

POLITICAL CRIME IN THE IRANIAN PENAL SYSTEM AND THE POSITION OF CONSTITUTIONAL CIVIL LIBERTIES IN CRIMINALIZING POLITICAL CRIME

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Abstract

Purpose: This study aims to analyze political crime in the Iranian penal system and the place of civil, constitutional freedoms in the criminalization of political crime.

Methodology: In this study, we have tried to study articles and related research in this field and analyze the results of each to make a proper conclusion about the relationship between the Iranian systems in dealing with political crimes. Therefore, the only tools used in this study are documents related to political crimes at the international level.

Main findings: Political Crime Law enacted in 2016, despite the basic forms of extensive discretion and lack of specific criteria for the judicial authority in determining whether a crime is political or non-political, practically made this law ineffective, regardless of the problems mentioned.

Application of the study: Since the commencement of the country, political wrongdoing has been viewed as wrongdoing against the public authority. Therefore, the results of this study can be very effective in improving the performance of governments in preventing possible crimes against governments.

Novelty/Originality: Given the multiplicity of political crimes in our country, as well as the complexities involved in the case of political crimes, it seems that in the history of our criminal law, there has been a will to legislate and determine the exact causes of political crime, and governments in most historical periods, they have made great efforts to identify political criminals. The novelty of this research lies in investigating the effect of political crimes on legal confusion in legislating political offenses.

Keyword: Political Crime, Security, Political Activity, Civil Liberties, Security Crimes.

INTRODUCTION

Political crime has a history in our country since ancient Iran. In ancient Iran, crimes such as treason, encroachment on the royal crown, approaching royal house cleaners, etc., were punishable by death (Bakhshash, 1989). Some historians have criminalized the punishment for these crimes (political crimes) and other punishments for (not death) include dismembering the limbs of the perpetrator (Riazi, 2005). During the Constitutional Revolution, according to historians, political criminals were tried in military courts and sentenced to severe punishments (Daniel, 2012).

The nature of social constructions and socio-social circumstances, reactions to social circumstances and, associations with the culprits influencing people and gatherings wrongdoing conducts. Past friendly culture conduct energizes learning in conduct at the public a while later. The state makes the wrongdoing laws to ensure and keep up its force. The culprits support the criminal follow-up on getting and saving their inclinations (Riyadi & Mustofa, 2020) and forcing the penal code of 1969 into the state's legal system-Organized the catalog of political acts directed against the state (Kuczur, 2020).

It is proposed that an established right against criminalization may apply (and just apply) to exercises that have considerable positive social esteem and do not force any meaningful social mischief (Bendor & Dancig-Rosenberg, 2016). Social developments have been key in getting a large number of these rights as well. In Britain, for instance, early government assistance developments were coordinated around what the 1942 Beveridge Report recognized as the 'five indecencies' of infection, need, filth, obliviousness, and inactivity (Martin, 2016). The criminalization of vagrancy alludes to the sanctioning and authorization of laws and strategies that rebuff un-shielded individuals for getting by in broad daylight space, in any event, when those people have no sensible other option. The sacred and social liberties issues originating from criminally charging un-shielded individuals for public endurance are questionable yet clear (Rankin, 2020).

Unreasonably, numerous individuals with genuine dysfunctional behaviors live in correctional facilities and jails that are mismatched and ill-equipped to address their issues (Dvoskin et al., 2020). In addition, the criminalization of social developments and dissent remains under-analyzed as an issue characteristic of majority rule government (Doran, 2017).

The Amendment to the Constitution, in principle, the seventy-ninth, considered the investigation of political crimes in the presence of a jury, but the definition or examples of this crime were never defined and criminalized in this

amendment. During the first and second Pahlavi eras, the correct definition of political crimes was not provided. In the General Penal Code adopted in 1925, the cases of reduction and exemption in the punishment of political crimes were considered with the consent of the king and the proposal of the Minister of Justice and the non-execution of cases of recidivism in the political process. In 1928, the prosecution of political crimes was subject to the presence of a legislative jury, and in 1931, influenced by the Marxist atmosphere in some intellectuals and the regime's fear of communal ideals, the Penal Code against independence and national security was passed. Membership and establishment of parties to oppose the constitutional monarchy. With the passage of the Extradition Act in 1960, extradition cases were not covered by political offenders, and these crimes were excluded from the bill. In 1975, by the single article of the Law on Procedure and Punishment of the Army, this type of political participation in parties was intensified.

After the revolution, the only law in the field of political crimes is the bill to remove the effects of political convictions approved by the Revolutionary Council on 1979/9/23: condemn all those who act as an act against the country's security and insult the monarchy and oppose the constitution. Other political charges have been sentenced to life imprisonment. Early in its term, the Sixth Assembly defined a political crime that did not yield practical results for various reasons. In 2016, with the efforts of some lawyers, political figures, and members of the media, to solve the problem of political crime in Iranian criminal law, the Political Crime Law was passed, which not only did not solve the problem of defining and instructing political crime in the country's legal space. It mostly imposed a kind of legal obligation and added the burden of inefficient legal discrimination to the legal and political environment of the country.

Unfortunately, in the case of political crime, the correct definition is very serious. The best reason for this is the failure to provide a definition free from aggression and objection, which is due to a variety of reasons, the unknown nature of which constitutes a political crime. Therefore, no definition has been severely criticized as soon as it was announced. Besides, a political crime, like other crimes, does not have a fixed and specific objective existence to be able to define its constituent elements and other characteristics. The concept of political crime was formally introduced into French law in 830 AD and was separated from ordinary crime, but no definition was given. Later, its examples were mentioned. In Iranian law, it is also the only name for a political crime. None of this has been done, so Iranian jurists have also briefly addressed this issue with the ambiguity of foreign writings and texts. (Blakeslee & Fishman, 2018). Definition of a political crime from a doctrinal point of view When it comes to the definition of a political crime from a minimalist point of view, it refers to definitions that have been challenged by Western jurists with Eastern jurists following their case law in Iran. The investigation has not taken place. Political brutality incorporates a variety of behaviors and occasions that challenge the one-sided assessment. It could be approved or unapproved viciousness. Keeping in mind that the last is quite often connected with wrongdoing, the previous is typically considered a declaration of the real restraining infrastructure in the utilization of power portraying present-day cultures (Ruggiero, 2017).

Distinguishing proof gets from murders of nearby government officials by criminal associations. It demonstrates that a particularly adverse stun to lawmakers' normal adjustments incites a solid lessening in chosen legislators' human resources (Daniele, 2019). It is shown that these negative relations ought to establish an upper bound gauge of the causal impact and show that considerably under moderate suppositions, the impact is probably not going to be brought about by unaccounted choice predisposition (Gehring et al., 2019).

