

Non-Penal and Penal Prevention of Economic Corruption in Iran Law Emphasizing the Eight Commands of Ayatollah Khamenei

Abstract

In preventing and cleaning up the economic corruption, the section of society or one of the governmental departments cannot consider it singly; and it needs to be a collective movement that interacts with the three powers. The Islamic Republic of Iran, or in other words, after 1978, did not seriously try to prevent or clean up economic corruption. This problem was caused by the issue of eight-article commands to the heads of the powers in May 2001 by Ayatollah Khamenei. These commands are considered the turning point and road map to cleaning up the economic corruption. These commands express the three powers and positions interactions as one of the effective ways to prevent these corruptions. Paying attention to the personal features of the economic corruptors and the economic crime features and using the prevention tools help us reach our purposes. In another section, it has been considered the role of available punishments in law and their function in preventing economic corruption. Also, it has been considered the challenges faced with cleaning up the economic corruption and the challenges faced with realizing the eight-article commands of Ayatollah Khamenei, which it was issued to clean up the economic corruption in May 2001.

Keywords: *Economic corruption, Economic crime, Prevention, The eight-article commands of Ayatollah Khamenei*

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Introduction

The economic corruption discussion is a problem that has shown itself more than ever in the last years. It needs to apply preventive policies because it caused a fatal blow to the Islamic economic pillars and weakened the Islamic system and government bases. But the problem is how the prevention is in the criminal policy and system of the Islamic Republic of Iran. Could we achieve this important problem? We see the cases after the years of cleaning up the economic corruption. The important problem which is a topic about cleaning up with the corruption from one side is the special feature of the committed of these crimes which carry out their works along with the special skillful and complication and using the legal vacuums. On another side, while they enjoy governmental and social influence, so they easily escape the trap of punishments. Another problem faced with cleaning up the economic corruption is the incoherence and disintegration of the law of the Islamic Republic of Iran about economic corruption. In addition, we observe the inadequacy of the crime with the punishment and the words in some of the regulations that have indeterminacies, which provides the background for multiple interpretations. The words such as disturbance, great, major, etc.

The destructive effects of these crimes on the economic security and the economic growth decrease of the country and the technical nature of the economic crimes are caused to adopt the special criminal policy against them by explaining the special components of this range of crimes. Nowadays, the people and common thoughts demand infrastructural and basic

prevention from the authorities and seriously encountering the committees of economic crimes (Zamani, 2012, 134).

Accordingly, the Supreme Leader got into this problem in 2001, when the goal was economic crimes, and issued the eight-articles commands. The command in which Supreme Leader did not get into the nature and punishments and crimes and issued this command as the roadmap for the authorities. But we, unfortunately, observe this problem that it has not been seriously carried out any work about applying this command after 17 years. The challenge caused to seriously studying the lack of concern and inefficiency in preventing economic corruption.

Abandoning the law articles helps to express the economic corruption and the lack of prevention. One of our approaching articles in the prevention case is Article 5 of 156 basic law, which it has abandoned and has not done any work about. Cleaning up the corruption has two wings; one is the financial clearance of the authorities, and the other is an organization to clean it up. It can achieve by desirable approaches. Naturalizing the preventative measures, using the preventative tools, and applying the legal articles and the articles of the eight-article commands can help this topic that it is prevented before appearing these corruptions. The cohesive legal ratification related to the economic day topics and observing the proportion of the crime and punishment can help us with this problem.

After 17 years of issuing the eight-article commands of Ayatollah Khamenei to the heads of the powers, we see this problem that not only has not been carried out as basic work to decrease economic corruption, but this has been caused

encounter along with increasing these types of the corruptions by the authorities. The economic corruptions do their activities easily when their field is ready. The lack of attention to the problem of economic corruption by the authorities is caused by the invalidity of persons who activate in the economic field and is caused them to withdraw these persons from the activity field because the economic activity at a major level needs the background away from the inflammation and fringes. After this period of issuing the eight-article commands of Ayatollah Khamenei, we see that the government and the parliament have not practically carried out the special work about economic corruption. The judicial power treats the trapped corruptors tolerantly. This shows that there is no serious intention against the economic corruptors by the authorities as yet.

