

A Study of the Manifestations of Economic Crimes and Their Contributing Factors

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ABSTRACT:

The present study aims to examine the manifestations of economic crimes and the factors contributing to their formation. The research method is descriptive-analytical and is based on library resources. Among the manifestations of economic crimes are bribery, money laundering, and fraud. The findings indicated that multiple economic, cultural, social, political, and other factors undoubtedly contribute to the emergence and expansion of economic corruption and crime, and it is not possible to enumerate all of them within this limited scope. Some political and social activists consider the causes and factors of economic corruption in the country to be diverse, some of the most important of which include extravagance and wastefulness by officials, inequality, injustice, class disparity, inconsistency of incomes, low levels of responsibility and accountability, lack of transparent laws, institutionalized supervision and control at all levels, failure to settle overdue government claims from organizations, problems in the country's tax and customs systems, neglect of key control points, employment of unfamiliar and untrained personnel, problems in the banking and monetary systems, complex bureaucracies, biased and absolute defense of subordinates by officials, closed information systems and lack of access to real data, lack of job security and the illusion of insecurity, partisan and group-based support for offenders, failure to deal seriously with violators and weakness in the criminal and judicial systems, low standards of living, and the absence of an appropriate and efficient social security system.

Keywords: *Economic crimes, Factors of crime formation, Money laundering, Fraud*

INTRODUCTION:

Economic crimes are among the most serious threats to countries' economic security. This issue has more obvious dimensions and manifestations, especially in countries with a rentier economy. Economic crimes are related to a chain of other crimes, such as bribery, money laundering, falsification of customs or tax declarations, and, in an organized manner, disruption of the economic system, each of which, in turn, has great power to destroy national interests and social capital. Windfalls, disruption of economic balance, capital flight, and disruption of managers' and officials' plans to control economic health and security, etc., are common to all types of economic crimes. For this reason, governments around the world are trying to identify the real causes of economic crime in order to establish regulations in this area to support economic order and security.

Among the necessary conditions for the commission of the crime of bribery is the acceptance of money or property or a document of payment of money or property by a government official for the performance or non-performance of a task assigned to him in accordance with his duty. Article 3 of the Aggravation Law also refers to this issue. Accordingly, if the duty of a government official is other than that which requires the delivery of property to him and at the same time the

property is delivered to him contrary to law and right, this delivery by the government official will not constitute the commission of the crime of bribery. The legislator has paid more attention to the duties of the organization where the employee works. If a briber bribes a government official to perform or not perform a task that is not related to the briber but is within the scope of the duties of another official in that organization, the crime of bribery will still be committed. In fact, according to Article 3 of the Aggravation Law on the Punishment of Bribery Perpetrators, if performing an act is one of the duties of government officials of an organization, the perpetrator's act will be subject to the crime of bribery, and if the act in question is related to another organization or department, the act will not be subject to the crime of bribery.

For example, obtaining illegal bank facilities, failure to fulfill banking obligations, unlawful appropriation of public property, or fraud in governmental auctions and tenders by natural persons often necessitate the formation of other offenses such as bribery, breach of trust, collusion, negligence, and similar acts by public employees. The phenomenon of rent-seeking and rent corruption, which refers to the unequal distribution of resources, facilities, and special opportunities that others do not have under equal conditions, is also among

the corrupt practices that play a significant role in the emergence of economic crimes. Money laundering is one of the relatively new manifestations of economic crimes that has gained special importance in recent years at the international level. In the process of money laundering, illicit proceeds are covertly and complexly integrated into legitimate financial and commercial relations. Gradually, the true face of the economy, which is based on legality and the rule of law, becomes blurred, and not only are the effects and outcomes of the crime absorbed in this process, but also part of the economy effectively comes under the control of money launderers and criminal organizations, generating substantial profits for them (Alipour, 2006, p. 356). Organized criminal groups often commit this crime, and success in it requires passing through complex processes. In general, the development of such crime is due to inefficiencies in a country's systems for combating it.

One of the most important economic effects of money laundering is in the private sector. Money launderers use front companies to hide the proceeds of their illegal activities and mix them with legitimate funds. For example, in some countries, pizza shops are used to cover the proceeds of drug trafficking. Such companies actually have access to significant illegal funds that enable them to offer their products and services at prices below market levels. Sometimes, these companies can offer their products even at a price lower than the cost of production. Accordingly, these companies have greater competitive power than legitimate companies that raise capital from financial markets.

