

Investigation of fund defraud in Iran criminal law

Elnaz chelongar

Masters criminal law, Islamic Azad University, IAU branch, Dubai, UAE

Corresponding Author: Elnaz chelongar

ABSTRACT: Fund defraud is the action of legitimacy of illegitimate money or incomes in a period, different kinds of illegitimate money in the society divided into three groups of dirty money, bloody money, dark money or gray money. Fund defraud when it took place the incomes gained does not have any lawful bases and for catching legitimacy they give the problem of ordinary money they apply Fund defraud to become clear. The gray money is the income made of manufacturing or production which is not observed by the state because of not paying taxes. The black money is made of smuggling and the dealing of state which they are not in regulations, the dirty money or bloody money is the income that is gained of transformation of narcotics. If you ask people in this case that "What's the dirty money?" the majority of them cannot reply and the state problem in this case is that the state is struggling with no one guilty crime. Fund defraud does not have any symptom of disgusting positions which other crimes like robbery or any other which affect on people's mind. But it can be told that fund defraud take place after obvious crimes such robbery or smuggling. People who do not know anything about fund defraud is natural which this makes the problems. Fund defraud is the procedure in which lots of money which is gained by smuggling or terrorist actions or other lawful fines want to pretend lawful money. Fund defraud has a big role in goals of narcotic smuggling, terrorist, organized crimes, local dealers, ones who do not pay tax and lots of other who want to make the state far from the illegitimate incomes, wealth and unlawful actions of themselves.

INTRODUCTION

Fund defraud is the activity of clearing or pretending lawful activities, nowadays fund fraud develops a lot during the world that it turns into one of major economic problems and it threatens the growth and economic development so because of it the international community is willing to fight against it and different solutions were made for it. In Iran also it is previously the attracted the views, fund defraud is an activity which during its activity the illegal activities find legal views or in the other words it is a procedure that illegal money turns into legal money and it entered the economy limb (Parliament, 1976; Lorestani, 1975).

This is a natural and logical way that criminals can gain profit from their illegal actions. The fund defrauders are ones who do illegal activities or make the money of them in to clear courses or they are the people who enter illegal money in to economic system consciously or unconsciously (Parliament, 1976).

Defrauders used to gain lots of money from defrauding or smuggling, cheating, the chase of wealth which are made in terrorist activities or financial defraud on Internet. Because the footprints of these people are visible in lots of banking financial dealings so the criminals apply credit cards and smartcards and they refer to cash also and the cash comes in hands of criminals to come in economic system (Bagherzadeh, 1972).

Fund defraud concept in world and Iran

Lawin (2001) wrote in the article "Personal banking and fund defraud" Money cleaning is taking place when criminals try to pretend their illegal actions to lawful incomes. Fund defrauds means that person or an organization pretend some illegal activities legal and it knows the gained incomes legally too. In the other word earning money from illegal references is money defraud (Ibid).

Article Bagherzadeh (1972) of United Nations indicate for fighting against organized international crimes: «Fund defraud is any fund which directly or indirectly gain from the criminal actions». International institutions criminal police define something such this: «Fund defraud is any action or treatment for hiding the illegitimate incomes in such a way pretending it is gained of a lawful way (Ibid).

Article Bagherzadeh (1972) the act of fighting against fund defraud admitted 1989 by Islamic parliament define fund defraud: A – Capture, owning, preserving or applying any kind of profits which were gained illegitimately or made of illegal ways.

The local initiation of 1979 mention in its 49 acts that: The wealth which are made of discrimination, force, scandal, defraud or other illegitimate ways should be rejected to its owners and if they are not definite should be given to state and this act should be investigated by the state to obey (Shafiee,1976).

One of the goals of setting up Islamic government is fighting against illegitimate incomes of statement and the victory of Islamic republic of Iran to leadership Imam Khomeini was with the goal of fighting against corruption. The states of United Nations are in suffering from illegal incomes and because of that they set up the act of fighting against the organized crimes. The acts 6 of Palermo convention declare about the incomes gained of crimes declare such: «Each of the member states should set up laws depending their local laws and do for finding the criminals». The state of Islamic Republic of Iran after joining to Palermo Convention admitted the act of fighting against fund defraud in Bahaman of 2007 and in this case try to find criminals (Ibid).

Iran and Fund Defraud

The bases of gray money is more in the countries which their economy depend on government and the state is the organizer of the interests in economical profits and as our economy is still in government making gray money is more probable from all illegal incomes. Gray money is called some action such corruption, run after the taxes and because still in Iran the tax is not defined one of parts of economy and most of people do not pay. If the fund defraud continues the gap between the masses increased and it affect investment security and economic activities.

Fund Defraud Impacts on Financial Institutions

Financial institutions are at the front of fighting against fund defraud. From one had the criminals invade and from the other hand the financial institutions depending on the laws and regulations should observe the dealings so the financial organizations are in target of fund defraud from two points:

In law field, as the requisites and regulations which they should obey

In financial field, as performing for the supervisors, the financial institutions should make the systems to disobey the fund defraud and help to statement to fight against it.

Challenging Fund Defraud in Iran

As you know the crime of fund fraud is a procedure of making illegitimate incomes to legitimate which after expressing this crime in Iran the legal system and law researchers went to invent the crime and at last in 2007 the crime of fund defraud was admitted by Islamic government. Despite the concept offund defraud we want to search the expressions of regulations of the initiation to authorize about this crime (yaserzade, 2008).