The most important approach for the eight-article commands of Ayatollah Khamenei is the interactions of the three powers because the prevention matter is a trans-powers matter, and it needs to try all the organizations. Accordingly, the goal of this research is the non-penal and penal prevention of economic corruption in Iran law, emphasizing the eight commands of Ayatollah Khamenei.

Methodology

The research goal is theoretical-operational, and from the view of the method of gathering the information is the library, which is regulated the results of the studies by the desirable tools including the carting; from the view of the methodology, it is the descriptive-analytical which is done the content of the concepts systematically and thereby are analyzed the topics.

Research Theoretical Fundamentals

Preventing the Economic Corruption

The goal of the word prevention in criminology is to stand in front of the crime, using the different technics out of the penal system. From this view, the goal of the prevention is each activity of the criminal policy in which the purpose is to limit the possibility of occurrence of the crime by making it impossible or making hard or decreasing the probability of its occurrence without threatening the crime or its execution (Ebrahimi, 2013, 19).

The diversity in the methodology shows that the crime is beyond the police, judicial and legal range. It needs to stand effectively from one side and participate in the governmental organizations and the people assemblies. On the other side, it needs to create the evolution and innovation in the strategies, tools and traditional organizations for standing up against crime. The prevention grouping is the non-penal or active prevention and the penal or reactive prevention. The non-penal prevention is to prevent the realization of the criminal thought by changing the special positions, which has always happened the similar crimes or may happen in those positions (Bayat. et al., 2008, p. 40).

This type of prevention is supervising the actions before the occurrence of crime and the actions that prevented the occurrence of crime. Penal prevention is about the actions after the occurrence of crime using the penal tools and the penal justice system. This type of prevention is divided into two types private and public reactive prevention by considering its effect on society and the criminal person. Public reactive prevention is group-focused prevention followed to prevent the crime in the first person by addressing the citizens through the group-focused terrifying and cautionary tale. Private reactive prevention is criminal-focused reactive prevention followed to prevent the crime again by the individual-focused terrifying and cautionary tale (Niazpoor, 2003, p.170-172).

Social prevention is trying to set a goal of the crime dangerous reasons and agents. This type of prevention is trying to prevent the creation of crime and criminals. In other words, social prevention is considered the approaches and policies in which the goal is generally to change the welfare status of life. For this purpose, it is prioritized social actions by focusing on the dangerous and supportive agents and the structures with the growth potential. For example, include the literacy movement for all, the easy and low-cost access to high-quality kindergartens, the policies to decrease unemployment and the immigrants' absorption program (Niazpoor, 2003, p.65). Social prevention can be considered a Human Rights generation to prevent crime, which has been born in the bed of criminology critical theories (Najafi Tawana, 2012, p. 59).

The Eight-article Commands of Ayatollah Khamenei

In May 2001, 16 years ago, the Supreme Leader drew the roadmap to clean up the economic corruption for the heads of three powers by issuing the eight-article commands. These commands were known as the economic corruptions cleaning up prism.

First Article: The shouts of opposition will be gradually raised by taking the financial and economic corruption seriously. These oppositions generally will be by the persons damaged by these actions, and it is natural to agree with the opposed ill-wishers about the country's happiness with the natives affected by their induction. These oppositions should not create any threat to your intention. The authorities should be educated on how to tolerate the cleaning up the corruption is typically the collaboration with the corruptors. Public trust in the judicial and governmental organizations depends on which these organizations should be stable and decisive against the criminals.

Second Article: it may be considered that cleaning up the corruptors and abusing the national worth are caused to escape the investments and the economic insecurity, so it should be understood to these persons that conversely the cleaning up is caused the economic security for whose want to do the healthy

economic activity. The manufacturers of this country are the first victims of economic and unhealthy financial corruption.

