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FOUNDATIONS CRIMINALIZATION OF ECONOMIC CRIMES

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ABSTRACT

One of the essential requirements of social order, which is of particular importance in any society, is economic order because the economy has a role in the society and any disruption undermines the security and the general comfort and even national security. With the widening of social, economic and economic globalization, we are witnessing the creation and increase of economic crimes as one of the problems of the system. Economic crime is a relatively new term in the world legal culture and in the legal literature of our country. Therefore, it is essential to examine the concept and philosophy of the crime of committing these crimes and to observe their needs and duties. Also, in order to prevent the negative effects of economic crimes and to establish and maintain an economic order, as well as to identify the economic values of society, it is necessary to adopt solutions that include the criminalization and punishment of these crimes and the decisive approach to Disrupters in the economic system and economic criminals through the establishment of new laws and disciplined, coherent and dynamic criminality, in accordance with the objectives and principles of criminal law and the principle of the legality of offenses and penalties, and taking into account the criteria and principles and the determination of value Legally Supported. For the purpose of criminalizing economic crimes, the prediction of some criminal behavior under this heading is in the law. The legal vacuum on the criminalization of economic crimes, the security approach and the ambiguity in the crime and lack of a clear definition in defining these crimes is one of the most important challenges of the criminalization of these crimes. In view of the fact that any crime in criminal law should be based, in this research, with the aim of identifying the grounds for the criminalization of economic crimes and the weaknesses and strengths of our country's criminal policy in terms of the criminalization of these crimes, In line with the human rights and international standards of criminal law, we are endeavoring to examine the fundamentals of economic crime in terms of legal, criminal, criminal and political principles. It seems that the abovementioned principles are the basis and criteria for the crime of crimes being discussed.

Keywords: Basis; Crime; Economic Crime; Legislation; Corruption; Economic System

1. INTRODUCTION

Maintaining the order and calm of the society and controlling criminal phenomena is a missionary responsibility, it is the responsibility of the criminal policy of each country, which involves resorting to a criminal system or non-custodial instruments. Criminal policy is the core of our country's criminal policy in terms of economic corruption; its success depends on deliberate crime based on thinking and thinking (Khani and Milani, 2013: 47). Undoubtedly, crime is one of the most complex legislative issues; therefore, it must be consistent with the aims and principles of criminal law. In crime, the material criteria such as the restriction of the territory, the exception to the use of it, the proportion of crime and punishment; and the criteria of the form, as well as the clarity and transparency of the law and the need for observance of the rules of writing, literary and ethical, must be considered and based on which In other words, it is not possible to achieve the goals of crime, and even the value of the penal law is reduced, and there are other problems, such as criminal penalties (Pourbarafari , 1392: 25). In order to criminalize a behavior, we must go through these stages and find the appropriate answer:

1. Does the act harm others seriously?
2. Does it violate the fundamental values of society in a harsh manner that is harmful to society?
3. Does the principle of harm or the principle of protecting morality or other principles justify government intervention?
4. Are other non-response measures appropriate for responding? (Mahmoudi Janaki, 2003: 321)

The most important principle in considering a particular act as a crime is to insert this subject in the rules and regulations of the subject. The principle of crime is one of the basic principles of criminal law. According to this principle, the determination of a criminal act must necessarily be within the legal framework. In jurisprudential terms,

this issue has also been emphasized and the criminal offense of a person is grossly disadvantageous before his act is introduced as a crime.

Economic crime as one of the problems of the system has three faces: first, the security face, the second, the economic image, and, thirdly, the social face which is the most important reason for the suppression of economic crimes; therefore These three faces have caused economic crimes in our country's criminal law to be recognized as the most serious crimes and the general legislative framework of Iran in economic crimes, the intensification of punishment and the reduction of the powers of judges in the reduction, conversion, or suspension of punishment, with the aim Increase the punishment of punishment. The key question in this study is what are the fundamentals and goals of economic crime offenses? And in order to answer this, you must first review related concepts and definitions.

2. CONCEPTS AND DEFINITIONS

Since the examination and entry into each topic requires a glossary and understanding of the basic terms related to that topic, this will make it easier to study and understand the subject matter. Therefore, in this research, first of all A brief explanation of some related terms is necessary, the most important of which is the definition of the concepts, foundations, crime and economic crimes.

