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Original Article

An Analysis of Role of Governmental Discretionary Punishments from the View of Iranian Jurisprudence and Law

Ali Ansari[1], Abulhasan Mojtahed Soleimani[1], Aliakbar Ghasemi[2*]

[1]Associate Professor of Kharazmi University, Tehran, Iran
[2]PhD Student of Private Law in Kharazmi University, Tehran, Iran

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ABSTRACT

The necessity of governing market is one issues covered under "probate" (hesba) and today is enforced within the governmental discretionary punishments in a modern form. Today with spreading of trade relations and existing evolutions in field of commercial contracts, the main issue of this study is about necessity of sup[1]ervision of governmental discretionary punishments organization on related litigations according to their special circumstances including challenges faced this organization. This research concludes that in spite of positive functions performed in regards of dealing with and judgment of the commercial litigations, the organization is faced several challenges which most of them are related to inadequacy of regulations of supervision on the commercial litigations and lack of clarity of hearing ones.

Keywords: Discretionary Punishments (Tazir), Probate (hesba), Governmental Discretionary Punishments Commercial Litigations, Commercial Arbitration.

Problem Statement

Upervision on commercial system is one of necessities which have been in the attention of governments from the past. Within Islamic jurisprudence, probate (hesba) issues are under authority of jurist guardian and there are some rules about the commercial and economic issues. The governmental discretionary punishments in general terms has always been used by Islamic governments from the beginning of Islamic period, but in special terms it has established for prevention of prevailing economic violations in the beginning of the imposed war with Iraq. In 1983, the then prime minister got permission of Imam Khomeini (peace be upon him) for pricing and controlling of the economic conditions by state, and "commissions of governmental discretionary punishments" were established for dealing with economic violations which continued until 1988. After end of the war, Imam Khomeini issued the exigency council to make decision about the governmental discretionary punishments tasks according to existing conditions and interests. On 14 March 1989, with approval of "governmental discretionary punishments rule" and "governmental discretionary punishments rule of health and treatment",

the council assigned the duty of dealing with violations of governmental sector to the commissions of governmental discretionary punishment commissions, and that of private sector to Islamic revolution courts. This trend continued until mid of 1994, and on 11 October 1994 according to the article of rule of adjustment of the governmental discretionary punishments rule, approved by the exigency council, it was required that according to the necessity of supervision and controlling economic issues by the state and coordination of authorities of pricing, goods distribution and enforcement of related regulations, all issues of governmental discretionary punishments in the governmental and nongovernmental sectors, including supervision and inspection, dealing with and issue of definite order and its enforcement, would be upon the state (executive power)to act according the required crimes and punishments within the governmental discretionary punishments rule of 14 March 1989 (Collection of advisory views, Bita, pages 11-12).

Following this issue, in 1994, the governmental discretionary punishments organization was established for hearing and issuing order of the related violations under the supervision of Ministry of justice which until now has discharged duty within legal competencies and as a powerful governmental aid in supervision and controlling of economic issues. The present competencies of this organization after approval of law of consumer rights on 07 October 2009 of Islamic consultative council include dealing with the governmental and nongovernmental economic violations (including private sector, guilds, etc.), smuggling goods and foreign exchange violations, and health, medicine and treatment violations, and all executive officers of judicial body, and inspectors of Ministry of commerce are executor officers of these tasks. After investigation about the concept of governmental discretionary punishments in jurisprudence, and standing of supervision and adjustment of market in jurisprudence records, this study investigates about functions of the governmental discretionary organization in commercial litigations.

Concepts

Lexical definition of governmental discretionary punishments (Tazir)

"Tazir" means "correction", "honoring", "assistance" and "prohibition" (Dehkhoda dictionary disk, key word of Tazir, Tehran University Press) [4]. Ibn al-Athir says that "the main root of Tazir goes back to prohibition, and victory means holding back of enemy from a person and keep the person safe. Punishment is called Tazir because it prevents offender from repetition of crime" (Ibn al-Athir, Bita, Vol. 3, page 228, Ibn Manzur, 1993, Vol.4, pages 561-562).

