



#### How to cite this article:

Ammar, M. I., Tadayyon, A., & Esmaeili, M. (2025). Comparative Analysis of the Criminalization of Offenses against Administrative Integrity in Iran and Afghanistan in Light of the Merida Convention. *Journal of Historical Research, Law and Policy*, 3(3), 1-17. <https://doi.org/10.61838/jhrp.58>



Article history:  
Original Research

#### Dates:

Submission Date: 20 May 2025

Revision Date: 14 August 2025

Acceptance Date: 20 August 2025

Publication Date: 28 September 2025

# Comparative Analysis of the Criminalization of Offenses against Administrative Integrity in Iran and Afghanistan in Light of the Merida Convention

1. Mohammad Ismail. Ammar<sup>1</sup>: Department of Criminal Law and Criminology, CT.C., Islamic Azad University, Tehran, Iran
2. Abbas. Tadayyon<sup>2</sup>: Department of Criminal Law and Criminology, CT.C., Islamic Azad University, Tehran, Iran
3. Mahdi. Esmaeili<sup>3</sup>: Department of Criminal Law and Criminology, CT.C., Islamic Azad University, Tehran, Iran

\*corresponding author's email: [ab.tadayyon@iau.ac.ir](mailto:ab.tadayyon@iau.ac.ir)

## ABSTRACT

The present study, titled “Comparative Analysis of the Criminalization of Offenses against Administrative Integrity in Iran and Afghanistan in Light of the Merida Convention,” aims to examine the extent to which the criminal policies of the two countries conform to international anti-corruption standards. The research method is descriptive–analytical and based on a comparative study of national and international legal documents. This article first explicates the theoretical concepts of criminalization and administrative integrity and then examines the international framework of the Merida Convention and its governing principles, including transparency, accountability, international cooperation, prevention, and asset recovery. Subsequently, the legal systems of Iran—such as the Islamic Penal Code, the Law on Intensifying Punishment for Perpetrators of Bribery, Embezzlement, and Fraud, and the Law on Promotion of the Administrative Health System and Combating Corruption—and those of Afghanistan—such as the Penal Code (2017) and the Law on Combating Administrative Corruption (2018)—are analyzed. The findings indicate that Afghanistan has taken a step further than Iran in terms of the comprehensiveness of criminalization and alignment with the provisions of the Convention, while Iran possesses stronger jurisprudential foundations and institutional structures. Nevertheless, both countries face challenges such as legislative fragmentation, weak enforcement mechanisms, lack of protection for whistleblowers, and the influence of political structures on law enforcement. It is concluded that achieving administrative integrity requires legislative reforms, strengthening institutional independence, and institutionalizing a culture of transparency and accountability so that the obligations contained in the Merida Convention can be effectively and sustainably implemented.

**Keywords:** *Administrative Integrity; Criminalization; Administrative Corruption; Merida Convention; Iranian Criminal Law; Afghan Criminal Law; Comparative Criminal Policy.*

## Introduction

Administrative corruption, as one of the most significant obstacles to sustainable development and social justice, constitutes a serious threat to the legitimacy and efficiency of governance systems (1). This phenomenon—defined as the abuse of administrative position and authority for personal gain—has wide-ranging effects on public trust, social capital, and the effectiveness of governmental institutions (2). In the Iranian legal system, administrative integrity is considered a component of good governance and a prerequisite for achieving administrative justice. The legislator, through instruments such as the *Law on the Promotion of the Administrative Health System and the Fight*



*against Corruption* (2008) and the *Bill of Disciplinary Sanctions*, has sought to develop a criminal and disciplinary framework for preventing corruption and safeguarding the integrity of executive institutions (3). In Afghanistan, with the enactment of the *Penal Code* (2017) and the *Law on Combating Administrative Corruption* (2018), the criminalization of behaviors undermining administrative integrity has also expanded; however, weaknesses in enforcement, political instability, and the lack of effective oversight remain serious challenges (4).

Criminalization, as an instrument of legislative criminal policy, plays a fundamental role in preventing corruption and promoting administrative integrity, since the threat of punishment can deter public officials from engaging in behaviors that undermine administrative order (5). In practice, the criminalization of offenses against administrative integrity is aimed at deterrence, increased accountability, and the restoration of public trust. However, experience demonstrates that the mere existence of criminal laws without effective enforcement guarantees cannot ensure administrative integrity (6). Therefore, examining the alignment between national laws and international obligations—particularly in light of binding global instruments—becomes a necessity. Among these, the *United Nations Convention against Corruption* (UNCAC), adopted in 2003 and known as the Merida Convention, is the first global legally binding instrument for preventing and combating corruption (7). This convention, emphasizing principles such as transparency, prevention, criminalization, international cooperation, and asset recovery, provides a comprehensive framework for member states. According to its provisions, governments are obliged to criminalize offenses such as bribery, embezzlement, abuse of function, illicit enrichment, and offenses against the administration of justice within their domestic legal systems and to cooperate effectively in their enforcement (8).

Although both Iran (in 2008) and Afghanistan (in 2008) acceded to the Merida Convention, comparative studies reveal that neither country's legislative and executive systems are fully consistent with the convention's requirements (9, 10). For instance, in Iran, certain offenses—such as bribery involving foreign officials and crimes against the administration of justice—are not explicitly criminalized, while in Afghanistan, weak oversight institutions and limited judicial independence have hindered the full realization of convention obligations (11). Hence, the main research question of this study is: *“To what extent are the criminal systems of Iran and Afghanistan aligned with the obligations prescribed in the Merida Convention regarding the criminalization of offenses against administrative integrity?”* Addressing this question can clarify the degree of conformity between the two countries' criminal policies and international anti-corruption standards, thereby facilitating domestic legislative reform.

The significance of this study lies in its comparative approach: by examining the similarities and differences between the Iranian and Afghan criminal law systems, it seeks to assess their compatibility with the provisions of the Merida Convention. The scarcity of comparative studies between these two legal systems—especially concerning international anti-corruption obligations—highlights the necessity of such research. The research method is descriptive-analytical and based on the analysis of legislative documents, criminal regulations, and comparative data. The article is structured in three sections: the first discusses the theoretical foundations of administrative integrity and the role of criminalization; the second presents a comparative analysis of Iran's and Afghanistan's criminal laws in light of the Merida Convention; and the final section offers findings and legislative and executive recommendations to strengthen the alignment between national criminal policy and international commitments.