a. Basics

The foundations are the basis of the base. It is based on the foundation, foundation, and foundation in its meaning. As with the beginning, the principle, first, foundation and base also define it (Dehkhoda, Jr 43: 214). Lawyers have argued that the basis of the law is the basis and the reason for the force they have in the society. The law of law, the answer to the question is what determines the imposition of the law on everyone, and why should He followed the law. The foundations of law are the source of legal rules (Katowice, 1377: 1). Basically, it speaks of the root of the legal principle, and the purpose, purpose and outcome, and when the basis and purpose affect each other, can not be ignored Taking into account the goals of the punishment, the principles of crime are properly recognized (Mahmoodi Janaki, 2003: 20). Foundations are one of the commonly used concepts and terminology in the field of law that are used by scholars in the field to explain the foundations for the establishment of mandatory legal rules, which are "set of conditions and circumstances or forces It is secret and imperative that based on the thinking and thought of lawyers or the decisions of community officials and practitioners to establish rules to deal with various legal phenomena such as economic crimes in the form of codified laws. (Walid, 2007: 38)

b. Criminalization

Crime is a criminal policy view of the mechanism by which the legislator, from the point of view of the important and dangerous outbreaks of the society, responds to various responses - including in the first place - criminal responses (Najafi Ebrahbandadi, 1385: 260). In other words, crime is a process by which society prohibits and opposes acts that are contrary to their interests and punish them. In the definition of the term, it is also said that "crime" or the criminalization of the law of an act or detention is a process by which new behaviors are punishable under criminal law; it is natural that the extent of the process And the rules are widespread under the pressure of public opinion, more criminal laws, and hence more offenders. (Najafi Ebrahbandadi and Hashem Beigi, 1998: 76). Given that most of the examples of economic crimes are mentioned in Iran's penal code, it can be said that crime to deal with the phenomenon of economic crime is an emphasis on a program that has already been implemented and implemented, unless the massacre According to the status of the actions. From this perspective, the crimes of financial and economic crimes can be categorized into three types: elemental crime, complementary crime and related crime. (Tavassoli-e Zadeh, 2011) : 202) Primary or direct criminalization refers to the punishment of knowing behaviors that Iran's criminal laws do not have before or is silent. This type of crime is justified by the fact that the process of globalization, in its general sense, has led to the globalization of the economy as well as other aspects of human life. Supplementary crime also seeks to anticipate prohibited and punishable offenses related to economic crimes, although this state or behavior is not directly economic crime but is related to economic crime, and therefore the legislator for Countering economic offenses completes coping laws. Similarly, related crime leads to the prosecution of crimes that are not essentially in the realm of economic crime, but are either materially or substantially related to economic crime.

The point to be made here is that, in addition to legal determination, judicial determination should also be considered as a crime, and this implies a judicial review of the determination of economic crime cases. Judicial determination is a more successful and objective measure of legal determination, and acts as a form of law, and refers to the criterion of crime only in the condemnation and execution of a sentence. (Tavassoli-e Zadeh, 2011: 58), and this type of crime with the establishment of a special complex of economic crimes by the head of the judiciary has become more objective in recent years; in addition, for the sake of research, the judiciary has tried to develop legislation through approaches The new or compilation of educational books is based on the concept of the economic

crimes. The two volumes of the "Provisional Criminal Code" and "42 Crimes" And smuggling "is expected to play a significant role in introducing economic crime examples in our country's legal system, and especially among judges.

c. Economic Crime

Economic globalization and economic crime are a phenomenon that does not provide a comprehensive and precise definition of economic crime. The plurality of law enforcement agencies has led to no single policy and no definite criteria for defining economic defects in relation to these horrific phenomena. Economic crime is a relatively new term in the world of legal culture. Keywords such as corruption, white collar and economic misconduct are the conceptual background of this term. An economic offense in the word has entered into the concept of non-law-based behavior with financial and economic implications. The economically criminal dimensions of the conceptual viewpoint are the shortest lexical definition of the term economic crime. (Gils, 1996: 78). But the term implications of this term means certain economic behaviors which, from a legal point of view, have certain characteristics, And societal governing society, and from the point of view of law as special economic activities with the criminal character of the intended legislative authority (Oxford, 2003). The concept of economic crime from the point of view of doctrine also has various definitions, in particular in 1999 Mr. Nicola Clause provided new features of the economic crimes and the manner in which they were committed, which led to the presentation of A new feature of this crime, these features are: 1. in the context of the economic existence of these crimes; 2. lack of violence; 3. the need for knowledge and familiarity with the context of these crimes; 4. the purpose of gaining wealth and personal interests 5. Complying with the misuse of trust 6. The multiplicity of damages for these crimes (Shneider, 2001: 83-87). Here, it can be said that the closest law to the concept and examples of economic crime, both in terms of the title of this law and the historical and social context of this law, the law of punishment of disrupters in the economic system of the country, adopted on 19/9/1369.

3. BACKGROUND

Economic issues are one of the most serious challenges facing the world today. That is why, since 2000, the Palermo and Merida Conventions have been ratified at the United Nations level for economic and financial crimes. Currently, in our country due to a small history of fighting economic crimes and unfamiliarity of the custodians, the complexities and details of it have hitherto been scientifically and appropriately applied to define the proper economic crime, the organization and methods and procedures for the prosecution of economic crimes. Not action.

Since the 1940s, when abnormal economic activities of some economic and commercial enterprises caused disturbances in the economic, social and political systems of societies, and its impact on all aspects of the society, the importance of the economic activities considered by the legislature And the criminalization of economic crimes was introduced as an inevitable issue.