A. Various definitions of political crimes

1. A political crime is a criminal act in which either the motive for the overthrow of the political and social system and the disruption of political management and damage to the country's governance or any criminal act results in the overthrow of the president and the system. Be a country (Berdejo & Yuchtman, 2013). The jus cogens forbiddance of political slaughter is communicated in public enactment (Van Schaack, 2017).
2. Political crime refers to criminal acts that aim to overthrow the political and social system and disrupt the order and security of the country (Robinson & Robinson, 1995).
3. Political crime resulting from political thought or an institution and political apparatus are called political crime (Sandrini, 1999).
4. Political crime is a crime that harms the social organization.
5. All crimes that aim to harm the organization and activities of the political power of the country are considered political crimes (Tamadonfar, 2001).
6. Crimes have a political title, which is committed to the country's political interests or against the political rights of one of the people (Hagan, 1997).

B: The elements of political crime

The elements of political crime in our country, due to the lack of definition of the nature of this crime, are not clear and concise concepts and have been an absolute function of different attitudes of the government that has interpreted these elements with their interpretations. These elements refer to the parameters that affect the selection of crime to political crime. We will examine these differences in later sections. The motivation behind this investigation was to break down

political wrongdoing in the Iranian reformatory framework and the spot of common sacred opportunities in the criminalization of political wrongdoing.

Given the variety of political wrongdoings in our nation, just as the intricacies associated with the instance of political violations, it appears to be that throughout the entire existence of our criminal law, there has been a will to enact and decide the specific instances of political wrongdoing, and governments in most authentic periods, they have put forth incredible attempts to recognize political crooks. The reason for this examination was to dissect political wrongdoing in the Iranian reformatory framework and the spot of commonly established opportunities in the criminalization of political wrongdoing. The objective of the article is to analyze political crime in the Iranian penal system and the place of civil, constitutional freedoms in the criminalization of political crime.

METHODOLOGY

In this article, by inspecting the accessible assets and investigating the consequences of every, we analyze the impact of political wrongdoings on the presentation of the public authority. In this study, we have tried to study articles and related research in this field and analyze the results of each to make a proper conclusion about the relationship between the Iranian systems in dealing with political crimes. Therefore, the only tools used in this study are documents related to political crimes at the international level.

RESULTS AND DISCUSSION

With the enactment of the Political Crime Law in 2016, which states that any of the crimes authorized in Article (2) of this law, if committed with the motive of reforming the affairs of the country against the management and political institutions or domestic or foreign policies, without intending to violate the principle of the system It is considered a political crime. Expression and punctuation have been considered: First: Political crime has nothing to do with acts such as terrorist acts, creating unrest and disturbing public order and security, even with reasons such as freedom, guaranteeing the rights of society, protection of minority rights, etc., and these actions are outside the definition of political crime. Second: A closer look at Article 2 of the Political Crime Law reveals that the actuality of examples of political crime is generally the expression of political positions, criticism of the government by the press office, speeches in political communities, etc., and that is why in the past and before approval Political crime law This crime was generally considered to be a press crime. According to the mentioned cases, it can be said that the material element of a political crime is cooperation and incitement of people through writing, speech, etc. Therefore, the results and crimes contained in the political crime law, such as insulting the publication of lies, the material pillar becomes relevant.

According to the law of political crime, if the following behaviors are committed with the motive of reforming the affairs of the country without intending to strike at the principle of the system (which, of course, will be the criterion for identifying cases under serious discussion in the future), it is considered a political crime. Benefits related to political criminals are dealt with. The first case is "insulting the heads of the three branches, the chairman of the Expediency Council, the vice presidents, ministers, members of the Islamic Consultative Assembly, members of the Assembly of Leadership Experts and members of the Guardian Council due to their responsibility." Although in the initial proposal of the deputies, "defamation and spreading lies" against the officials mentioned in this paragraph was also considered as an example of a political crime, in the end, by removing them, it was considered an insult to the authorities as a political crime. Insult in the word means to humiliate and have a style, and in the term, it is any behavior, including words, actions, writings, and gestures, that in a way causes the audience to lose its status in the eyes of ordinary people in society. The insult may be due to ordinary words or vulgar words. Defamation means attributing a crime to others without proving it. The legislator of "political crime," by separating insult and defamation, considers only insulting officials as examples of political crime and excludes defamation of these officials from the scope of political crime. Also, insulting the Supreme Leader and the late Imam Khomeini is excluded from insulting the authorities. This case is still subject to the general penal regulations regarding insulting the authorities and acting against national security. The second case is "insulting the head or political representative of a foreign country that has entered the territory of the Islamic Republic of Iran by the provisions of Article 517 of the Islamic Penal Code." In this regard, Article 517 of the Penal Code of the Islamic Penal Code (adopted in 1996) stipulates, "anyone who publicly insults a foreign president or his political representative who has entered the territory of Iran shall be sentenced to one to three months in prison." "It can be made conditional on a reciprocal deal with Iran in that country as well."

There is the same restriction on political criminals that insulting political officials of foreign countries are a crime if that country has also considered insulting Iranian officials a crime, and if a country does not reciprocate in this regard, Iran is obliged. There is no insult to the president or representative of a foreign country for criminalization. The third case is related to "violation of the legitimate freedoms of others" and "slander, defamation and spreading rumors" by parties and groups, which are recognized in paragraphs of Article 16 of the Law on the Activities of Political Parties, Associations, and Associations, and Islamic Associations or Religious Minorities has been legislated by the legislature. Suppose parties and groups commit these two acts in their publications, gatherings, and other activities. In that case, if their action is aimed at reforming the country and not harming the principle of the system, their crime is considered political. It will be prosecuted following the provisions of this crime. The fourth case is the crimes stipulated in the election laws of the Leadership Experts, the President, the Islamic Consultative Assembly, and the Islamic town and village councils. The

actions taken by the candidates or their supporters in the direction of the election campaign are considered political and, from this point of view, is a political crime. Of course, it is not known what actions such as buying and selling votes and creating panic for voters or members of the registration branch and taking votes with or without weapons in the election, and changing and converting or forging or stealing or destroying election documents such as Tariffs and ballots, minutes, telexes, telegrams, and telegrams that are considered electoral crimes but can call into question the status of the election and its health. Why should it be considered a political crime and its perpetrators enjoy the benefits of a political crime? The fifth and final example of a political crime is "spreading lies." In general, publishing lies if the Press Law covers it through the press and official media, which is considered a press crime under the same law; Therefore, it seems that the legislator's intention in publishing lies is related to cases such as distributing night letters or spreading lies in tribunes and pulpits, which are outside the scope of press laws and can be prosecuted and punished as a public crime.

In Article 3 of the Law on Political Crime, the legislator has detailed the cases excluded from the scope of this crime and are considered most of the crimes against the regime and national security. This section states that "directing, participating in, assisting and committing the crimes mentioned in this article is not a political crime." Regarding crimes that are not a political crime, in Article 3, cases such as "a: crimes subject to limits, retribution, and diyat (Blood money), b: assault on domestic and foreign authorities, c: kidnapping, hostage-taking, d: bombing and Threats to it, hijacking and piracy, e: theft and looting of property, arson and intentional destruction, f: illegal transportation and storage, smuggling and sale of weapons, drugs and psychedelics, g: bribery, embezzlement, Illegal misappropriation of government funds, money laundering, concealment of property resulting from the crime, h: espionage and disclosure of secrets, x - inciting people to secession, war and killing and conflict, i: disruption of data or computer and telecommunications systems," used to provide essential public or governmental services, including all crimes against public decency and morality, including crimes committed by computer or telecommunications systems or data carriers or otherwise. It has been mentioned that the perpetrator with any motive to commit these crimes is not a political crime. According to the provisions of other crimes, the crime of individuals will be tried.

