



POLITICAL AND SECURITY CRIMES BASED ON HUMAN RIGHTS

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Abstract

Political crimes and security crimes are two important groups in the field of criminology, which, along with the study in their field, can solve many current inadequacies and challenges among legal activists in the field of criminal politics. A distinction should be made between political crimes and security crimes; because the political crime is an intra-systemic crime from the point of view of Iranian law, without the perpetrator intending to attack the principle of the system; but security crime is associated with the intention of the perpetrator. Criminals of security and political crimes are dealt with according to the constitution of every country, but is the prevention and combating of these crimes in interaction with human rights or in opposition to it? Considering the fact that the intention of criminals in political crimes is different from security crimes, therefore, in distinguishing between political crimes and security crimes, interactions related to human rights should be observed; in the Universal Declaration of Human Rights of the United Nations, the freedom and security of individuals have been considered as one of the basic and justice-oriented human needs for life. While examining the challenges in the detection of political crimes and security crimes, the present article deals with the interpretation of the interaction of legal rules related to political crimes and security crimes with the International Human Rights Organization, and by revealing its dimensions, it takes effective steps in recognizing political and security crimes and provides solutions to the challenges related to it.

Keywords: Crimes, Political crimes, Security crimes, Human rights, Security

1. INTRODUCTION

Political crimes and crimes against national security have a common aspect (both are considered crimes) and a different aspect (in terms of the crime) (Nikkhah et al., 2021: 9) as the concept of "political crime" is a crime whose goal is the government, but not a goal that leads to harm and damage to the system. Political crimes are one of the most controversial and complex topics (Zimmerman and Wennholz, 1951: 24-41) that there is a consensus¹ among jurists that the political crime has the aspect of treason against the country. Therefore, the nature of having a political crime is subject to two "relative" and "pure" elements.

Political crimes with the nature of having a target (the government) is a pure political crime, because these crimes directly target the government and take countermeasures against it, but the crimes committed are such that they do not harm private interests. From Van den Wijngaert's point of view²; the criteria for identifying purely political crimes include two interdependent factors, which are; (1) The perpetrators are committed without harming the interests of private individuals and specifically against the government or its political organization (the main focus of this type of crime includes: "treason", "espionage", "disclosure of information", "conspiracy", "is complicity with the enemy"); (2) They are not included in the category of ordinary crimes, such as "murder", "theft and destruction." But political crimes with a relative element are different from political crimes with a pure element. This type of political crime is a type of public crime, the perpetrator of which



either has a political motive, or the crime has a political background, and its occurrence will bring political consequences (Link, 2003: 271).

In addition to political crime, what always appears as a problem is the challenge of political crime with security. Security crimes are actions that the perpetrators have led to disrupt the country's "internal and external stability" and target the country's political sovereignty and territorial integrity; Among the most important of these crimes, we can mention "war", "corruption in the earth", "Baghi", "armed uprising against the country", "plan to overthrow the government", "burning and destroying government property", which is done against the government in different ways and with different tools. It has caused the legislators in every country to take preventive measures to combat those crimes, considering the need to maintain political stability and establish order and security (Abolfazl Chehrei, 2020: 92).

The most important issue that can be raised here is that what is the government's definition of political and security crimes that are dealt with based on criminal laws? In the definition of political and security crimes, the legislators of some countries sometimes defines and revises the political and security crime directly by including it in the law book, and sometimes some of the crimes are mentioned under the title of security or political crime and sometimes indirectly without defining or specifying its dimensions, they establish examples related to the crime and deal with the criminals (Soleimani Maimandi et al., 2020: 73) for example; England and Spain basically did not pay attention to political crime and did not mention it in their legal system, and instead of laws, they follow special conditions in dealing with political criminals, which they use when needed; or in the French law, although the definition of political crime has not been taken, but in the introduction of the 1927 law, the example of political crime refers to its direct connection with law-breaking by individuals.

