

# Jurisprudential and Legal Analysis of the Legitimacy of Confiscating Assets Derived from Bribery and Its Impact on the Prevention of Financial Corruption

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## Abstract

The confiscation and seizure of assets derived from bribery is considered one of the most important legal and criminal tools in the fight against financial corruption. Beyond its punitive function, this measure plays a preventive role in reducing the economic incentives to commit crimes. In the Islamic jurisprudential system, the principle of "*the prohibition of consuming property through wrongful means*" serves as the foundation for the legitimacy of confiscating illicit assets. Shiite jurists emphasize the necessity of returning assets obtained through financial corruption to their rightful owner or to the public treasury. In Iran's legal system, various laws—including the Islamic Penal Code, the Anti-Money Laundering Act, and the Law on the Promotion of Administrative Health—have established mechanisms for the confiscation of illicit property. However, at the implementation stage, several challenges arise, including the difficulty of distinguishing between licit and illicit assets, legal shortcomings, weak financial oversight, and prolonged judicial proceedings. Comparative analysis reveals that in many advanced legal systems, such as those of France and the United Kingdom, independent agencies exist to manage confiscated assets, and international cooperation for the repatriation of illicit assets to the country of origin is effectively carried out. In Iran, the absence of such mechanisms has, in some cases, resulted in the retention of assets derived from financial corruption by the perpetrators. This article, by examining the jurisprudential and legal foundations of asset confiscation and comparing them with international standards, emphasizes the need for legal reform, strengthening of financial oversight, acceleration of judicial procedures, and the establishment of independent institutions for managing seized assets, in order to enhance the effectiveness of anti-corruption policies in the country.

**Keywords:** asset confiscation, property seizure, bribery, financial corruption, criminal law, Islamic jurisprudence.

Received: 25 November 2024

Revised: 13 December 2024

Accepted: 25 December 2024

Published: 01 January 2025



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**Citation:** Mansouri Tehrani, N., Saeedi, Y., & Sediqian, A. (2024). Jurisprudential and Legal Analysis of the Legitimacy of Confiscating Assets Derived from Bribery and Its Impact on the Prevention of Financial Corruption. *Legal Studies in Digital Age*, 4(1), 1-10.

## 1. Introduction

In criminal policy, the seizure and confiscation of assets derived from criminal activity is regarded as one of the most significant tools in combating financial crimes. This is especially important in dealing with crimes such as bribery, where the

primary motivation is economic gain (Hemmati Biaraq, 2021). Bribery, as a financial and economic crime, causes severe harm to public trust and the integrity of the administrative system, and the seizure of assets resulting from it can be effective in reducing the motivation of offenders and preventing financial corruption (Makhdoum Mosafer et al., 2024). In this regard, Iran's criminal law, based on jurisprudential principles and legal considerations, has criminalized bribery and provided for the seizure and confiscation of its proceeds (Azizollahi, 2024).

In Islamic jurisprudence, the principle of "*prohibition of consuming wealth through wrongful means*" is the foundation for the legitimacy of seizing assets derived from bribery (Bahrani, 2005). According to this principle, any wealth obtained unlawfully cannot be owned and must be returned to the rightful owner or the public treasury (Jafari Langroudi, 2017). The Islamic Penal Code also reflects this principle in the articles related to bribery and asset seizure, acknowledging that proceeds from bribery must be restituted to the state or rightful owners (Emami, 2012).

Nevertheless, the implementation of this criminal policy in Iran faces numerous challenges. On one hand, some jurists argue that the seizure of assets derived from bribery is punitive in nature and constitutes a financial penalty (Ghasemi Moghadam, 2020). Conversely, others believe that such action is merely preventive and compensatory, intended to restore the situation to its original state (Bayat, 2020). This divergence in perspectives has led to ambiguities in judicial practice, at times resulting in contradictory rulings regarding the confiscation or restitution of assets derived from bribery (Rezman, 2018).

From a criminological standpoint, the seizure of assets resulting from bribery can serve a deterrent function in reducing financial corruption. Studies have shown that in legal systems where asset seizure and confiscation are effectively implemented, the incidence of economic crimes decreases, and public trust in governmental institutions is strengthened (Mbaku, 2007). However, the enforcement of this policy in Iran has consistently encountered problems due to weak oversight mechanisms and legislative gaps (Zera'at, 2018). In many cases, lack of transparency in determining the origin of assets has created challenges in enforcing seizure rulings and has led to lengthy litigation processes (Dalir, 2009).