What distinguishes the crime of fraud from other crimes against property is that, in most cases, property is transferred from the victim to the criminal without the owner's consent or knowledge, and sometimes even by resorting to violence. In contrast, fraud is considered an exceptional crime in this respect. The fraudster acts in such a way that the owner or possessor of the property, deceived out of desire and consent, and perhaps by begging in the hope of gaining great benefits, gives his property to the criminal. Unlike many other criminals, fraudsters usually have high intelligence and may also hold important social or economic positions. They use this intelligence, higher education, and social position as tools in their work to trap victims. For this reason, this crime has been considered a white-collar crime (Mir Mohammad Sadeghi, 2006, p. 25). This term refers to the fact that this crime is mostly committed by people with social positions and involved in business affairs, and rather than being a crime of the poor, it is a crime of the rich, and the presence of this characteristic in fraudsters makes their prosecution and arrest more difficult than the prosecution and arrest of other criminals. Considering the cases raised in the present study, examples of economic crimes and their formation factors are examined using a descriptive-analytical method.

Theoretical Foundations of the Research:

Bribery:

The phenomenon of bribery severely threatens the health of human societies, affecting all social, cultural, and other aspects. It is natural that when carried out in a gang or network, its effects will be more destructive. In legal terms, bribery is the giving of money or other benefits to a government official to do something contrary to his right and duty, or to eliminate someone's right. Taking a bribe from government officials causes the person (the briber) to gain wealth contrary to his right and, in fact, illegally, and, on the other hand, the briber gains a privilege by paying a bribe contrary to his right. This provides the basis for corruption among administrative employees and robs people of their trust in them. Islam has also strictly prohibited this act, considering its condemnability: "And do not devour one another's wealth unjustly, nor refer the matter to the judges, that you may devour a portion of people's wealth in sin while you know." (Al-Baqarah, 188) Accordingly, the legislator must eliminate the grounds for such corruption by providing appropriate penalties and ensuring societal security.

Before the revolution, the General Penal Code, passed in 1925, had dedicated Articles 139-148 to these crimes. After the victory of the Islamic Revolution, in 1983, the Penal Code was approved by the Islamic Consultative Assembly, and Articles 65 to 70 of this law were dedicated to the crimes of bribery and corruption. Given that such crimes severely threatened the security of society, the legislator thought of intensifying the punishment for perpetrators of these types of crimes, and given that the Assembly's resolution was not approved by the Guardian Council on 15/9/1988, the Expediency Discernment Council approved the "Law on Enhancing Punishment for Perpetrators of Bribery, Embezzlement, and Fraud." Article 3 of the aforementioned law addresses the crimes of bribery and corruption. At the same time, with the approval of the Penal Code in 1996, Articles 588 to 594 of the Penal Code were dedicated to the crimes of bribery and corruption.

Article 3 of the Law on Intensifying Punishment for Bribery, Embezzlement, and Fraud states:

"All employees and officials of government bodies—judicial, administrative, councils, municipalities, revolutionary institutions, and generally all three branches of power, as well as armed forces, state companies, or government-affiliated organizations, or public service agents, whether official or unofficial—who, to perform or refrain from performing an act related to their organization, directly or indirectly accept money, property, or documents of payment or transfer of property, shall be considered bribed..." From this article, it is understood that the physical element (*actus reus*) of bribery consists of the acceptance of money, property, or payment documents, whether directly or indirectly. The physical element of bribery is the giving of money, property, or payment documents, whether directly or indirectly. Therefore, the material element of this crime is an affirmative act, and it cannot be realized

