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Iran's Legislative Criminal Policy Regarding Violations of the Law in the Field of Economic Crimes (and a Comparative Study with the Criminal Law of France)

Vahid Bani Amerian[1], Qobad Kazemi[2*], Masoud Ghasemi[3]

[1]. PhD student, Department of Law, Kermanshah Branch, Islamic Azad University, Kermanshah, Iran.

[2]. Assistant Professor, Department of Law, Kermanshah Branch, Islamic Azad University, Kermanshah, Iran (Corresponding Author).

[3]. Assistant Professor, Department of Law, Kermanshah Branch, Islamic Azad University, Kermanshah, Iran.

Abstract

According to existing domestic and international documents, the harm of economic crimes and corruption in Iran has become a very big problem. Since criminals have a major tendency towards financial and economic issues, we are witnessing an increasing growth in crimes committed in the field of economic crimes. One of the issues raised in the field of economic crimes is the rule of law. The rule of law is one of the most essential principles applied in the constitutions of all countries; therefore, the factors of inefficiency and lack of rule of law in the implementation of criminal laws in the laws of countries including Iran and France are an issue that is considered important and necessary to address. In this descriptive-analytical article, we examine Iran's legislative criminal policy regarding violations of the law in the field of economic crimes (and a comparative study with the criminal law of France). For this purpose, by utilizing legal and criminological sources, acceptable criteria and criteria for effective criminal policy against the various behaviors in question (in both formal and substantive areas) were identified and then evaluated with a holistic view. The criminalization of economic crimes requires a coherent, perfect and intelligent criminal policy. In order to combat this type of crime, governments must adopt a specific and distinct criminal policy, so that this policy, from a substantive and formal perspective, has a separate approach to the definition of economic crimes and their scope, criminalization and approaches; it also has methods of combating and preventing them, as well as specific procedural rules.

Keywords: Criminal policy, rule of law, economic crimes, comparative law

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1- Introduction

The administration of human social life is in accordance with social laws and norms. If we do not follow the rules that consider certain types of behavior in certain contexts as desirable behaviors and others as undesirable behaviors, our activities would be chaotic. In addition, social phenomena cause the manifestation of human social life. Social phenomena are facts that are considered an inherent part of human social life. In a limited sense, criminal policy includes methods of suppressing crime and criminal response to a criminal phenomenon (Izadi, 2009: 8) and in a broad sense, it refers to adopting legal, procedural and judicial measures against this phenomenon, which, in addition to suppression and criminal response, includes components such as coding, causality, organization and realistic analysis of crime (Tavaslizadeh, 2013: 38).

The economy of a country is like the soul in the body of that country, so that each country can remain powerful, politically prominent and stable based on its economy. In the economic system of countries, crimes occur that are called economic crimes. Economic crimes are related to a chain of other crimes; crimes such as bribery, laundering of illicit income or money laundering, falsifying customs or tax declarations, and in an organized manner, disrupting the economic system, each of which in turn has great power to destroy national interests and social capital. For this reason, all governments are trying to identify the real causes and factors of economic crimes in order to improve economic order and security by establishing the rule of law (Abdelhadi, 2022: 120).

Economic crime, like any other crime, is based solely on the availability of its constituent elements, including legal, physical and moral elements; but the problem in examining the constituent elements of economic crime lies in the nature of this type of crime; Therefore, the legislator deviated from the general principles to protect the national economy (Abdelhadi, 2022: 120).

The globalization of economic crimes, relying on the development of information and communication technology, has provided new opportunities for criminals at the national and international levels. This trend threatens economic, political and social stability and puts the security of societies, democratic values, moral values and justice at risk, and undoubtedly endangers sustainable development in the long term. Economic crimes, in addition to their destructive consequences on the business environment, can also affect the fair distribution of wealth, which in turn will weaken public trust in the government (Babakhani and Rostami, 1401: 37).

Given the characteristics of economic criminals and the way they commit crimes, there are many complexities in their detection and prosecution, which has made the traditional criminal justice system incapable of effective combat. In order to make the detection and prosecution of these crimes more efficient and to deal effectively with criminals, the French legislator has designed a special regime that is very different from the conventional investigation system. The establishment of special judicial authorities to investigate economic crimes, the institution building and training of specialized judicial and police forces are part of the range of legal measures. Changing the burden of proof and accepting the evidence of criminality in cases where there is suspicion of money laundering, and the contractualization of prosecution and prescribing alternatives to protect public interests and the rights of the victim are notable points in French law (Babakhani and Rostami, 1401: 39).

