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# Iran's Criminal–Judicial Policy Toward Financial Crimes Committed by Public Officials: A Comparative Study with Afghanistan

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## ABSTRACT

Financial crimes committed by public officials, including embezzlement, bribery, abuse of official position, and misappropriation of public property, constitute some of the most serious challenges facing contemporary legal systems, as they cause severe damage to administrative integrity, public trust, and the legitimacy of governments. Effective control of such crimes requires the adoption of an efficient criminal policy operating in both legislative and judicial dimensions. The present study, employing a descriptive–analytical and comparative approach, examines the legislative–judicial criminal policies of Iran and Afghanistan in dealing with financial crimes committed by public officials and analyzes the existing challenges and deficiencies in both legal systems. The findings indicate that both countries apply a form of differentiated criminal policy in addressing financial crimes of public officials, manifested in measures such as the establishment of specialized judicial bodies, the aggravation of penalties, and the application of special procedural rules. However, Iran's legislative criminal policy is affected by phenomena such as fragmentation of laws, over-criminalization, and the predominance of a punitive-oriented approach, which has led to reduced effectiveness of penal responses and neglect of preventive measures. In contrast, Afghanistan's legislative criminal policy, despite efforts to achieve normative coherence through the Penal Code and specific anti-corruption statutes, suffers from limited practical effectiveness due to political instability, institutional weakness, and governmental immunity in certain domains. At the judicial level, both systems face common challenges, including weak institutional coordination, prolonged judicial proceedings, and susceptibility to political and administrative pressures; nevertheless, in Afghanistan these challenges are exacerbated by the lack of judicial expertise and the instability of judicial structures. The conclusion of the study demonstrates that mere intensification of penalties cannot constitute an effective solution to financial crimes committed by public officials, and that an optimal criminal policy requires an integrated approach grounded in prevention, transparency, judicial independence, and genuine protection of whistleblowers.

**Keywords:** *Legislative–Judicial Criminal Policy; Financial Crimes of Public Officials; Administrative Corruption; Differentiated Criminal Policy; Iran; Afghanistan*

## Introduction

Financial crimes committed by public officials, including bribery, embezzlement, misappropriation of public property, abuse of influence, unlawful appropriation of public funds, and other forms of administrative corruption, constitute one of the most serious threats to administrative integrity, public trust, and the political legitimacy of



governments. These crimes not only cause direct financial losses to public resources but also generate profound and long-term consequences for the social and political structure of societies by undermining governmental efficiency, expanding injustice, eroding social capital, and diminishing citizens' confidence in governance systems (1). Therefore, effective confrontation with financial crimes of public officials is not merely a legal necessity but a fundamental requirement for achieving good governance and sustainable development.

Historical review demonstrates that administrative corruption and financial crimes of public officials are not novel phenomena; their roots can be traced to ancient civilizations such as Iran, Greece, Rome, China, and Egypt. With the formation of administrative organizations and the concentration of power within governmental structures, opportunities for abuse of official position and public resources inevitably emerged, to the extent that financial crimes may be regarded as the "unintended offspring of organizations," arising from internal organizational interactions and the relationship between organizations and their surrounding environment (2). Today, the growing complexity of administrative structures, the concentration of financial resources, and the expansion of discretionary powers of officials have intensified the sensitivity of these crimes and created serious challenges for their detection and prosecution.

From a criminological perspective, financial crimes of public officials fall within the category of white-collar crimes, whose perpetrators generally possess higher educational levels, social intelligence, and occupational status compared with ordinary offenders. These characteristics cause such crimes to be committed with a high degree of concealment, planning, and exploitation of apparently lawful mechanisms, resulting in an extremely high "dark figure" of crime (3). Moreover, in many cases the direct victim of these crimes is not individually identifiable, and society and the state bear the losses as collective victims, a reality that significantly increases the sensitivity of criminal policymaking in this field.

Under such conditions, "criminal policy," understood as the مجموعه‌ای of legislative, judicial, and executive measures adopted by the state in response to criminal phenomena, plays a decisive role in controlling and reducing financial crimes of public officials. At the legislative level, criminal policy encompasses criminalization, determination of penalties, incorporation of preventive mechanisms, and regulation of supervisory institutions, while at the judicial level it concerns the interpretation, application, and enforcement of laws by judicial authorities. Experience indicates that the mere enactment of criminal statutes and the intensification of punishments, without the effectiveness of judicial criminal policy and its proper implementation, cannot lead to meaningful control of these crimes (2).

