

## EXPLORES THE CONCEPT GOVERNMENT EMPLOYEES AND ILLUSTRATED IN THE IRANIAN LEGAL SYSTEM

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### **Abstract**

In this research project was to study the concept and objective of government employees. Civil liability and civil liability of the state where acts of their employees to their actions ranging from governance and tenure. That is if your district and state government employees to be damaged individuals, the loss must be compensated. As people harm each other if they have to compensate. And the principles of civil responsibility of states and others not far behind the government's fault, and the risk is liable and the theory and fundamentals of jurisprudence and law and fundamental rights guaranteed rights such as the principle of equality and equity and the legal rules such as rule ((Of his sheep, he pays)) and rules ((no damage)) and ((lack of blood invalidity and right)), all as compared to those with the public and to the state, including the applicability and inclusion are.

**Keywords:** government, government employees, Iran.

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## Introduction

Government, and it is required for human social life of human necessity when she discovered her social life to achieve higher goals, also felt the necessity of an organization, regulation, and powerful, In this way, the government sets a dominating force and the authority to rule in a certain geographical territory with clear boundaries on behalf of a nation arose That govern the internal affairs of other countries. More involvement of government in economic affairs and social to meet the general needs and population growth countries as a result of political problems, economic and social relations and also stressed expansion of social rights created, small and large recommendations as well as the structure of government lot in be. Governments, like individuals and ordinary people inevitably of different activities to administer the country in a division two types of actions the sovereignty and tenure, are doing. Since these measures sometimes cause damage to natural or legal persons is the question of civil liability of the government.

In the Islamic world itself could not see anyone Disclaimer religion, particularly the government has more power, more responsibility should equally bear the responsibility for both civil and religious sources etc. Especially for sovereignty clearly found

In the legal systems of the world after fourteen centuries ago that began after its sentiments ((King can not make mistakes)) and ((rule of law, which itself has set to not adhere)) and ((created by the Creator government no)) believe that the government was found responsible for the conduct and their actions.

This legal opinion was achieved after the French Revolution in 1789 and has expanded into other territories and for the first time the issue of monitoring the government's actions by the State Council in 1799, were introduced in France. Then in Germany and the UK Act was recognized to some extent. And lawyers also sought to citizens from the crime and the mass loss and compensation imposed by the government to be Johnny is the actual repair.

### *Theoretical Foundations*

Civil liability that is: legal obligation to fix the harm that person or the person under his care or protective objects under others he has arrived. Civil liability only in the narrow sense of its own non-contractual liability, which is the subject of this plan is the same kind of state responsibility.

The concept of government employees and its various manifestations

The provisions of article 11 of the Law on civil liability legislation considered in the broad sense and includes all public servants. With this expression can not be any doubt that the Government did not only include the executive branch.

The occasion is the responsibility of the government to discuss with the acts of its employees, defining the concept of a public officer or public legal entities and public organizations is important.

In this regard, some believe that the official service: ((those with a public organization to fulfill a public service or meeting public needs work and subject to the laws and regulations, and in the absence and the darkness of law or ambiguity by the help of the general system of norms and public law, their rights and obligations to be clear)). Public law entities should be recognized goals, because goals are such entities providing public services. We also participated precedent and public institutions whose budgets are independent and distinct from the general budget, Government and public institutions accounts are not limited to, those organizations which, because of the government's legal personality and their use of public funds.

The above opinion is delivered for cleaning the concept ((of public service)) to identify the agent as an introduction to the public service, there is no definitive standard measure of last resort in the law distinguish between the concept ((of public service)) is now those who do not have such a law.

It is also critical precedent for the position, because on the one hand having legal personality independent of the legal entity state for some of the legal entities that government is founded, on the other hand, it is essential that such persons would not be considered completely separate from government

According to the circular, including individual and public rights and recognition criteria, it is the responsibility of government employees whose activity may be evaluated.

**A-employees covered by Article 11 of the Civil Liability:**

It expressed general rule, all government and municipal employees personally responsible for damages caused to others is known to have Office in the line of duty. Thus, the ruling on this matter, regardless of the exceptions that are all public servants in place, so no matter recruitment relationship with the government is subject to the State Employment or other laws. Importantly, the employment relationship between the injury suffered and the rights of the public.

Given that Article 11 of the civil liability of staff responsible for the damage knows that in the line of duty and delivered to another distinction between intentional or inadvertent error not care, do not be the case of liability arising from an act other than, he said. Unless some ways we believe that it is because of equipment malfunction, caused by human action and, ultimately, the performance of officials and employees to be incomplete. After the current liability arising from non-realized.