Nowadays, a new concept of political crime under the title of negative political crime has been considered by jurists. Accordingly, negative political crime, contrary to the concept of political crime, which includes crimes of different groups and individuals against the government and the political system, is a negative political crime. Government penal institutions, such as the police and the scientific security institutions, are said to be perpetrated by foreign nationals or their governments (Ross, 2012); in other words, the basis for crimes against citizens and based on human rights are committed by government agents (Arzhang et al., 2018). The criminal act of government agents in violating the rights of public freedoms with a political description from a social perspective and the crime of government agents of scientific rights and public freedoms can be interpreted as a negative political crime (Alesina & Perotti, 1996). Examples of this type of criminalization can include the preservation and non-transfer of power in dictatorial or quasi-dictatorial regimes, the actions of election observation bodies to disqualify individuals for political purposes, and the exclusion of members from legislatures or councils or other institutions (Blakeslee & Fishman, 2018). Also, the crimes of government agents against human rights and individual freedoms are enshrined in the constitutions of countries, which are examples of negative political crime—also, restricting individuals from participating in politics, such as preventing the right to elect representatives of the government, preventing the political activity of dissidents and political organizations, and promoting the ability to restrict freedom of expression (arbitrary press suppression), unreasonably restricting unions or restricting communities. Lack of fair trial, discrimination based on race, ethnicity, gender, religious reasons, etc., are other examples of such crimes (Ross, 2012).

In the 2016 political crime law, which is merely a vague phrase or this content that is committed with the motive of reforming the affairs of the country against the management and political institutions or domestic or foreign policies of the country, without the perpetrator intending to strike at the principle of the system is considered a political crime. Article 2 of the law also mentions some examples, including the inclusion of which can be interpreted based on an unspecified criterion with the motive of reforming the country's affairs in Article 1. However, the main question is, what is the reason of the legislator for not defining precisely and stating specific and clear examples of political crime? The answer is clear that there is disagreement among jurists in determining and interpreting political crime. This disagreement has become the source of a lack of precise definition of political crime and a lack of definition of instances of political crime.

It is worth mentioning the lack of sovereignty due to the cases the chapter will say later that it has been effective in this lack of precise definition of political crime. Here are some of them:

A: The definition of political crime is neither theoretically nor practically desirable.

This issue is not specific to our country and is unprecedented in other societies. Here are some examples: After the eighteenth-century revolutions, democratic systems began to take shape. In France, given the historical background and the fear that the ruling government may return; Political crime was envisioned as a guarantee for dissidents and protesters. They said their motive was honorable, yet in public crime, public order is in danger; in political crime, political order is at stake, and what matters is the wounding of public sentiment, not the prevailing sentiment. With the subsequent developments, especially after the World War, the fundamental rights and freedoms of the citizens have been respected by the governments, and the tools of protest and struggle have been provided in the current systems. In the

spirit of elections and the length of one's power, there is a democratic process, so there is no need for a political crime. This is why it is no longer a political crime in the French Constitution or Penal Code, but it is still provided in the French Code of Criminal Procedure. For example, it is provided in the criminal record that it is not considered a political crime in the record. In this way, political crime has been eliminated either explicitly or practically. In Belgium, political crime has been virtually eliminated, there are theoretical tools for protest in a democratic political system, and there is no need for a political crime. The technical and practical problem of political crime is that everything goes towards the definition of political crime, but any definition is dangerous. For example, there is a definition of the Belgian Supreme Court, but it is similar to the definition in the 2003 law of the definition of terrorist offenses. (According to such views and in the beliefs and laws of some countries). The definition of political crime is not possible with the conditions of a democratic system (Shahidian, 2002).

First of all, we have to ask the question of which field of law is the study of political crime. Then we answered that this issue was part of criminal law at first, but gradually with the development of public law studies, which includes political science and public law lawyers. This discussion also opens, whether with a criminal lawyer or independently of him. The common denominator of the disciplines is either individual rights and freedoms or the field of human rights. Fundamental principles such as freedom, equality, majority rule and protection of minority rights, separation of powers, and the rule of law are democratic criteria observed in a democratic government. In a semi-democratic government, governments and Non-democratic systems are not observed in a partial or skewed manner. In a democratic system, political crime is not presented in its current form because in this system, there is the regulation of power and the guarantee of fundamental rights and freedoms, and the strategies for entering politics are logically possible. This is not the case in non-democratic societies either because it is clear that the government does not intend to give concessions to the people, but in semi-democratic societies, the situation of political crime is a paradoxical one.

Some people believe that a politically motivated crime with honorable motives and democratic standards should be committed without terrorist acts and crimes against the integrity of the body and soul of the people; otherwise, it is a normal crime. Others believe that a political crime committed with honorable motives is any act that a person commits, even if it is with beatings. It is based solely on internal criteria. What is certain is that it seems that the best criterion for a political crime is the actions taken by the protesting person or persons to change and improve the situation in a country. Certainly, this crime should be committed based on honest thought and thinking without regard to self-interest. Violent acts cannot justify violent acts, political crime is based on political thinking, and this criterion can be a good criterion. These crimes should not conflict with human rights standards, and restricting a political crime to a part of the government does not seem to be in line with legal standards. The point to keep in mind is that the perpetrators of political crime are individuals and groups who act according to well-known criteria based on ideas that relate to certain things. The type of actions they take is different.

We cannot identify every political critic as a kind of political criminal. In the context of a political crime, we may not be able to frame actions such as defamation, insults, demonstrations leading to conflict, actions to change the regime because it is possible. Someone says and writes about criticism of the government and the system. Criticism corrects governance. In a society where there is criticism, there is less corruption, and criticism exposes the corruption of the authorities. Criticism makes the healthy part of a political system sensitive to the unhealthy part. The transparency makes it possible to identify those who abuse power to plunder the treasury or government property.

Therefore, rational criticism should not be considered a political crime. Political crime is the formation of groups, activities, propaganda against the system and the regime. If we base this criterion and espionage, terrorist acts are excluded from it, and actions that lead to criticism of the regime are excluded. The actions that we consider today in Article 498 of the Islamic Penal Code as crimes against security, an important part, can be considered as a political crime. Let us not forget that the philosophy of criminalization in political crimes has been that if a person with honorable motives, without personal interest, without dependence on the outside, did only reform the criminal movement and could later become the basis for reforming the government. It is appropriate for this person to make changes and be able to seize political power, as many government officials in later governments were political prisoners in previous governments. Therefore, these people cannot be treated as ordinary criminals, and these people may cause changes within the framework of the system (Ahangar et al., 2014).