Within the Iranian legal system, financial crimes of public officials are criminalized in numerous general and special statutes, including the Islamic Penal Code, the Law on Intensification of Punishment for Perpetrators of Bribery and Embezzlement, the Law on Administrative Offenses, the Law on Promotion of Administrative Integrity and Combating Corruption, and other special regulations. The dominant approach of the Iranian legislator in this area emphasizes severe penal responses, including imprisonment, monetary fines, dismissal from public service, and confiscation of illicit assets. Nevertheless, fragmentation of legislation, over-criminalization, and weaknesses in preventive and protective mechanisms—particularly regarding the protection of whistleblowers—constitute major challenges for Iran's legislative criminal policy (4, 5).

By contrast, Afghanistan, particularly in recent decades, has taken steps toward strengthening the legislative framework for combating administrative corruption and financial crimes of public officials. The adoption of the Afghan Penal Code and specific anti-corruption laws, as well as regulations for the protection of corruption informants, reflects the legislator's effort to enhance coherence and efficiency within its legislative criminal policy.

However, political instability, weaknesses of judicial institutions, shortages of specialized human resources, and implementation challenges have significantly limited the effectiveness of Afghanistan's judicial criminal policy (6).

From the standpoint of judicial criminal policy, both Iran and Afghanistan operate under a form of "differentiated criminal policy" toward financial crimes of public officials, wherein special rules govern crime detection, preliminary investigations, adjudication, and enforcement of judgments. The establishment of specialized bodies, special procedural requirements, restrictions on mitigating institutions, and emphasis on transparency and oversight are manifestations of this differentiated approach. Nevertheless, the success of these policies depends primarily on the quality of implementation, judicial independence, institutional coordination, and technical and supervisory capacities (7).

Accordingly, the present article, through a descriptive–analytical and comparative approach, seeks to examine the legislative and judicial criminal policies of Iran and Afghanistan toward financial crimes of public officials based on existing theoretical and legal foundations. The principal objective is to identify the strengths and weaknesses of both legal systems and to clarify effective mechanisms for confronting this criminal phenomenon, such that the findings may contribute to enhancing the effectiveness of criminal policy and to offering practical strategies for reducing financial crimes of public officials in both countries.

### **Types of Financial Crimes of Public Officials in Iran and Afghanistan**

Financial crimes of public officials, as one of the most significant manifestations of administrative corruption, occupy a special position in both the Iranian and Afghan legal systems. Owing to their commission by individuals who, by virtue of their official positions, enjoy public trust and legal authority, these crimes produce broader social, economic, and political consequences than ordinary financial offenses. Consequently, legislators in both countries have attempted to design a specialized framework for combating this phenomenon by criminalizing specific behaviors of public officials (3).

#### *Financial Crimes of Public Officials in Iranian Law*

In Iranian criminal law, financial crimes of public officials are criminalized through numerous general and special statutes, and the legislative approach has concentrated on intensifying penal responses and prescribing strict sanctions. The most important examples of these crimes include:

##### **a) Embezzlement**

Embezzlement is among the most prominent and prevalent financial crimes of public officials in the Iranian legal system. This offense concerns the unlawful appropriation or withdrawal of public property, funds, or documents by an official who has access to them by virtue of his or her occupational position. The essential element of embezzlement is the existence of an employment relationship and the entrustment of property to the offender in connection with official duties. The Iranian legislator, through specific regulations—particularly the Law on Intensification of Punishment for Perpetrators of Bribery and Embezzlement—has adopted a strict policy toward this crime (5).

##### **b) Bribery and Offering Bribes**

Bribery and offering bribes constitute another major category of financial crimes of public officials that directly threaten administrative integrity and the principle of impartiality of public servants. Bribery refers to the receipt of property or funds by an official in exchange for performing or refraining from an official duty, while offering a bribe

refers to the payment of such benefit by the client. In Iranian law, both sides of this criminal relationship are subject to prosecution, and the legislator, aiming at deterrence and prevention, has prescribed multiple penalties for this conduct (8).

### **c) Abuse of Official Position**

Abuse of official position encompasses any unlawful exploitation by an official of authority, influence, or administrative information for personal or third-party benefit. This criminal concept covers a wide range of behaviors and is addressed in a scattered manner across various statutes. This fragmentation itself represents one of the challenges of Iran's legislative criminal policy in this domain (2).

### **d) Misappropriation of Public Property**

Misappropriation of public property refers to conduct resulting in the waste, destruction, or improper use of state assets and resources. In many cases, this crime occurs through negligence, bad faith, or omission by officials and indirectly harms public interests. The Iranian legislator has addressed such behaviors under several criminal headings (1).