Ragheb Isfahani writes that "Tazir means cooperation with respect, and it also a punishment less than usual which this meaning goes back to the first meaning; because the aim of this kind of punishment is correction which can be regarded as a kind of assistance" (Raghib Isfahani, 2004, page 345).

Then he added that the assistance is in two kinds: "sometimes keep a person from damages incurred by others and sometimes prevent him/her from damages made by others asked that A prophetical narration orders that assist your brother either he is the oppressed person or the brutal one. The question raised that how we can a brutal person? It was replied that prohibit him from ill-treatment" (Ibid).

Thus we can conclude that main aim of Tazir is correction of the perpetrator and purifying society, and it originates from divine mercy and it has not the meaning of punishment.

Idiomatic definition of Tazir

In religious law definition Tazir is a punishment for which no measure has been determined (Shahid Thani, 1992, Vol.14, page 325). It means a punishment which has not been determined in divine law and is contrary to Had (Definite punishment defined by sharia) and in jurisprudence it is defined as a punishment which no measure has been determined for it by the divine legislator (Najafi, 1974, Vol. 41, page 254). Its main discussion stand is the Hads chapter; although it has also been discussed in the chapters of Fasting, Haj, Commerce, and Marriage.

Investigation about works of Imamieh scholars shows that there has not done an argumentative and independent discussion in regard of causes and bases of Tazir and just can be deduced it from some statements of Imamieh scholars in such a way that some of scholars such as Shahid Awwal and Shaykh-i Bahāʾī in comparison of Had and Tazir say that: Tazir is the function of an disturbance exciting action (Omeid Zanjani, 1997,page 16), and is contrary to Had which is subject to sin (Ameli, Bita, pages 285-286). According to some of scholars statements we can use of the discretionary punishment to remove the root of corruption. For example murder of a person by minor or insane is not punishable because of lack of responsibility of those two, and they just deserve correction because of their violation (Tajari) (Thani Shahid, 2003, Vol.9, pages 354-356), it is the same that according to scholars the Tazir punishment for use of material which has effect on mental consciousness (such as Bang and Shokaran) is because of their corrupting effect (Habibzade, 1991, page 53). According to the late Imamieh scholars, an Islamic government can enact any rule in interest of the system and punish its violator (Eini najafabadi, 1993, pages 106-107; Feiz al-Islam, Bita, Letter 53, page 1018). The jurisprudence rule of safe guardian of the religious system is an important establishment which can be utilized by the Islamic ruler in punishment of violators in system.

According to Sunni scholars the principle of (Tazir in the interest of world) is a jurisprudence establishment (Al-fra, 1985, page 284). On this basis, in Islam sharia, Tazir execution is in priority for sins committing, but sharia permitted the execution of Tazir in non-crimnal cases, meaning cases which has not been specified in sanction, provided that it would be in the interest of general people. In this case the committed action is not prohibited per se, but it is prohibited because of special description. So, the committed action is prohibited if it would be known as the desired description else it would be allowable. The description which is the cause of punishment includes incurring loss to the public order and interest. When there is such description in the perpetrator behavior, he/she would be deserved of punishment and the ruler should punish him according to proper Tazir punishments by discretion.

The mentioned principle from the view of Sunni jurisprudence is based on the rule that: special loss is tolerable to repel the serious general loss and minor loss (Owdeh, 1994, pages 172-177; Amer, bita, pages 63-68). So, the second cause of Tazir punishment is committing a behavior which while is not a sin from the religious point but involves a public mischief and intervention in the society order, and is a

crime from the view point of Islamic government in order to safe guard of system, prevention of social corruption, and correction of society, and determine punishment for the offenders. Acceptance of these standards is dependent upon legitimacy of Islamic government authorized by guardianship and is not disputable.

According to some of scholars (Amid zanjani, 1997, pages 14-203), the punishments determined by Islamic ruler in the interest of public and prevention from corruption in a society is not Tazir punishments, because Tazir is those punishments executed for a disobedient person in related to religious law. In other words, Tazir is executrd just for violation of religious decrees, but for about punishment which is executed because of interests of society and prevention from individual and social corruptions, there is no condition that the religious decrees be violated, so this kind of punishment may be called preventive punishment or governmental Tazir. Other scholars regard Tazir a correction of a person which should be executed for a person who had committed an indecent behavior, either in related to religious command or the ruler (Al-gharshi, 1987, page 191). One of duties of legitimated government with legal guardianship is safe guardian of system and public interests which is possible through order establishment and dealing with offenders and their punishment (Ibid).

