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Research Article

Securitization Arising from Criminal Stigmatization in Iranian and U.S. Law (with an Emphasis on Individual Rights and Freedoms)

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Abstract

Criminal stigmatization refers to sanctions or measures, whether mandatory or discretionary for judicial authorities, that result in the shaming and discrediting of offenders and, in some cases, defendants. Historically, these measures have existed in the criminal justice systems of various countries, notably the United States. In the U.S., criminal stigmatization has become more prevalent due to significant political events and the dominance of a securitized criminal policy. In Iran, the concept of stigmatization has a considerable foundation and is currently prescribed or mandated in criminal laws, including the Islamic Penal Code of 2013 and the Code of Criminal Procedure of 2015, particularly in instances such as the publication of conviction judgments.

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The manifestations of criminal stigmatization in Iranian law, much like in U.S. law, align with the effects of securitized criminal policy, such as zero tolerance, risk-based criminal policy, and the disregard for fair trial standards. Given the undesirable nature of securitization, and while previous research has often analyzed stigmatization or securitization in isolation, this interdisciplinary study examines the nexus between securitization and criminal stigmatization, exploring its manifestations in both U.S. and Iranian law. The observed alignment between these two concepts raises serious doubts about the efficacy and appropriateness of criminal stigmatization. This research concludes that Iranian lawmakers have adopted a securitized approach to criminal stigmatization, necessitating a serious re-evaluation in this domain.

Keywords: Securitization, Criminal Stigmatization, Zero Tolerance, Risk-Based Criminal Policy, Fair

Introduction

Human beings are inherently endowed with dignity and intrinsic worth, irrespective of their race or other personal characteristics. This fundamental principle is strongly emphasized in Abrahamic religions, particularly within the sacred tenets of Islam. The Holy Quran explicitly references this inherent value.[1] For mystics, especially Ibn Arabi, human dignity stems from the belief that God created humanity in the divine image (*al-ṣūrah al-ilāhiyya*), making them bearers of divine names and attributes. In this regard, humanity reflects the divine, acting as a mirror that simultaneously signifies absolute truth, eternal beauty, and majesty, while also appearing as merely a virtual entity (Feiz, 2011: 139).

Despite this inherent worth, criminal justice systems in various countries, including the Islamic Republic of Iran and the United States, have, to varying degrees and based on their specific foundations, permitted the process of stigmatizing defendants and offenders. Beyond its historical aspects, this approach continues to receive considerable acceptance in both countries' criminal justice systems today. In Iran's current criminal law, which has undergone significant changes with the enactment of the Islamic Penal Code and the Code of Criminal Procedure, such an approach has been conspicuously adopted. Similarly, in the U.S. criminal justice system, this phenomenon has long been accepted in various forms (Dins & Witmer, 2013: 516).

Given the intrinsic importance and value of security, and spurred by the commission of certain dangerous crimes, the adoption of a securitization approach has increased globally in recent years. The discourse of securitization initially emerged from the U.S. system due to influential events, most notably the September 11th attacks. This approach is now evident not only in the U.S. but also, to varying degrees, in other countries as an accepted method in criminal policy, impacting both substantive and procedural law. Substantively, the recourse to zero-tolerance criminal policy and a risk-based approach to criminal law (within the framework of moving away from rehabilitative ideals and the "McDonaldization" of criminal law) can be considered effects of criminal securitization. In contrast, its procedural effects include the branding of defendants and offenders and the derogation from individual rights and

1. In verse 70 of Surah Al-Isra, God states: "And We have certainly honored the children of Adam and carried them on land and sea and provided them with good things and preferred them over much of what We have created, with [definite] preference."

fair trial standards—especially through the disregard of the principle of equality of arms and the diminishing of the presumption of innocence.

Previous research has separately analyzed the discourse of securitization and the concept of stigmatization (in the forms of shaming or public exposure).[1] However, these two tangible concepts have not been examined together. The primary objective of the present study is to introduce the effects of criminal securitization and then analyze instances of criminal stigmatization in Iranian and U.S. law from this perspective. We aim to determine whether the extreme approach to criminal stigmatization in both legal systems stems from a strong inclination towards securitization. The implication of our findings will be that if stigmatization is indeed a consequence of a securitized outlook, then given the negative dimensions and outcomes of the securitization approach, criminal stigmatization should be reduced and restricted to serious crimes (such as widespread economic disruption offenses). This is particularly relevant as, currently, instances of stigmatization are broadly legislated in Iranian criminal law (both substantive and procedural).

Criminal securitization manifests in both substantive and procedural law. From a substantive perspective, these manifestations include the reliance on a zero-tolerance criminal policy and a risk-based approach to criminal law, which entails a departure from the ideals of reform and rehabilitation, leading to the "McDonaldization" of criminal law. In contrast, its procedural effects can be understood as encompassing the branding of defendants and offenders, the disregard for individual rights and fair trial standards through the neglect of the principle of equality of arms, and the weakening of the presumption of innocence.[2] Therefore,

1. Although the concept of stigmatization in this study is broader than that of "public exposure."

2. "It is also necessary to note that in security and terrorist offenses, we face a reversal of the burden of proof; meaning the principle of culpability or guilt replaces the presumption of innocence. An example of this can be seen in Article 499 of the Discretionary Punishments Law, which presumes the perpetrator's knowledge unless the perpetrator proves ignorance of the group's objectives. In the same vein, according to Article 120 of the Islamic Penal Code, the *hadd* punishment for corruption on earth is exempted from the *Dara'* rule (principle of doubt benefiting the accused). Other examples of the exception of security-related crimes in the Code of Criminal Procedure can be found in Articles 65 (commencement of prosecution), Note 2 of Article 100 (submission of documents to the plaintiff), paragraph (t) of Article 180 (arrest without summons), 191 (non-access to case documents), paragraph (p) of Article 237 (permission for temporary detention), 320 (summoning a witness), Note 351 (plaintiff's access

this research will analyze criminal stigmatization from the perspective of the substantive and procedural effects of criminal securitization, while simultaneously analyzing the concepts of criminal stigmatization and criminal securitization.

1. Concepts and Contexts

Before examining the manifestations of stigmatization from a securitization perspective, it's essential to understand what is meant by stigmatization and securitization, and what their respective historical backgrounds are in the legal domain. The concepts and contexts of each will be discussed separately: securitization (first) and criminal stigmatization (second).

1-1. Criminal Securitization

While some argue that security cannot be defined precisely and absolutely, and that the security discourse is fundamentally shaped by local exigencies (Eftekari, 2009: 83), generally, the term "security" literally means "being safe from danger, absence of fear, and tranquility" (Anvari, 2002: 570). In other languages, security refers to being free from risk or protected from danger. The word also encompasses meanings such as freedom from doubt, absence of anxiety and apprehension, and having justified and substantiated trust and confidence. Furthermore, the term is broadly used to refer to peace, freedom, trust, health, and other conditions where an individual or group feels free from worry, fear, danger, or threats, whether internal or external (Mir Arab, 2000: 133).