## Theoretical and Conceptual Foundations of Criminalizing Offenses against Administrative Integrity

Criminalization is among the most important instruments of criminal policy for maintaining social order and protecting fundamental societal values. In criminal law, it refers to defining and categorizing behaviors that are prohibited and punishable by law (12). This process represents the most evident form of state intervention in individual freedoms to safeguard public interests and must be guided by principles such as necessity, proportionality, and effectiveness. In other words, criminalization is justified only when the behavior in question poses a serious threat to essential social values and non-criminal mechanisms are ineffective in addressing it (13).

From a criminal policy perspective, criminalization is not merely an instrument of punishment but also a means of directing and regulating social behavior. Rational criminal policy requires legislators to evaluate the social necessity and consequences of criminalization before resorting to penal measures (14). Within this framework, criminal policy—defined as a set of legislative, judicial, executive, and social strategies to combat crime—entails the deliberate selection of behaviors whose criminalization is necessary for preserving public interests and ensuring criminal justice. In the context of offenses against administrative integrity, the criminal policy of states focuses on preventing corruption and reinforcing public trust, since administrative corruption represents one of the gravest threats to governmental efficiency and legitimacy (2).

### a) The Concept and Criteria of Criminalization

Criminalization must conform to three main criteria: *social necessity*, *proportionality*, and *effectiveness* (5). First, *social necessity* implies a genuine societal need for criminal protection of a particular value or institution. When certain behaviors threaten public security, administrative justice, or the economic health of society, the legislator is justified in criminalizing them. With respect to offenses against administrative integrity, acts such as bribery, embezzlement, influence-peddling, and abuse of office constitute direct threats to public trust and administrative order, and thus their criminalization is warranted (5). Second, *proportionality* requires that the severity of criminal intervention correspond to the degree of harm caused, avoiding excessive or disproportionate punishment. Third, *effectiveness* indicates that the criminal law must be practically capable of restraining the offending behavior; otherwise, criminalization remains merely symbolic and undermines the authority of law (6). Consequently, when criminalizing administrative offenses, legislators must assess whether the threat to administrative integrity justifies penal intervention, whether the prescribed sanctions are proportionate to the nature of the behavior, and whether the administrative system is capable of effectively enforcing the law.

### b) The Concept of Administrative Integrity and Its Relation to Transparency and Accountability

In public law literature, *administrative integrity* refers to a state in which administrative structures and public officials act within the framework of law, justice, and ethical principles, abstaining from the misuse of power and public resources (1). In other words, administrative integrity equates to transparency, accountability, and adherence to the law within the administrative system (15). This concept is directly related to the indicators of *good governance* and rests on foundations such as transparent decision-making, accountability to citizens and oversight bodies, organizational justice, and administrative efficiency (16).

Transparency—defined as the unrestricted public access to information about government performance—is one of the principal tools for preventing administrative corruption (17). Conversely, accountability represents the obligation of public officials to explain and assume responsibility for their decisions. In modern legal systems, accountability encompasses legal, political, and ethical dimensions, and its absence creates fertile ground for

administrative crimes. Therefore, administrative integrity is not merely the absence of corruption but a symbol of efficiency, transparency, and justice in governmental performance (18). The criminalization of offenses against administrative integrity thus serves as a penal response to the violation of transparency and accountability principles. When administrative and supervisory mechanisms fail to prevent corruption, the penal system functions as the last line of defense for safeguarding administrative health (9).

### c) Theoretical Foundations of Criminalizing Administrative Offenses from Jurisprudential, Ethical, and Public Law Perspectives

From a jurisprudential standpoint, the criminalization of administrative offenses is rooted in principles such as justice, trustworthiness, and the prohibition of breach of trust. In Islamic jurisprudence, any misuse of public position or assets constitutes *breach of trust (khiyanat)* or *usurpation (ghasb)* and is punishable under discretionary sanctions (*ta'zir*) (19). The Qur'an, in several verses—including verse 58 of *Surat al-Nisa*—emphasizes the necessity of rendering trusts to their rightful owners and judging with justice. Accordingly, an Islamic legislator is obliged, inspired by religious teachings, to criminalize behaviors that threaten administrative justice and integrity.

From an ethical perspective, administrative integrity is founded upon honesty, justice, and responsibility. Public ethics theorists such as Immanuel Kant argue that moral conduct should be based on duty rather than personal interest; consequently, criminal law plays a formative and deterrent role against administrative misconduct to prevent the recurrence of unethical behavior within the administrative system (14). Thus, criminalizing administrative offenses serves not merely punitive purposes but also moral and social ones by preserving ethical values and public trust.

From a public law perspective, the criminalization of offenses against administrative integrity is grounded in the principle of *accountability of public power*. Administrative authority in modern societies is a trust delegated by the people, and its abuse constitutes a breach of public confidence (20). According to the social contract theory, state officials may only act within the limits conferred by law, and any misuse of these powers constitutes an infringement upon public rights. Therefore, from a public law standpoint, the criminalization of administrative behaviors serves not only to protect governmental interests but also to safeguard citizens' rights against the misuse of public power.

In summary, the theoretical foundations of criminalizing offenses against administrative integrity can be analyzed on three levels:

- First, at the *jurisprudential and ethical* level, based on principles of justice and trustworthiness;
- Second, at the *public law* level, founded on the necessity of accountability and transparency of power;
- And third, at the *criminal policy* level, aiming to protect public interests through penal measures.

Overall, the criminalization of offenses against administrative integrity represents a criminal policy approach aimed at preserving public trust and state legitimacy. Such criminalization is legitimate and effective only when it adheres to principles of social necessity, proportionality, and effectiveness, and when it remains consistent with the ethical and jurisprudential values of society. Furthermore, administrative integrity—as an indicator of good governance—requires transparency, accountability, and fairness in decision-making; therefore, the criminalization of behaviors violating these principles serves not only to defend public interests but also to ensure the sustainability of administrative systems and social justice. In light of the Merida Convention, this process has acquired an international dimension, obligating member states—including Iran and Afghanistan—to harmonize their domestic laws with global anti-corruption standards (7). Accordingly, the comparative study and theoretical analysis of

criminalization form an essential step toward understanding the systematic criminal policies of both countries in the field of administrative integrity.