Moreover, one of the fundamental issues in asset seizure is distinguishing between legitimate and illegitimate assets. In some cases, bribes are offered in the form of checks or financial instruments that are identified and seized before being cashed. In such situations, the question arises as to whether these instruments are also subject to seizure (Dadoui, 2004). Some jurists argue that the mere acceptance of a financial instrument, even if not cashed, constitutes the crime of bribery and justifies asset seizure (Bagheri Bid Hendi, 1998). In contrast, others maintain that unless the instrument is cashed, the crime is not complete, and thus seizure lacks legal basis (Jafarian, 2017).

From a comparative perspective, a review of criminal policies in other countries reveals that the seizure of assets derived from bribery is often used as a key tool in the fight against financial corruption. In advanced legal systems, stringent laws for the seizure and confiscation of illicit assets have been enacted, and independent institutions have been established to monitor the implementation of these laws (Pradel & Danti-Juan, 2001). In Iran, with the adoption of new legislation such as the Law on Promoting Administrative Health, steps have been taken toward strengthening this policy, but there is still a pressing need to reform and clarify the relevant laws on asset seizure and confiscation (Sobhani, 2003).

Ultimately, the issue of asset seizure related to bribery, in addition to its legal and criminal dimensions, also has economic and social implications. On one hand, this measure can reduce incentives for corruption and enhance administrative integrity, but on the other hand, if improperly implemented, it may result in the deprivation of property without due legal process (Al-Sanhouri, 2010). Therefore, jurisprudential and legal approaches in this area must be examined comprehensively and coherently, and appropriate measures should be taken to overcome enforcement challenges.

### **Methodology**

This study employs a descriptive-analytical approach and is classified as fundamental research in terms of its objective. The data collection method is library-based, focusing on written sources including Iranian legislation, jurisprudential and legal texts, academic articles, dissertations, judicial documents, and credible data from legal databases. The collected data were reviewed, matched, and analyzed to examine the various dimensions of asset seizure and confiscation resulting from bribery from jurisprudential, legal, and comparative perspectives.

In this study, the jurisprudential foundations for the seizure and confiscation of assets resulting from bribery are first examined based on the principles of Shiite jurisprudence, including the rule of "*prohibition of consuming wealth through wrongful means*." Then, the legal foundations of this issue in Iran's criminal justice system are analyzed. Subsequently, Iran's policies are compared with international standards such as the United Nations Convention Against Corruption and FATF regulations. Additionally, the implementation challenges of asset seizure in Iran—including the distinction between legitimate and illegitimate property, legislative gaps, and oversight issues—are evaluated through a review of judicial cases and legal documents. The data analysis method is based on comparative analysis and jurisprudential-legal reasoning, complemented by a critique of existing laws and regulations.

## **2. Jurisprudential Foundations for the Seizure and Confiscation of Assets Derived from Bribery**

One of the most important jurisprudential principles that underlies the seizure and confiscation of assets derived from bribery is the rule of "*prohibition of consuming wealth through wrongful means*." This rule is based on Qur'anic verses such as "Do not consume one another's property unjustly" (An-Nisa: 29) and "And do not consume one another's property unjustly or send it [in bribery] to the rulers" (Al-Baqarah: 188), which prohibit any form of illegitimate acquisition or possession of property (Bahrani, 2005). Shiite jurists have emphasized this rule as a primary basis for the confiscation of illicit assets. Shaykh Ansari, in his book *Al-Makasib*, explicitly states that acquiring wealth through illegitimate means lacks religious legitimacy and must be returned to the rightful owners, or if the owner cannot be identified, transferred to the public treasury (Dalir, 2009). Jafari Langroudi also refers to this rule in his works as a critical foundation in the jurisprudential justification for the seizure of illicit assets, particularly in cases of bribery (Jafari Langroudi, 2017).

