the verb is committed or out of it, but whether that verb or abandonment is not attributable to the committed as a result of one's own voluntary behavior. In addition, the UN Secretariat's report notes the particular difficulty of the event's externality in international law: the requirement that the force majeure must be an extraterrestrial event is not always easily proved in international relations; Because, as has been said: the broader the society that relies on Cairo, its external factors are more limited

Emergency Conditions

1- The current or imminent severe danger:

The first condition for an emergency to occur is the existence of severe danger. In other words, it is addressed to a distressed person when he or she is in extreme danger and unbearable. So if the danger that threatens a person is minor and tolerable, that person is not harmed. What is certain is that if the danger actually exists and cannot be claimed in another language, just to claim it. Jurists have pointed to the danger of intolerance and intolerance. Also, the risk of being licensed to another must be present or imminent and cannot be attributed to others in the light of possible risks. it may be of rational origin, and it may not be forbidden by act of illusion and probability.⁵ It can then be said that all jurists have considered the act or imminent danger of extreme danger necessary for the realization of an emergency. The actuality of an imminent or imminent danger is determined by the particular circumstances and circumstances of each case. It is a time of imminent danger, so reacting to a risk that has already existed or a risk that may arise in the future will not justify the action thus preventing someone from damaging the flood that has engulfed his garden and farm. Inevitably, demolition of the adjacent owner's wall will not entail any punishment. The transitional law has also pointed to the current imminent threat of compliance with jurisprudence in the formulation of Article 6 of the new Islamic Penal Code and Article 55 of the old law

2- Does not cause the danger intentionally or is not caused by the fault:

The most important thing that gives the person a verbal immunity is the state of danger that the person is in danger of, and this is achieved when the person is not a risk-taker and if he or she created a risk by himself / herself. In the Holy Qur'an, the term "non-garden" means that there is no need for oppression by transgression or transgression of God's command. Famous non-gardeners of the Wahd al-Awd al-'Atham against the Godfather of Rahim. Therefore, anyone who is forced to eat them without any intention of violating God's command.

⁵ See Civil Rights Lessons: Vol 2, Part 1, p. 122. United Nations Secretariat Report: p. 11

According to Islamic Penal Code, anyone who commits a crime in the event of extreme danger such as a fire, flood or storm to save his life or another shall not be punished, provided that he does not intentionally cause the danger.

According to the Islamic Penal Code, a person can invoke an emergency if there is no intentionally harmed person to dispose of it. Therefore, if a person deliberately creates an emergency situation for himself / herself, he / she cannot benefit from the emergency permission of the law enforcer. In order to fulfill the emergency, not only is the danger not intentionally created but the danger is not the result of his / her fault. Therefore, if the danger arising from the fault is the fault, he cannot avail himself of the injunctions. For example, if a person is aware of the technical defect of the car and traveling with that vehicle and as a result the same defect has to be inflicted on another, it should not be considered harmful because the damage was due to the same fault: because it was itself defective. The car is short and he is responsible for it.

3. Appropriate risk-taking action:

Another condition of the state of emergency is that the action taken by the hazard to discharge the hazard must be proportionate to the hazard. In other words, the state of emergency cannot be fulfilled unless the act of committing the hazard is proportionate to the existing hazard and as a result the necessity must be sufficiently repelled. Don't let those excesses go away. ^[4]

In the Qur'an's interpretation, the Qur'an should be non-garden-based, ie oppressive and not violating God's command. In this verse God does not blame anyone who, as a matter of urgency and contrary to his inner desire to eat such things (manna, blood, pork, etc.), is guilty of any harm according to the rule of "Necessity". In the state of emergency it is possible to commit a forbidden act but it is not free in this act and it should be committed as necessary and proportionate to the danger of the forbidden act. There is another rule, called the necessity of excessive force, according to which an act of distress must be proportionate to the danger and the threat, no more. The Islamic Penal Code also explicitly states that the behavior of the perpetrator is at risk, so that if the act of committing an act is not commensurate with the risk, he will not be able to invoke the injunctions. They have also raised the risk. For example, a scholar in the Shari'a al-Islam has said that what is permitted in the emergency is to keep the thief violated because it is intended to protect the soul. Or in the discovery of al-Hulam and Tahrir al-Hikam, that the amount of habeas corpus is in the same state as the barrier of thieves and it is forbidden to do so. Therefore, the jurisprudents of Imamiyyah have not permitted a breach of the amount of necessity and necessity; therefore, if the act of committing a misdemeanor is not commensurate with the amount of necessity, it cannot be invoked.