In examining the concept of securitization, the predominant understanding of "security" is national security, which has a political connotation, rather than merely security in an absolute sense (Valipour, 1997: 15). Considering the literal meaning, absolute security refers to any form of tranquility and avoidance of danger, including the preservation of dignity, among others. Following the Cold War, various layers of security were defined, including economic security, environmental security, resource and energy security, health security, and more (Hitotsugi & Kim, 2015: 2). Therefore, security has a relative meaning, signifying the

to case documents), and Note 2 of Article 380 (personal notification of judgment) (Yazdian Jafari, 2016: 70)."

absence of any threat and the creation of opportunities for individual and social tranquility, from which various forms are derived.[1]

However, securitization refers to an approach and practice adopted by certain states and political regimes that, under the pretext or in the pursuit of national security, enact and enforce rules and regulations that, in most cases, lead to restrictions on citizens and an expansion of official powers. The manifestation of this approach is conspicuously observable in how defendants and offenders are treated. In essence, in the context of criminal law, the discourse of securitization can be understood as sacrificing certain individual rights of defendants and offenders to ensure the supremacy of security (Beranji Ardestani, 2010: 32). This is the very meaning also referred to as "securitized criminal policy" in criminal law literature.[2]

In the realm of criminality, beyond crimes that undermine national security, societies today face emerging criminal phenomena, including crimes against economic security, which some interpret as economic terrorism (Shamloo & Moradi, 2013: 128). Notably, prominent examples of crimes against economic security are precisely those clarified by Note to Article 36 of the Islamic Penal Code—as mentioned—and are considered clear instances of criminal stigmatization in Iran's current criminal justice system.

Regarding the context of criminal securitization, we can observe a confluence of factors today. On one hand, the emergence of a new wave of criminal activities at both national and international levels, coupled with a shift in offenders' focus toward specific ideological and religious motives as primary drivers for violating social norms, and changes in the status of victims, has transformed the subject of crime from ordinary matters to more significant and paramount issues, such as the disruption and elimination of societal psychological security. This has, in turn, created numerous serious challenges and problems for the criminal justice system. Following this approach, the means will justify the ends,

1. Montesquieu also believed that since security is the result of peace, and peace is the first natural law, the greatest principle in government is to establish security, and the purpose of security is not the preservation of life, but the provision of liberty (Montesquieu, 1983: 339).
2. Today, securitization has also found its way into criminology. Indeed, "the concept of security criminology stands in contrast to normative criminology. Normative criminology means passing criminological solutions and findings through the human rights gauge to integrate them into criminal law. Security criminology is police science or strategic science, or criminology of risk, or in other words, law and order criminology" (Mahdavipour & Shahrani, 2014: 161).

and human dignity and human rights frameworks, as grand human ideals, will face serious challenges.

On the other hand, criminal justice systems, in parallel with the evolution of criminological schools of thought—each pursuing distinct goals and missions, from deterministic systems based on positivistic treatment to rehabilitative social defense models, and under the influence of ideological movements and radical approaches—have undergone significant transformations. Consequently, after navigating these shifts, the path has turned toward securitization, with its origins arguably rooted in the de-structuralizing changes that began in the early 1970s. Nonetheless, the security-centric shift in the criminal justice apparatus can be summarized under three main axes: the failure of rehabilitative criminology with its offender rehabilitation approach; the rise in crime rates and fear of crime; and the emergence of transnational organized crime and widespread security breaches (Ghannad & Akbari, 2017: 41-47).

It was in the wake of such developments, particularly from September 2001 and driven by governments' desire to maintain their political and economic authority, that a strong emphasis was placed on prioritizing public order and security over individual privacy. Due to the fear and apprehension of ruling authorities regarding the potential recurrence of such events, this ultimately led to the dominance of the securitized paradigm over the human rights aspects of criminalization and punishment systems. This explains why anti-terrorism laws have been enacted in various countries and why various UN resolutions on this matter have been adopted following the 9/11 incident (Albrecht, 2006: 166).

Although the securitized discourse has its proponents and opponents, the strong inclination towards the two concepts of security and prevention can, in any case, be considered a hallmark of contemporary criminal policy (Sadr Touhid Khaneh, 2009: 466). This approach to criminal securitization notably peaked after the 9/11 events (Beranji, 2010: 32). This trend has progressed to such an extent that the field of "security law" has emerged as a rival to traditional law. What is noteworthy in this new field is that many of the guarantees present in criminal law (e.g., the principle of legality, the principle of culpability, the presumption of innocence, etc.) are not present to the same extent in this competing discipline. It seems that its appeal stems precisely from the absence of those very constraints and functional limitations of traditional criminal law (Sadr Touhid Khaneh, 2009: 466). The securitized criminal policy, with its stringent approach, manifested in forms such as retributive approaches and crime risk management. While

these approaches have fundamental differences, their common outcome has been the weakening of the clinical perspective and the policy of rehabilitation and prevention of crime based on it, leading to the adoption of strict policies toward offenders (Taheri, 2013: 15).[1]

The U.S. criminal justice system, as the crucible for the events of September 11th, serves as a prime example of a criminal securitization approach that has, in turn, resorted to criminal stigmatization. The Islamic Republic of Iran is not exempt from this phenomenon, as the definition of security and insecurity in our society reflects the prevailing worldview. Since ensuring and establishing security is considered a goal of criminal law, the increased reliance on punitive measures to achieve this goal appears justified and acceptable (Omidi, 2008: 51). A clear instance of this can be observed in cases of criminal stigmatization, particularly in recently enacted criminal provisions, both substantive and procedural (including paragraph "s" of Article 23 and Article 36 of the Islamic Penal Code, and Articles 96 and 499 of the Code of Criminal Procedure).

1-2. Criminal Stigmatization

Criminal stigmatization is an action within the criminal process that primarily aims to shame individuals involved in criminal events (both defendants and offenders) at various stages of the process, including prosecution, investigation, trial, and execution of punishment. Historically, this approach has a very long lineage, having been implemented to varying degrees in almost all ancient societies, including ancient Iran,[2] Mesopotamia,[3] and Europe.[4] A review of its historical trajectory merely reveals the modernization of its methods.

1. According to scholars in empirical criminal sciences, criminal securitization has found its way into discourse subsequent to the securitized criminological discourse and following the proposal of security-oriented theories.

2. [During the Achaemenid era, as the king held the highest judicial authority in the country, he was considered the greatest judge and administered humiliating punishments as he deemed fit (Sami, 1965: 113).

3. For example, according to Article 127 of the Code of Hammurabi, the punishment of branding was applied to anyone who accused a nun or married woman of adultery and failed to prove it (Vakil Gilani, 2004: 34). This can be understood in light of the fact that in the Code of Hammurabi, punishments—unlike modern criminal law which features a diversity of punishments—were primarily corporal (Najafi Abrand Abadi, 2015-2016: 36).