In Shiite jurisprudence, there are fundamental differences between asset seizure and asset confiscation. Montazeri, in his work on the jurisprudential foundations of Islamic government, explains that seizure refers to the temporary holding of assets to assess their legitimacy, whereas confiscation implies the permanent transfer of assets to the state or public treasury, usually as a form of punishment (Bayat, 2020). Mousavi Ardebili, in *Fiqh al-Qadha*, also emphasizes that asset seizure should not be considered punitive but rather preventive and protective to avert the misuse of public resources (Makhdoum Mosafar et al., 2024). On the other hand, Shahid Thani in *Masalik al-Afham* argues that asset seizure in financial crimes such as bribery, in addition to its compensatory function, should also be considered a preventive and deterrent tool, since without it, effective confrontation with financial corruption would not be possible (Mbaku, 2007).

Consequently, the jurisprudential foundations for the seizure and confiscation of assets derived from bribery rest on the prohibition of acquiring wealth through illegitimate means and the obligation to return such wealth to its rightful owner or the public treasury. Moreover, these foundations underscore the distinction between temporary seizure and permanent confiscation of assets from the perspective of Shiite jurisprudence. These principles are not only affirmed in jurisprudential sources but have also been adopted in Iran's legal system as the basis for the legitimacy of seizing illicit assets derived from financial corruption.

## **3. Legal Foundations of Asset Seizure and Confiscation in Iran's Criminal Justice System**

Asset seizure and confiscation in Iran's legal system are backed by explicit legal provisions, primarily addressed in criminal laws and legislation related to financial and economic crimes. These regulations aim to combat financial corruption, bribery, and other economic offenses by preventing the acquisition of illicit assets and profits obtained through criminal behavior. In this context, reviewing Iran's legislation and the country's criminal policies in addressing this issue is deemed essential.

## **4. Review of Iranian Laws on Asset Seizure and Confiscation**

The Iranian legal system recognizes asset seizure and confiscation as one of the key tools for combating financial and economic crimes. Emami, in *Civil Law*, notes that the seizure of illicit assets is rooted not only in criminal legislation but also in general principles of civil law, as assets derived from crimes lack legitimacy and must be returned to their rightful owners or to the public treasury (Emami, 2012).

The Islamic Penal Code addresses asset seizure and confiscation in various articles. For instance, Article 215 of the Code stipulates that any property obtained through crime must be seized unless the rightful owner is identified and can prove acquisition without knowledge of the crime (Zera'at, 2018). Furthermore, Article 592 of the Law on Discretionary Punishments regards the seizure and confiscation of assets obtained through bribery as one of the supplementary punishments (Ghasemi Moghadam, 2020). This article underscores the legislator's focus on recovering illicit property and preventing offenders from benefiting from the proceeds of crime.

In addition to the Islamic Penal Code, the Law on Promoting Administrative Health and Combating Corruption explicitly emphasizes the necessity of seizing assets derived from financial corruption. This law obliges supervisory and judicial authorities to take necessary actions to seize any assets identified as acquired through corruption, bribery, or abuse of administrative positions. Similarly, anti-money laundering laws also contain provisions regarding the freezing and confiscation of assets linked to financial crimes and the procedures for determining their fate (Zeraat, 2018).

## 5. Iran's Criminal Policies in Combating Financial Corruption and Seizing Illicit Assets

Iran's criminal policy for addressing financial corruption combines punitive criminal measures with preventive actions. Makhdoum Mosafar and colleagues, in their research on the Iranian criminal system's approach to crime-related assets, state that Iranian criminal policy particularly emphasizes the seizure and confiscation of assets belonging to financial offenders. They note that significant steps have been taken in recent legislative reforms, particularly in anti-money laundering laws, to tighten control over assets derived from corruption (Makhdoum Mosafar et al., 2024).

From a criminological perspective, one of the most effective tools for preventing financial corruption is reducing the economic incentives of crime. When offenders know that their illicit assets will be seized upon discovery, their motivation to commit such crimes decreases. In this regard, Jafarian, in the *Encyclopedia of Economic Criminal Sciences*, explains that one of the core problems in Iran's criminal policies is the lack of decisive enforcement of asset seizure measures, which at times renders the policy ineffective (Jafarian, 2017). For example, in some cases, individuals accused of economic corruption attempt to evade asset seizure by transferring their property to relatives or using intermediary accounts, complicating the enforcement of criminal judgments.

Compared to other countries, Iran's criminal policies concerning asset seizure and confiscation still face structural and legal shortcomings. While many advanced legal systems rely on independent oversight bodies and financial transparency to identify illicit assets, Iran's enforcement of asset seizure provisions sometimes faces delays or lack of transparency due to weak enforcement mechanisms and oversight institutions (Makhdoum Mosafar et al., 2024). This highlights the need for structural and legislative reforms to enhance the effectiveness of asset seizure and confiscation.