In Iran, the framework of political and security crimes more or less in articles 279, 286 and 287 of the Islamic Penal Code has been considered by the legislator, but the government's definition of political crime has not been similar to the policy of the above countries (Mir Mohammad Sadeghi, 2013: 53) for example; "popular protest" in many cases is or equals to "disturbance", "corrupter on earth", "war" and such cases and those who are arrested in the meantime, willingly or unwillingly are also known as security criminals; people who support this group online or directly or post profiles that show their protest against the government are also prosecuted under the title of "political criminal" and eventually arrested and sometimes against the standards of human rights are tortured and end up being executed. Therefore, according to the legislator's actions, another issue that can be raised is whether the legislator's actions to prevent political crimes and security crimes interacted with international human rights laws?

In addition to the above issues, what may be crystallized in the mind is the answer to the question, what is the solution to get rid of the challenge on the issue of political crime with security crimes? One of the most effective ways to remove above challenges can be the supervision of the "International Human Rights Fact-Finding Committee" to prevent political and security crimes. In addition, having legislative authority in the light of jurisprudential and Islamic foundations and using the opinions and goals of constitutional law experts can be a suitable way to advance the goals of a country towards peace. (Emami, 2008: 237). Unfortunately, their ideas have been used indirectly in very limited researches; but as in the field of political rights and security of the Islamic Republic of Iran, the importance of their point of view has not been considered. The method of using the point of view of jurists, an effective and efficient way to interpret and correctly understand political and security crimes and the principles of applying legislative jurisdiction when crimes and challenges occur, including the issues raised about the jurisdiction of the ruling powers in the Islamic republican system and the dividing line between them is the subject of discussion in the political and legal circles of our society in the last few years (Kuhi Esfahani, 2012: 99) .

In the continuation of this research, while examining the position of the nature of political and security crimes in Islamic law and examining the basis of the human rights perspective in relation to the perpetrators of political and security crimes, three of the most important strategies presented to advance a desirable society have been discussed. It will be analyzed and investigated and finally



the answer to the question whether political and security crimes interact with international human rights laws or not?

2. THEORETICAL LITERATURE

2-1 The nature of political and security crimes

Political crime is one of the terms of criminal law and refers to a criminal act whose purpose is to disrupt the social political system and the general order of the country without causing damage and collapse to the concrete system. In other words, the motivation to commit it is to disrupt social order, disrupt political management, harm the country's leadership, and discredit the government; in political crimes, although the criminal tries to weaken the government in various ways, the main goal of such criminals, according to themselves, is to preserve the country's independence, secure legitimate and legal freedoms, and expand social justice (Mir Mohammad Sadeghi, 2013: 78). Even in the situation where the criminal has made a mistake in the "legitimate" systems in recognizing the example, but he thinks he is going the right way. What has caused political crime to be equated with crimes against national security is the disruption of public order that has brought these crimes closer to each other (Vaziri, 2017: 66-68).

Each of the various jurisprudential schools and thoughts, legal systems and political systems, depending on the intellectual support and the type of attitude they have towards human beings, citizens' rights, freedom, democracy and human rights, according to the conditions and components of time and place have had different approaches and views to the issue of political crime. In jurisprudence, a political crime or "apostasy" is defined as an act that a group of Muslims who have a strong organization, deviate from the command and obedience of the Muslims as a result of baseless suspicions that have arisen for them, and they carry out actions with their will and discretion whether this is their act through corruption in the land and war, or through espionage for other governments, or armed war with the Islamic government, or other matters (Pir Ali, 2016: 282).

