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A Critical Examination of the Legal Foundations of Punishing Economic Disruptors in Iran's Criminal Policy

1. Ali. Khaleghipoustchi [1] : Department of Law, Ma.C., Islamic Azad University, Mashhad, Iran
2. Abbass. Sheikholeslami [2*]: Department of Law, Ma.C., Islamic Azad University, Mashhad, Iran
3. Majid. Shayeganfard [3]: Department of Law, Ma.C., Islamic Azad University, Mashhad, Iran

*corresponding author's email: abbasssheikholeslami@iau.ac.ir

ABSTRACT

The purpose of this descriptive–analytical study is to explain the legal foundations of Iran's criminal policy in dealing with economic disruptors and to answer the question of whether the criminal sanctions derived from these foundations possess the necessary effectiveness to prevent and confront such offenses. Economic crimes are among the phenomena of the modern world that—due to their direct impact on increasing delinquency in society and on the economic stability and security of the market—have gained particular importance. Beyond this, the preservation of moral values, justice, and the rule of law is also grounded in economic security. These types of offenses are of such importance that the Iranian criminal legislator, as the first and most effective means of prevention and confrontation, has enacted legal provisions to address them. The offense of disrupting the economic system includes 30 criminal instances, thoroughly addressed in the Law on the Punishment of Disruptors of the Economic System of the Country. Criminal policy seeks to control delinquency and prevent criminal phenomena, and its purpose in the economic sphere is to combat economic corruption and prevent its negative consequences for individuals and the system. Governments, through policymaking and the enactment of various laws, have sought to establish economic stability as the most fundamental component of security. However, Iran's legislative policy in this domain, which is based on intimidation and punitive severity, cannot be regarded as an effective criminal policy for curbing delinquency—particularly corruption—in the economic system.

Keywords: *criminal policy, disruption, economic disruptors, punishment, foundations*

Introduction

Economic crimes are offenses committed by perpetrators who, by employing modern methods with professional complexity and with the aim of obtaining greater benefits, engage in such conduct. These crimes, due to the use of sophisticated and novel techniques by offenders, the unfamiliarity of criminal-policy authorities with economic concepts, outdated investigative tools, lack of expertise and skill among investigative teams, and legal challenges, cannot easily be detected and pursued in the same manner as ordinary crimes. They require specialized, updated, and effective knowledge (1, 2). The structure of economic crimes is such that they create numerous victims and cause significant damages, which clarifies the necessity of governmental intervention and combating such offenses. This intervention is realized through the adoption of an appropriate judicial system and by moderating or imposing suitable punishments (3).

Criminal intervention by the legislator in the field of economics parallels—if not exceeds—its intervention in other domains. In many instances, economic crimes acquire a transnational dimension, which led to the adoption of the Palermo and Merida Conventions for combating financial and economic crimes (4, 5).

Due to the significance of such crimes in Iran, the Headquarters for Combating Economic Corruption was established. For the first time, the term "economic crimes" was introduced by the criminal legislator in the Islamic Penal Code of 2013 (1392). In this Code, by enacting new criminal provisions—such as the impossibility of suspension and postponement of punishment, the exclusion of statutes of limitations, the obligation to publish final judgments, and especially the application of the title *efsād fi al-arz* (corruption on earth) to economic crimes—the Iranian legislator adopted a new approach toward combating these crimes (6, 7).

Iran's legislative criminal policy toward disruptors of the economic arena adopts severe punitive measures. In particular, attributing the term *efsād fi al-arz* to this category of offenders—and consequently permitting the death penalty for economic criminals—demonstrates a punitive approach supported by certain jurisprudential interpretations (8, 9). A review of well-known fiqh opinions reveals that the crimes of *mohārebeh* (waging war against society) and *efsād fi al-arz* are considered general titles for crimes against public security, suggesting conceptual unity between them. However, applying *efsād fi al-arz* as an independent title to economic crimes may stem from certain jurisprudential views that attribute a broader scope to the concept, interpreting it to include any crime that causes widespread corruption. Based on this understanding, economic disruptors are seen as individuals who attempt to create extensive financial corruption (10, 11).

The present study seeks to examine the legal foundations of punishing economic disruptors within Iran's criminal policy and to propose, through a critical lens, more appropriate and deterrent approaches for dealing with these crimes. It must be noted that imposing the death penalty—contrary to jurisprudential principles—not only lacks preventive impact but also increases the likelihood that offenders will escape prosecution. Due to the significance of economic crimes for the national economic system, the legislator has relied heavily on severe sanctions such as the application of the title *efsād fi al-arz* and ultimately the death penalty. Meanwhile, opportunities for escaping punishment within procedural and substantive rules have remained insufficiently addressed in the criminal framework (12, 13).

Definition of the Crime of Disruption of the Country's Economic System

In reality, no consensus currently exists regarding the definition of this legal institution; however, this does not justify neglecting the matter. Without a proper understanding of what constitutes an institution or organization, it becomes impossible to conduct accurate theoretical or empirical analyses of how such institutions and organizations function (14). As previously mentioned, the Law on Punishing Disruptors of the Economic System of the Country, enacted in 1990, criminalized certain behaviors that disrupt the economic system under Article 1 (15).

Disruption (Ekhalāl)

This word, derived from the *if'āl* morphological pattern, linguistically means "to create a breach," "to damage," "to disturb," or "to cause disorder." An "ekhalāl-gar" (disruptor) is someone who introduces disorder or damage into a system or affair and disrupts its regularity (16).

The Concept of the Economic System

Various definitions of “system” have been proposed across different sciences. Some scholars believe a system is a set of elements between which relationships exist or can exist (17). The economic system should be understood as an interconnected whole with balanced components. Any disruption in one component destabilizes the entire system and impairs its proper function.

Disruption of the country’s economic system may thus be defined as a phenomenon affecting the components of the national economic body—which are in continuous interaction—and causing disorder within the system, distancing it from its normal state (12).

Criminal Policy

Criminal policy is the collection of preventive and repressive measures employed by the state and civil society—either independently or collaboratively—to prevent crime, combat delinquency, reform offenders, or suppress criminal behavior (18). Iran’s criminal policy regarding economic crimes is distinct from other categories of crime. Economic crimes not only threaten the internal order and coherence of a country but—if organized—can generate broad transnational effects. Therefore, states strive to enact laws that effectively deter offenders. Compared to other types of offenses, criminal policy in economic crimes is generally more preventive, restrictive, deterrent, precise, and technical. For instance, crimes such as espionage and drug trafficking in the past, and economic crimes in the past two decades, have been placed within the category of “special crimes” due to their extensive and harmful consequences (11).

