



Preventing the Criminality of the Bank Managers in Regard of the Banking Facility in Iran's Criminal Policy

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ABSTRACT

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Background

Prevention of the bank managers' criminality is considered one of the citizens' rights that can set the ground for lowering the formation and expansion of corruption in the banking system. Due to the same reason, the present study tries to investigate the prevention of bank managers' delinquency in Iran's criminal policy regarding the banking facility.

Materials and Methods

The study uses a descriptive-analytical research method; the information has been gathered from such resources as books, articles, relevant research, and conferences, and international treaties.

Ethical Considerations

Honesty and fidelity in writing the text have been observed.

Findings

Dealing with crime in the banking system is done by recognizing the category of crime and public awareness about it. Suppose the performance of bank managers is not monitored, or there is a lack of a proper mechanism to monitor financial facilities. In that case, the rights of citizens as the end-users of banking services will be reduced, and people's trust will be reduced.

Conclusion

Supervision and follow-up by the high-level organs over the banks and financial institutes, allowing the people to take part in the area of the banking services via promoting the electronic banking and, also, taking advantage of modern mechanisms for supervising the performance of the bank managers can lead to a large extent bar the criminality of the bank managers and reduce corruption, robbery and embezzlement.

Key words

Prevention of Crime, Bank Managers, Criminal Policy.

How to Cite this Article

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INTRODUCTION

1- Preface

With time and the formation of social and economic needs, the banks and the financial institutes started gradually forming. The heart of every country's economy is presently dependent on these institutions. Due to the economic grounds of some of the financial crimes perpetrated by the bank managers, penal laws and legislators have taken measures in line with the criminalization of some of the anti-law behaviors to guarantee somehow the people's trust in the banking and economic system. Besides the advantages and privileges for humanity, technological progress has provided some clever criminals with fields for raiding on some occasions; they use technologies to engage in virtual and electronic environments to increase the statistics of the banking witnessed compared to traditional crimes. The absence of regulations in proportion to a structure for offering modern banking services and no evolution in the banking system considering the new progress about the modern banking services and weakness in the controlling systems are amongst the problems faced by the banking system. Therefore, it seems that the development of laws appropriate to the new banking activities, as well as the adaptation of the structure of the banking system to the developments and the explanation and development of new supervisory and inspection systems, can

greatly help solve the problems of the banking system in recent years.

2- Study's History

Ramin Alizadeh (2018), in his dissertation entitled "Designing a model for the prevention of banking crimes in Iran's criminal policy," has concluded that one of the important issues that threaten society today is the discussion of economic crimes and, consequently, banking crimes. Every day we see the occurrence of these crimes at the national and international levels.

Due to the same reason, the author intends to offer a pattern based on the managerial and legal discussions to decrease baking crimes. In an article called "regulation as a mechanism for preventing the banking crimes", Amin Jafari (2016) realizes the banking laws as a branch of the business laws that have things in common in principles and concepts. The penal business laws incorporate general techniques and principles for preventing business disorders and crimes, and these techniques are not necessarily punitive. The banking laws, as well, per se utilize penal and nonpenal techniques for fighting disorders and, possibly, banking violations. The present article aims to offer nonpenal techniques for preventing the violations by emphasizing the idea that the penal laws are utilized in banking relations as the final solution and for protecting society's essential and fundamental values in the financial relations of the banks.

In a dissertation named "prevention of the financial crimes by the banks' Staff in Iran's banking system", Hamed Dehestani (2015) tries to minimize the rate of economic criminality, especially the financial crimes perpetrated by the banks staff banking system. The situational prevention strategies have proved their presence in this approach as the most important criminological tool. In between, enhancement of the environmental conditions and reliance on the modern architectural teachings are useful for solidifying the banks' buildings and sterilizing the criminal attacks.

On the other hand, highlighting individual and social preventive measures and strengthening formal and informal oversight and controls to curb actual and potential delinquent employees can be significantly helpful.

In parallel with technical measures, strengthening the scientific strength and relying on new knowledge to support the virtual data of the cyber environment will cause the failure of opportunistic employees. This is done by considering domestic law and the requirements of the Cybercrime Convention and its Additional Protocol to maintain the confidentiality of banking information and deal with computer-related crimes. Finally, it is suggested that in order to strengthen these measures, appropriate laws and regulations be formulated and implemented, and more effective monitoring be done on this process.