According to some of scholars, the punishment enacted by Islamic government for committer of illegal behavior of system and public order is called punishment (ta'zir) (eini Najaf Abadi, p 1081), on the contrary, Imam Khomeini knows commands and governmental orders or Soltanieh orders in the primary orders and they are called Tazirat punishments. This is obtained by considered request:

Question: some regulations are approved in parliament to manage the state, like smuggled law of customs, driving violation, municipality and generally Soltanieh order defines some punishment for violators, are they legal punishment and if this order qualitatively belong to other parts and separated from Tazirat and they should be followed? Answer: Soltanieh order is outside of legal punishment, in the first order, violator can be punished by the command of order or lawyer to Tazirat penalty (Mosavi Khomeini, 1987, p 172-168; Makarem shirazi, 1985, p 64).

In Iran criminal law, punishment is a kind of penalty that under legal limit. In other words, punishment is a penal for crimes except those for which Islamic penal law has been considered. Punishment is not certain legally and it is kind of punishment in religious law that legislator has not determined a limit for it contrary to limits and punishment literary refers to reverence, correction and prohibition (goldozian, 2005, p 164). Punishments are uncertain penalties, but limit for punishment is based on tradition and book. The main criterion for punishment is less intensity compared to limit and value and quality of penalty is by the confirmation of judge. In punishment, criminal personality interferes with physical, mental status, time and place, while limit of function is applicable to the title. It is also hoped that criminal's reform and punishment is a condition and it is null by repentance and it is adorable and Islamic rulers have right to forgive (Zeraat, 2009, p 44). In law related to Islamic punishment enacted in 1982, the principle of crime legibility and punishment has been predicted and following he has stipulated in Islamic punishment law

enacted in 2013: (any act or omission that punishment is determined, It is called crime). Therefore, Iran Islamic regulation has accepted the principle of crime and punishment and constitutional spirit and implicit denotation has removed some principles as well as Islamic punishment opportunity (Habib zadeh & Mohaghegh damad, 2009, p 20-40).

Religious history of governmental punishment

When studying of religious history, we meet some institution called Hisbah institution. Although the term Hisbah is a Quran word, it has abundant application in Shia and Sunni religion. In Shia perspective, this word is used when discussing government base, government and occupation permit, however, in Sunni religion, it has been applied in structure, elements and government institution. Therefore, it is certain that common pint at all Hisbah application has direct connection with government system (Sarami, 1995, p155).

Hisbeh roots Hasab namely counting and its usage are: doing something for gad's satisfaction (Ibn- Manzur, 164-166), fairness in social affairs (ibid), inquiry and investigation (Ibid), addressing market place and profession owner and prohibition of deception and merchants and work such that. (Ibn Akhu). Duty of Mohtase in issue related to economic knowledge namely business and work, balance, values as well as properties of medicinal plant and other medicinal substances and social science namely public behavioral and people relationship to each other, companion good will, prohibition of violence and aggression and even annoying others and finally public health writes:

Hisbeh is one of religious principles and Islam leaders manage to do this, because its goodness and reward is high. So good conduct is abandoned, Hisbeh will be directing others to do what is lawful. Enjoying not to commits what is unlawful. God says:

There is no benefit for their whisper unless someone orders it as charity or good work or decides to reform people". Censor is determined by Imam or successor to supervise farmer circumstances and to review their affairs (such as transaction, sale and buy, food, clothes, water and housing as well as matters related to roads in terms of safety, directing others to do what is lawful and enjoying not to commit what is unlawful. censor is obliged to be adult, righteous and powerful (Ibn Akhou, 1998, p 9). Ibn Khaldun is also knows Hasbe one of religious duties and example of enjoying the lawful and forbidding the sinful acts that is necessary to be performed by those in charge of Muslim affairs. He has explained the duty of Islamic inspector as:

Islamic inspector are inspected by abnegators and he execute punishment proportional to abnegator and he make people to follow public interests, prevent blocking road ways and he has forbidden ship crew to carry more load than their capacity and make order to the owner of buildings may expose to collapse to destruct their building and whatever that there is loss for passenger in public passages.