Third Article: The cleaning up the corruption should be assigned to trustworthy and safe persons, whether in the government or the judicial power. That hand that opposes the impurities should be itself pure, and those who want to act correctly should be competent.

Fourth Article: The strike of justice should be not only decisive but accurate and delicate. It is not permissible to accuse the innocents, treat the betrayal and the mistake similarly, or integrate a small sin with a large sin. The ministrant and trustworthy managers, who are undoubtedly the maximum brokers in the three powers of this country, should not be subject to insult and suspicion or should not sense the insecurity. It is so beautiful to know the encouraging ministrant persons and to clean up the corruption and corruptor as the important duty.

Fifth Article: The different governing sections in the three powers, such as the National Inspection Organization and Court of Audit and the information ministry, should correctly identify the damaged points in the economic and financial circulation through friendly collaboration and be helped to remove the harms by the authorities and courts.

Sixth Article: The information ministry is obliged to cover the damaged points in the major governmental economic activities such as the foreign contracts and trades and huge investments, the national plans and as well as the important centers of the financial and economic decision in its legal framework; and help to the government and the judicial system in realizing the economic health and report to President regularly.

Seventh Article: It should not be seen any discrimination in cleaning up the corruption. Nobody and any organization should accept it. Anybody and any organization cannot be exempted to audit under the pretext of assigning I or other authorities. It should behave similarly to the corruption in every place and every position.

Eighth Article: It should not behave to this critical command promotionally and apparently. It should be observed the action effects instead of the promotions. It should be emphasized to the authorities that they should not follow the weak points and small mistakes instead of paying to the roots and the mother of the corruption and not leaving the basic points. Each informing to public thoughts, which is necessary per se, should be away from the promotional and unconsidered comments and considered to keep calm and public thoughts assurance. I ask for sincerity and success from God for myself and all authorities, and I hope these commands were able to receive the attention of God, and God prepares the public welfare and comfort.

These commands are considered the turning point in cleaning up the economic corruption in May 2001. In this research, it

will be investigated those points that there are in the eight-article commands.

1-The Non-penal Prevention to Clean up the Economic Corruption

One of the criminal policy approaches in the last years, which has been paid attention to by the penal lawyer and criminologists, is the prevention of the occurrence of crimes. With the economic damages caused by committing the different crimes, the governments have been forced to encourage the prevention of the occurrence of the crimes by the approaches to eliminate these complications and, at the same time, destroy or minimize the commitment of the crimes. The non-penal prevention is divided into two types: social and situational (Abrand-Abady, 2004, p. 569).

Each of these two prevention types has its special conditions and bases. It is very important the situational prevention which is the supervisor of the positions before occurrence the crime and on removing them because of eliminating the occurrence of the crime, by considering the new approaches to criminology and penology, such as the danger-focused managing approach to the crimes (Abrand-Abady, 2009, p. 730).

Situational prevention is the supervisor of disrupting the opportunities and the positions in which the crimes are formed and the complex of actions that directly influence disrupting the opportunities for the occurrence of the crime. The situational prevention is to vaccinate society against the crimes; in other words, it is better safe than sorry. Also, it can be used in economic crimes. It is considered to investigate the positions before the occurrence of the crime. This type of prevention; and it is analyzed the social and individual positions and it is destroyed the criminogenic positions. It is very important to use non-penal prevention and especially situational prevention in the discussion of economic corruption because the damage occurred by economic corruption is covered by a wide range of society and is abundant damage to society. It is better to stop the crimes before the occurrence until we can think of a solution after the occurrence of these crimes. In other words, the cost of prevention and its results rather than the ways of cleaning up the economic crimes and the specifications of the economic criminals, such as their adaptability and social position, are caused to pay more attention to this type of prevention.

The Supreme Leader points to this important topic in a section of his command that the authorities should follow the basic points and the roots instead of paying to the weak points and small mistakes about cleaning up the corruption (the eight-article of the Supreme Leader). This shows that the prevention the economic corruption should be done by considering the basic reasons and the roots. It will create desirable results if the

goal is considered the basic roots of creating economic corruption using situational prevention.