According to Article 1 of the Law on Political Crime: Any of the crimes authorized in Article 2 of this law, if committed with the motive of reforming the affairs of the country against the management and political institutions or domestic or foreign policies of the country, without committing intent to strike at the principle of the system is considered a political crime. In an understandable definition, a criminal or a political convict may be defined as someone who has carried out the political activity within the framework of the law but is in prison due to a conflict of interest with the will of the government. Security-oriented ideology in our country, branching from Islamic ideology, contrary to this legal article, believes that political crime refers to any act of criminals whose motive is to overthrow the political system, disrupt political management, and damage the country's governance. In jurisprudential terms, a political or prostitute crime is practically said to mean that a group of Muslims who are the organization of the command and obedience of the guardian of the Muslims, due to baseless suspicions that have arisen for them, come out and take actions voluntarily, whether through corruption or corruption. Moharebeh is carried out through espionage for either a foreigner or armed

war with the Islamic government or other matters. Political crimes are generally considered crimes against the country's security, and by committing them, the country's security is endangered. In some cases, the perpetrators aim to change the institutions and organizations of the country. The perpetrators of these crimes have ideal motives according to their beliefs.

In summary, it can be said that because a political crime, even with the enactment of the 2016 law, has not been defined correctly and according to specific criteria according to the cases expressed in previous chapters; In some cases, with a view influenced by security in terms of unity, the criterion of laws enshrined in the Islamic Penal Code, any action that somehow harms the country's territorial integrity, interests and interests of the system, economic and political interests, sovereignty and ultimately public peace and tranquility. The crime of acting against the security of the country is described. Finally, since there is no difference between the crime of acting against security and political crime, any action against the security of the country under any pretext, including reform, political action, etc., is considered as a clear example of action against the national security of the country and the perpetrator is punished. Heavy will be encountered. The function of security-oriented ideology in dealing with political crimes is to shift the nature and manner of dealing with these crimes to security crimes. From the point of view of this type of criminal policy, maintaining the security of society and the individual and, of course, the government is the most important goal. The political defendant, even assuming the goals of freedom and reform of society because of the potential danger to society and especially the government (which in most cases is ideological has no inherent legitimacy, and his actions are not only a political crime but also a crime against security and to undermine the foundations of security. Regarding the impact of security-oriented ideology and its place in the legislation of security crimes, we must first pay attention to the fundamental change in the concept of national security and reflection on the nature and external existence of a concept as a system.

We must first point out that security crimes and political crimes are fundamentally different in nature and manner of handling. Many jurists have linked the inclusion of political crime to the intentions of the perpetrator. Suppose the purpose of committing a crime is to reform the conditions of society and even overthrow the government or regime that governs the affairs of society. In that case, the cases are included in the political crime. In the sources of Islamic jurisprudence and sharia, according to which the law of our country is by ordinary crimes and political crimes (differentiation) has been made, and this difference has been considered because it has taken into account the interests of society to discuss its system (Weimann, 2007). The following are examples of how to handle this difference.

The criminal court has jurisdiction over a political crime, and according to Article 305 of the Code of Criminal Procedure (adopted in 2013), political and press crimes are tried in the criminal court of a provincial center where the crime took place and the legislature in Article 5 of the Criminal Code. Political, approved in 2016, has determined that the determination of the politics of the accusation is with the prosecutor's office or the court in which the case is being raised. The accused can file a charge of politicization at any stage of the trial until the end of the first court hearing. In determining whether the charge is political, the prosecutor or the relevant court must consider the nature of the crime, the motive, and the defendant's intent to commit the crime. Regarding the cases filed in the second and Revolutionary Criminal Courts, after examining the indictment and the documents and studying the case, if the trial court determines the crime committed from the crimes mentioned in Article 2 of the Political Crime Law, it shall refer to the case to the criminal court of a center. The province where the crime took place and if the perpetrator is one of the officials mentioned in Article 307 of the Code of Criminal Procedure sends it to the criminal court of a Tehran province. At the appeal stage, if the court finds the crime committed by the accused to be political, but the court of the first instance finds it non-political, it will send the case to the competent authority in violation of the ruling to comply with the legal procedures.

In Article 168 of the Constitution, the legislature states: The prosecution of political and press crimes is public. Besides, Article 305 of the Code of Criminal Procedure (approved in 2013) stipulates that political and press crimes are prosecuted publicly. The publicity of the hearing means not creating an obstacle for individuals to attend the hearings; That is, individuals have the right to attend the trial. However, the openness of the prosecution of political crimes also has exceptions; that the court, following paragraph (b) of Article 352 of the Code of Criminal Procedure, if the publicity is detrimental to public security or religious or ethnic sentiments, after expressing the opinion of the prosecutor, issues a decision to be closed to the public.

According to Article 168 of the Constitution on the accused of political crimes, the existence of a jury is necessary, and the jury must be formed according to Article 36 of the Press Law and after announcing the end of the trial by the court, according to the press law enters into a conviction or innocence. The guilt of the accused declares the opinion. The order of the jury's statement and the manner of issuing the court's verdict are as follows: Immediately after the announcement of the end of the trial, the members of the jury immediately meet and express their written opinion to the court in the following two cases: Is the accused a criminal or not? Besides, in case of delinquency, does he deserve a discount or not? After announcing the opinion of the jury, the court decides on the guilt or innocence of the accused and proceeds to issue a verdict by the law. If the jury decides on a crime, the court can acquit after the trial. If the court's verdict is criminal, the verdict can be appealed according to legal regulations. There is no need for a jury to hear the appeal.

According to the Constitution and the Law on Respect for Legitimate Freedoms and Protection of Citizenship Rights, Civil Rights of Individuals and Civil Society Organizations, Individual and Social Freedoms are emphasized in several

principles of the Constitution, especially the rights of the nation in Chapter 3 of the Constitution of the Islamic Republic of Iran. In this section, we seek to examine the place of these freedoms in the Constitution:

Article 22 of the Constitution states: The dignity, life, property, rights, housing, and occupation of persons are inviolable except in cases prescribed by law. Dignity means reputation, prestige, social status, and things like that. Insulting, insulting, slandering, slandering, exposing, absenteeism, providing information to others are examples of attacks on the dignity of individuals. "Soul" means the human body, and therefore any injury to the human body is prohibited. The word "property" means objects that belong to man. Any seizure of other people's property is prohibited except as permitted by law. Of course, the illegitimate property is not protected. "Job" is the continuous act that people do to earn a living. Job restrictions are specified in the law. "Housing" refers to the place of residence of individuals. Any seizure of a person's housing requires a legal permit, so the word "rights" includes all rights. In general, the first principle is that the cases mentioned in Article 22 are not offensive, so if the offense is allowed somewhere, it must be interpreted narrowly. Article 22 of the Constitution is the foundation of the principle and rule that is generally stated in the first part of the principle. The following is an exception to this rule; In other words, the principle of the freedom of individuals and the inviolability of the rights mentioned for them is at the forefront of this principle. Ordinary legislators in the first instance and the Guardian Council (the Guardian Council) in the second instance must be very careful that the legal exceptions to the top of this principle do not narrow the scope of the top of the principle to such an extent as to maximize allocation.