Political crimes are usually considered "the same" as security crimes due to the disturbance in the country's security, while security crimes do not have the same subject matter as political crimes and have a separate nature in the perpetrator's actions (Mir Mohammad Sadeghi, 2003: 79-80). Some actions by the perpetrators of security crimes; it threatens the internal "freedom and security" of the country; these measures include; war and corruption in the land, sedition, armed uprising against the country, plan to overthrow the government, burning and destroying government property, which is the ultimate goal of the perpetrators in these actions; disrupting the country's internal and external stability and political sovereignty has been a threat to the country's territorial integrity; the perpetrators of these crimes have idealistic motives according to their beliefs and consider their actions as heroic acts. What gives the above actions a criminal color and smell is the actions of the perpetrators based on small groups under different titles and in the form of the presence (union) of very few people together, and therefore their actions are always considered criminal and ultimately face the repression of the security forces in any country; (Mir Mohammad Sadeghi, 2014: 98) These actions are not considered a crime on a large scale and with the majority of people in the society, and eventually lead to revolution and change of the system based on democratic government.

2-2 Different approaches to political and security crimes of countries

Political and security crimes have been studied and interpreted by lawyers for several years; but as it was mentioned at the beginning of this article, has the action been interpreted as "political crime" and "security crime" independently or not? Has the pioneers of basic legal science and the nature of political crimes and security crimes been recognized and separated between political crimes and security crimes, apart from the present article that has been discussed? Moreover, in Iran's criminal law, this particular title was not mentioned in the past, but its example was mentioned (Shir Kash et al., 2018: 319) and the only example was that both "political crime" and "security crime" should be considered the same. Some people believe; Islamic jurisprudence is one of the pioneers of the concept of "political crime" and "security crime" and it has been mentioned under the title of "baghi"¹. To maintain the stability and political stability of the society, the



sovereignty of the system must have a privacy that no one has the right to invade (Shir Kash et al., 2018: 321).

Although the title of political security is not among the five interests that are the basis of criminalization in the holy Islamic law (intellect, religion, life, wealth and honor), it can be said that if political security is not established in a society and if the society is in anarchy, none of the five mentioned materials will be defensible; Because each of these interests is meaningful despite the rule of a just system, and if the political system of a country is shaken by the uprising of a few, it is no longer possible to implement justice in society and restore the rights of People lost hope. Also, at times, the implementation of justice in dealing with the perpetrators of "political crimes" in case of non-observance of cultural, religious and social principles among people and public places (the country of Iran is also witnessing this kind of unusual treatment by law enforcers) will lead to disturbance and insecurity.

Concerning the same title, the approaches of several countries, especially the approach of Iran in relation to political and security crimes, will be discussed, then the approach of human rights in the light of political and security crimes will be discussed to achieve this point and issue whether the approaches used in the countries are in line with international human rights laws or not?

2-2-1 The position of political and security crimes in Iran

In Iran, there is no specific approach in the form of separating political crime from security crime, either before 1978 or after, and the only comprehensive and complete case on this claim is the text of the "political crime" law approved in 2016, which is regulated in 6 articles and security crimes which is in articles 279, 286 and 287 of the Islamic Penal Code. It should be mentioned insulting, slandering the officials of the country's system (the heads of the three powers, the head of the Expediency Council, vice presidents, ministers, representatives of the Islamic Council and the Council of Experts, members of the Guardian Council, the president or political representative of the country), publishing falsehoods in the field of "political crimes" and overseeing, participating, aiding and abetting crimes under the title (armed rebellion against the country, planning to overthrow the government, burning and destroying government property) is in the field of security crimes. (Nikkhah et al., 2021: 27-39)

The above approaches can be considered as penal approaches, but how can jurisprudential approaches regarding political and security crimes be examined and evaluated? From the jurisprudential point of view, political crime followed by security crimes are directly related to the title of "baghi". In fact, "baghi" is someone who is used in the meanings of "injured", "corrupt person", "aggressor", "unfair", "injustice" (Siyah, 1998: 46 quoted by Pir Ali, 2006: 98) Of course, what is referred to as "baghi" in the opinion of jurists is not explicitly mentioned in the laws, except in the criminal law of the country of Egypt. From the theoretical point of view of jurists, political criminals are criminals who are against the system and the government, and this is what is being discussed in the Islamic law of Iran, by the highest Islamic authorities. In the interpretation of this title from the point of view of jurists, it should be acknowledged that anyone who opposes the system is considered a "baghi" regardless of whether it is right or wrong (Shirkash et al., 2018 quoted by Pir Ali 2016: 99).

