

Embezzlement and Illegal Possession of Criminal Law in Iran

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ABSTRACT

Embezzlement of public property, Such abuses and civil servants or state employees, The property is owned by the government or other entities, Always be regarded as a serious threat against the state and nation. Manipulated in order to prevent government employees provided the funds and property and ensure more government benefits; Criminal law seeks to protect Those derived from property that is under the charge of embezzlement.

Embezzlement is the only movable property, But each and immovable property, Are subject to illegal occupation. It will not be subject to illegal possession of cash, To spend these funds because the crime of embezzlement to be Tom. In the case of other property should be given to how the intervention And other conditions and circumstances Learned that the act of committing to pay the subject of analysis. If authentication is not possible, With regard to embezzlement in the body after physical and psychological Circumstances and criminal possession of illegal needs And accused of resorting to rule in favor of this interpretation, Intervention undertaken should take into account the illegal possession, not embezzlement.

KEYWORDS: corruption, illegal seizure, removal, possession, barratry

INTRODUCTION

Illegal possession of government property and misappropriation offenses against public peace are the most important financial that they were committed only by certain groups, The public servant or a public servant in the sentence is possible. This feature, these two crimes are linked to each other. Another common cause of these two causes of crime Is that in both cases and subject to property crime already committed to the job and duty to surrender and be buried. However, in terms of some conditions, Components and elements of these two entirely distinct from each other . Why in some cases, Theorem applies to determine which of these titles is The problem seems to be. In such cases, the diagnosis requires careful attention to detail, And the fundamental pillars formed each of these titles is criminal. Therefore, in order to find a solution for dubious and difficult cases, Are essential aspects of the crimes referred to, comparatively. In addition to the introduction of legislative changes in each of the crimes mentioned, They will provide a definition. Then the discussion, Compare them in terms of body material and the spiritual pillar and will study. Material elements of the crime at issue, Description and characteristics of the offender, criminal behavior and the criminal speak. The major difference between the two offenses in criminal behavior, The discussion of criminal behavior, as well as dubious cases we examined. Talk about the spiritual pillar of knowledge committed, General ill will and ill will of certain materials is provided in each of the offenses mentioned And will conclude at the end. (joibari, Abbas, 2008)

Embezzlement

Lawyers should have different definitions for embezzlement Some of them we can mention that. Some have called embezzlement on the practical Changing the manner in which they committed explorer of the intention to seize the property is entrusted to him; The partial capture to capture changes completely from its "own intentions" will be interpreted.

This definition does not include property description and is committed And barratry are also included.. (Ahmad Ramezani 2009) Some other authors have said: The public employee or person acting In order to seize it and make it Or securities or other movable objects Mval Provided that the task of capturing him and placed Right to be without them.. (joibari, Abbas, 2008) According to substance (5) The punishment of perpetrators of aggravated bribery and embezzlement and fraud, the crime can be defined as follows:

The public servant Or person Public servant in court Harvest and possession of a financial That due to job and task Is captured and placed under his authority, It is either to win or else. "The illegal possession, in general means any unauthorized interference with the other property is included; But in a certain sense, some have described it this way: "Possession is illegal to spend funds and public property Apart from the

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consumer that is projected for the law. "In this definition, only one kind of behavioralThe law applies to the occupation is illegal, is mentioned.

Another definition is: "Is illegal unauthorized use of Placing money or securities Duly deposited into the employee or agent of public service, Wastage due to negligence or wastage of property by him or her." Previous objection to this definition is also Therefore, this crime can also be defined as follows: "Public servant or a person acting Public servant in court Use or unauthorized use of financial Under the tenure of the job and task And he has been given.(Commendable Jahromi 2002)

DISCUSSION

Second pillar of embezzlement and possession of illegal material:

As we noted in the introduction, on the topic of criminal behavior, the issue of crime, the criminal offender will discuss and describe the property. (Goldouzian 2001)

A) criminal behavior: First, it should be noted that our legislators in substance (152) General Criminal Law in 1304, criminal behavior, each of the crimes mentioned with the term "misappropriation or any illegal capture or 'was expressed, but the material (152 and 153) of the 1355 reform, for the embezzlement "and harvest the deliberately lost possession and the" Art for illegal possession of "unauthorized use" and "unauthorized use of funds" to be used.

