



## Legal Studying of Leveraging against Legal Rights and Regulations in Iran

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### Abstract:

Leveraging or favoritism is a mechanism of using power and its process is privatization, fully discrimination distribution of governmental resources for benefit of friends, fellows and peers. Leveraging or corruption has close connection since it requires against law and illegal distribution. Leveraging is the characteristic of governmental authorities who have access to public resources and have required power for decision-making in distributing these resources and giving undue benefits. Prevalence of Axial relationship, bribery and relative orientation among statesman and their illegality provides hidden support of beneficiaries, powerbrokers and white collars by some who involved in governing board for more expansion of leveraging. This research aims at legal studying of leveraging against legal laws and regulations, and diagnosing the position of this crime in Iran legal system. It is arranged as documentary style and using descriptive-analytical method. It results in establishing healthy administrative system in society and developing social justice including administrative, judicial and economic. Iran legislator approved the leveraging against legal rights and regulations entitled as "simple and aggregated active leveraging" and "simple and aggregated passive", "Special", "based on profession" in 1936 in four articles. The mentioned law has criminal and non-criminal reactions and leniency institutions.

**Keywords:** leveraging, rights, administrative corruption, Iran regulations, justice

**Introduction**

One of the undesirable phenomena in today's society is leveraging against legal rights and regulations. It manifests more when it enters in different economic, social, political, cultural areas. Unfortunately, in our society this is emerged as a culture such that it can be said that some people are working as leveraging entitled as influential and live in this way. These people sometimes turn right to wrong and wrong to right upon leveraging in government, institutes and organizations and these actions obscure the justice at its different dimensions and establish corruption in organs such that meritocracy principle and justice principle encounter with big challenge. (Pourtabatabaei, 1963)

Leveraging means abusing special relations for penetrating in administration will be accompanied with consequences such as increasing social discrimination, fruitless of people's struggles, belonging of affairs to incompetent persons, etc. (Beheshti, 91).

Leveraging and corruption can be resulted from bureaucracy, social, economic crisis and weakness of governing of regulations and dominance of relations to criteria and can influence all social and economic aspects of life and finally violates the peoples' rights and cause chaos in society. (Rahmedl, 2008)

**Methods and materials**

This research is a descriptive-analytical one in which books, papers, sentences, writings, legal sites and interpretation, note taking, getting opinions from university professors were used for gathering information and the information in notes and different opinions about subject were studied and assessed precisely for analyzing information and providing the most effective and useful solution and having analyzed the opinions of lawyers, theorizing was done and population and sampling method in current research is Iran.

**Introductory review on concepts**

For recognizing and comprehending the subject, the key concepts are introduced and elements of leveraging, criminal and non-criminal reactions and leniency institutes and its results are provided in details.

**Leveraging**

Leveraging means justifying and using power and influence. (Moein, 2001)

According to some, leveraging in legal terms is a crime the elements of which includes A: intent, B: legal relationships with governmental or municipality employees or officers to public services and it is not through committing crime while it is appeal to real thing, C: abusing by the owner of this private relationship, D: action the mentioned employee do in result of leveraging which is against legal regulation (Jafari Langaroudi, 2009).

People's ability in changing the behavior of others without having official influential position on thoughts, behavior or emotions of other person is called as influence (Shayanmehr, 2000) influence is realized and power is used (Morhed, 2006)

**Right**

Right in word means being correct, being right, being secure and safe and confidence of reality and finding (Azarnoosh, 2011). Void stands on opposite side of right which is brought as fixed in Quran (Alqasas, 63). Right is gerund means fixed, what is fixed and according to reality (Mostafavi, 1981)

**Criteria for diagnosing right from void in Quran's view**

We gran bible (separating of right from void) and light and what is reminder of righteous to Moses and Aaron (Alanbia, 48).



Right is a benefit and point which is belonged to a person and law of each country support it in its execution of justice and grants him the power of possession in right and prevents other from its violation. (Catozian, 1999).

### legal regulations

Regulation generally includes law, approval, by-law, circular and what is guarantee for execution and specifically it is used against law (Jafari Langaroudi, 2009).