Criminal justice consists of various sub-institutions whose coordinated interaction leads to achieving the goals of the criminal justice system. Undoubtedly, the quality of criminal justice—including the quality of prosecution, investigation, and trial—depends on the quality of the institutions and actors serving it (19). These institutions in Iran include law enforcement officers, the prosecutor’s office, courts, penal-execution bodies, and post-penal institutions (20).

The Concept of Economic Crime

Iranian laws do not provide a clear definition of the crime of disrupting the economic system. However, through close examination of the Law on Punishing Disruptors of the Economic System of the Country, one may propose the following definition:

Activities such as large-scale currency smuggling, minting counterfeit coins, forging banknotes, price gouging, hoarding, non-productive pyramid schemes, attracting substantial deposits from individuals that lead to loss or disorder in the economic system, acts that cause monopoly or significant disruptions in the supply of essential goods, activities that disrupt the national production system, coordinated disorder in the export system, attempts to extract cultural heritage or national wealth from the country, and any act that causes significant disorder in economic, financial, currency, production, or export procedures—resulting in the loss or destruction of national wealth—are considered disruptions of the economic system (21).

All economic crimes, in one way or another, cause disruption in the economic system, which is their common characteristic. However, what is meant by disruption of the economic system in this context is the set of various offenses mentioned in the 1990 law and its 2005 amendment (22).

The Concept of Economic Crime in Legal Doctrine

The current legal doctrine presents the concept of economic crime under four different categories and, for this purpose, offers various criteria.

A) Economic Crime from the Perspective of the Offender

In this category, the emphasis is on the offender, and the economic objectives of the offender, his or her employment status, or commercial legal personality constitute the basis for defining such crimes. For example, “an economic crime is an offense committed for the purpose of obtaining material economic benefits,” or “an economic crime is an offense committed by economic actors in the course of economic activity in order to obtain unlawful economic advantages.” In some of the definitions offered, the acquisition of financial proceeds and economic benefits is also mentioned (23).

B) Defining Economic Crime with Regard to the Victim of the Crime

In the earlier definition that focused on the offender, where a person committed an offense against an economic entity, such conduct was not necessarily labeled an economic crime and would not be punished as such. In contrast, another group of scholars has proposed a different definition centered on the victim of the crime. Here, the victim’s actual material loss, economic position and profession, or his or her commercial legal personality form the core of the definition. This approach regards economic crime as conduct that inflicts economic financial loss on an economic actor (24).

C) Defining Economic Crime Based on the Consequences of the Offense

According to this approach, when conduct is directed against public economic interests—such as in drug-related or environmental crimes—and results in disruption of the economic system and major material losses beyond what is ordinarily foreseen in legal or customary standards, such conduct becomes the basis for definitions placed in this category. Under these definitions, other offenses that involve material loss remain classified among financial crimes (24).

D) Defining Economic Crime by Reference to the Process of Commission

No single, uniform definition of economic crime has been adopted, and in the domestic law of some states, legislators merely provide a definition, while in others they suffice with enumerating instances of such offenses. For example, Article 3 of the Jordanian Economic Crimes Law includes among economic crimes any offense described in that law and similar laws, considers their connection to public property as established, and regards the harm caused as directly affecting the economic foundations of the state. The drafter of that law believes these offenses undermine public confidence in the national economy, the shares of state-owned companies, and financial instruments and securities in circulation. This definition is put forward as a normative criterion.

In other words, the crimes expressly set out in laws aimed at protecting economic activities—whether explicitly regulated by the legislator or not, and whether addressed in scattered laws that organize economic activities—are treated as economic crimes (25).

In legal terminology, economic crime may be defined as offenses whose commission results in disruption of the country's economic system (26). Findings from a 2006 study involving 5,500 companies revealed that approximately half of the perpetrators of economic crimes were employees of the very same companies.

In another definition, economic crimes are described as a set of acts that, in an integrated and organized manner, accompanied by fraudulent conduct and motivated by the acquisition of economic advantages, the obtaining or non-payment of funds, or special privileges, are committed in the course of performing occupational duties (27).

Some scholars contend that economic offenders—often called white-collar criminals—are economic elites who enjoy high social status and respect and who, in the course of professional activity, engage in unlawful conduct. However, this definition does not explicitly mention the motive of acquiring property or unlawful advantage for the offender or the organization to which he or she belongs, nor does it clearly refer to that aspect (28).

Economic corruption facilitates the concentration of wealth, and the resulting class divide is one of the undeniable consequences of this criminal phenomenon, as the wealthy thereby obtain illicit tools for preserving their position and interests and for facilitating the commission of other crimes (4). A group of legal scholars characterizes economic crimes as "hidden" behaviors and describes these offenses in such terms (29).

Characteristics of Economic Crime

Economic crime is a broader concept than business crime and encompasses it. This wide scope has led to the identification of several characteristics for such offenses, including:

1. They are primarily committed within the framework of trade and professional activities, with the perpetrators mostly seeking profit.
2. They are committed systematically and in a coordinated set of actions.
3. They occur through the use of commercial, industrial, technical, lawful, and professional activities.
4. The perpetrators typically enjoy occupational status, social or political power, or a combination of these (30).

The victims of economic crimes also possess specific characteristics. These offenses must be distinguished from traditional and general crimes, which have a direct victim, because in economic crimes, beyond the direct victims, the consequences and impacts also affect indirect victims. Thus, economic crimes undoubtedly cause disruption and instability in the economy.

Perpetrators of economic crimes combine the proceeds obtained through criminal conduct with lawful income and, by exploiting financial resources, reduce their production costs, thereby driving other competitors out of the market. In developing countries, such behavior also affects the level of the state budget, which in turn diminishes governmental control over economic policymaking. Consequently, economic offenders invest their wealth in places where they can obtain higher profits and where the possibility of legal escape or evasion exists (31).

The victims of economic crimes are not only those who are directly harmed, such as economic legal entities or the state, but also ordinary people who, as consumers, suffer from price manipulation, poor-quality goods or services, and even environmental damage. They are therefore indirect victims of economic crimes. Tax evasion also results in a deficit in state revenues and, by weakening the state's ability to provide public services, indirectly harms the populace (32).