In a dissertation entitled "investigating the solutions for no penal prevention of white-collar crimes in the laws of Iran and international conventions", Laila Mowlud (2013) concluded that the situational prevention strategies have been adopted with the objective of reducing the situations and opportunities of crime perpetration via financially supervising the governmental organs as well as identification and controlling of the clients, preservation and keeping of the individuals' histories, privatization, free access to governmental documents, moderation of the banking confidentiality, prevention of the interests' conflicts, controlling of the individuals' assets and enjoinder of good and prevention of vice; furthermore, social prevention strategies have been adopted with the objective of correcting the society and its other institutes via exerting instructional strategies, reporting, participation of civil institutions, mass media instruments and establishment of economic justice as the most important nonpenal strategies adopted regarding the fight with white-collar crimes in the laws of Iran and international conventions.

In a dissertation termed "methods of preventing banking crimes with an emphasis on the situational prevention", Marzieh Shafaghi (2012) concludes that the banks have been the focal point of the criminals' attentions since long ago due to their distinct advantages and benefits in contrast to the other institutions and organizations in the

communities. These are criminals who occasionally enter the banks within the format of the clients and sometimes as employees to perpetrate various crimes from destruction and robbery to embezzlement and accounts' manipulation and acquire benefits through the use of various methods. Therefore, besides the necessity of removing the challenges related to the legislative, executive, and criminal judicial policies, the preservation of the economic expediencies and fight with the banking crimes would be impossible unless by resorting to the nonpenal situational and social prevention teachings.

Certainly, the following should be considered as preventive measures: improving the environmental conditions, relying on modern architectural methods, physical protection and adopting technical measures to protect banks, marking property, and strengthening official supervision and control.

Also, the following items as social prevention outcomes are among the most important and effective items that can be considered:

Emphasis on the axes of developmental and social prevention, paying attention to the health of society and protecting it from corruption and prostitution, improving the economic welfare of households, reporting crimes and suspicious cases, creating a culture of enjoining the good and forbidding

the evil and the participation of social institutions.

However, the present study intends to discuss the issue of crime prevention of bank managers about banking facilities and according to the Merida Conference. Therefore, no specific research has been written in this field.

However, the present study seeks to discuss the prevention of bank managers' delinquency regarding the banking facilities and the Merida conference. Therefore, it is special research in this regard.

3- Concepts and Definitions

3-1- Financial Crimes

No legal definition has been expressed about financial crimes, and, in the domestic laws, some examples have been mostly presented. Some have defined financial crimes as stated in the following words: "they include the economic activities whether those predicted in the law on the economic crimes or the ones stipulated in the miscellaneous rules regulating the financial activities" [1]. The definition's problem lies in the identification of the crimes related to financial corruption. Corruption is essentially not a financial crime because financial and economic motivations do not always accompany it. However, it is sometimes found to have effects on the economy, investments, and economic security. However, financial corruption and economic crime always overlap, and, based thereon; some have

realized the financial crimes due to corruptive behaviors. Financial crimes are generally divided into two sets: 1) illegal actions by those who perpetrate them intending to acquire money for themselves; and 2) illegal actions by those who perpetrate them essentially for accomplishing the goals set by their own or the other organizations [2].

3-2- Delinquency of the Banking Facilities

In granting loans and banking facilities, due to the existence of renting sources, some of the individuals take advantage of special relations and misuse their own and their influential relatives' power and start utilizing the society's economic, social, informational, and informational welfare facilities and privileges and giving rise to a phenomenon known as the influential despots.

These individuals who might be family members or relatives of the political and influential authorities from any political party and most of them are found with no special political inclination exert influence on the others to own huge banking facilities [3].

MATERIALS AND METHODS

The present study is descriptive-analytical research, and it takes a short glance at Merida Convention and Iran's criminal policy to investigate the issue of preventing the bank managers' delinquency. After gathering the set data through note-taking

and referring to the databases and the corresponding forms, the notes will be presented in various parts according to the subject. Thus, the information analysis will be conducted in a descriptive-analytical manner.