It should be noted that many economic crimes occur in Iran every year, and over the past few decades, when we have witnessed economic crimes such as fraud and embezzlement (by various individuals and under various titles), these economic crimes and damage to Iran's economic system have reached their peak.

5- Goals of criminal policy

• Crime prevention: It is a set of measures that are taken to prevent harmful and probable actions for an individual or a group or both, for example, we can mention the prevention of youth crimes and the prevention of work accidents (Abassi and Larkajori, 2019: 25).

• Crime suppression: The prevention and suppression of crime are matters that concern all members of society, and if we consider the issue of crime suppression to be related to all members of society, this belief is created that the experiences of prevention and suppression are not only not in conflict with each other, but are also complementary (Taj Zaman, 2003: 35).

• Criminal reform: Criminal reform in its various concepts is a humane approach to dealing with crime and delinquency that includes various scientific models.

• Victim compensation: Criminal policymaking has a strong desire to recognize the rights of victims to receive compensation. The most obvious characteristic of victim-centered criminal policymaking is the recognition of the right to compensation for victims (Mahdavi Sabet et al., 2018: 78).

6- Characteristics of economic crimes

In general, economic crimes are more common than street crimes because they are detrimental to all people in society and cause more damage. Although they are not as violent as street crimes, perpetrators use tricks such as trickery, deception, and fraud in these crimes. In addition, economic crimes are divided into two groups in terms of the means of committing the crime: fraudulent crimes and violent crimes. The following are some of the characteristics of economic crimes:

Table 1: Characteristics of Economic Crimes (Ayt, 2019: 46).

8- The scope of the risk 9- Having knowledge and expertise -10Having effective supporters	5- Low visibility 6- High black figure -7Dynamics and complexity	1- Contractual 2- Large 3- Restricted -4Not subject to time limitation

7- Violation of the law from the perspective of criminology in the field of economic crimes

The legal and legitimate part of the economy can also be bypassed, for example, it is possible to use bribery or threats of public officials; these officials are not only likely to welcome such a thing or submit to it, but they may in turn spread this corrupt process by putting pressure on economic enterprises. Also, in another case, which is referred to as "state capture", powerful economic enterprises, by granting the necessary privileges and putting pressure on the legislative and executive branches, prevent the implementation of laws and regulations, and change the content of the legal system and the rules of the game in their own favor (Ayt, 2019: 47).

8- The prevalence of corruption and economic irregularities

8-1- The index of personal perception or estimation of the level of corruption in the government and public sector

Every year, international research centers, through surveys of economic activists and experts who are directly related to the state of administrative corruption in various countries, ask them to measure the level of administrative corruption by answering survey questionnaires and reviewing them. The organization itself admits that despite extensive consultation and research, based on the number of surveys, there is an error rate of approximately 20 to 30 percent in the announced indicators and it affects the rankings. The situation of Iran and France is presented below:

France: In the 2007 indicators, France is ranked 19th in the world, the ranking index was 7.3, and the minimum and maximum indices were 6.9 and 7.8, respectively.

Iran: Iran ranks 136th among 180 countries in the world; the average index is 2.5, the maximum index is 3, and the minimum index is 2, and the number of surveys conducted is four (Beccaria, 1995: 122).

8-2- Overview of the Iranian situation

As stated, administrative corruption is widespread throughout the world, and Iran is no exception. Some of the factors of corruption in Iran include issues such as problems related to the judicial system and the judicial process, a sick administrative system, social factors (such as poverty, class differences, etc.), major problems in the banking system, lack of transparency in the private sector, and suitable platforms for money laundering, etc.

9- Prevention of economic crimes and criminal policy of Iranian law

Prevention of economic crimes can only emerge where it is even slightly foreseen by the legislator. Its prediction leads to the formalization of the existence of the phenomenon of economic crime and, as a result, improves the determination of rights and criminology. Legal or criminological determination of examples of economic crimes cannot solve the challenge of crime prevention without legal determination (Ahmadi, 2003: 42).

10- Theoretical requirements for preventing economic crimes

In this case, by determining the cases that prevent crimes within the framework of the adopted laws, it causes the legislator to prevent crimes in an efficient manner by presenting the law and assigning it to the relevant organs, such as the police, etc.

Various theories have been proposed in this regard. The theory of social control is not specific to economic crimes only and includes all issues, and it expresses the action of social prevention by raising the individual's awareness in order to strengthen the sense of belonging and connection and the surrounding community.