The term "economic crime" has been entered into the legal literature of our country for several years, until it is referred to in the remarks of Article 36, paragraph B, Article 109 of the Islamic Penal Code 92, a set of crimes as economic offenses. It does not mean that the instances of economic crimes have been massacred in recent years and have not had a criminal record in the past few years, but the criminalization of instances of long history in our country, from traditional economic crimes they can.

In addition to the provisions of article 36 and paragraph (b) of Article 109 of the Islamic Penal Code, the criminalization of economic crimes in Iran's criminal law, in its form, and in particular the bilateral agreements of Iran with other countries, including Article 6, paragraph 1, of the Agreement on Cooperation between the Government The Islamic Republic of Iran and the Government of Afghanistan in the field of counter-narcotics, organized crime and terrorism, 8/10/88, have been anticipated in the fight against illegal economic activity. On the one hand, the closest law The concept and examples of economic crime, both in terms of the title of this law, as well as the historical and social context in which this law has been passed (which dates back to the year) The fragility of the Iranian economy was in the wake of the Iran-Iraq war. The punishment of disruptive punishment in the economic system of the country was approved on 19/9/1369, but the problems that exist are that the criminal behavior in this law is expressed allegorically and not specified precisely.

Various laws are now being introduced as legal sources of economic crime, which generally do not adhere to general principles, and far from the macroeconomic view of the economy and the movement within the framework of the criminalization of economic crimes, is incompletely dispersed into a subject They are aware that they have been approved.

4. NECESSITY AND IMPORTANCE

Crime is the most important means of combating blatant or perilous acts. Crime, which is one of the most effective means of preventing economic crime in the world, is not only supported by force, but also refers naturally to punishment. Hence, what is pertinent to crime, just ahead of Nose is not forbidden practice, but the validity of crime is

punishable by punishments or punishments against harassing behaviors. However, Kiefer does not recognize the perceived crime behaviors and the underlying policies behind it, while what must appear in society as an act of injustice is a crime rather than a punishment; hence the importance of crime in First class. Crime is only the privilege of killing criminal law in combating abnormalities and intolerable behaviors (Tavasoli-zadeh, 2011: 199).

A thorough knowledge of crime and punishment theories and then a review of them in order to achieve a desirable legal system that simultaneously protects the maximum of individual rights and freedoms from one and the other Observance of public order and community rights on the other hand, is one of the urgent necessities of Iran's criminal law (Mahmoudi Janaki, 2003: 5). The criminalization of economic crimes is one of the most important tools for dealing with these crimes, and it will also express the economic value of society. The high frequency and prevalence of these crimes and the widespread influences affecting the various societies have a logical and rational justification of the criminalization of this range of crimes. The conditions of the country's economic growth, developmental plans, the sensitivity of public opinion, the development of information and communication technology, the impact of economic crimes on the competitiveness of the economy, the demands of the Supreme Leader, and the requirements of the document of vision and program laws, are all the factors that matter the importance of crime improvement and dealing with economic crimes.

5. THE OBJECTIVES AND BENEFITS OF CRIMES OF ECONOMIC CRIMES

Undoubtedly, the establishment and maintenance of an economic order depends on the fight against the disrupters in the economic system and economic perpetrators, because the economy has an unparalleled role in the lives of individuals in a society, and any disturbance in it will have devastating effects in all fields. It causes the destruction of public safety and public security, and even national security. Combating economic crimes also creates economic order and guarantees both the order and the harmful effects of disrupting the economy of the country. .

Establishing and maintaining the economic order through the establishment of new laws and disciplinary measures in accordance with the aims and foundations of criminal law and the principle of the legality of offenses and penalties, and taking into account the criteria and principles and the determination of the legal and regulatory support and the system of possibility Invalid. The criminalization of economic crime is one of the most important tools for dealing with these crimes and using criminal instruments to prevent economic delinquency and also expresses economic values in any society.

6. BASICS

The most important issue in crime is to pay attention to the principle of the necessity and necessity of the criminalization of a behavior. Some writers have summed up the argument of the principle of necessity in three principles; first, the principle of "criminal value", according to which, A behavior that is not sufficiently blamed, should not be criminalized, and secondly, the principle of "profit", by which the weight of the argument in favor of the concept of need, control costs, and the ineffectiveness of crime should be well assessed and evaluated. Finally, according to the principle of "humanity or righteousness", the weight and value of arguments relating to tolerance should be evaluated. (Nov. 2008: 366). Rules and Resources related to the Crime of Economic Crimes Like many legal issues in our legal system, we are a mixture of Islamic rules of the legal principles and existing laws. The criminal lawyer in this case, adapted from Western law and observing the rules and Available jurisprudence has used both sources in legislative terms. Since economic crime seems to be a new concept in terms of criminal law, and the criminalization of these crimes dates back to recent years, therefore, it is necessary to see the foundations of law and the basic principles of law and its jurisprudential principles together. And examined the foundations of this crime. It is also necessary to pay attention to the criminal, political and security foundations of this crime. Therefore, this topic is examined in four parts of the jurisprudential foundations, legal bases and sources, criminological foundations, and political and security foundations.