4. For instance, in ancient Europe, including England, female offenders were placed on dung carts and paraded around the crime scene, while a person would announce their offense to

One criminal justice system that has notably embraced this concept is the United States. In the U.S. criminal system, criminal stigmatization has a significant history. In earlier times, criminal stigmatization was a well-known method of punishment; as some authoritative sources recount, offenders' hands and feet were tied to stocks in public. Another method of punishment involved offenders publicly confessing their misconduct by writing notes (Goldman, 2015: 418). Historically, in the U.S., parts of the colonies were initially considered perfect and prominent examples of systems that employed stigmatizing and humiliating punishments for offenders. For instance, in the Puritan colonies, efforts were made to enforce cultural customs through sanctions based on public humiliation of offenders and inviting the populace to oversee the execution of punishment.[1 & 2]

In the contemporary U.S. system, the September 11th events represent a pivotal turning point for the embrace of criminal stigmatization. Following these events, due to the heightened emphasis on securitized approaches and efforts to demonize offenders, the appeal of criminal stigmatization has seen a significant increase (Roth, 2008: 356). In recent years, this has manifested in court judgments that impose specific forms of criminal stigmatization, such as compelling offenders to wear particular attire indicating their criminal past. An example of this is seen in a case from Las Vegas where a man convicted of raping and murdering a seven-year-old girl in a casino was stigmatized (Amitay, 1999: 1). Another instance is the McDowell case[3] in California, where a court sentenced an individual with three prior theft convictions to wear noisy shoes—specifically, metal-heeled dancing shoes—whenever he was outside his home (Dins & Witmer, 2013: 516). Consequently, the resort to criminal stigmatization has become a core component of the U.S. system (Rotter, 2015: 38).

From the perspective of Islamic criminal law, the traditional and prominent form of stigmatizing punishment has been the public announcement of the crime, known in Islamic jurisprudence as

everyone, forcing the condemned to walk through the city's streets and alleys, led by the herald (Martinez, 2006: 52).

1. Historical examples of stigmatizing punishments include the use of a red "A" on the chests of adulterers, public flogging for prostitutes, or other disgracing methods for certain other crimes (Dins & Witmer, 2013: 514-515).

2. Given these explanations, it can be said that although criminal stigmatization is linked to procedural and substantive criminal law, the primary domain of this discussion lies within the foundations of criminal law.

3. People v. McDowell

Tashheer.[1] This can be understood as *Tashheer lil-'Uquba*, meaning the publicizing of the punishment itself. A close examination of Islamic sources reveals that *Tashheer* has been prescribed and sanctioned in cases such as *Qadhf* [2](false accusation of adultery), Qawadi[3] (pimping), and false testimony[4]. Therefore, the instances of *Tashheer* in Islam are not only limited but are also, to some extent, subject to scholarly debate.

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1. *Tashheer* is a verbal noun from the *taf'eel* verb form, with the root "sh-h-r." Its lexical meanings include "to expose and disgrace among people" (Fayyumi, 1405 AH: 325), "to make apparent" (Jarr, 1973: 725), "to mention and make known" (Ma'louf, 1956: 406), and "to make something appear ugly and disgraceful among people" (Farahidi, 1410 AH: 399). Lexicographers have also listed other words synonymous with *Tashheer*, such as *ishaa'ah* (spreading), *izhaar* (showing), *i'laam* (announcing), *ifshaa'* (revealing), and *mujaharah* (open declaration) (Zamani, Abuyi & Tavallaei, 2011: 120). In legal terminology, *Tashheer* retains a meaning close to its lexical sense. Indeed, when *Tashheer* enters the realm of criminal law, its meaning shifts from lexical to technical. From this perspective, *Tashheer* in criminal law can be considered a primary or secondary punishment. Some have defined this term technically as "the announcement of the offender's punishment and proclaiming their sin before the people; especially in crimes where the offender is trusted as a public trustee, so that people may know them and avoid them" (Auda, 1413 AH: 704). Others have defined it as "spreading and popularizing the badness and ugliness of someone's act among people" (Qal'aji, 1405 AH: 130). Thus, *Tashheer* in criminal legal terminology is the public shaming of offenders, justified by reasons such as deterrence and introducing the offender to society for public safety

2. The *Hadd* punishment for *Qadhf* is eighty lashes, whether the accuser is male or female. The lashing is administered moderately, such that its severity does not reach that of lashing for *zina* (adultery), and it is struck over ordinary clothing; the accuser's clothes are not removed during the execution of the *hadd*, and it is applied to the entire body except for the head, face, and genitals. According to one view, the accuser is paraded in the city to prevent their testimony from being accepted (Musawi Khomeini, undated: 476).

3. Regarding *Qawadi* (pimping), although narrations do not explicitly prescribe *Tashheer* as a stigmatizing punishment for this crime, jurists, through an un-evidenced consensus, hold that such a punishment applies. According to some jurists, for the crime of *Qawadi*, a male pimp is given the *hadd* punishment, his head is shaved, he is made known to the people, and he is exiled, while a female pimp is *only* given the *hadd* punishment (Mughniyah, 1421 AH: 270).

4. Regarding the punishment for false testimony, no specific *hadd* has been prescribed in Islamic law, and most jurists are of the opinion that the perpetrator of this crime should be subject to *ta'zir* (discretionary punishment). However, concerning the type of *ta'zir*, the overwhelming majority of Shi'a and Sunni jurists have proposed *Tashheer* (e.g., Sheikh Tusi, 1407 AH: 240; Najafi, 1404 AH: 253; Tabarsi, 1410 AH: 527). The difference in opinion lies in whether some consider such punishment to be mandatory and obligatory, while others consider it recommended. In this regard, Ibn Qudamah believes that "a false witness should be *Tashheer*-ed in addition to *ta'zir*, and there is no disagreement among Sunni jurists on this ruling" (Ibn Qudamah, 1405 AH: 154). The only difference of opinion among Sunni jurists is that some believe a false witness is *only Tashheer*-ed, while others believe that in addition to *Tashheer*, other punishments are also incurred. The most important pieces of evidence for *Tashheer* in the crime of false testimony are the hadith of Abdullah ibn Sinan from Imam Sadiq (AS), the hadith of Ghiyath ibn Ibrahim, and the hadith of Sama'ah from Imam Sadiq (AS).

In Iran's legal system, even before the enactment of current criminal regulations, scattered laws and regulations had sporadically prescribed the institution of stigmatization, primarily for specific and limited cases.[1] However, in the recently enacted criminal laws, which signify a new criminal policy, similar to other countries, we observe instances of stigmatization at the investigation, prosecution, sentencing, and even execution stages. For example, in the Islamic Penal Code, the publication of conviction judgments is prescribed or mandated as a supplementary punishment—alongside the primary punishment—under Articles 23(s) and 36.[2] Furthermore, in the Code of Criminal Procedure, under Articles 96 and 499,[3] the institution of stigmatization has been significantly stipulated for both defendants and convicted individuals. This legislative approach indicates that Iranian lawmakers, in the new criminal laws, have somewhat expanded the scope of criminal stigmatization compared to previous legislation.

