



Conflict of Interest as the Origin of Some Crimes in Iranian Law with Emphasis on Legislative Experiences in Canada

Alireza Taghipour^{1*} | Seyyed Mohammad Reza Mousavifard²

1. Associate professor of criminal law and criminology, Department of Law, Bu-Ali Sina
University, Hamedan.Iran

2. Assistant Professor, Department of Criminal Law and Criminology, Islamic Azad University,
Semnan Branch, Iran

* Corresponding Author Email: a.taghipour@basu.ac.ir

Abstract

Discriminations and Corruptions in the society cause the loss of people trust more than economic problems. One of the most prominent examples of corruption can be considered the conflict of interests that exists in many fields. People who are decision-makers in government jobs can secure and strengthen their interests with a decision or legislation. In the situation of conflict of interests, people who either play a role in determining and approving regulations or have provided the possibility of working in both the private and public sectors, usually endanger public interests and this causes the use of power and influence to secure their interests. In conflict of interests, a person has a duty to more than one person or organization, but cannot do justice to the actual or potential conflicting interests on both sides. As in situations where the personal interests of a government official are in conflict with his loyalty to public affairs. Whenever the decisions of a person at the head of an organization in relation to the primary goal that is foreseen in the scope of his duties and in the laws and regulations are influenced by a secondary goal that is not related to his organizational duties without a valid and legitimate reason. It is considered as a secondary and inappropriate interest. In such a situation, there is a conflict between a person legal duties and personal interest and the primary goal is marginalized. One of the methods of preventing corruption, creating transparency, efficiency and trust in the government is managing conflict of interests, whose policies include creating public trust through clarifying situations of conflict of interest, establishing rules regarding the declaration of incompetence in matters related to personal interest and ultimately repressive measures include declaring the decisions taken to be invalid and criminalizing the behavior of government and public officials in such situations. In this regard, the most effective action is the management of conflict of Interests situations through the administrative system and specialized committees for the management of conflict of interests in each department and organization and finally tools for dealing with administrative violations. In the first step, it is necessary that the different organizational and executive departments of the country and different guilds

and professions enumerate the examples of conflict of Interests situations in their organization and profession in the form of a charter of professional ethics principles, because recognizing the examples of conflict of interests in any organization and profession requires familiarity. It is complete with processes and rules and mechanisms in that organization and profession on one hand and a correct and accurate understanding of the concept and definitions of conflict of Interests situations on the other hand. One of the most important things that have not been given due attention in the administrative system of Iran is meritocracy and the employment of qualified people in managerial jobs. It is obvious that choosing competent and capable people for important posts and positions and benefiting from the elites of the society will strengthen the position of a government. Another thing that can play a role in improving organizational culture is the creation of a strict monitoring and inspection system for government organizations. In such a way that is possible to quickly disclose violations. Another important issue that can be raised is the transparency of the administrative system, so that the people of the society are aware of the decisions and performance of government officials. An issue that not only causes people trust and legitimizes the government system, but can also improve organizational decision-making.

From the point of view of the Canadian Conflict of Interests Act, the holder of a public office is subject to a conflict of interests when he performs his duties and obligations and official power in such a way as to provide an opportunity for his personal interests, relatives, friends and any other person in an improper manner. As such, if a conflict of interests does materialize, Canadian law expressly covers it. Meanwhile, it seems that potential and possible conflicts of interests are not included in the definition. In other words, the actual conflict of interests occurs when the personal interests and public duties of an official affect each other, but the potential conflict of interests occurs when there is a reasonable doubt about holder of an official position in the mind that the existing situation, leads him to a conflict of interests. As a result, a possible or potential conflict of interest can have the same effect on depriving public trust as an actual conflict of interests. From the point of view of Canada conflict of interests law, the purpose of establishing this law is to create clarity in the concept of conflict of interests, reduce the possibility of conflict of interests between private interests and the duties of public office holders, predict a solution for conflict of interests in case of occurrence and encourage competent people with experience to accept public interest tenure. In this study, which is focused on the approach of Canada, it is observed that the members of the House of Commons are bound by the conflict of interests law for the members of the House of Commons, which is attached to the standing orders of the Hose of Commons and express several goals. Including maintaining and enhancing public trust and confidence in the integrity of members, along with a number of principles intended to guide members in reconciling their private interests with their public duties. Also a separate law has been considered for the senate and the prevention of conflict of interests of the representatives of this parliament and it shows that the legislator did not want to increase the responsibility of the commissioner of the House of Commons in dealing with both houses. As a result, the increase of public trust as a social capital as a result of the separation of private interests



from the public has been desired by the Canadian legislators and in Iran we can see a reduction in crimes in this regard from such models by localizing them in the management of conflict of interests.