The same interpretation was used in the regulations;The following amendment substance (5) The penalty for aggravated bribery and embezzlement, fraud perpetrators,Apart from the deliberate waste of legislative wealthAnd seize mentionedIt has been punished and punished embezzlementAnd in the (598) Islamic Penal Code"Negligence leading to wastage or wastage of wealth."Judgment of possession is also illegal.. (Ahmad Ramezani 2009)

On the other hand, as we mentioned the major difference between these two offenses under the regulations are related to their criminal behavior. Therefore, in cases of criminal behavior has discussed each of the two separate offenses, Next, we will study the cases dubious. A) criminal behavior, embezzlement Harvest and possession:

Legislator behavior with the embezzlement Mjrmah "Harvest and possession" has stated, I infer from this expression should beCriminal behavior in this mass is composed of two components,It seems that the misappropriation of cash and in most cases is done by those Who are dealing with cash and finance,Therefore, the legislature and applied a sense of ownership;That means both ownership and possession of property ownership, Smoking has But the observer to take ownershipAnd possession of proprietary fundsAnd the observer to seize ownership of equity or other property seized is known."Harvest" is a termMore in today's banking operationsParticularly in transport and exchange of cash to be used, Therefore, in applying the term legislator, Consider ownership of the cashAnd spend its own funds because harvest is taken into account.

Most lawyers believe thatChanging criminal behavior in embezzlementPossession and the manner of handwork that is committed on the property willAnd it is being committed, Iodine status and its partial occupation of the occupied and the other is considered to be non-proprietary formats to capture and full of iodine status,With the financial means that are not under occupation,As with his wealth will Brkhvrdknd. In other words, as the owner appears to ownAnd in others it owns its own show.This is how I deal with in a variety of behaviors can be manifested;Sell it like that,Gift, the secret will be exposed to sale,Waste or any other work that showsIt belongs with the financial side is not under occupation, conduct, According to the gauge and the crime of embezzlement,And it is to seize property And in this crime as barratryAs some have said:The inner and subjective as the first office beginsForeign acts committed with the expression of bad faith is to be achieved, When foreign ownership will applyWhich is associated with external action. ".(Ahmad Ramezani 2009)

Thus each harvest and possession of blatant misappropriation of criminal behavior are as a verb (positive behavior), the rise can be found; The verb to leave, pillar material does not constitute a crime. The summary of the discovery and verification of embezzlement, Discover how to change the property occupation and intervention the case can be varied and different. Willful waste: Lawyers for the waste or waste to eliminate and destroy or partially have meaning; Balmbashrh whether it is Whether Baltsbyb. Eliminate possible through exterminate, Deflagrate, breaking, and as they proceed, How effective it is in the nature of the waste, but is subject to a waste of breath. Therefore, the destruction and burning of waste can be examples. Accordingly, it is Atlf Conduct committed outside of the mine exploitation or violation of the space and it makes a tremendous disadvantage Loses its original value.

As mentioned above,This term also is usedWhat a waste of money that has been entrusted the task to be done to commit,What proportion of the existing property to other government agencies and employees, whether it is committedWhether non-employee,Note: The above material will be covered,But it seems that the legislator with regard to the material (675) to the Penal Code,Absolute waste of another property owned by either the government or to personsPlaced the order,Shall extend to "1" under Article 5 of the Act to all government property loss is so justified.According to the legislative history of a handNote that the connection between the

sentence with the text on the other hand, The only property we need here is a deliberate waste. The jobs and tasks that are entrusted to the employee. (Commendable Jahromi 2002)

B) illegal possession of criminal behavior

Unauthorized use: Use it, means to exploit and take advantage of it, along with a description of the "unauthorized" means such that it can be "exploited, and take advantage of something without permission and optional It is about data. "It seems to mean that this comment was not legislators, Because in the (598) has stressed the Islamic Penal Code: "If the benefit is In addition to the penalty spot to penalty Equivalent amount of profit will be condemned. " This statement implies that it is both One benefit is that And it was not appropriate to express this purpose, The word "use" mentioned in the text of the legal Mqrrh went to work; Because "use" means that AfadhBut "use" only brings the concept of exploitation and profit. However, this species will gather The legislative purpose of "using" the case is yours to use Whether the other person's use or benefit or profit may not work. The unauthorized use of the words From the use or exploit such funds without permission and authority is granted.