through omission. A legal question arises: Is the giving of money necessarily accompanied by its acceptance? If a person gives money as a bribe but the other party does not accept it, is the crime of bribery still established? The Supreme Court's Branch 2, in its ruling No. 100 dated 24.08.1932, stated that bribery consists of a government employee receiving money or property to perform or refrain from performing an official duty, and the intention of the giver does not affect the criminal liability of the recipient."... bribery consists in that a state, governmental, or municipal employee receives money or property to perform or refrain from performing an act within his official duties. If the giver of the money did not in fact intend to give a bribe, this does not affect his criminal liability." Conversely, if a person gives something to a state, governmental or municipal employee with the intention that he perform or refrain from performing his duty, but it becomes clear that the recipient, without intending to fulfill that purpose, has taken it for other motives such as reporting to relevant authorities or filing a complaint against the giver, and in no way intended bribery, in such case the giver is considered the bribe-giver, without the recipient being considered the bribe-taker. In other words, there is no permanent correlation between *rashi* and *murtashi*; in various forms, the giving of a bribe may occur with the existence of its legal elements without there being a *murtashi* involved, and vice versa." Also, in Judgment No. 9835 dated 07.12.1940, it is stated: "For the characterization of bribery, acceptance is not a condition; therefore, if a person gives money to an official for performing or refraining from performing an official duty, the giver is punishable even if the official does not accept it." Accordingly, for the realization of the offenses of *rishā* and *irtisha'*, agreement between the parties must be established, and in fact, both must intend to commit the offense; otherwise, only the person who acts with criminal intent is punishable. For the realization of the offense of bribery, the government official must accept the money, property, or document of payment of money or property. The term "acceptance" means receipt and taking of money, property, or such a document. The Legal Department of the Judiciary, in an inquiry addressed to it regarding whether a mere promise or arrangement between a person as bribe-giver and another as bribe-taker is sufficient for the realization of bribery, embezzlement, and fraud under the 1987 law—which states: "directly or indirectly accepts money, property, or a document for payment of money or delivery of property"—and paragraph 2 of the same article, which provides that in all the above cases, the property obtained through bribery shall be confiscated as discretionary punishment of the bribe-giver in favor of the state—has stated that this implies that the bribe-taker must receive the property; in other words, acceptance means receipt, and with such receipt the offence of bribery is realized; otherwise, a mere promise by the bribe-giver alone is not sufficient for the realization of the offence, unless the acts performed, together with the promise, collectively constitute the

commencement of the offence of bribery" (Bazgir, 2010, p. 210). The perpetrator of bribery must necessarily be a government official; it makes no difference whether the official is formal or informal. As in Judgment No. 236/20, the perpetrator of bribery was not an official employee but a contractual or daily-wage worker. Article 3 does not explicitly refer to employees of the Expediency Discernment Council or the Office of the Supreme Leader's Representative, which may lead to two different interpretations: First assumption: considering that the legislator has referred to terms such as the three branches of government and revolutionary institutions, these two bodies are also included under Article 3. "The term 'state' here does not mean the executive branch alone, but rather the governing authorities and the supreme power which is today referred to as the state-country" (Ghazi Shariat Panahi, Abolfazl, Tehran, 2005, p. 53). In paragraph 2 of the single article of the law on the list of public non-governmental institutions and organizations, it is stated: "The implementation of the law regarding public institutions and organizations that are under the supervision of the Guardian Jurist (*Vali-e Faqih*) shall be subject to the permission of His Eminence." Therefore, if the Supreme Leader authorizes the implementation of the law regarding institutions under his supervision, employees of these two institutions would also, in case of committing such a crime, fall under Article 3 of the Law on Intensification of Punishment.... The second interpretation is that, given the principle of interpretation in favor of the accused and the strict interpretation of criminal statutes, the application of Article 3 of the said law to employees of these two institutions is incorrect, and their conduct should not be considered bribery. Regarding whether bribery provisions can also be applied to employees of the private sector, it may be stated that society must be satisfied with the performance of employees, whether public or private, and it is not only public sector employees whose lack of supervision leads to corruption and loss of public trust; private sector employees may also, at times, cause dissatisfaction and loss of trust. For the realization of bribery, what is given or received must be "property." In legal terminology, property means anything that has economic value and includes both movable and immovable property. Accordingly, if a government official, in exchange for performing an act contrary to duty, accepts a non-financial promise from another person—such as saying: "in exchange for what I do for you, you must marry my child," and the other party accepts—this cannot be considered bribery. Of course, this is a criticism directed at the legislator, and it would have been preferable for the legislator to treat non-financial promises as constituting bribery, since they are sometimes more tempting than financial ones. The bribe-giver must necessarily own the property that he gives as a bribe. In this regard, the Legal Department of the Judiciary, in Opinion No. 264/7 dated 15.04.1998, stated: "... the subject of the question, as described in the inquiry, is the giving of a vehicle belonging to another person as a

bribe, which is a single act with multiple legal titles (transfer of another's property and giving of a bribe), and under Article 46 of the Islamic Penal Code, the offender is sentenced to the severest punishment (transfer of property), and consequently the vehicle is returned to its owner, and in this case the punishment of confiscation for the bribe-giver is applied." The bribe-giver may also give a document for payment of money or property to the bribe-taker as a bribe. A "document" means any writing that can be used in litigation or defense; in this way, the bribe-giver transfers property (movable or immovable) to the ownership of the other party free of charge or at a price lower than its real value. Therefore, if a person gives a cheque to the other party, treating it as a means of payment, by giving the document, he has provided the means to obtain property (cash) to the bribe-taker. Questions that may arise regarding the giving of a cheque as bribery:

A) Is it a crime of bribery to give a check to someone even if the money is not collected? In this case, according to the unanimous decision of the Judicial Council of Tehran, the crime of bribery is committed, and also according to the opinion of the Judicial Conference of Tehran Judges, as follows: According to Article 3 of the Law on Aggravation of Punishment for Perpetrators of Bribery, Embezzlement, and Fraud, accepting a payment document also constitutes a crime. Therefore, receiving a check, which is a means of payment, places the recipient in the position of a briber. Finally, since no money has been collected or received, the perpetrator cannot be sentenced to pay a fine, as in judgment 865/20. Simply receiving a check is considered sufficient to commit the crime, even if the money has not been collected.

B) If the payee has signed the check in blank, can it be said that simply giving a blank check is a crime? There are two opinions on this matter. 1- Since the check does not have a specific amount, it is not considered a payment document, and since it is not a payment document, no crime will be committed. 2- Although the check is signed in blank, it is a payment document, and the amount stated in it only affects the amount of the penalty. In any case, by giving a blank check, the crime of bribery and corruption is committed. The second opinion is better and more reasonable than the first opinion and is more consistent with the articles of the criminal law. Of course, in practice, since the amount of the signed blank check is not stated, it will be difficult to determine the penalty. In any case, the penalty that can be determined is by interpreting it in favor of the accused and applying the minimum penalty of Article 3 of the Law on Aggravation of Punishment for Perpetrators of Bribery, etc. The crime of bribery may be committed through a transaction, raising the question of whether all the conditions for the validity of the transaction must be present to say that a transfer of ownership has occurred. In this regard, there is also an opinion that ownership must be transferred and "if the transaction is considered invalid and void due to the existence of one of the obstacles to the validity of the transactions or for any other reason, the maximum that

can be ruled is that the crime has begun because in such a case, buying and selling or transferring and receiving as a physical act necessary to realize the material element of the crime has not occurred" (Mohammad Sadeghi, 2010, p. 322). "Another opinion is that transfer includes any type of transfer and the correctness of the transaction is not a condition for committing a crime, and any transfer, whether correct or incorrect, is subject to a complete crime" (Goldouzian, 2006, pp. 235-234). The Legal Department of the Judiciary, in advisory opinion No. 1564 dated 09.07.1994, stated that for the realization of bribery, ownership of the property by the bribe-giver is not a condition. Even if the bribe-giver transfers stolen property as a bribe, it is still considered bribery; however, if a transaction occurs, it must be free from legal impediments to validity (Bazgir, 2009, p. 248).

Bribery is an intentional crime in which the offender knowingly and deliberately exploits their position and accepts money, property, or payment documents. Bribery is an intentional crime in which the perpetrator knowingly and intentionally, and by abusing his position, accepts money, property, or a document of payment for money or property. In the crime of bribery, the intention must be to receive money, property, or a document of payment for money or property; that is, he must knowingly accept a bribe to perform an act that is part of his duties or related to the organization he is affiliated with. Therefore, the condition for the commission of the crime of bribery is the presence of collusion between the parties. If a government official accepts money from a person as a deposit, loan, etc., and it is then established that the giver gave it to him as a bribe and to perform an act related to the official's duty, the recipient (government official) will not be subject to the crime of bribery due to the lack of criminal intent. Also, if he is aware that he has the money or property as a bribe, but takes the property to report the crime and prosecute the person giving the bribe, he will not be considered a briber due to the lack of a mental element. However, the briber will be prosecuted and punished under Article 592 of the Islamic Penal Code, and all the attached court documents show that both the briber and the bribee were aware that the money or property received was a bribe.