### **International Framework: The Merida Convention and Global Anti-Corruption Principles**

The United Nations Convention against Corruption (UNCAC), adopted in 2003 in Mérida, Mexico, and in force since 2005, is regarded as the first globally binding instrument for a comprehensive response to corruption (7). Developed with broad state participation, the Convention provides a global framework for prevention, criminalization, international cooperation, and asset recovery, and it has served as a model for the reform of national laws (21). Its principal objective is to strengthen the rule of law, enhance transparency and accountability, and promote sustainable development by harmonizing states' criminal and administrative policies.

#### **a) Governing Principles of the Merida Convention**

The Merida Convention rests on five foundational principles that shape the legislative direction of States Parties: transparency, accountability, international cooperation, prevention, and asset recovery. Transparency entails public access to information, publication of financial reports, and citizen oversight of governmental performance (Article 10), thereby fostering public trust and preventing structural corruption (8). Accountability is underscored in Article 7, which requires States to establish accountable systems and performance-evaluation mechanisms for public officials; accountability functions not only as a check on power but also as a driver of administrative integrity (22). International cooperation is emphasized in Articles 43–50, which provide for mutual legal assistance, extradition, and information exchange, facilitating police and judicial cooperation at regional and global levels (23). Prevention is addressed in Chapter II, including ethics charters, civil-service training, and oversight of political finance (Articles 5–13); prevention is a core axis of the Convention's criminal policy and complements criminalization (13). Asset recovery, set out in Chapter V ("Asset Recovery"), is among the Convention's most notable innovations, obligating States Parties to identify, freeze, confiscate, and return assets derived from corruption (Articles 51–59), thereby advancing restorative justice and transnational cooperation (7).

#### **b) State Obligations Concerning Criminalization**

Chapter III obliges States Parties to criminalize a set of corruption-related behaviors, including: bribery of domestic and foreign public officials (Articles 15–16); embezzlement or misappropriation of public property (Article 17); abuse of influence and abuse of functions (Articles 18–19); illicit enrichment, defined by a significant increase in assets that cannot be reasonably explained in relation to lawful income (Article 20); and the acquisition and laundering of proceeds of corruption (Article 23). In addition, States must provide for the criminal liability of legal persons (Article 26) and protection for whistleblowers (Article 33). In this manner, the Merida Convention establishes global benchmarks for the criminalization of offenses against administrative integrity and calls on States to align their criminal policies accordingly (24).

#### **c) The Status of Iran and Afghanistan Regarding Accession to the Convention**

Iran acceded to the Convention in 2008 by enacting the *Law on the Accession of the Government of the Islamic Republic of Iran to the United Nations Convention against Corruption* (25). In its domestic law, Iran has criminalized offenses such as bribery and embezzlement consistent with the Convention; however, certain concepts—most notably bribery involving foreign public officials and illicit enrichment—have not yet been fully codified in national legislation (10).

Afghanistan acceded to the Convention in 2004 and subsequently enacted the *Law on Combating Administrative Corruption (2018)* and the *Penal Code (2017)*, which criminalize bribery, embezzlement, abuse of influence, and illicit enrichment in line with Convention provisions (4). Notwithstanding these developments, weak enforcement and oversight institutions have impeded the full realization of Convention obligations in Afghanistan (11).

#### **d) Analysis of Iran's Reservation to Article 66(2)**

Article 66 provides that disputes between States Parties concerning the interpretation or application of the Convention, if not resolved through negotiation, shall be referred to arbitration and then to the International Court of Justice (ICJ). Upon accession, Iran entered a reservation stipulating that such referral would be possible only with the consent of all parties. In public international law, this constitutes an interpretative reservation that limits the ICJ's compulsory jurisdiction (26). From the standpoint of Iranian constitutional law, the measure is justified as preserving judicial sovereignty and national independence, though it may narrow the scope of international scrutiny over compliance (12).

The Merida Convention, by integrating the principles of transparency, accountability, prevention, cooperation, and asset recovery, has established a global template for combating corruption. By articulating explicit obligations for criminalization, it calls on States to harmonize domestic law with international standards. Iran and Afghanistan have both taken important steps toward institutionalizing administrative integrity by acceding to the Convention; however, differences in implementation and legal limitations—including Iran's reservation to Article 66—indicate that full realization of the Convention's objectives requires political will, legislative reform, and stronger oversight institutions in both countries (7, 8).

### **Criminalization of Offenses against Administrative Integrity in the Iranian Legal System**

The criminalization of offenses against administrative integrity constitutes a central pillar of Iran's criminal policy for combating corruption and preserving the efficiency of the administrative apparatus. Grounded in Islamic principles and justice-oriented norms, Iran's legal order treats administrative corruption as a threat to public trust and state legitimacy and addresses it through an array of criminal and administrative statutes (3). Nevertheless, regulatory fragmentation, weak enforcement guarantees, and incomplete alignment with international standards—especially the Merida Convention—pose challenges to the full realization of administrative integrity (6).

#### **a) The Position of Offenses against Administrative Integrity in the Islamic Penal Code and the Draft Ta'zirat Bill**

The *Islamic Penal Code (2013)* and the *Draft Ta'zirat Bill (2013, with subsequent amendments)* provide the principal basis for criminalizing offenses related to administrative integrity. Many such offenses appear in *Book V: Ta'zirat* of the *Islamic Penal Code (1996)*, particularly Articles 588–606, which address bribery, embezzlement, unlawful appropriation, forgery in official instruments, and abuse of office or administrative position. Article 588 criminalizes the “receipt of a bribe” by public officials, with penalties including confiscation, imprisonment, and disqualification from public service; Article 592 specifies penalties for the bribe-giver and intermediaries; and Article 598 criminalizes “unlawful appropriation of public or state property,” prescribing imprisonment and disqualification in addition to compensation for damage. The new Draft Ta'zirat Bill seeks to systematize offenses against administrative integrity by expressly addressing novel concepts such as “abuse of administrative influence” and “unjust enrichment from public property,” reflecting a legislative inclination to align with the Merida Convention and global approaches to the criminalization of administrative corruption (27).