### **e) Financial Crimes in the Capital Market**

With the expansion of the role of the state and public institutions in the capital market, a portion of financial crimes of public officials has emerged in the form of capital market offenses. The use of insider information, market manipulation, and unlawful interference by public authorities in financial processes constitute major examples of such conduct, whose technical complexity renders their detection and prosecution particularly difficult (2).

## *Financial Crimes of Public Officials in Afghan Law*

Within the Afghan legal system, financial crimes of public officials also occupy a central position in the country's criminal policy, and through the enactment of the Penal Code and specific anti-corruption statutes, the legislator has sought to establish a relatively coherent framework for combating these offenses. The principal manifestations include:

### **a) Embezzlement**

In Afghan law, as in Iranian law, embezzlement refers to the unlawful appropriation of state property by a public official. The Afghan Penal Code, through a relatively comprehensive definition of this offense, emphasizes the element of abuse of administrative trust and prescribes penalties proportionate to the extent of the resulting harm (6).

### **b) Bribery and Corruption**

Bribery and corruption constitute among the most significant financial crimes of public officials in Afghanistan, particularly prevalent in the delivery of public and administrative services. By criminalizing such conduct, the Afghan legislator has attempted, through strengthening supervisory and judicial institutions, to prevent the expansion of this phenomenon, although serious implementation challenges persist (7).

### **c) Abuse of Office**

Abuse of office in Afghan law closely corresponds to abuse of official position in Iranian law and encompasses any unlawful exploitation by an official of administrative authority for personal gain or to cause harm to others. This criminal category exhibits considerable flexibility and allows for the prosecution of a wide spectrum of corrupt practices (6).

### **d) Extortion by Public Service Officials**

Extortion by public service officials represents a distinctive category of financial crimes in Afghan law and refers to the unlawful demand for money or property from citizens in exchange for performing official duties. Due to its direct impact on citizens' rights, this offense enjoys heightened sensitivity within Afghanistan's criminal policy framework (7).

#### **e) Forgery of Documents and Misappropriation of Public Budget**

Forgery of official documents and misappropriation of public funds constitute other major financial crimes of public officials in Afghanistan, frequently occurring at managerial and executive levels. Owing to their direct impact on state financial resources, these offenses are classified among serious crimes and are met with severe criminal sanctions (6).

Comparative examination of financial crimes of public officials in Iran and Afghanistan reveals substantial convergence in core offenses such as embezzlement, bribery, and abuse of office or duty. This convergence derives from the shared characteristics of administrative structures and similar challenges in public resource management. Nevertheless, differences emerge in the scope of criminalization, legislative coherence, and formulation of criminal titles. While Iranian law suffers from fragmentation and multiplicity of criminal provisions, Afghan law has sought to achieve greater coherence through consolidation within the Penal Code, although institutional and enforcement weaknesses have limited the practical effectiveness of this legislative policy (3, 6).

### **Legislative Criminal Policy of Iran and Afghanistan Toward Financial Crimes of Public Officials**

Legislative criminal policy, as the legal framework governing the state's response to financial crimes of public officials, plays a foundational role in shaping criminalization, defining the boundaries of criminal liability, and prescribing sanctions for combating administrative corruption. Examination of legislative criminal policy in Iran and Afghanistan demonstrates that although both legal systems share the general objective of combating financial crimes of public officials, they differ significantly with respect to legislative structure, regulatory coherence, and the degree of attention devoted to preventive mechanisms (3).

#### *Legislative Criminal Policy of Iran*

Iran's legislative criminal policy toward financial crimes of public officials is predominantly grounded in severe penal responses and the expansion of criminalization, a tendency reflected across various criminal and administrative statutes.

##### **a) Fragmentation of Laws**

One of the most fundamental challenges of Iran's legislative criminal policy is the dispersion of provisions relating to financial crimes of public officials across numerous statutes. These offenses are addressed within the Islamic Penal Code, the Law on Intensification of Punishment for Perpetrators of Bribery and Embezzlement, the Law on Promotion of Administrative Integrity and Combating Corruption, the Law on Administrative Offenses, and an array of scattered regulations and by-laws. This condition generates overlapping and ambiguous criminal titles, reduces legislative coherence, and complicates uniform enforcement of the law (5).

##### **b) Emphasis on Punitive Responses and Intensification of Penalties**

To confront financial crimes of public officials, the Iranian legislator has largely resorted to intensifying punishments. The imposition of long-term imprisonment, heavy monetary fines, dismissal from public service, and confiscation of illicit assets illustrates the predominance of a punitive-oriented approach in Iran's legislative criminal

policy. However, research indicates that such intensification has not necessarily reduced crime rates and in certain cases has contributed to penal inflation and diminished effectiveness of the criminal justice system (2).