Given the above, at first glance, it seems that the violation of some of the principles and fundamental rights of individuals mentioned in Article 22 (except in cases prescribed by law) is considered permissible. One of the restrictions related to Article 22 of the Constitution is the protection of the public interests of society. The public interest in the public interest; because, in many cases, expediency and benefit are taken in the same sense.

The public interest is any object or work that benefits the public. Examples of public interests are manifested in various cases, such as security, public order, freedom, jobs, and professions in which the public interest is and is needed by the people. Its closure is not in the interest of the people. The public government declares some property based on the public interest, such as the parent industries, post, telegraph, mines, seas, mountains, forests, etc. Under government ownership, they are used according to public interests. According to the public interest, any seizure and use of some public property or facilities are prohibited, such as cultural heritage and exquisite objects, etc. This issue is included in the Constitution of the Islamic Republic of Iran in Article 73. Article 13 of the Charter of Citizenship also emphasizes that every citizen has the right to life, financial, dignity, legal, judicial, occupational, and social; no authority should be in the name of providing security, rights, and freedoms. Legally attack and threaten the citizens and their dignity. Illegal activities in the name of public security, especially the invasion of privacy, are prohibited.

According to Article 23 of the Constitution: Inquisition is prohibited, and no one can be reprimanded just for having an opinion. According to Article 25 of the Charter of Citizenship, citizens have the right to freedom of thought, the inquiry is prohibited, and no one can be held guilty of any wrongdoing. The other fundamental freedom of the people, which is the most important freedom after individual freedom, is the freedom of thought and belief. Freedom of thought and opinion means that having any thought and opinion is free, and no one should be persecuted just for having a thought and opinion. Nevertheless, the expression of opinion in any society is subject to certain laws and regulations. The Constitution is based on the principle of freedom of opinion in Article 23: No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honor and reputation. Of course, there is an exception to this general principle in Islamic jurisprudence, which is called apostasy.

In Islamic jurisprudence, apostasy is a kind of corruption of political belief and is the departure of a Muslim from Islam. Apostasy is recognized as the greatest crime in Islamic criminal law, and its punishment is the most severe of all punishments, although the details of its execution are still unclear. The main issue related to this debate is the example of Article 500 of the Penal Code regarding the crime of propaganda against the system. We must also pay attention to the fact that individuals have the right to believe in morality, religion, politics, philosophy, etc., within themselves according to this principle. Of course, the place of belief is in the hidden realm of human existence, and it is difficult and sometimes impossible to get to some of it.

It should be noted that having an opinion is different from expressing it; freedom of opinion does not mean freedom of expression. The inclusion of freedom in any belief only observes the existence of these beliefs in individuals' minds and inner consciences. Of course, as long as it exists to this extent and does not appear externally, it does not affect human social life; otherwise, When the expression of these ideas conflicts with public order, public interest, or the feelings of nations, it is subject to restrictions by the legislature. The crime of propaganda against the system, as it is clear from the title of this crime (propaganda activity), can be realized only by committing a positive act. So only silence and non-defense of the system are not included in the definition of the crime of propaganda against the system.

The first step is to examine whether propaganda against the regime contradicts the views of the opposition? Regarding propaganda activities, it should be noted that the propaganda is subject to this legal article that is done against the whole system of the Islamic Republic of Iran and, of course, intending to overthrow it through propaganda or propaganda in favor of groups and organizations that They intend to fight against the whole system and overthrow it, even if the title of warlord does not apply to them. Of course, it should be noted that whenever criticism is expressed about the performance

of a government institution without the intention of overthrowing the system, or propaganda is done in favor of groups that only criticize some actions but do not fight against the system as a whole, it is not subject to Article 500. Besides, will be excluded. Doing things such as printing and distributing leaflets and magazines, holding demonstrations, setting up radio and television stations abroad, or speaking on them, according to the provision of "any kind of propaganda activity" in the mentioned article, can be examples of the crime of propaganda, against the system. Due to the objection of the Guardian Council to the first bill of the parliament and the use of the word (propaganda activity) instead of the word "propaganda" in the parliament's amendment, the scope of the article has been reduced. The term "advertising activity" implies the need for a kind of repetition and continuity in advertising. . Of course, it should be noted that several individual acts, such as conducting interviews, distributing letters, and marching, may together constitute the criminal offense of propaganda against the regime.

According to Article 24 of the Constitution: Publications and the press are free to express their content unless it violates Islam or public law principles. The details are determined by law. As mentioned, freedom of expression gives a person the right to speak or through the press, books, works, conferences, or express his thoughts and ideas to all people. Freedom of expression guarantees the human right to freedom of expression without fear of prosecution, punishment, or detention. In this regard, Article 24 of the Constitution, while restricting freedom of expression to the press and the press, states the press and the press are free to express themselves unless it violates the principles of Islam or public law is determined by law. In this way: First, the Constitution has accepted and clarified the basis of freedom of expression and the press. Secondly, this freedom is not considered absolute, unlimited, and unconditional and has two conditions: Islamic principles and public law. Thirdly, the expression of quality and detail is prescribed in the form of ordinary laws. It is also emphasized in the one hundred and seventy-fifth principle: Freedom of expression and dissemination following Islamic norms and the country's interests must be provided on the Islamic Republic of Iran Radio and Television. Besides the above principles, freedom of expression also applies to the twenty-sixth principle (relating to the freedom of parties (and the twenty-seventh), freedom of March with certain criteria) because it does not mean that parties can be formed without expressing opinions and ideas.

Moreover, operate. It is necessary to form a party, assemblies, comment, criticize or protest against the way the affairs of the society are managed, which in itself requires the expression and expression of opinions and opinions. Besides, the principles of the legislature stipulate that a member of parliament can comment on all internal and external issues of the country and is completely free in this comment.

It is certainly not acceptable that a lawyer (a representative of the people in the Islamic Consultative Assembly) has rights that the client or the public does not have. In this regard, Article 29 of the Charter of Civil Rights states: The government protects the freedom, independence, pluralism, and diversity of the media within the framework of the law. We must pay attention to the fact that freedom of the press and freedom of expression are strengthened in an atmosphere and society. The position of the press as the fourth pillar of democracy is a tool for expressing political ideas; the emergence of political crime and political accusation for any free society, the claim of democracy is considered a weakness and is minimized. Just as natural persons are free to express their views and opinions within the framework of the law, legal persons, i.e., the press, publications, newspapers, etc., are completely free to express their views and opinions unless their contents are contrary to Islam and threaten national security. Be individual rights. Article 24 of the Constitution states this. The principle of freedom of the press, also known as freedom of news and information, stems from the right of citizens to have access to the most accurate and honest domestic and foreign news and information.