### b) Principal Categories of Offenses against Administrative Integrity

Iranian legislation recognizes multiple offenses that undermine administrative integrity, the most important of which include:

- **Bribery:** Receiving money or benefits in exchange for performing or omitting an official duty is a core manifestation of administrative corruption; Articles 588–593 of *Book V: Ta'zirat* are dedicated to this offense. In terms of actus reus and mens rea, Iranian law is broadly consistent with Articles 15 and 16 of the Merida Convention (2).

- **Embezzlement:** Under Article 5 of the *Law on Aggravating Punishment for Perpetrators of Bribery, Embezzlement, and Fraud* (1988), any public official who appropriates public funds or property for personal use or for the benefit of another commits embezzlement. This definition accords with Article 17 of the Merida Convention, which criminalizes the misappropriation of public property (7).

- **Abuse of Influence:** Article 604 of *Book V: Ta'zirat*, as well as the new Draft Ta'zirat Bill, criminalizes the unfair use of relationships or administrative position to obtain unlawful benefits, mirroring Article 18 of the Merida Convention (7, 27).

- **Unlawful Appropriation:** Article 598 criminalizes the unlawful use or appropriation of public property, a paradigmatic breach of administrative trust that plays a crucial role in safeguarding the financial integrity of public entities, corresponding to Article 17 of the Merida Convention (7).

- **Illicit Enrichment (Unjust Enrichment):** Although not explicitly codified as a standalone criminal offense in Iranian law, related provisions—such as Article 301 of the *Civil Code* and Articles 598 and 604 of *Book V: Ta'zirat*—approximate the concept. The absence of an explicit offense of illicit enrichment is a shortcoming in Iran's alignment with the Merida Convention (5).

- **Forgery in Official Instruments:** Articles 538–541 of *Book V: Ta'zirat* criminalize forgery and falsification in official documents; given their direct impact on public trust and legitimacy, these offenses are central to protecting administrative integrity (12).

### c) Degree of Alignment between Iranian Law and the Merida Convention

Comparative analysis shows that Iranian law is generally consistent with the Merida Convention regarding several offenses, notably bribery, embezzlement, unlawful appropriation, and abuse of influence (25). Nonetheless, gaps remain: the absence of explicit criminalization of bribery involving foreign public officials and officials of international organizations (required by Article 16); the lack of a standalone offense of *illicit enrichment* (Article 20); and insufficiently comprehensive provisions for whistleblower protection (Article 33). Thus, while the overall framework is broadly aligned with the Merida Convention, legislative reforms are needed to achieve greater comprehensiveness and international reach (9).

### d) Challenges and Ambiguities in Iran's Legislative Framework

Despite extensive criminalization, Iran's legal system faces several challenges in addressing offenses against administrative integrity: regulatory fragmentation across multiple instruments—such as the *Islamic Penal Code* (2013), the *Law on Aggravating Punishment for Perpetrators of Bribery, Embezzlement, and Fraud* (1988), the *Civil Service Management Law*, and the *Law on the Promotion of the Administrative Health System and the Fight against Corruption* (2011)—which generates conflicts and ambiguities in enforcement (6); weak enforcement guarantees relying predominantly on traditional sanctions (imprisonment and disqualification) with less emphasis on complementary measures such as asset confiscation or disqualification from administrative posts, thereby reducing

deterrent efficacy (20); limited coverage of international-dimension offenses (e.g., bribery of foreign officials, embezzlement within international organizations, and cross-border financial crimes), which constrains compliance with Article 16 (26); and evidentiary and procedural hurdles in many corruption cases—such as proving mens rea or assessing the legitimacy of assets—exacerbated by coordination gaps among oversight bodies (15).

#### **e) The Law on the Promotion of the Administrative Health System and the Fight against Corruption (2011)**

Enacted in 2011, this law is Iran's principal policy instrument for combating corruption with a preventive orientation, pursuing objectives such as process transparency, heightened accountability, and strengthened public oversight (1). Article 2 defines "administrative corruption" as any misuse of public office or facilities for personal benefit. Article 5 obliges executive agencies to implement financial-transparency mechanisms, electronic systems, and misconduct-reporting channels. Although the law is not penal in nature, it complements criminal legislation in safeguarding administrative integrity and facilitates alignment with the preventive prescriptions of the Merida Convention (Chapter II) (17).

Iran's legal system provides a relatively complete set of traditional offenses—such as bribery, embezzlement, and forgery—and has taken steps toward harmonization with international standards. Nonetheless, gaps including the absence of explicit criminalization of bribery involving foreign officials, insufficient protection for whistleblowers, and legislative fragmentation continue to impede optimal effectiveness. Legislative and executive restructuring, consolidation of dispersed statutes, and stronger financial and administrative sanctions would meaningfully advance the objectives of the Merida Convention and enhance administrative integrity in Iran (7, 24).

### **Criminalization of Offenses against Administrative Integrity in the Afghan Legal System**

Administrative corruption in Afghanistan remains one of the most fundamental challenges to state-building and sustainable development. Decades of political instability, war, and foreign intervention have resulted in inefficient administrative structures and the widespread prevalence of corruption across government sectors (4). Consequently, the criminalization of offenses against administrative integrity in Afghanistan's legislative framework—particularly following the adoption of the *Penal Code (2017)* and the *Law on Combating Administrative Corruption (2018)*—has become a central pillar of the government's criminal policy. This section examines the legal framework, main categories of offenses, oversight institutions, and the strengths and weaknesses of Afghanistan's anti-corruption regime.