### **c) Weakness of Non-Penal and Preventive Approaches**

Within Iran's legislative criminal policy, attention to non-penal and preventive measures remains limited compared with penal responses. Instruments such as administrative transparency, effective internal oversight, reform of corruption-generating structures, and ethical training of public officials lack sufficient prominence in criminal legislation. This imbalance has caused legislative criminal policy to remain predominantly reactive and post-factum rather than preventive (2).

### **d) Limited Protection of Whistleblowers**

Review of Iranian regulations reveals that protection of whistleblowers in financial crimes of public officials has been addressed in a fragmented and non-systematic manner. The absence of a comprehensive and independent statute in this field has increased occupational and administrative risks for whistleblowers and, consequently, reduced their role in detecting financial crimes (3, 9).

## *Legislative Criminal Policy of Afghanistan*

Afghanistan's legislative criminal policy concerning financial crimes of public officials displays a structure distinct from Iran's and reflects efforts toward greater legislative coherence.

### **a) Role of the Penal Code in Consolidation of Regulations**

The adoption of the Afghan Penal Code has played a decisive role in consolidating criminal provisions relating to financial crimes of public officials. By integrating criminal titles into a single legal instrument, the Code has reduced legislative dispersion and enhanced the coherence of legislative criminal policy (6).

### **b) Special Anti-Corruption Laws**

In addition to the Penal Code, Afghanistan has enacted special legislation targeting administrative corruption, addressing prevention, prosecution, and punishment of financial crimes of public officials. These statutes reflect the legislator's effort to adopt a more proactive stance in combating administrative corruption (7).

### **c) Establishment of Independent Anti-Corruption Institutions**

Within Afghanistan's legislative criminal policy framework, institutions with specialized mandates to combat corruption have been established with the objective of increasing specialization and institutional concentration in confronting financial crimes of public officials. Nevertheless, the effectiveness of these institutions remains heavily influenced by the country's political and administrative conditions (6).

### **d) Challenges of Legal Implementation Amid Political Transformations**

The research demonstrates that political instability and weaknesses of executive structures have produced a significant gap between legislative criminal policy and its practical implementation in Afghanistan, such that many progressive legal provisions encounter serious obstacles at the enforcement stage (7).

## *Legislative Support for Whistleblowing in the Two Countries*

### **a) The Status of Whistleblowers in Iranian Law**

In Iranian law, whistleblowers who report financial crimes committed by public officials do not benefit from adequate legislative protection, and the existing provisions are fragmented and lack effective enforcement

mechanisms. This situation has turned whistleblowing into a high-cost behavior and has weakened its function within preventive criminal policy (3, 9).

#### **b) Afghanistan's Law on the Protection of Informants**

Afghanistan, by enacting a law on the protection of corruption informants, has provided a more determinate framework for supporting whistleblowers. This law includes protection of whistleblowers' identity and occupational position, although its practical implementation faces substantial challenges (6).

#### **c) Comparing Effectiveness and Enforcement Guarantees**

Comparative analysis indicates that although Afghanistan has taken more explicit legislative steps to protect whistleblowers, weak implementation has reduced the practical effectiveness of these protections. By contrast, legislative gaps in Iran have hindered effective utilization of whistleblowing capacity within criminal policy aimed at combating financial crimes of public officials (3).

### **Judicial Criminal Policy in Iran and Afghanistan for Adjudicating Financial Crimes of Public Officials**

Judicial criminal policy refers to the set of decisions, practices, and operational measures applied by judicial institutions during the stages of crime detection, prosecution, investigation, adjudication, and enforcement of judgments. In financial crimes committed by public officials, due to the distinctive characteristics of these offenses—such as concealment, technical complexity, and the perpetrators' institutional position—judicial criminal policy has generally tended toward differentiation and specialization. Review of the dissertation indicates that both Iran and Afghanistan, despite structural differences, have adopted a form of differentiated judicial criminal policy in this field, although their levels of effectiveness are not the same (4, 6, 7).

#### *Competent Authorities and Procedural Formalities*

##### **a) Judicial and Supervisory Bodies in Iran**

In Iran's legal system, adjudication of financial crimes of public officials falls within the jurisdiction of multiple specialized and general authorities. The establishment of special economic crime courts, the use of specialized prosecutorial branches, and reliance on trained law-enforcement officers and financial experts are among the principal manifestations of Iran's judicial criminal policy in this area. In addition, supervisory bodies such as the General Inspection Organization and the Supreme Audit Court play an effective role in initial detection and referral of cases to judicial authorities. This structure reflects a tendency toward relative specialization and deterrence-oriented adjudication in major economic cases (4, 5).

