Criminal Law Analysis of Iran in Addressing Insurance Fraud

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Abstract

Insurance fraud is considered one of the most significant and complex forms of economic crime in contemporary legal systems. Due to the specific characteristics of the insurance industry, this type of fraud encompasses broader dimensions than traditional fraud. In this regard, Iran's criminal law faces numerous challenges in confronting this phenomenon, as the legislator has merely provided a general definition of fraud and has not developed specific regulations for the identification, prevention, and prosecution of insurance fraud. Consequently, in practice, proving this crime—especially in the specialized domain of insurance—presents serious difficulties. Furthermore, the structure of insurance contracts, the principle of utmost good faith, and the asymmetry of information between insurer and policyholder have created an environment susceptible to abuse, thereby undermining trust in insurance relations. This article aims to provide a precise analysis of the performance of Iranian criminal law in addressing insurance fraud by examining the current legal structure, common manifestations of this crime, and legislative, judicial, and executive challenges. From a criminal policy perspective, the article also highlights the inefficacy of existing countermeasures and the necessity of revising current regulations. The findings indicate that effectively addressing this specific type of fraud requires a move toward specialized criminalization, the development of clear executive guidelines, and specialized training for judicial and insurance institutions.

Keywords: insurance fraud, Iranian criminal law, specialized criminalization, criminal policy.

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1. Introduction

In recent decades, the rapid expansion of the insurance industry and the increasing diversity of insurance services across various domains of social, economic, and industrial life have led to the emergence of new threats in the realm of financial and economic crimes, among which insurance fraud stands out as one of the most significant and complex. Insurance fraud, as a specific type of fraud, not only disrupts the economic system but also directly undermines public trust in the insurance institution, reduces the quality of insurance services, and results in increased premium rates for honest policyholders.

Furthermore, the complexity of insurance relationships, the specialized role of insurance companies, and the distinctive features of insurance contracts—such as the principle of utmost good faith—have created a particular context in which detecting and proving fraudulent intent and deception is highly challenging (Azmayesh, 2015).

In Iranian criminal law, fraud is generally defined under Article 1 of the Law on Intensifying Punishment for Perpetrators of Bribery, Embezzlement, and Fraud, specifying the behavioral and mental elements of the offender. However, this general definition fails to fully address the scope and specific features of contemporary fraud types, including fraud in the insurance industry. In many cases, perpetrators exploit legal loopholes through techniques such as exaggerating damages, providing false information in insurance forms, forging medical documents, or even creating fictitious damage, managing to claim significant sums from insurance companies without easily proving their fraudulent intent or organized deception. In this regard, challenges such as the absence of a clear definition of insurance fraud, lack of specific legal provisions for this crime, and the inadequacy of investigative tools make law enforcement efforts exceedingly difficult (Ahmadvand, 2011).

On the other hand, despite the existence of some criminal rulings on insurance fraud, judicial practice still exhibits a lack of coherence and consistency in its analyses and decisions. This inconsistency not only results in the infringement of the rights of insurers and sometimes policyholders but also erodes long-term public confidence in the criminal justice system and the efficiency of the legal framework. Hence, there is a pressing need for a comprehensive and meticulous study of the various dimensions of insurance fraud in Iranian criminal law, including the current legal structure, common instances of this crime, and the theoretical and practical challenges in dealing with it (Ardabili, 2014). In addition, with the evolution of the insurance industry and the integration of digital tools into insurance processes, methods of fraud have also become more technologically sophisticated and complex. This development underscores the urgent need for a revision of the country's criminal policy, particularly in establishing precise and effective criminalization and equipping relevant institutions responsible for detection, prosecution, and adjudication of these crimes.

An efficient criminal justice system must be capable of equitably safeguarding the legitimate interests of insurance companies, the rights of policyholders, and overall economic public order. Therefore, examining the existing structures, identifying legal loopholes, and proposing fundamental reforms in this area represent both a scientific and practical necessity for enhancing criminal justice and protecting the insurance industry from financial crimes (Aminpour, 2008). This study aims to present an accurate picture of the current state of Iranian criminal law in addressing insurance fraud by relying on legal sources, jurisprudential opinions, and the analysis of relevant criminal cases, ultimately offering suggestions for improving the current situation.