#### **a) General Structure of the Penal Code (2017) and the Law on Combating Administrative Corruption (2018)**

Afghanistan's new *Penal Code*, which replaced the 1976 Criminal Code, was enacted in 2017 to modernize the criminal justice system and harmonize it with international obligations, including the Merida Convention (27). Comprising 916 articles, the Code devotes Book II, Chapter IV (Articles 370–460), to corruption-related and financial offenses. These provisions criminalize a wide range of behaviors, including bribery, embezzlement, abuse of influence or position, illicit enrichment, electoral crimes, forgery, extortion, misuse of public office, torture, impersonation of officials and titles, destruction of seals, and theft or destruction of official documents.

In addition to the Penal Code, the *Law on Combating Administrative Corruption (2018)* establishes Afghanistan's institutional and operational framework for addressing corruption. This law defines administrative corruption as the abuse of authority for personal gain and designates the *Independent Commission against Corruption* and the *Special Anti-Corruption Prosecution Office* as the principal enforcement bodies (11). Following the takeover by the

Islamic Emirate of Afghanistan, however, the Office of the Attorney General was dissolved, leaving only a single entity—the Directorate for Combating Administrative Corruption—to continue limited operations.

From a legislative perspective, Afghanistan's adoption of these two instruments represents an effort to develop a relatively comprehensive system for preventing, detecting, and punishing corruption while aligning with the obligations of the Merida Convention (7).

### **b) Principal Categories of Offenses against Administrative Integrity under Afghan Law**

Afghanistan's criminal laws identify several categories of offenses that undermine administrative integrity, the most important of which are as follows:

- **Bribery:** Articles 370 and 371 of the Penal Code criminalize the receipt or payment of bribes by public servants, prescribing long-term imprisonment, fines, and disqualification from public service. Articles 375 and 376 extend the scope to bribery involving employees of public or private institutions, thereby broadening the coverage of the offense (28).

- **Embezzlement:** Article 388 criminalizes the embezzlement of state property or public deposits, prescribing medium- to long-term imprisonment, consistent with Article 17 of the Merida Convention (21).

- **Abuse of Office or Position:** Under Article 375, any public servant who exercises official authority for personal gain or contrary to public interest commits abuse of office, which remains the most prevalent form of administrative corruption in Afghanistan (29).

- **Illicit Enrichment:** Article 419 criminalizes unjustified increases in the assets of public officials, representing one of the major innovations of the new Code and reflecting Article 20 of the Merida Convention (8).

- **Abuse of Influence:** Article 399 penalizes the misuse of political or administrative influence to obtain financial or non-financial benefits, in accordance with Article 18 of the Merida Convention (5).

- **Forgery and Extortion:** Articles 436–449 address the falsification of official documents and extortion of citizens—offenses that are particularly widespread in Afghanistan's administrative system and that directly erode public trust (4).

Overall, Afghanistan's recent criminal legislation provides a comprehensive framework encompassing most behaviors that threaten administrative integrity and substantially aligns with the criminalization structure of the Merida Convention (7).

### **c) Oversight Institutions and Enforcement Mechanisms**

Under the *Law on Combating Administrative Corruption (2018)*, several key institutions are tasked with preventing and prosecuting administrative crimes:

- **Independent Commission against Corruption (ICAC):** Established in 2017, the Commission's duties include receiving corruption reports, verifying officials' assets, recommending legal reforms, and cooperating with judicial authorities. However, its financial and structural independence has consistently been questioned (30).

- **Special Anti-Corruption Prosecution Office:** Operating within the former Office of the Attorney General, this entity was authorized to investigate and prosecute major corruption cases. Despite some early successes, political interference and pressure on judicial decisions have been documented (31).

- **Oversight Commissions and Civil Society:** In addition to official institutions, civil society organizations and the media have played an important role in exposing corruption, though their activities have diminished in recent years due to insecurity and political restrictions (15).

### **d) Strengths of the Legislative and Institutional Framework**

Afghanistan's post-2017 criminal laws demonstrate notable progress in the comprehensiveness of criminalization compared with earlier periods. The main strengths include:

- **Broad alignment with the Merida Convention:** The criminalization of key offenses such as bribery, embezzlement, abuse of office, illicit enrichment, and abuse of influence reflects substantial compliance (8).
- **Creation of specialized anti-corruption bodies:** Institutions such as the ICAC and the Special Anti-Corruption Prosecution Office have enhanced structural concentration and coordination (11).
- **Asset-declaration mechanisms:** Article 12 of the *Law on Combating Administrative Corruption* requires public officials to regularly disclose their assets, thereby increasing transparency (2).
- **Preventive orientation:** Emphasis on ethics training for public officials and financial transparency measures represents a preventive complement to punitive policies (17).

#### e) Challenges and Weaknesses

Despite these advances, the effective enforcement of anti-corruption laws in Afghanistan faces significant obstacles:

- **Weak enforcement guarantees:** Many criminal provisions are selectively applied, and sanctions lack sufficient deterrent effect (11).
- **Political interference:** The involvement of political elites in prosecutorial and judicial processes, particularly in high-level corruption cases, has undermined public confidence (31).
- **Judicial opacity:** Proceedings are often non-public, and judgments are rarely published, hindering public and media oversight (30).
- **Lack of institutional independence:** The financial and structural dependence of anti-corruption bodies on the executive branch weakens decision-making autonomy and institutional effectiveness (29).
- **Institutional fragmentation:** Overlapping jurisdictions among supervisory and judicial agencies cause delays and confusion in case processing (15).

Over the past decade, Afghanistan's legal system has made meaningful progress in criminalizing offenses against administrative integrity. The enactment of the *Penal Code (2017)* and the *Law on Combating Administrative Corruption (2018)* signifies a legislative commitment to harmonize domestic law with the Merida Convention's standards. Nevertheless, persistent challenges—such as weak enforcement, political interference in the judiciary, and lack of transparency—continue to impede full implementation. Structural reform of oversight institutions, reinforcement of judicial independence, and greater transparency in prosecutorial procedures are essential to achieving genuine administrative integrity and comprehensive compliance with international anti-corruption obligations (7, 30).

