

## **Cognitive Reaction of Exchange Crimes in Iran's Criminal Policy**

Economic crimes, including stock market crimes, have various examples that have changed in terms of examples and nature over time and in their historical developments. Criminal protection of the economic interests of individuals and governments has been the main basis for criminalizing harmful economic acts. In the next stage, the punishment of the relevant crimes is an important challenge in its deterrent and compensatory nature. Identifying and determining appropriate punishments for stock market crimes can have a great impact on compensating the victims, creating economic security and market stability, and completing the mission of criminal law in this area. The primary role of financial markets, in general, and the capital market, in particular, is to help convert the savings of individuals and business units into investments, which are made by other economic units. Capital market institutions, which include: self-regulatory institutions, such as: stock exchanges, commodity exchanges, securities depository and custody institutions, and market intermediaries, such as: capital supply companies (investment banks), brokers, traders, investment consultants, market operators and investment companies, as legal entities, must have specific criminal regulations and, in terms of punishment, legislation should be made in a way that allows the most tangible results from the protection of criminal law to be observed. As some believe: In the Iranian legal system, there is no specific logic governing punishment and the laws are full of disproportionate punishments, in terms of type and amount, and ineffective in achieving the goals. Stereotypical and irregular punishments not only do not achieve the goals of punishment, but also have undesirable and adverse effects on the offender. Determining the appropriate punishment and its optimal degree, which is most effective, is a very complex matter and requires attention to many components. Perhaps it would be better to clarify the issue with two questions: How should the punishment for stock market crimes be determined? And what criteria are there for choosing the type and amount of the desired and optimal punishment for stock market crimes? The answer to these questions can determine the criminological aspect of stock market crimes. Any disruption, harmful and criminal act in this market can be considered to have negative and harmful effects on the reputation of this important market, in addition to material losses for companies and investors. The chaos caused by criminal acts in the capital market is a factor that causes the need for criminal protection in this market to be felt with special attention. In criminalizing and punishing these crimes, it seems that justice and proportionality have not been observed. Placing these crimes in the group of 6th degree criminal offenses, with low cash penalties, can reduce the deterrent and compensatory nature of crimes in this area. This research aims to evaluate and measure the penalties for these criminal behaviors by considering stock market crimes as economic crimes and ultimately answer the question of what type of punishment and with what severity can be appropriate for the aforementioned behaviors.

Criminal protection of the capital market and shareholders' rights is considered a temporary institution in stock exchanges and cannot be considered a part of this complex by nature; because commercial relations are subject to the rules of civil law and rely on private law. Due to certain events and behaviors that occur in the capital market, significant and sometimes minor losses and damages are caused, and the nature of these behaviors can be considered criminal; because they are accompanied by bad faith. In this regard, criminal law in the Stock Exchange Law is trying to establish economic order and realize the rights of its owners by criminally protecting this market. Due to the exceptional approach of criminal law intervention in the capital market, generally, the determined penalties are very mild and do not seem to be proportionate to the behaviors committed and the amount of losses caused. The need for proportionality between criminal behaviors and the determined penalty is an issue that can be justified by considering the special characteristics of stock market crimes. Stock market crimes have specific characteristics in the Iranian legal system; some agree with including these crimes in the group of economic crimes, while others disagree. However, it seems that stock market crimes, although they do not have all the conditions of economic crimes, such as being absolute and not bound by the result, can be considered a part of economic crimes in terms of the impact they have on the rights of property owners (shares) and the economy as a whole. The absolute nature of stock market crimes, the ability to commit these crimes in a corporate manner and by

legal entities, harming the economy as a whole, having mild penalties compared to other economic crimes, and being divided into two groups of stock market crimes specific to and common to economic crimes are among the most important characteristics of economic crimes. These characteristics make it necessary to make the penalties for stock market crimes proportionate to the harmful behaviors in this area. The necessity of proportionality between stock market crimes and the committed behaviors is because stock market crimes do not have direct and certain harm. Stock market crimes do not have a specific victim. Stock market crimes are not explicitly included in the group of economic crimes and the distinction between stock market crimes and stock market violations is not clear; however, it seems that there is no proportionality between stock market crimes and punishments. The criteria that determine the disproportion between stock market crimes and their punishments are the lack of a guarantee of compensatory enforcement for stock market crimes, the lack of a proportionate and comprehensive economic legal perspective and system, and the economic imbalance in the application of criminal enforcement guarantees. These are the most important components that prove that stock market crimes are not proportionate to the determined punishments. The 6th and 7th degree Ta'zir punishments, as well as the referral of some punishments to other laws, are other cases that indicate that this disproportion is real. Each of these components, if observed, can result in the following: first, the rights of the injured party being compensated; second, the entire economy and everything related to the economic order being protected and regulated; third, the reform of criminals and the element of deterrence being applied in an efficient manner from a criminological and economic perspective, following the determined punishments.