4. It is necessary to have an emergency or emergency action to eliminate the risk:

Another condition that the act of abuse is subject to legal exemption must be that the protection of one's life or property or otherwise be in breach of the legislature's order, that is, the act that the act does to eliminate loss must be necessary. Emergency or Emergency will have the meaning when it is not possible or effective to eliminate the risk of using other means than to commit harm in other words, that is to say, the only way to avoid danger in a state of emergency is forbidden; Other than possible harmful action, the risk taker may not use an emergency exemption, although there is no imperative risk of harmful intervention. The homeowner removed another coat to extinguish that great Besta fire Bad and causing the coat to burn, given the volume of the fire from the outset it is clear that his action did not affect the fire. His act is considered unnecessary. In Islamic Penal Code it is expressly stated that the act of committing or harming another was necessary to evade danger. If it is not necessary and his action is not in a state of emergency, he will not be exempt from punishment.

5. The danger is not in accordance with the duty or the law required to deal with the danger:

Another requirement that the act be subject to legal exemption is in Note 2 of the new Islamic Penal Code, but it was not stated in the former Penal Code that the act is not a danger or a duty required to deal with danger, so it is If the threat is due to a duty or a law obliged to deal with the danger, it cannot refuse to perform its legal duties by urgency. For example, firefighters who are on duty are required to extinguish fires on the pretext of necessity and risk aversion. Of course, where these people's lives are at stake is a contentious issue. Some jurists believe that the argument of self-sacrifice is based on the necessity of self-preservation, that is, the preservation of one's life over the duty prescribed by the law. The jeweler is debating where two persons are endangered and fearing their loss. And one of them having food has stated that it is not obligatory for another to eat unless the other is a prophet or a prophet whose life is first over the owner of the food.

Some jurists have argued that in cases where self-preservation is at odds with the duty of self-preservation, this is the case with the incumbent, and that we should first seek a favor by the rules of incarceration, and if not, we will reach the intellectual circle. That is, the person becomes secretive either to save his life or to save another's life.

It seems here that because the issue of preservation of life is exceptional in cases where a person is required by law or duty to take a risk, and in fact to the extent that the person is obliged to perform his duty so that his life is not at risk; In cases where a person's life is in danger, the person responsible for the hazardous situation is recognized and can be evaded by resorting to the rule of emergency

The effect of force majeure and emergency in Iran and England

Under Articles 226 and 227 of the Iranian Civil Code, force majeure is an incident that cannot be attributed to the obligee, whether it is related to the territory of the activity concerned and is considered to be unexpected or merely due to external factors other than the liability. Force Majeure and Emergency may result in a breach of contract or cancellation or suspension of the contract and may result in a waiver of liability and may not be due to non-compliance with the claim.

In Iran and the UK, many contracts provide foreseeable force majeure and include clauses relating to force majeure and emergency conditions that, in the event of a force majeure event or emergency, affect performance related to the contract. To determine. Economic events, such as market crashes or price increases, are explicitly taking into account force majeure events. However, market crashes can occur as a result of natural disasters and major disasters that may occur in the event of force majeure. These clauses and rules envisaged in the contracts allow for the termination of the contract in the event of force majeure events. It is the contractual provisions that allow a party to suspend or terminate the performance of its obligations when certain circumstances arise out of their control, rendering the performance indecipherable, business impracticable, unlawful or impossible. These clauses and laws may state that the contract is temporarily suspended or terminated if the force majeure event continues for a time, here are examples of force majeure events occurring worldwide and affecting Legal agreements have been effective. For example, Alibaba is one of the largest tourism companies in Iran due to the spread of the Coronavirus (COVID-19), citing Force Majeure, booking hotels and tickets without asking customers. And it has canceled out the damaging users and also the Sandy Storm has caused our companies Ned Motiva took unprecedented action on force majeure events, and various oil companies announced force majeure events related to operations in Nigeria and Angola, saying they were unable to fulfill their contractual obligations due to out-of-control incidents. They believe that if the force majeure and emergency situations are foreseen in the contracts, one can easily compensate for the damage after the accident and in fact be liable to the other party. The RVS Community Service has been in the UK for over 70 years through trained volunteers for community support and emergency services as well as providing a wide range of support services to the elderly through mobile hospital, community support services in local communities. And those who have no means of transportation and other socially isolated people in key areas of the population work under the guidance of trained local team leaders to help with power outages, flood conditions, train rail or other emergencies. It also helps older people get back into their lives with emergency support by linking to local services in times of emergency. They also provide welfare services in cooperation with the government and the Welfare Organization in Iran during the Force Majeure and