### Administrative corruption

Corruption is resulted from corrupt means preventing from doing healthy action and means breaking and violating. What is broken or violated can be administrative regulations, laws or grammar, so corruption means any phenomenon which prevents a group from their goals and functions (Tanzi, 1999)

General and global quantitative and internationally clear definition of administrative corruption which is almost accepted in global level includes abusing governmental authorities (public power) for acquiring private benefits which is influenced by personal benefits or family relationship or desires (world bank, 1977).

### Party

Party is another kind of administrative corruption which leads to accumulation of resources. Party is the natural willingness of person to siding of friends, relatives and other close and confident persons. Governmental officers and policy makers who have access to governmental resources and have decision-making authority in distributing these resources are more willing to party to grant privileges to special people (Hassani Shams, 2012).

Party is a French word means class, tribe (Dekhoda, 2010). In English, party in fact is favoritism which does not have bad meaning in European countries while it is combined with negative concept and meaning among Iranian (Najjari, 2001).

### Criminalization Of Leveraging Against Legal Rights And Regulations

Criminal law of leveraging against legal right and regulations was criminalized and approved in 1936 by Iranian legislator in four articles. Having considered these legal articles, leveraging is divided into two classes: articles 1, 2, 4 are supervising the subjective leveraging and article 3 considers objective leveraging (Koosha, 2012)

### Components Of Subjective Leveraging

If a person wants to penetrate in one of governmental institutes via his criminal behavior or at least claims for penetrating, subjective leveraging occurs. (ibid)

#### - Legal Elements

Article 1 of leveraging law against right is divided into two parts of simple and strengthened leveraging. It is when a person know the contents of file or work or subject related to a person at the officers (government, public services of municipality or country) and he get benefit or promise upon having claim on credit or influence is called simple leveraging and if the committed having claimed on credit or influence at the officer and claims that he gets the desired benefit for taking the agreement of officer and it shall be paid to him, it is called strengthened leveraging.

I. R. Iran's constitutional law recognized the necessity of crime's being legal in principle 169. According to this principle, no action or leaving the action is not considered as crime by virtue if the law which is approved after it. in other words, if acting or leaving an action is done before legislator's order, it is not considered as crime. (Ardabili, 2001)



### - Material Element

Material element means crime, behavior (acting or leaving action) which reveals the intent of doer as tangible. (Saleh Validi, 1995).

### Commit

Material element in leveraging crime is article 1 of action. So leaving the action cannot be considered as material element in this crime. Committed in this crime is a real person (Koosha, 2012). Material element in article 1 cannot be known as mere action which it is achieved via leaving action. For example, avoidance have very close relationship with each other and avoidance from right which is achieved via leaving action is considered as examples of leveraging (Rahmdel, 2008).

According to legislator's view in 2013 and determining crimes for legal persons, legal persons can be consistent with leveraging (Dastan, 2015).

### Characteristics Of Committed

In article 1 of criminal law on leveraging for convict of this action, anybody is used which includes ordinary and usual person who committed a crime and have generality (Rahmdel, 2008). This person can be an ordinary person or being employed in government and its subset includes governmental and non-governmental institutes and legislator includes all committed persons having used the word "anybody" (Dastan, 2015)

### Claiming On Credit And Penetrating And Getting Amount Against Leveraging

Having claimed on credit and penetration at governmental, municipality and state officers and public services officer, According to article 1 of leveraging law of committed takes action for getting cash or commitment for his benefit and then influences on decision and action of above officers. If he takes the amounts, benefits and promise for the name of mentioned officers and getting their agreement, it will not be effective in criminal title and behavior leading crime while it is effective in amount of punishment (Mirmohammad Sadeghi, 2001).

### - Mental Element

Ill will in this crime generally is that the committed knows that he does not have credit and penetration at officers while he claims he has credit and influence while he knows that he does not have such right to use his credit and influence against rights and regulations at officers. Ill will specifically means that a person claims credit and influence against governmental officers and wills for collecting amount, benefit, promise or commitment from other to himself. So there is specific ill will apart from general ill will in this crime (Koosha, 2012)

### Special Leveraging

Abusing private, family, colleague relationships with governmental officers in administrative works by committed leads to leveraging for benefit or loss a person (Basiri, 2014)

### Components Of Special Leveraging

According to mentioned divisions and necessity of studying each of four articles in continuing article 2 and describing its components are considered.

