Responsibility of the Supreme Court in Systematization of the Interpretation of Criminal Statutes

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Abstract
Interpretation of the statute is essential to reason. Therefore, the constitution, on the one hand, implicitly grants the Supreme Court the jurisdiction of interpretation of a statute and, on the other hand, has transformed the exercise of such jurisdiction into a responsibility through the exercise of the duty to supervise the proper implementation of the statutes and unification of judicial procedure. The interpretation of statute means the process of understanding the intended meaning of the legislature, requiring a coherent system of norms, presumptions, and guides. In interpreting the criminal Acts, in addition to applying the general elements of this system, it is necessary to consider some of the other terms and conditions. The Supreme Court, despite nearly a century of experience in interpreting statutes and control the quality of their understanding in other judicial authorities, has not yet presented a clear and strategic approach to the interpretation of the statutes and has not adhered to specific norms, presumptions, and guides for interpreting criminal Acts. The interpretation of the Supreme Court of Criminal statutes is sometimes principled and instructive, and it sometimes departs from the rationale of the law and the purpose of the legislature under the influence of practical considerations. This article, by analyzing a few examples of the latest procedural unification judgments, has shown the Court's unplanned method to exercise this jurisdiction/responsibility.

Keywords
Statute Interpretation, The Supreme Court, Jurisdiction, Responsibility, Procedural Unification Judgments, Proper Enforcement.

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The Legal System Governing the Deprivation of Liberty at the European Court of Human Rights

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Abstract
Deprivation of liberty has long been prevalent in all countries and legal systems. However, International documents, while making provision to protect the interests of law-abiding society and citizens, have endeavored to enforce the terms and conditions of its proper and lawful implementation. Among these international documents, the European Convention on Human Rights has set out a legal system governing all forms of deprivation of liberty, and the European Court of Human Rights has specified the rules and procedures for its application in its judgments. According to this legal system, the right to liberty is one of the primary and basic human rights that all individuals enjoy, and any deprivation of liberty by individuals as a violation of this fundamental right is against the principle and must be restricted to exceptional and necessary cases. Restrictions and in these necessary cases, the deprivation of liberty of persons must be in accordance with the provisions of the Convention as well as the domestic law of the Member States.

Keywords
Deprivation of Liberty, The European Convention on Human Rights, The European Court of Human Rights, Legal System, Security.

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Protection of Defendant's Rights in the Criminal Procedure in light of Public Choice Theory

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Abstract
Public choice theory could be defined as the study of Politics based on economic principles. This theory generalizes the assumptions of market behavior of individual agents such as rationality and self-interest maximization to the behavior of public enforcement agents like criminal justice officials. According to this theory, these authorities would not always behave in line with the interests of society and might be tempted to pursue their own self-interest. This could lead to the breach of the defendant's fundamental rights, an increase in the number of false convictions, and would impose irreparable costs on the criminal justice system. In this paper, we seek to answer this question of why it might be desirable for the criminal procedure to be strongly biased in favor of the defendant. Based on public choice theory, the pro-defendant procedure would make it more costly for the self-interested officials to use the criminal process to obtain their own ends. It would also provide a mechanism for preventing the rent-seeking behavior of such officials. Constraining this sort of behavior is likely to direct the criminal justice system to promote social welfare.

Keywords
Public Choice Theory, Rent-Seeking, Economic Analysis, Defendant's Rights, Criminal Procedure.

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The Role of Mens Rea in Causation

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Abstract
Causation in law is a relationship that provides a means of connection between the conduct and the harmful result. Today, in many legal systems, the study of this relation (more than the attention to material elements) is based on the criteria for assessing the culpability of behavior. On the one hand, the Sufficient cause view tends to rest on legal concepts of intention and fault as a diagnostic criterion to legal cause with similar foundations in Islamic jurisprudential texts, is the base of discussion about causation in the Islamic criminal law, and on other hand, the unbreakable amalgamation of the concept of legal causality with customary standards in most legal systems, including the Iranian legal system, makes it increasingly impossible to separate between the mens rea and causation. In summary, the form of the causal relationship in the Islamic Penal Code can be explained as follows: the criterion of Sufficient cause view tends to be used only in effect of the plural of human cause with other natural factors. This theory, or any other theory of using standard assumptions of multiple human causes, because of the complexity and multiplicity of mentionable instances, is unusable. Accordingly, finding an effective legal cause in these assumptions must be borne by customary judgments. Both the criterion of the Sufficient cause view and the customary judgments based on the culpability of behavior, in particular on indirect results, rely on mental elements (mens rea).

Keywords
Causation, Means Rea, Actual Cause, Legal Cause, Custom.