2. Defining the Crime of Fraud

Given that crimes are generally considered public wrongs and recognizing their private aspect requires a legal text, and such a provision is not evident in the case of breach of trust, the public dimension of this crime must prevail over its private nature. In this regard, the opinions of the former Judicial High Council's Commission on Legal Inquiries are noteworthy: "It seems that any crime resulting in harm to specific individuals constitutes a violation of private rights, while any crime disrupting public order or harming public interests constitutes a violation of public rights. Accordingly, in some cases, the crime may possess both aforementioned aspects, in which case the public right (ḥaqq Allāh) prevails. Examples include destruction of property, forgery, breach of trust, fraud, embezzlement, public harassment of women, bribery, gambling, etc., all of which embody both dimensions. Therefore, in such cases, the public right takes precedence" (Jafari Langaroudi, 2008).

The result is that these crimes cannot be waived by the private complainant and must be prosecuted in accordance with the law. This principle appears broadly applicable unless a specific law or regulation stipulates otherwise, such as in theft or qadhf (false accusation), where the private right is legally prioritized, and with the victim's waiver, the prosecution is dropped before referral to the judge, as seen in Articles 150 and 151 of the Islamic Penal Code. Ultimately, even if this definition is not fully comprehensive and exclusive, it is commonly the prevailing interpretation.

In addition to this advisory opinion, the General Assembly of the Supreme Court has also issued a unifying precedent ruling that the waiver by the complainant or private plaintiff has no effect on the criminal aspect of breach of trust. According to the ruling: "Breach of trust is among the crimes harmful to private rights and public interests. The private complainant's consent or withdrawal of complaint terminates the private claim, but for the sake of public interest and maintaining public order, the offender must be subjected to discretionary (ta'zir) punishment by either religious or governmental authorities." This ruling, pursuant to Article 3 of the supplementary provisions of the Code of Criminal Procedure of 1958, must be followed by the courts in similar cases.

More importantly, Article 727 of the Islamic Penal Code of 1996, which enumerates pardonable crimes with a private nature, does not include Articles 673 and 674. Arguably, it would have been better had the legislator classified certain minor types of breach of trust as pardonable crimes based on criteria such as low financial value, private nature of the asset (rather than public), and similar factors (Sabet Sarvestani, 2016).

3. The Status of the Insurance Industry After the Islamic Revolution of Iran

The issue of insurance has been discussed several times from the perspective of Imam Khomeini. Once, in August 1964, he addressed the topic at the seminary in Qom. Another discussion appeared in his authoritative book *Tahrir al-Wasilah*, written in 1964 in the city of Bursa, Turkey, where he elaborated on matters related to insurance. He also examined various aspects of the subject in the miscellaneous issues section of *Tawdih al-Masa'il* (Sabet Sarvestani, 2016). For instance, if an insurer commits to paying compensation along with an additional amount—such as when an individual insures themselves for a specified term with a fixed monthly premium, and the insurance company, to encourage more policyholders, agrees to pay a bonus beyond the insured sum—this additional payment does not constitute usurious interest. That is because the premium payments are not considered loans but part of an independent contract that includes this clause. Such a clause is considered valid, enforceable, and binding. Furthermore, if the insurance company invests the collective premiums in commercial ventures, the contract remains lawful, and the policyholder may receive a share of the profits, in addition to any compensation, according to the terms of the agreement. Additionally, if within such a company, some members contribute capital while others contribute labor, the resulting arrangement, from the author's perspective, is akin to a *muḍārabah* (profit-sharing partnership), and is deemed valid under Islamic commercial law (Habibzadeh, 2015).

It is stated that insurance constitutes a contract between the insurer and the insured—be it an individual, institution, or company—and like all contracts, it requires offer and acceptance. The same conditions that apply to other contracts regarding the contracting parties and the subject matter also apply to insurance contracts. Such agreements may be concluded in any language or expression. Moreover, all types of insurance—be it life insurance, commercial goods insurance, insurance for buildings, ships, aircraft, government employees, organizations, or even residents of a village—are valid, provided that the proper conditions are observed. Insurance is recognized as an independent contract and, where appropriate, can be formalized using other contract types, such as reconciliation agreements (*ṣulḥ*) (Habibzadeh, 2003).

4. Penalties for Fraud in Iranian Criminal Law

4.1. Primary Penalties

According to Article 1 of the *Law on Intensifying the Punishment of Perpetrators of Bribery, Embezzlement, and Fraud*, the punishment for simple fraud includes imprisonment for a term of one to seven years and a fine equivalent to the amount fraudulently obtained. For aggravated fraud, the penalty is two to ten years of imprisonment, a fine equivalent to the defrauded amount, and permanent dismissal from public service. In both cases, restitution of the original property to its rightful owner is mandatory (Article 116 of the Islamic Penal Code). If the convicted person refuses to return the property or its equivalent, the court may, according to Article 696 of the 1996 *Islamic Penal Code* (Discretionary Punishments section), enforce the judgment through the sale of the convict's non-exempt property or hold the person in detention until the victim's rights are fulfilled (Habibzadeh, 2003).