### - Legal Element

Legal element includes article 2 of criminal law of leveraging against legal right and regulation and it is agreed that if a person abuses private relationships with officers in article 1 and leverage in administrative works for benefit or loss a person against legal rights and regulations, he will be sentenced to one month to one year disciplinary imprisonment.

### - Material Element



Material element means action or leaving an action for example it is considered in abusing or influencing officers and non-observing the legal regulations such as non-inclusion of taxes in contracts is considered as criminal leaving an action (Dastan, 2014)

#### - Means

In some crime, type of criminal mean can lead to aggregation of punishment. Leveraging crime is considered as the crime in which the criminal means is different and sometimes using means, actions and exerting aggregates the punishment. For example, the criminal mean of leveraging in article 2 of related law is private relationship. The criminal means in leveraging are definite and indefinite means (Dastan, 2015).

#### Definite Means

Private relationships which are mentioned in article 2 including family, governmental and colleague relationships and other relationship which connect both parties out if administrative and legal criteria.

#### Indefinite Means

Today's, recommendation is one of the most common methods of leveraging and influences in governmental positions. Justifying is rationally mentioned as means of leveraging and threat is considered as indefinite means of leveraging which is not considered in article 2 of related law (Dastan, 2015)

#### - Mental Element

Ill will in this crime generally is that the intent is abusing at governmental officer (Basiri, 2013). Ill will specifically is abusing in private relationships for benefit of a person or loss for another against legal regulations and laws.(Koosha, 2012).

#### Leveraging Due To Profession

One of the cases which is considered as leveraging due to profession is attorney. Legislator predicts such due to credit, importance, and professional dignity of attorney in judiciary.

#### Components Of Leveraging Due To Profession

Material, legal and mental elements are expressed as follows:

#### - Legal Element

In the law approved in 1936, article 4 of leveraging against legal rights and regulations say that any judicial attorney can acquire amount, property or other benefit for himself or third party of his client having claimed credit and influence at judicial or administrative authorities. Having rejected it, he will be sentenced to one to three year disciplinary imprisonment.

#### - Material Element

Material element in leveraging including taking or getting money while the promise against money or his action is as action or leaving an action. For example, an attorney prevents the attendance of witness upon his leveraging in judicial meeting or prevent correct commenting of experts and therefore prevents the realization of right (Dastan, 2015)

#### - Mental Element

Crime of subject of article 4 which is committed by judicial attorney is an intentional crime. Apart from general ill will which includes intent for an action, there is commitment of attorney against judicial or administrative authorities or arbitrator or witnesses who has special influence and credit which is necessary to realization of that crime to raise it intentionally.



Specific ill will includes collecting property or amount or promise of these two (Koosha, 2012). Contents of article 4 are liable to judicial attorneys while inclusion of the regulations of this law to attorney trainees is doubtful. Legislator uses judicial attorney expressively since it is the interpretation of the content of this article for benefit of wrongdoer (Hojjati, 2012)

### Objective Leveraging

Person/s who takes action for criminal behavior in governmental and public institutes under influence of others are called objective leveraging (Koosha, 2012).

According to division of crime on leveraging against legal regulations and laws, it is divided to subjective and objective according to articles 432-11, 432-11 of French criminal law (Rahmedl 2008) it is divided to simple and strengthened objective which is expressed in details.

### Components Of Objective Leveraging

Legal, material and metal elements which are brought as follow:

#### - legal element

Legislator in article 3 of leveraging against legal rights and regulations say that

Governmental, municipality and state officers or public service officers who influence person's influence in the administrative actions and decisions are sentenced to deprivation of governmental job from two to five years. If mentioned action or decision requires missing right of a person or government, he will be sentenced to permanent disconnection from governmental services unless this action is liable to other criminal regulation.

#### - Material Element

Influencing in realizing the material element of crime is not merely in action while it is in leaving an action that means non-doing leads to influencing in decisions. For example, governmental employee avoids execution of law for benefit of desired person upon exerting his opinion and avoids an action in loss of one of parties or for benefit of second party. (Rahmedel, 1999)

#### - Mental Element

In committed crime, general ill will includes knowing that person/s are leveraging against legal rights and regulations and it is as action or leaving action and if it is influential in decisions and actions of officers and accept it, there is specific ill will. (Dastan, 2015).