The Legal Basis for Punishing Economic Disruptors in Iran's Criminal Code (2013)

In 1990, the Islamic Consultative Assembly enacted a law titled the *Law on the Punishment of Disruptors of the Economic System*, which, in two articles, addressed offenses that constitute disruption of the economic system. Article 1 of this law states that each of the acts listed under the subsections of the article is considered a crime, and the perpetrator shall be sentenced to the punishments set out in the law. These offenses include: any disruption of the country's monetary and currency system …; creating disorder in the distribution of essential goods in various forms such as large-scale price gouging of staple goods…; creating disturbance in the national production system through methods such as major misuse of unauthorized sales of equipment and the like, where such acts disrupt national production policies; any act intended to remove cultural heritage or national wealth from the country …; receiving large sums of money by accepting deposits from natural or legal persons under the title of partnership (*moḍāraba*) and similar arrangements, which results in squandering of people's property or disruption of the economic system.

The law further criminalizes organized and coordinated actions aimed at disrupting the national export system in any form. Article 2 states that if the crimes mentioned are committed with the intent to harm the Islamic Republic of Iran or to confront it, or with knowledge that such acts are effective in confronting the system, and if they reach the level of *efsād fi al-arz* (corruption on earth), the offender shall be sentenced to death; otherwise, the punishment is five to twenty years' imprisonment. In both cases, the court shall order the confiscation of all property obtained unlawfully as a financial penalty. The note to the article provides that if the disruption described in the six subsections of Article 1 is not substantial, major, or extensive, the offender shall receive two to five years' imprisonment and confiscation of all unlawfully obtained property as a pecuniary punishment (8, 22).

Article 286 of the 2013 Islamic Penal Code defines perpetrators of economic crimes that disrupt the economic system of the country—such that their conduct causes severe disturbance in public order and significant damage to public or private property—as *mofsed fi al-arz*, punishable accordingly. In this law, the legislator separates the two titles *mohārebeh* and *efsād fi al-arz*, an approach that contradicts the view of many jurists and classical legal principles. This inconsistency is problematic, for providing precise and criterion-based definitions is expected to ensure coherence and clarity within statutory provisions (10, 11).

The 1991 Islamic Penal Code (Articles 190 and 195) did not differentiate between *mohārebeh* and *efsād fi al-arz* when prescribing *hudūd*. However, in the 2013 Islamic Penal Code, the legislator explicitly defines *mohārebeh* and its instances in Chapter Eight, authorizing the judge under Article 283 to choose one of four punishments. Meanwhile, *efsād fi al-arz* is independently defined in Chapter Nine under Article 286, prescribing death specifically. Thus, despite the conceptual similarities between the two offenses, the clear statutory distinction lies in their punishments. Therefore, based on the explicit definitions of *mohārebeh* and *efsād fi al-arz* in the 2013 Code, all economic crimes envisioned by the legislator—where other legal conditions are met—fall exclusively under *efsād fi al-arz*, and cannot be interpreted within the definition of *mohārebeh* (33).

The reflection of economic crime in the 2013 Islamic Penal Code must also be observed in Article 109. Although the text provides no definition of "economic crimes," it categorizes them alongside crimes against national security and offenses under the Anti-Narcotics Law, relying on Articles 1 and 13 of the Administrative Health Promotion and Anti-Corruption Act (20).

The instances of economic disruption are enumerated in the note to Article 36 of this Code, which includes fraud and other crimes listed therein.

Regarding this matter, an advisory opinion (No. 1622/92/7, dated 2013) from the Legal Department of the Judiciary identifies the economic crimes under Article 109 as fraud and offenses listed in the note to Article 36. Thus, aside from fraud, crimes such as bribery and corruption, embezzlement, influence peddling, interference of ministers or parliamentarians or state employees in governmental transactions, collusion in public tenders, taking commissions in foreign transactions, abuse of authority for personal or third-party benefit, customs offenses, smuggling of goods and currency, tax offenses, money laundering, disruption of the economic system, and unlawful disposal of public or governmental property are also included (12, 34).

As previously mentioned, the Iranian legislator has consistently relied on a punitive legislative approach to confront economic delinquency and has established severe sanctions. Examples include: the 1927 Law on Punishing Embezzlers of State Property; the 1933 Law on Punishing Smuggling Offenders; the 1936 Law on Punishing Influence-Peddling Contrary to Law; the 1969 Law on Punishing Collusion in Government Transactions; the Customs Law; the 1971 Law on Intensifying Penalties for Weapons Smuggling; the 1974 Law on Punishing Hoarding and Price Gouging; the 1979 Decree on Punishing Disruption in Agriculture and Livestock Affairs; the 1982 amendment to Article 53 of the Anti-Smuggling Law; the 1988 Law on Intensifying Punishment of Bribery, Embezzlement, and Fraud; the 1989 implementation of Article 49 of the Constitution on ill-gotten wealth; the 1981 Law on Punishing Disruptors of the Economic System; the 1993 Law on Prohibiting Commissions in Foreign Transactions; amendments to the 1990 Law on Economic Disruptors in 2005; and the 2008 Anti-Money Laundering Law (13).

The multiplicity of these laws and those that will be discussed later reflect deficiencies in criminal policy toward disruptors of the economic system. Law—being the foundation of criminal policy—should articulate the intellectual frameworks, methods, and principles of a nation's criminal policy, and indeed must do so (18).

In establishing economic crimes, the element of harm must not be overlooked. In economic crimes, the occurrence of harm is a condition for the realization of the offense. Sometimes this harm is immediate and actual, such as in price gouging, hoarding, usury, smuggling, and the use of forged documents; at other times it is potential, such as in counterfeiting currency or coins. Harm exists in all crimes—financial, economic, or otherwise—and criminalization as a concept is fundamentally built around the axis of harm. However, the emphasis on this point in economic crimes arises from their widespread social effects and the fact that their consequences are more severe and more evident than those of other crimes, and sometimes their scope encompasses society as a whole. Therefore, the identification of criminal instances in this category is preventive in nature and seeks to avoid such harms; conduct that lacks harmful impact does not fall within this category (35).

The need to articulate precise definitions of economic crime and establish criteria for identifying its instances is an undeniable necessity for modern societies. Although the 2013 Islamic Penal Code attempted to address this issue, its efforts were neither comprehensive nor free of deficiencies. One of the most significant challenges is the lack of precise targeting in defining the concept of economic crime (19).