Political crime in the term of jurists is "baghi" and the name of political criminal in jurisprudence is called "baghat" or "baghi group" (Pir Ali 2016: 99). With this title, is anyone who opposes the system and has not committed any action or crime related to the crimes of the political law approved in 2016 or articles 279, 286 and 289 still a "baghi"? Therefore, the above issue is an "insult" to the dignity of ordinary people from the side of jurists, although in justifying this title, it seems that there is no difference between critics of the system and opponents of the system. As a fundamental challenge in the current situation, this issue should be considered by Islamic thinkers, especially law professors, and no distinction should be made between those who criticize the system and those who oppose the system. Because someone who is a critic of the system is definitely against it. If there is corruption (financial corruption, dignity, injustice) at the head of a system, and on the one hand, a group of Muslims violates another group, the duties of the oppressed group will not be a



duty other than war with the aggressor group. whether it is headed by an infallible Imam or a non-infallible Imam (derive from verse 9 of Surah Al-Hujrat).

Based on this, it should be noted that the realm of political crime is wider than the term "baghi"; Therefore, without the presence of coercive behavior, one cannot be considered a political or security criminal, so paying attention to the elements of political crime and security crime is subject to a series of actions by the criminal, not the motive with which a person is considered a political criminal and security; This, in turn, is in conflict with human rights laws, which will be discussed further.

2-2-2 The position of political and security crimes in France

In France, the first legal text in which political crimes and security crimes are separated from non-political crimes is the French Penal Code of 1810. Of course, the separation of political and security crimes from non-political crimes in this law was not done for the protection of political criminals, but because of heavy punishments applied to such criminals. For example, "chinese conspiracy" which is only a preliminary act and is not considered criminal in other crimes, has been identified as a crime in the case of political crimes (Peivandi, 2005: 59), of course, in the French Penal Code of 1832, mild punishments in some cases are considered for political criminals. However, in the laws of 1848, the situation of political criminals was further improved and the punishment of "death" was canceled for political criminals, and according to Article 1 of the law of June 8, 1850, political criminals were sentenced to forced life in fortified castles instead of execution. (Asghari, 1999: 84) In addition to the abolition of the death penalty from 1852 to 1914, other concessions, such as not applying the extradition provisions for political criminals, determining punishments independent of public crimes for political criminals and dealing with political crimes in the presence of a jury were considered for political criminals, which compared to the country of Iran, these privileges interact with human rights.

Of course, with the revolution of 1917, due to the spread of crimes against governments and the occurrence of revolutions in some countries, this issue caused these countries to reconsider their dealings with political crimes and to change the principles related to the trial of political criminals; Of course, at the end of the 19th century in Europe, due to the actions of anarchists, political crimes were separated from security crimes, and these crimes were dealt with more severely. (Saneie, 2003: 393) In addition, with the lack of clear demarcation between these two categories of crimes, there was the possibility of abuse and considering most of the crimes as security.

In addition to this, factors, such as the emergence of extreme "fascist" or "nationalist" states, the increase of espionage for foreign countries, the spread of terrorist and anarchist operations, and the emergence of military coups in some countries led to the removal of support from political criminals. For example, the death penalty, which was abolished in Italy in 1889, was reinstated in 1930 for political assassinations. In France, Germany and Russia, many abrogated punishments reappeared and were implemented; For example, confiscation of all property in the case of political criminals was implemented in Russia, and the penalty of deprivation of citizenship rights was also reinstated in Russia and Germany.

In the current state of French laws, unlike some European countries, no definition of political crime has been provided, and in addition, it has not used the term political crime in legal cases, and only based on the statistics of this category of crimes in the form of crimes that threaten security. However, in the preamble of the 1927 Law on the Extradition of Criminals, it is stated in the definition of a political criminal that "a political criminal is a person who has been driven forward by his political opinion to such an extent that he has committed a violation of the law."

