

## **The Effective Factors to the Imprisonment of the Innocent Person**

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### **Abstract**

The reasons of imprisonment individual existents in some forms and different aspects: sometimes this individual is imprisoned with the complaint of a claim and sometimes imprisoned by the provincial governor on charges of personal sin or social or political and sometimes imprisoned by the oppression governor and sometimes by the righteous governor, also, sometimes the imprisonment is about the testimony of witnesses that the witnesses lied clear to deliberately or wrong and sometimes the cause is about the science of judge which found to be mistaken later. That here explain some of the main reasons for imprisonment of innocent person.

**Key words:** innocent person, prison, law, moral damages, detention

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### **Introduction**

This paper examines the factors contributing to detention and imprisonment innocent from the perspective of law and jurisprudence. In this paper tried to taking the reasons of religious and legal rules which implies the liability that we express. And put them as a basis to emphasize the necessity of personal compensation that their innocent dear life spent in prison as long time or even years, this may be a relief to compensate for the pain and suffering that they are innocent to endure them.

### **The Wrong of Judge**

According to jurisprudential rules mentioned anyone is liable to compensate his action for damages caused to another. The legal rules have been adopted in the legal system of world. On the other hand judges also are not immune from mistakes as the verdict and its implementation, and in accordance with the abovementioned rules requires to indemnification of damages caused from the issue which are the wrong ideas. Judgment may arise in three cases which led to the wrong verdict: The occurrence of errors in the verification of facts: Sometimes the judgment files and documents of the case result with the false conclusion; For example, a criminal judge considered the accused culpability by adducting the testimony of witnesses and vote on his conviction whereas the testimony of witnesses were inconsistent in some respects that rationally and logically could not be the basis to authentication of culpability. The occurrence of error in the warrant documentation and its subject so that does not entered damage on the basis of sentence; Such as: In subject a charge of a car accident resulting in injury, The expert driver have been guilty of fifty percent and have been guilty of fifty percent the pedestrian (injured) and the judge accepted the expert opinion and mentioned it as documentation warrant, inadvertently sentence the sentenced person to pay all blood money or about a broken bone of the foot that welded joint is healthy, according to the relevant article (442 Penal Code); inadvertently the amount of blood money calculates based on the welded joint bone that is damaged, Or inadvertently displacing the plaintiff's name and sentenced person in the petition. The occurrence of error in the warrant documentation and its subject so that entered damage on the basis of sentence; such as criminal committed acts is against the betrayal in the loan by the sentenced, the judge assumed it as stealing and the sentenced person sentenced to the stealing punishment and the nasal bone fracture calculated in sentence to pay compensation with regard to Legal Medicine. But which of these errors mentioned in Article 235 of Procedure Code in public and revolutionary courts placed in Criminal affairs, it should be said first and second type of errors is not resolved within the scope of Article 235 and this matter only is current in a third type elimination of mistakes; thus, where a judge has mistaken in authentication of facts, elimination of them is possible with just a revision of the voting and the ordinary or exceptional object (fail you, appealed or, restore justice and applying Article 31). The second group of mistakes also are not included in Article 235; in such cases, the sentencing judge correct his mistake by issuing the corrective vote, or the judge responsible for the revision, with the approval of this brutal sentence. The Article 250 of the Criminal Procedure Code in Public and Revolutionary Court has written about this: "If the vote is bound to reconsider the wishes in regard to calculation of damages or determine the characteristics of the parties by determining the type and amount of punishment and matching the action by law or defects, such as them, ensure the error which does not damage to the base of vote, The revisionary Who will be proceedings in appeals, while confirmed the vote will correct it; therefore, the third type is the subject of Article 235 errors that will talk about how to fix.

### **The Inadmissibility of the Sentence**

Lully of your document narrated from the Imam Ali ( upon him be peace) that he said: the Mercy Hand of Allah is above the justice moving, so the mercy hand of the Lord take of his head when the judge ruled inadmissible and he is alone. That the imam makes a mistake in that amnesty is better than to mistake the penalty »; the meaning and the provisions of this rule is that the accused be punished only if the judgment is correct that is proven the offense of his action and the text of the sanctions is consistent with the crime. So if you doubt about the accused of offense or alleged to be criminal in accordance as a crime with the act, , should be acquitted the sentence to accused, in the

case of doubt, the innocence of the accused to a better in society and is more deserving for administration of justice.

#### **The Error of Judgment**

Abu Basir narrated that said Imam Baqer (peace be upon him) said: everyone verdict to wrong and unjust in 2 dirhams (with all quantitative) it is disbelieve (the meaning of this unbelief, unbelief is obedience). Moavieh ibn Wahb narrated from Imam Sadiq said: each judge who decide between two and goes to the wrong way is falling to earth from faraway of sky (for example, the degree of closeness to God which has fallen down somewhere so far away from sky to earth).

#### **Perjury (force)**

The testimony of force composed of two words, the witnesses and force that testimony means expression and news, and force means falsity and futile and force testimony in literally means perjury and false testimony and in the means of giving falsity testimony and despite the fact is for loss of life and property or received other property or analysis of unlawful and solvent sanctions. Testimony of force is prohibited and the Koran forbids it and put doublet it to Shrek and is one of the most despicable acts and one of the huge committing that cause the deterioration and lack of justice;; who was an observer during the event, and at the time of discharging the content implemented the reality as Knowingly and working In the courtroom And cause to sentenced the unjustly sentence which pointed to the article of 650 BC. D: Everyone in the court, give false testimony to official authorities to three months and a day pp. to two years in prison or will be condemned a fine of one million and five hundred thousand to twelve million dollars. This is the offense in terms of public nature and is punishable in terms of private aspect.