The legislator's punitive approach toward economic crimes is also manifested in the publication of final convictions in the media. The 1999 Code of Criminal Procedure and its 2006 amendments explicitly require that final convictions for offenses such as embezzlement, bribery, interference or collusion in governmental transactions, taking commissions in state transactions, disruption of the economic system, abuse of authority for personal or

third-party gain, customs offenses, tax offenses, smuggling of goods and currency, and generally crimes against the state's financial rights be published in a widely circulated newspaper, and when necessary, in a local newspaper, provided the unlawful proceeds exceed one hundred million rials.

Article 36 of the 2013 Islamic Penal Code, which elaborates on economic crimes against the state's financial rights, introduces a threshold of one billion rials, thereby classifying such crimes into minor, medium, and major categories. The note mandates publication of convictions in national media when the offense value meets or exceeds the threshold, listing thirteen specific economic crimes—mostly aligned with the 2006 amendments, except that commission-taking in domestic transactions is excluded and only foreign transactions are covered (7).

Under Article 188 of the Code of Criminal Procedure, the legislator describes commission-taking in general terms; however, the Administrative Health Promotion Act classifies commissions in both domestic and foreign transactions as corruption. Despite the existence of numerous mass-media outlets, the publication mechanism—lacking systematic criteria—fails to achieve true public awareness or deterrence, except in cases involving widely-known individuals (8).

Economic crimes also lack effective benefits such as mitigation or conversion of punishments, particularly regarding supplementary and accessory penalties. In these crimes, imposing supplementary or accessory punishments can have strong deterrent effects, yet effective measures in this regard remain absent in policy. Such penalties may include prohibiting offenders from establishing legal persons (directly or through proxies), banning the opening of current accounts or issuance of checkbooks, denying eligibility for bank loans or investment funds, banning foreign travel, and similar restrictions (20).

The Scope of Economic Crimes and Its Ambiguities

In criminal law, fraud and other offenses such as breach of trust and theft are classified as crimes against property and ownership and, according to some scholars, are also referred to as financial crimes. What all of these offenses have in common is the violation of individuals' property rights (10).

In financial crimes, emphasis is always placed on the personal aspect of property, and any destabilization of the economic system and the economic structures of society is regarded as an indirect consequence. The rights and economic interests of individuals are the direct subject matter of such offenses. However, it must be noted that the true victims of economic crimes are the public and the collective economic interests of society (36). Despite this, Article 109 of the Islamic Penal Code classifies economic crimes, including fraud, among the offenses listed in the note to Article 36. In practice, by applying the criterion of conflict with the economic system, fraud—which is primarily a financial offense—is treated as contrary to the economic system and labeled an economic crime.

The offense of bribery (*rashā va erteshā*) is considered one of the most important crimes in the field of administrative and economic corruption. Under Article 3 of the Law on the Intensification of Punishment for Perpetrators of Bribery, Embezzlement, and Fraud, the legislator addresses the crime of bribery in detail. Due to its economic implications and the need to prevent administrative violations, the legislator has prescribed multiple penalties. Both the giving and receiving of a bribe are classified as crimes against public order, and their spread leads to corruption in the administrative and economic systems of the country. Numerous statutes have been enacted concerning bribery, such as the Law on the Punishment of Bribery, the Single-Article Amendment to the Law on the Criminal Court for State Employees, and the 1983 Law of Ta'zīrāt. Ultimately, in 1988, the Law on the Intensification of Punishment for the Perpetrators of Bribery, Embezzlement, and Fraud (approved on 19 September

1985) was adopted, and with the enactment of the 1996 Ta'zīrāt section of the Islamic Penal Code, Articles 588 to 594 were devoted to the offense of bribery. The principal provision regarding the crime of taking a bribe (receiving a bribe) is Article 3 of the Law on the Intensification of Punishment for Perpetrators of Bribery, Embezzlement, and Fraud, along with its five notes, which defines the "recipient of a bribe" broadly and prescribes its specific punishments.

One specific form of breach of trust is the crime of embezzlement. Embezzlement has extremely harmful effects on the integrity of the administrative system. Alongside offenses such as fraud, acquiring property through unlawful means, bribery, collusion in government transactions, taking commissions, and similar acts, embezzlement is among the crimes that officials and employees of state institutions are obliged to report under the Administrative Health Promotion and Anti-Corruption Law.

Embezzlement is realized when a state official misappropriates public funds or monies entrusted to him or her. This offense can occur in all branches of government and typically takes the form of misappropriating public funds or deposits by a state official, with the resulting harm ultimately affecting society at large (37).

Rent-seeking occurs when individuals, using their political or economic influence or relying on the influence of others, unlawfully gain access to financial resources and accumulate wealth. Rent-seeking causes significant social and economic harm to states. Rent-seekers obtain advantages such as preferential foreign currency allocation, smuggling of goods, and similar benefits without contributing any productive work to the national economy—and sometimes even through conduct that is directly harmful to it. This behavior leads to financial and economic corruption. To classify influence-peddling contrary to law and regulations as an economic crime, it is necessary to require that it be linked to the acquisition of property by the offender or another person. However, Article 4 of the Law on Punishing Influence-Peddling Contrary to Law and Legal Regulations does not explicitly require such acquisition of property.

Any act by a natural or legal person aimed at non-payment of tax or unlawful reduction of tax liability constitutes the crime of tax evasion. Such conduct may include falsifying tax returns, failing to declare all income, or submitting false financial reports by which a lower tax burden is achieved. Among the most important provisions criminalizing tax evasion are Articles 199 and 200 of the Direct Taxation Act, which provide that any natural or legal person who, under the Act, is obliged to withhold and remit tax on behalf of others and fails to do so, is jointly liable for the unpaid tax and is subject to a fine equal to 20% of the unpaid amount. Note 1 to Article 199 further provides that where the obligor is a ministry, state-owned company, state institution, or municipality, the responsible officials shall be punished under the Administrative Violations Act. Tax evasion is classified as an economic crime because it violates the principle of equal treatment of citizens: when some individuals comply with the law and fulfill their legal obligations while others engage in unlawful accumulation of wealth, the rights of compliant citizens are infringed, and the national economy is undermined.