2. Impacts of Criminal Stigmatization and Criminal Securitization

"Securitization is an illegitimate construct imposed upon the body of criminal policy, signifying a deviant process in forming a response to criminal phenomena" (Ghannad & Akbari, 2017: 42). This approach, reflecting the governing authority's will to maintain security across various political, cultural, and economic dimensions and ensure public order—which in some cases leads to disregarding the rights of individuals and even offenders—manifests in different forms across societies. Instances of criminal stigmatization in the criminal justice systems of Iran and the United States can be examined and studied through these manifestations. As Professor Nussbaum argues, stigmatizing punishments serve as a tool for states to exert power. She believes that the imposition of such punishments represents an expansion of governmental control. In her view, resorting to stigmatizing punishments leads to increased governmental efforts to control people

1. Examples of such cases include: a) Article 11 of the Anti-Narcotics Law, b) Articles 22 and 35 of the Government Discretionary Punishments Law for Health and Medical Affairs (1988), c) Article 6 of the Law Obligating Road Transport Companies and Institutions to Use Passenger Waybills and Bills of Lading (1989).
2. These two articles provide for the possibility of publishing conviction judgments through the media for a wide range of crimes.
3. These two articles grant prosecution and court authorities the significant power to publish images of defendants and publicly execute punishments in many cases.

more extensively (Nussbaum, 2004: 236). Broadly, it can be said that criminal securitization fundamentally emerges in both substantive and procedural realms, and stigmatization in the criminal justice systems of these two countries appears amenable to analysis from the perspective of these manifestations. Each of these two will be examined separately: substantive effects (first) and procedural effects (second).

2-1. Substantive Effects

The substantive effects of criminal securitization refer to the practices and laws that emerge from the dominance of security and the pursuit of public order from the perspective of substantive criminal law. In this discussion, while introducing the effects of securitization, we will consider criminal stigmatization from the perspective of these effects, and it becomes clear that stigmatization possesses the same characteristics as securitization. These effects include: resorting to zero-tolerance criminal policy and a risk-based approach to criminal law (which manifests as a departure from the idea of reform and rehabilitation and the "McDonaldization" of criminal law).

2-1-1. Resort to Zero-Tolerance Criminal Policy

In its lexical sense, "tolerance" means to show leniency, to be easy on each other, or to simplify matters (Moein, 1996: 1078). Technically, zero tolerance means the forceful and consistent enforcement of law without any leniency (Aghaeinia & Javanmard, 2010: 14). One of the effects of criminal securitization is the adherence to a zero-tolerance policy as a stringent approach. Under this policy, the primary focus is to eliminate any lenient view towards minor offenses to prevent more serious crimes. Fundamentally, today, not only major crimes but also petty offenses are of concern to criminal legislators and criminal justice practitioners due to their potential to foster a sense of informality, non-adherence to values, and ultimately, the commission of more severe crimes. This mindset led American criminologists in the 1990s to study minor crimes and their impact on the quality of urban life. The result of these studies was a theory known as the "Broken Windows" theory in the United States, and with a slight delay, its European model, in the form of a zero-tolerance strategy, was rigorously pursued in Europe (Javanmard, 2007: 71).

Zero tolerance, as one of the manifestations of the "back to punishment" movements, especially in the criminal policy of Western countries, is a measure devised and promoted by U.S. neoconservatives (Kashefi Esmailzadeh, 2005: 255). The architects of this policy are

Wilson and Kelling, who published an article with the same title in *Atlantic Monthly* in 1982. Subsequently, numerous laws were passed in various countries (not exclusively Western ones), adopting a securitized approach to intensify their criminal justice systems.

Regarding petty offenses, as a key consideration in zero-tolerance policy, some authors define these as crimes punishable by less than one year imprisonment or a small fine (Nowrouzi, 2005: 258). Generally, others consider these crimes to be those fundamentally unrelated to the core values and foundations of countries and political systems (Aghaeinia & Javanmard, 2010: 12). Since the United States is considered the primary context for the formulation and implementation of this policy, the adoption of this policy, particularly through criminal stigmatization, gained traction earlier in that country. In the U.S., there are laws and rulings concerning stigmatizing punishments for petty offenses. Among the crimes that are severely subjected to stigmatizing treatment in the U.S. criminal justice system are sexual offenses. For example, one law that led to severe criminalization and restriction of defendants' rights was related to the branding of sex offenders, under which sex offenders, even after serving their prison terms, were compelled to carry the stigma of their conviction in society. Among the most well-known of these laws is the federal Megan's Law (1996), which obliges each state to create mechanisms for informing the public about sex offenders through shaming them. A significant number of such laws can be observed in the U.S., particularly those that sought to shame offenders by requiring them to wear clothing indicating their crime or by placing signs on their homes (Taheri, 2013: 137-139).[1]

In Iran's criminal justice system, certain offenses categorized as Ta'zir crimes of degree 6 and lower, according to Article 19 of the Islamic Penal Code, as well as instances from the Government Discretionary

1. From the perspective of U.S. security laws, within 45 days of the September 11th event (October 26, 2001), the Patriot Act was passed. This act included stringent security measures, such as empowering the police to undertake extensive actions even without judicial warrants (e.g., wiretapping phone calls, monitoring emails, various searches and inspections, and inviting immigrants or suspicious individuals for interviews). This law, recognized as an anti-terrorism law, led to changes in other U.S. laws (such as the anti-money laundering law and the Bank Secrecy Act). Among the consequences of this law are the disregard for individual rights and freedoms, the violation of privacy, and most importantly, the neglect of human dignity. On May 26, 2011, three important provisions of this law were extended by the then-U.S. president: roving wiretaps, searches of business records, and surveillance of individuals who are not connected to a specific group (Mohseni, 2012: 180 and 194-195).

Punishments Law[1], can be considered petty offenses. Under existing laws, such as Article 23 of the Islamic Penal Code, the court is authorized to order the publication of conviction judgments for these offenses as a supplementary punishment. In other words, although not all instances of criminal stigmatization in Iran's legal system are limited to perpetrators of petty offenses, in some cases, like the aforementioned article, the legislator's intent in prescribing the publication of conviction judgments for minor offenders can be attributed to a zero-tolerance approach. This is particularly true given that the examples in Article 23, which pertain to supplementary punishments, cover a wide range of penalties, especially for petty offenses such as Ta'zir crimes of degree 6 and lower, and even all minor *hudud* offenses. Essentially, supplementary punishments, primarily intended to deter offenders from more serious crimes, can reflect a zero-tolerance perspective in the context of petty offenses. By granting courts the authority to publish definitive conviction judgments in paragraph (s) of the said article for a broad spectrum of crimes, especially petty offenses, the legislator aims to achieve another objective: preventing more severe crimes through the stigmatization of offenders.[2] Given this, and considering that the zero-tolerance theory primarily focuses on maximal combat against and prevention of petty offenses, it is evident that due to the expansion of stigmatization instances and the inherent severity of this type of criminal sanction, such a perspective is observed in Iran's current criminal policy regarding the stigmatization of offenders, particularly in Article 23 of the Islamic Penal Code[3] of 2013 and articles of the Government Discretionary Punishments Law.[4]