Economic crime results from the motivation created by the interaction between the position and individual tendency. Therefore, the policies of prevention can be applied to these types of crimes which it is paid attention to influence one of these two types, namely an individual tendency to commit the crime and occurring the criminogenic positions, and perhaps to destroy the individual tendency to commit the crime and consequently the position of the crime, which it is considered as the situational prevention can be the most important approach to prevent the economic crimes. The position-focused prevention of economic crimes convinces the potential criminals that the cost of occurring the crime is more than their force by influencing the crime-focused positions through adopting the fine policies.

On the other side, some criminologists consider situational prevention as the complex actions which are performed permanently and purposefully by the special forms of the crime and by adopting the policies such as management, design or instant intervention with the environment, as it reduces the crime opportunities and positions as much as possible. It increases its dangers which are objective and tangible by the wide range of criminals. From the viewpoint of these criminologists, situational prevention follows in decreasing the opportunities for the special group of the crimes along with increasing the dangers and complications of occurrence of these types of crimes and decreasing the cost resulting it (Babaei, 2011, p. 149).

The legislator has paid more attention to amending the law and before occurring the crime by the preventive approach in the fifth development plan and has emphasized the cases such as decreasing the intervention between the penal justice system and preventing the irregular expansion of the criminal territory and rights and wasting the public freedom and rights, applying the new methods of education of the criminals and making electronic the legal folders documents. In this research, we look at the preventive social policies more exactly among the preventive policies of the legislator in the fifth plan (Sarmadi Vale, 2012, p. 145).

The purpose of social prevention is to create social and individual reformation-focused changes, which is largely provided the background for preventing the crime as stable and permanent (Najafi Abrand-Abady, 2002, p. 85). We can investigate a legislator's view on social prevention in the fifth plan by following two economic and cultural topics and believe that whatever it is, the lack of attention to the cultural position of society increases the background of occurring the crime. On the other side, perhaps committing many of the crimes can be attributed to the bad economic conditions and trading for earning property. Scanning the fifth plan's regulations shows

that the legislator has also understood the importance of this topic, and most of the plan articles involve these two topics (Asqari & Sarmadi Valeh, 2012, p. 145).

Social prevention influences the environments where the person lives and influences the personality and the common environments where the person lives and works; typically, it prevents them from committing the crime. Social prevention is caused to reinforce the moral conscience and the self-controlling, resulting in prevention. The self-controlling, which results in social prevention and reinforces the moral conscience, is one of the most effective and low-cost ways of preventing crime, especially economic crimes. If he reinforces the moral conscience and the self-controlling, the person who wants to commit economic corruption never commits it (Peter Longest, 2008, p. 419).

2-Preventing the Economic Corruption in Iran's Constitution

Preventing in the Islamic Republic of Iran has been discussed in the Constitution. This duty has been assigned to the judicial power in Article 5 of principal 156 of the Constitution. This Article has mentioned that the desired action to prevent the crime and correct the criminals is one of the duties of the judicial power. The impressive success in the prevention and especially economic corruption is not observed. After establishing the judicial development supreme council in 2002, it was ordered to form a "crime prevention committee" under the penal laws correction and the criminal policy editing commission. On one side, this committee paid to the scientific studies about crime cleaning up ways, and on the other side, it prevented the crime to edit legally by the scientific faces (Niaz Poor, 2003, p. 126). Nowadays, editing a bill of crime prevention can be considered the result of a try by this collection. About this Article of Constitution and as well as arbitrating about this problem that has the judicial power been successful to the prophecy of Constitution or not. It should be noted that crime prevention is a problem that needs to interact with all three powers.

Those persons who agree to assign the prevention to the judicial power argued that the ruler of Sharia must prevent the military actions by different methods without appealing the executive power if the judicial power can distinguish the crime everywhere. Perhaps it can be argued to agree to assign the prevention to the judicial power that this power is the only organization closely related to the crime so that it can be easily understood the crime reasons. Also, it can be programmed and made the policy along with solving these reasons (Niaz Poor, 2003, p. 108).