### Comparative Analysis of Criminalization in Iran and Afghanistan

A comparative examination of the Iranian and Afghan legal systems regarding the criminalization of offenses against administrative integrity shows that, despite structural, cultural, and political differences, both countries pursue shared objectives aimed at preventing corruption and strengthening the integrity of the administrative system. Both legal orders rest on Islamic religious foundations, justice, and trustworthiness, and in recent years have sought—through new legislation—to incorporate obligations arising from the Merida Convention into their legislative policies (8, 25). Nevertheless, differences in the scope of criminalization, the severity of penalties,

oversight mechanisms, and the level of alignment with international standards reveal divergent paths toward realizing administrative integrity.

#### **a) Scope of Covered Offenses**

In Iranian criminal law, the scope of administrative offenses is largely limited to state officials and public employees. In particular, under the *Islamic Penal Code* and the *Law on Aggravating Punishment for Perpetrators of Bribery, Embezzlement, and Fraud*, the constitutive elements of offenses are confined to a “government employee or a person charged with public service” (3). Consequently, private-sector actors or contractors who commit corruption in dealings with the state are generally prosecuted only under the general rules on financial crimes.

By contrast, Afghanistan’s *Penal Code (2017)* extends criminalization beyond public employees and includes certain corrupt practices within the private sector—such as bribery by employees of private institutions connected to public services (Articles 375 and 376). This broader reach reflects a more expansive understanding of “administrative integrity” within Afghanistan’s criminal justice system. Accordingly, Afghan law is assessed as more comprehensive and encompassing than Iran’s in this respect (4).

#### **b) Severity and Nature of Penalties**

In Iran, penalties for administrative offenses typically combine imprisonment, fines, disqualification from public service, and asset confiscation, but their extent and type vary across statutes and are sometimes open to interpretation. For example, in bribery, the legislature provides different penalties depending on the amount involved, the nature of the official function, and the offender’s intent (Articles 588–593 of *Book V: Ta’zirat*). While this flexibility affords judges room to tailor just sentences, it can also lead to inconsistency in judgments (20).

In Afghanistan, the *Penal Code* specifies penalties with greater precision and sets fixed imprisonment ranges for each administrative offense. For instance, bribery may be punished by three to ten years’ imprisonment, and embezzlement by five to fifteen years. Although such specificity enhances legal clarity, it may reduce judicial flexibility to calibrate punishment to individual circumstances (27). Thus, penalties in Iran tend to be broader and more open to interpretation, whereas in Afghanistan they are more determinate but comparatively rigid.

#### **c) Oversight Mechanisms and Institutions**

In Iran, administrative integrity is supervised by multiple bodies, including the General Inspection Organization, the Supreme Audit Court, the Audit Organization, and the Headquarters for Coordinating the Fight against Economic Corruption. Despite the breadth of this oversight architecture, weak inter-institutional coordination and an overemphasis on ex post responses have reduced overall effectiveness (1).

In Afghanistan, institutions such as the Independent Commission against Corruption, the Special Anti-Corruption Prosecution Office, and the Transparency Commission have been assigned specialized mandates. Although Afghanistan’s oversight structure is newer and more limited, its relative centralization has created a degree of coherence. That said, weak financial independence and political interference undermine efficacy (31). By comparison, Iran’s oversight structure is legally stronger but less effective in practice, while Afghanistan’s is more centralized yet more vulnerable.

#### **d) Degree of Alignment with the Merida Convention**

Both countries are parties to the Merida Convention, but they differ in the extent of their conformity to its provisions. Iran has criminalized many core offenses—such as bribery, embezzlement, and abuse of office—but

has not fully incorporated certain obligations, including the criminalization of bribery of foreign public officials and illicit enrichment (9).

In Afghanistan, under the new *Penal Code*, these two offenses are expressly provided for, and criminal jurisdiction extends to foreign officials and international organizations (28). Therefore, Afghanistan has taken a step beyond Iran in terms of the comprehensiveness of criminalization and alignment with the Merida Convention, although weak enforcement continues to impede the Convention's practical objectives (11).

#### **e) Jurisprudential Foundations and Criminal Policy**

From a jurisprudential perspective, both countries are grounded in Islamic principles of justice, trustworthiness, and the prohibition of breach of trust. In both Imamiyyah and Hanafi jurisprudence, bribery and embezzlement are condemned as *breach of trust* or *unlawful appropriation*, and are subject to discretionary sanctions. Nonetheless, Iran's criminal policy is comparatively "jurisprudence-centered and judiciary-centered," emphasizing individual reform and adherence to religious norms, whereas Afghanistan—under stronger influence from international legal models—pursues a more "administration-centered and functional" approach (19, 29).

With respect to criminalizing abuse of influence, both countries recognize the offense; however, Iran's definition is narrower and tied to formal office, while Afghanistan's scope extends to various forms of political or economic influence (5). Likewise, regarding illicit enrichment, Afghanistan has adopted an innovative approach in Articles 419–421 of its *Penal Code*, whereas Iran still lacks an explicit provision.

#### **f) Shared Religious and Legal Foundations of Administrative Integrity**

Despite structural differences, both countries share theoretical foundations for administrative integrity. Principles such as justice, transparency, accountability, and the prohibition of breach of trust have roots in Qur'anic teachings; on this basis, the criminalization of conduct undermining administrative integrity is viewed in both systems as not only a legal duty but also a religious obligation (14).

In general terms, Afghanistan is more advanced in the comprehensiveness of criminalization and alignment with international standards, whereas Iran holds a stronger position in institutional coherence and jurisprudential and legal underpinnings. Iran's criminal justice system requires reforms to broaden the scope of criminalization and achieve fuller compliance with the Merida Convention, while Afghanistan must strengthen institutional independence and the enforcement of its laws. Both countries, in pursuing administrative integrity, need an effective synthesis of religious values with global standards of transparent and accountable governance (7, 8).

### **Legislative Gaps and Challenges in Both Legal Systems**

Despite legislative efforts and the accession of both Iran and Afghanistan to the United Nations Convention against Corruption (Merida), their legal systems still face significant obstacles and gaps in effectively enforcing the criminalization of offenses against administrative integrity. These challenges arise not only from statutory weaknesses but also from structural misalignments, limited judicial oversight, and the influence of political and cultural factors. This section comparatively examines the most salient legislative gaps and challenges in the two countries.