A) Theory of social learning and modeling: The proposal of this theory is in the realm of social prevention and generally justifies the necessity of implementing this type of crime prevention, and especially economic crime.

b) Pressure theory: One of the theories that observes crime in general and economic crime in particular is the pressure theory. According to this theory, although most people have similar goals and values, the ability to achieve personal goals is limited by socio-economic class.

c) Rational choice theory: This theory states that most criminal outcomes are the result of a choice made by the criminal, that is, someone who seeks an economic benefit, and other benefits. In this theory, the attraction of benefit is the primary cause of crime, not what is considered an unfavorable psychological or social situation in most criminological theories.

d) Opportunity theory: The opportunity theory is related to the nature and extent of the crime committed, in order to reduce the number of crimes by changing the opportunity structure. Proponents of the idea of prevention believe that in order to commit a crime, in addition to the existence of the perpetrator and the absence of obstacles and other necessary elements, there needs to be a desired goal or objective, or the opportunity.

G) Economic theory and the crime market: In this theory, the criminal considers the economic costs and benefits resulting from committing a crime, and then proceeds to commit it (Najafi Abrandabadi, 2006: 94).

11- Explanation of the criminal policy of the Islamic Republic of Iran regarding violations of the law in the field of economic crimes

Currently, one of the important concerns in all countries of the world and also in the Islamic Republic of Iran is economic crimes. Despite the efforts made by the legislator and other relevant organizations, economic crimes continue in the country. The initiation or discovery of major cases on this issue also confirms that the significant progress in economic criminals' use of the latest technologies in the world, the flow of most of the illicit income to terrorist groups and their strengthening, and the organized and transnational management of the aforementioned crimes have doubled the solution to this problem. Economic crimes cause irreparable damage to the financial relations of people with each other and people with the government, and they harm the foundation of the government. Currently, the criminalization of economic crimes requires a criminal policy of intelligent, coherent and flawless legislation, more than ever before.

11-1- Examples and scope of economic crimes

Money laundering: Here, we examine the legislative policies in the lawSeparately, it should define economic crimes and their scope, criminalization, approaches and methods of combating and preventing them, as well as specific procedural rules (Babakhani and Rostami, 1401: 36).

11-4-3- Related crimes and crimes that deter corruption

The most important results of the comparative analysis of the laws of the two countries in the field of defining crimes related to corruption and crimes that have been foreseen in order to facilitate the proof or elimination of criminal opportunities are as follows:

a) The crime of money laundering or laundering and receiving criminal proceeds

Regarding the crime of laundering (although some researchers have raised objections), the Law on Combating Money Laundering, approved in February 2007, does not have any significant problems in defining the criminal title, and Iranian criminal law has provided a relatively favorable definition of the aforementioned crime, which is generally consistent with Article 23 of the United Nations Convention against Corruption.

The major shortcomings of Iranian criminal law in criminalizing money laundering are the failure to foresee punishment for the initiation of the crime, which is not present in French criminal law. In accordance with the special complexity of this crime, which sometimes prolongs its implementation stages, the Iranian legislator should eliminate these major shortcomings in order to create greater deterrence (Babakhani and Rostami, 1401: 38).

B) Crimes against the administration of justice

The existence of comprehensive provisions related to the criminalization of obstruction of the administration of justice in French criminal law is one of the very positive points that enhances the level of support for the rule of law, including in the economic sphere. In this regard, the Iranian legislature should take action as soon as possible to bring its laws into line with Article 25 of the United Nations Convention against Corruption:

Article 25 - Obstruction of justice: “Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the following acts:

“(a) The use of force, intimidation or threats or the giving, offering or giving of any undue advantage to induce the giving of false testimony or to prevent the giving of testimony or the giving of evidence in the investigation of any of the offences established in accordance with this Convention;

“(b) The use of force, intimidation or threats to prevent judges or law enforcement officials from exercising their official functions in relation to the offences established in accordance with this Convention. The provisions of this part shall not prevent States Parties from enacting laws to protect other categories of public officials.” (Babakhani and Rostami, 1401: 39).

c) Other cases

There is no single standard worldwide for criminalizing acts that initiate corruption or are recognized as crimes in order to prevent financial-administrative corruption and facilitate its proof according to domestic regulations; it cannot be categorically recommended that all the criminal rules of French law in this area be derived exactly in Iranian law. However, the criminalization of “inability to explain the legal origin of assets” that has been foreseen in French criminal law, if adapted to the situation in Iran, is more effective than the abandoned law approved in 1337 regarding the handling of officials’ assets (Babakhani and Rostami, 1401: 39).