Money Laundering and Its Effects:

Some may think that money laundering is meant to legitimize illicit funds; for example, someone takes someone else's property and seeks the owner's approval. This is a good thing, but this is not the purpose of money laundering; rather, it is meant to "introduce dirty money that comes from illicit sources into the process of exchanges, banking and financial transfers, and the like, and place it as legitimate assets in the economic exchanges of society and the operations of individuals. Although the money has come from illicit sources and should be dealt with legally and judicially, and confiscated, it is introduced into the system of legitimate assets and properties of society and presented as legitimate, clean assets. The purpose of money

laundering is to act in this way” (Hashemi Shahroudi, 2003, p. 15). The purpose of laundering assets is to hide the source of assets derived from crime or to make them appear clean, so that tracing the source of the money becomes impossible or very difficult. Thus, the result of money laundering or, in other words, the cleansing of criminal proceeds, is the spread of crime, especially organized crime. Of course, hiding money or property from others' eyes is not new. For centuries, people have hidden their property from envious eyes and dirty hands with very primitive methods, and criminals have always tried to make their property appear clean. What is new in this statement is that the act of concealing the origin of assets derived from crime is recognized as a crime independently of the main crime, which has attracted the attention of international organizations, including the United Nations and various countries around the world, since the mid-eighties. Before that, world legislators did not pay attention to criminalizing this act, and international criminals could easily hide or transfer money and property resulting from drug trafficking or hostage-taking and kidnapping, or bribes given by multinational companies to heads of state to encourage them to conclude profitable contracts or other crimes, beyond the borders of a country.

Weakening the private sector is one of the most significant economic effects of money laundering. Money launderers use front companies to hide the proceeds of their illegal activities and mix them with legal funds. For example, in some countries, pizza shops are used to cover the proceeds of drug trafficking. Such companies actually have access to significant illegal funds that enable them to offer their products and services at prices below market levels. Sometimes, these companies can offer their products at a price even lower than their production costs. Accordingly, these companies have greater competitive power than legal companies that raise capital from financial markets. This makes competition very difficult for legitimate companies, driving them out of the market by criminal companies and organizations, and weakening the private and legitimate sectors of the economy.

Without a doubt, the managerial principles governing these criminal companies are not compatible with the principles of a free-market economy in economic activities. This issue, at a macro level, has even more negative consequences for society's economy. Financial institutions that rely on proceeds derived from criminal activities face greater challenges in properly managing assets and in meeting their obligations and operating costs promptly. For example, a large amount of money may be deposited into a financial institution with the aim of money laundering. However, it is suddenly withdrawn from the institution without notice or warning in response to non-market factors, such as legal actions. This may create liquidity and operational problems in banks.

According to estimates, the volume of money laundering worldwide is between 2% and 5% of global gross domestic product (GDP). In some developing countries, these illegal proceeds may even overshadow

the government budget, thereby reducing state control and economic policymaking. In fact, the large volume of assets accumulated through money laundering can place markets, or even small economies, under severe pressure.

Since money launderers invest the proceeds in places where they are less likely to be discovered than in more profitable locations, money laundering will have an adverse effect on the amount of currency and the interest rate. In other words, money laundering increases the risk of instability resulting from the misallocation of resources driven by artificial and unrealized activities. In short, money laundering and other financial crimes may lead to significant and unjustified changes in the demand for money and to severe fluctuations in capital flows, the amount of currency, and the interest rate. The unpredictable nature of money laundering, combined with reduced government control over economic policies, makes it difficult to achieve sound, efficient economic policies. Individuals who launder money do not seek profits from investing their illegal funds in economic activities; rather, their goal is to preserve the principal of the funds and their income. Therefore, they do not necessarily invest their funds in activities that are profitable for the country in which they are located. In addition, because money laundering diverts funds from healthy to low-quality investments, it harms economic growth. For example, in some countries, these funds have been directed towards investments in sectors such as construction and hotel management. However, this flow of funds is not driven by real demand but by the short-term interests of money launderers. As soon as money launderers seize these sectors, they withdraw their funds, causing severe damage to the sectors and the entire economy. Another harmful effect of money laundering is the reduction of government revenues, which indirectly harms individuals who pay their taxes honestly. In addition, money laundering also makes tax collection difficult. The phenomenon of money laundering makes it difficult for countries to carry out economic reforms through privatization. Although privatization brings significant economic benefits, it can also be used to facilitate money laundering. Criminal organizations have greater financial power to buy state-owned companies. In fact, by buying companies and institutions of their choice, such as banks, they can use them to hide the proceeds of criminal activities and also to expand illegal activities.