Therefore, in Iran's legal system, the seizure and confiscation of assets derived from bribery and other financial crimes are regarded as essential tools for combating financial and economic corruption. Legally, various laws—including the Islamic Penal Code, the Law on Promoting Administrative Health, and the Anti-Money Laundering Act—address this issue and consider the seizure of illicit assets a legal necessity (Emami, 2012; Ghasemi Moghadam, 2020; Zera'at, 2018). At the policy level, asset seizure is considered both a deterrent and a preventive measure; however, due to structural and implementation challenges, the enforcement of these policies in Iran faces obstacles (Jafarian, 2017; Makhdoum Mosafar et al., 2024). Thus, strengthening enforcement mechanisms, improving financial transparency, and reforming judicial procedures are crucial for increasing the efficacy of asset seizure and confiscation policies.

## 6. The Role of Asset Seizure in Preventing Financial Corruption

The seizure of assets derived from bribery and financial corruption is one of the most important preventive tools in criminal and economic policies. This measure is not only a mechanism to combat the unlawful acquisition of profits through corruption but also an effective deterrent in reducing the motivation to commit financial crimes. In this regard, evaluating the deterrent effect of asset seizure on financial corruption and comparing Iran's policies with those of other countries is of particular importance.

## 7. The Deterrent Effect of Asset Seizure in Reducing Financial Corruption

One of the primary goals of asset seizure is to prevent the continuation of criminal activities and reduce the appeal of committing financial crimes. When economic offenders know that assets acquired through corruption will be seized and confiscated upon discovery, their incentive to commit such crimes diminishes. Hemmati Biaraq, in his study of anti-corruption policies in Iran, notes that many individuals are drawn to financial crimes due to their high profitability. However, stronger oversight over assets derived from corruption would reduce this profitability and, in turn, eliminate the motivation to commit such crimes (Hemmati Biaraq, 2021).

From a criminological perspective, one of the key theories that explains asset seizure as a deterrent is the rational choice theory of crime. According to this theory, economic offenders evaluate the cost-benefit ratio before committing a crime, and if the anticipated gains outweigh the potential costs, they proceed with the crime (Zera'at, 2018). In this context, asset seizure functions as a mechanism to increase the cost of committing crimes. If an individual intending to commit bribery knows that, in addition to criminal punishment, all of their illicit assets will be seized, they may reconsider their decision.

In legal systems where asset seizure laws are effectively enforced, levels of financial corruption have decreased, and public trust in governmental institutions has increased (Mbaku, 2007). This demonstrates the importance of the proper implementation of asset seizure and confiscation as a deterrent tool in the fight against corruption.

## 8. Comparison of Iran's Asset Seizure Policies with Other Countries

Although Iran's asset seizure policies regarding proceeds from financial corruption are clearly stipulated in statutory law, they still face significant implementation and structural challenges when compared to other countries. Pradel and Danti-Juan (2001), in their study of European criminal policies toward financial corruption, demonstrate that in many developed countries, the confiscation of assets from corrupt individuals is considered a key instrument in the fight against corruption. These countries not only confiscate assets acquired through corruption but also establish independent institutions responsible for monitoring and tracing such assets (Pradel & Danti-Juan, 2001).

In countries such as France, Germany, and the United Kingdom, strict laws exist concerning the confiscation of assets obtained through financial crimes. These countries employ advanced financial and supervisory systems to detect suspicious transactions and, upon proof of their connection to corruption, freeze and seize the related assets (Mbaku, 2007). For instance, in France, the legislature established an independent agency called the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC), which is tasked with overseeing assets acquired through financial crimes and managing the confiscation processes.

By contrast, despite the enactment of the Anti-Money Laundering Act and the Law on Promoting Administrative Health, Iran still faces obstacles in implementing asset seizure policies. One of the core challenges is the absence of an independent body to identify and manage illicit assets. In many cases, financial corruption cases remain unresolved due to the complexity of proving the unlawful origin of assets and the length of judicial proceedings, allowing proceeds of bribery to remain in the hands of perpetrators (Zera'at, 2018).