Also, in Article 749 of the Criminal Procedure Law and Article 459 of the Public Health Law, the legislator has mentioned political crime so that in Article 459 regarding treason or political misdemeanor, there is no deprivation of rights in this context. In the new revision in Article 4126-6, instead of crimes and political misdemeanors, crimes against the nation, government, and public welfare have been given this privilege (Nikkhah et al., 2021: 66-39). The judicial procedure of France in relation to "political and security crimes" has a pure procedure and considers a crime to be political, which endangers the order of the society and is committed against the foundation of



the government or the sovereignty of the government and causes disruption of the existing order. Therefore, with the interpretation of this title, any type of law breaker in France has the validity of a political crime, and in simpler words, if it disrupts the order established by the constitution, it is considered a political criminal. Of course, regarding compound crimes in the judicial procedure of France, it is observed that it is not in the scope of political and security crimes, because in many extradition contracts, the issue of attempted murder has been mentioned, and the contractors will extradite such criminals and this shows that the compound crime is not political. Because if it had a political description, its extradition would not be accepted (Davoudi et al., 2018: 32).

About the defense guarantees of the accused of political and security crimes, although no special principle of the constitution of this country is dedicated to the publicness of proceedings in French law, the legislator has pointed out the necessity of observing this principle in several cases of the Criminal Procedure Law. Therefore, articles 306, 400, 502, 535 of the Islamic Civil Code of France has repeatedly referred to the observance of this type of defense guarantees of the accused (Mohammed Panahi et al., 2021: 29).

The European Convention on Human Rights (Paragraph 1.6) and the International Civil and Political Covenant (Paragraph 1.14) are among the regional and international documents that French law, due to the acceptance and signing of these documents, is required to respect the public nature of proceedings in the courts of this country, French law in Article 306 in some cases has allowed the president of the court to announce the proceedings in secret, including those cases, the public hearing of cases that pose a risk to public order or society's morals, or in general, the trial related to be children. In addition, Article 402 and the law of December 23, 1980 is also an exception to the public nature of trials in French law that can be mentioned. Therefore, the openness of proceedings has many results and benefits, one of which is transparency in the administration of justice and making it visible. For this reason, it can be emphasized that it is not enough for justice to be implemented, but in addition, justice must be tangible and visible (Shirkesh et al., 2018: 57). In France, to prevent political and security crimes, the perpetrators are not sentenced to death, and the only cases that criminal laws consider for political criminals include:

- * Permanent political criminal imprisonment (the aforementioned punishment was implemented instead of the punishment of exile, which was implemented overseas according to Article 17 of the previous law and was implemented permanently, which is currently implemented in special institutions).

- * Temporary criminal imprisonment (this type of punishment does not differ from political and public crimes and has three levels of 15, 20 and 30 years) of course, criminal political crimes may carry fines and supplementary punishments in addition to imprisonment. Of course, in the past, deprivation of social rights, which is currently based on Article 414-5 of France as additional punishments, was foreseen as the main punishment for political criminals.

In the interpretation of France's approach, it can be stated, considering that the death penalty, which was removed from the date of the first reform of the French criminal law in 1832, and only the criminal and temporary prison sentences remained for political and security crimes. However, the death penalty for both political crimes and general crimes was abolished in France in 1981 according to the law, and compared to Iran's approach, it was aligned with human rights laws and interacted with it.

2-2-3 The position of political and security crimes in England

England has basically not paid attention to political crimes and their separation from security crimes and has not mentioned it in its legal system. England has recognized certain conditions for political and security criminals; But it applies it to crimes that have a political and security aspect. To define political and security crimes in England, different judicial procedures and legal interpretations should be searched (Asghari, 2009: 88).