The prohibition on ministers, members of parliament, and government employees participating in state and national transactions is one of the most important legislative approaches for eliminating the conditions that foster crime and corruption. One of the most corruption-prone situations arises when public officials are allowed unrestricted and unconditional freedom to intervene in state contracts and transactions. Relying on the authority of the state, and taking advantage of privileged information and latent capacities, public employees can—especially in stages such as tenders and auctions—exercise influence that eliminates competing participants and destroys healthy economic competition. This concern led the legislator to adopt the 1959 Decree on the Prohibition of

Ministers, Members of Parliament, and State Employees from Intervening in State and National Transactions, in order to prevent such intervention and influence in government dealings.

However, the aforementioned law suffers from several weaknesses. The most basic problem is the inconsistency between its title and its operative provisions. It is unclear whether the legislator intended to regulate all offenses and prohibitions contained in the "Law on the Prohibition of Ministers, Members of Parliament, and State Employees from Intervening in State and National Transactions" (adopted on 23 January 1959) or merely to address the intervention of the specific persons named in its title.

Under the Single Article Law on the Punishment of Collusion in State Transactions (adopted on 9 June 1969), it is not necessary that those who collude in state transactions be public employees; collusion among ordinary individuals is also sufficient to establish the offense. At the same time, the latter part of the provision criminalizes conduct by a government employee who, knowing of such collusion, proceeds to conclude a transaction containing the collusive element. The commission of this second offense does not depend on the employee's participation in the original collusion. The question arises whether this second offense is also an economic crime, or whether, under subsection (th) of Article 109 of the Islamic Penal Code, the offender must be considered to have "participated in the collusion" in a conventional sense for his or her conduct to be classified as an economic crime.

The offense of abuse by state officials against the government is covered in Chapter Thirteen of Book Five (Ta'zīrāt) of the Islamic Penal Code (Articles 598–606). The first offense in this group is unlawful disposal of public property, covered in the opening of Article 598, which is also listed as the last of the economic crimes enumerated in the note to Article 36. The connection of some of the offenses in these provisions with the economic system—such as fraud in state transactions (Article 599) or arranging a benefit for oneself in state contracts (Article 603)—is clear. However, other offenses, such as destroying or concealing documents deposited with a state official or handing them over to a third party, or issuing an opinion contrary to law and regulations in favor of one of the parties, do not readily appear compatible with the concept of an economic crime.

Chapter Eight of the 2011 Customs Law, in two sections, addresses customs violations and smuggling. What is clearly lacking is a separate criminal classification for conduct that disrupts the national customs system other than smuggling; instead, such conduct is treated merely as a "customs violation" subject to monetary fines imposed by the local customs director. This is a notable shortcoming. At present, the positive law of the Islamic Republic of Iran contains no criminal offense specifically labeled as a "customs crime." It is noteworthy that the adoption of the Islamic Penal Code postdates the Customs Law, yet the drafters did not give due attention to this chronological relationship.

As for smuggling of goods and currency, the central question is whether any conduct that, under anti-smuggling statutes or other laws such as Article 561 of the Ta'zīrāt, is labeled "smuggling" should automatically be considered an economic crime.

Subsection (a) of Article 1 of the Law on Combating Smuggling of Goods and Currency defines smuggling as any act or omission that violates the legal formalities governing the import and export of goods and currency and that is deemed smuggling under this or other laws and is subject to punishment, whether discovered at border points or at any location within the country, including at the point of domestic sale. Subsection (b) of the same article defines "goods" as any item having economic value.

Accordingly, it appears that any conduct classified as smuggling is prosecuted under the title of smuggling of goods and currency and, as such, is treated as an economic crime. The question arises whether the smuggling of

narcotics or weapons—unlawful and prohibited items—should also be considered economic crimes, given that in such cases the primary concern is not the economic dimension but the threat to public security. A careful reading of Article 47 of the 2013 Islamic Penal Code, which lists exceptions to the postponement and suspension of sentencing, shows that major smuggling of narcotics or psychotropic substances, alcoholic beverages, weapons and ammunition, and human trafficking are placed alongside economic crimes. This indicates that the smuggling of these prohibited items is not itself classified as an economic crime.

Because the economies of many countries rely heavily on taxation, tax offenses—unlike many other economic crimes—are primarily directed against the state rather than directly against citizens' interests and benefits. Under the 2015 amendments to the Direct Taxation Act, Article 274 expanded the notion of tax crimes and enumerated seven instances as criminal offenses. Across various provisions of the Direct Taxation Act, eight criminal titles are identified, and an additional offense is established in the note to Article 19 of the Value-Added Tax Act. The critical question is whether all conduct related to non-payment of tax under other statutes should be treated as tax crimes, or whether such conduct should be addressed under different legal frameworks. For example, can the offense under Article 44 of the Public Accounts Act—non-payment of the government's taxes and dividends by state-owned companies within one month of approval of their balance-sheet, which is deemed unlawful disposal of public funds—be considered a tax crime?

The disruption of the country's economic system is a general title describing conduct that disturbs the orderly interaction of the components of the national economy. It refers to a situation in which the regular exchanges and mutual actions within the economic system become disordered and conflicted, such that the system can no longer be described as an organized whole (12).

Numerous laws—such as the 1941 Law on the Punishment of Railway-Related Offenses, the 1957 Law on Punishing Disruptors of the Iranian Oil Industry, the 1973 Law on Punishing Disruptors of Water, Electricity, Gas, and Telecommunications Installations, and the 1974 Law on Punishing Disruptors of Industry—were enacted even before the 1990 Law on the Punishment of Disruptors of the Economic System. These laws address disruption in critical economic sectors, each of which plays a fundamental role in the national economy. Any conduct aimed at creating disorder in any of these sectors will undoubtedly disrupt the economic system. The question, however, is whether these offenses should also be classified as economic crimes. The phrase "disruption of the economic system" in the title of the 1990 law might suggest that only the offenses enumerated therein qualify. Nevertheless, it appears more accurate to regard disruption in each of the key subsectors governed by these special laws as disruption of the economic system and to subject such offenses to the corresponding legal consequences.