11-5- Combating Economic Crime in Iranian Law

11-5-1- Mandatory Temporary Detention

In some cases, the Iranian legislature prescribes the issuance of a temporary detention order in order to prevent disruption of the investigation process, prevent the accused from colluding with others, and especially to ensure access to the accused in the later stages of the investigation and proceedings. However, in relation to the crimes of embezzlement and bribery, it goes further and considers the issuance of a temporary detention order mandatory except in cases of minor importance (Izadi, 2009: 9).

11-5-2- Investigation Methods and Evidence Collection

In the formal legal system of Iran, the collection of evidence in crimes against the rule of law in economic relations is subject to general rules, and the legislature has not established any specific criteria in this area. Regarding special investigation methods that allow the collection of evidence without the knowledge of the accused or suspect, the provisions of Article 104 of the Criminal Procedure Code are as follows: "In cases where the inspection, observation and inspection of postal, audio and video correspondence and telecommunications related to the accused is mandatory for the detection of a crime" is noteworthy. According to the note of the same article, "Controlling the telephone of individuals is prohibited except in cases related to national security or in order to realize the rights of individuals as determined by the judge." (Izadi, 2009: 9).

11-5-3- Time limitation for prosecution and acceleration of proceedings

In Iranian law, the time limitation for prosecution and punishment is limited to security and educational measures as well as deterrent punishments and its duration is three, five or ten years, depending on the case. The interruption of the time limitation is prescribed only once because according to Article 173 of the Criminal Procedure Code, in the event of the initiation of prosecution and preliminary investigations, the starting point for calculation is the date of the first prosecution measure. If the case has not been decided by the expiration of the prescribed time limits, whether final or not, it will be subject to the statute of limitations and all judicial measures taken will eventually become ineffective and fruitless. This method of action will certainly be problematic, especially in complex economic and organized crimes, which may require several years of investigation to be thoroughly investigated (Izadi, 2009: 10).

-11-5-4Overseas Jurisdiction Rules

Crimes committed by Iranian nationals, especially crimes committed by Iranian officials abroad due to their job and duty, such as embezzlement, bribery, and other crimes of financial-administrative corruption, fall within the jurisdiction of Iran's laws and courts, and the condition of double criminality is apparently not required in these cases (derived from Articles 6 and 7 of the Criminal Code). This rule includes non-Iranian people who are in the service of the Iranian government and who commit these crimes because of their assigned duties; Therefore, Iran's criminal law does not have much problem in terms of sufficient coverage for crimes committed abroad, except that it would be more desirable that crimes such as bribery against Iranian officials abroad, which are committed against Iran's interests, can be prosecuted in Iran according to the principle of real jurisdiction (Abdelhadi, 2022: 121).

6-11- Identification and confiscation of property and fight against money laundering

In economic or organized crimes, as in most cases of financial-administrative corruption, if the focus is only on the pursuit of criminal persons and the criminal proceeds, which are likely to have a vital aspect in order to repair the social and economic damages acquired, are not searched and recovered by appropriate means, these illegitimate properties and wealth will become the source of committing new crimes in the future, and mainly large-scale criminals who control such criminal activities with mysterious means. They are safe from the effects of criminal policy and only benefit from the abundant profits of crime.

11-6-1- Procedure and evidence

This part, which is related to the comparison of the formal criminal law system of Iran and France in the researched category, specifically includes points and knowledge that have been used in the formal law of both countries, especially in the area of dealing with cases related to crimes against the rule of law in economic relations, or if it is not completely specific, in order to understand all aspects of the criminal policy of each of the two countries, it is necessary to examine it. is

11-6-1-1- Procedure and proof of evidence for a criminal case in France

a) Special conditions for criminal prosecution and cross-border qualification

The French judicial authorities have the jurisdiction to handle charges of the stewards or deputies of crimes committed abroad if they are granted jurisdiction based on the domestic law, such as the provisions of Book I of the Criminal Code, or according to an international convention (Article 689 of the French Criminal Procedure Code).