They prevent the teachers from overindulging in punishment and representing violence to the new-learner children in the schools. Of course, his judgment and interference is not limited to the cases of quarrelling and bringing a complaint and seeking help, but at first, he can research on the issues of malfeasance and he consider the cases he becomes aware of and issue a judgment for them, although he cannot apply any views about

all brought complaints, but his operational circle is limited to the affairs which are related to dishonesty and fraud and something apart from it and the weights and the sizes and he can also force the people who refuse to pay their debts and approve delay and cunctation in it and the affairs which have no need to judicial ceremonies like listening to testimony of witnesses and ratification of judgment. It seems that in the mentioned cases, because of comprehensiveness of these affairs and easiness of acquiring motive from them, examination of them is not assigned to the judicial system, but it is assigned to the liable of debate (Ibn Khaldoun, 1996, p. 225). Kattani also narrates from "Kashad al-Zonun" that:

The science of calculation discusses about the current matters of the people of country such as the dealings which the urban life does not form without it and in terms of its flow according to a fair law and procedure so that it warrants the agreement of both sides of the dealing and it also discusses about the plans and administration of the matters of God's servants through enjoining good and forbidding wrong, of course in the order which the caliph knows to be good and so that it does not result in difference and superiority of people. Some parts of the reasons and its principles are jurisprudential (such as unlawfulness of adultery and thievery) and another part is juristic preference matters deriving from caliph's view and opinion and the aim of learning the science of calculation is to obtain the ability for controlling the affairs of the country and its advantages is to run the affairs of country in its passages in the best way possible and this science is one of the most accurate sciences and the individuals who have not pervasive understanding and correct guess cannot understand it, because the persons and the situations and the times of a country is not always carried on a constant carriage, but a particular policy is required for any time and for any situation and this (recognition of the status of the community in each age and recognition of the policy which is appropriate for that situation) is one of the most difficult tasks. Therefore, in order to administer its affairs, no one has competence except the person who has divine power and away from capricious desires (Montazeri, 2010, vol. 3, p. 471).

According to what has been presented in Hasabeh and Bab-al-Hasabeh books from Soltaniyeh judgment books about the duties and competencies of police officer (Muhtasib), enjoining good and forbidding wrong can be named as two original pillars and in more detailed discussions, the following cases are accounted as the police officer's tasks:

Supervision on the affairs of the market and marketing including order and development of the market, validity and health of scales and weights and other devices of measurement, forbidding dissimulation and misrepresentation and deception in the dealings, prevention from impermissible transactions including null sales, federation, null contract for delivery with prepayment, null hire, null association and propagating the heart coin, prevention from hoardings, goods and commending the goods with the qualities which are not real, accuracy in the health of productions, prevention from crossing barriers and installing kiosks in the passage and etc.

Fighting with the obvious wrongs including forbidding the drinking in public, preventing from governing the others' houses, prevention from troubling the ladies, prevention from exhumation and insulting the dead persons, prevention from installing the downpipes which come out of the wall and the water pours on the

passerby's head, prevention from the attendance of the beggars who sit down in the market and read Quran and etc.

Development of benefactions and execution of good including supervision on correct and appropriate execution of Friday and collective prayers, method of establishing the mosques and the method of decorating them, cleaning the religious ceremonies from the superstitions, parents' force for daughters' marriage with their similar, obligation of divorced women to observe the judgments of divine vacuity period, physicians' obligation not to reveal the mysteries and to abstain from the inadmissible works, physicians' swearing that they do not give anyone harmful drugs, supervision on the children instructors and etc.