##### **b) Courts, Saranwali, and Specialized Bodies in Afghanistan**

In Afghanistan, competent authorities include courts, the Saranwali (prosecution service), the Attorney General's Office, and specialized anti-corruption institutions. The formation of a specialized anti-corruption court and a dedicated prosecution office for serious corruption crimes reflects the legislator's effort to create more specialized and expedited adjudication of financial crimes committed by public officials. However, the dissertation shows that, due to political pressure, resource constraints, and weak judicial independence, these bodies have not achieved sufficient effectiveness in practice (6, 7).



### *Manifestations of Differentiated Criminal Policy*

#### **a) Crime Detection (Inspection, Information Technology, Sting Operations)**

At the detection stage, both countries employ differentiated measures. In Iran, the use of information and communication technologies to monitor officials' performance, inspection of documents and records, sting operations, and specialization of law-enforcement officers are among the key tools for detecting financial crimes. These measures are designed to enhance transparency and reduce the "dark figure" of financial crime (4). In Afghanistan as well, the use of special detection methods, creation of specialized policing arrangements, and institutional cooperation are considered manifestations of differentiated criminal policy at this stage (7).

#### **b) Preliminary Investigations (Asset Freezing, Special Detention)**

During preliminary investigations, the judicial criminal policies of both countries tend toward restricting certain classic procedural principles. Measures such as temporary seizure of assets, blocking of bank accounts, and, in some instances, mandatory or extended detention are applied to prevent flight and destruction of evidence. The dissertation emphasizes that although these measures may be justified on efficiency grounds, they require careful balancing against fair-trial guarantees (5).

#### **c) Adjudication and Issuance of Judgment (Specialized Judges, Publicizing Decisions)**

At the adjudication and judgment stage, the use of specialized judges, relatively expedited handling of major cases, and publicizing judgments and the names of convicted persons are prominent manifestations of differentiated criminal policy. Publicizing judgments—particularly in Iran—is applied to strengthen general deterrence and enhance public confidence in the judiciary. In Afghanistan, similar measures are envisaged, but their implementation faces serious limitations (6, 7).

### *The Role of the Judge and Judicial Practice*

#### **a) Judicial Discretion in Interpretation and Application of Law**

In the judicial criminal policy governing financial crimes of public officials, the judge plays a central role. Judicial discretion in interpreting statutes, determining the type and severity of punishment, ordering precautionary measures, and granting (or withholding) mitigating legal institutions directly affects the effectiveness of criminal policy. The dissertation indicates that accurate and purposive use of these powers can compensate, at least in part, for weaknesses in legislative criminal policy (7).

#### **b) The Impact of Judicial Practice on Criminal Policy Effectiveness**

Judicial practice, particularly in systems affected by fragmented legislation, plays an important role in creating consistency and steering criminal policy. In Iran, judicial practice in certain large-scale economic cases has contributed to strengthening differentiated criminal policy. By contrast, in Afghanistan, instability in judicial practice and susceptibility to political conditions have weakened the capacity of judicial practice to realize criminal policy objectives (6).

### **Challenges of the Legislative–Judicial Criminal Policy in Iran and Afghanistan**

Legislative–judicial criminal policy in the domain of financial crimes committed by public employees in both Iran and Afghanistan, although supported by legal frameworks for classic criminalizations (such as embezzlement, bribery, unlawful appropriation, and fraud), faces implementation challenges that hinder the realization of effective



preventive and repressive objectives. Comparative examination shows that some challenges are shared in nature, while others reflect each country's political-administrative and institutional structure. Collectively, these challenges weaken the effectiveness of legislative-judicial criminal policy and underscore the need to reconsider prevailing approaches (4, 7).

### *Common Challenges*

#### **a) Fragmentation and Ambiguity of Laws**

One of the most significant shared challenges in Iran and Afghanistan is the fragmentation and ambiguity of laws related to financial crimes committed by public employees. In both legal systems, relevant rules are dispersed across multiple—and at times conflicting—statutes, making it difficult to achieve a coherent and transparent framework. In Iran, financial crimes of public employees are addressed in the Islamic Penal Code, the Law on Intensification of Punishment for Perpetrators of Bribery, Embezzlement, and Fraud, the Law on Promotion of Administrative Integrity and Combating Corruption, the Law on the Examination of Officials' Assets, and other special regulations. While this multiplicity reflects legislative sensitivity to administrative corruption, it has also produced conceptual ambiguity and divergent judicial interpretations, especially regarding notions such as “unlawful appropriation,” “misappropriation of public property,” and “illicit acquisition of wealth” (1).