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Net-Perpetration of Bribery, Embezzlement, and Fraud

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Abstract
Article 4 of Severing Punishment of Perpetrators of Bribery, Embezzlement and Fraud Act (1367.09.15), which has had an important role in proceeding of criminal cases related to economic corruption and crimes against the prosperity of manufacturing, describes a kind of group intervention in those crimes as "making or leadership of a net" punishable by severe punishments. However, Defects and ambiguities of that Article have arisen different legal viewpoints and made various judicial proceedings over elements and conditions of that criminal offence. The present study with a descriptive-analytical method has examined the matter and concluded that arising a unification in the judicial proceeding is impossible in the near future due to ambiguities of the Article and defects of related viewpoints; Prevention of crimes against the prosperity of manufacturing and economic corruption, therefore, necessitates that the amendment of that Article to be set in preference of programs of the legislator.

Keywords
Bribery, Embezzlement, Fraud, Net-Perpetration, Economic Crimes.

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Combating Social Apathy in Iran's Penal Policy

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Abstract
Social order is one of the important elements in the evolution and continuity of society, the maintenance of which depends on the unity, empathy, and cooperation of all members of society. Apathy to social affairs is one of the great ills of today's society, which in sociologists` point of view, is a kind of social disease. Apathy hurts public feelings and violates moral and social values. At the same time, criminals and violators of the law easily escape from prosecution and punishment due to the Apathy of community members in reporting crimes to the competent authorities. The negative effects, consequences, and increasing prevalence of Apathy require the intervention and special attention of the legislator. There are various ways to deal with indifference. In addition to education, culture, and creating a suitable environment for dealing with indifference, one of the tools to deal with this phenomenon is resorting to criminal law. To this end, the criminal legislature has criminalized and punished some indifferent instances, such as refusing to help the injured, refusing to report serious crimes, and refusing to prevent them from occurring. Examining Iran's penal policy, it became clear that although the legislator has paid attention to the issue of social Apathy in sporadic and incomplete articles when drafting criminal laws, apart from dispersion, this has been accompanied by shortcomings and deficiencies that are necessary to combat this phenomenon. So, the legislator must devote a chapter in the criminal law to this issue in order to eliminate all objections, criminalize all important cases of social indifference, including refusing to testify to save an innocent person in that chapter, and determine the appropriate punishment precisely.

Keywords
Social Apathy, Penal Policy, Criminalization, Social Order, Reporting.

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Ecocide: A Crime against Sustainable Development

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Abstract
According to "the Sustainable Development Doctrine," it is incumbent on every human generation to use the earth resources in a manner that, while providing its own needs (intragenerational fairness), does not harm the resources needed for future generations (intergenerational fairness). In light of this new doctrine, which has also become a global and favorable model of development in the international community, the concept of development has a different meaning and scope in that, development in addition to having an economic dimension, also pertains to social and environmental aspects. In this framework, ecocide is considered a serious threat to sustainable development. Ecocide severely degrades the environment and natural resources and shakes the foundations of economic and social security alongside threatening environmental security. The direct consequence of ecocide is the deterioration of economic security of society, which in turn results in or exacerbates severe social crises including poverty, illness, unemployment, homelessness, conflict, illiteracy, delinquency, immigration, displacement, asylum, ethnic clashes, armed conflicts, etc. It is therefore imperative that its criminalization to be at the center of the attention of national, regional, and international legal systems and that a common criminal policy to be adopted to prevent the occurrence of ecocide and end the perpetrators' wrongdoing.

Keywords
Ecocide, Environment, Environmental Security, Green Economy, Crimes against Sustainable Development.

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Evaluation of Rehabilitation Approach in Sentencing Juvenile Offenders

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Abstract
In recent years, the juvenile justice system in many countries has been under the influence of rehabilitation policies, and attempts have been made to avoid harsh punishments. In Iranian criminal justice, this approach has led to new developments. In this regard, the fundamental question is how much policymakers committed to the policy of rehabilitation of children and juvenile offenders? Qualitative content analysis of criminal law and non-participatory observation (20 sessions) are used to answer that question. Results of research represent a confusion in the sentencing process based on which rehabilitation model has not yet become the dominant model in this field. Sentencing based on the severity of crime, emphasizing the custodial facilities (institutes) as the major sanction, lack of using evidence-based sanctions, the insignificance of rehabilitative features of sanctions, and inadequate attention to community sentences and its shortcomings are some issues that show the weakness of rehabilitation idea, so it is necessary to use evidence-based sentences, enrich the theoretical approach, and provide the implementation context for improving the rehabilitative nature of juvenile sentencing.

Keywords
Juvenile Offenders, Sentencing, Custodial Institute, Community Sentences, Rehabilitation.

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Evaluation of Criminal Investigations of Death in Prisons' Cases in light of International Principles and Standards

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Abstract
In human rights documents, due to the importance of the convicted and arrested people's physical health right, standards like promptness in the investigation, its independence as well as the participation of complainants in the course of investigation are considered.
However, in fact, some criminal systems, by creating several systematic challenges, limit the access to justice of next of the kin and victims of death in custody.
Marginalizing of the families and victims' lawyers through the secrecy of investigation, lack of independent organizational structures for investing, and as a whole creation of obstacles and disruptions in the path of effectiveness investigation, confront the uncovering of the facts in these cases with fundamental challenges.
The main question of the current article is to what extent the prevalent standards related to criminal investigation are accepted in the Iranian criminal justice system.
The results of this article show us there is a meaningful difference between the cases that the criminal system is the exclusive authority for investigation in comparison with the cases there are some additional committees for that.