Maverdi states:

"The judgments of probate are in agreement with the judgments of adjudication in two cases, brief in two cases of it and excessive in two cases of it. But about the two agreed cases, at first, this is permissible that they complain about the humans' rights near the police officer and he hears the complainant's claim against the defendant, and this is not general, but limited to very low price (low-giving someone's right) and shortchanging in measure or weight or fraud or deception in good or price or delaying the loan if the debtor has financial ability which these are obvious wrongs and the police officer is appointed for resolving these matters and also setting up the good works which is its task. The subject of probate is to administer justice and to help vindication of rights.

Inspector makes defendant to fulfill an obligation when he/she confess to violation and can return the claimant right since delay in this matter is inappropriate and infringement (Maverdi, 1985, p240).

Two cases are beyond the probate inspector's duties and are related to judicial system. First case is hearing the arguments which are beyond the forbidding wrongs such as contract, presumption and cancellation. Second case is limited to rights which are admitted, but if they are denied reasons and witnesses are required which are among judge duties. Another difference is that inspector can focus on Enjoining good and forbidding wrong in related affairs even if there is no complaint, but judge cannot do an action except in the presence of defendant and complainant. Another case is that inspector has authority to supervise the guards in whatever that is related to forbidding wrongs and judge dose not such power. The reason is that probate affairs was established based on fear and when domination and authority is used by inspector, it is not considered as violation from post (ibn –Akhoh, 1926, PP 11-12). It means that judge and inspector have independent executive territory in addition to common aspects.

Application of governmental discretionary punishments in commercial claims

Public courts, revolution and governmental discretionary punishment organization are qualified to handle criminal affairs according to case. Complexity of qualifications in commercial criminal affairs is to the extent that its dimensions cannot be explained simply. According to the trade system law adopted in 1980 about trade system courts, Article 46 says that: Ministry of justice will assign several branches of public courts and its executive directives in Tehran and other cities to manage crimes and violations mentioned in this law. According to Note (2) of the mentioned Article, fast trial is

among privileges of especial courts of trade systems and it says that:

"Crimes mentioned in this law and its directives will be addressed directly and without due process related to primary investigations and issuing an indictment".

Government was allowed to determine prices and to control economic and commercial system since 1983. Moreover, some commissions were established for governmental discretionary punishments under the supervision of Ministry of the Interior with qualification to handle all violations that have economic aspect somehow. According to the governmental discretionary punishments law adopted by Expediency Council in 13 March 198`8, commissions of governmental discretionary punishments organization and Islamic Revolution Courts are responsible to deal with governmental and private section violations, respectively. The trade system law was canceled one year after the council's resolution.

Increasing of government authorities in dealing with economic issues reached to the greatest extent with next resolution of the Expediency Council in 11 October 1994. Newly approved single-clause bill and the Note (4) are related to handling and issuing the final judgment and responsibility of all authorities in enforcement of governmental discretionary punishment principles. single-clause bill: considering the need to control and monitor the economic affairs by the government and harmony of different authorities in pricing and goods distribution and enforcement of related principles, all affairs related to discretionary punishments of governmental and non-governmental sectors including inspection, monitoring, handling and issuing final judgment and its enforcement is delegated to the government (executive branch) in order to act based on determined crimes and punishments in the governmental discretionary punishments law in 13 March 1998.

According to the Note (4), justice system, police, executive systems, nationalized companies related to the government, Revolutionary institutions, non-governmental public institutions and Subsidiaries Organizations, Organization of Deeds and Property and prisons are responsible to enforce the discretionary principles related to this Act. In addition to the above mentioned cases, Acts of applying governmental discretionary punishments related to goods and currency smuggling and the directives were adopted by Expediency Council in 2 May 1995 and government cabinet in 21 May 1995, respectively and to address and increase the smuggled punishments, some competency have been anticipated for governmental Tazirat organization in note 2 of article (4) the above act as well as article (8, 9) related regulation and the following note.

It is worthy of mention that in our country, legislator has not mainly made distinction between honest court to address commercial and other claims. Otherwise, those cases that are in contrary to private reference competency, public courts address economic crimes of violence.