In Afghanistan, a comparable situation can be observed. Criminal provisions relating to financial crimes of public employees are distributed across the Penal Code and certain special statutes, and the absence of a comprehensive and coherent anti-corruption law has made it difficult for judicial authorities to determine the correct criminal title, the scope of criminal liability, and the appropriate punishment. Moreover, in Afghanistan's legal system, state immunity in areas of sovereign acts—and even certain service-delivery functions—constitutes an aggravating factor that deepens ambiguity and undermines the effectiveness of legislative criminal policy (10).

#### **b) Weak Institutional Coordination**

Another shared challenge is weak coordination among legislative, judicial, and supervisory institutions. Effective criminal policy requires continuous and orderly interaction between lawmaking bodies, prosecution authorities, courts, and supervisory agencies. In Iran, although institutions such as the General Inspection Organization, the Supreme Audit Court, the prosecution service, and the financial intelligence unit play important roles in detecting and prosecuting financial crimes, the lack of a single centralized authority to guide and coordinate these efforts has resulted in overlapping jurisdictions and, at times, parallel operations (4).

In Afghanistan, this problem is more acute. Institutions such as the Attorney General's Office, the High Office of Anti-Corruption, and specialized judicial bodies each bear part of the responsibility for combating financial crimes of public employees, yet institutional weakness and the absence of effective coordination among them have reduced the efficiency of judicial criminal policy. Such institutional dissonance not only slows proceedings but also facilitates the intrusion of non-legal factors into judicial decisions (6).

#### **c) Prolongation of Judicial Proceedings**

The technical complexity and prolongation of judicial proceedings represent another shared challenge. Financial crimes committed by public employees are often highly technical and require examination of financial records, specialized auditing, and cooperation among multiple institutions. In Iran, although special economic crime courts were established to expedite adjudication, in practice the accumulation of cases, shortage of specialized judges, and procedural complexity contribute to delays (7).

In Afghanistan, this challenge is more severe, such that prolonged proceedings not only diminish the deterrent effect of punishments but also weaken public trust in the judiciary. Lack of technical infrastructure, shortage of specialized human resources, and security-related problems all contribute to intensifying this difficulty (10).

#### **d) Political and Administrative Pressures**

A fourth shared challenge is the susceptibility of judicial criminal policy to political and administrative pressure. Judicial independence is one of the essential preconditions for successful criminal policy in combating financial crimes committed by public employees. Nevertheless, in both countries, informal interventions and administrative pressures sometimes affect the prosecution and adjudication of major financial cases. This issue is particularly visible in cases where defendants hold high political or administrative status and leads to erosion of the principle of equality before the law (9).

### *Country-Specific Challenges*

#### **a) Iran: Penal Inflation and Dominance of a Punitive Approach**

In Iran, one of the most significant country-specific challenges of legislative–judicial criminal policy is **penal inflation** and the predominance of a **punitive-oriented approach**. In response to the expansion of administrative corruption, the Iranian legislator has primarily resorted to extensive criminalization and intensification of penalties. Although this approach has ostensibly been adopted to strengthen deterrence, in practice it has failed to ensure sustainable reduction of financial crimes committed by public employees (4).

The dominance of severe sanctions such as long-term imprisonment, permanent dismissal from public service, and heavy monetary fines—without sufficient attention to structural preventive measures—has rendered Iran's criminal policy excessively reactive and repression-oriented. This condition, in addition to imposing substantial social and economic costs, has constrained the corrective and preventive capacities of the criminal justice system. Furthermore, excessive concentration on penal responses has diverted attention from essential instruments such as financial transparency, reinforcement of administrative supervision, and effective protection of whistleblowers (9).

#### **b) Afghanistan: Weak Judicial Expertise and Institutional Instability**

In Afghanistan, the principal country-specific challenges of legislative–judicial criminal policy stem from **weak judicial specialization** and **institutional instability**. Over many years, Afghanistan's judicial system has been profoundly affected by insecurity, political change, and shortages of human and financial resources. These conditions have severely limited the formation of a coherent and specialized judicial criminal policy in the field of financial crimes committed by public employees (7).