The criminal justice system of England and Wales is actually responsible for arrest, prosecution, trial and Punishment of security and political criminals accompanied by guarantees related to fair trial, as long as it provides the ground for the correction of behavior and finally their return to the society, especially through punishment that deprives freedom so that many institutions and



individuals work and intervene in the criminal justice system. (Mehra, 2007: 96-93) Among them are the police, courts (courts of the peace and criminal courts), crown prosecution system, the local commission for the prosecution of political criminals and the victim protection unit and witness services, prison organizations of queen and the care office. The responsibility of the administration of these institutions is under the responsibility of the Ministry of Interior and the Department for Constitutional Affairs. For this reason, "the criminal justice system is in fact in charge of the actions that must be taken after committing a crime to arrest, prosecute and prosecute the criminal." (Wahabi and Razmi, 2022: 38).

The British government, which is responsible for providing financial resources, drawing policies and how to form the criminal justice system, today they have turned political crime into a political issue and have depicted it according to the program of their political party and they plan for it. At the core of this is the desire to create a transparent and coordinated system that requires respect for the public, and this issue is realized through the faster and more effective implementation of justice for the victims and on a wider level for the society and at the same time guaranteeing the rights of the accused. (Vahabi and Razmi, 2022: 39) Thus, these plans can be seen as responses to people's negative judgments about the criminal justice system, although these perceptions are usually wrong, and also the efforts of different governments in England is considered to solve the system's historical incapacity of criminal justice handling the issue of political crime. In fact, the British government hopes to improve people's negative perceptions and judgments about the functioning of the criminal justice system through a strategy whose focus is on intensifying the suppression of anti-social behaviors, giving more powers to the police and prosecutors to pursue criminals.

2-2-4 The position of political and security crimes in the laws of other countries

- In Italy, in terms of the implementation of criminal laws, a crime that is against the political interest of the country or against one of the rights of the citizens is a political crime; Also, non-political crimes that all or some of the motivations for committing them are political are political crimes.
- In the laws of the country of Libya based on the criminal law, any crime that is against the political expediency of the government or the political right of an individual, as well as any ordinary crime whose political motivation is political, is considered a political crime (Gholami, 2020: 37).
- In the law of Iraq, political and security crimes are not separated and it is a crime that is committed with a political motive or against the individual or general rights of the people of the society.
- In Syria, political and security crimes are crimes committed by the perpetrator with political motivation; Also, crimes against individual and public political rights are also political; as long as the perpetrator did not commit the crime because of a personal and base motive.

By examining the judicial practice of other countries, it is clear that in any country, the actions of the perpetrator against individuals and the society that threaten the security of the society is a "political crime" and is subject to punishment based on the laws specific to each country, but in the meantime, although each of the countries do not differentiate between political and security crimes, the border between ordinary crimes and political crimes is defined and the perpetrators are not sentenced to death in the most severe form of each system, and the only exception to this is in some Islamic countries, especially Iran, where not only it did not separate the border between political and security crimes and the crimes, but also dealt with the critics of the system and the punishment for political and security criminals is equal to the protesters and critics of the system.

2-3 The approach of the international community regarding political crimes with a view on human rights rules

At the level of the international "human rights" community, serious attention has been paid to the political crime and its related aspects, especially in the way of dealing with the criminals of "political crimes". One of the international covenants of human rights, which will be discussed in the following: is the international covenant of civil and political rights, which is organized in 6



sections and 53 articles; In the above covenant, it is stated in Article "I", Part I, that; All nations have the right to self-determination in determining their political status and economic, social and cultural development, and they have the right to provide for themselves freely (Article 1 of the International Covenant on Civil and Political Rights/Part I). However, in the second, third, and fourth articles, the second part of this covenant also mentions the provision and guarantee of recognized individual rights and freedoms, if an individual's right has been violated, a reliable means of enforcing the right must be provided. (Article II of the International Covenant on Civil and Political Rights/Part II).