In addition to its economic consequences, money laundering also involves significant social risks and costs. This phenomenon is a vital process for the commission of major crimes and facilitates the expansion of illegal activities for drug traffickers, smugglers of goods, and other criminals. Furthermore, it increases government expenditures due to the need for law enforcement, implementation of laws, and higher costs for healthcare services—such as treating drug addicts—to combat the serious consequences of money laundering. One negative socio-economic effect of money laundering is the transfer of economic power from markets, governments, and citizens to criminals

and corrupt organizations. The transfer of economic power to criminal entities has a destructive impact on all components of society. If money laundering becomes widespread and is not seriously combated, and the power of money launderers increases, the state itself may come under their control.

Fraud:

The crime of fraud has ancient roots in the Twelve Tables and the Code of Hammurabi. In the history of criminal law, taking someone else's property was often a civil matter and was only considered a crime of theft in this context. According to the laws of this era, for example, if someone committed a theft and was caught, the property would be returned to the owner, and the perpetrator would be obliged to pay double the value of the stolen property to the victim. If the debtor did not pay his debt, the creditor could imprison him in his house for sixty days with the permission of the ruler. If another person did not arrange for his debt to be paid, he had the right to kill the debtor or sell him as an enslaved person outside the country. In Roman law, the crimes of theft, breach of trust, and fraud were not separated from each other, and Fortom included all three (Ashuri, No. 1, p. 22). Over time, these crimes have been separated by scope and complexity, and other titles have been extracted from the title of theft, including fraud, which was foreseen in laws governing the transfer of property to others. In Islamic law, there are numerous rulings regarding fraud and others under the title of consuming property by falsehood, as mentioned in the noble verse "Do not consume their property among yourselves by falsehood" (Al-Baqarah, 188), which refers to the prohibition and prohibition of using each other's property falsely and unjustly, or in the Prophetic hadith "The Prophet forbade arrogance, for nothing can solve a matter of certainty except by a good person," which indicates the prohibition and prohibition of taking possession of someone else's property unjustly and against the will and consent of its owner. The root of fraud, according to Islamic law, is related to fraud, embezzlement, and transactions. Finally, it should be noted that, from the perspective of Islamic law, the elements constituting civil fraud differ from those of criminal fraud. In criminal fraud, a person, despite anticipating the need for caution and observing the rules and standards, still takes pride in the fraudulent actions of the other party. In other words, criminal fraud is based on deception, which is a type of fraud in which the fraudster directly influences the victim's will by using fraudulent means and makes the victim proud of their actions. In contrast, in civil fraud, there is no question of deception, but rather of negligence. Because one of the parties to the transaction operates on the transaction's subject, an external object, the other party is deceived. This deception is indirect and is simply the result of the party who has been deceived's negligence, carelessness, and inattention (Sangelaji, 1968, p. 10).

Article 727 of the Penal Code enumerates pardonable crimes, in which case the death of the plaintiff or private

claimant may at most be considered as a mitigating factor in determining the penalty. Regarding the crime of fraud, none of the cases mentioned in Article 727 refer to it. It should be noted that there is not even a single article on fraud in the Islamic Penal Code, and the relevant provision is Article 1 of the Law on Aggravation of Punishment for Perpetrators of Bribery, Embezzlement, and Fraud, which was approved on 06.12.1977, in the interest of the system. Regarding the crime of fraud, Article 277 of the General Penal Code, in its statement on pardonable crimes, does not mention its pardonability (Mohammad Sadeghi, 2010, p. 48). Later, Note 2 of the Article 8 of the "Criminal Procedure Code" approved in 1973 stipulated that if the perpetrator of the crime of fraud is a private plaintiff or a relative up to the third degree or a relative up to the second degree and has no criminal conviction for committing a similar crime, the prosecution and execution of the sentence shall be suspended upon the plaintiff's acquittal. After the revolution, two similar opinions were expressed on this issue by the Appeals Commission of the former Supreme Judicial Council and the General Board of the Supreme Court of the Republic, both of which emphasize the general nature of the crime of fraud and consider it among the non-forgivable crimes. Of course, it should be noted that in the absence of a specific mention and clarification by the legislator, the general nature of the crimes prevails over their private nature. Article (1) of the "Law on Increasing Punishment for Bribery, Embezzlement, and Fraud" is currently a legal element of the crime of fraud and states: "Anyone who, through trickery and fraud, deceives people into believing that they have fictitious companies, businesses, factories, or institutions, or into having fictitious assets and powers, or gives them hope for unreal matters, or frightens them with unreal events and occurrences, or adopts an unknown name or title, and by one of the aforementioned means or other fraudulent means, obtains funds, property, documents, remittances, receipts, account reconciliations, and the like, and thereby takes other property, is considered a fraudster and, in addition to returning the original property to its owner, is sentenced to one to seven years in prison and a fine equivalent to the amount he has received..."