Governmental Tazirat organization is two stages and appeal authorities have been anticipated under the name of appeal supreme divisions since 1995. Revolution courts have been faced by forming governmental Tazirat quasi - judicial authorities. On one hand, the most important economic crimes are addressable in Revolution courts through death penalty, 5 to 20 years (is major disorder) or 2 to 5 years imprisonment (no major disorder); on the other hand, it cannot be said that revolution courts only

address highly significant issue because by the protests of smuggled and discovered goods with value less than 10 million Rials are within revolution courts or public honest courts and on the contrary, by the protest the owners of smuggled and discovered goods with value more that 10 million Rials are within the competency of governmental Tazirat organization [9].[1]

According to the principles of specific authorities in other cases, public courts are responsible for economic offences. For example when it is necessary to standardize the compulsory goods and produce, distribute, and to sell them after the expiration date with a quality lower than standards of Iran (According to the article (6) of regulation modification law of the institute of standards & industrial research of Iran in 14/ 5/ 1993, this organization can standardize the goods or apply some part of these standards or regulations that guarantee the public safety and the quality of products, support the consumer, or are necessary due to their economical and welfare values based on the principles of high council for standardization. Therefore standardization should be done during the moratorium that last for more than three months). Therefore, the violator businessmen may be sentenced to a one or two-month jail and pecuniary punishment for about 100,000 or 50,000,000 Rials (Article (9) of regulation modification law of the institute of standards & industrial research of Iran in 14/5/1993).

The inefficient control of discretionary punishment section on trading activity

Some obstacles avoid discretionary punishment section to control trading activities in an efficient manner. For example, having specific and clear regulations is one of the main features of organizations responsible for economic offences. Therefore it can be concluded that one of the disadvantages of discretionary punishment section is its lack of enough resources to be applied in judicial law. Also the existence resources lack of enough scientific bases. They don't follow the ordinary scientific method used in the field of law.

Although over one century is passing from establishment, tribunals are faced with numerous problems, in application and enforcement of law, whether old laws like civil law, or enacted laws in recent years, and they refer to juridical texts which are the outcome of judicial experts, and high ranged scholars, such as Imam Khomeini, in investigation and prejudgment; and fortunately they don't face with lack of reliable resources, but concerning the acts of Governmental Discretionary Punishments Organization, there have not been so much development and promotion, due to novelty of related questions, and inattention of some of experts and scholars of law; in addition, there have not been so much evolutions and changes in these rules in order to any amendment.

Of course, some of employees in Governmental Discretionary Punishments Organization, who have some gift in writing, tried to draw on the representation of prevailing regulation over shopkeeper union, and investigation on supervision regulations in Governmental Discretionary Punishments Organization branches, but due to juridical problems, and gross

According to article (8) government tazirat organization regulation enacted 1994/8/1; to address and issue vote regarding government Tazirat law in provincial and city some branches entitled branched addressing to Tazirat will be established. Included branches are review and primitive branches. Note 1 Primary branches attended by one chair are held. Note 2 Review branches attended by one chair and two members are formed. The meeting is recognized by the attendance of two members and issued vote will be performable by two credit vote. based on article (23) of above mentioned regulation attached 1995/6/11; according to note 6 of article (2) punishment act by economic system

violations of existing rules, and instructions, such individuals have been destined to collection of laws, regulations in its unrefined form, or by copying over unrelated resources, they have tried to adapt and revise something that doesn't exist in real world. In continuance, other available deficiencies would be examined in brief.

One of golden advantages of Governmental Discretionary Punishments Organization is the anticipation of mobile branches. In such branches, the head of branch accompanied with supervision equip investigate, and the offence investigated amount to obvious crimes. Mobile branches are considered as one of judicial system ideals. As offences are judged in presence of a judge, it can lead to a brief and fair judgment, from the proof of witness and supervision procedure point of view. Unfortunately, the allusion of regulation in this regard is brief and insufficient. This important issue contains such a importance that we need to set a regulation for it. The examination of offences in Governmental Discretionary Punishments Organization is performed in two phases: initial and amendment. Initial examination can be performed by the report of commercial organizations, union report, and supervision units and shopkeeper's union investigations, Consumer Rights Protection Association report, General Inspection office report, and other judiciary, public, and disciplinary authorities, and legal and natural persons. Accordingly, in case of complaint of legal and natural persons and other judicial, public and disciplinary authorities, the primitive branches send a copy presented report to relevant branch, for reflecting the expertise visions to related branch. Although the possibility of making any complaint from legal and natural persons in primitive branches of on Governmental Discretionary Punishments Organization is possible, however, the question is that the very subject is an obstacle to the referral of people to the association of consumer rights protection, and will question the reason why such organizations are created, and will damage commercial activities of people.