Negligence leading to wastage and wastage of wealth: Negligence and failure to protect and preserve the property by public servants and employees of non-negligible. More negative aspects of this legislation and that this behavior is leaving the verb, If the result is wastage and loss of property, Considered as an illegal seizure and punishment for the crime is considered. According to the negligence leading to wastage and wastage of wealth of examples of non-intentional crimes is And it should be illegal to possess in order to take into account. We neglect is not defined in legal texts, But the root word and applying it in Arabic legal texts. It can be considered synonymous with wastage The result was that both the current leave Or property belonging to another are necessary to maintain normal (Article 925 Civil Code) If the verb to leave, leading to wastage or loss of property seized under the employee, According to Article (598) Islamic Penal Code, He will be criminal prosecution, wastage mine here has a broad meaning The kidnapping, property, Defect and failure to bring in mine accidents and unexpected consequences Attributable to the condition of the employee to leave the verb And that the current leave of her administrative duties and responsibilities in relation to it is yours Are included. (Ahmad Ramezani, 2009)

It is not unlikely that the current wastage of wealth that is not the intention of the person committing it. For example, employees who operate heavy vehicles placed on a computer And cause it to break or disappear, It will lead to wastage That is a negligence and wastage, But quitting is not a verb. So perhaps Negligence and wastage in the legal Mqrrh used synonymous with fault and error That any act or wrongful act of leaving with property maintenance is included.

Unauthorized use: Basically the word about how to spend the budget rules used And apparently the same meaning as the term implies. Although every property can also be used illegally, commit such a crime, but often the cost of funding is expected. Every year lawmakers pass a budget law, Income and expenses clear and definite separation devices to make Dvlytra And all executive and finance and administrative staff Government agencies are required to adhere to the strict enforcement of its provisions, And if the criteria set forth in the budget law is imperative aspect act Misdemeanor committed funds have been seized illegally from unauthorized use. It should be noted that three types of offenses committed in the budget spending is expected:

1. Costs about the credibility it has not been considered, Like to buy the building, no funds are not considered And executives to buy the building, primarily with funds to spend on other things have been predicted take action.
2. In the case of non-fixed costs, like the budget is allocated for the purchase of office building, but enforcement of the relevant office to buy their residences.
3. The cost of waste on approved credit, like buying office supplies made in dollars, but an amount equivalent to the relevant office executives and two hundred million dollars for this work will cost. (Commendable Jahromi 2002)

In all these cases, Committed an "unauthorized use" is Means to spend or use funds or other funds of the authority Law or regulations or administrative orders that is. Thus it is That the behavior is quite different from each other and are differentiated And the crimes mentioned in this post are apart. These behaviors cause doubt and confusion in the diagnosis of sputum is mentioned crimes. Therefore it is necessary to look dubious cases; But before that it is necessary to note several points:

- A) As mentioned Negligence leading to wastage and wastage of public property, An unintentional crime that cannot capture the true crime is illegal; But lawmakers put it in the warrant to seize illegal Therefore it is necessary to accomplish the aforementioned elements and specific elements, But in its illegal occupation penalty runs.
- B) unauthorized use of true possession is illegal Intervention in the annual budget includes primarily ectopic Committing embezzlement cases it will not mislead. Hence there is no need to compare this case with embezzlement. (Ramezani, 2003).
- C) Article (153) General Criminal Law Act 1355, In cases where the sentence was an illegal seizure There is no equivalent in the current criminal provisions. These include: taking Sprdh unauthorized persons, or non-receipt of the deposit record any violations, pay a deposit before the

deadline, and committed to the organization or government department. Also mentioned in Article 2 Tbsrh, Quality was considered an exempt holder. The new regulations have not been considered by lawmakers.

3) Dubious cases

A) If an employee the amount of cash at their disposal for personal needs I take his tribute or purchase supplies. And it needs to be refunded after that, Whether such behavior was considered to be misappropriated or illegally occupied? Perhaps be argued. The takeover would make it synonymous. And it means we take ownership and possession of proprietary account, This behavior needs to be going after the spiritual body and is particularly ill

And it is going to takeover and acquisition. Lazmh this sense, Is the negation of non-ownership. Since the case is allowed to commit property independently. And non-denying ownership (original owner) did not. He was considered action cannot be misappropriated. As well as the nature of cash, property is generally I cannot do it while he is given. The person responsible for any maintenance or use of funds from non-delivery is. If the funds with the intention that they will be replaced. Another use could not be assumed that he had seized. In these cases, however, due to the property because the person is engaged in non-specific. And will replace any other cash, Have taken the money that will have credibility. In fact Bob barratry, Some believe that the waste does not include cash or property; Compensable because it is about to die, it does not happen. The same argument can be said about it is that the takeover will happen, Possession with intent to commit unless it is confirmed or denied possession of property, Cash, or money used. Or who has refused to extradite or deny that it has received.. (Commendable Jahromi, 2002)