The shortage of trained judges and prosecutors in economic crimes, weaknesses of auditing institutions, and the absence of consistent judicial precedent have caused adjudication of such crimes to remain largely symbolic and reactive. In addition, persistent institutional instability and repeated restructuring of administrative and judicial bodies have seriously undermined the continuity and coherence of anti-corruption policies (6).

Comparative assessment of the challenges facing legislative–judicial criminal policy in Iran and Afghanistan in addressing financial crimes of public employees indicates that both systems operate under a form of **differentiated criminal policy** in this domain—through establishment of specialized bodies, intensification of punishments, and adoption of special procedural measures aimed at combating administrative corruption. Nevertheless, the findings demonstrate that mere intensification of penalties and expansion of criminalization are insufficient for effective

control of these crimes and, in some cases, have contributed to penal inflation and reduced efficiency of the criminal justice system (4).

Another major conclusion is that an effective criminal policy in this field requires integration of several essential components: first, prevention through financial transparency, strengthening of administrative oversight, and reform of corruption-producing structures; second, transparency in legislative and judicial processes and public access to information; third, judicial independence to counter political and administrative pressures; and fourth, genuine and effective protection of whistleblowers, who play a critical role in detecting and prosecuting financial crimes of public employees (9).

Finally, judicial criminal policy can perform a crucial compensatory function with respect to the weaknesses of legislative criminal policy. Specialization of adjudicatory bodies, enhancement of judicial training, acceleration of proceedings, and utilization of modern crime-detection technologies constitute among the key strategies capable of strengthening criminal policy effectiveness in both countries. Achieving these objectives requires political will, institutional reform, and a perspective that transcends a purely punitive approach to the phenomenon of administrative corruption (7, 10).

## Conclusion

Financial crimes committed by public officials, as one of the most visible manifestations of administrative corruption, constitute a structural and multidimensional challenge for the legal systems of Iran and Afghanistan. These crimes not only cause direct damage to public resources and property, but also produce profound social, economic, and political consequences by undermining public trust, weakening the legitimacy of governing institutions, and disrupting the efficiency of the administrative system. Accordingly, examining legislative and judicial criminal policy toward this category of crimes assumes heightened importance, since the success of governments in controlling and preventing administrative corruption largely depends on the quality, coherence, and effectiveness of their criminal policy.

The present study, through a descriptive–analytical and comparative approach, examined the legislative–judicial criminal policies of Iran and Afghanistan toward financial crimes committed by public officials and sought, on the basis of the dissertation text, to identify existing mechanisms and to analyze the challenges and deficiencies of both legal systems. The findings indicate that although Iran and Afghanistan share significant similarities in criminalizing classical forms of administrative corruption such as embezzlement, bribery, abuse of duty or official position, and misappropriation of public property, meaningful differences and challenges exist between them in terms of criminal policy structure, legislative coherence, institutional effectiveness, and practical success.

With respect to legislative criminal policy, the findings show that both countries have adopted a predominantly reactive and punitive approach toward financial crimes of public officials. In the Iranian legal system, extensive criminalization and intensification of penalties constitute the legislator's principal tools for confronting administrative corruption. The enactment of numerous criminal and administrative statutes and the imposition of sanctions such as long-term imprisonment, heavy monetary fines, dismissal from public service, and confiscation of illicit assets reflect the dominance of a punishment-oriented approach in Iran's legislative criminal policy. However, close analysis demonstrates that this approach, despite its apparent severity and strictness, has failed to achieve a sustainable and effective reduction of financial crimes committed by public officials.

One of the most important causes of this inefficiency is the fragmentation and ambiguity of laws. The multiplicity and diversity of regulations governing financial crimes of public employees in Iran, while creating penal inflation, have produced conceptual ambiguity, conflicting judicial interpretations, and difficulties in uniform enforcement of the law. Concepts such as unlawful appropriation, misappropriation of public property, illicit acquisition of wealth, and abuse of official position are used in different statutes without precise and consistent definitions, thereby fostering divergent judicial practice and reducing the predictability of penal responses. At the same time, excessive reliance on penal responses has weakened the role of non-penal preventive measures, reform of corruption-producing structures, administrative transparency, and professional ethics education.

By contrast, Afghanistan's legislative criminal policy, particularly through the enactment of the Penal Code and certain special anti-corruption laws, has in appearance taken steps toward regulatory coherence and reduction of legislative fragmentation. Nevertheless, the findings demonstrate that this legislative coherence has faced serious challenges in practice. One of the most significant of these challenges is the immunity of the state and governing institutions from criminal liability in certain areas, which constitutes a major obstacle to the effective prosecution of institutional and structural corruption. In addition, political instability, weaknesses of executive institutions, and frequent changes in legal and administrative structures have caused many Afghan legislative provisions to lack the necessary effectiveness at the implementation stage.