Another major problem in Iran is the lack of financial transparency and the ability to quickly transfer illicit assets. Many individuals accused of corruption move their assets to relatives or foreign accounts before a judicial ruling is issued, complicating the enforcement of seizure and confiscation orders. In contrast, developed countries utilize tools such as transaction monitoring, international cooperation in asset identification, and advanced financial technologies to address this issue (Pradel & Danti-Juan, 2001).

Thus, while the seizure of assets derived from financial corruption is recognized in Iran as a central instrument in criminal and economic policy, it continues to encounter serious challenges in practice. From a criminological standpoint, asset seizure can reduce the motivation to commit financial crimes and serve as an effective preventive mechanism against corruption (Hemmati Biaraq, 2021). However, compared to developed countries, Iran still struggles with various legal, procedural, and structural barriers in executing this policy. To enhance the efficiency of this tool in Iran, it is necessary to strengthen independent supervisory institutions, reform judicial mechanisms for faster asset confiscation, and expand international



cooperation in identifying corruption-related assets. Only through these reforms can Iran develop an effective and preventive criminal policy against financial corruption.

## **9. Comparative Analysis of Asset Seizure and Confiscation in Iranian and International Law**

The seizure and confiscation of assets obtained from economic crimes, including financial corruption and bribery, are among the most important legal and criminal mechanisms in various legal systems. This action functions not only as a criminal sanction but also as a preventive measure to combat the acquisition of illicit wealth. Although the general principles of asset seizure and confiscation are similar between Iranian law and international legal instruments, differences remain in terms of enforcement methods, oversight levels, and international cooperation. Examining these differences contributes to a better understanding of the strengths and weaknesses of Iran's legal framework in this area.

In Iran's legal system, the seizure and confiscation of assets derived from financial corruption are addressed in several laws. Article 215 of the Islamic Penal Code states that property obtained through crime must be seized if the rightful owner cannot be identified, and if possible, it should be returned to the original owner. Article 592 of the Law on Discretionary Punishments (Ta'zirat) also refers to the confiscation of assets obtained through bribery and emphasizes that in certain circumstances, the property may even be returned to the briber. The Law on Promoting Administrative Health and Combating Corruption also recognizes the seizure of assets derived from economic crimes as a key anti-corruption tool, obligating supervisory agencies to identify and confiscate such property. In addition, the Anti-Money Laundering Act authorizes the state to freeze and confiscate assets if their illicit origin is established. However, implementation of these laws faces challenges, with one of the most critical being the absence of an independent and centralized body to oversee seized assets and coordinate enforcement among various executive bodies. Currently, asset seizures are mostly carried out through the judiciary, and the complex judicial process often prolongs proceedings and undermines the effectiveness of this legal instrument (Rezman, 2018).

At the international level, the confiscation of assets derived from financial corruption is a key provision of the United Nations Convention Against Corruption (UNCAC), to which Iran is a party. The Convention obliges states to identify, freeze, and seize illicit assets and, where possible, return them to the country of origin. It also emphasizes the need to establish independent bodies to oversee illicit assets and requires states to engage in international cooperation to combat financial corruption. For example, in France, an independent agency known as the Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC) has been established to monitor seized property and enforce confiscation rulings. In that jurisdiction, assets obtained through economic crimes are not only seized but may also be allocated to the government or public institutions. In contrast, Iran lacks a comparable mechanism for managing confiscated assets, leaving this responsibility primarily to the judiciary and various executive agencies. This can result in procedural complexity and delays (Al-Sanhouri, 2010).

Another important difference between Iran's policies and international standards concerns the monitoring of financial transactions and the implementation of financial transparency rules. The Financial Action Task Force (FATF), as an international organization, has developed standards for combating money laundering and illicit financial flows, requiring countries to establish financial transparency systems to prevent misuse of banking systems for transferring illicit funds. One of FATF's core principles is the creation of independent regulatory bodies and financial databases to identify and monitor suspicious assets. Many countries, particularly FATF members, use these oversight systems to track financial transfers and report any transaction suspected of corruption or money laundering to competent authorities. However, in Iran, due to the incomplete implementation of FATF standards, such processes are carried out to a limited extent, and in many cases, it is not possible to timely trace and freeze illicit assets (Sobhani, 2003).