Besides being a conduit for freedom of expression, the press guarantees the right of citizens to national sovereignty and awareness of the internal and external situation and the various dimensions of political, social, economic issues and the search for the facts and realities of society. Besides, in the contemporary world, the press is considered the fourth pillar of democracy. Because the reaction of the people, during elections and referendums and important decisions, depends on the freedom of the press and citizens' access to the realities of society, accordingly, governments do not have the right to deprive people of freedom through camouflage, post news, distort, or mislead the truth. Thus, freedom of the press is the freedom of individuals to publish their thoughts, ideas, and news, through writing and the press, without their publication being suspended or subject to censorship. Accordingly, in its twenty-fourth principle, the Constitution allows publications and the press to express their content if Islamic principles and public law are observed. Of course, since such freedoms may be abused and liberty may be used as an excuse to publish false information and disrupt public order and the interests of society, in most countries, the limits of press freedom were defined in the form of ordinary laws and the responsibility of each. Officials holding a newspaper and other licenses have been compiled in such a way that in case of complaints from stakeholders; they can be dealt with legally. In Iran, the performance of the press and publications is restricted by the Press Law. Of course, due to the sensitivity of the role of the press in society and also because lawsuits against the press are often made by the government and government institutions to prevent the violation of the press and ensure freedom of expression and the press, press crimes in the presence of a jury). The most important fundamental problem of this debate is the lack of a precise definition of the violation of Islamic principles and public law, which can lead to a wide range of limitations with judicial interpretations.

According to Article 27 of the Constitution, which has poems: It is free to hold rallies and demonstrations without carrying weapons, as long as they do not violate the principles of Islam? One of the constitutional rights is the right to

hold rallies and demonstrations for members of society. It is important to note that rallies and public gatherings are some of the most common ways of expressing public demands and demands of the government and the tools in the hands of the government to find out. Probability and corrections are needed. Article 20 of the Universal Declaration of Human Rights states in two paragraphs that everyone has the right to freedom of peaceful assembly and association; no one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honor and reputation. Article 21 of the International Covenant on Civil and Political Rights also states in this regard that the right to peaceful assembly is recognized. The exercise of this right may not be subject to any restrictions other than those prescribed by law and necessary in a democratic society for the sake of national security. Article 28 of the Charter of Civil Rights also emphasizes that citizens have the right to criticize, express dissatisfaction, invite to good, advise on the performance of government and public institutions; the government is obliged to promote and spread a culture of criticism, tolerance. Article 46 of the Charter of Civil Rights reiterates that: Citizens have the right to freely organize and participate in rallies and demonstrations following the law, enjoy the neutrality of the responsible bodies, and protect the security of communities. Another fundamental freedom of the people is the freedom to assemble and march. Freedom of association, like other freedoms, is now accepted in various countries so that individuals can gather in a certain place for political, social, and other issues. This is also accepted in the Constitution of the Islamic Republic of Iran and is stated in Article 27: The formation of gatherings and marches without weapons is free if it does not violate the principles of Islam. However, the concept of disrupting the principles of Islam must be precisely explained by the legislature. In this regard, it is necessary to pay attention to three points: A: According to the mentioned principle, these communities should not be contrary to the principles of Islam. The principles of Islam have been described in the previous sections.

The second point is the restriction of carrying weapons in gatherings and marches, which is undoubtedly a request of the legislator in peaceful gatherings and gatherings and maintaining order and security of society; in this regard, we can refer to several documents. Carrying a weapon as one of the restrictions mentioned in this principle is obvious and recognizable. Still, the term "contrary to the principles of Islam," as legal experts believe, has such a broad meaning that it seems that any interpretation and meaning can be attributed to it. Note 2 of Article 6 of the Law on Parties stipulates that "holding marches with the notification of the Ministry of Interior without carrying weapons if at the discretion of the Article 10 Commission does not violate the principles of Islam, and organizing gatherings in public squares and parks with the permission of the Ministry of the Intelligence. Article 16 of the same law stipulates that gatherings subject to this law must refrain from committing the following in their publications, gatherings, and other activities. Committing acts that lead to the violation of the country's independence, any kind of communication, exchange of information, collision, and positions with embassies, agencies, government agencies, and foreign parties and receiving any financial and logistical assistance from foreigners, violating national unity, and committing acts such as plotting to divide the country, trying to create and intensify differences between the ranks of the nation by using various cultural and religious backgrounds and races in Iranian society, violating Islamic norms. The basis of the Islamic Republic, anti-Islamic propaganda and the distribution of harmful books and publications, and the concealment, storage, and transportation of illegal weapons and ammunition. Article 9 of the By-Laws provides for the security of gatherings and legal marches: The presence of other armed forces is prohibited under the heading of providing security and arranging ceremonies on the spot unless the chairperson of the Security Council directly or at the request of the police commander has a specific role in this regard. In any case, this presence must be done in coordination with and under the operational control of the police force.

Besides Article 27 it and the issue of ambiguity in some of the concepts of this principle, there are articles in the relevant laws, including the Islamic Penal Code, which, even if there are no restrictive interpretations of the Constitution, these ordinary laws can limit Article 27. For example, in the Islamic Penal Code, there is a charge (propaganda against the system) for which one year of imprisonment is envisaged. There is no clear meaning for this article of the law, while the most basic principle in making laws is that they are clear and transparent. There is no such basic principle in this legal article and many others; the shortcoming is that the limits of these titles are not clear, and it is possible to extend and apply restrictions in other areas under these titles. According to Note 2 of Article 6 of the Law on the Activities of Parties, marches are notified to the Ministry of Interior without carrying a weapon unless, in the opinion of the Article 10 Commission, it violates the principles of Islam. Nevertheless, the main point is that protest rallies are faced with the strictness of the Article 10 Commission, and it is practically impossible to hold them despite the observance of the provisions of Article 27 of the Constitution, and there is no objective and external evidence for it and the issuance of such gatherings in the records. The constitution and the law of the parties only mention the limits that prevent the issuance of licenses from violating the principles of Islam or being armed, but what has been done in practice, especially in these years, is that the legal authorities apply the rules beyond the legal right.

Besides, in practice, some expediencies are applied. For example, we can refer to the rallies of protesters against the results of the elections of 1988, which were the legal reason for the opposition to the issuance of legal permits under Article 27 of the Constitution. If we consider it permissible to hold rallies and marches for any reason and only if the conditions of Article 27 are observed, the formation of rallies due to protest against the election results will also be permissible. However, if we consider the right of the Guardian Council to investigate complaints and protests and consider this council as the sole authority to deal with the protests, the formation of rallies and marches to protest the results of the presidential election conflicts with the Guardian Council. Because expressing the objections and presenting

them in a way other than what the constitution has specified not only means not recognizing the Guardian Council but also means violating the ruling of the constitution; However, Articles 99, 118, and 9 of Article 110 of the Constitution have recognized the existence of this right and duty for the Guardian Council. Therefore, to resolve the conflict between Article 27 and these principles, we must say that the mandatory meaning of these principles is that Article 27 of the Constitution has been assigned. Besides, it does not allow the formation of rallies, marches to protest the results of the presidential election, even if it is without weapons, and does not violate the principles of Islam. However, it is peaceful and not destructive ([Khosravi Nik, 2015](#)).

As mentioned above, it can be concluded that the impossibility of exercising the right to protest and criticize the government within the framework of the progressive principles of the Constitution provides the ground for creating political and security criminals and turning potential political protesters into actual political and security criminals.

