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Quasi-Criminal Competence of Central Bank in Response to Banking Violations: A Comparative Study of Central Bank Act of Iran and US Federal Banking Laws

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Abstract

1. Introduction

The last few decades have witnessed a paradigm shift in governance, as global banking systems face increasingly complex risks that demand specialized governance mechanisms. This evolution has necessitated expanding the quasi-criminal jurisdiction of regulatory authorities to address banking violations effectively without overburdening judicial systems. Within this context, the Central Bank of the Islamic Republic of Iran, through its 2023 legislation, adopted a new regulatory approach that grants enhanced powers to its Disciplinary Board for dealing with banking violations. Simultaneously, the United States banking regulatory framework-led by institutions such as the Federal Reserve, FDIC, and OCC presents a mature and highly structured system emphasizing enforcement efficiency, transparency, and systemic stability. This article aims to comparatively analyze these two systems, focusing on the normative, procedural, and structural dimensions of their quasi-criminal competencies. The central question addressed is What the major similarities and differences are between the Iranian and U.S. banking regulatory systems in exercising quasi-criminal jurisdiction, and how can lessons from the U.S. model inform future reforms in Iran?

2. Methodology

This study employs a comparative legal approach combined with descriptive-analytical methods. The study reviews the Central Bank Act of Iran 2023 and compares its provisions with U.S. federal banking laws, including enforcement procedures under the Federal Deposit Insurance Act, the Federal Reserve Act, and related regulatory instruments. Primary sources include statutory texts, administrative manuals (FDIC, 2022; FDIC, 2023), and reports by oversight agencies. Secondary sources comprise scholarly literature

Article Info**Abstract**

and case studies analyzing enforcement practices.

The analysis proceeds in three stages:

1. Conceptual Framework: Understanding the meaning and scope of quasi-criminal powers in regulatory governance.
2. Comparative Examination: Analyzing Iranian and U.S. systems regarding jurisdiction, enforcement tools, and adjudicatory procedures.
3. Evaluation and Recommendations: Assessing strengths and weaknesses and proposing reforms for Iran's system based on international best practices.

3. Results and Discussion

Both jurisdictions recognize the role of regulatory authorities in addressing banking violations through quasi-criminal mechanisms, reducing reliance on the judiciary.

- Iran: The 2023 Act enhances the Central Bank's independence and grants broader authority to its Disciplinary Board, including sanctions such as license suspension, removal of managers, and monetary penalties. However, procedural shortcomings remain, including limited transparency, slow processes, and absence of public hearings.

- United States: Federal regulators, including the Federal Reserve and FDIC, wield extensive authority, covering a wider range of individuals (directors, employees, affiliates). Enforcement actions range from informal agreements to formal measures like cease-and-desist orders, civil money penalties, removal orders, and termination of deposit insurance. Proceedings are public by default, and timelines are shorter, ensuring higher deterrence and accountability.

4. Conclusions

The comparative analysis reveals that Iran's Central Bank Act represents a progressive shift toward specialized, quasi-criminal regulation. However, its effectiveness depends on addressing structural and procedural gaps. Key challenges include:

- Unclear sanctioning standards leading to discretionary inconsistency.
- Limited jurisdictional reach, excluding employees and external enablers of misconduct.
- Opaque processes, which hinder public trust and regulatory credibility.
- Prolonged timelines, which dilute deterrence.

Drawing lessons from the U.S. model, Iranian policymakers should prioritize:

- Codifying clear sanctioning criteria to balance discretion with predictability.
- Expanding jurisdiction to encompass all relevant actors in financial misconduct chains.

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