A question arises concerning the monetary fine: if the offender has committed multiple counts of fraud, should the fine equal the total amount obtained or only the amount from a single incident? On the one hand, since the statute states "a fine equivalent to the amount obtained," the former interpretation seems valid. On the other hand, one might apply Article 47 of the *Islamic Penal Code*, which states that for non-distinct crimes, only a single punishment shall be imposed, with multiple offenses constituting aggravating factors. Therefore, just as only one (potentially aggravated) prison sentence may be imposed, only one monetary fine—equivalent to the highest amount from a single fraud—would apply. Of course, under Article 47, the judge retains discretion to aggravate the sentence (Habibzadeh, 2003).

A notable issue regarding the punishment for aggravated fraud is the broad reference to permanent dismissal from public service. This provision seems inappropriate when the perpetrator is not a government employee—for instance, an ordinary citizen committing fraud via mass media. In such cases, it would be more appropriate for the legislator to include a phrase like "if the perpetrator is a government employee" before mentioning dismissal. If the legislator instead intends to impose a general "ban" on employment in government institutions, then using the term *dismissal* is incorrect, and *disqualification* should be used instead, as employed in Article 572 of the 1996 *Islamic Penal Code*.

Note 1 of Article 1 states:

"In all cases mentioned in this article, if there are mitigating circumstances, the court may, by applying relevant provisions for leniency, reduce the offender's sentence only to the minimum imprisonment and permanent dismissal from public service stated in this article, but may not suspend the sentence." (Articles 25–36 of the *Islamic Penal Code*, 1991)

Despite the ambiguities in this note, which have led to differing interpretations, it appears that the legislator does not permit reducing the prison sentence to below one year in simple fraud or below two years in aggravated fraud, nor its substitution with another penalty. Permanent dismissal also may not be mitigated. However, as highlighted in advisory opinions by the Legal Department of the Judiciary, the monetary fine may be reduced under Article 22 of the 1991 *Islamic Penal Code*, and the temporary dismissal specified in Note 2 is likewise eligible for mitigation.

Attempted Fraud is addressed in **Note 2 of Article 1** of the same law:

"The penalty for attempted fraud shall be, as appropriate, the minimum prescribed for the corresponding offense. If the act performed also constitutes a separate crime, the perpetrator shall be punished for that crime as well" (Habibzadeh, 2003).

This note, although somewhat vague, implies that the punishment for attempted fraud should be the minimum sentence stipulated for the completed crime. For simple fraud, this includes one year of imprisonment and a fine equal to the amount defrauded. For aggravated fraud, it includes two years of imprisonment, permanent dismissal from public service, and a fine equal to the defrauded amount. However, in attempted fraud, since the perpetrator has not obtained any property, imposing a fine equal to the defrauded amount would be illogical. Thus, only the imprisonment and dismissal penalties would be applicable.

Note 2 further prescribes an additional penalty for public servants. Those holding the rank of Director General or equivalent are subject to permanent dismissal from public service, while those in lower ranks may be temporarily suspended for six months to three years. As previously discussed, organizing or leading a multi-person network to commit fraud, in addition to monetary fines and permanent dismissal, carries a prison sentence of 15 years to life. If the offense is deemed to constitute *corruption on earth* (*mofsed-e-filarz*)—a term unfortunately left undefined in law—it may lead to the corresponding severe punishment. This legal ambiguity has led to inconsistent rulings and, at times, potential violations of individual rights (Habibzadeh, 2003).

4.2. Supplementary and Consequential Punishments

Consequential punishments are those automatically imposed on the convicted person by virtue of the conviction itself, without needing explicit mention in the court's judgment. In contrast, supplementary (complementary) punishments are those that must be explicitly ordered by the judge in the sentencing decision. In the *General Penal Code*, as referenced in the *Islamic Penal Law* of 1982, there is mention of "punishments and security and reformative measures, both consequential and supplementary." However, Chapter 1 of Part 2 of the *Islamic Penal Code* refers only to "punishments and security and reformative measures." Article 19 (which replaces Article 14 of the *Islamic Penal Law*) provides that the court may, as a supplementary measure to the main punishment, deprive the offender convicted of an intentional crime of certain social rights or prohibit them from residing in a specified place or compel them to reside in a particular location. Article 20 (replacing the note to Article 14) states that such deprivation of social rights or residential restrictions must be proportionate to the crime and the personal characteristics of the offender for a defined period (Habibzadeh, 2003).