Foundations of Economic Crimes

Despite the apparent wording of Article 109 of the Islamic Penal Code and its subsection (b), there remain numerous ambiguities in enumerating the instances of economic crimes, as previously discussed. These ambiguities can be resolved by providing clear criteria for identifying economic crimes and their instances. Criminal behaviors such as offenses treated as fraud or unlawful disposal of state property, which appear as instances of economic crimes, could be more coherently integrated into this category through an acceptable criterion. At the same time, it is essential that criminal policy instruments be applied in relation to offenses that significantly affect the economic order and public order, so that states are not forced to bear heavy costs to remedy the destructive consequences of such crimes (19, 20). For example, in each instance of an economic crime, applying special

criminal policies to offenses involving material damage of less than one million rials would lack logical and rational justification. This consideration led the Head of the Judiciary to issue a directive dated 26 January 2013 concerning major economic crimes, which, in addition to defining instances of economic crimes, set a criterion of ten billion rials in damages as the threshold for classifying an economic crime as "major" (18).

Subsection Three: Lack of Comprehensiveness in the Enumeration of Economic Crimes in Iran's Criminal Law

As previously explained when discussing the concept of economic crime, the economic system is an ordered whole composed of institutions, processes, and requirements. Any infringement of its fundamental elements disrupts public and economic order and constitutes economic crime. Even if it is not possible to provide a precise and unified definition of economic crime, identifying the most salient instances of such offenses is by no means impossible (24).

Subsection (b) of Article 109 of the Islamic Penal Code suffers from several problems in describing the enumerated instances of economic crimes.

First, the most significant problem is the incomplete and non-exhaustive nature of the provision: it is neither comprehensive nor exclusive, and many crimes are absent from this list. A review of these instances shows that not only some important economic crimes, but even some of the *most* important instances of economic offenses, have been omitted. Numerous crimes are missing from the list, including offenses related to environmental harm, breach of trust in private banks and large corporations, exceeding specified limits in acquiring property through unlawful means, and unlawful acquisition of property through computer systems, among others (24).

It should also be noted that, taking into account military offenses (about 150 titles) and ta'zīrāt offenses (around 100 titles), there are currently more than 1,800 criminal provisions in Iranian law connected in some way to the economic system. Some of the titles in the existing list are not fully formulated and do not adequately protect the economic system. For example, "tax evasion," which is the most important tax offense, has not yet been comprehensively criminalized in Iran's legal system (24).

Criminal Policy Toward Economic Disruptors Based on Economic Crimes

The aim of criminal policy in Iran, founded upon retribution and punishment, is to prevent crime and to reform and rehabilitate offenders. In practice, this duty rests more heavily on the Judiciary than on the other branches, since clause 5 of Article 156 of the Constitution expressly assigns to the Judiciary the responsibility for taking measures to prevent crime and to reform offenders. Some jurists argue that this responsibility has been assigned to the Judiciary by way of predominance, even though other institutions also play a role (38).

Perpetrators of economic crimes possess specific characteristics knowledge of which can significantly aid prevention. They derive substantial profits from their criminal activities, fully exploit the opportunities of economic globalization, expand their operations worldwide, and often act in an organized manner. Using the information at their disposal, they exploit gaps in the legal system and in the market. Sometimes, a company serves merely as a vehicle or façade for committing economic crimes or for concealing their traces. In such cases, some companies hide behind the anonymity of their main shareholders, while others exist only as legal shells without real economic substance. Thus, there are sham or fictitious companies established solely for committing crimes. The situation of some economic offenders—such as those who hold public office and wield authority—differs significantly from that of ordinary offenders. Owing to their critical positions in the economy, management, and politics, the danger posed by this group is much greater. Some economic offenders possess no formal power, yet the specialized information

they hold makes them highly dangerous to society. They employ tools and methods derived from other sciences not only to violate the law but also to erase the traces of their criminal conduct—knowledge that is often lacking among law-enforcement authorities and those responsible for monitoring corporate compliance. This lack of awareness makes it difficult to adopt preventive measures against the misuse of specialized knowledge (21).

Criminal policy for preventing disruption of the economic system employs both penal and non-penal measures.

Non-penal prevention encompasses measures taken before the commission of an offense. In terms of economic crimes, three groups of potential offenders may be identified: first, ordinary citizens; second, private companies, legal persons, and institutions that commit economic crimes on a broader scale; and third, state-owned companies and public institutions that organize such crimes in a more systematic way. It is evident that the approach to each of these categories must differ. Under Article 156 of the Constitution, the Judiciary is tasked both with prevention and with punishment of offenders. Finding appropriate mechanisms to confront such crimes and to prevent economic corruption is therefore one of the most important responsibilities of the Judiciary (1, 18).

On the other hand, criminal (penal) policy consists of measures taken after the commission of a crime to prevent the offender from committing a first or repeat offense. The objective of such punishments is to prevent reoffending and to create deterrence among potential offenders who might commit crimes in the future. Punishment is a reaction to crime rooted in traditional approaches that emerged with the formation of human societies. Its initial purpose was the capacity to prevent crime, followed by the punishment and reform of offenders (38). Through various legal provisions, the Iranian legal system has sought—by means of criminal sanctions—to create effective tools for preventing the occurrence of such crimes, which reveals the punitive orientation of Iran's criminal policy toward economic disruptors and economic crimes in general (25).

Smugglers of Goods and Currency

Smuggling of goods and currency, like many other criminal titles that constitute instances of disruption of the economic system, has been criminalized both under the Law on the Punishment of Disruptors of the Economic System and in other statutes. However, the reason for criminalizing these economic behaviors in that law is the intensification of punishment, given that they disturb the economic order (25, 33). The crime of smuggling goods and currency was also criminalized in the 2013 Law on Combating Smuggling of Goods and Currency. Nonetheless, there should be no inconsistency between subsection (a) of Article 1 of the Law on the Punishment of Disruptors of the Economic System and subsection (kh) of Article 2 of the Law on Combating Smuggling of Goods and Currency, which regards failure to comply with government regulations or lack of required authorization from the Central Bank for the import, export, purchase, sale, or transfer of currency as smuggling. This is because the term "currency smuggling" is broader than the definition of smuggling under subsection (1) of Article 1 of the Anti-Smuggling Law, and includes the purchase, sale, and transfer of currency as part of its scope. Moreover, possession and transport of smuggled currency are criminal titles that do not fall under the Law on the Punishment of Disruptors of the Economic System. Currency smuggling is considered an instance of that law only when it causes instability in the national economic system; the "large-scale" nature of the smuggling is not, by itself, the decisive element. When currency smuggling does not result in economic instability, it is prosecuted under Article 18 of the Law on Combating Smuggling of Goods and Currency.