1) bribery towards foreign and international authorities. If a person in France is an aide in committing a crime that happened outside of France, for example, the manager of a French company in Paris encourages a non-French representative of a company under his management in another country to pay bribes to foreign public officials, so that the French company can be declared the winner in an international tender for the exploitation of a huge copper mine that is being developed in a country, in accordance with Article 113-5 of the Penal Code, two conditions are necessary for prosecuting an accessory to a crime, first, that the act committed is in accordance with the law of the place where the crime was committed; And the second condition is that before starting the prosecution in France, the said crime has been established based on the final judgment of a foreign court. In our example, the existence of the second condition is also a major obstacle to prosecuting the deputy of the crime, because it is possible that due to the weakness of the foreign judicial system or the great power and influence that the defendant enjoys in the foreign country, the criminal prosecution is not carried out at the place of the crime or may not reach a suitable final result. stays

2) Crimes against the financial interests of the European community. In order to remove the above-mentioned obstacles towards the authorities related to the European Community and the established organizations, according to the treaties related to the European Union, as well as the effective prosecution of the crimes committed against the financial interests of the European Community, the French legislature has taken decisive steps and has established special jurisdiction rules in Article 689-8 of the Criminal Procedure Law (2000 addition with 2007 amendments) (Cree par loin, 2000: 54).

b) special methods of research and extraordinary methods of studying reason

Despite the fact that economic criminals and white-collar criminals, as well as organized crime perpetrators, theoretically increase the possibility of the deterrent effect of punishment, factors such as the complexity of the way of committing crimes, the use of violence and luring criminal justice officials, intimidating witnesses and victims and even repentant members of criminal groups, committing crimes in closed commercial or administrative environments, along with other factors that have a cultural or organizational psychology aspect. are, in general, it causes the proof of the crimes we are discussing, and finally, by greatly reducing the possibility of prosecution and punishment, it gives peace of mind to the potential perpetrators of the crime, and as a result, the theory of deterrence fails. If the legislator of a country neglects these criminological facts and is satisfied only with predicting heavy punishments for such crimes, it will not achieve a desirable result by intensifying unenforceable punishments. In less than ten years, the French legislator has taken many measures to facilitate the prosecution and proof of the mentioned crimes, the most important of these measures include adapting the rules related to the compromise of the accused with the prosecutor from the common law, although with relative caution, accepting the possibility of people testifying without revealing their identity, measures related to the protection of witnesses and criminals who intend to cooperate with the authorities, the use of inconspicuous inspections and the infiltration of The police are among the groups or circles suspected of committing crimes and other extraordinary controls. (Loi n, 2001: 25)

c) The statute of limitations for prosecution

Based on internationally accepted standards, in order to effectively prosecute and achieve an appropriate result from criminal policy against crimes that violate the rule of law in economic relations, the statute of limitations for prosecution and punishment of such crimes should not be excessively shortened. The French criminal law system has provided for a statute of limitations for prosecution and punishment for all crimes such as misdemeanors and felonies, especially the crimes discussed in this study. (Loi n, 2001: 25)

12- Explanation of French criminal policy against economic crimes

12-1- Responsible institutions in French criminal law

Since 1975, the French criminal law system has established specialized bodies to prosecute economic crimes. The relevant regulations have been amended several times, especially in 1994. Currently, under the Code of Criminal Procedure, special specialized bodies have been established for the prosecution, investigation and (in the case of misdemeanors) trial of complex economic crimes. The special specialized bodies are as follows:

1. Law enforcement and judicial bodies

2. Administrative bodies

3. Law enforcement and military bodies

These bodies include investigating judges, prosecutors, specialized branches of the misdemeanor court, etc. They are organized in judicial complexes for financial and economic crimes and extra-territorial courts. Judicial complexes, which are in fact centers for the cooperation of various specialists such as employees of the National Bank of France, employees of the tax and customs departments, as well as investigating judges and prosecutors, have in fact created a favorable environment for the careful handling of the relevant cases.

A comprehensive review of Iran's formal criminal law rules and, more importantly and perhaps even more difficult, adapting the criminal justice system and the institutions responsible for investigating and prosecuting crimes to the needs of new forms of crime, especially instances of corruption and organized crime, will be the main key to effectively dealing with the phenomenon of corruption and violations of the rule of law in the economic sphere.