### Conditions On Realizing Objective Leveraging

In simple and strengthened objective leveraging, governmental officers including judicial, administrative or public services and municipality officers is committed to this crime and has the competency of studying it and this work is in his legal duties domain and knows that leveraging is done against legal rights and regulations. If the effect of leveraging on decision of employee leads to missing of a right whether personal or governmental, it will be strengthened objective leveraging and its punishment is permanent disconnection of governmental services and if it leads to missing the rights of a person or government, it will be sentenced to deprivation from governmental job from two to five years which will be simple objective leveraging (Dastan, 2015).

### Criminal Reaction

Competent authority for determining reactions is legislature which has limitation according to article 71 of constitutional law and no authority can reaction if that reaction does not have legal foundation. Reactions are sometimes the reactions which are done in research stages. These reactions are agreement or order and its authority is prosecutor. The reactions which are in court are as order, decree, agreement. The reaction in courts against wrongdoer is 1- punishment, 2- training actions. Criminal reactions include training and educational actions and punishment. The courts have non-criminal reactions like compensating damage (Aghaeinia, 2011)

### Main Punishments Of Leveraging



In brokerage crime of leveraging, it can be said that according to clause A of article 1 of punishment law of leveraging related to subjective leveraging, it leads to returning money or property and disciplinary imprisonment from 6 months to 2 years and cash fine from 1000 Rials to 10000 Rials. In article 2 of punishment law of leveraging, another punishment is considered to the committed ones. If a person abuses the private relationships with officers mentioned in article 1 and leverage in administrative works for benefit or loss of a person against legal rights and regulations, he will be sentenced to imprisonment from one month to one year and according to authors view the punishment of article 2 is lighter and milder than punishment in article 1. (Dasyan, 2015).

In article 3 of punishment law of leveraging, governmental, municipality, state officers and officers of public services who influence the penetration of persons in their actions and decisions are deprived from governmental job for 2 to 5 years. If their action requires missing the right of person or government, they will be sentenced to permanent disconnection of governmental services unless it is liable to other criminal regulations.

In article 4 of punishment law on leveraging, any judicial claims having credit and influence at judicial, administrative, arbitration officers and witnesses and experts pay amount or property for himself or third person on behalf of client as he shall pay to one of mentioned person, or accepts its promise, that amount shall be returned and he will be sentenced to imprisonment from one to three years. In some cases, the attorney receives amount or property and takes action to leveraging and submits the acquired amount or property to judicial and administrative authorities, etc. if this is realized by judicial attorney, another independent crime entitled as bribe is realized and according to rules on material polarity of crime, the committed will be sentenced to punishment in article 4 of punishment law of leveraging, he will be sentenced to bribe crime including 6 month to 3 years or 74 lashes and seizure of property resulted from bribe. (Hojjati, 2009)

### Complementary And Consequential Punishments

It is the crime which is complementary of main crime and has side aspect compared to it and it is determined by legislator for a crime and it is reflected in verdict as main crime whether prosecutor is obliged to determine such crime or it authorized to do it. Consequential punishment is an effect resulted from criminal verdict while it is not stipulated in verdict and it is the crime which is determined by legislator as secondary (Jafari Langaroudi, 2009). Complementary punishment can be due to legal article related to diagnose or authority (optional complementary punishment) and can be obliged and judge is obliged to exert it (obligatory complementary punishment). Consequential punishment is stipulated following irrevocable and effective criminal sentence and it the complementary of main punishment. (Salimi, 2005)

Consequences of criminal sentence are mainly deprivation from social rights and legislator limits it to time and after execution of sentence and extension of it, the sentence effects are destroyed. In punishment law of leveraging, although complementary punishment has not been mentioned in article for ordinary committed, according to Islamic punishment law, court can determine complementary punishment for ordinary committed ones of leveraging like deprivation from social rights or forbiddance of leaving in a place while in article 3 of punishment law of leveraging, the legislator considered the deprivation from governmental job and permanent disconnection from social rights for employees as main punishment. Although deprivation from job or permanent disconnection from governmental services has administrative punishment and administrative punishment is as obligatory complementary or consequential in punishments of governmental employees, Article 3 of punishment law of leveraging is considered as main punishment and this seems as a legal violation. (Dastan, 2015)