a. Jurisprudential Foundations

In the religion of Islam, based on the verses and traditions, there is no place for misleading affairs, and this causes the rules to comply with the abovementioned rules, to regulate the economic and financial health of the society and prevent corruption. In this section, two of the jurisprudential foundations are referred to as the basis of the economic crime crimes based on the Qur'anic verses (the prohibition of oakmah to falsehood) and Islamic law (the rule of law).

i. Koran

In the Holy Quran there are verses that refer to "the reverence of immortality to falsehood", as in verse 188 of the al-Baqarah chapter: "Vlah is awesome in the midst of my beloved." The same is repeated at the top of verse 29

of the Mobarakeh Nisa chapter, which says: "Or Ayyah al-Zayn Hafwa wa Lak'lava Amu'lkam Binzkim Balatadal." In the case of the word "Akel", some scholars have stated: "In the name of Akol, eating and pouring the mouthful and Or Absolute Eating is not the literal meaning of this word, the purpose of what the commentators have said is absolute possession, not eating. Here, "the purpose of particular is not real seizure, but the intended meaning, which includes the appropriation of credit (acquisition of rights), possession and acquisition, as well as the order of the practical effect of them" (Georgian, 24: 1380). In the case of the term "falsehood", it has also been said: "Everything that is not right will be void" (Ibn-e-Maizour, Bi-Ta: 56). Considering the lexical and interpretive issues raised by the verses discussed and the verses and narratives, we find that "falsehood" is not limited to specific cases, but is a general concept, and any violation of rights and seizure of property of others, property General and Anfal, and even unjust possessions in their possessions, as well as things such as usury, bribes, gambling, oppression, usurpation, etc.

In Islam, any confiscation of property and assets must be based on the right and justice and on the basis of the correct basis, and whatever is otherwise, is forbidden and void (Ismaili, 1373: 129). Hence, according to the material that was said about the respect of "Ahal Mal'ah to falsehood", and also in the sense of "falsehood", economic crimes should be regarded as one of the most obvious instances of "Ahal Malah to falsehood". Which is considered one of the prohibitions and is subject to the verse of Sharifa. The voluntary acts that humans do not inherently have the status of halal or haram, but their delinquency or respect is due to the permission or lack of permission in the Shari'a. Therefore, if these acts are intended for the purpose of business and economic development of the country and within the scope of the regulations, it is permissible, but if these acts and other similar acts are aimed at obtaining profits at the macro level, they are forbidden and unauthorized and punishable And ta'zir, and on this basis, this verse and other similar verses can be considered as the basis for the suppression of economic crimes.

ii. Islamic Law (Rule of Law)

In Islamic law, there are abundant rules that seek to eliminate the current and potential losses of society and to compensate for the damage to society and protect it from harm that can be used as the basis for the criminalization of economic crimes. With the correct interpretation these principles and rules clearly prove that in the Islamic law, the principle is to restore the rights and protection of those who suffer from violent acts. In addition, in Islamic law, in addition to other legal systems, the general principles of protection of the suffering Compensation for the damages caused by the crime has been formulated in them and in the form of code rules including the law of no harm, causality and manifested. The best of these rules is the rule of lawlessness. The criminal code is one of the rules that underpins the criminalization of these types of crimes. The unpopular rule is one of the most famous and most important rules of jurisprudence cited in most jurisprudential jurisprudence regarding the dispossession of harm and is a documentary of many jurisprudential issues; of the cases in which they invoked the rule of lawless disbelief and hajj Because whatever is in it, it is in the sense of a loss inside, with the explanation that the harm is more commonplace than loss and harm because loss means not having and losing the benefits of life, and the need for It means repeating the loss of harm and harming two people to each other (Hikmat Nia, 2010: 112). There are also verses in the Holy Qur'an, which specify the term loss and its derivatives. There are a lot of stories about the lack of narratives, which, because it is impossible to mention all of them, is bestowed on the most famous ones. The most famous hadith in this case is the story of Semera bin Jandab, on which, according to the Prophet's (PBUH) commandment, one should not harm a believer. In general, the Islamic law obliges the elimination of harm as a rule, and it considers it necessary and necessary to compensate for any loss to one another. The basic and basic basis of this rule is the prophet's narration, "La'zarr and La Zahar Fi'l-Islam" (Haramali, 1403: 154). The meaning of the laconic tradition is that there is no harm in Islam and the concept of the rule It would seem that any harm should be created in the Islamic society, it must be compensated. In other words, the meaning of this hadith is that the harm in Islam is not legitimate (the groom's scholar, 1986: 156) is limited by the rule of law as soon as personal property violates another's secure privacy. This rule has been applied in Iranian law, including Articles 40 and 46 of the Constitution and Article 132 of the Civil Code. The right holder must exercise his or her right according to his social duty, or he has diverted it from his original course. The community should not allow a group to manage their lives by ignoring the benefits of the community. (Bahrami Ahmadi, 1370: 112). Therefore, if individuals resort to the principle of ownership to conduct their criminal acts, then the principle is to be ruled out against this principle. Here it should be noted that economic crimes cause social insecurity and the weakening of the state and the judiciary, and ultimately cause social and dignified losses for the state, the public treasury and the economic system of the country. Therefore, it is based on the rule of criminal misconduct of economic crimes and should be committed to committing and combating these crimes. After the power of the state and the political system of each country, among its people, according to the ethical and principled principles of prohibiting harm to another, justifies the criminalization of economic crimes or at least part of them.