One of the most significant challenges facing Iran in the area of asset seizure and confiscation is the lack of effective international cooperation in repatriating illicit assets. In many financial corruption cases, individuals accused of bribery and economic crimes transfer their assets abroad before legal proceedings are initiated. In contrast, developed legal systems have multiple mechanisms in place for asset recovery and for preventing the flight of corruption-related capital. In France, the United Kingdom, and Germany, extensive cooperation exists between domestic and international regulatory bodies to return assets obtained through corruption. If the illicit origin of these assets is confirmed, they may even be seized and returned to the country of origin without the need for a criminal conviction. In Iran, the lack of access to such cooperation frameworks and the absence

of proper legal structures for asset recovery has resulted in many illicit assets remaining beyond the reach of the judiciary and in the possession of perpetrators (Jafari Langroudi, 2013).

In conclusion, the comparison of Iran's asset seizure and confiscation policies with international standards reveals that while Iran has incorporated mechanisms for seizing corruption-related assets in its legal framework, it still faces serious implementation challenges and lacks independent institutions to manage and oversee seized property. In many advanced countries, asset seizure laws are enforced with greater transparency and stricter oversight, and international cooperation in repatriating illicit assets is actively pursued. To improve the situation in Iran, it is recommended that independent bodies be established for managing seized assets, international cooperation for asset recovery be strengthened, and oversight mechanisms for financial transfers be made more transparent. Implementing these reforms can enhance the effectiveness of criminal policies in combating financial corruption and contribute to improving the country's economic and administrative integrity.

## **10. Implementation Challenges of Asset Seizure and Confiscation in Iranian Law**

The seizure and confiscation of assets derived from financial and economic crimes, including bribery, are considered key tools in combating financial corruption. However, the implementation of this policy within the Iranian legal system faces numerous challenges, among the most important of which are difficulties in distinguishing between legitimate and illegitimate assets and legislative deficiencies in the enforcement of asset seizure judgments. These issues have caused serious barriers in the execution of judicial rulings in many corruption cases, and in some instances, assets obtained through economic crimes remain under the control of offenders.

One of the most significant challenges in the asset seizure process is the difficulty in distinguishing between legitimate and illegitimate assets. In many financial corruption cases, assets derived from bribery and other financial crimes are mixed with legally obtained property, making it difficult to identify the illicit portion. For example, an individual who has acquired funds through bribery may combine those amounts with personal assets and conceal them in the form of real estate, stocks, or other investments. In such situations, separating these assets requires complex financial investigations and expert analysis. Dalir (2009) notes that the lack of precise auditing mechanisms and the absence of comprehensive databases in Iran have led to many illicit assets becoming untraceable through integration with legitimate assets, making their seizure extremely difficult.

In addition, another existing issue is the weakness of financial and supervisory tools in identifying illicit assets. In many advanced countries, financial transparency systems and banking transaction tracking play an essential role in distinguishing between lawful and unlawful property. However, in Iran, the absence of comprehensive databases and lack of interagency cooperation among supervisory bodies are major problems in this area (Bagheri Bid Hendi, 1998). As a result, many economic offenders exploit legal loopholes by transferring their illicit assets to others or concealing them through shell companies. This has led to significant challenges in proving the illegitimacy of assets in courts, and in some cases, has resulted in the acquittal of defendants.

Another challenge in the implementation of asset seizure and confiscation is legal and procedural deficiencies in executing judicial rulings. Bayat (2020) explains that the laws related to asset seizure and confiscation in Iran contain ambiguities and deficiencies in some cases, resulting in inconsistent court decisions. For instance, in certain cases, courts have ruled for the return of assets to defendants due to lack of sufficient evidence regarding their illicit origin, whereas in similar cases, such assets have been confiscated. These inconsistencies stem from the lack of clear definitions of crime-derived assets and the absence of specific criteria for proving the illegality of property (Bayat, 2020).

Furthermore, Dadoui (2004) notes that in some cases, lengthy and complex judicial proceedings delay asset seizure, allowing defendants ample opportunity to transfer or hide their property. In many countries, temporary freezing of suspicious assets is conducted immediately upon discovery to prevent illegal transfers, but in Iran, due to prolonged legal procedures, defendants often have time to transfer their assets to others or move them abroad before a final verdict is issued (Dadoui, 2004).