It has been goodly considered in the eight-article commands because the Supreme Leader has not singly addressed the judicial power to clean up the economic corruption, and he assigns it to the heads of the three powers. It has been

expressed in Article 5 that "The different governing sections in the three powers such as the National Inspection Organization and Court of Audit and the information ministry should correctly identify the damaged points in the economic and financial circulation by the friendly collaboration, and be helped to remove the harms by the authorities and courts."

Cleaning up the economic corruption is a hard and sensitive action that should not only be assigned to one power, but it wants to interact with all three powers and the related organizations.

We will observe the crime prevention topic in other laws of the Islamic Republic of Iran. Article 33 of the Anti-Narcotic Campaign forms a headquarters headed by President. Crime prevention has been considered one of the duties of the Police Force, and in Police Force law was approved in July 1982. In executive regulation of Prisons Organization and due to Article 20 of this regulation, one of these organization duties is "the providing information needed to identify the crime prevention methods and to investigate the reasons and agents and to exhibit to the heads of the three powers."

Intensification of punishment due to the crime multiplicity and repetition is considered in Islamic Penal Code about the crime prevention that they are the agents for crime prevention because crime prevention is one of the reasons for the intensification of punishment in each law. This law, along with executing the duties mentioned in Article 4, forms the Supreme Council Code of crime prevention headed by the head of the judicial power. Article 6 of this code makes every three powers use their mechanisms and structures rather than research and study the crime reasons and the prevention methods.

In his eight-article commands, the supreme leader considers every one of the three powers responsible for cleaning up and preventing economic corruption. He says: "Drying the root of the economic and financial corruption and the solver and decisive action need to act by the three powers especially the judicial and executive power. The executive power prevents the growth of financial corruption in the organizations through exact and organized governance. The judicial power removes the criminal, traitors, and dirty elements from the way of development of the country by using virtuous and decisive experts and judges. The role of the legislator power is certainly very important and useful in law-making, which is caused to facilitate the legal approaches and in play the monitoring duty (eight-articles commands of the supreme leader to the heads of the three powers 2001)."

3-Penal Prevention of the Economic Corruption

Another effective approach to prevent economic corruption is using punishment to reach the purpose. It has been paid attention to the legality principle of the crime and the punishment in the law of the Islamic Republic of Iran regarding economic corruption. But there is a problem in this same case.

First, the legislating organization should be definite. One of the complications faced with the complete legal approval about cleaning up the economic corruption is the lack of separation of the powers in law-making. Another important complication about this case is the lack of definite criteria in law-making. The legislator should make laws before the crime occurrence as detailed until it can prevent it, not that after the crime occurrence and creating many problems, it considers editing laws and when it thinks about the remedy that it has been done. For example, it can be mentioned to the amendment of 1 Article and 1 Note of law to Article 1 of Disruptors of Economic System Code in this case which prevented the activity of Pyramidal Companies. When this Article was added to law and the activity of Pyramidal Companies was considered a crime, the activity of these types of companies was almost ending. The legislator should goodly consider being detailed and being an obstacle during law-making.

It should be pointed out that this type of law-making has gotten a type of populism and is finding a replay in the public thoughts. This type of law-making and applying the punishments will not have any correct function in cleaning up the economic corruption. Susceptibility of the emotional atmosphere governed by the society, emphasizing the people's demands and the social life conditions are the specifications of the policies based on penal populism (Pefer, Vindzeu Clayman, 2005).