In addition, in the "sixth" article, the third part of this covenant, the right to life is mentioned as one of the inherent rights of the human person, this right must be protected by law. No person can be deprived of life arbitrarily (without permission). As in many recent cases, all the above items and articles have been ignored by the system of the countries, especially the country of Iran. (Taghizadeh, 2015: 81) According to this covenant (Covenant of Civil and Political Rights), in countries where the death penalty has not been abolished, it is not permissible to issue the death sentence, except in the case of the most important crimes according to the law in force at the time of the crime, which should not be in accordance with the provisions of this covenant and conventions regarding the prevention and punishment of the crime of mass killing (genocide). The implementation of this punishment is not allowed except according to a final decision issued by a competent court. In addition, according to the ninth and tenth articles of the third part of this covenant, "everyone who is arrested must be informed of the reasons (causes) of his arrest at the time of arrest and receive a notice of the charges attributed to him as soon as possible, or according to the article 18, the third part of this covenant, everyone has the right to freedom of thought, conscience and religion. This right includes the freedom to have or accept a religion or beliefs of one's choice, as well as the freedom to express one's religion or beliefs, whether individually or in a group, publicly or in secret in worship and performing rituals and religious teachings (Taghizadeh, 2015: 89).

According to Article 19 of the International Covenant on Civil and Political Rights/Part III: No one can be harassed or intimidated because of his opinions, everyone has the right to freedom of expression. This right includes the freedom to research and study and to spread information and thoughts of any kind regardless of the limits, whether it is verbally or in writing or in print or in artistic form or by any other means of one's choice (Nikkhah et al., 2021: 55-88). Therefore, in the interpretation of the above articles, it is quite clear and obvious that the domestic laws of some countries interact with the International Covenant on Human Rights in some cases, and countries, such as Iran are in conflict with the human rights perspective.

In addition to the International Covenant on Civil Rights and Political Rights, the International Conference on the Unification of Criminal Law in Copenhagen in 1935 states in the definition of political crimes: Political crimes are crimes against organizations and the performance of the organization's duties and the way the government is run, as well as against the rights for people committed. It is stated in the above resolution; Crimes whose perpetrators have selfish and humiliating goals are not considered political. The International Law Institute made the following decision in Geneva in 1982; that crimes that are committed against the foundations of any social organization and the purpose of which is not a specific form of government are not considered political crimes. But if the perpetrator's goal is a specific country or a specific form of government, the crime will be political.

2-4 Security crimes in the light of international human rights documents

Having the right to security is the first and most natural need that humans seek in their lives (Mohammed Panahi et al., 2021: 128); The existence of national security in any country is subject to internal regulations and compliance with international laws, in other words, individuals are obliged to respect each other's material and moral rights, and the governance system in every country is obliged to respect each other's material and moral rights, and governments also establish law and administrative and judicial organizations to create security for the people. The need and necessity of security in society comes from the nature of human rights, but securityism sometimes



leads to attaining some of the necessities of human rights. (Yazdian, 2009: 28) International human rights documents and covenants regarding internal and external security in Articles 3 and 9 of the Universal Declaration of Human Rights¹, Article 9 of the International Covenant on Civil and Political Rights², Article 37 of the Convention on the Rights of the Child and also important regional human rights documents, including Article 5 of the European Convention on Human Rights³, Article 7 of the American Convention on Human Rights, Article 6 of the African Charter on Human and People's Rights, and Article 20 of the Islamic Declaration of Human Rights, have been recognized, the right to personal security in Article 3 of the Declaration. International human rights apart from its article 9, which means freedom from arbitrary arrest, has been identified (Esmaeilpour et al, 2014:9).

Of course, in the European Convention on Human Rights and the International Covenant on Civil and Political Rights, the right to personal freedom is combined with the right to personal security and it is expressed in the form of the right to personal freedom and security. Regarding security crimes, in the International Covenant on Civil and Political Rights in Article 20 / Section 3; It is mentioned in the first paragraph: "Any propaganda for war is prohibited according to the law" and also in the second paragraph of the same law it is stated: "Any invitation (incitement) to national, racial or religious hatred (hatred) that is a source of discrimination" or conflict or use of force is prohibited by law. According to the above, the human rights laws regarding security crimes and political crimes, which are also given in the previous title, prohibit the actions of the perpetrators and only apply to political and security crimes in the "prohibition" of incitement, propaganda, invitation to incite against the system and... and regarding the method of punishing criminals and perpetrators of political and security crimes, except in the matter of article 6/paragraph 2 in the third part, he emphasized the prohibition of execution and did not consider it permissible. However, to prevent and take actions of countries in dealing with the perpetrators of political crimes and security crimes, it considers the actions of the legislator with emphasis on the points mentioned in the previous title.