In summary, the implementation challenges of asset seizure and confiscation in Iran arise from problems in distinguishing between legitimate and illegitimate assets, weak supervisory systems, and legal loopholes in enforcing seizure judgments. To resolve these issues, it is recommended to strengthen financial oversight systems, establish comprehensive databases for asset registration and monitoring, and expedite judicial processes in financial corruption cases. Furthermore, amending asset seizure

laws and defining clear criteria for identifying illicit property can help enforce this policy more effectively and prevent financial offenders from escaping justice.

## 11. Jurisprudential and Legal Review of Transactions Conducted as Bribery

Bribery is a prominent example of financial corruption that, in addition to its economic and social consequences, is regarded in both jurisprudence and law as an illegitimate and unlawful act. One critical aspect of bribery involves the contracts and transactions through which it is conducted. In many cases, bribery is not carried out in cash but is disguised through seemingly legal agreements between parties to make detection more difficult. Therefore, examining the definition and examples of transactions used as a medium for bribery, along with the jurisprudential and legal rules for invalidating such contracts, is of particular importance.

A fundamental issue in this context is the definition and identification of transactions carried out as bribery. In Islamic jurisprudence, any financial agreement wherein one party provides a benefit or asset in exchange for an unlawful or unjust action by the other party is considered bribery. Bahrani (2005) notes in his jurisprudential works that bribery does not only include cash payments but may also occur through commercial contracts, valuable gifts, financial privileges, or the transfer of non-monetary assets. Ibn Qudamah, in *Al-Mughni*, emphasizes that any transaction involving the intent to grant an unlawful advantage or influence judicial or executive decisions qualifies as a corrupt transaction and is, from a religious standpoint, considered void (Bahrani, 2005).

In Shiite jurisprudence, the principle of “*consuming property through wrongful means*” (*akl al-mal bi al-batil*) is considered a foundational rule in the discussion of bribery-related transactions. According to this principle, no individual has the right to acquire wealth through illegitimate means, and if such an acquisition occurs, the property must be returned to its rightful owner. This principle forms the basis for many jurisprudential rulings that invalidate bribery-based contracts.

In legal systems, one of the most important issues concerning transactions carried out as bribery is their invalidation and the restitution of assets obtained through them. In many countries, any contract involving bribery is deemed void, and the resulting assets are subject to confiscation. Iranian law also addresses this matter through various statutes. According to Article 348 of the Civil Code, any contract whose subject matter is unlawful is void from the outset and unenforceable. This principle applies to bribery-related cases, meaning that if an asset is transferred as a bribe under the guise of a contract, that contract is legally null and void from inception.

From a comparative perspective, Al-Sanhouri (2010) in *Al-Wasit fi Sharh al-Qanun al-Madani al-Jadid* explains that in both Arab and European legal systems, any contract concluded on the basis of financial corruption or abuse of power is not only void but may also subject the parties to severe penalties. In such jurisdictions, courts are empowered not only to annul bribery-related contracts but also to order the return of transferred funds and confiscate the illicit assets (Al-Sanhouri, 2010). Jafari Langroudi (2017) also notes that under Iranian law, any contract that involves an illegitimate element can be annulled based on general contract principles, and the parties cannot assert legal claims against one another based on such an agreement (Jafari Langroudi, 2017).

Another important issue in this domain is the challenge of proving that a transaction constitutes bribery. In many cases, bribery is so well-disguised within legitimate contracts that it becomes difficult to detect. For example, an individual might sell property to a government official at a price significantly below market value in exchange for a special favor. While such a transaction may appear legal on the surface, it is, in reality, a form of bribery. One of the weaknesses in current Iranian law is the absence of specific criteria for identifying such transactions. In contrast, in some countries, financial oversight institutions are required to examine all financial transactions involving public officials and report any irregularities to judicial authorities.

In conclusion, the jurisprudential and legal examination of transactions conducted as bribery reveals that Islamic jurisprudence explicitly deems any transaction involving financial corruption as invalid. Iranian law, consistent with general contract principles, also renders such contracts void. Nevertheless, challenges such as the concealment of bribery within legal transactions and the difficulty of proving them remain significant obstacles in enforcing laws related to the seizure of assets obtained through these transactions. To address these issues, it is recommended that more transparent mechanisms for monitoring transactions involving government officials be established, legal criteria for identifying suspicious or bribery-based contracts be defined, and financial oversight institutions be strengthened to detect such violations.