In his eight-article commands, the supreme leader noted to the heads of three powers that the strike of justice should be decisive but exact and tangible in cleaning up the economic corruptions. It should be sufficiently careful to determine the punishment of these types of crimes by considering the type of crime and the unique specifications of the economic corruptions and the special specifications of the economic corruptors. Islamic Punishment Code about the economic corruption in 2013 has necessarily anticipated all these cases. Article 35 of the Islamic Punishment Code about economic crimes is the innovations related to the complementary punishments in the New Code. It has been paid attention to the complementary punishments in the Islamic Punishment New Code in which Article 36 of the Islamic Punishment Code has paid to the economic corruptions. There are different Codes regarding economic corruption in Iran, such as the Disruptors of Economic System Code, Percentage Prohibition Code in foreign transactions, Governmental Penalties Code, Articles 588-597 of Islamic Punishment Code, etc.

The punishments have been considered to be the economic corruptions in these Codes. If there is economic corruption because of the extent of disruption and network-making, the corruptor should be convicted to execution. In other cases, there are the punishments such as imprisonment, cash punishment, whipping, and subordinate and complementary

punishments. The important point is that while a wide range of society becomes the criminal in the background of economic corruption and encountering these types of crimes, and as well as the economic bases are damaged it should be considered the applied punishments for these types of crimes until they can first punish the criminal and can at second sage prevent the crime in future. The openness of the judge's hand to determine the punishment is one of the reasons that help to determine the type of punishment of the economic corruptors by considering the cases such as the conditions and specifications of the criminal, the type of crime, etc. The judge can determine the execution of the imprisonment punishments by considering the extent of damage and different reasons for the occurrence of the crime. It is important to pay attention to this problem that the type of punishment of the economic corruptors should be in such a way that it can influence the prevention of these types of crimes.

The economic corruptors' social position and personality should be so that their function is more than other punishments. The people's trust in the judicial organization increases by introducing the economic corruptor to people and its punishment. Considering that there are very files about economic corruption, it is observed that the judicial power pays to introduce the economic corruptors in rare cases. It was explained in Article 8 of the Islamic Punishment Code in 2013 about publishing the sentence of the convicts. It should be noted that there is no exemplary and intimidating goal for others, but the goal is to introduce the economic corruptor to people. This action marks the social prestige of the corruptor and is caused to reject. More details of these types of files about publishing the sentence of the economic corruptors should be available to the public, not that it prevents this action by the excuse of expediency.

Disscution and Conclusion

The new research goal is penal and non-penal prevention of economic corruption in Iran Law by emphasizing the eight commands of Ayatollah Khamenei. Economic corruption has a history to the extent of human life. Always the governments have tried to remove these corruptions roots. We understood whatever has been written in this research that the peace in the country's economy needs to clean up the economic corruption. For this conflict, it should be a serious determination by the authorities. It should be considered economic corruption in addition to this serious determination because there is a basic difference between these crimes and other crimes. Firstly, economic corruption marks the economic system's pillars. The victim is not one or two persons, and most of society is sacrificed.

Another problem that is more considered to these crimes is that these crimes are committed by persons different from other criminals. They are named the white-collar criminals in

criminology literature. These criminals act without the tools of violence and using their intelligence and thought. Another specification of these criminals is that they depend on the Governance Power Class and do their actions by the rent. These factors are caused by not discovering the economic corruption, and if they are discovered, there is no investigation. Cleaning up the economic corruption causes economic insecurity and creates a dynamic economy. The authorities should pay to clean up the corruptors without wasting time and tolerance to create this space in the economy and destroy the economic corruption roots. The authorized organizations such as the judicial power, government and parliament should not quail to audit without considering the personal interest and the excuse of appointment of the economic corruptor into one of the power channels. The authorized organizations, the claimant of economic corruption, should start cleaning up from themselves and later go to other corruptors. The hand that wants to clean up the economic corruption should be pure. As pointed out, the economic corruptor has high intelligence, uses legal escape, and knows the economic bottleneck. The authorized organizations should identify the legal escape and the economic bottleneck and protect them. It is necessary to say that cleaning up the economic corruption and preventing it need help from all authorized organizations. The government, parliament, judicial power, economic corruption cleaning up headquarters, and the court of audit should move toward a goal of rooting out the economic corruption in society.

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Conflict of interest

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Ethics Statement

All Permissions to conducting this research has been approved

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