FINDINGS

1- Theoretical Foundations on the Corruption of the Bank Managers

Nowadays, banking is enumerated amongst the essential musts of the economic systems in various countries. The absence of suitable mechanisms for fighting the criminality of the bank managers can be followed by harsh consequences for the economic management of the countries.

Due to the importance of this issue, one of the topics that are always emphasized in the content of general training programs against corruption in the banking system is the promotion and dissemination of information related to anti-corruption programs. People should always be aware of the existence and implementation of ongoing programs in the fight against corruption in their community and environment to cooperate and support preventive and repressive programs in the face of all kinds of corruption. In this way, certain information will be provided to the public and government employees on working with specialized anti-corruption institutions. For example, the contact numbers and the addresses of the authorities to whom reports can be delivered in case of

any corruption can be especially taken into consideration [4].

Fighting corruption favors society, and the support of the programs on fighting corruption is necessary. Therefore, this emphasis should be well manifested regarding the society members.

It has to be noted that it is highly important to essentially persuade and ensure the individuals informed about the financial and administrative corruptions as well as the victims that their names will be kept hidden in case of reporting corruption and that they will be supported in any way away from the perpetrators' revenge.

It is interesting to underline that amongst all kinds of financial corruption, the bank managers' occupational misuses are of greater importance. Some specialists believe that these misuses are amongst the most distinct specimens of administrative and financial corruption. Therefore, the highest concentration and attention should be directed towards them.

In the contents of a strong and effective instructional program, a large share should always be dedicated to the familiarization of the society members, particularly the functionaries of the public sector, with the penal verdicts that have been enacted parallel to the fight with financial corruption. Essentially, the promulgation of the penal regulations can convey preventive orders to potential criminals. In this way, they can be reminded of the high cost of

perpetrating financial corruption and encouraged to observe rectitude and honesty [5]. Moreover, the criminalization of the examples of financial corruption by the legislator contains deterring messages for the audience.

In this case, threatening the criminals on the one hand and enforcing this threat by punishing those who violated the criminal prohibitions, on the other hand, helps to prevent instances of corruption. Even more widely, disseminating news and information about the stages of the investigation, prosecution, and disciplinary action in corruption cases can be effective. The dissemination of this type of information, such as the publication of criminal responses to corruption, while containing deterrent messages for their audience, also indicates anti-corruption agents' knowledge and determination to deal with this destructive phenomenon.

Regarding the international experiences of fighting corruption, it should be noted that corruption is a global problem, and different countries of the world, with any level of progress and development, can deal with it. Through the expression and dissemination of successful experiences of other countries in the fight against such corruption, new solutions were achieved in this area.

Expressing the successful experiences of other countries and how they have greatly reduced and effectively combat corruption and financial crimes of bank managers can

boost public confidence among the public, especially public sector agents.

Nowadays, some international organizations, as well, deal with financial crimes in a specialized manner; they have prepared well-codified collections of the solutions for the fight with corruption and the promulgation of these documents can be very effective and promising [6].

One of the important global documents is "the convention on the fight with organized transnational crimes," It is known as Palermo Convention, which was passed in 2000. Article 1 of the Convention states the purpose of enacting, preventing, and combating transnational organized crime more effectively. The provisions of this convention have an economic and financial aspect and call for it to combat crimes that directly or indirectly seek the acquisition of property or financial benefits for themselves or others. Since some of the crimes inserted in the Merida Convention, as well, are of an organized nature with their goal being acquiring interest and financial benefits, the effective collaboration between the member states for proper implementation of the guarantees and solutions inserted in the Palermo Convention can be effective in the prevention of various kinds of financial and administrative corruptions and organized crimes. In addition, of course, at the regional level, there are conventions amongst which the followings can be pointed out: the convention on the organization for economic cooperation and development, the

convention on the American states' organization (OSA) for the prohibition of financial corruption, passed in 1996, the convention on the fight with the European communities' staff, passed in 1997 and also the convention on the African Union for the prevention of and fight with financial corruption, passed in 2003. All these conventions are directed towards the fight against corruption of any sort. To do so, they have implemented programs, whether in its reactive aspect, i.e., punishment, or in its functional aspect, to wit prevention. Therefore, the state members of the Merida convention should cooperate with the conventions related to the prevention of financial and administrative corruption so that it can be effectively counteracted. The fourth paragraph of Article 5 of the Merida Convention also refers to the globalization of economic and global delinquency and the regionalization of policies to prevent such crimes.