12-2- Comparative Study of Iranian Law with French Law

Currently, one of the main challenges of the international community is economic crimes, the scope of which is not specific to a particular country or continent. Issues such as the growing interconnectedness and relations of the international community, the elimination of borders, the creation of multinational companies, and even the participation of international individuals and institutions in committing economic crimes have turned it into a global challenge. This challenge, in addition to the health and life of the national community, has also affected the order of the international community. The two countries of Iran and France are no exception to this rule. The following is a discussion of the differences and similarities of the instances and the scope of violation of the rule of law in the economic crimes of Iran and France:

• Differences

The main considerations that can be raised as a result of the comparison between the Iranian and French criminal law systems can be summarized as follows in relation to the definition of instances of substantive violation (direct violation) of the rule of law in the economic sphere, especially types of financial-administrative corruption:

a) Bribery and bribery

The most important difference in the field of criminalization of substantive violation of the principle of legality of economic relations between the criminal laws of the two countries of Iran and France is in the way of defining the crimes of bribery and tangible bribery.

b) Other substantive violations

In general, in Iranian criminal law, there are relatively comprehensive laws in the criminalization of a large number of other instances of financial-administrative corruption; Although there are many shortcomings and problems in this area, considering the French criminal law model, the following points are noteworthy:

• Scattering of regulations: In all the instruments of Iranian criminal law in dealing with corruption, rather than facing a logical order, we are faced with single articles or regulations with multiple articles, which are very difficult for general economic activists who do not have legal expertise to find and determine the scope of implementation of each of them, and it is not an easy task even for those who have expertise.

• Substantive defects: Perhaps in the area of substantive violations of the rule of law in economic relations, the most important violation of Iranian criminal law regulations is that there are no regulations for criminalizing threatening public officials as an aggravated offense. This situation should be corrected as soon as possible because, from the perspective of negative social effects, threatening officials in order to influence their behavior in the performance of their duties is different from simply threatening an ordinary person (Babakhani and Rostami, 1401: 42).

12-3- The Challenge of Differentiating Economic Crimes

The purpose of distinguishing economic crimes is to recognize the status of these crimes by comparing them with the definition of other categories of similar crimes. Separating economic crimes from similar categories is important for three reasons; first, no conceptual definition of the phenomenon of economic crime has been provided by the Iranian legislator and international documents; it is worth noting that the Iranian legislator has not even mentioned its examples or similar concepts such as corruption; Therefore, perhaps because the same categories as economic crimes are ambiguous, referring to the distinction has no place in the Iranian legal system, but at least some similar titles such as corruption and organized crime have been explained in international documents, and therefore a boundary can be drawn between economic crimes and them. Secondly, international and domestic institutions are currently in charge of dealing with economic crimes and similar criminal titles, and if a distinction is not made between them, overlaps and conflicts in implementation will also arise. Thirdly, when dealing with crimes, especially in the form of prevention, the most important and objective importance of distinction is determined. In the continuation of this discussion, in order to distinguish economic crime from similar titles, three criteria of subject, behavior and scope are presented:

-12-3-1Subject-based segmentation

In general, the categories of crimes are known according to the validity of the subject; Because the subject is the value that the criminal legislator supports, on the other hand, the subject is what the perpetrator's behavior is based on; As a result, subject classifications are a value that despite the social contract and the will of the legislator, the perpetrator violates it.

12-3-2- Segregation based on behavior

Unlike the subject-oriented criterion, which is mostly used in the collective and group mode of the crime, behavior is an individual-oriented and case-based criterion; This means that due to the different behavior of each crime from another crime, it is possible to accurately distinguish each crime from another crime by using this criterion, and if these behaviors are similar (such as waste, which is a separate crime, and waste in treason) with other components of the material element, the behaviors are also separated. Therefore, it is not possible to find two crimes whose behavior is the same along with other components of the material element.

12-3-3- Separation based on domain

The domain has various meanings, but when this word is used together with meanings such as government, economy, administration and such, it means a broad level of activities that are named under a general and macro heading; For example, we can mention the field of culture or the field of economy or the field of administrative activities. From this point of view, the economy includes a wide range of programs and activities of a society, therefore economic crime is recognized based on the field of criminal behavior and not based on the subject or criminal behavior; This means that the evil appears in the field of economy and is placed in its context.

12-4- The challenge of determining economic crimes

Regarding the separation of economic crime from similar phenomena, it was found that from the point of view of behavior, no difference can be made for this purpose, therefore, economic crime is defined using two main and secondary criteria from other crimes. The field is considered as the main criterion and therefore economic crimes occur in the field of macroeconomics; The sub-criterion is also a subject, it is a discriminating criterion that can be criticized and fragile. The issue in economic crimes is based on the national economy, but the separation based on the economic field or the macro economy and also the fact that the economy is the subject is more of a play on words, so the problem of separating economic crimes still persists and is not resolved. The prominence of this challenge is related to another challenge called the determination of economic crimes, and the meaning is which authorities have determined economic crimes, especially in Iran. In general, the inability to separate economic crimes is due to ambiguity in determining the examples of economic crimes and causes the authorities to determine the examples of economic crimes to be confused as well (Babakhani and Rostami, 1401: 45).