There is no doubt that the material and physical damage and personal injury are subject to the rule of law, and it is certain that Islam here supports all material and physical delinquents, (Amiri Ghayem Moghami, 1369: 80), but when These losses and losses are generally and in the broader meaning of crimes such as economic crimes, it is questioned whether the rule would cover such large and sometimes unprofitable losses. Does it take As far as the

circumstances and claims of the Hadith "Samara" are concerned, the issuance of a damages order includes all damages and the Hadith of Lazard is one of the foundations and principles of the criminal offense of economic crimes? Now, this It is argued that economic crimes did not exist with these conditions and extent at the time of the issuance of Islamic legal codes. Is it possible to consider the rule as the basis for the criminalization of economic crimes in the present? It seems to be possible to base this principle on the basis of the criminalization of the crimes in question, in light of the criteria and rationale in the rule of law, which is capable of compensating and protecting any harm and harm, namely harm to one another.

b. Legal Basis (Legal)

The legal bases of economic crimes are the basic principles and supportive provisions stipulated by the lawyers and, consequently, the legislator on the principles and principles of law and law. In this section, the constitution will be discussed as the main and most basic document clarifying the principles and principles of the legal system and then other legal bases, including domestic and international law.

i. Internal Rules

Laws relating to economic crimes are neither comprehensive nor non-impeding; laws that are not referred to as "economic offenses", in principle, cannot be comprehensive, and the laws that are dealt with in different aspects of crime, as the case may be, are not Can be a hindrance. It should also increase the ambiguity and dispersion to the lack of integrity and the imbalance of the above-mentioned laws, and since the legislator himself has not provided a precise criterion for the determination of economic crimes, one cannot specifically set a standard for the criminalization of such offenses. And relied on the legal determination of these crimes. Since the constitution is the most important and most important basis for legislation and criminalization in all crimes, and in particular in economic crimes, in this section, first of all, the principles relating to the criminalization of the crimes in question as the basis We will pay off the crime. Article 3 of the Constitution of the Islamic Republic of Iran, as one of the clear bases for the political, economic and social principles of the system, states in the 10th and 12th principles of the basic principles of the economic system; it explains cases of the general policy of Iran's economic system. It will be based on all the different strategies and policies of the legal and economic system. In the following, in principle 43, in explaining the special economic policies of the Islamic Republic of Iran, the first discussion by the legislator is the discussion on the eradication of poverty and exclusion, which is one of the major effects of economic crimes and the protection of the system Economics is one of the most important goals of Article 43 of the Constitution. Article 45 of the Constitution also refers to the protection of public property as the subject of economic offenses.

Another deciding principle is Article 49, according to which the state is obliged to provide financial and material compensation and compensate the victims of economic crimes. In Article 50 of the Constitution, the Court of Accounts as the executive agent of preventive and secondary protection of property. The public and public funds of the state, as one of the most important victims of economic crime, have been introduced. But in addition to the constitution, other laws have also been taken as the basis for criminalization. Due to the multiplicity and variety of laws related to economic crimes, it is beyond the scope of this research to explain and describe them in any way. Therefore, merely mentioning the importance .The most recent titles and the date of their adoption are endorsed. These laws include: 1. The General Accounting Law of the State approved on 1/6/66 2. The Regulations on the Prevention and Combating of Bribes in the Executive Agencies of 22/12/83 3. The Law on Amendments to Articles 63 and 64 of the General Accounting Law of the country Adopted on 22/12/83 4. Law on the promotion of the health of the administrative system and the fight against corruption adopted on 10/3/2011. 5. The Law of the Fourth Plan of Economic, Social and Cultural Development, dated 11/6/83. 6. The Law prohibits the intervention of ministers. MPs and employees Government in State and Country Transactions Adopted on 10/22/10 7-Law on the conduct of tenders approved on 25/1/83 8-Law on the management of civil service approved on 8/7/86 9-Executive instruction on money laundering prevention regulations in banks 10 - The legal act of execution Notification of Article 44 of the Constitution. 11. Law on the Implementation of Article 49 of the Constitution. Adopted on 17/5/63. 12-Law on the Conduct of Collusion on State Transactions approved on 19/3/48. -All Law on the Prohibition of the Acquisition of Foreign Trades Approved 27/4 / 72 14. Law of Penalties for Infringing, contrary to the Law and Legislative Law, dated 29/5/1315. 15-Islamic Penal Code approved in 1370, Materials 570, 577, 578, 579, 581, 582 and 583, as well as Articles 588 to 606 and Note 36 And Article 109 of the Islamic Penal Code of the Islamic Republic of Iran, approved by the Supreme Council of the Islamic Republic of Iran, 1/2/92. 16. The Law on the punishment of disrupters in the economic system of the country, approved on 19/9/69. 17. The law on aggravating punishment of perpetrators of bribery, embezzlement and fraud. The Law on the Practice of Government Sanctions Goods and Currency Approved 27.22.19. 19-Law on the Application of the Law on the Implementation of Article 49 of the Constitution on the Prosecution and Extricity and Smuggling Properties approved on 29/11/68. 20-The Penal Code of the Smugglers Act / 12/1312 with subsequent amendments 21-Customs Law approved on 30/3/50 with subsequent amendments 22-E-commerce law approved on 17/10/82 23-Law of the Securities and Stock Market Organization approved by 9/84