### Total Crime Of Leveraging

When total crime occurs, and wrongdoer does all conditions which are necessary for its commitment by law, in most cases, the criminal law recognizes it as crime according to the result (Goldouzian, 1995). In articles 1 and 4 of leveraging crime, if a person merely claim for leveraging and do not get money, or property for his benefit or third body benefit, total crime is not realized. Therefore, claiming



for leveraging stipulated in articles 1 and 4 of leveraging punishment law, together with receiving amount, benefit or commitment for his name or third body name is total crime. In article 2, all conditions including private relationship between committed and officer, availability of administrative works at people stipulated in article 1 and 4 and creating loss or benefit and leveraging against legal rights and regulations is realized by total crime. In article 3 of conditions such as commitment by governmental employee during work, competency of following affairs, missing or non-missing of a right from real persons or government, leveraging and influence of persons in administrative decisions and actions shall be realized to occur total leveraging crime, lack of each of these conditions leads to non-occurring of leveraging. (Dastan, 2012)

### Participating In Leveraging Crime

Partner is who is considered with other person/s in material operations of crime for that punishment, he cooperates with his colleagues. Punishment of participating in crimes is determined as per article 125 of Islamic punishment law. Any crime partner can be considered as perpetrator while since some persons commit connecting with each other, considering partner for them seems more appropriate. Participating in crime on leveraging against legal rights and regulations is considered as crime like other crimes, so regulations governing perpetrator is considered whether the action of each of them be enough or not enough and whether the effect of their works be equal or different, he is considered as perpetrator and his punishment will be independent subjective punishment. (Basiri, 2014)

In this type, the assumption of participating in crime is considered when the action requires practical intervention of more than one person, otherwise, in ordinary state, these crimes are committed upon interference of another person. The assumption of interference of more than one person is necessary in that case like taking decisions in appealing court or higher state courts or in commission which make decision in agreed cases in law. In these cases, leveraging is assumed as participating in crime. (Rahmedel, 2008)

### Assistance In Leveraging

Assistant of crime is a person who does not interfere in commitment of material element of crime personally as perpetrator or partner while he cooperates and interfere in commitment of criminal behavior via promoting, threat, deception, establishing facilities in crime, and preparing means. (Goldouzian, 1995)

Such assistance has different examples these are expressed in article 135 in clauses A, B, C. according to note of article 136 of Islamic punishment law for realizing the assistance in crime, it is necessary to unify the intention, priority or coupling the time between behavior of committed and assistant. Assistance in crime is mainly assumed in all crimes and no crime is assumed in which assistance is cancelled, so assistance discussion in these crimes is important and in some conditions, legislator considers assistance as perpetrator due to the intensity of action in crimes. For example, people subject of article 2 in 1936 act is mostly compatible with assistant concept (Rahmedl, 2008).

### Starting Leveraging

Starting leveraging includes a behavior which is done for practicality of criminal intent while it does not reach to desire result due to exterior barriers, in most cases, acquiring losing result is one basis for realizing crime. When the mentioned result is not achieved, it can be said that crime is in the starting stage of crime, when starting crime requires criminal action, guarantee of executing crime is predicted for the committed. (Goldouzian, 1995). Article 122 of Islamic punishment law says that if a person intends to commit a crime and starts its execution, and his will be suspended due to an element beyond his will, he will be punished as follow: note of article 122 says: if the commitment behavior has direct relationship with commitment, the occurrence of crime be impossible due to material aspects the committed has no knowledge of it, the action is considered as starting the crime".

In Iran law and related regulations with this crime, there is nothing about starting the leveraging crime and there is no mention to starting the leveraging crime in judicial orders and procedures. It seems that





starting crime is not possible since it is not raised in law and there is no legal expression and there is no interpretation regarding the contents related to this crime to accept the starting of a crime. In realizing crime, claiming leveraging at others and receiving amount or benefit or undertaking is enough. Before raising such claim, it is not considered as start and starting a claim cannot be considered as a criminal action which requires legal punishment (Dastan, 2014).