B) When claims are received. Cash is the verdict that the officers are Pbda. And as the "demands" are not. The design issue is whether the employees who deliberately refuse to collect receivables, Embezzlement or possession is illegal? Demands of any religion or financial commitment. Based on a legal relationship or state law or court order in favor of responsible persons are; Such duties, taxes, customs duties, fines. And other aspects of public servants and government officials and persons required to collect and they are getting. Arguing that such cases may not collect, harvest and possession in favor of another. Be said is that the act of embezzlement; But it seems that the statutory criteria set forth in the General Penal Code, Behavior must be committed "illegal occupation" as we. Embezzlement is the act concerning the criminal behavior. And received no demands, leaving the verb. So to resolve this uncertainty, Grab it before the legislature expressly declared illegal, But if certain demands are. Perhaps another analysis presented. And received no additional benefit to take into account. (Ramezani, 2003).

C) If an employee has a financial Else needs to give up after use or to be refunded, If the transferee does it destroy or seize And deliberately refrain from extraditing them, The employee will find what title? In this case, knowing the illegal seizure of employee behavior Seems more plausible, What the employees causing the deprivation of property owner (government) is the rub, But not himself directly to the current estimated. This may result in the denial. This is not going to have. Therefore, the transferee is consistent with malversation. And the employee is eligible for intellectual diversity; The department also has in barratry. Has been committed and the illegal possession. And in accordance with Article (46) Islamic law should be punished for a crime that is punishable by the maximum. Be applied in his case.

Issue of crime

Issue of crime, It is something that actually committed the act is. And total or partial loss or failure to make it. The definition of these crimes were. And the legal elements of each subject of both criminal. Both have the common wealth, and of these, But what qualities and characteristics that must be yours. Each of the above be subject to penalties, Is something that should be further investigated. In general, property subject to review each of the crimes mentioned has three terms: 1) it is movable or immovable, 2) to commit my previous submission, 3) belong to the property or persons. (. HabibZadeh, 2003)

1) movable or immovable property, subject to being charged

The question is. Absolute sense, any financial or property whether movable or immovable and whether it can. Subject to both the crime or not? To find the answer, Words in the text should be used to review the relevant legal materials. Both legal regulations related to the embezzlement and the illegal possession, Legislators to express the subject of this wording is used: (Funds), (demands), (transfers), (stock), (documents), (papers Bahadur) and (other property). Perhaps at first glance to be said. That the words (and other property) of property used in crime and immovable is. What is the benefit of both. Seems to be justified by resorting to illegal means of capturing. But it really is not acceptable in the embezzlement. Some believe that the corruption issue is whether movable or immovable. They argue that if a misappropriation of malversationis. And the legislature in Article (674) Islamic Penal Code. And immovable property including barratry is affirmed. Therefore the legislator asserted no doubt about barratry. The misappropriation of malversation is also similar in this respect.

The bottom line is that the penal provisions observer status to the property. Should be placed on the principle that Legislator seeks to protect movable property is criminal, Including immovable property unless it is

stipulated that, Or upon a reasonable and correct interpretation, the legislature will meet this need. Primarily include operation and use of illegal possession of property obtained are incremental benefits And consequently also Mlazmh property that is operated with financial interests, This will be the subject of crime. Therefore, operation and use of benefits, No difference between the property and immovable, As can be exploited in the interests of the movable and can be used, Use and operation of the Estate is also possible And in this respect have similar status and immovable.

2) financial condition of previous submission:

For the crime of embezzlement and illegal seizure of property subject to surrender or to commit a crime before he is buried. The requirement of common aspects mentioned crimes is the crime of mal variation. After two offenses mentioned in this similar situation and we briefly review it has different dimensions, it will. I surrender, I put it under iodine or another seizure. The submission is essentially voluntary act that can take off and the emergence of a person to another is captured. Each of the crimes mentioned in my submission is that, whether real (material) or legal (POS).Actual submission (material) is That belong to the submission of material transferred to the transferee, But in order to give (credit),The specific legal, financial, officer or employee is under the possession and control.Perhaps Bob crimes mentioned in my submission, Most of the decree (credit) is formed and numerous cases. For example, when the storekeeper will deliver key storage All contents of the storage means is that he has delivered or where the officer arrested in the crime, Objects may be seized He does not belong to the material delivered,But being in the possession and disposal of his property, as submitted and delivered to his property.(. HabibZadeh, 2003)

3) property belonging to the Government: Aspects of the crimes of embezzlement and financial crimes linked to illegal possession, The subject property is a crime that should not be awarded Mine if it is otherwise committed, His intervention in the property would not qualify as criminal, Except in one case, the intervention in the seizure of property (Article 663 of Islamic Penal Code.) In the mentioned crimes, Basically, property or government organization or institution where the offender works belong. In other words, in regard to these two offenses, primarily property belonging to public or government or public institutions. It is not a contradiction of the property belonging to persons And the legal regulations pertaining to each of the crimes mentioned explicitly on this subject has been emphasized. The subject property can be misappropriated public property or public property is in order.