1. This law also provides for the sanction of installing banners or placards at the premises for perpetrators of overpricing in Articles 22 and 35, which is also based on criminal stigmatization in petty offenses.
2. For example, crimes that are not related to the fundamental interests of society and are generally considered petty offenses can be responded to with stigmatizing punishments based on the said article.
3. As previously mentioned, paragraph "s" of this article designates the publication of conviction judgments as one of the supplementary punishments.
4. In some crimes against security, the legislator, with such a perspective, has also sought to prevent more severe crimes. A clear example of this can be seen in instances of cybercrimes covered by Articles 3 to 5 of the Computer Crimes Law (Articles 731 to 733 of the Discretionary Punishments Law). For instance, the legislator has considered merely breaching security measures to access secret data as a form of cyber espionage. According to Article 732 of the Discretionary Punishments Law, "anyone who, with the intent to access secret data under Article 3 of this law, violates the security measures of computer or communication systems, shall be sentenced to imprisonment from six months to two years or a fine from ten million (10,000,000) Rials to forty million (40,000,000) Rials, or both punishments."

Regarding the success or failure of this policy in Iran's current criminal law, as some scholars have stated, while the use of stigmatizing sanctions might be appropriate in specific times, places, or for particular individuals, it is not a definitive solution. This is because the adoption of any scientific theory in other countries, including Western ones, does not necessarily guarantee its success in Iran. In fact, responding to certain petty offenses that are fundamentally unrelated to the country's security and fundamental interests through zero-tolerance and stigmatizing punishments cannot be significantly justified. Furthermore, some Western authors completely oppose such a policy, considering it an artificial and unrealistic concept, and have attributed the destruction of public support for the legislator and the ruling apparatus to its implementation (Rossan, 2005: 173).

2-1-2. Risk-Based Approach to Criminal Law

One of the approaches adopted after World War II, and particularly since the 1980s by the United States and subsequently other countries, is the risk-based approach to crime (Monahan & Skeem, 2013: 2). Unlike other crime control and prevention paradigms, this approach, instead of addressing the crime itself and its causes, evaluates and manages the risk of its commission, similar to other risks in economic, insurance, and other sectors (Pak Nahad, 2011: 16). In this approach, the governing system, by accepting a hypothetical rule that individuals' past behaviors predict their probable future behaviors (Hamilton, 2015: 1), and by adopting a method for assessing crime risk and calculating the extent of dangers posed by potential crimes committed by current offenders, legislates and sanctions measures in the realm of substantive law that, in their view, significantly reduce the risk of crime commission. As a result of such an approach, the path is opened for criminal stringency and the securitization of criminal law, allowing the legislator to prescribe severe sanctions under the pretext of eliminating the risk of future crimes. Such an approach, also referred to as calculative justice, includes manifestations such as a departure from the idea of reform and rehabilitation and the "McDonaldization" of criminal law—ideas fueled by new penology[1]—which will be discussed next.

However, as will be discussed in later sections, given that resorting to a criminal securitization approach is justifiable in crimes against security, the criminalization of such matters with a deterrent and security-oriented approach cannot be challenged.

1. In the last three decades, the goal and function of exclusion, incapacitation, and neutralization in criminal justice have been revived and substantiated through punishments

- Abandonment of the Idea of Reform and Rehabilitation

In the context of reform and rehabilitation, criminal policy seeks to prevent a convicted individual from committing new crimes by using punishment as a means to reform them. From this perspective, the aim of reforming the offender is to ensure they do not re-offend.[1] In Iran's legal system, this issue was prioritized by the legislator in the Third Development Plan.[2] One of the consequences of a risk-based criminal policy is the abandonment of the idea of reform and rehabilitation. As stated earlier, risk-based criminal policy emerged after the decline and perceived failure of reform and rehabilitation policies.

A key instrument of reform and rehabilitation policy is the individualization of criminal measures. In security-oriented criminology and criminal law—of which the risk-based approach is a manifestation—we observe the de-individualization or de-personalization of punishment, or the abandonment of the principle of punishment individualization. Consequently, the judge's discretion in sentencing is severely limited, and the principle of judicial individualization is replaced by the principle of legal individualization (Najafi Abrand Abadi, 2013-2014: 39). In Iran's legislative landscape, the plan to intensify punishments for disturbing public psychological security can be seen as an example of this approach. This plan, aiming to address legal loopholes and intensify punishments

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and judicial decisions. The exclusion of offenders or the incapacitation of convicted individuals based on their level of risk encompasses various degrees, fluctuating between the removal of the offender from society and continuous or temporary prevention of their criminal harm to others and society (Najafi Abrand Abadi, 2009: 734). This new approach to offenders has been termed "new penology – new criminology," according to which the criterion for criminalization and conviction of individuals is not the abnormality of the committed act or the offender's personality, but rather the primary criterion is the likelihood of future danger. Therefore, individuals with a high degree of risk should be subjected to intensified control (Marie, 2004: 336-337).

1. This does not mean moral improvement of the offender, as for criminal law, social improvement that leads the former offender to adhere to the basic rules of life in society is sufficient (Bolk, 2008: 33).

2. According to Article 190 of the Third Development Plan, "To improve the conditions of prisons and create a suitable environment for the rehabilitation and reform of prisoners and their return to healthy social life, the following measures shall be taken: a) The Prisons Organization is obliged, in cooperation with associations and public institutions, to activate associations supporting the families of needy prisoners and executed individuals and to establish such associations in all centers, such that by the end of the program, one hundred percent (100%) of the needy families of prisoners and executed individuals are covered. b) The Minister of Justice is obliged to prepare regulations for prisoners' work, prioritizing suitable vocational training, such that after the completion of their sentence, while providing employment certification, the possibility of removing their criminal record and their effective presence in society is provided."

for crimes with previously lenient penalties, was presented to the parliament in 2008, following the approval of Article 48 *bis* of the Islamic Penal Code, and its urgency was approved by the Islamic Consultative Assembly on August 4, 2008.[1]

Fundamentally, stigmatizing sanctions lack a reformative and rehabilitative function. This is because a reform and rehabilitation policy, which seeks to portray the offender as "ill" and in need of medical treatment, on one hand, requires a differentiated policy based on the offender's personal characteristics. It must be flexible enough to allow for individualization based on each offender's personality and psychological traits.[2] On the other hand, it necessitates a differentiated policy based on their criminal record and history.[3] This is currently not observed in the context of stigmatizing sanctions within Iran's current criminal regulations and other existing provisions.

