The Reforms in the Penal Policy in Justice System of Iran Concerning the Crime of Embezzlement

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Abstract

Embezzlement crimes against property and crimes against peace could be two aspects of the public, but to the conclusion that it is a criminal activity, as a crime against public tranquility forgery. Deceit, fraud, etc. is preferable. With all the problems that the law more severe penalties for the perpetrators of embezzlement there is the law of its kind in comparison with other similar laws, comprehensive and low forms, and perhaps for this reason that the legislator in law sanctions the new (adopted in 1375) clauses in the embezzlement changes embezzlement operate under other criminal charges of organizing or leading the network of corruption, prosecution and trial, although non-employee department and the leadership network, it is possible embezzlement. Sanctions are on four types of embezzlement. Prison (criminal sanctions original), fine (complete criminal sanctions), permanent dismissal (enforcement of employment) and restitution of embezzled property (civil remedies) that apply to the first two is possible when a person has committed, is not evidence of corruption on earth otherwise, he will be sentenced only to punish corruption on earth. Punishment, in each case, the General Court has jurisdiction.

Keywords: embezzlement, justice system, reform in justice system, illegal seizure, fraud
Reformations of the crime of embezzlement.
Introduction
In committing a criminal act, criminal often goes through a specific direction starting from the plot and leading to a completed crime. During this process in which several factors may be involved, offender sometimes stops at preliminary operations. In such cases, there is often no penalty. However, sometimes offender changes his mind in the middle of the process, which is usually punishable as the crime has started to be committed. Theories of crime initiation have undergone many changes. Therefore, initiating embezzlement at different periods in Iran has been subject to large fluctuations. This issue will be discussed in two periods:
a): initiating embezzlement in the laws of the country before the Islamic Revolution
b): initiating embezzlement in the laws of the country after the Islamic Revolution

Initiating embezzlement in the laws of the country before the Islamic Revolution
Embezzlement laws in this course can be studied and explored in three parts:
a. in the time of the Article 152
b. embezzlement Penal Code Law set in 1013,
c. Criminal Court law enacted in 1028.
Embezzlement in Jurisprudence is different from embezzlement in law although there are some similarities in punishment. Embezzlement can have two aspects of crime against property and crimes against public peace. However, we concluded that the aspect of crime against the public peace is preferable. In the definition of the crime of embezzlement, we concluded that the word “withdraw” does not have the legal justification; because embezzlement means the misappropriating takeover of government or people’s property. It was also concluded that in addition to movable property, the crime of embezzlement is also true about immovable property. Therefore, in order to avoid different interpretations of the term "other property", it is necessary for legislator to adopt arrangement for a single trend to be used in courts. It is assumed by the author that the same factors that are true about embezzling the people’s property entrusted to the government, can be used for stock companies and other companies having economic, and social activities within a legal framework by the government, as well. When the government permits these companies to have economic, social, or political activities, to maintain public confidence, it is necessary for the government to legally protect the property entrusted to these companies. For instance, if the government gives legal or true individuals the permit to establish private banks, and consequently, people deposit their money in such banks, takeover of the property is considered embezzlement and the manager, operating director, and employees should be punished accordingly.
However, given the newness of this theory, it is necessary for experts to pay more attention to all angles and aspects of the issue. In many cases, to hide the embezzlement, embezzlers use forged document. In our law, it is anticipated that when embezzlement is combined with forging documents, embezzler is punished more severely. However, it has not clearly been stated if the punishment increases when embezzler does not forge documents but uses forged documents. However, the law in this respect has a problem because there is difference between forgery and use of forged documents. Legislator or the Supreme Court should take action to avoid issuing
different verdicts. Comparing Article 41 of the Penal Code with Article VI of the more severe penalties for perpetrators of bribery, embezzlement, and fraud, we concluded that initiating crime is justifiable in embezzlement and it is not inconsistent with Article 41 of the Penal Code.

The first action which should be taken after finding enough evidence to suspect the employee, the suspected employee should be arrested temporarily. It seems delegation of authority to the executive branch to suspend the person who is suspected of embezzling is inconsistent with the principle of especially given the lack of rights and benefits to the individual accused and the punishment is inconsistent with the principle of individual subjectivity and punishment. According to this principle, when the accused is acquitted, he does not only gain his freedom back, but also can return to his job and get his suspended salary. Mere accusation does not cause the violation of social rights of an individual. Before conviction, an accused person cannot be considered a criminal. Unlike some other countries, our legislator considers financial measure as punishment criterion. With regard to inflation, changes and fluctuations in the value of money, financial Embed curriculum for punishment, considering financial measure for punishment is incompatible with justice. Therefore, it is suggested that the penalty of very low amounts of money should be decided by the judge according to the situation. The judge can punish or clear the accused, based on the conditions. It is not fair to give one to five years of imprisonment and temporary suspension to someone embezzling for example 1000 Tomans or less. The time and professional conditions of embezzler should be taken into account. It is recommended that legislator set a law to get leniency of punishment, if embezzler returns the embezzled property prior to the verdict. Finally, it needs to be mentioned that although there are some problems in the law, compared to similar laws, it is one of the most comprehensive ones. That is why the legislator has not reformed the law and Article five is still lawful.
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