Since fraud is classified as a discretionary crime (*taʿzīr*), the court may impose the supplementary punishments under Article 19 of the *Islamic Penal Code* in addition to those outlined in Article 1 of the *Law on Intensifying the Punishment of Perpetrators of Bribery, Embezzlement, and Fraud*.

Furthermore, beyond the punishments listed in the Penal Code, various other laws impose certain consequential disqualifications on individuals convicted of fraud. Contrary to the views of some legal scholars, the author does not believe that the lack of mention of such punishments in the current *Islamic Penal Code* nullifies those prescribed in previous laws. As such, disqualifications such as being barred from serving as a notary or notary assistant, acting as an official judicial expert, practicing law (Note 1, Article 19 of the *General Penal Code*), serving as a company director (Article 111 of the *Commercial Code*, 1968), obtaining a broker's license (Clause 6, Article 2 of the *Law on Brokers*), or founding/managing an insurance institution (Article 64 of the *Insurance Act*, 1971) may still be applied as a result of a fraud conviction.

Moreover, Article 7 of the *Law on Intensifying the Punishment of Perpetrators of Bribery, Embezzlement, and Fraud* provides that government officials mentioned in the law are suspended from their duties upon prosecution. Additionally, Article 62 bis, added to the *Islamic Penal Code*, clearly outlines disqualifications for those convicted of certain intentional crimes (Hosseini Nejad, 2014).

According to this article, a final conviction for an intentional crime results in deprivation of social rights as follows:

1. Those sentenced to amputation for crimes subject to ḥadd penalties are deprived of social rights for five years after the sentence is executed.
2. Those sentenced to flogging for ḥadd crimes face a one-year deprivation following execution.
3. Those sentenced to more than three years of discretionary imprisonment are deprived for two years post-execution.

Note 1 of the same article defines "social rights" as rights legally recognized for Iranian nationals and residents under Iranian sovereignty. These include eligibility to be elected to official positions, membership in associations and councils, jury service, employment in educational and journalistic roles, and government, municipal, or parliamentary employment, as well as work in revolutionary institutions, legal advocacy, official registrars of civil documents (marriage, divorce), and notary assistants. It also includes eligibility to serve as an arbitrator or judicial expert, and the right to receive national honors or medals (Rah Chamani, 2011).

5. Fundamental Principles Governing Insurance Contracts

Insurance contracts are governed by distinct legal principles that differentiate them from other contractual relationships. Each party to the contract—the insurer and the policyholder—is obliged to fulfill specific duties.

Principle of Utmost Good Faith (*Uberrimae Fidei*): While all contracts and legal relations should be based on good faith, in insurance, this principle is a cornerstone of the obligations between parties. It is impractical for an insurer, before issuing a policy and assuming the risk of compensation, to inspect each property proposed for insurance and evaluate its risk factors firsthand. Therefore, the *Insurance Law* imposes specific duties on both parties in order to enforce the principle of utmost good faith (Rashidi, 2013).

Duties of the Policyholder: The policyholder is obligated to fully and honestly disclose all information related to the insured subject that could influence the risk assessment—regardless of whether the insurer specifically asked for such information. This disclosure enables the insurer to determine the significance of the risk covered (Rashidi, 2013).

Duties of the Insurer: The insurer must clearly outline all qualitative and quantitative terms of their obligations in the insurance policy document. Any element that might affect compensation in the event of a claim must be transparently stated, ensuring that the scope of the insurer's responsibilities is clearly understood by the policyholder.

Legal Consequences: If either party breaches the principle of good faith, the other party may void the insurance contract. The explanation provided above concerning the policyholder's obligations under the principle of utmost good faith is broadly accepted among legal experts, and any minor dissent does not significantly alter the general interpretation. However, significant theoretical divergence exists regarding the insurer's obligations under this principle. Some scholars believe that the insurer fulfills the principle merely by properly executing the terms and conditions of the contract.

At this point, we must examine the intersection of the policyholder's obligations under this principle with Article 1 of the *Insurance Law*, which defines the insurance contract. Article 1 states: "Insurance is a contract by which one party undertakes, in exchange for the payment of a sum or sums of money by the other party, to compensate for damage resulting from an incident or accident and to pay a specific amount. The party assuming the obligation is the insurer; the other party is the policyholder. The sum paid by the policyholder is the premium, and the subject of insurance is that which is covered by the policy."