### **Non-Criminal Reaction**

In classical classification, prevention is a non-criminal reaction and some knows it as a kind of intervention via taking decisions for preventing or reducing dangers or reducing probable results (Martin Forkat, 1991) Moris Kosan, Canadian criminologist defines prevention as follow: set of non-violent actions which are taken with special aim of controlling the wrongdoer and reducing the probability of crime and reducing the severity of crime about crime reasons (Moris Kosan, 2002).

In non-criminal reaction, One of the settings which can prevent crimes such as improper leveraging is social setting which is the place of social programs, the urban regions or ecosystem are high crime. Although there is changes of population and its combination in these regions, the wrongdoing statistics is considerable and frequency of law violation is high (Ebrahimi, 2012). Status prevention is one of the preventions which can be used in preventing the leveraging crime. Status prevention is changing special positions in which the probability of commitment is high for complicating, making hazardous or de-attraction for those who intent to commit (Najafi Abrandabi, 1997).

### **Leniency Organs In Leveraging Crime**

According to approval of Islamic punishment law approved in 2013 and necessity of familiarity with leniency organs which are for benefit of committed, several points are expressed in details:

### **Suspension In Leveraging Crime**

If committed has no record of commitment, he is warned that if he will not commit another crime, his current verdict is not be executed until the occurrence of next crime, otherwise, both punishments are executed. This is called suspension of punishment which is in fact suspension in execution of punishment (Jafari Langaroudi, 2009)

According to article 64 of Islamic punishment law, suspension means pausing the punishment which is sentenced to prison crimes rank three to eight. If there is the agreed conditions for suspension, the execution of all or part of that punishment is suspended from one to five years and as per vote No. 563/1264 on 19/12/1931 by branch 2 of higher state court, suspension in execution is not the right of sentenced and it is the authority of court and judge has no duty in suspension of crimes. Therefore non-executing of it cannot be reviewed in appealing court. According to Islamic punishment law, since in part one of article 1, leveraging is put in rank 6 according to article 19 of Islamic punishment law and part 2 of article 1 of leveraging punishment law, it is put in rank 5 and as per article 2, it is in rank 6 and in article 3, it is in rank 5 and in article 4, it is in rank 5, he is liable to suspension which is based on rank 5 and article 4, rank 5 of prison punishments, so he is liable to suspension which is based on article 46 of Islamic punishment law and related articles in sixth chapter of suspension in which the court has the authority in suspension. If according to administrative and employment regulations, criminal sentences leads to disconnection, suspension of sentence will not lead to disconnection unless it is expressed in law or suspension is cancelled. (Basiri, 2014)

### **Postponing The Verdict In Crime Of Leveraging**

According to article 40 of Islamic punishment law in crimes leads to prison of rank 6 to 8, court considers the personal, family, social status, records and status which led to commitment after realizing the commitment and if there is following condition, the verdict is postponed for 6 months to 2 years: availability of discount aspects, predicting the correction of committed, compensating loss or arranging for its compensating, lack of criminal records. Article 41 of postponing is as simple or care:



A: in simple postponing, the committed undertakes in written not to commit a crime in defined duration by court and according to his behavior, it is predicted that in future, he will not commit a crime, B: in care postponing, apart from conditions of simple postponing, the committed undertakes to observe the agreed orders in postpone duration by court or execute on time.

According to article 44 of Islamic punishment law, if crime is committed in postponing duration, the court is obliged to cancel the postponing contract and issue the sentence verdict. In case of non-executing the court's orders, the judge is authorized to add to postpone duration once by half of the agreed duration or issue sentence verdict while for second time, the contract is cancelled and sentence verdict is issued. In author's view, in crime on leveraging against Islamic punishment law, since according to classification of crimes and determining condition for postponing in issuing verdict from rank 6 to 8, only part one of article 1 and 2 of punishment law of leveraging which are put in rank 6 are liable to postponing the issuance of verdict and other articles and part two of article 1 is not liable to postponing the verdict of crime on leveraging.

### Discount In Leveraging Crime

According to article 37 of Islamic punishment law, if there is one or several aspects of discount aspects, the court can reduce or transfer the punishment such that it will be proper to convicted.