2- Solutions for Preventing the Delinquency of the Bank Managers

2-1- Privatization of the Banks and Decentralization of the Public Banking

Governmental management of the banks causes expansion in the misuse of the administrative and employment regulations in the country's administrative structure. The fact is that if the state economy is dominant, the employment conditions in private enterprises are different from those of state enterprises in terms of scientific and

managerial ability. In other words, since managers of the private entities are, per se, shareholders and selected by the real shareholders and capital owners, they exercise remarkable precision and sensitivity towards their responsibilities. Therefore, they try to employ individuals based on their real competencies and their scientific and managerial capabilities to cause increases in efficiency and profitability. However, it has been shown by experiences in governmental organizations and companies that there are other scales such as kinship, friendship, fellow-citizenship, and political and factional convergence influencing the selection and employment of the human workforce. Therefore, since such factors influence the managers of the governmental organizations and companies, the governmental entities naturally experience mismanagement, following which financial corruption is expanded in them.

The reasoning is that the concentration of the administrative and economic activities by the government and the government's huge bureaucracy is per se the cause of increases in economic corruption. The need for principled agreement in economic, production, trade, agricultural, and service plans and activities from government ministries and organizations will increase bribery and bribery in the government's administrative structure and society. Suppose the government shrinks and privatization succeeds, and the government assumes a supervisory role. In that case, bribery, which has become so prevalent in

state-owned banks, can be expected to decline and disappear gradually [7].

2-2- Predicting and Enforcing Punitive Legal Mandates

In order to fight with administrative and financial corruption of the bank managers, the suggestion made by the experts is punishment. The violators' punishment and confrontation can begin from low levels and end in more severe punishments in proportion to corruption. However, the important thing is that the punitive method would gradually lose its effect in case of the exertion of influence by the owners of power, i.e., enforcing extreme punishment for trivial corruptions and vice versa or, better said, in case of exercising discrimination between the managers and the employees. Of course, the punitive method would be effective if the grounds of financial corruption are reduced to a minimum. However, enacting these same regulations does not per se set the ground for discrimination and corruption. For example, when the wage levels differ between public and private sectors, the public banks' managers and employees are dragged towards financial corruption. In case of the huge differences between the staff and managers regarding the wages and salaries received the financial and administrative. For example, when the level of wages in the public and private sectors is very different, employees and managers of state-owned banks are drawn into corruption. If in the public sector, the difference between the

salaries and wages of employees is far from the wages and salaries of managers, the result is financial and administrative corruption of bank managers, that is, the spread of bribes and commissions by fraud in government purchases and invoices. This makes it difficult to tackle the roots of corruption [8].

Of course, experts consider other methods to deal with financial and administrative corruption, including ethical methods.

That is, in some cases, by promoting spiritual beliefs and human moral characteristics. By pointing out the condemnation of the phenomenon of corruption, it is possible to prevent corruption and abuse of laws and regulations to their advantage, friends, and relatives in government offices and institutions. Nevertheless, the success of the ethical approach requires the commitment of political and senior officials and managers to ethics in political and financial management so as not to corrupt in order to consolidate their power and increase wealth [9]. However, the success of the ethical approach necessitates adherence by the senior political and ethical authorities and managers to the ethics in the political and financial managerial affairs in such a way that they are not encouraged towards corruption for stabilizing their power and increasing their wealth [9].

2-3- Enhancing the Public Awareness Regarding the Preventing of the Bank Managers' Misuse:

The instructional programs should contain precise information regarding the nature of various kinds of financial and administrative corruption, costs of their perpetration, methods of their occurrence, ways of reporting them, and rules related to the process of fighting with them. Poverty, inadequate hygiene, low life expectancy, unequal income and wealth distribution, low and even negative economic growth rate for some countries, and failure in their developmental programs are just part of the unfavorable consequences of corruption [10].

The devastating effect of the financial-banking corruption occurrence can be possibly seen in such a crime as the bank managers' misuse of their vocational duties and situations. Since this crime can eventually end in such a cost as the deprivation of the general public's trust in the political governance, which is an extravagant loss for the statesmen, it can be envisioned as the hugest and heftiest damage stemming from the perpetration of the administrative and financial corruption [10].