Based on this statutory definition, the business of insurance consists of collecting premiums from policyholders and compensating them for insured losses in the event of an incident. Simply put, individuals (policyholders) pay money (premiums) so that, if any of them suffers a loss due to a covered incident, that loss is compensated from the collected funds. Consequently, there must be a direct relationship between the amount of premiums collected, the probability of occurrence of the insured event, and the anticipated amount of compensation (Rashidi, 2013).

6. Duties of the Insurer in Implementation

The principle of *utmost good faith* faces a practical challenge in that most policyholders lack sufficient familiarity with insurance matters. Clearly explaining all that must be conveyed under this principle in plain language to the policyholder is, in practice, nearly impossible. Fortunately, a portion of the responsibilities assigned to the Central Insurance Organization of Iran (Bimeh Markazi) aims to fulfill this aspect of the principle. To clarify this matter, part of the statutory duties of the Central Insurance Organization of Iran are cited here verbatim.

Articles from the *Law on the Establishment of the Central Insurance of Iran and Insurance Regulation* include:

Article 1 – For the purpose of regulating, expanding, and directing insurance activities in Iran, and protecting policyholders, the insured, and their rightful beneficiaries.

Clause 1, Article 5 – Preparing regulations and guidelines necessary for the sound administration of insurance in Iran.

Clause 7, Article 5 – Guiding, directing, and supervising insurance companies and supporting them in maintaining the integrity of the insurance market.

Clause 4, Article 17 – Determining commission rates and premiums for various types of insurance.

As seen in Article 1 of the establishment law, one of the functions of the Central Insurance Organization is to protect policyholders. Similarly, part of Article 17 emphasizes support for insurance companies to safeguard market integrity. Thus, from various segments of Articles 1 and 7 of the law, it can be inferred that the primary aim of establishing this organization is to protect both policyholders and insurance institutions (Habibzadeh, 2003).

According to **Clause 1, Article 5**, the organization is tasked with drafting necessary rules and regulations for the sound execution of insurance practices in Iran. And under **Clause 4, Article 17**, it is also responsible for determining commission and premium rates for different insurance branches.

From this, we conclude that determining premiums requires the same information essential for assessing factors that influence the probability of loss. This information must, therefore, be conveyed to the Central Insurance Organization. In return, Bimeh Markazi, through regulations and guidelines, facilitates the transmission of necessary information to the policyholder. In practice, this reciprocal dissemination of information to the policyholder—intended to clarify the insurer's obligations—has taken place as follows (Habibzadeh, 2003):

1. Standardization of insurance policies including general terms and conditions written in the simplest possible language.
2. Establishment of uniform premium rates for identical risks.
3. Creation of centers for training in insurance practices and the dissemination of technical knowledge among policyholders.
4. Publication of specialized periodicals to promote greater public understanding of insurance.
5. Granting priority to specific contractual conditions (defined by the policyholder) over general terms and clauses.
6. Interpretation of key policy terms, when necessary, in favor of the policyholder.
7. Arbitration in resolving insurance disputes.

Since the legislator has designated the Central Insurance Organization as the guardian of both the policyholder and the insurer, the organization, through the drafting and formulation of general conditions, insurance protocols, and standardized insurance forms and rate tables, significantly facilitates the transmission of relevant information. Insurance institutions also support this process by collecting and submitting operational statistics to the Central Insurance Organization, aiding it in fulfilling its statutory responsibilities. The Central Insurance Organization's dual mandate—protecting policyholders and insurers on one hand, and supervising the observance of insurance laws and principles on the other—necessitates that it fully dedicate its efforts toward implementing the foundational legal and ethical principles of the insurance industry (Sabet Sarvestani, 2016).

7. The Principle of Indemnity or the Principle of Loss

Insurance is a contract whose subject matter is the compensation of losses incurred to the policyholder's property or assets. According to the principle of indemnity, insurance must never become a source of profit for the policyholder. The insurer is obligated to compensate for the loss and restore the financial imbalance caused by the insured event. Therefore, compensation should not place the policyholder in a more favorable financial position than they held prior to the incident. In other words, when insurance is accurately and properly executed, the payment of compensation should not improve the policyholder's financial condition. If this principle does not serve as the standard for compensatory payments and insurance is allowed to function as a profit mechanism for the policyholder, it will create moral hazard, undermine public order, and encourage intentional damage. The principle of indemnity is applicable to property and liability insurance and does not apply to personal insurance, because in personal insurance, concerns about deliberate acts—such as death or disability—are generally irrelevant, and insurance does not take on the nature of gambling. Additionally, human life and existence cannot be converted into a fixed monetary value (Rashidi, 2013).