#### **The Knowledge Falsity of the Testimony of Witnesses after Implemented the Sentence**

The Judgment's sentence violated, when the falsity of the testimony of witnesses will be known after implemented the sentence and the same renowned financial returned to its owner if it remains. In case of it is lost, witnesses guarantees indemnification of damages which caused on evidence against them; but if the evident is about non-financial or retaliation, will be dealt with false witnesses as the case and so to something if the witnesses have testified that causes the performance of execution or the proof of extent is against on evident, in the request of the victim's next of kin or demand against the evident have been taken punished of witnesses or in case of impossibility to demand the punished sentence or obtain the blood money of witnesses In this case, chastising also is necessary to witnesses in addition to blood money; so in this case if the witnesses testify to something, which causes stoning, murder and retribution and evident dead against the carrying out the punishment; in the request of the victim's next of kin, witnesses are killed about retribution and the blood of the crown evident against the need to pay additional blood money to the heirs of witnesses and if that evident is punishable about to the steal extent and the thief's hand is cut off, evident can be Request to interrupted the hands of both witness, but must pay additional money to the witnesses. But in this case Hanafi and Maleki jurists only have been made to the necessity of blood; but the witnesses testify to something that causes the implementation of extent volume on the evidence; Is given the extent subject extrusion on the witnesses because of the subject extrusion of evident and his desecration, and if the evident injuries about the implementation of extent, witnesses must pay dabble of their crime to him; But if evident die about the implementation of punishable by flogging, Shafei believes in the necessity of the witnesses because this is a case that the agent person attempted to the killing. Malik and Abu Hanifa have been witness to the lack of liability in this matter; because the cause of death is the multiplication not the testimony of witnesses; but the companions of Hanafi believe to pay compensation of the liability witnesses. When Shiite jurists testify to the false witnesses and cause the necessity issues to evident and he died as a result of the implementation, If the sentence is not often fatal for people like him, about the sentence that have blood money to false witnesses on the necessity of their chastising.

#### **The confession to the Preceded forced:**

According to Shiite clerics, confession is his attribution, no moral or physical duress; in other words, the confession is preceded by compulsion of any validity and the effectiveness of legal. Allameh Helli, said in this case: If the guilty confesses, is not penetrating his confesses. Not proving the extent and does not create any financial compensation; therefore, if accused to their theft then is discovered the stolen financial, Sheikh Tusi says: his hand will be cut off; but some of the scholars say: his hand will not be cut off; because it is possible to reached his hand of non financial stealing and this word is very good. "Shiite traditions are used that has not effective on the confessions with threats, detention or physical harassment. Imam Ali (as) says about this case: "Everyone confess of the whipping or imprisonment or the threat or fear, is not running any extent to him. Soleyman ibn Khalid says to Imam Sadiq (AS) about thieves first denied later beat her and brought stolen financial, It is necessary that the governor asked to cut off his hand? Imam said yes; but if do not confess, and do not brought stolen financial, his hand was not cut off; because his confession is about torture.

#### **In Positive Law**

Furthermore, Article 38 of the constitution of the Iranian Islamic Republic, Article 1262 of the Civil Code and Article 233 of the Penal Code also provides explicitly confession to health conditions and coercion and compulsion leads to corruption and its invalidity. Article 1262 of the Civil Code states: "confession should be mature and wise and sovereign and herald, so the minors confession and insane is not effective about the frenzy and herald." And Article 233 of the Penal Code, stated: A confession is valid that confession has completed the following: 1- Wisdom, 2.maturity 3. Option 4. Intend; therefore, confession crazy and drunk and had children, and those who is not penetrating intelligence like Sahy and Hazel and Nayem. According to the subjects mentioned are certainly preceded by confession forced in the regulations of Iran which have no legal effect; but the next question is that compulsion of persons and how are forced the individuals and what's degrees; in other words, how is the

reluctant terms and conditions to define. To investigate this issue should be referred to the articles of 202 to 208 of the Civil Code. Terms and Conditions of compulsion are in this case: Any threat or threat of compulsion is not considered of persons; but the compulsion comes to things that affect to a person's intelligence and normally will not be tolerated. The criteria for the diagnosis of the state are reluctance tradition; in other words, reluctance has personal state and in any case should be measured in terms of tradition about it. Hence, the reluctance violent acts should be considered in their age and character, ethics, and gender of the person. In reluctance may be threatened life or property or reputation of himself or his close relative such as a husband and wife and children, and his ancestors that each case, the degree of reluctant is depending on the influence of legal. If the threatened person is able to overcome disadvantage or know that threatens is not able to run the threat, reluctantly cannot be implemented, because this is normally tolerable. And also about someone who has a compulsion to confess against himself; But if one person does not have to confess against himself or getting promise in exchange for his confessing, and is required to compensate damages. Such as police officers promised to release the accused he to make the false lured confessions.

### Being Accused to Undue

Sometimes it happens that someone accused the persons about his pony personal and from the personal to the accused who did not commit the guilty and complained him and caused him go to jail. And sometimes happens that due to misleading the right, or for any other reason, know the innocent person as guilty and sent to prison; In which case the appellant was liable of damage to accused and can referred his innocent person. we entered about the verses and hadiths to some of the immediate point that is necessary to reduce or prevent the imprisonment of innocent people; so taking accuracy in levels of research steps as long as there isn't sufficient evidence to obtain his criminal and avoid of arrested him and the imprisonment of someone who has not proven his guilt, deserves him in separate environment because the innocent person less suffering from his emotion and is away of the negative effects of prison environment and if the person is acquitted his innocence announced consecutive or intermittent in the mass media to a long few days.

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