Thus, we see that the law has not provided a definition of the crime of fraud, has only mentioned some examples, and we have also provided the definition of one of the leading jurists in this regard. As follows: "Fraud is the taking of another's property through the malicious use of fraudulent means or operations" (ibid., p. 51).

In fraud, as in most crimes, the criminal behavior of the perpetrator must be in the form of a positive act, and the omission of the act, even if accompanied by malicious intent and causing the other party to be deceived and causing him harm, can never constitute a material element of the crime of fraud (Shambyati, 1994, p. 164). Therefore, if, for example, (A) pays some money to "B" thinking that he is responsible for receiving the funds related to the issuance of a passport, and (B) receives

the said funds knowingly and in fact refrains from pointing out (A)'s mistake, he cannot be considered a perpetrator of the crime of fraud.

Among the conditions necessary for the crime of fraud to be committed, three are important: first, the means used by the fraudster to deceive another must be fraudulent. Second, the victim must be deceived and deceived, which requires that he be unaware of the fraudulent nature of the criminal's means. Third, the property taken must belong to another. It should be noted that the existence of one of the first and second conditions does not necessarily mean the existence of the other; that is, the fraudster's resort to fraudulent means does not necessarily mean that the victim was deceived, and on the other hand, the fact that the naive victim was deceived does not necessarily mean that the other party used fraudulent means. Therefore, both conditions must be established. However, the criterion that we use for the first condition is objective, while the criterion that we use for the second condition is subjective. In other words, the means used by the fraudster must be conventionally fraudulent, and the second condition requires that the person be actually deceived.

The necessity of the fraudulent (deceptive) nature of the means used by the fraudster can be inferred from the opening part of Article 1 of the "Law on Intensifying Punishment for Bribery, Embezzlement, and Fraud." This article, before listing some examples of fraud, uses the phrase "whoever, by deceit and trickery...". This qualification applies to all the subsequent examples. In other words, "deceiving people by creating fictitious companies, businesses, factories, or institutions," or by claiming imaginary assets and powers, or by misleading them regarding unreal events and occurrences, or "adopting a false name or title," and similar acts, must all be preceded by "deceit and trickery" and, in other words, must involve a series of staged acts and deceptive maneuvers for fraud to be established.

The General Assembly of the Supreme Court has also explicitly stated in one of its precedential rulings that "the crime of fraud, the essential condition of which is resorting to deceptive means, is not established merely by making a verbal promise of marriage." However, it may be possible to punish a person who obtains property through lies under the last part of Article 2 of the Law on Intensifying Punishment for Bribery, Embezzlement, and Fraud. According to this provision, "whoever acquires property or funds in a manner that lacks legal legitimacy shall be considered a criminal and, in addition to returning the original property, shall be sentenced to three months to two years of imprisonment or a fine equivalent to twice the amount obtained."

Another necessary condition for the realization of fraud is the deception and victimization of the target. In other words, the victim must voluntarily hand over property to the offender, but as a result of being deceived. As previously mentioned, this condition is separate from the requirement that the fraudster's means be objectively deceptive. That is, the means must be

considered fraudulent under common standards, and the victim must actually be deceived and voluntarily deliver the property to the fraudster. Accordingly, a person who uses a sedative to render another unconscious and then takes their property cannot be convicted of fraud; rather, this act is more appropriately classified as theft. It should also be noted that the requirement of victim deception shows that fraud can only be committed against a human being. One cannot deceive a machine; therefore, a person who inserts a counterfeit coin into a public telephone to use it, or into a vending machine to obtain goods, does not commit fraud. Rather, such acts may constitute offenses such as the circulation of counterfeit currency or theft, or, under certain conditions, fall under Article 2 of the aforementioned law. Another condition is that the victim must be unaware of the fraudulent nature of the means used. Thus, if a buyer of land knows that the land shown by the seller or broker is not the actual subject of the transaction but still proceeds with the deal, they cannot later seek to prosecute the seller or broker for fraud.