In loss-based insurance, the policyholder must first prove that the insured event has occurred, as the insurer's obligation to compensate arises only upon the actual occurrence of the insured event. Secondly, the policyholder must prove that the insured event caused them financial loss. Mere occurrence of the insured event is not sufficient to oblige the insurer; only a loss-producing event triggers the insurer's responsibility. Thirdly, the policyholder must establish a causal link between the incident and the loss, showing that the loss resulted directly from the insured event. The insurer is not liable for any and all losses suffered by the policyholder but only for those directly resulting from the insured event. For example, if a property is insured against fire but is destroyed in an earthquake before a fire occurs, and the fire causes no additional damage, the insurer has no obligation to compensate, as the earthquake—being an uninsured peril—was the actual cause. However, if a fire does cause additional loss, then only that portion of damage directly attributable to the fire is compensable (Rashidi, 2013).

Fourthly, the policyholder must prove the existence and value of the insured item at the time of the incident, since the mere issuance of an insurance policy does not prove that the item existed or was of a certain value at the time of the insured event. Even if the insurer acknowledged the item's value when the policy was issued, this does not relieve the policyholder of the duty to prove its value at the time of the incident, as changes may have occurred subsequently. Considering the relationship between the insured amount, the true value of the insured property, and the actual loss, several important outcomes emerge:

1. **Impact of the Insured Amount on Indemnity**: In various types of insurance—particularly property insurance—the insured amount plays a crucial role. Not only does it serve as the basis for calculating the premium, but it also defines the insurer's liability and significantly affects the amount of compensation. Logic and the policyholder's interest dictate that the insured amount, which influences the obligations of both parties, should reflect the actual market value of the insured item. Unfortunately, in practice, the insured amount often differs from the actual value. Policyholders may, whether intentionally or by mistake, declare an amount either higher or lower than the item's real value. The consequences of this discrepancy—whether the insured amount is equal to, greater than, or less than the actual value—are as follows:
2. **Equality Between Insured Amount and Actual Value**: When the insured amount matches the real value of the insured item, no issues arise. The insurer compensates the policyholder in full, subject to the terms and exclusions stated in the policy. This scenario perfectly aligns with the rationale behind the principle of indemnity. The policyholder, acting in utmost good faith, insures the true value of their property, and therefore, whether the damage is total or partial, it should be fully compensated. Compensation is calculated based on the value of the insured item immediately prior to the occurrence of the loss. If the insured amount equals the real value, the insurer will promptly determine the residual value post-incident and pay the difference as compensation—unless the policy stipulates repair or replacement, in which case the insurer must act within a reasonable period to fulfill those obligations (Rashidi, 2013).

Article 19 of the *Insurance Law* states:

"The insurer's liability shall be the difference between the value of the insured property immediately before the occurrence of the incident and its residual value immediately thereafter. The loss shall be paid in cash unless the right to repair or replace the insured item is stipulated in the policy. In such a case, the insurer is obligated to repair the insured item or provide a replacement within the shortest reasonably possible time."

Thus, the default rule for compensation is cash payment. If the policy is silent on the method of indemnity, the policyholder may not demand repair or replacement instead of cash, and the insurer may not fulfill its obligation in any way other than a monetary settlement.

3. **Insured Amount Exceeding Actual Value**: In cases where the insured amount is higher than the true value of the insured item, two scenarios must be distinguished: one in which the policyholder deliberately and fraudulently overstates the value to abuse the insurance system, and another in which the overstatement occurs without malicious intent (Sabet Sarvestani, 2016).

8. Price Inflation with Intent to Defraud

This issue is addressed explicitly in Article 11 of the *Insurance Law*, which states that if the policyholder or their representative, with intent to defraud, declares a value exceeding the fair market value at the time of contract conclusion, the insurance contract is void and the paid premium is non-refundable. Accordingly, the legislator has established two strict legal consequences to prevent deliberate over-insurance based on the insured's bad faith: first, the nullity of the contract, and second, the forfeiture of the paid premium. This legal consequence, as stipulated in Article 11, is even more severe than those applied in general contract law. Under general principles, a void contract loses all legal effects retroactively, but here, in addition to nullity, the paid premium is non-refundable. The standard for comparing the insured amount with the actual value, as per this article, is the value at the time of contract formation—not at the time of the insured event (Rashidi, 2013).