**B- subject to Article 12 of the law of civil liability:**

This article relates to the relationship between employers and workers, since the government sometimes appears in the role of employer, then we can apply the ruling on this matter in this regard. Under this article if the government acts as an employer, is responsible for damage caused by acts of their employees, provided that the damage done during or on the occasion of the action, is come.

Tucked between Articles 11 and 12 of the Law on civil liability, the Article 12 exception to other Article 11 and thus the state is not responsible for losses arising out of employee unless the employee's employment relationship of the state and the law be an issue.

Although it is extended under Article 11 government employees this provision is controversial, but it damages resulting from an act burden to government employees, as a good father and family man who is far more financial ability of the provision of the damage, in accordance with justice.

**C- Original 171 of the constitution and civil responsibility of states:**

Article 171 states that the constitution of the Islamic Republic ((Whenever the fault or error of the judge in the case or the verdict or the sentence on the implementation of certain moral or

material loss is realized if the blame someone, blame redress. and otherwise damage will be compensated by the government and in any case the accused will be rehabilitated)). According to this principle in the case of fault, the judge is personally responsible for damages and if the damage is caused by the error of the judge, the government is in charge of logistics costs.

The judge is guilty of rape and deliberate violation of the laws and regulations of the task is assigned to an individual duty, after hearing the rape and violation of his duties and thereby damage to another shall be guilty. Of course, the benchmark violations, judge the behavior is normal. Judge mistake can be related knew no intention to hurt someone else comes in. So between the fault and mistakes can be the intention to act that causes harm. It seems some ways, regardless of the damage caused by the defect wrong literal meaning is operated devices can be considered subject to the same part of the government responsible for damages resulting from the act of judge, he said.

The third assumption also seems in addition to the employee's fault and mistakes can be attached with the application of Article 11 of the Law, and its civil liability if the damage is caused by defective equipment, office and judicial administration In which case you may judge for damages not caused by the fault, not of his mistakes be made, In this case, with reference to Article 11 of the state's civil liability can be considered responsible for damages. For example, if the result of the work of the courts or defect density of the overall organization of the judiciary, cases of delayed and in this respect damage to the times comes, caused by the fault of the damage not than the result of the Justice his mistakes but damage are Due to the failure of the judicial system that the state error is responsible for the damage. Lack of responsibility of the judge in the absence of intent is reasonable, however, because the judicial action went the wrong way and Such as server and judiciary organs are.

In Islamic jurisprudence version of Ben It is said that the Emir of believers (AS) has said the sentence ((That what has passed you by judges in the blood or cutting it against the house money)). That is what the judges in the blood or mine error must be compensated by the Muslim public treasury. So the verdict of the principle of personal responsibility exception of government employees who are personally responsible for damages caused by their acts of treacherous error and a limited group of public servants, the judges removed from the general

order and the provision of Article 11 of the civil liability losses the judge in charge of unintentional fault lay state and government for the redress knows.

## Results

Article 11 of the law of civil liability, whether intentional or inadvertent employee not distinguish between error and in any case considers the employee responsible. But it looks to expand the meaning of the last part of Article 11 of that damage caused by defective equipment and puts the state's institutions and the defect is also result of human action in the end, The range can be expanded concept of administrative error and reduced the content of personal error and it is limited to action arising out of malice or ill commissioned.

The fourth pillar of the state civil liability, loss, injury and causal link between the fault and the administration must prove that it has suffered damages as a result of customary causal relationship between the practice is harmful and harmless. It is not necessary due to the error handling is a unique event, but may be one of the causes of damage.

If conditions are, in principle the government obliged to compensate the injured party or third parties but act in cases where damage is limited because the government may exempt from liability if the injured party or third act is one of the toys damage with the return error handling, payment will be divided between a loss.

Article 11 of the Law on civil liability apply the rule to explain the harmful act and the exemption from liability sees government. Of course, if the rule is applied, thereby exempting the State from liability is that of the necessity to satisfy the public need to be taken and applied the law before it is brought in as a rule.

Like other government entities is subject to law and democratic governance is also the same requirement. Today, governments are unbridled and decisions and actions is they have certain limits. Government as a source of law and protect the right to unilaterally and arbitrarily violate the rules. The basis of this legal rule Latin proverb that says: "You should have enacted a law which, neck prohibited."



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