By adopting this law and emphasizing decriminalization in certain smuggling contexts, the legislator significantly restricted the jurisdiction of judicial authorities over smuggling of goods. According to Article 44 of the law, the

prosecution of organized and professional smuggling of goods and currency, smuggling of prohibited goods, and smuggling of goods and currency punishable by imprisonment or dismissal from public service falls within the jurisdiction of the Prosecutor's Office and Revolutionary Court. Other cases of smuggling of goods and currency are treated as administrative violations and fall under the jurisdiction of the Organization for Governmental Sanctions (*Ta'zīrāt Ḥokūmatī*). Thus, under this law, the imposition and enforcement of certain sanctions—primarily monetary administrative penalties—are assigned to administrative authorities, which apply them through a quasi-criminal administrative process, while the imposition of other sanctions (deterrent criminal punishments) remains the exclusive competence of judicial authorities; administrative bodies lack any legal authority to impose such penalties (8).

Iran's Criminal Policy Toward Hoarding

A review of Iran's legal system shows that the legislator has criminalized hoarding from the very beginning of modern legislation, addressing it in instruments such as the *Law on the Establishment of Provinces and Governorates and the Instructions for Governors* (1907), the *Law on Preventing Hoarding of Essential Goods* (1939), the *Law on Preventing Hoarding* (1941), the *Guild System Act* (1971), the *Law on Intensifying Punishment of Hoarders and Price-Gougers* (1988), the *Governmental Ta'zīrāt Act* (1988), the *Law on the Punishment of Disruptors of the Economic System of the Country* (1990), and the *National Guild System Act* (2003), among others (25, 26).

According to Article 4 of the 1988 Governmental Ta'zīrāt Act, hoarding is defined as the large-scale storage of goods, as determined by competent authorities, combined with refusal to offer them for sale with the intent of price gouging or harming society after the government has declared the necessity of supplying such goods. Similarly, Article 60 of the 2003 National Guild System Act defines hoarding as the large-scale storage of goods, as determined by competent authorities, together with refusal to offer them for sale with the intention of price gouging or harming society after the Ministry of Industry, Mine, and Trade or other competent legal authorities have announced the necessity of supplying them. It is noteworthy that both definitions remain valid under current law but operate in distinct normative spheres.

The legal element of hoarding in Iran's legal system is thus articulated in Article 4 of the Governmental Ta'zīrāt Act and Article 60 of the National Guild System Act. The legislator criminalizes hoarding by non-guild actors under Article 4 of the Governmental Ta'zīrāt Act, and by guild actors under Article 60 of the National Guild System Act. Moreover, when hoarding causes disruption in the distribution of essential goods and basic commodities, it falls under Article 1 of the Law on the Punishment of Disruptors of the Economic System of the Country and is treated as a crime under that statute (39).

Iran's Criminal Policy Toward Money Laundering

Article 2 of the Anti-Money Laundering Act, adopted by the Expediency Discernment Council, defines money laundering as the acquisition, possession, retention, or use of proceeds obtained from unlawful activities with knowledge that they were derived directly or indirectly from the commission of a crime; the conversion, exchange, or transfer of such proceeds for the purpose of concealing their unlawful origin with knowledge that they result directly or indirectly from the commission of a crime, or assisting the offender in such a way that he or she is not

subjected to the legal consequences of that crime; and the concealment or masking of the true nature, origin, source, location, movement, or ownership of proceeds obtained directly or indirectly from a crime (40).

Under the Anti-Money Laundering Act, the Iranian legislator has not established sufficiently robust criminal sanctions for offenders. The inadequate deterrent effect of the law creates incentives for the expansion of money laundering activities. Article 9 stipulates that offenders, in addition to returning the proceeds and income derived from the offense—including principal and profits—are to be sentenced to a fine equal to one-quarter of the value of the proceeds (2). If the principal and profits are no longer available, the offender is obliged to return their equivalent in kind or in value.

Note 1 to the same article provides that, where the proceeds have been converted into or exchanged for other property, such property shall be confiscated (40). However, fixing the monetary fine at only one-quarter of the value of the proceeds is not a sufficiently strong criminal guarantee to deter offenders. Even if convicted, such a level of punishment will generally not impose serious hardship on professional launderers.

Under Note 3 of Article 9, perpetrators of the predicate offense who also commit money laundering are, in addition to the punishments prescribed for the predicate crime (such as smuggling of goods and currency, narcotics trafficking, embezzlement, bribery, etc.), subject to the sanctions set out in the Anti-Money Laundering Act, since money laundering is an independent offense with its own punishment (41).

The main criticism of the Anti-Money Laundering Act concerns the inadequacy of its penalty provisions. The law prescribes only monetary fines and does not provide for harsher sanctions with greater deterrent power, such as imprisonment and strong supplementary or accessory penalties. It would have been more appropriate for the legislator to designate imprisonment as a mandatory principal punishment, combined with a fine equal to one-quarter of the value of the assets and profits derived from the offense, in order to align criminal policy more effectively with the need to combat money laundering (2, 40).

Iran’s Criminal Policy Toward Fraud

The legal element of the crime of fraud is set out in Article 1 of the Law on the Intensification of Punishment for Perpetrators of Bribery, Embezzlement, and Fraud. The legislator has placed certain offenses on the same level as fraud, prescribing, in many cases, even more severe sanctions. In reality, these offenses are not fraud in the strict sense and do not possess all its constitutive elements; however, for sentencing purposes, the legislator has grouped them with fraud (41).

These offenses include: exploitation of a person’s mental weakness (Article 596 of the Islamic Penal Code, Ta‘zīrāt); bankruptcy due to fault or fraud (Articles 541 and 549 of the Commercial Code, and Articles 670 and 672 of the Islamic Penal Code, Ta‘zīrāt); fraud leading to fraudulent schemes in mixed-liability partnerships; fraud leading to fraudulent schemes in joint-stock companies (Articles 180 and 192 of the Commercial Code, and Article 249 of the Commercial Code); fraud leading to fraudulent schemes in limited liability companies (Article 115 of the Commercial Code); and transactions intended to evade debt (Articles 4 and 5 of the Law on the Enforcement of Financial Sentences) (34, 38).

Iran’s Criminal Policy Toward Embezzlement

States, with the aim of regulating social relations, entrust a large portion of their capital, property, and documents to their employees. However, employees may abuse or waste the property placed under their control. To address

this problem and prevent misuse of public assets by state employees, the legislator has introduced the offense of embezzlement as a form of criminal protection for public property (10).

