Compensation for Innocent Accused and Wrongfully Convicted the in the Legal System of Iran and Canada

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Abstract

Compensation for the Accused and convicted whose innocence is proven by obvious consequent factors is one of the challenging issues in private and criminal law. In the past few years, Iranian legal system has experienced positive changes in the compensation of acquitted accused but until now, no coherent mechanism is foreseen to those who have endured part or all of the sentence and their innocence has been proven. This is contrariwise in the Canadian legal system and only innocent convicts who have served part of the wrongful sentence are deserving to compensation. Rational logic and justice along by the general rules of civil liability and the text of the United Nations International Convention of Civil and Political Rights demonstrate that compensation of two above mentioned damages in all legal systems are necessary. In this research, while investigating the international binding rules governing the subject, we try to provide an integrative theory included of eliminating deficiencies, changing extant rules, and legislation by a comparative study on legal systems of Iran and Canada to more realize the fairness and justice.

Keywords: Wrongful Conviction; Judicial Mistake; Compensation; Innocent Accused and Convicted.

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Bibliography

A) Book & Articles

- Ashoori, Mohammad (2016). *Criminal justice (Collection of Articles)*, Tehran: Ganjedanesh Publication. [In Persian]
- Maqrebi, Ghazi Naman (1963). *Principles of Islam and Expression of Halal and Haram and Theorems and Provisions from the Ahl al-Beit of Prophet Mohammad (God bless him and his family and grant them peace)*, Qom: Daaralaamaref Publication. [In Arabic]
  Law Views Quarterly (Law Views)*, Vol. 16, No. 2, p. 84. [In Persian]
- Moradi, Majid (2012). “Publication of Convictions of Defendants and 
  87. [In Persian]
  Publication. [In Persian]
- Nowak, Manfred (2005). *The International Covenants on Civil and Political 
  Rights and on Economic, Social and Cultural Rights, in: The Essentials 
  Publication.
- Patricia Mijares, Laura (2012). *Compensation for Wrongful Convictions: A 
  study toward an effective regime of tort liability*, Toronto: Graduate 
  Department of Faculty of Law, University of Toronto.
  Law”, *Law and Political Science*, Vol. 74, No. 74, p. 156. [In Persian]
- Sefani, Gereg; Gorge Levasseur & Bab Bouloc (2004). *Procedure Penale*, 
  Paris: Dollaz.
  Accused and Convicted; Legal Position and Practical Process”, *Legal 
  Bina Publication. [In Persian]
- Tiberg, Hugo (2010). *Compensation for Wrongful Imprisonment*, London: 
  Criminal law review.
  Type of State Responsibility for Its Staff Actions”, *Quarterly Journal of 
  Wrong Convictions*, London: Criminal law review.
B) Document

C) Website
- “Canada’s prison system doesn’t support life after exonation Stern”, (Accessed: 1<sup>st</sup> September 2018), Available at: https://tvo.org/article/current-affairs/canadas-prison-system-doesn-support-life-after-exonation.