C) the criminal: Embezzlement crime, crime is bound And the illegal possession, is an absolute crime. Negligence and wastage in order to seize property Tzy is illegal, No blatant of illegal possession, If this blatant act of seizing illegal to know because it always involves the creation is the result; May be thought to possess illegal While such a crime is bound.

Embezzlement and possession of wealth is the result of depriving the owner And the loss that comes to your own; However, the refund or compensation, compensate, Whether it is earned or other benefit or not. Thus, the crime of embezzlement, Is the mass of the bound and as a result of realization of the need And result in massive damage to the property owner and the general government or public institutions are Sajb is entered. In other words, Government or public institutions of deprivation of property that the employee and his employee have been the result of the embezzlement is Mtrtb This result is not realized that so long as the misappropriation not last.

D) describe and commit property:

This condition, also including two charges of embezzlement and possession is illegal commonalityAnd two mass separator it is considered barratry;This means that the crime is possible only by someoneThat it (public servant or a public servant in the judgment), we interpret.GeneralQualities and characteristics of individuals influence their criminal responsibility does notAnd the principle of equal Mjast, all persons responsible before the law Ali AlsyyhAnd the crime, will be punished;But in some cases, legislators in some of the crimes of certain individuals has been predictedThat these two aspects of how the legislation is not empty;The description and characteristics of the perpetrator or as a quality or mitigating Mshddh terms or as a condition that can be effective in achieving crime. (.Goldouzian 2001)

The spiritual body

Intentional crimes of embezzlement and possession are illegal, yet the ingredients of the mental body in both cases is not one. Hence, some components of these two distinct psychological elements of each other and the mental body will review them separately.

A) Misappropriation of the intellectual pillars:

In the spiritual pillar of intentional crimes of embezzlement and malversation situation is similar.Secondly, you must do the surgery and the insertion loss, and to be intentional. Intentional act committed to do, namely to the harvest and possession (Svnyt generic) or (intentional action) and intentionally harm his handling of the government (specifically Sv'nyt) or (deliberately so) to read. So to fulfill commit embezzlement should also be

of general ill will and ill will in particular be established so that they commit acts of lacks the mental state of his behavior into account cannot be misappropriated.

B) Illegal possession of a spiritual body

. Illegal seizure of the negligence and wastage would also lead to damage property in order to bring the illegal possession, The crime is intentional. So before anything should be noted that the negligence and wastage resulting in property damage, Component behavior is unintentional And the spiritual pillar of error or fault, it makes criminal. The behavior in this respect, There are also differ with embezzlement And is separable from the illegal possession And to our credit, we read it in order to seize illegal. But the other two types of behavior (non-authorized use and consumption) that we had for the illegal possession, Such analysis can be a spiritual body(Ramezani,2003).

Conclusions

Embezzlement, fraud is a way of Mostly as planned, Secretly and without the consent and awareness of others is done regularly. If the words forming the above definition is given A few basic points in space that is created by the words Notable is The first point is the subject of public property If you carefully consider the extent to which little attention to the subject property and assets to be Manpower and time can also benefit from the powerful forces of the state property was And the illegal harvest of them had some kind of embezzlement Unfortunately, in this regard so far thought to be reliable Not Regarding the misappropriation of the opportunities that God is of another loan And even more than material resources should be used carefully in its Organized labor is leading to the formulation of the law dealing with embezzlement Has been And this is because in our culture for the individual and community life is the highest capital Value pricing is not considered.

Crime of embezzlement and illegal possession From many aspects, including the issue of crime, I bet the previous submission, Sbybt jobs and job submission and seize the property, Describe the condition of the property have committed to share with each other, Another aspect that makes this crime include: 1 - criminal behavior, Misappropriation law stipulates that the transition (harvesting and possession) And seizing illegal (unauthorized use or consumption) is. With the legislature regarding barratry, Each of these blatant acts of treacherous behavior taken into account And they all have an effect on the criminal, But officials and government employees about the betrayal that led to financial and job duties entrusted to them

2. Completely different effect on each of criminal behavior is based on the true behavior is treacherous.

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