Moreover, the reform of offenders and their reintegration into society is fundamentally incompatible with criminal stigmatization in its current form within both Iran's and the U.S. criminal justice systems. When an individual loses their social standing and identity as a result of punishment, instead of being reformed, rehabilitated, and positively reintegrated into society, they no longer have a place in it. As labeling theorists argue, they then seek to continue their lives in criminal environments. Therefore, criminal stigmatization in Iran's criminal justice system, in this regard, lacks a reformative and rehabilitative function and consequently adopts a risk-based approach. Similarly, regarding the U.S. criminal justice system, given that the decline of reform and rehabilitation ideals and the rise of risk-based criminal policy originated from this country, rooted in political events, especially September 11th, it is evident that the idea of stigmatization in the U.S. is far removed from reform and rehabilitation.

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1. The explanatory preamble of the bill referred to the necessity of intensifying punishments for the few offenders who cause a disruption of public psychological and social security, and then in Article 2 of this bill, crimes that, in addition to being dangerous, are considered disruptive to psychological security, were explicitly stated (Najafi Abrand Abadi & Iyargar, 2014: 29).

2. Since individuals differ in terms of various personal and environmental conditions, this necessitates that judicial decisions also be made in accordance with their personalities. For this reason, reform and rehabilitation specialists deem the use of educational and psychological specialists essential in this regard (Webster Aragon, 1935: 526).

3. Given that convicted individuals may have multiple criminal records, a reform and rehabilitation policy requires the individualization of sanctions based on their criminal history.

- McDonaldization of Criminal Law

The term McDonaldization was first coined by American sociologist George Ritzer[1] in his book *The McDonaldization of Society* to describe sociological phenomena occurring in society. Essentially, McDonaldization is an intensified process of rationalization that seeks to eliminate traditional rules and replace them with a set of formal rational rules. George Ritzer used the analysis of principles governing fast-food restaurants to explain the social and cultural characteristics of modern societies, especially American society (Pak Nahad, 2009: 139). Consequently, in the risk-based criminal policy model, following Ritzer's thinking, there is an attempt to impose McDonaldization principles on criminal law and apply the principles governing fast-food restaurants to the system of drafting and determining punishments. The most important of these characteristics is efficiency. In this context, efficiency means achieving the maximum possible incapacitation for dangerous offenders, with violent crimes holding particular importance (Pak Nahad, 2009: 140).

Therefore, criminal stigmatization in contemporary society can be considered a prominent example of this approach. In the criminal laws of Iran and the United States, sanctions with a stigmatizing characteristic, although they do not physically remove the offender from society, spiritually eliminate them, which has far greater negative effects than physical removal. By destroying the offender's reputation and depriving them of their community identity and social capital, little place remains for them in society, and society is largely unwilling to accept them in social activities and collective groups. In this situation, the offender, through a change in their self-concept[2] and the acceptance of a criminal

1. George Ritzer is a professor of sociology at the University of Maryland. Some of Ritzer's works include: *Sociological Theory, Metatheorizing in Sociology, Sociology: A Multiple Paradigm Science*, and *Toward an Integrated Sociological Paradigm* (Ritzer, 1998: 1). *The McDonaldization of Society* is also considered one of his famous works.

2. One of the important and key concepts regarding preventing recidivism by offenders is the personal self-concept. Personal self-concept refers to the attitude individuals have about themselves. In fact, humans, due to characteristics such as being flexible, sensitive, and vulnerable, are generally capable of changing their personal self-concept in society and as a result of interaction with others (Liner & Henry, 2004: 203). Therefore, at the time of a crime and the public announcement of the offender's name, the situation is perceived as the offender changing their personal self-concept as a result of interaction with others who recognize them as a criminal, and thus, in a way, accepting that they are a criminal. Therefore, this attitude towards oneself is what is acquired through interaction with others, which Cooley considers as "looking-glass self" (Vold & Bernard, 1998: 220).

identity, becomes separated from their social life and spends the rest of their life in isolation or in criminal groups. This is particularly true now with the proliferation of virtual and social networks, where the process of stigmatization spreads very rapidly among community members. Given these circumstances, it is observed that stigmatizing sanctions in Iran's criminal law, as well as in U.S. criminal law, reflect a risk-based approach as a manifestation of a securitized and stringent criminal approach.

2-2. Procedural Effects

Beyond substantive law, procedural law is also not immune to the criminal securitization approach. The effects of this approach in procedural laws and practices are closely linked to instances of criminal stigmatization. Branding defendants (during prosecution and investigation stages), publicizing offenders to society (during sentence execution), and deviating from individual rights and fair trial standards—in the form of disregarding the equality of arms principle and the weakening of the presumption of innocence—are among the procedural effects of criminal securitization. Instances of stigmatization in Iranian and U.S. law are also examined from the perspective of these manifestations. (In other words, given that the legislator in the realm of procedural law does not aim to determine punishment, if they wish to resort to securitization in this area, they must necessarily undermine the human dignity of individuals through a series of procedural measures. This goal can be achieved by branding defendants and offenders and deviating from fair trial standards.)

2-2-1. Branding Defendants

Branding defendants emerges as one of the effects of securitized criminal policy in the realm of procedural laws. Despite the widespread acceptance of the presumption of innocence as a fundamental criterion of fair trial in international instruments like the Universal Declaration of Human Rights and in national domestic legal systems, some systems, including Iran's criminal justice system, have permitted the stigmatization of defendants whose guilt or innocence has not yet been determined, in line with implementing a stringent, securitized criminal policy. In Iran's most recent legal document concerning procedural criminal law—the new Code of Criminal Procedure—the legislator, in some instances, has authorized prosecution authorities to stigmatize defendants, which can be seen as a form of media representation of criminal events. Although

Article 96 of this law generally prohibits the publication of images and other identifying details of defendants by media, law enforcement, and judicial authorities, it specifies exceptions with a remarkably broad scope. This article permits the publication of defendants' images in cases covered by paragraphs (a), (b), (c), and (d) of Article 302 of the Code of Criminal Procedure (a) crimes punishable by deprivation of life, b) crimes punishable by life imprisonment, c) intentional physical assault or crimes causing half or more of full *diya* (blood money) or bodily harm, d) crimes punishable by discretionary punishment of degree three and higher). These crimes encompass a wide range of offenses.[1] In the U.S. criminal justice system, electronic systems and websites allow individuals to access information about defendants' accusations. For instance, in Maricopa County, Arizona, there is a department that provides public access to defendants' details, including photos, birth dates, height, weight, and the charges they have faced (Dins & Edward Witmer, 2013: 517).

Given this, it becomes clear that Iran's criminal justice system can adopt a stringent, securitized approach in its procedural aspects. This is because, in many crimes, merely the existence of an accusation, with the request of the investigating judge and the consent of the district attorney, allows for the publication of the defendant's image or other identifying details. This action, not only in some cases like minor offenses, can be considered contrary to the demands of human dignity but also violates the provisions of citizenship rights. This is because the publication of the image of someone whose guilt has not yet been proven and who is merely being prosecuted as a defendant in preliminary investigations is an action contrary to the presumption of innocence and the non-public nature of preliminary investigations.[2] Criminal jurists believe that the purpose of

1. Although it might be argued that the media coverage of the judicial process affects the guarantee of the defendant's right to defense, this seems to apply only to non-populist criminal justice systems. In populist criminal justice systems, the general public, upon hearing criminal news, primarily seeks harsher treatment for offenders and defendants.