#### **a) Statutory Gaps in Precisely Defining Administrative Corruption Offenses**

Neither country offers a precise and comprehensive statutory definition of "administrative corruption" and its constituent forms. In Iran, the legislature has articulated dispersed concepts—such as bribery, embezzlement, unlawful appropriation, and abuse of influence—but no unified and coherent definition of "administrative corruption"

appears in the criminal codes (3). Although the *Law on the Promotion of the Administrative Health System and the Fight against Corruption* (2011) provides a general description, it lacks criminal and operational force. In Afghanistan, despite the numerous enumerations in the *Penal Code* (2017), ambiguity persists in distinguishing among administrative, economic, and ethical offenses (29). This conceptual gap produces judicial uncertainty and weakens the coherent implementation of anti-corruption criminal policy.

#### **b) Misalignment between Criminal and Administrative Laws**

In both countries, misalignment between criminal statutes and the administrative regime is a barrier to effective anti-corruption practice. In Iran, conflicts among the *Islamic Penal Code*, the *Civil Service Management Law*, and disciplinary regulations have blurred the boundary between administrative misconduct and criminal offenses in certain cases (20). In Afghanistan, weak coordination among the *Penal Code*, the *Civil Service Law*, and the *Law on Combating Administrative Corruption* hampers the effective execution of criminal judgments (11). As a result, many corruption cases stall at the administrative stage and do not proceed to criminal prosecution—or, conversely, enter judicial channels without prior disciplinary review.

#### **c) Weak Protection for Whistleblowers and Witnesses of Corruption**

Legal protection for whistleblowers and witnesses—an essential component of the Merida Convention (Article 33)—is underdeveloped in both jurisdictions. Iran lacks a comprehensive framework for protecting corruption reporters; the existing rules largely remain at the level of administrative guidelines without robust enforcement guarantees (2). In Afghanistan, although the *Law on Combating Administrative Corruption* provides limited recognition, the absence of an effective protection regime has deterred many employees from reporting due to threats or political pressure (31). Weakness in this area reduces public participation and undermines mechanisms for detecting corruption.

#### **d) Absence of Effective Judicial and Executive Oversight**

In both countries, numerous oversight bodies operate with limited effectiveness. In Iran, the multiplicity of supervisory organizations—such as the General Inspection Organization and the Supreme Audit Court—has produced overlapping mandates and duplication (1). In Afghanistan, the anti-corruption commission and the special prosecution office have struggled to enforce decisions due to resource constraints, political pressure, and weak judicial independence (30). The lack of an integrated system of judicial and administrative oversight delays corruption cases or results in their dismissal due to evidentiary shortcomings.

#### **e) Impact of Political and Cultural Structures on Law Enforcement**

Political culture directly affects the efficacy of anti-corruption laws in both jurisdictions. In Iran, centralized power and the dependence of oversight bodies on the executive branch can, at times, constrain decision-making independence (9). In Afghanistan, tribal structures, the influence of power networks, and a weak culture of accountability have fostered conditions conducive to persistent administrative corruption (4). Moreover, in both countries, low public trust in the judiciary diminishes citizens' willingness to report corruption (8).

Overall, imprecise definitions of administrative corruption offenses, misalignment between criminal and administrative regimes, inadequate protection for whistleblowers, ineffective oversight institutions, and the influence of political and cultural structures constitute the principal challenges to effective criminalization in Iran and Afghanistan. Addressing these barriers requires comprehensive legal reforms, the establishment of independent and transparent institutions, and the strengthening of a culture of accountability and public participation in monitoring

administrative integrity. Only under such conditions can the two countries' obligations under the Merida Convention be realized in a genuine and sustainable manner (7, 8, 30).

## Conclusion

A comparative analysis of the criminalization of offenses against administrative integrity in Iran and Afghanistan, in light of the Merida Convention, reveals that although both countries share cultural and religious similarities and are members of the Convention, they face comparable challenges in achieving administrative integrity and combating corruption effectively, albeit in different forms. Theoretically, both legal systems regard corruption as a threat to justice, public trust, and governmental efficiency and justify the criminalization of acts detrimental to administrative integrity on the basis of Islamic principles such as trustworthiness, justice, and the prohibition of breach of trust. However, at the legislative and practical levels, differences in political structure, institutional capacity, and the degree of alignment with international standards have led to divergent paths toward achieving this objective.

In Iran, the legal framework is grounded in the *Islamic Penal Code* (Book V: Ta'zirat) and special laws such as the *Law on Aggravating Punishment for Perpetrators of Bribery, Embezzlement, and Fraud* and the *Law on the Promotion of the Administrative Health System and the Fight against Corruption*. These laws primarily address traditional offenses such as bribery, embezzlement, and abuse of office. While they are rich in jurisprudential and justice-based principles, they fall short in addressing modern and transnational offenses such as bribery of foreign officials or illicit enrichment. Moreover, legislative fragmentation, weak enforcement mechanisms, and the absence of effective legal protection for whistleblowers have limited the practical effectiveness of criminal policies.

In contrast, Afghanistan, over the past two decades, has taken major steps to modernize its criminal system and harmonize it with the Merida Convention through the enactment of the *Penal Code (2017)* and the *Law on Combating Administrative Corruption (2018)*. The country has explicitly and independently criminalized offenses such as bribery, embezzlement, abuse of office, abuse of influence, and illicit enrichment. Nevertheless, weak law enforcement, political interference in the judiciary and oversight bodies, and a lack of institutional independence in anti-corruption agencies such as the Anti-Corruption Commission and the Special Prosecution Office have prevented many legislative achievements from being effectively realized. Comparative analysis indicates that Iran focuses more on religious and judicial principles rather than international obligations, whereas Afghanistan, drawing inspiration from international models, has developed a more coherent legislative framework for addressing administrative corruption. However, neither country has yet reached a level of efficiency and transparency sufficient to fully implement the obligations of the Merida Convention. Iran possesses stronger theoretical and institutional foundations but requires reforms to expand the scope of criminalization and update its laws, while Afghanistan has achieved greater legislative comprehensiveness but suffers from fundamental weaknesses in implementation.