The legislative history of embezzlement in Iran predates the Islamic Revolution. For the first time, embezzlement was criminalized in Article 152 of the 1925 Public Penal Code. After the Revolution, in 1988, the Law on the Intensification of Punishment for Perpetrators of Bribery, Embezzlement, and Fraud was adopted by the Expediency Discernment Council.

The legal element of embezzlement is now found in Article 5 of that law, which provides that any employee or staff member of ministries, organizations, councils, municipalities, state-owned or state-affiliated companies, revolutionary institutions, the Court of Audit, institutions financed by the state, judges, members of the three branches of government, members of the armed forces, or public-service agents—whether official or unofficial—who misappropriates for himself or another any funds, receivables, promissory notes, shares, securities, or other property belonging to any of the aforementioned organizations or to individuals, where such property has been entrusted to him by virtue of his position, shall be deemed an embezzler and …

This article, however, is not free from ambiguity or criticism. The reference to “armed forces” in Article 5 is no longer appropriate in light of the 2003 Law on the Punishment of Armed Forces Offenses, under which embezzlement by military personnel is governed by Article 119 of that law (9). Moreover, according to the explicit wording of Article 5, embezzlement is an offense specific to state employees; employees in the private sector fall outside its scope (42).

Consequently, Iran’s criminal policy regarding the protection of public and private property is dualistic and poorly coordinated. Additionally, the proportionality between offense and punishment, and the level of monetary fines prescribed, are open to criticism and in need of revision. The country’s legislative criminal policy on embezzlement, fragmented among multiple law-making bodies, reflects a traditional and outdated view of punishment, lacking coherence and failing to incorporate insights from sociology and criminology (9, 18).

Criminal Policy Toward Bribery and Corruption (Rashā wa Erteshā)

Under Article 3 of the Law on the Intensification of Punishment for Perpetrators of Embezzlement, Bribery, and Fraud, any public employee or official—whether judicial or administrative—members of councils or municipalities, revolutionary institutions, the three branches of government, members of the armed forces, employees of state-owned companies or state-affiliated organizations, and any public-service agents, whether official or unofficial, who directly or indirectly accepts money, property, or any negotiable instrument in exchange for performing or refraining from performing an act related to the aforementioned organizations, is considered a bribe-taker (*morteshi*), regardless of whether the act falls within his or her official duties, whether it should or should not be done, and whether or not the official is actually able to influence the outcome. The article then prescribes a graded system of punishments.

Article 590 of the Islamic Penal Code (Ta‘zīrāt and Deterrent Punishments) further provides that, if the bribe does not take the form of cash but consists instead of property transferred gratuitously, or at a significantly lower price than its ordinary market value, or seemingly at the usual price but in fact at a much lower one, to a public employee or official—judicial or administrative—directly or indirectly, for the aforementioned purposes; or, conversely, if property is purchased from such an official at a price substantially higher than market value, the official is deemed a bribe-taker and the other party a bribe-giver (*rāshi*).

Article 592 of the same Code states that any person who knowingly and intentionally gives money, property, or a negotiable instrument directly or indirectly to one of the persons mentioned in Article 3 of the Law on the Intensification of Punishment for Perpetrators of Bribery, Embezzlement, and Fraud in order for that person to perform or omit an act within the scope of his or her duties, is considered a bribe-giver. As punishment, the offender is sentenced, in addition to confiscation of the property given as a bribe, to six months to three years' imprisonment or up to 74 lashes. These provisions embody the material element of the crimes of bribery and corrupt payment (41).

These two forms of bribery are also addressed in other provisions, such as Article 588 of the Islamic Penal Code (bribery involving arbitrators, assessors, and experts), Article 593 (facilitation of bribery), provisions relating to bribery in military affairs under Article 49 of the Constitution, and Article 3 of the Law on the Implementation of Article 49 of the Constitution, among others (24).

Conclusion

An examination of the 2013 Islamic Penal Code shows that the changes in criminal policy regarding economic crimes do not constitute a strong barrier against such offenses. The absence of an adequate definition of economic crimes calls for serious reconsideration. Moreover, Iran's criminal policy in identifying instances of economic crimes—shaped largely by the legislator's focus on behaviors perceived as threats to national interests—suffers from several shortcomings, including ambiguity in the listed instances and their lack of comprehensiveness and exclusivity.

These ambiguities in the foundations and instances of economic crimes have obscured the precise scope of the category. In practice, the formulation of the concept of economic crime and the enumeration of its instances are, rather than genuinely preventive, beneficial to real economic offenders, who frequently operate in legal grey areas. Given the principle of legality in crimes and punishments, the label "economic crime" cannot be extended to their conduct. No clear criteria have been provided for identifying all instances of economic crimes, whereas in many other countries, because of the critical nature of the issue, comprehensive policy packages—combining structural reforms, preventive strategies, and strict, deterrent criminal measures—have been adopted.

At the same time, since the current concept does not itself introduce new criminalization, it offers no added value for addressing chronic and unresolved problems in the economic system. In enumerating instances of economic crimes, the legislator has primarily focused on offenses that facilitate corruption within the public sector, creating the impression that the private sector is less exposed to corrupt economic practices. Yet offenses such as rent-seeking, stock-market manipulation, and banking crimes clearly fall within the ambit of economic crime, regardless of whether they occur in the public or private sectors.

In Iran's criminal policy, emphasis has been placed on protecting the victim, with comparatively little attention paid to the rights of the accused. Punishments have been designed primarily for retribution, leading to neglect of offender rehabilitation. Ambiguity in legislation is another major weakness in this domain. The concept of economic crimes as formulated in the Islamic Penal Code does not possess sufficient strength to combat economic delinquency and requires revision and the drafting of a comprehensive framework that, by providing precise definitions and a coherent list of economic criminal titles, clarifies the current legal uncertainties.

As a provisional and research-based solution, it is suggested that a formal interpretive opinion (*estefsāriyeh*) be sought from the Islamic Consultative Assembly, expressly confirming that the instances listed in subsection (b) of

Article 109 of the Islamic Penal Code are illustrative rather than exhaustive. If adopted, this interpretive clarification would resolve a significant portion of the identified problems and allow courts to classify additional serious economic offenses within the broader concept of economic crime.

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