## 12. Discussion and Conclusion

The seizure and confiscation of assets derived from bribery and financial corruption constitute one of the most significant legal and criminal tools for combating corruption in various legal systems. This measure functions not only as a criminal punishment aimed at preventing the acquisition of illicit gains but also as a preventive mechanism to reduce the economic incentives for committing crimes. An examination of Iran's legal system and its comparison with international standards shows that asset seizure in Iran enjoys strong jurisprudential and legal foundations; however, in practice, it faces serious implementation challenges that necessitate fundamental reforms in legislation and judicial procedures.

In the realm of jurisprudential foundations, the principle of "*prohibition of consuming property through wrongful means*" (*ḥurmat akl al-māl bi al-bāṭil*) is one of the fundamental bases used to justify the seizure and confiscation of illicit assets. This principle, extensively discussed in jurisprudential texts, asserts that any property acquired through unlawful means is not subject to ownership and must be returned to its rightful owner. Shiite jurists have also emphasized that the seizure of assets derived from financial corruption is religiously permissible and can be used to uphold social and economic justice. Moreover, the distinction between seizure and confiscation has been considered in jurisprudence, with some scholars maintaining that temporary seizure is a supervisory measure aimed at verifying the legitimacy of assets, while confiscation, as a criminal punishment, must be applied under specific conditions and in accordance with Sharia.

From a legal standpoint, asset seizure and confiscation are stipulated in Iranian law as both punitive and preventive measures. The Islamic Penal Code, the Anti-Money Laundering Act, and the Law on Promoting Administrative Health all stress the necessity of seizing assets derived from bribery. Nonetheless, the enforcement of these laws encounters several obstacles, the most critical being weak financial oversight, the absence of independent institutions to manage seized assets, and the protracted nature of judicial proceedings. In some cases, due to the complexity of establishing the origin of assets, seizure becomes evidentially challenging, while in others, prolonged court processes allow defendants ample opportunity to transfer or conceal their illicit wealth.

In comparison with other countries, Iran continues to face difficulties in the effective implementation of asset seizure and confiscation laws. In many jurisdictions, independent institutions have been established to monitor the assets of public officials and prevent the accumulation of illicit wealth. For instance, France has established the Agency for the Management and Recovery of Seized and Confiscated Assets, which operates specifically in this domain. Additionally, advanced countries engage in more extensive international cooperation for the identification and repatriation of illicit assets, whereas in Iran, weak enforcement of financial transparency standards still impedes the asset recovery process.

One of the most pressing challenges in Iran's legal system is the separation of legitimate and illegitimate assets. In many instances, assets obtained through financial corruption are merged with lawful assets, making them difficult to identify. The absence of an integrated financial database and a lack of interagency collaboration among oversight bodies have resulted in some illicit assets escaping legal scrutiny. Furthermore, weak legislation related to the annulment of bribery-based transactions has enabled some defendants to use fictitious or seemingly legal contracts to shield their assets from judicial authorities.

Given these challenges, the following reforms are recommended for more effective implementation of asset seizure and confiscation policies in Iran:

1. Establishing an independent institution for identifying, managing, and monitoring assets derived from financial corruption, similar to agencies in developed countries.
2. Strengthening financial oversight and creating a unified database to identify and track suspicious assets.
3. Amending laws related to fictitious and covert transactions and developing more efficient mechanisms for annulling contracts arising from bribery.
4. Accelerating judicial procedures in financial corruption cases and closing legislative loopholes that allow offenders to evade punishment.
5. Expanding international cooperation for the recovery of assets derived from financial corruption and fully aligning with international standards such as those of the Financial Action Task Force (FATF).

In conclusion, while the seizure and confiscation of assets obtained through bribery and financial corruption are well-grounded in Iranian law, the implementation stage remains fraught with serious challenges. To enhance the effectiveness of this tool in the fight against financial corruption, structural reforms in Iran's supervisory and legal systems are imperative.

Adopting a comprehensive and coordinated approach among executive, judicial, and supervisory bodies can reinforce the criminal justice system and contribute to the reduction of financial corruption in the country.

### **Ethical Considerations**

All procedures performed in this study were under the ethical standards.

### **Acknowledgments**

Authors thank all individuals who helped us do this study.

### **Conflict of Interest**

The authors report no conflict of interest.

### **Funding/Financial Support**

According to the authors, this article has no financial support.

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