The shared challenges of the two countries can be summarized in five key areas: (1) the absence of a comprehensive and unified definition of administrative corruption; (2) inconsistency between criminal and administrative laws; (3) inadequate protection for whistleblowers and witnesses of corruption; (4) inefficiency of judicial and oversight mechanisms; and (5) the influence of political and cultural structures on the functioning of criminal justice systems. These factors collectively represent major barriers to realizing administrative integrity and the effectiveness of governance systems.

In conclusion, achieving administrative integrity requires simultaneous reforms at three levels: first, at the legislative level, to unify criminal laws and ensure full compliance with the Merida Convention; second, at the institutional level, by strengthening the independence and efficiency of oversight and judicial bodies; and third, at the cultural–social level, through the promotion of ethical values, accountability, and transparency within the framework of Islamic culture. Only by integrating these three approaches can Iran and Afghanistan move beyond the formal stage of criminalization and attain genuine implementation of justice and administrative integrity within their systems of governance.

### Acknowledgments

We would like to express our appreciation and gratitude to all those who helped us carrying out this study.

### 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.

### Funding

This research was carried out independently with personal funding and without the financial support of any governmental or private institution or organization.

### References

1. Alvani M. Public Management and Administrative Health. Tehran: Public Management Education and Research Center; 2019.
2. Baqerzadeh H, Karimi S, Sharifi M. Analysis of the Causes of Administrative Corruption Expansion and Strategies for Combating It in Iran. *Quarterly Journal of Public Policy*. 2024;8(1):73-98.
3. Abbasi S. An Investigation of the Criminalization of Administrative Crimes in Iranian Criminal Law. *Quarterly Journal of Criminal Law Research*. 2018;4(2):115-36.
4. Hosseini N. Administrative Corruption in Afghanistan and the Legal Challenges of Combating It. Kabul: Kabul University Legal Studies Center; 2019.
5. Fakouri A. The Necessity of Criminalizing Abuse of Administrative Influence. *Journal of Criminal Law and Criminology*. 2022;17(4):95-120.
6. Hajizadeh A. Legislative Challenges of Anti-Corruption in the Iranian Legal System. *Administrative Law Research Journal*. 2024;6(3):89-110.

7. Unodc. United Nations Convention against Corruption (UNCAC). Vienna: United Nations Office on Drugs and Crime; 2004.
8. Unodc. Thematic Report on the Implementation of the United Nations Convention against Corruption. Vienna: United Nations Office on Drugs and Crime, 2013.
9. Baqeri Komarolia M. A Comparative Analysis of the Iranian Legal System with the Merida Convention (UNCAC) in the Field of Anti-Corruption. Tehran: Majd Publications; 2016.
10. Vatankhah M, Nazari Monazzam S. Evaluating the Conformity of Iranian Laws with the Merida Convention (UNCAC). *Journal of Comparative Criminal Law Studies*. 2016;9(2):67-88.
11. Goldoust Jouybari M, Nouri S, Habibi K. Analysis of Afghanistan's Criminal Policy in Combating Corruption. *Quarterly Journal of Comparative Law and Criminal Policy*. 2022;3(2):81-104.
12. Ashouri M. General Criminal Law. Tehran: SAMT; 2021.
13. Pieth M. Recovering Stolen Assets: A Process of Global Learning. Basel Institute on Governance, 2011.
14. Ne'mati M, et al. An Ethical Analysis of Administrative Corruption Based on Islamic Principles. *Professional Ethics Research*. 2022;5(2):83-101.
15. Nabi Sharifi A. Accountability and Administrative Health in the Islamic Governance System. Qom: Mofid University; 2019.
16. Davoudi A, Mousavi N, Moradi J. The Relationship Between Administrative Health and Good Governance in Developing Systems. *Quarterly Journal of Comparative Public Management*. 2020;12(2):45-66.
17. Motahar R. The Role of Administrative Transparency in Preventing Corruption. Tehran: Management and Planning Research Institute; 2023.
18. Abdulrahimian H, et al. Analysis of Effective Factors on Administrative Health and Anti-Corruption. *Quarterly Journal of Ethics in Management*. 2019;4(3):113-32.
19. Rajabi S, Naderi F, Sadat M. Jurisprudential Foundations for the Criminalization of Administrative Corruption in Islamic Jurisprudence. *Journal of Islamic Jurisprudence and Law Studies*. 2021;3(2):23-48.
20. Seifi M. An Investigation of Enforcement Guarantees for Administrative Crimes in Iranian Law. *Criminal Policy Research Journal*. 2020;10(1):61-84.
21. Bantekas I. Corruption as an International Crime and Crime Against Humanity: An Outline of Supplementary Criminal Justice Policies. *Journal of International Criminal Justice*. 2006;4(3):466-84. doi: 10.1093/jicj/mql025.
22. Fombad CM. Accountability and Transparency in Africa: A Comparative Perspective. *African Journal of International and Comparative Law*. 2014;22(2):199-222.
23. Boister N. An Introduction to Transnational Criminal Law. Oxford: Oxford University Press; 2012.
24. Boehme-Nessler V. Transparency and Accountability in Governance: The Role of Anti-Corruption Laws. *International Review of Administrative Sciences*. 2010;76(2):289-307.
25. Marjani M, Mirabbasi N. A Comparative Study of Iran's Criminal System with the Merida Convention (UNCAC). *Quarterly Journal of Contemporary International Law*. 2020;6(1):11-38.
26. Shaw MN. International Law. Cambridge: Cambridge University Press; 2017.
27. Dadfar S. Developments in Afghanistan's Penal Code with an Emphasis on Crimes Against Administrative Health. Herat: University of Herat; 2021.
28. Unodc. Implementation Review Group: Afghanistan Country Report. Vienna: United Nations Office on Drugs and Crime, 2010.
29. Heidari S. The Criminalization of Administrative Corruption in the Law of Afghanistan. *Journal of Comparative Law of the Middle East*. 2020;5(1):55-72.
30. Undp. Rule of Law and Anti-Corruption in Afghanistan: Assessment Report. New York: United Nations Development Programme, 2021.

31. Transparency I. Corruption Perceptions Index 2020: Afghanistan and Iran Reports. Berlin: Transparency International, 2020.