2. For example, some individuals might currently be prosecuted and tried for a third-degree Ta'zir crime such as kidnapping, and based on Article 96 of the Code of Criminal Procedure, their image as a defendant might be published in a newspaper. Now, suppose these individuals are later prosecuted for other fabricated accusations. From a psychological perspective, there is a possibility that the existing record in the minds of judicial authorities might undermine the presumption of innocence. Furthermore, given that the individual was previously made known to the general public, there might be public pressure on the judiciary to expedite the proceedings and impose severe treatment, which also impacts the disregard for the presumption of innocence.

non-public preliminary investigations is to uphold the presumption of innocence and prevent the dissemination of news about the defendant, which would not be compensable even if a decision of non-prosecution is issued. This is partly ensured by the non-public nature of investigations and complemented by this feature (Khaleghi, 2015: 171). This discussion also applies to instances of branding defendants in the U.S. criminal justice system. Therefore, branding defendants is inconsistent with the principles and objectives of criminal procedure.

2-2-2.Branding Offenders

One of the procedural effects of a security-oriented criminal policy is the public execution of punishments and its authorization within procedural law. In this discourse, some criminal sanctions are not inherently stigmatizing, but in certain cases, the legislator has granted the judge the authority to carry out the punishment publicly. Examples of such powers in Iran's current laws include Article 499 of the Code of Criminal Procedure and Article 11 of the Anti-Narcotics Law. In these articles, which on the one hand encompass a wide range of instances, and on the other hand, delegate the authority to publicly execute punishments and stigmatize offenders to judges and their personal interpretation, the legislator has approached stigmatization not from the perspective of criminalization in substantive laws, but from the perspective of punishment execution in procedural laws.[1] As noted by ethical and Islamic scholars, the public execution of punishments is not widely supported among Islamic jurists and thinkers, who consider it contrary to the spirit of *Sharia* and concepts such as the sanctity of reputation and the preservation of human dignity (Mohaghegh Damad & Sadat Hosseini, 2001: 25; Fallah Ahmad Chali Baboli, 2007: 256).

Article 499 of the Code of Criminal Procedure, as the most recent procedural criminal regulation in Iran's criminal policy, while initially prohibiting public execution of punishments, subsequently introduces an exception based on the court's discretion or the prosecutor's proposal. This opens up a broad scope for public punishment execution, effectively permitting the discrediting of offenders for all types of punishments, even those that are not inherently stigmatizing. This action, being general and

1. As previously stated, although the legislator in the realm of procedural law is not seeking to determine punishment or even intensify penalties, they can, through other means, prescribe the effects of securitization in the form of procedural and executive measures, which may lead to disregarding the rights of offenders and perhaps discrediting them.

without specific examples, appears to lack a clear purpose or logical basis. Article 11 of the Anti-Narcotics Law (specifically concerning armed drug offenses) also grants authorities the power to stigmatize offenders, and consequently their families and relatives, by introducing the condition of "public interest." This conflicts with fundamental principles governing punishments, particularly the principle of the personal nature of punishment.

In the U.S. criminal justice system, public execution of punishments is also common. In many cities, for drug offenders, child abusers, and DUI offenders, publicizing the offender's name on city billboards is considered an example of this. Other judgments from U.S. courts also exemplify this; for instance, in California, in the McDowell case, where the defendant had three theft convictions, the court ordered him to wear noisy shoes—with metal heels used in dancing—whenever he was outside his home. In the same state, in another case (the Hackler case)[1], the court sentenced the offender to wear a shirt during his parole period, whenever he was outside, with the phrase "My sentence is 4 years" written on the front and "I am on parole for robbery" on the back. In another famous case (the Bateman case)[2], the court forced the convicted individual to write a sentence on their residence and vehicle indicating that they were a dangerous sex offender. As another example, in Maricopa County, Arizona, in 2007, it was decided to announce the names of DUI offenders[3] on websites and specific billboards throughout the city (Dins & Witmer, 2013: 516-517). This evidence, along with certain existing laws in the U.S., particularly the Patriot Act, can indicate the presence of a securitization approach in that country, as previously discussed, such an outlook is also observed in crimes against security in the United States.

Thus, it is observed that in the current criminal justice systems of Iran and the United States, the approach of branding offenders is widely prevalent in the procedural domain. It can therefore be concluded that in this regard, criminal stigmatization in the current system of both countries embodies a securitized and stringent approach.

1. People v. Hackler
2. State v. Bateman
3. DUI Offenders (Driving Under Influence Offenders)

2-2-3. Disregard for Individual Rights and Freedoms and Fair Trial

One of the effects of a securitized criminal policy is the deviation from fair trial standards and the elimination of individualization mechanisms to increase the severity of punishment. In principle, governments possess legitimate power to restrict individual rights and freedoms to ensure security and public order. Some even define national security as "a concept based on which governments limit the exercise of rights and freedoms" (Malmir Center, 2004: 756). This suggests that governments, in the name of ensuring security, sometimes feel justified in undermining human dignity. Although today, with the expansion of theories such as the universality of human rights and a legal order based on customary or even peremptory human rights norms at the international level, national security can be referred to as one of the factors supporting human rights (and preserving human dignity and social capital) (Malmir Center, 2004: 757), in practice, most governments act contrary to these principles.

Furthermore, the media's excessive emphasis on the risk of crime and their exaggerated portrayal of it, alongside the argument that measures taken to combat and reduce crime are disproportionate to the actions required to reduce the actual risk of crime, have all contributed to increased political support for authoritarian methods to resolve the crisis of rising criminality and recourse to a securitized ideology. In other words, extremism and demagoguery in reporting the increasing rate of criminal risk and instilling fear among citizens about it, to achieve political and non-political goals of statesmen, have led to securitization in criminal policy and the restriction or suspension of citizens' rights and freedoms, as well as the limitation of fair trial guarantees (Shamloo & Moradi, 2013: 112). In the U.S. system, the media's unique methods in reporting criminal news may not always accurately reflect reality, which itself can lead to false public criticism and excessive demands from the public on governments and criminal justice institutions. For example, in 2005, crime and criminal justice were central themes in the media, whereas a study conducted in the same year showed that the country's incarcerated population and self-reported victims were not excessively high. Moreover, in the first week of 2009 in the U.S., ten out of every twenty television and media programs observed had a criminal justice theme (Owens, 2010: 3). Therefore, given the unique power of public media, their activities lead to increased public pressure for more effective policies and a stricter response to crime.