Determining economic crimes or in other words the statistics of some behaviors, rather than having a legal and legal origin, under the title of economic crimes, are mostly based on criminological findings, for example, the following cases are presented:

A- Smuggling of goods and currency: Basically, smuggling is one of the most important economic crimes. Smuggling in all its forms, including goods, drugs, antiques and people, currency has an economic aspect, and this crime should be considered as an economic phenomenon and issue. The reason for this perception is that the crime of smuggling is carried out with the aim of obtaining profit and income (Tadbir Ekhetaz Research Institute, 2018).

B- Administrative corruption: Administrative corruption includes a series of crimes and brings a lot of economic costs, this crime causes disruption in the functioning of freed markets and slows down the process of economic development (Patti Afusu et al., 1384: 13) and therefore should be considered as one of the most important examples of economic crimes.

C- Embezzlement: According to Article 188 of the Criminal Procedure Law, the crime of embezzlement is one of the crimes against the government's financial rights, which, as a result, is classified as an economic crime and its history goes back to the time of the formation of governments (Habibzadeh et al., 2010: 25).

D- Bribery: The crime of bribery, like other forms of corruption, has two forms: macro (major) and minor (minor), and based on the characteristics and nature of economic crimes, it is clear that major and macro bribery are explained in this category (Shokri and Sirosh, 2005: 605).

E- Money Laundering: Today, in criminal law, money laundering or money laundering has gained its place as one of the new crimes, money laundering refers to the actions and activities that are carried out by the perpetrators of crimes and the relevant people, with the aim of converting the illegal incomes resulting from the crime into clean legitimate incomes and washing the dirty money resulting from the crime (Shams Natri, 2013: 20).

F- Collusion in government transactions: In the science of law, collusion means making an agreement and contract secretly, and in government transactions, collusion means that two or more people make an agreement with each other in order to harm the government, even if this agreement is made verbally (Azermatin, 2016: 88).

G- Taking commission in foreign transactions: commission payment is one of the main methods that foreign or domestic sellers of goods and services use in order to attract as many customers as possible. At present, this crime has become more complex with the expansion of administrative and bureaucratic systems, as well as the complexity of individual and social relationships to the extent of people's wishes and expectations (Azermatin, 2016: 88).

H- Tax crimes: According to each time period, tax collection and its various forms have a long history. Taking taxes because it is one of the ways of obtaining income for governments and a factor for the development and prosperity of countries. It has been considered. It should be said that some people have also confronted the tax collection system due to the unfairness of taxes or with the intention of abusing and not paying the government's rights, and as a result, they have created tax crimes and violations. Depending on the progress of societies and the ways of trade exchanges and other effective factors, these violations and crimes have always occurred in various forms throughout history (Jafari Langroodi, 2003: 601).

I- Customs crimes: Customs plays an important role in implementing favorable tariff policies, economic transparency, and preventing the development of the underground economy. Income from the collection of duties and also the entry rights of imported goods is considered as the third source of income for the country.

Y- Counterfeiting banknotes and securities: The crime of counterfeiting banknotes and securities is another economic crime that, in addition to disrupting the monetary and banking system and therefore the country's economic structure, also causes public trust and security to falter, but it must meet the necessary conditions for it to be considered an economic crime (Golduzian, 2001: 601).

K- Using final information related to securities: All over the world, the volume of the stock market constitutes a very large percentage of the volume of gross national product. In this market, the challenges of the capital market include the abuse of confidential information, fraud and manipulation of prices, etc. Some people want to seize the stock market for their own benefit through the aforementioned means.

L- Hoarding: In paragraph b of Article 1 of the Law on Punishment of Disruptors in the Country's Economic System, approved in 1369, it is stated that disruption in the distribution of public needs through the method of selling large quantities of food or other public needs at high prices and major hoarding of food and other public needs and the high advance purchase of agricultural products and other products needed by the public and the like in order to create a monopoly or shortage in their supply. In the articles of this law, the legislator has provided criteria according to which economic crime can be identified (Tadbir Eqtesad Research Institute, 164).