At the level of judicial criminal policy, the study shows that both countries employ a form of differentiated criminal policy in addressing financial crimes committed by public officials. The establishment of specialized bodies, application of special procedural rules, restriction of certain mitigating institutions, seizure of assets, and publicizing of judgments constitute among the main manifestations of this differentiated policy. In Iran, the creation of special economic crime courts and the use of relatively specialized judges and law-enforcement officers reflect the judiciary's effort to provide a more effective response to this category of crimes. However, the findings indicate that these measures, due to case overload, insufficient expertise at certain levels, and external pressures, have not fully achieved the deterrent and preventive objectives of criminal policy.

In Afghanistan as well, although institutions such as the specialized anti-corruption court and special prosecution offices for serious corruption crimes have been established, weak judicial independence, shortage of specialized human resources, security problems, and political pressures have rendered the country's judicial criminal policy largely symbolic and reactive. Prolonged proceedings, instability of judicial practice, and lack of sufficient expertise in handling complex financial crimes are among the factors that have severely undermined the effectiveness of judicial responses in Afghanistan.

From a comparative perspective, the study demonstrates that the common challenges of legislative-judicial criminal policy in Iran and Afghanistan include fragmentation and ambiguity of laws, weak institutional coordination among legislative, judicial, and supervisory bodies, prolonged judicial proceedings, and susceptibility to political and administrative pressures. These challenges operate in a chain-like manner, causing even relatively appropriate regulations to fail in achieving desired outcomes in practice. Alongside these shared challenges, each country also faces its own specific problems: in Iran, penal inflation and dominance of a punitive approach; and in Afghanistan, weak judicial expertise and institutional instability, which constitute the most significant obstacles to criminal policy effectiveness.

Another major finding of the study is that mere intensification of penalties and expansion of criminalization do not constitute effective solutions for combating financial crimes committed by public officials. The experience of both

countries demonstrates that without reforming corruption-producing structures, strengthening administrative oversight, increasing transparency, and guaranteeing judicial independence, even the most severe forms of penal policy cannot lead to sustainable reduction of administrative corruption. Accordingly, the present study emphasizes the necessity of adopting an integrated approach to criminal policy, in which penal responses represent only one of several instruments, alongside preventive, corrective, and supportive measures.

Within this framework, prevention, as the core component of effective criminal policy, must occupy a central position. Preventing financial crimes of public officials requires transparency in financial and administrative processes, strengthening auditing and supervisory systems, reducing concentration of unchecked authority, and reforming institutional environments conducive to corruption. In addition, transparency in legislative and judicial processes, publication of information related to corruption cases, and publicizing judicial decisions can play an important role in strengthening general deterrence and enhancing public trust.

Furthermore, judicial independence, as a fundamental precondition for the realization of criminal justice, must be genuinely ensured rather than merely proclaimed. Without judicial independence, adjudication of financial crimes committed by public officials, particularly at higher levels, will remain vulnerable to non-legal interference. Alongside this factor, genuine and effective protection of whistleblowers also plays a crucial role in detecting and prosecuting financial crimes. The findings of the dissertation indicate that weak legislative and executive protection of whistleblowers, in both Iran and Afghanistan, constitutes one of the primary reasons for the high dark figure of these crimes.

Finally, the study concludes that judicial criminal policy can and must perform an important compensatory function in addressing the weaknesses of legislative criminal policy. Specialization of adjudicatory bodies, continuous training of judges and law-enforcement officers in the field of financial and economic crimes, acceleration of judicial proceedings, and utilization of modern crime-detection tools constitute among the measures capable of enhancing the effectiveness of the criminal justice system in combating financial crimes of public officials. Achieving these objectives requires political will, institutional reform, and a shift from a purely punitive criminal policy toward a rational, preventive, and justice-oriented approach.

Overall, the final conclusion of the study is that Iran and Afghanistan, despite structural and political differences, face a common problem of relative inefficiency in criminal policy toward financial crimes committed by public officials. Overcoming this condition is possible only through simultaneous reform of legislative and judicial policies, strengthening prevention and transparency, guaranteeing judicial independence, and providing effective support for anti-corruption actors.

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### **Authors' Contributions**

All authors equally contributed to this study.

### **Declaration of Interest**

The authors of this article declared no conflict of interest.

## Ethical Considerations

All ethical principles were adhered in conducting and writing this article.

## Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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