The non-recognition of the strike and the security view of the right to strike and union gatherings :A strike means a temporary cessation of work by a group of employees to file a complaint or impose a demand, the action was taken against the employers during the strike; finally, workers and managers may enter into social conflict ([Giddens & Griffiths, 2006](#)). A strike can be the dismissal of workers or all employees and brokers of an economic unit or administrative and service apparatus to receive higher wages or job privileges from the employer or the government. Workers' strikes are usually to raise wages, improve working conditions, or reduce working hours. The strike has historical roots in contemporary history; the strike followed the Industrial Revolution. The working class, born of this revolution, formed organizations to defend their rights against employers. These organizations used the strike as an effective means of meeting the demands of the workers. In the beginning, governments and employers broke the strikes with all kinds of means, and even with the help of the police, and the organizers of the strike were killed by blood, but from the middle of the 19th century onwards, the strikes became legal due to workers' struggles. Social groups (employees, students, and freelancers) also emerged from the early twentieth century. Political parties used mass strikes to achieve political goals, and trade unionists and anarchists promoted these strikes as an effective tactic to overthrow the government. In general strikes, all or most workers in various industries and communications of a city, region, or country give up on achieving their political or professional goals. In general, strikes that have a political aspect, sometimes the majority of the people of a country quit, Except for those who are in charge of socially important tasks, such as water, electricity, and health services, and dictatorial regimes, strikes are prohibited by law or in practice.

In Iran, the right to strike is not recognized in the Labor Law approved in 1337 and the Labor Law approved in 1369. In the years before 1337, when the parliament wanted to prepare items for the labor law, the issue of strike was also considered. In 1328, the deputies included the right to strike in the experimental law, but this issue lasted until 1336 and in that special law. The parliamentary arts and crafts commission did not agree with the strike when it was discussed, and finally, the labor law approved in 1337 did not include the strike issue. In the labor law of 1369, this right was not recognized by workers. We must also pay attention to the fact that the strike is a kind of lever of society. Because, for example, when pilots go on strike, they strike because passengers do not move and protest, so this protest forces the government or the employer to make some kind of compromise and allow special attention to be paid to pilots' rights to solve problems. Naturally, in industrial societies, too, it is the case that the institution of government has power. Still, the worker does not have much power, and therefore, by considering this right of strike for workers, they can use the advantage of society, at least at times.

It should be noted that the employer has the employer's power, but the worker does not have the power to use force against his other partners, which is why trade unions come here and enjoy their social rights and the right to strike. Of course, it should be noted that according to the International Labor Organization, this right is reserved for workers. They rely on this international right to protest or strike through their organizations, but it should also be noted that civil protest is a right that, of course, means civil protest away from violence ([Amini & Ramazi, 2016](#)). Given the above and assuming, the right to strike is recognized through the records; we find that in many cases, the right to strike with a view influenced by security ideology is considered a kind of security crime.

To illustrate the issue, we give an example that during the Haft Tappeh sugarcane workers' strike in Khuzestan province, several workers were tried for some security offenses and sentenced to imprisonment and flogging. After the verdict was finalized, the Supreme Leader of the Judiciary requested a request from the Supreme Leader were pardoned. From another perspective, the suppression of the right to protest and the union strike can turn workers protesting the status quo (generally economical and livelihood) into criminals of public and security crimes. We must pay attention to the fact that our laws require separation and legalization of laws such as protests. Legal and trade union protests are in their laws. Referendum (referendum) a tool to formalize political activities and a deterrent to political crime. A French referendum is a direct vote of all members of an organization or community to reject or approve a policy proposed by leaders or representatives. The referendum aims to avoid legislation to the detriment of the majority of society. In new representative and parliamentary systems, referendums are used only to approve the constitution or fundamentally change the government. Still, in some small communities, everyone is asked to vote for everything. There are two types of referendums: optional and compulsory. A mandatory referendum is usually to approve or amend the constitution. In an arbitrary referendum, members of parliament may, by an overwhelming majority, but an issue to a public vote, or the

government may put an issue to a public vote in the absence of parliament or despite it. Another possibility is a referendum with a public request.

Article 59 of the Constitution is a manifestation of democracy and open political space. Article 59 of the Constitution is contained in the fifth chapter of the Constitution, which states the nation's sovereignty. It can be a key and guiding principle in many matters. This principle is a manifestation of the democracy that is accepted in our political system. The legislature is exercised in the constitution by the parliament, meaning that the parliament decides on major issues and exercises executive power. This right is called indirect democracy. This means that the people elect their representatives and the representatives make decisions on behalf of the people. The constitution rightly gives the people the right to express themselves directly in certain cases. The constitution recognizes that in very important economic, political, social, and cultural issues, the legislature exercises its power through referendums and direct referendums; thus, Article 59 of the Constitution is a progressive principle that leaves open the way for people to be able to make direct decisions about the country's affairs in some cases.

B: Referendum and public participation civil method of political transformation activities in society:

Undoubtedly, some principles of the constitution, such as Articles 27 and 59 are progressive methods and have great potential in the constitution of our country. Political activities in any society are generally activities based on criticism of the government and change, and political activists, parties, and social masses, according to Article 27 of the Constitution, do not have the opportunity to hold rallies and send a message of possible protest to the political and social nature of the government and officials. They have a very difficult principle of the above-mentioned principle. Assuming the emergence of political and social will and important issues that are the point of disagreement in some parts of society can be based on Article 59 of the Constitution to refer to public opinion and direct opinion polls in society. In other words, Principles 27 and 59, as well as paying attention to the principle of partisanship and political activity of parties and creating an atmosphere of political pluralism in society, formalizing a kind of political activity and a tool to exercise political will and convincing political activities within the party statutes and ideals, respectively. Assuming the correct application of the above principles, a large part of the political crime process in the relevant laws is no longer relevant in practice. According to this principle, some of the basic concepts of the system are practically unchangeable and cannot be referred to public opinion polls. Now we must point out and assume that a group in society believes in changing some principles of the constitution, the examples of which are mentioned in Article 177. Is it possible to refer to public opinion in this regard? According to the above principle, no. In this hypothesis, it is possible to turn these people, who, based on their right or wrong thoughts, need some kind of reform in the political space into political opponents and political criminals. According to the general principles, there should be no limit or restriction in referring to public opinion, except in cases related to basic human rights, customary standards, etc.