In order to increase the people's participation in the process of the fight with the manifestations of the financial corruption and to win their ideas for this participation, it should be proved to the society members that corruption is a completely harmful and unfavorable thing. This is a lot well-manifested when there is a higher interaction between the people and the government. Therefore, their familiarity with the

corruption's harms is of great importance. This way, people should be aware of the method and quality of enforcing the programs in the fight with financial and administrative corruption to cooperate in the programs to prevent corruption. Furthermore, the information related to the quality of the people's participation with the anti-corruption institutes should be declared due to the same reason. Furthermore, the people should be made aware of establishing telephone communications with the anti-corruption institutes.

It has to be added that informing the general public is essentially amongst the preliminary examples of prevention. Many people are targeted for being ignorant of patterns of crime or misconduct. They are also found not familiar with the factors setting the ground for the perpetration of financial and administrative corruption. They also do not know the supportive factors against the financial and administrative corruption examples very well. Such an information-provisioning encompasses offering awareness about the risk factors related to the occurrence of financial and administrative corruption, its effects and outcomes and methods of its prevention, and ways of remaining protected against it [12].

It seems that the identification of the nature of corruption, costs of corruption, programs of the fight with corruption, penal responses to corruption, and the international experiences should be taken into account in a general and effective instructional program

for the fight with and prevention of corruption. These cases provide the people with the least required information about corruption and equip them in the fight against corruption. It is added that different societies have offered various definitions of financial and administrative corruption according to their attitudes and perceptions. However, at the national level, for people, especially public sector agents, to have a clear picture and understanding of corruption, a chapter should be devoted to the nature of corruption and how it is committed in public education programs.

This is especially important for public sector brokers because they are always exposed to corruption due to their work in the public sector, so they need to clearly understand this issue during a specific training program. Corruption means destruction, ruin, chaos, debt, and oppression [13]; however, it can be anyhow considered as "improper utilization of the governmental positions for the acquisition of personal interests" [14].

Essentially, it is by recognizing the corruption that its prevention can be taught to the people. This way, in order for the instructional programs on the fight with corruption to accomplish their primary objective, to wit fight with and prevent financial and administrative corruption, corruption should be exactly and well-identified to the people. Furthermore, there is a consensus that corruption is unfavorable and imposes direct and indirect extravagant costs onto society. Therefore, to win the

general public's support, it has to be proved to the society members that administrative and financial corruption is harmful and unfavorable. Furthermore, it has to be proved to the general public that corruption causes losses to society. It only benefits a few individuals, and people should know that they may benefit a little by exhibiting corrupt behavior. However, it is them that would eventually sustain a larger loss.

2-4- Situational Prevention of the Bank Managers' Delinquency of Financial Facilities

Situational prevention is a set of measures taken to control the environment and the surrounding situation overlooking the crime and control it to protect individuals or targets from being victimized. In other words, situational prevention includes a set of actions and measures that tend to master the circumstances surrounding the crime and control it. This is done on the one hand by reducing pre-crime situations. However, on the other hand, these, i.e., pre-crime situations, facilitate crime and increase the risk of identifying and arresting offenders [15].

In preventing a crime situation, instead of confronting the motive for committing the crime, it tries to close the ways for the perpetrator to reach the subject of the crime and increase the effort and risk of committing the crime and make it less useful for the perpetrator [16]. The foresaid prevention uses methods and interventions

that include environmental designing and management, target a particular form of crime and increase the risks stemming from crime perpetration to prevent the crime [17]. Situational prevention, unlike social prevention, is not based on strengthening the values of society, elevating its institutions, examining the roots of delinquency, and cutting it off, but relies on reducing the opportunities and situations of crime.

In fact, instead of addressing the inner motives and intentions of individuals that are difficult to change, it tries to find ways to reach the perpetrator or victim and increase the effort and risk for the perpetrator to provide a practical solution to prevent crime.