24-Law of struggle With money laundering approved on 2/11/86. 25-The law of annexation or clause and a note to the law of the punishment of disrupters in the economic system of the country (the punishment of the activities of pyramid companies) approved on 14/10/84. 26. The law of the Government of the Islamic Republic Iran to the convention of the international organization Unified Anti-Corruption (Merida) Act of 29/8/87 27-Budget law of the year 86 of the whole country 28-The law on the dissemination and free access to information approved on 4/11/88 29-Prevention and Combating of Bribes in the Machine Executive Order Adopted 22/12/83 30-Law of the Five-Year Plan of Development of the Islamic Republic of Iran (2011-2012) Adopted on 15/10/89

ii. International Rules and Regulations

In addition to domestic demands and needs, international considerations and imperatives also oblige governments to regard certain behaviors as criminal. The role in the international community is equivalent to some of human values, fundamental human rights and the joint international interests require the need for international cooperation to deal with the impediments to international order or the important issues of concern to the international community (Delmas Marty, 2002: 286). In this regard, some Offenses are inspired by international conventions or because of their accession and acceptance by governments, including the Government of the Islamic Republic of Iran. One of the most important legal basis for the criminalization of international economic crimes is international conventions and resolutions, which, in addition to being an important basis for crime in all societies, also provide important principles for prevention. They count. The approval of the United Nations General Assembly is the legal point of international conventions, and therefore the contents of the conventions are among the foundations of the criminalization of economic crimes in the domestic law of the countries. Although there is no effective international enforcement in the international criminal justice system, these conventions are, in principle, required and effective in the member states for the development of judicial and criminal and criminal law and criminal law as a rule. They are considered internally, and their implementation will help to repair the existing structures.

In the international arena, two conventions that directly address the economic crimes and crimes that cause disruption and corruption in the system and the economic structures of societies have been adopted, which are considered to be important grounds for combating these crimes. Review of the Convention The aforementioned (Palermo and Merida) describe the UN special attention and attention to the destructive and harmful effects of the crimes in question and the need for a serious criminal prosecution of the organization's view of these crimes.

The Palermo Convention was approved in 2000 for the purpose of combating organized crime with the aim of reducing and controlling the scope of these crimes, one of the subjects of which was the financial dimension of organized crime and one of the most important economic crimes It may be the motive for the realization of many financial and economic crimes, namely the definition of money laundering, and the ways to prevent it being realized. (Shneider, 2001: 135) In Articles 8 and 9 of the Convention, Full supervision of the non-fulfillment of the crime of financial corruption, and in Article 11, anti-money laundering measures, and in Articles 11 to 16, there are also cases requiring temporary arrest for defendants of crimes Criminalization, seizure and confiscation of property, recognition of the perpetrators and extradition of property to them, and in Article 23, also advised governments to criminalize transnational organized crime in their legal system, and in Article 31, the reform of those offenders Reference is made.

In 2003, the United Nations Convention against Corruption (Merida Convention) was approved by the United Nations General Assembly. Paragraphs A and B of article 1 of the Convention on the Elimination of All Forms of Racial Discrimination, in particular the Bribery, and the provision of technical assistance and cooperation The prevention of these crimes is included in the objectives of this Convention. Articles 6, 12, 27, 32, 35, 51, 52, 55, 57 and 65 also contain provisions for recommending States to prosecute. Independent vice president for corruption, as well as corruption initiation as one of the most prominent examples of economic crimes, the priority of criminal offenses against the principle of innocence, the protection of witnesses, experts and victims, compensation for damage Preventing and preventing the transfer of crime, returning property to the perpetrators of money laundering and other economic crimes, the need for international cooperation to confiscate property derived from crime, the need to return property confiscated to the state Applicants or legal entities and the approval or maintenance of "more or more stringent" provisions are considered by the States Parties to the minimum standards of this Convention. Article 28 of the Convention does not consider it necessary to establish a subjective or spiritual element in the commission of economic crimes, but its existence is considered to be presumed, and Article 30 also emphasizes the determination of heavy penalties for these crimes and the necessity of interim detention. In addition to the traditional forms of corruption, the convention also criminalized new crimes such as the "deal of influence" and "money laundering and corrupt proceeds of corruption", and advised against the criminalization of other new crimes. In 1996, the United Nations General Assembly passed a Declaration on Crime and Public Security in its annual meeting in which it referred to economic security as a security aspect of the community and condemned many crimes. One of the most important of these crimes is economic crime (Bear and RT, 1999: 87). Therefore, it can be said that the international rules and principles, based on rational construction and domestic laws of the countries, have confirmed the criminalization of economic crimes.