13- Conclusion

Criminal policy is a discipline that, based on philosophical and scientific findings, seeks to formulate criminal theories and prevent crimes that are useful in practice. In the present article, which is the subject of Iran's legislative criminal policy against violations of the law in the field of economic crimes (and a comparative study with the criminal law of France). Given the fact that many crimes are not officially reported or detected and that reliable statistics are extremely scarce, it is not possible to judge 100% accurately. Economic crimes are no exception to this general rule. However, it is not possible to measure economic crimes and violations of the rule of law except by approximation and estimation, often by indirect means. Since 1975, the French criminal law system has been creating specialized bodies to prosecute economic crimes, the relevant regulations have been amended several times, notably in 1994. When studying the current state of French criminal law in relation to instances of violation of the rule of law in the economic sphere, a point that attracts our attention in the initial studies is that French criminal law has adapted itself to a great extent to the needs and necessities of the global economy and the expansion of international relations on the one hand, and to the latest practical experiences and scientific findings in the criminal fight against economic crimes, organized crime and corruption on the other. In French criminal law, one of the very positive points that enhances the level of protection of the rule of law, including in the economic sphere, is the existence of comprehensive provisions related to the criminalization of obstruction of justice. It is necessary for the Iranian legislator to take action as soon as possible to bring the country's law into line with Article 25 of the United Nations Convention against Corruption. Regarding the criminalization of acts that are a precursor to corruption or are recognized as crimes in order to prevent financial-administrative corruption and facilitate its proof according to domestic regulations, it is not recommended to categorically adopt all the criminal rules of French law in this regard exactly into Iranian law. However, the criminalization of “inability to explain the legal origin of assets” foreseen in French criminal law, if adapted to the conditions of our country, will be more effective than the abandoned law of 1337 on the investigation of officials’ assets. Preventing these crimes is one of the criminal policy issues in the fight against economic crimes. Economic crimes are crimes committed against public and state property and cause widespread disruption in the economic system.

Regarding corruption and crimes against the rule of law in the economic sphere, it is necessary to observe principles during the investigation and collection of criminal evidence, according to international standards. Among them, the legal system in each country must, in accordance with its specific circumstances and to the extent possible, take adequate measures to prevent retaliation or intimidation of witnesses and experts who testify or submit their expert opinions in the investigation of the crimes in question. In the French criminal law, various instances of direct violation of the rule of law in the form of obstruction of public officials in the implementation of the law, criminal discrimination, violation of transparency and justice in transactions, and corruption in the public sector have been criminalized. One of these instances is bribery. The main difference in the field of criminalization of the substantive violation of the principle of legality of economic relations between the criminal laws of Iran and France is tangible and tangible in the way the crimes of bribery and corruption are defined. In Iranian criminal law, there are generally relatively comprehensive provisions in the criminalization of many other instances of financial and administrative corruption; although there are also many shortcomings and problems in this area, such as the dispersion of provisions and substantive problems, considering the model of French criminal law; but the most important violation of the provisions of the criminal law of Iran is the Iran in the field under discussion (substantial violation of the rule of law in economic relations) may be that there are no regulations to criminalize threatening public officials as a serious crime.

1. In order to create greater deterrence in crimes against economic law and to prevent the legitimacy of the criminal justice system from being called into question in the eyes of public opinion, it is essential that prosecutors have sufficient independence from higher authorities, especially political authorities, and that the possibility of interference by superior authorities in individual cases is limited. Given that France has not followed the legality of criminal prosecution, but on the contrary, in some cases gives prosecutors the authority to use alternative processes to criminal prosecution or even, for reasons related to social interests and crime prevention and generally based on objective considerations arising from criminal policy, to order the filing of cases despite knowledge of criminal acts, there has inevitably been concern among citizens until recently that prosecutors personally abuse this authority or, under pressure from other authorities, especially superior authorities, order the filing of corruption and financial abuse cases and the like. However, this concern, which was once a real problem in France, has been resolved, if not completely, at least to a large extent; the reason for this is that the French legislator has not remained indifferent to the sensitivity of public opinion and international recommendations, and now, the existence of the following legal guarantees does not allow the prosecutors to deviate from impartiality, and the crimes of the powerful class of society to be ignored unnecessarily.
2. 14- Suggestions
3. By studying the laws of advanced countries, including France, and their experiences in preventing economic crimes, it must be said that the laws of our country have failed in preventing the occurrence of economic crimes and we are still in the early stages of achieving this goal and we must work hard and come up with proper planning and reform and drafting of appropriate laws to prevent economic crimes and use the experiences of advanced countries.

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