Reducing imprisonment for one to three ranks, transferring the seizure of properties to cash punishment of rank one to four, transferring permanent disconnection to temporary disconnection for five to 15 years, reducing other punishment for one to two ranks of the same type or other types after passing preliminary research stages, issuing guilt verdict and criminal if the conditions of verdict is available and does not cause problem to above issues, so judge faces with cases which requires exerting discount or aggression of punishment or he may suspend the decree of executing punishments or conditional releasing.

In most cases, the legislator reduce punishment for a reason or makes the execution of them impossible, the reduction of punishments are cases when if it is consistent with status of occurring crime, the punishment reduces. Reducing punishment are for prison crimes and in other punishments, it shall follow special regulations. Reducing punishments is one of the individualizing tools of punishments which has legal-judicial nature that means legislator do it upon partnership of judge (Mousavi Baygi, 2012).

Discount about colleagues and deputies follow general regulations according to their conditions. The regulations which do not determine minimum for crimes, does not need establishing discount for punishment since courts can reduce the minimum for any they them. In ordinary state, the judge can determine the punishment between minimum and maximum. discount should be less than legal minimum.

Types of ways for discounting crimes, excuses of punishment discounts if the convicted try in finding the crime or compensating its loss effects and cooperate with judicial authorities it considered as reward for him. Cooperation excuse is as article 52 of prison law, family excuse as article 554 of prison law, trust excuse as note 2 of article 719 of prison law, qualities are discounting punishments are determined and expressed in article 38 of Islamic punishment law. Ways for exemption of punishment are various and are specified in law, so the influencing one can prevent the execution of punishment. (Basiri, 2014)

In prison crimes, rank 7, 8, if discount aspects are realized, and if it is diagnosed that the committed will be corrected via non-executing the punishment and if there is no effective criminal record, and plaintiff forgives and compensate loss or arrange for its compensating, the decree of its exemption can be issued. (article 39 of Islamic punishment law)

All articles of punishment law of leveraging which are considered as main punishment according to the nature of crime, the court can consider different discounting aspects such as forgiving plaintiff, effective special status in committing, such as stimulating behavior or word of wrongdoer or honorable motivation in commitment, announcing convicted before prosecuting or his effective declaration during researching and studying, good record and special status of convicted such as



oldness or diseases, committed struggle for reducing effects of crime or his actions for compensating loss resulted from it, mild loss, weak intervention of partner or assistant in crime resulted to discount in verdict which shall be stipulated in decree. (Dastan, 2015)

### Conclusion

Leveraging against legal rights and regulations are divided into simple and strengthened subjective, simple and strengthened objective, special and profession leveraging. The condition for realizing leveraging is mentioned in legal, materials and metals elements.

Material element in simple and strengthened leveraging is realized via action and leaving an action. Real and legal persons can commit it. In mental element, specific ill will is necessary apart from general ill will and material element is realized in special leveraging as an action and leaving an action and it is an intentional crime that requires specific ill will apart from general ill will. Abusing is the condition of realizing crime in specific leveraging via definite and indefinite methods. Material element in crime, leveraging due to profession, can be as an action and leaving an action and in it, general ill will is not enough while special ill will is required. So apart from realizing the above conditions such as the availability of file, claiming credit and influence at judicial, administrative authorities, arbitrator, witnesses and experts by judicial attorney for benefit of himself or third body, collecting money for those intents, deception of file holders are necessary for leveraging due to profession.

Material element in simple and strengthened objective leveraging can be as action and leaving an action that means influencing in emerged in action and leaving an action. General and specific ill will are both necessary in this crime. Apart from mentioned conditions, conditions such as commitment of officer and government, work in his competency and knowing the leveraging against right is the conditions of realizing this crime.

Crime on leveraging against legal rights and regulations are the general, intentional, unforgivable, and crimes against judicial justice. Leveraging means abusing the special relations for penetrating in administrative organizations, abusing the relations which are manifested via establishing of government and classification of society are influenced by governmental, municipality, etc. officers for acquiring benefit for himself and others and will be accompanies with phenomena such as increasing social discrimination, unfruitful of peoples' struggle, belonging of affairs to incompetent persons and etc.

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