Emergency Situations to make it easier to deal with the Force Majeure and Emergency Conditions. It has spread to all countries of the world, including the United Kingdom and Iran, and has claimed the lives of many people. Be the Ministry of Health of the two countries by formulating policies and setting standards at the organizational level Helps control and control infectious diseases. One of the main tasks of the government is to plan for the epidemic of influenza and human viruses. At the NHS, UK public health professionals work with government support and advice on how to protect health; and ensure effective local and national regulations are in place to respond to health care concerns and emergencies. The UK Civil Rights Opportunities Act of 2004 is mandated for people with public health crisis systems to tell people information, and the NHS board believes that a better informed community can respond to emergencies and minimize Emergency impact on society. The Civil Rights Contingency Act has two responsibilities in responding to UK public health crises, the first being to alert people to the dangers and possible emergencies and threats and the second is the organization's response to the government in times of crisis. For example, shortly after seeing the first person with coronary artery disease in the UK in 2019, the organization released people with viruses, health tips and medical advice to help them stay safe. The harsh conditions created by Iran and the UK and globally following the spread of the Corona virus have caused a great deal of damage to all businesses and will create a force majeure situation in both countries and, of course, the world. Governments and support agencies in countries are developing a process for people to overcome the crisis. For example, the Central Bank of Iran has announced that the maturity of loans and facilities for some businesses has been postponed, so installments have been decided. Business facilities that are in trouble due to the Corona outbreak and are transferred to the end of their installments without any penalties or fees.⁶

State of Emergency Jurisdiction in Iran and England

The importance of litigation, especially in countries that have not explicitly adopted the law in their laws, is also far greater than the law itself, since the task of instituting or defending a lawsuit must in any case be ascertained. A blanket law based on negligence or negligence by lawmakers in the sense of urgency must be filled by judicial practice. The British courts have justified the practice of distress and have not had the strength to resist in their jurisdiction. As will be seen, terms of urgency and coercion are often used interchangeably.

It is common practice that the law of the place where the harmful act is ruled prevails. For example, if an Iranian accidentally travels to the United Kingdom and is harmed by it, English law will govern this lawsuit and determine the amount of damage. Now, due to the silence of the Iranian legislator, as with other legal discussions, Bob has been open to various comments and suggestions. One of the suggestions

⁶ See Civil Rights Lessons: Vol 2, Part 1, p. 122. United Nations Secretariat Report: p. 11

made in this regard is the law of the scene of the accident, where the harmful act occurred. The law of the seat of the court is another suggestion, that is, a court dealing with a litigation of responsibility that reflects the principle Regarding the law of the court and the law of the place where the harmful act took place, it must also be said that both laws must be considered inadmissible in order to be heard. The most appropriate law, among its conflicting laws, is the law. Ruling is a civil liability litigation that is the most appropriate law in light of the circumstances of the litigant's status and position.⁷

CONCLUSION:

According to the definition of force majeure and emergency in Iran and Britain and the conditions for their realization, it can be concluded that if the force majeure conditions are met in both countries, there will be a great deal of damage to governments and people and a way to prevent them. These conditions do not exist, as stated by Force Majeure and Emergency, which may result in the breach of the obligation or the liquidation or suspension of the contract and may result in impunity and cannot be claimed due to non-compliance with the claim. Bringing force majeure and emergency clauses into contracts and forming popular support associations such as the organization The (Basij) in Iran and the NHS in England aimed at helping people recover from incidents. Like emergencies and force majeure, the worldwide outbreak of coronary disease (Covid 19) or storms act as a good reminder of the importance of force majeure straps. Catastrophes happen regularly, whether natural or human-induced, such as terrorist acts or war. Many agreements include the language of what the contractual obligations will be if a disaster or other unexpected event occurs outside the control of the parties. These rules are known as forger clauses. From the foregoing, we will note that there is an urgency or necessity for one who inevitably has the power to quit, to quit, or to act, so the disadvantaged person has no will. Whenever a person is able to avoid the crime but not to avoid it and commits it, he must inevitably incur other damages and indemnities, however the force majeure means the general meaning of an incident which cannot be related to the obligation (Article 227 Iranian civil law) whether related to the territory of the undertaking concerned and considered to be "unexpected incident" or solely due to extrinsic factors separate from the undertaking. In English law it is not clear, however, whether quasi-contractual liability can exist In some cases, it seems, the courts seem to be reluctant to exonerate them. The petitioners are unwilling to seek damages to the plaintiff in some way and to be compensated. In this case, the liability for the distress is limited to paying for what it has lost which would normally be less than the loss to the owner. In Iranian law, although the laws are in the jurisprudence's view, the legislator has accepted and accepted the jurisprudence's

acceptance of such cases. Venice has considered it penetrating and legitimate.

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