Keywords
Criminal Investigation, Death in Custody, Promptness, Independence, Comprehensiveness, Victims' Participation.

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Integrated Analysis of State Crime from the Perspective of Neutralization Techniques and Defense Mechanisms

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Abstract
State crimes with the meaning of imposition of damage to the fundamental human rights by the government organization, appeared with the establishment of the first governments. Moreover, despite precedence, importance and broadness, the various aspects, and especially the criminological dimensions of them have not been so far scrutinized by the researchers of the criminal sciences. One of the solutions for overcoming this gap is the reanalysis of the existing theories to enhance their functional levels. Amongst the various approaches that can be utilized for analyzing state crimes, the present study employs the theories related to the denial and justification of behavior, including Neutralization techniques and Defense mechanisms as two supplementary perspectives, thereby to elucidate the state crimes based on a descriptive-analytical method. The findings of the present study indicate that governments avoid accepting their crimes by resorting to a multistage process. It begins with the use of a set of denial methods as outlined in the theory of neutralization techniques (crime, loss, victim, and liability), advances towards justification methods (reprimanding of the others and resorting to the superior values), and is completed with the justificatory means stemming from defense mechanisms. This way, in the first step, the perpetration of state crime is originally denied by the government. In the second stage, the imposed losses and the victims are overlooked. In the next stage, evading the responsibility is placed atop of the agenda, and, in case that the denial mechanisms are found ineffective, justificatory instruments (Defense mechanisms) will be used, such as projection, intellectualization, rationalization, etc.

Keywords
State Crime, Theoretical Criminology, Theoretical Integration, Neutralization Techniques, Defense Mechanisms, Denial Methods, Justification.

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The Necessity of Implementation of Guideline-based Sentencing in the Domain of Ta'zirat

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Abstract

Judicial sentencing is one of the most important steps in the criminal process, wherein the goals of the legal sentencing are manifested. The variety of factors, individuals, institutions, and the sentencer's wide-ranging latitude make it necessary to structure the domain of judicial sentencing. Sentencing guidelines are one of the strategies for structuring this process within the framework of the determinate sentencing model. Sentencing guidelines are the criteria that are applied in order to create rational sentencing procedures, as well as to make the judicial discretion consistent and structured. Depending on the audience, the obligatory force, and the sentencer's range of latitude, these guidelines are divided into parole, voluntary, and mandatory sentencing guidelines. Furthermore, we can distinguish between grid-based guidelines and non-grid based ones, depending on the adopted sentencing methods. In recent years, as a result of the widespread use of the guidelines in different systems, we are faced with the independent guideline-based sentencing model. Researches point to an increase in consistency, coherence, and predictability in guideline-based sentencing. The sentencing system in the domain of *Ta'ziarat* conforms with a determinate model. Nevertheless, the sentencing is faced with various challenges due to the application of indeterminate sentencing institutes and the wide-ranging latitude of the judges, and the lack of a legal mechanism and structure-giving framework bring about unpredictability and scattering sentences. This paper will study different sentencing guidelines and, by showing both the necessity of structuring the sentencing process in the domain of *Ta'zirat* and the legal and structural lacuna in this domain, proposes the application and implementation of some sentencing guidelines with a narrative structure.

Keywords

Guideline-based Sentencing, Voluntary Sentencing Guidelines, Mandatory Sentencing Guidelines, Grid-based/Non-grid based Sentencing, Sentencing in the Domain of *Ta'zirat.*

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Evaluation of the Results of Criminal Interventions in Sexual Violence Cases: Redefining Justice for Victims of Sexual Violence

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Abstract
According to empirical studies, legislative discourse efforts in the context of formal mechanisms of justice have not been sufficient to support victims of sexual violence effectively. As such, transcending the justice needs of victims of sexual violence beyond the limited capacities of the criminal justice system will make a clear and comprehensible shift in response to sex crimes in most legal systems. The results of this paper, which is qualitative and descriptive-analytical, using one of the most common means of data collection, namely interviews with 20 judges (Criminal Court of Tehran Province) and 15 victims of sexual crimes along with a multi-year study of the different branches of the Criminal Courts, indicate that justice from the perspective of victims of sexual violence corresponds to the components of restorative justice as another mechanism of justice and judges in the current state of the criminal justice system of Iran, apply existing criminal policies on sex crimes with an attitude and restorative lens.

Keywords
Criminal Intervention, Needs and Interests of Victim, Offender, Restorative Justice, Sexual Violence, Victim.

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