2-5- Promotion of Virtual Banking and Electronic Banking:

Electronic banking, e-banking, in brief, is a generation of modern banking that considers the goals and time's expediencies in its offering of the services above by the use of modern technologies. The new generation of banking tries to encourage the citizens and service-users to get a significant part of their prior activities done through telecommunication systems, internet networks, electronic tools, and computers. In various countries, e-banking has caused services like account-opening, money-transferring, payment services, electronic purchases, and so forth to be offered online. The simple definition of electronic banking can be the application of electronic

instruments for performing banking processes [18]. For example, using POS and ATMs and offering services like telephone banks, credit cards, smart cards, and internet banks are amongst the examples of e-banking [19].

In addition to the concept of e-banking, there is another term in the literature related to this field which is called "virtual banking".

Virtual banking does not mean existing banks that use the Internet or other electronic devices as an alternative way of providing customer service, but rather independent banks that operate entirely in cyberspace; (Compared to physical banks that work in buildings with counters and offices). Thus, virtual banking represents the final state of technology balance in banking.

In general, the latest model of banking that has replaced traditional banks and operates completely online and without branches [20] is that banking as an industry goes beyond the physical presence and scale of offices as parameters for measuring the ability of a bank and with Overcoming temporal and spatial constraints operates "permanently". [21].

Virtual banks have similar activities and similar properties to the internet-based banking services offered by physical banks. For instance, virtual banks permit round-the-clock access to the bank accounts and more control for money transferring, particularly about the international interactions [22].

Moreover, these banks are incurred with lower additional costs and have easy access to potential customers at a global level due to their common method. The Internet enables overcoming physical limitations and simultaneously renders it possible for virtual banks to attract international customers. Virtual banking results from a phenomenon called e-banking which is per se the use of technology for offering financial services to the customers; it is a system devoid of any divisions or, put differently, any physical element for performing banking affairs [23]. Although in e-banking, there is an attempt to provide more services to clients, in person and through Net Bank, Mobile Bank, etc., the reality is that a significant part of the activities is still through employees.

Moreover, it is done in the physical branches of the bank. Electronic Bank has tried to provide the old content and services in new formats and use the day's capacities. E-bank has endeavored to offer the previous contents and services within the modern formats and the latent capacities. On the other hand, virtual banking is an institution, essentially formed in cyberspace, which, in addition to using information technology to provide services, is the case with e-banking. In the field of structure and organization, by resorting to electronic tools, it has eliminated physical intermediaries, including branches and employees, and so on [24].

This type of banking does not differ from ordinary banking in terms of services and

nature. The only difference is that all the executive stages are done using the equipment related to information technology in virtual banking. Although the security issues predicted in the operations by the virtual banks like the traditional banks that engage in offering internet-based banking services, it has to be noted that virtual banks have an independent nature. Therefore, the virtualization of the banking system can be accompanied by various consequences. Naturally, due to the vastness of the work area and the transborder activities that have released the banking system from temporal and spatial limitations as a positive point, these outcomes occur in vast dimensions. Therefore, they can influence the macro-level economy and other countries' other provisions in positive and negative results.

CONCLUSION

According to the research results, decentralization of banks is a step to fight corruption and avoid delinquency. More importantly, because the public and private interests of the citizens play roles, the banks' competition for offering financial services and facilities to the citizens takes a faster pace, which means consideration of the citizens' economic and social rights. Furthermore, competition for offering services can privatively bar the expansion of the bank managers' delinquency. The other way to fight bank managers' corruption is to distort the traditional methods and promote modern banking methods.

Nowadays, the expansion in the use of the Internet and its related technologies has influenced all business areas—one of the domains that have undergone the highest rate of evolution in the banking industry. As trustable intermediaries for electronic transactions, the banks have undergone considerable changes to keep their global exchanges and electronic business. Distancing away from the traditional grounds of banking, the financial instruments commonly used in them and payment based on methods relying on such grounds have caused the emergence of modern institutions, each of which has presented novel topics and problems.

Traditional banking was a system based on providing services in person and through physical branches. New technology has forced the traditional system to become widely used to meet growing needs, manage multiple transactions and provide diverse services, avoid wastage of time, reduce banking costs, attract end-users of service costs, attract Satisfaction of citizens, and ultimately greater profitability.

ETHICAL CONSIDERATION

Authenticity of the texts, honesty and fidelity has been observed.

AUTHOR CONTRIBUTIONS

Planning and writing of the manuscript was done solely by the author.

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CONFLICT OF INTEREST

No conflict of interest was reported by the author.

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