9. Price Inflation Without Intent to Defraud

In this situation, given that the goal of insurance is to compensate for actual losses and not to enrich the policyholder, compensation is awarded in such a way that the insured's financial status remains substantially unchanged before and after the event. The policyholder should not profit from the insurance claim. Therefore, compensation is based on the real value of the insured item, not the declared insured amount. This applies equally to both total and partial losses, because the damage and imbalance in the insured's assets caused by the loss is the measure of indemnity—not the declared insured amount. For instance, if a building with an actual value of 100 million rials is insured for 150 million rials against fire, and the building is entirely destroyed in a fire, the maximum compensable loss is 100 million rials, the actual value of the property—not the 150 million rials stated in the policy. Therefore, the insurer's maximum liability is the true value: 100 million rials. If the insurer were compelled to pay the inflated amount, the policy would serve as a source of profit, unjustly enriching the insured.

An objection may arise that the insurer calculated the premium based on the declared (inflated) value rather than the real value and thus received more than the fair premium. However, this objection is unfounded for two reasons:

First, the real value of the insured property may have decreased between the issuance of the policy and the occurrence of the incident, and since the insurer is only liable for actual loss, they will naturally compensate only that amount, not the previously declared value.

Second, this legal consequence encourages the policyholder to declare values more accurately.

Third, the opposite scenario—when the insured amount is less than the actual value—also bears legal significance (Izadpanah, 2015).

10. The Principle of Insurable Interest

In indemnity insurance, the concept of *insurable interest* assumes that the insured or beneficiary has a stake in the non-occurrence of the insured event. Essentially, the insured has a financial interest in preventing the event that would trigger the insurer's liability. To prove a valid claim, the policyholder must demonstrate that the destruction of the insured item caused a financial loss and, for this, must have an insurable interest in the subject of insurance.

There are scenarios where someone might insure another person's property and claim compensation upon loss. To prevent this, one of the core principles of insurance is that the policyholder must be someone who would suffer financial loss if the event occurred. For example, if the insured item is no longer in the insured's possession due to legal transfer, the insured's interest ceases.

It is noteworthy that insurable interest is not limited to ownership. The following parties are also considered to have insurable interest:

Limited owners, pledgors and pledgees, landlords and tenants, individuals with legal liability, trustees, executors, guardians, creditors, employers, and spouses.

In transportation insurance, a marine cargo policy may be issued in bearer form (i.e., without naming a specific insured). In such cases, anyone with a financial interest—whether as owner or under any legal status—at the time of issuance or during the policy period, may benefit from the coverage. Anyone with a stake in preserving the subject matter of insurance can insure it. Insurable interest is equivalent to the monetary value of the item at risk of destruction due to the insured event.

To be insurable, the interest must be a quantifiable financial interest. Insurable interest takes many forms. Most often, it arises from ownership and the owner's desire to preserve the insured property. Sometimes, it results from the rights of a beneficiary over a property under usufruct (*ḥaqq al-intifāʿ*) or an endowment (*waqf*). Thus, beneficiaries of such rights may insure the subject against risks threatening the asset or its benefits.

Guardians and custodians are obliged to manage the assets of minors or legally incapacitated individuals in their care prudently. This duty and right establish an insurable interest, entitling them to insure such property (Aminpour, 2008).

As previously mentioned, insurable interest is not synonymous with ownership of the insured item. Rather, it stems from having a stake in the non-occurrence of the insured event. Another form of insurable interest is the claim of pledgees and pledgors on mortgaged property.

Article 7 of the Iranian Insurance Law affirms this principle:

"The creditor may insure the property held in pledge. In the event of damage to the said property, the insurer must compensate the creditor up to the amount of their outstanding claim at the time of the event, and the remaining indemnity shall be paid to the owner."

In a pledge agreement, an asset is held as collateral for a debt. The pledgor (owner) cannot exercise full ownership rights over the property until the debt is repaid and the pledge is released. The purpose of pledging is to secure the creditor's interest. If the debtor defaults, the pledgee may recover the debt by selling the pledged property. Both the pledgor and the pledgee have an interest in the preservation of the asset, which grants them both an insurable interest (Aminpour, 2008).

11. Credit Insurance in Iran

The capital market is a platform for trading capital goods, primarily financial assets and, more specifically, securities. Due to the investment nature of this market, it is inherently exposed to various risks. These risks affect investment in stock exchanges. Some of these risks are endogenous—stemming from the operations of companies and their stakeholders—and are thus avoidable, reducible, or even eliminable. However, exogenous risks, such as those arising from over-the-counter (OTC) conditions, macroeconomic factors, or international economic trends, are not as easily mitigated or eliminated. The capital market is a high-risk environment, and without adequate coverage mechanisms, sustained activity within it becomes virtually impossible.