One of the effects of a security-oriented criminal policy is the deviation from certain fair trial standards, which manifests as the

disregard for the equality of arms principle between parties in criminal proceedings and the diminishing of the presumption of innocence. The extensive scope of criminal stigmatization in Iran's current criminal law may undermine these manifestations.[1]

- Disregarding the Principle of Equality of Arms

One of the main aspects of a fair trial, currently considered a definitive understanding of a just criminal proceeding, is equality of arms. To realize this concept, parties to the proceedings must have a reasonable opportunity to present and explain their case in a way that protects them from harm or prejudice by the other side (Glees, 2013: 89). In other words, equality of arms requires a logical balance between the parties in civil and criminal lawsuits (Council of Europe, 2014: 21). In Islamic *fiqh* (jurisprudence) and law, the concept of equal defensive opportunities in judicial proceedings has a long history.[2] It seems impossible to achieve a fair trial without the proper implementation of equality of arms.

Regarding the process of criminal stigmatization and the implementation of equality of arms, it can be stated that stigmatizing sanctions in Iranian and U.S. criminal law—such as the publication of conviction judgments, public shaming of offenders, installation of banners and placards, public access to individuals' accusation records and convictions, etc.[3]—especially in the current era, where technological advancements and numerous social networks have made these measures much easier, can influence future accusations against a stigmatized person. When an individual is publicly identified as a criminal or even a suspect to a wide segment or the entirety of society, in potential future accusations—which

1. For example, some individuals might be prosecuted and tried for a first to fourth-degree Ta'zir crime related to security offenses, and based on the Code of Criminal Procedure, their image as a defendant might be published in a newspaper or their conviction judgment announced to the public. Now, suppose these individuals are later prosecuted for other accusations. From a psychological perspective, there is a possibility that the existing record in the minds of judicial authorities might prejudice the defendant's rights. Furthermore, given that they were previously made known to the general public, there might be public pressure on the judiciary to expedite the proceedings and impose severe treatment, which is not without effect on the disregard for the defendant's rights.

2. The best proof of this is a famous narration stating that a man complained against Imam Ali (AS), and the judge, during the trial, addressed the Imam as "Aba al-Hasan" while using the simple first name for the plaintiff. This was met with strong objection from Imam Ali (AS) (Sagheian, 2006: 84).

3. In the United States, there are even publicly available software applications that easily identify sex offenders in a given area. For example, one such application is The North Carolina Sex Offender Registration Program.

may be entirely baseless and unfounded—this can weaken their defensive position, influence the judge's mindset, and most importantly, call into question the principle of impartiality, which is a crucial concept in a fair trial. Therefore, if even addressing a plaintiff by their first name is considered a form of injustice and unethical, how can it be guaranteed that an individual previously disgraced on a large scale in society will be treated with full equality and justice, free from any prejudice, in subsequent accusations by criminal justice authorities? In other words, in societies where a populist approach prevails, if individuals previously identified to the public by the judiciary are accused again, public opinion might align with media pressure, potentially undermining the judicial authority's discretion regarding the new accusation.

- Diminishing the Presumption of Innocence

Even if we do not consider the presumption of innocence to be universal and all-encompassing, it is at least widely recognized as one of the central principles of criminal justice and a standard for fair trial in all international and regional treaties. This presumption has been extensively debated, but in the last decade, it has gained significant attention in numerous national and international academic studies and topics (Jang & Lent, 2016: 32). Various opinions have been expressed regarding the foundations of the presumption of innocence. Some have attributed its basis to jurisprudential principles such as *Asl al-Adam* (principle of non-existence), *Asl al-Ibahah* (principle of permissibility), and *Qaidat al-Dara'* (rule of avoiding *hadd* punishments due to doubt) (Rahmdel, 2006: 20; Rahimi Nejad, 2008: 206-209; Sarmast Banab, 2008: 53-62). Others, citing the concept of human dignity and adhering to Islamic thought, believe that human nature, unlike its physical being, possesses dignity and is based on principles and rules consistent with this nature, thus the presumption of innocence prevails (Ghorbani & Movahedi, 2011: 136).

Regarding the presumption of innocence and instances of criminal stigmatization in Iranian and U.S. criminal law, in the same manner as discussed previously, the function of stigmatizing offenders, particularly in the case of subsequent accusations against stigmatized individuals, has a negative impact. This impact is such that it can undermine the presumption of innocence. In fact, while the process of stigmatizing offenders cannot completely disregard this legal presumption regarding subsequent accusations against stigmatized individuals, it can overshadow it. For example, when a person is stigmatized for committing an economic crime or other offenses under Article 36 of the Islamic

Penal Code, the judge's mindset or the criminal justice system's perspective no longer views them as entirely innocent, even if they might be completely innocent in the new accusation. This is more pronounced in the U.S. criminal justice system, which, influenced by political events, has resorted to more severe sanctions, including criminal stigmatization. Indeed, throughout the history of criminal law, challenges to the presumption of innocence have been influenced by political events (Ashouri, 1993: 44). Therefore, it can be said that although the criminal policy's reliance on and inclination towards *tashheer* (public shaming) has been directed towards media *tashheer*, providing extensive opportunities for it as a discretionary and supplementary punishment, and in some cases controversially moving towards *tashheer* (Bateni 2023: 104), a judge's attention to the aims of *ta'zir* and the necessity and utility alongside the principle of legality will ensure the avoidance of punishment in unnecessary cases.

Conclusion

The impacts of criminal securitization in many countries' legal systems, including the United States, largely stem from the events of September 11th, although nations had prior experiences in this regard. Similar to many other countries, the Iranian legal system has also adopted such a policy. While criminal securitization may be justifiable for crimes against national security in any legal system, its effectiveness in other non-security-related offenses remains questionable.

This article has demonstrated that criminal stigmatization is a measure significantly aligned with both the procedural and substantive effects of criminal securitization. In the United States, criminal stigmatization has a considerable history, and in recent years, due to political reasons and incidents that jeopardized the country's security, recourse to this institution, albeit with a securitized approach, has increased even in non-security crimes. In Iran's legal system, under the Islamic Penal Code and the Code of Criminal Procedure, the institution of stigmatization has been prescribed or mandated not only for security crimes but also for other, sometimes minor, offenses.

Therefore, in both countries, the legislator has extended the securitization approach beyond crimes against security to other offenses, which warrants consideration. This is because a securitized criminal policy, by disregarding scientific and empirical studies and focusing solely on security, cannot be optimally effective except in crimes against

security. Given that criminal stigmatization is also based on such a policy, the following recommendations can be made:

- Restrict stigmatizing measures to serious crimes: It is advisable for Iranian legislators to limit stigmatizing measures to serious crimes, including those against national security and offenses that disrupt public psychological security.
- Judicial discretion in applying stigmatization: In judicial practice, considering the powers granted to judicial authorities in Articles 23 and 36 of the Islamic Penal Code and Articles 96 and 499 of the Code of Criminal Procedure (as the primary legal bases for criminal stigmatization), it is expected that these authorities will, in practice, restrict stigmatization to serious crimes, especially crimes against national security and those that disturb public order.

Provide mechanisms for social reintegration: Even in cases where criminal stigmatization is justifiable, it is essential to implement mechanisms that prevent the stigmatized individual from being deprived of continued social life and allow them to enjoy their citizenship rights. One such mechanism is the public announcement of the restoration of their reputation through the media

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