Keywords: Criminology, Prevention, Conflict of interests, Private interests, Public trust.



References

Books

1. Bedard, Michel, Douglas, Kristen, Hurtubise-Loranger, Elise (2013). *Conflict of Interest at the Federal Level: Legislative Framework*, Ottawa: Library of Parliament.
2. Chinyio, Ezekiel and Olomolaiye, Paul (2010). *Construction Stakeholder Management*, New York: Wiley-Blackwell.
3. Davids, Cindy (2008). *Conflict of Interest in Policing: Problems, Practices and Principles*, Cambridge: institute of criminology press.
4. Painter, Richard (2009). *Getting the Government America Deserves: How Ethics Reform Can Make a Difference*, Oxford: Oxford University Press.
5. Stark, Andrew (2008). "Conflict of Interest in Canada," in *Conflict of Interest and Public Life: Cross-National Perspectives*, Edited by Alison L. Gash and Christine Trost, Cambridge: Cambridge University Press.
6. Turnbull, Lori (2007). "The Federal Accountability Act: How Ottawa Steps Backward in Monitoring Political Ethics and Integrity," in *How Ottawa Spends, 2007 – 2008: The Harper Conservatives – Climate of Change*, Edited by Bruce Doern, McGill: Queens University Press.
7. W. Bradley, Wendel (2024). *Examples and Explanations for Professional Responsibility*, Burlington: Aspen Publishing.

Articles

8. Naghipour far, vali allah, Habibi Badrabadi, Mahbobeh , Arzamjo, hanieh (2014). Explaining the model of Islamic meritocracy to solve the challenges of meritocracy in Iran government organizations. Public administration perspective. 4(4). 15-39. [In persain]
9. Ahan-Jan, H (2019). Criminology of Economic Crimes and Ways to Prevent Them. Second International Conference on Religious Studies, Islamic Sciences, Jurisprudence and Law in Iran and the Islamic World. Karaj. 850-611. [In persain]
10. Ansari, B (2022). Managing Conflicts of Interest in the Public Sector. Public Law Studies Quarterly. 52(1). 297-321. [In persain]
Doi: 10.22059/jpls.2020.292517.2235
11. Barati, A, Zarei, M, Masoud, G (2020). A Comparative Study of the Role of Specialized Civil Society in the Fight against Corruption in Iran and South Korea. Administrative Law Quarterly. 7 (23). 57-84. [In persain]
Doi: 10.29252/qjal.7.23.57
12. Bernheim, D. and Meer, J (2012), "Do Real Estate Brokers Add Value When Listing Services Are Unbundled?" Economic Inquiry. 51 (2). 1166-1182.
Doi: 10.1111/j.1465-7295.2012.00473.x