Given the sensitivity of the capital market, its volatility, and vulnerability to economic and non-economic fluctuations, appropriate mechanisms for risk tolerance development are essential. The capital market can deploy various tools to manage different kinds of risks, and one of the most effective among them is insurance. Insurance supports confidence-building across all sectors of economic activity. One of its most relevant domains is the financial market, where insurance plays an active global role. Within the capital market, insurance primarily functions through credit insurance.

Credit insurance includes a variety of policies such as commercial credit insurance, bond insurance, loan credit insurance, credit life insurance for outstanding debts, credit insurance for illness and accidents, bank deposit insurance, accounts receivable credit insurance, involuntary unemployment insurance, and property credit insurance. Each type serves distinct purposes based on its nature (Sabet Sarvestani, 2016).

With the expansion and growth of economic activities—and consequently the rise of risk and exposure—the role of insurance institutions in supporting economic sectors, particularly investment protection, has become apparent. Confidence in having a risk-bearer during adverse events creates security and contributes to sustainable development. Insurance is a contract in which one party undertakes to compensate the other for loss or damage in exchange for a premium, should a specified event occur.

Today, few organizations can operate without extending credit or engaging in credit transactions. In modern commerce, payments are seldom made immediately upon delivery of goods or services. Credit transactions, as described in recent industry publications (*Tazeh-ha-ye Jahan-e Bimeh*, Issues 134 and 5135), are exchanges in which goods or services are traded without immediate payment. In such systems, the buyer receives the goods or services and commits to paying by a specified date. These transactions inherently pose risks for sellers or credit providers, as buyers may default due to unwillingness or inability—such as insolvency or bankruptcy.

When sales are made on credit, the seller relinquishes the right to demand cash upon delivery and thereby assumes a risk, which constitutes the foundation of credit insurance. With credit insurance, the seller or credit provider is assured that if the buyer or debtor defaults, the insurer is obligated to cover the unpaid amount. Credit insurance is specific to commercial and trade operations, aiming to compensate financial losses incurred by the policyholder due to the buyer's or debtor's unwillingness or inability to pay.

In commercial credit insurance, the insurer encourages the policyholder to carefully select credit recipients and examine the reputation and credit history of buyers or borrowers. This shared responsibility minimizes risk for both parties. As such, credit insurance provides protection against unforeseen losses at pre-defined and planned costs. For example, in the event of death, disability, bankruptcy, or unemployment of the borrower, part or all of the outstanding loan is reimbursed to the lender.

The essential function of credit insurance is to facilitate the growth and expansion of national exports. This is achieved through two key mechanisms: first, by enabling exporters to obtain domestic loans using domestic credit insurance policies as collateral, which banks then accept to issue loans; second, and more importantly, by guaranteeing payment for exported goods by foreign buyers.

International trade today is highly complex, and entering unfamiliar markets always entails risks. Within domestic markets, legal remedies for recovering unpaid debts are more accessible, whereas pursuing claims in foreign jurisdictions presents significant difficulties and, in some cases, proves impossible. Credit insurance mitigates this by securing payment for goods and services sold to foreign buyers, thus providing exporters with a stable and reassuring framework to expand into international markets (Habibzadeh, 2003).

12. Conclusion

Insurance fraud has emerged as one of the most complex and evolving forms of economic crime, posing a serious challenge to criminal justice systems—especially in countries like Iran, where legislative frameworks often rely on generalized and outdated definitions rooted in traditional criminal law. As this article has demonstrated, the absence of specific legal provisions addressing insurance fraud, coupled with legislative gaps, weak investigative mechanisms, and inconsistency in judicial practice, has made effective counteraction practically difficult.

Moreover, the inherent characteristics of insurance contracts, the principle of utmost good faith, and the asymmetrical distribution of information between the insurer and the insured have created opportunities for increasingly sophisticated and sometimes organized fraud within the industry. Comparative analysis and the review of theoretical and practical foundations reveal that without targeted criminalization, proportionate penalties, clear operational guidelines, and specialized training of relevant institutions, effective control and prevention of insurance fraud cannot be realistically expected.

Furthermore, oversight bodies such as the Central Insurance Organization of Iran and the judiciary play a vital role in restructuring regulatory systems, drafting supervisory standards, and promoting legal transparency. Ultimately, tackling insurance fraud requires more than just legislative and penal reforms. A coordinated effort involving the insurance sector, judiciary, legislature, and educational institutions is essential to prevent the spread of this economic crime and to preserve and strengthen public confidence in the insurance system.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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