Considering what we have already said, regulation concerning the organizational, public, and financial and recruitment affaires contrary to act on civil service management, which are terminated and are not executable, since its binding date. Based on this, Governmental Discretionary Punishments Organization is faced with legal gap, and it is necessary to take such issues into account and annexed to the organization regulations, for not encountering any problem in execution of such affaires.

There are some gaps concerning regulations about investigations in Governmental Discretionary Punishments Organization Branches that makes some ambiguities and problems. First, although, under act of civil service management, act 127 , regulation contrary to this rule are abolished, however, this issue can't change the resolution of Expediency Discernment Council, and regarding administrative and financial affairs of organization, act on civil service management replaced regulation enacted in cabinet member. Secondly; in some cases, other forms of regulations is prevailing other than organizational regulation on the form of supervision on Governmental Discretionary Punishments Organization**.**

Conclusion

Governmental Tazirat organization as a quasi-judicial institute is one of the important and influential institutions in current economic situation of Iran; if the

tasks defined for this organization are well performed, then an important step would be paved toward economic boom and commercial activities of the country. Tazirat organization is proposed as an expertise institute in the fight against economic offences such as profiteering, hoarding and smuggling in anticipation of a progressive criminal policy; it has a legal-administrative nature but its control is entrusted to 'Executive' power due to observing some interests.

One of the important and very determinant tasks of this organization in the framework of country's economic achievements refers to purification of business environment. On the other hand, other tasks of this organization include improvement of working space, exact and continuous control on pricings that itself would lead to improvement of businesses and realization of resistive economy. The trial process is performed in this organization by help of two councils of magistrates and appeal. Under the law, they investigate about predicted offences. From the beginning of Islam till now, this type of legislation had existed in Islamic states under different titles; in other well-known legal systems, it also has a specific place proportional with judicial and administrative formation.

The philosophy of determining qualification of tribunals is to create skill, accuracy, and pace in proceeding of infractions. Observance of qualification has a significant impact on validation of verdicts; also observance of competencies ensures country's health and legal security.one of the main results of legality of courts is that shareholders of criminal trials, judicial authorities, justice officials and executives has no right to use peremptory rules when investigating criminal affairs. The importance of country's economic and financial affairs, its regulation, pace in investigation of subject matter, and to avoid prolongation of proceeding all are related to general courts. Such as system should be established beside general courts due to below reasons:

What is common in all rules and regulations of different countries includes providing full information for consumer and increasing his power of selection and access to product both. Besides these two, the strong support from government (whether judicial or administrative) is inevitable.

The current governmental Tazirat have had some achievements, but there is long path till establishment of an organized and targeted system based on new sciences and techniques. Thus, it is necessary for the regulator to take higher steps to establish proper and efficient system and also to utilize efficient procedures based on modern principles of criminal law.

Division and separation of economic crimes based on intensity of their destructive effects is another strategy. In relation to non-significant crimes, it just confines to measures such as cutting all or part of public services, canceling business card, installing banner as wrongdoer, cancelling business license, cutting quota and imposing fines. In case of organized and important economic crimes, all income and benefits gained by illegal acts are seized in favor of treasury. Obviously, it is necessary to determine competency of handler jurisdictions so that it would not cause interference of tasks and authorities of executive and judicial branches; also, it should not violate article 36, 156, and 159 of constitution. This is possible with probe of executive branch to non-significant offences, and exclusive competency of courts of justice to investigate important and organized economic crimes.

Yet, it is necessary to have a particular attention to refine rules, making transparency, and also pace of investigation in branches of governmental Tazirat; doing this, it is possible to perform a proper investigation on commercial claims without disruption of trade.

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