c. Criminological Foundations

Determining punishments, including ways to prevent crime, as well as repeat offending by perpetrators. Article 156, paragraph 5, of the Constitution of the Islamic Republic of Iran has explicitly declared one of the functions of the judiciary "appropriate action for the prevention of crime and the reform of the perpetrators"; by looking at the existing criminal law, including the Islamic Penal Code and the Criminal Procedure Code, One can infer the legislator's intention and desire to reform and sanitize the perpetrators. The tendency of criminal policy should be due to a coherent intellectual rationality of verbs or to abandon verbs that disrupt the economic and social life of society, since the complete and accurate list of crimes and punishments has a good preventive effect. (Stephanie and others, 1377-23)

One of the criminal measures that have been applied in the field of crime and, indirectly, in the prevention of economic crime, has been "criminalizing the prevention of the implementation of justice", which can be related to crime and based on The criminalization of crimes that impede the process of criminal proceedings in the judicial system (Ebrahimi, 2002: 1) is an instrument of investigation of economic crimes. Crime is one of the most effective means of preventing economic crime in the world. The basis for believing that the penalties for economic crimes are severe and uncompromising conditions is that in committing these crimes, the purpose is to obtain wealth and to accumulate wealth, and individuals are determined to commit an offense based on the immediate or permanent emotional feelings of psychological problems. They do not commit crimes, but basically make such crimes with reasonable rational calculations. The basis for believing that the penalties for economic crimes are severe and uncompromising conditions is that in committing these crimes, the purpose is to obtain wealth and to accumulate wealth, and individuals are determined to commit an offense based on the immediate or permanent emotional feelings of psychological problems. They do not commit crimes, but basically make such crimes with reasonable rational calculations.

d. Political Security Basics (Power and Political Development)

Because economic security, which itself is one of the foundations of political development, is the source of crime, it is the behavior that violates it. Therefore, in most cases of economic crime, we see a kind of security approach to these crimes. The tendency of Iran's criminal policy is to look at economic crime with a security perspective and turn it into a political and security issue because economic crimes are detrimental to the country's economic structures. Economic offenses for crime can have a security dimension in two directions: first, when committed at a large and widespread level; and secondly, when committed by the intent to confront or overthrow the regime, commit the offenses. However, in most cases, Iran's legislator justifies ordinary security offenses and justifies crime by state security, in a way that is highly tangible in economic crime, the government's security approach is In the criminal law of Iran, sometimes economic crimes are considered as a threat to political power; despite the fact that political power in the face of public power, because it relies on the exercise of sovereignty, is more specific, but Franz Neumann , Is far beyond this thought and has two general concepts: one domination of nature and the other domination of man; domination of nature means pure intellectual power and the understanding of the lawfulness of the external nature, but the power Political in the concept of domination of man is a social power whose core is the state, and to dominate the behavior of the state and its legislative, administrative and judicial activities, domination Drbrmy-Gyrd save the others. (Neyman, 1373: 40). Political power In plain language, government power is in implementing its policies; one of these policies is the criminal policy, which is the government's ability to rule out or slow down the reduction of crime. (Lazarez, 1375: 63) In political life, political power is the same security of the state, and economic crime has been more and more considered in this respect. The ensuing national security in today's world is the most significant value (and at the same time, the excuse) of the state. (High-ranking, 2008: 74)

In economic crimes that differentiate other crimes with economic security, political development should be considered more robust and more cognizant of other foundations. The security of the state in our country is so broadly defined that any criminal conduct, including economic crimes, in particular with the criterion of the perpetrator's perpetrators or perpetrators, can take the form of security and bring security and political power Trend signs. Nevertheless, security and economic development are the standard and appropriate basis for the suppression of economic crimes, which is a powerful tool for political development. (Zandi, Haqiqi, 1366: 228)

7. CHALLENGES

The lack of definition of economic crime and its specific criminalization is one of the main challenges of combating corruption and economic crimes, and given the fact that no clear definition of economic crimes has been presented so far, organizations operating in uncertainties, parallel Work, interference, and internal and external misunderstandings. There is a rigorous or rigorous approach to dealing with economic crimes, while these crimes, by the nature of the economy and crime, have the same requirements. In addition to ambiguity in the criminalization of

economic crimes, there is a kind of security approach to such types of crimes, as well as legal gaps, the lack of uniform laws, the extent, frequency, prevalence and globalization of this range of crimes and the use of obscure terms. Another is the challenge of the offenses. In some instances, the legislature also mentions the behavior of economic crimes allegorically, while the principle of the legality of crimes and punishments requires that any conduct that is supposed to be punishable be precisely defined by law, but in many laws Economic offenses are contrary to this principle, and in practice the government has been in the hands of the government to prosecute any conduct related to economic activity.