13. Carr Peterson, J. and Grose, C.R (2021), "The Private Interests of Public Officials: Financial Regulation in the US Congress", *Legislative Studies Quarterly*. 46 (1). 49-84.
14. Ghalamghash, asghar (2022). Prohibition of Membership in the Board of Directors of State-owned Companies and Non-governmental Public Institutions "Simultaneously" with Employment in Executive Bodies, in the Budget Laws of 1398-1401, Referring to Note 2 of Article 241 of the Legal Bill Amending a Part of the Commercial Act. *Journal of research and development in comparative law*. 5 (15). 134-168. [In persain] Doi: 10.22034/LAW.2022.551686.1153
15. Heidari Maharlouyi, Rasoul and Sobhie, Mohammad hossein (2021). Examining the Challenges of Conflict of Interests in the Country's Engineering System. *Journal of Science and Engineering Elites*, 6(3). 61-77. [In persain]
16. Jafarpour Sadegh, Elham and Edalatjoo, Azam (2013). Financial Corruption and Ways to Prevent It. *International Legal Research*, 6(22). 57-79. [In persain]
17. Kalhor, Hossein Ali, Ebrahimpour Asanjan, Adel (2023). Legal Analysis of post –Privatization Oversight Practices (Barriers and Solutions). *Contemporary Comparative Legal Studies*. 14 (31). 145-182. [In persain] Doi: 10.22034/LAW.2023.49841.3064
18. Komesaroff, P.A., Kerridge, I. and Lipworth, W (2019), "Conflicts of Interest: New Thinking, New Processes." *International Medicine Journal*. 49. (5). 574-577. Doi: 10.1111/imj.14233.
19. Naseri Hosein Abad, M, Qabuli Dorafshan, S. M. M, Ansari, A, Khodabakhshi shalamzari, A. (2023). Doctrines of the Judicial Control of Contract (Comparative Approach to Philosophical and Economic Schools). *Contemporary Comparative Legal Studies*, 14(33). 255-290 [In persain] Doi: 10.22034/LAW.2023.52802.3156
20. Rahnavard F, Mohammadi Fateh E, Asadi R (2018). Systems Thinking as a Platform for the Improved Performance of Leaders and the Effectiveness of Public Organizations. *Journal of Management and Development Process*. 31(2). 111-142. [In persain] Doi: 20.1001.1.17350719.1397.31.2.4.7
21. Rasouli, R. (2005). The Role of the World Bank in the Fight against Corruption. *Administrative Transformation Quarterly*. 8 (50). 61-78. [In persain]
22. Sarfarazi, mehrzad, fozoni, Maryam, Zare, shokofeh (2020). Corruption prevention approaches are essential to establishing a healthy and transparent government. *journal of accounting and management vision*. 3 (32). 10-33. [In persain]
23. Seyed Baqeri, Seyed Kazem (2017). Functions of Justice in Ethical Governing in View of Political Islam. *political science*. 19 (76). 151-170. [In persain] Doi: 10.22081/PSQ.2017.22745
24. Shirdel, Ramin (2019). surveying health system of Iran about financial



- Structural conflict of interest. social security quarterly of Tamin-e-ejtemaie. 15 (1). 113-125. [In persain]
25. Siahbidi Kermanshahi, Saeed (2021). Investigating the Conflict of Interests of Judicial Officials. Quarterly journal of public law knowledge. 10 (32). 19-46. [In persain] Doi: 10.22034/qjplk.2021.222
26. Sobhani, Hassan, and Elahi, Fereshteh (2023). Situations and instances of conflict of interest in the Islamic Republic of Iran banking system. Scientific quarterly journal of Majlis and Rahbord. 30 (114). 239-277. [In persain] Doi: 10.22034/mr.2022.5096.4900
27. Vazin Karimian, Mohammad, Kolahi, Bahare, Safari, saeed (2015). Identifying and Prioritizing factors affecting the transparency of Iran administrative system (refer to paragraph 18 of the general policies of the administrative system). Public administration perspective. 6 (3). 83-105. [In persain]

Documents

28. Bill C-30: An Act to amend the Parliament of Canada Act and to make consequential amendments to other Acts, 2nd Session, 40th Parliament, May 2009.
29. Parliament of Canada, Special Joint Committee on a Code of Conduct, Second Report – Code of Conduct, 2nd Session, 35th Parliament, March 1997.
30. Senate, Standing Committee on Rules, Procedures and the Rights of Parliament, Eighth Report, 2nd Session, 37th Parliament, April 2003.

Websites

31. Gross, Daniel, "Why a Real Estate Agent May Skip the Extra Mile". New York Times, 20 February 2005, available at: [nytimes.com/2005/02/20/-business/yourmoney/why-a-real-estate-agent-may-skip-the-extra-mile.html](https://www.nytimes.com/2005/02/20/business/yourmoney/why-a-real-estate-agent-may-skip-the-extra-mile.html)
32. Thibodeau, Maxime-Olivier, and Alexandra Savoie, "Conflict of Interest at the Federal Level: Legislative Framework", Background paper, 19 August 2013 and revised on 25 January 2018, available at: [https://lop.parl.ca/sites/PublicWebsite/-default/en_CA/ResearchPublications/201092E](https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/201092E)