In fraud, as in other property crimes, the property taken must belong to another person, whether movable or immovable. Therefore, a person who uses deceptive means to recover their own property from another's possession (even if that possession is lawful) cannot be considered a fraudster. For example, a mortgagor or landlord who uses deceptive methods to recover pledged or leased property from the mortgagee or tenant is not considered guilty of fraud. Fraud is among the result-based crimes, and its commission depends on the occurrence of a specific outcome: obtaining another's property. Therefore, if a person uses deceptive means to persuade another to marry them, or to enter a university, or to obtain an academic degree, or to detain or imprison someone, such acts cannot be classified as fraud.

The fraudster must act with knowledge of the deceptive nature of their means and must intentionally use them. Therefore, if a person honestly and mistakenly believes that their means are not deceptive—for example, when collecting money for house construction and genuinely believing in their ability to complete the project—or if the use of deceptive means occurs in a state of unconsciousness, such as intoxication, the element of general intent becomes defective. The second component of the mental element of fraud is specific intent, namely the intention to appropriate another's property. The offender may pursue various goals through deception, such as gaining someone's favor for marriage, seeking revenge, or enhancing reputation. However, among all these motives, the existence and proof of the specific intent to appropriate another's property is necessary for the establishment of fraud. It should be added that the intention to appropriate does not refer to a specific item or a specific amount of property, nor to the property of a specific individual. For example, if a person intends to steal a car through deception but the owner instead hands over a bicycle, or if the offender intends to obtain one hundred thousand rials but receives one hundred million rials instead, the

crime of fraud is still established. Likewise, the intent does not need to relate to a specific victim's property.

CONCLUSION:

Economic crime refers to a wide and diverse range of behaviors that are committed against the economy. The breadth and diversity of these crimes have made their concept and application always ambiguous. Situational prevention of economic crimes involves disrupting the opportunities and situations in which the crime occurs. The idea of situational prevention is to treat the event before it occurs, and it can include any treatment that comes to mind. Because situational prevention, on the one hand, deals with the possibilities of criminal behavior in the future and, on the other hand, is based on some ideas that shape criminal behavior that have not yet occurred, its criteria, extent, and framework are in the hands of those who use and employ it. Resorting to situational prevention of economic crimes involves examining the scene before the crime is committed, from individual, social, environmental, and political perspectives. One type of non-coercive crime prevention, especially economic crime, is situational preventive measures. Situational prevention, by influencing crime-causing situations, convinces potential criminals through appropriate measures that the cost of committing a crime is beyond their means. Therefore, the difficulty of detecting economic crimes, on the one hand, the lack of sufficient resources for their detection and prosecution, and the fact that committing these crimes entails huge costs for society, on the other, are important reasons for increasing preventive efforts. On the other hand, among the factors that significantly contribute to situational prevention of economic crimes are transparency, supervision, control, and reform. In other words, a necessary condition for the health of an economic system is financial transparency across various dimensions, especially in government operations. On the other hand, the necessity of supervision and control arises when internal controls are absent or weak; in such cases, external control or supervision becomes more apparent. Finally, reform, modernization, and the use of the most modern methods to prevent economic crimes are undeniable ways to confront them proactively.

The Supreme Leader of the Revolution says in this regard: "If the hands of corrupt people and those who abuse government facilities are not cut off, and if the pretentious and monopolistic privilege seekers and exorbitant people are not expelled, investors, producers, and job seekers will all feel insecure and hopeless, and some will be encouraged to use illegitimate and illegal

ways. In these statements, privilege-seeking and exorbitance are considered important components that lead some individuals and groups to illegitimate and illegal means, which we have described as corruption and economic crime. Some social realities indicate that, in the course of their daily lives, individuals often seek to achieve their own goals and interests before considering the interests and concerns of others. Especially people who lack high human and moral qualities and who are less likely to benefit from this valuable trait will be more likely to suffer from this selfish behavior than others. Some researchers believe that this statement does not mean that they ignore collective interests, but rather that they always prioritize their personal interests. This applies to managers and government employees who have direct access to the government's and the treasury's monetary and financial resources and are entrusted with the responsibility of managing and supervising the production, maintenance, distribution, and consumption of resources and capital.

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