The plurality of law enforcement agencies has led to no single policy and a definite definition of the criminal offense of defining economic defects, and the multiplicity of instances and variability of each of these titles is criminal and the legal dispersion of it In the framework of various laws and differently, and finally, the gaps and shortcomings resulting from the negligence of our numerous legislators lead us to the fact that due to the deficiencies in corruption, in other words, economic crimes, The society does not have the right weapon to deal with the law-makers in the field of economics and the necessity of reviewing the legal process N=Gzary and related laws makes it clearer than before. (Khani, milky, 1392: 47)

Finally, it is necessary to note that, given the significant and irreparable damage to economic crimes and the complexity of these types of crimes and their technical nature, they are related to the knowledge and perceptions of its perpetrators by the consequences of verbs and transgressions It can at least be considered as a spiritual element of a number of these crimes; this, in addition to preventing the commission of the crimes in question, the field of alignment with the United Nations documents to prevent and combat those crimes and, consequently, It provides protection for national and global economics.

8. CONCLUSION AND SUGGESTION

Establishing and maintaining an economic order depends on a serious struggle against the disrupters in the economic system and economic offenders through the establishment of new laws and disciplined, rational, coherent and dynamic criminalization, in accordance with the objectives and principles of criminal law and the principle of the legality of offenses and penalties Taking into account the criteria and foundations for determining the value of the legislative and systemic support. The crime of economic crimes is one of the most important tools for dealing with these crimes and using criminal instruments for the prevention of economic crime and expression. It is the economic values of society. Therefore, criminal policy in relation to economic crimes must have special organization and coherence and based on thorough studies and research of repressive and deterrent measures in accordance with the current situation, along with restorative mechanisms for all crime areas Economic, so that the process of combating economic crimes and corruption cannot be disturbed.

The globalization of the economy and its dramatic and rapid transformations have also come about as emerging emerging crime phenomena. In order to confront these phenomena, the introduction of new laws containing these crimes has given fresh impetus to the fight against these crimes. It is necessary to note that, although privatization in our country has not been fully implemented, but with the adoption of the Anti-Corruption Convention (Merida 2003) in the Islamic Consultative Assembly and communicating its implementation, the legislature can, in the same vein, in the context of the international community and the United Nations Criminal Policy, in order to confront economic crimes, it intends to lay down appropriate rules for the implementation of the contents of the Convention and, as a result, the criminalization of the new offenses contemplated in that Convention, which The private sector can be committed (bribery and embezzlement in the private sector, paying bribes to foreign government officials and officials General time period of international and concealing the proceeds of crime) track. It should be noted that in order to combat more effectively economic crimes, in addition to crime, this group of crimes requires differentiated principles such as: the assumption of the spiritual element, the extension of the legal responsibility of the legal persons, the reverence, (Catherine and Quinn, 2000: 32); and differential procedures, such as: investigation by special agents and specialist judges, experienced long-term prosecution and sentencing, out-of-court consideration, protection of witnesses, offenders, experts and The controversy is the primacy of the guilty verdict on the principle of innocence (Shams Natteri, 2004: 296), the need for interim detention, the admissibility of absentee sentencing, the release of the names of convicts And the execution of those convicted of economic crimes, taking into account long periods of time in carrying out the reform and rehabilitation of offenders, respectively.

Given that these offenses have heavy consequences for the economy of the country and have the greatest effect on the distortion of the economic, administrative and commercial health of the society, then the deliberate criminal policy towards this issue must be given the utmost attention because of the criminalization of antisocial acts It requires the observance of a series of principles and principles by the legislator in this field. (Anticipating criminal, legislative and judicial policies and equal and non-discriminatory executions towards everyone and every institution). On the other hand, the essential principle of the legality of offenses requires that these acts be defined in advance by law. It is also necessary that a fundamental review of the criminal laws governing economic corruption, in order to appropriate criminal law-making policy in order to eliminate legal vacuum and to integrate laws in line with the country's economic development, and to provide a precise definition of the economic crime and its place, Supporting

the economic values of society and creating a logical order for economic activities allowed and in line with the general structure of the economic system envisaged in Chapter IV of the Constitution of the Islamic Republic of Iran. The convergence between legislative and judicial criminal law in relation to economic crimes is necessary and will make the process of combating these crimes more effective.

In order to be serious and coherent in combating economic crimes and prevent duplication of these crimes, it is necessary that all the totally similar economic crimes in the legal system of our country be the same in the special judicial authorities and by the judges who are scientifically and practically professional and professional. Be careful. It is also appropriate that the legislators, given the importance of the fight and the criminal offense of economic crimes, and in order to reduce these crimes, provide measures to counter them with the criminalization of crimes against the justice of justice and provide appropriate criminal law. Finally, it should be said that the principles of jurisprudence, including the rule of law, and the reverence of octal property, can invalidate the legal basis (including domestic law and international documents), criminal, political and security foundations (power and political development) The most common grounds for the criminalization of economic crimes in the legal system of the country.

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