One of the ways of inventing the crime of fund defraud is that the council of opponent fund defraud depend on the article Shafiee (1976) of the mentioned law give a report to legal system, providing the news and documents of information and reports of suspicious dealing to fund defraud should be observed by the council of opponent fund defraud by management of economy ministry, intelligent service and internal affairs which the tasks of this council is as following:

1- Absorbing the information about the analyzing the regulations and investigation about them. 2- providing the suggestions about the regulation to give to the minister council 3- cooperating the doing initiations for running the laws in country 4- analyzing the reports which they are going to legal system5- interaction with other countries about in the framework of the act 11.

It should be mentioned that the council of opponent fund defraud by the legal system and when the possibility of doing the crime the legal system should know about it and the legal system would turn in to the law breakers against the rules and regulations, the personalizing the branch would not be against the authorizing the problem (Ibid).

The text of the act was written in a way which it has two mistakes first these kinds of crimes should send to the court and then to the main court but the text of article sadeghi (1975) has lots of ambiguity that it is not resembling the crimes such rape or the crimes concerning to children and the authority which was mentioned should be a public court not like the revolution court which can authorize all the crimes (Shafiee, 1976).

But the second ambiguity of this is if one smuggle the narcotics and the incomes of this job was investing in fund fraud as finding the crime by the court it can authorize solving this case or the article sadeghi (1975) should authorize about these kinds of crimes but the legal complex of financial frauds authorize to set up and solving these problems and this was mentioned in article sharifi (1976) of act 9 which is such: «The criminals about the fund defraud as doing the crime in addition to the mentioned crimes the court can investigate about the first points of this crime and the court of Islamic revolution is authorized to solve the problem against Tehran financial court (Shafiee,1976).

Iran politic concerning about fund defraud

As it was mentioned the writers of constitutional law in 1979 they mad article mirmohammadi (1976)and after a while the article mirmohammadi (1979) was declared generally about the struggling with corruption. As an instance the act 8 of this law indicates that: «The court after making obvious the prosperities of real and unreal people but when the owner is not clear, give its authority to the state and fifth of it regard to the leader. The article Bagherzadeh (1972) of the criminal laws admitted in 1987 of Islamic parliament and the1992 authority of government define such this: «Anyone who owes and the way of it gained was illegitimate it is known the crime and the one committed to give it back and he would fine double.

The article sadeghi (1998) of the reviewed law challenging with smuggling admitted 1997 by the authority of Islamic republic defines such following: "All the propriety which is gained by smuggling and also the prosperities of outdoors criminals and they can be captured by the state depending on article shafeii (1993)of constitutional law (sadeghi, 1998).

Iranian law makers in challenging with legal and illegal actions which they discovered via personal prosperity and they are thinking about getting others prosperities and they predicted their chasing why the slogan of Islamic republic is looking for the justice, ethics and there are lots of rules in this case (Ibid).

Iran criminal policy regarding to Fund defraud

Some acts of criminal law and the act of 49 constitutional law and the procedure of doing act 40 depending on admitted act at 1983, the acts of 28, 30 of right of challenging with narcotics admitted 1997 and its review and the act 2 of law challenging with corruption and «Illegal incomes» and after joining Iran to the convention 2000 Palermo editing the law of challenging with Fund Defraud admitted by the Islamic council and this was admitted in 2007 by Islamic council (yaserzade, 2008).

Criminal – Judicial Institutions

Legislation in article Bagherzadeh (1972) of the fund defraud law define the ways of getting illegitimate incomes and know it as crime. In the article Shafiee (1976) of this law it is defined that any profit that mad by this job directly or indirectly pointed out and in the article mirmohammadi (1979) it was predicted. In this case a legislative policy was given up and it should analyze and look for and supervise all the illegitimate incomes in this concern and although the legal system and inertial ministry and superior legislatives are the authorities in this case but the line 4 of article Lorestani (1975) précised clearly that it could be probable and it has high effectiveness (yaserzade, 2008).

Islamic Republic legislative regarding to its history and the defraud of managers, paid attention a lot to the justice excel and by appreciating human it insisted on supervising the prosperities of managers and it is mentioned in article yaserzade (2008) it was predicted in the case that they cannot chase judicially and with this Idea the courts revolutionary court some branches of this court were precise to work on these cases. The particular court does not interfere other crimes to judge about (Ibid).

Punishment of Fund defrauds crime and gives back the prosperities

The act 9 of this law defines about the punishment of fund defraud «The one who commit fund defraud should give back the amount in addition to the interests of that job (and if it does not exist, something like it) they commit to pay the cash punishment which it should be paid to the Islamic republic of Iran repertoire (Ibid). Note 1 as the benefits turn in to some other prosperity those should be given.

Note 2 as the one who committed does not use the benefits of this affair cannot be accomplished in this category. 3 The ones who commit this crime would be committed to the punishments which predicted in this case the task of giving back of the amounts of money which they failed and first we think that it is mentioned in article 9 of this law and may be from the public repertoire and about the ones who commit this crime they doubled and the judicial institutions reach to this too (Ibid).

CONCLUSION

Whereas it was expressed the effects of fund defraud on the economy of different countries. In accuse of controlling, predicting the convention of United Nations in the year Of 2000 was admitted by the president. The document about cooperation in this field was signed also.

The mentioned document was admitted by the Islamic council in 2007the aim of this document was struggling with the economical frauds and the economic development can be efficient on people life. Each time the economy becomes more active in the society the idea of investment would go farther and it obstacle the criminal tasks.

Suggestions

Informing people of fund defraud and the illegitimate incomes of real and unreal people
Giving the interpretation of act 49 of constitutional law admitted in 1983
Electronics accounts of citizens and legal people
Observing the opening accounts of and pretending of opening the accounts for non-real people
Training the experts of banks and polices and the judge of the courts
Introducing the financial institutions to people
Omitting gradually of cash dealing of people and making electric accounts for people
Giving instant statistics and earning illegitimate incomes
Refunding the accounts of legal incomes

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