The effects of security on the legalization and criminalization of political crimes

A: Some of the security crimes listed with security crimes are mainly political crimes. Due to the security-based interpretation of Articles 498, 499, 500, 610, and 611 of the Penal Code, the mere formation of a population aimed at disrupting the security of the country, membership in the said populations, and propaganda activities against the system, even assuming no action by organizations. Against the internal and external security of the country, conspiracy to commit crimes against domestic or foreign security and against the expropriation or population or property of the people, which is an only mental collision or even its objectivity in reality and without committing a crime and only collision as security crime has been criminalized. These inherently political crimes are considered security crimes Perhaps a clear example of this is Article 500 of the Penal Code in propaganda activities against the regime. Even though in the above article, expressing an opinion is considered a propaganda activity contrary to the inalienable principles and rules of criminal law and is like a political crime, it has been criminalized as a security crime. Following the previous paragraphs, this type of denial and crime denial and even potential mental processes that have not become an act in the outside world has been influenced by the security-oriented view and ideology of the government and has been legislated for this purpose. The constitution and many relevant laws recognize some of the fundamental rights of individuals in civil society, such as the right to peaceful assembly, referendums and referendums, the law on respect for legitimate freedoms and the protection of civil rights, and so on. Considering the above-mentioned cases, the set of relevant laws in our country, despite all possible problems regarding the rights and political activities of individuals, has a suitable potential capacity, so the bottleneck of the existence of appropriate law and the current conditions of Iranian society due to some excesses in the guaranteed space of society. The reason for some misconceptions and political perceptions is due to the confrontation of two contradictory views based on the absolute liberal view and security ideology in dealing with political crimes and political activists and social activists and their tools and subdivisions such as the press and related rights and freedoms.

B: Development of the jurisprudential title of Moharebeh, and its impact on dealing with security crimes and its replacement in the criminalization of political crimes

By carefully examining the criminalization of security crimes in the Islamic Penal Code and many other laws, we find that the legislator has stated the case of moharebeh far beyond the definition of Article 279 of the Penal Code. Some professors of criminal law have stated that the criminal policy of Islam (it should be noted that according to the author,

according to the components and the definition of legislative criminal policy or in other words, criminal policy, the concept of Islamic criminal policy is due to the lack of some components). It is doubtful that this is because crimes against the security of this public are not aggravated due to their special importance in the stage of proving the crime. In the stage of determining criminal responses, intensification of punishments has been considered. Considering that according to the Law on Political Crime approved in 2016, it is up to the judiciary to determine the inclusion of crime in political and security crimes. In some cases, due to the expansion and use of the concept of war in dealing with security crimes, this jurisprudential criminal title applies to defendants.

After implementing the political crime layer in 2016, unfortunately, the legal benefits of this bill in practice and despite the directive on a fair investigation of political crimes, issued by the Judiciary, never included non-political criminals, lawyers, legislators, and political activists. The layer of political crime has been amended, and the term "political crime law" has been drafted and is being considered in the Judiciary Commission of the parliament. Looking at the provisions of this plan, we realize that the plan to amend the law on political crime is a revolution in criminal law regarding the nature of political crime and the investigation of these crimes; according to this plan, each of the crimes authorized in Article (2) of this law. It is a political crime for the political management and institutions or the domestic or foreign policy of the country to be committed, provided that it does not resort to armed or violent actions. Insulting or slandering and spreading lies to disturb the public mind towards the leadership, the heads of the three branches, the chairman of the Expediency Council, vice presidents, ministers, members of the Islamic Consultative Assembly, members of the Assembly of Experts, and members of the Guardian Council due to their responsibility are included in political crimes. The crimes subject to Articles (498), (499), (500), (410), and (698) of the Islamic Penal Code are considered political crimes. It can be said that this legal term is one of the most important amendments mentioned in this possible plan. Those crimes, such as propaganda activities against the regime, forming an administration and membership in anti-regime communities, etc., are considered political crimes. All political crimes must be tried in public and the presence of the jury and the defendant's lawyer at all stages of the trial. These crimes are investigated following the Criminal Procedure Code adopted in 1392 in a criminal court composed of five judges. The verdicts can be appealed in the provincial court of appeal. They can be appealed to in the Supreme Court. The accused has the right to choose his lawyer. Judicial authorities are obliged to accept the lawyer charged by the accused.

It is prohibited to impose any restrictions in this regard, such as the restrictions provided in the Note to Article 48 of the Code of Criminal Procedure adopted in 2013. The amendment ended the lawyers' long dispute over the comment on Article 48 of the Criminal Procedure Code, which included the abuse of the accused's rights, the free choice of a lawyer, and the conflict with the principle of a fair trial, in the possible amendment of the law on political crime, items such as having priority in filing a case with the Amnesty Commission and granting parole. Citizenship and civil liberties, and freedom of expression and information are amended following the Press Law, which has always been criticized by political and media activists. Although at first glance this plan may seem to be a kind of deviation from the legislature in dealing with political crimes, it should be noted that there is always a conflict between the proponents of the schools of authenticity believe in political criminals who endanger the interests of society. It should be dealt with as severely as possible, and in the words of some jurists, including proponents of the schools of individual liberties, who believe that political criminals should be treated with tolerance, given the possible ultimate goal of these individuals in reforming society. Previously, they sought to punish political crime and separate political crime from security crimes. Without a doubt, the plan to amend the political crime law in case of final approval of the revolution and a major change in our country's criminal law. These laws will be in line with the criminal law of the world and the implementation of laws with international conventions in the field of human rights and justice while maintaining the national and local standards of our country.

CONCLUSION

In our jurisprudential sources, there are several cases of criminal titles such as prostitution, corruption on earth, and moharebeh, which can be considered very close to the concept of political crime. However, it seems that the use of jurisprudential titles moharebeh and corruption on earth in laws our criminal is a kind of view influenced by security-oriented ideology. The constitution and many relevant laws recognize some of the fundamental rights of individuals in civil society, such as the right to peaceful assembly, referendums, the law on respect for legitimate freedoms and the protection of civil rights, and so on. Considering the above-mentioned cases, the set of relevant laws in our country, despite all possible problems regarding the rights and political activities of individuals, has a suitable potential capacity, so the bottleneck of the existence of appropriate law and the current conditions of Iranian society due to some excesses in the guaranteed space of society. The reason for some misconceptions and political perceptions is due to the confrontation of two contradictory views based on the absolute liberal view and securityism ideology in dealing with political crimes and political activists and social activists and their tools and subdivisions such as the press and related rights and freedoms. Examining the legislative developments and definitions of political crime shows that the legal environment of our society in dealing with political crime is facing a variety of opinions and legal confusion, and the amendments to the laws related to political crime not only help solve this problem. It has not, but this confusion has intensified in nature and form.

The Political Crime Law enacted in 2016, despite the basic forms of extensive discretion and lack of specific criteria for

the judicial authority in determining whether a crime is political or non-political, practically made this law ineffective, regardless of the problems mentioned. Until now, the defendant or defendants and the failure to hold public hearings in the presence of a jury following the Constitution confirm the ineffectiveness of the Political Crime Law. They did not take up arms and flourished some principles of the constitution, rights, and civil liberties, ensuring security in the critique of sovereignty, the legal legitimacy of political activity and possible opposition to some sovereign measures within the framework of the constitution, reform of press-related laws, recognition and objectivity. Giving political activity to the parties and neglecting the principles of the constitution answers the problem expressed in the precise legislation of political crime with the progressive law and following the current conditions of society and will certainly have very positive effects on the legal, political and social environment.

LIMITATION AND STUDY FORWARD

This article only analyzes political crime in the Iranian penal system and the place of civil, constitutional freedoms in criminalizing political crime. However, the analysis of political crimes at the international level can yield very valuable results, suggesting future research.

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