2-5 Effective strategies for the interaction of legal laws related to political crimes and security crimes with human rights rules

Since the adoption of laws among governments, in line with political and security crimes, must be aligned and in interaction with international human rights covenants, charters and conventions, therefore, although the separation of political crimes from security in the international law of human rights has not been given direct attention and only attention has been paid to the principle of human rights in dealing with criminals (Davoudi et al., 2019: 137). Therefore, to overcome this challenge, political crimes must be separated from security crimes and in dealing with criminals and perpetrators of political and security crimes, a revision should be made by the legislative systems of the countries' governance system.

Of course, in accordance with the laws of each country in the field of political crime and security crime, powers are applied to establish security in dealing with criminals based on Article 1/Part I of the International Covenant on Civil and Political Rights, based on rational and logical strategies to be rejected or accepted by the legislator; However, in many countries, especially in Iran, the legislative system, contrary to human rights laws, has tried to suppress the perpetrators of political and security crimes, and this action leads to a challenge among the people and the governance system, which can be a turning point with the following suggested strategies as an effective mechanism for the nascent law system. The most important strategies are proposed and recommended in the following titles:

2-5-1 Amendment of the legislative structure in the constitution in interaction with human rights

Now, after more than three decades since the approval of the Constitution of the Islamic Republic of Iran and its weaknesses and strengths, what is more important than ever is designing the course of movement from the existing system to the desired system with as much adaptation as possible. Government structures based on the fair democracy. (Darvishi and Kazemzadeh Nazari, 2018: 30) To be more precise, although the current legislative system of the Islamic Republic of Iran is not



contrary to the teachings of the holy Islamic law, it is far from the ideal Islamic system. The transition from the current situation to the desired situation without the need to amend and revise the constitution and haste and carelessness in drafting laws and approving the law without expert measures will definitely fail.

2-5-2 Legislative and interactive procedure based on public participation

Based on the distribution of government powers with the separation of powers style, the core task of the legislative power is the manifestation of the parliament. (Beigzadeh, 2011:27) Establishing laws is needed by a society in such a way that regulation of social relations and organizing the movement of the individual and the society towards excellence is achieved. Based on this, legislation is a special task that not only guides parliamentarians to the final evaluation and approval of legal proposals, but is also responsible for the main task of initiative.

2-5-3 Reviewing the procedure of dealing with political criminals and security criminals

The content of the legal system of each country has a different nature, but based on the legislative criteria, the total of the legislative system's resolutions, along with things, such as the quality requirements of the laws, are very important for improving the legislative system of each country. Good legislation is a process that is within the jurisdiction of the legislature (Taghizadeh and Banshi, 2015: 18). But it also requires the cooperation of other powers, especially the executive power. (Darvishi and Kazemzadeh Nazari, 2018: 31) Therefore, according to human rights laws, the government is obliged to distinguish between political crimes and security crimes, and secondly, in the matter of punishment, it is subject to human rights laws, especially the International Covenant on political and civil rights.

3. CONCLUSION

Political and security crimes are two important groups in the field of criminology; and a distinction should be made between political crimes and security crimes; Criminals of security and political crimes are dealt with in accordance with the constitution of every country, but in some countries such as France and other European countries, the prevention and combating of these crimes is often in interaction with human rights, but in Iran, according to the framework of political and security crimes that has been considered by the legislator in articles 279, 286 and 287 of the Islamic Penal Code, has been in conflict with human rights laws; Therefore, to overcome the above challenges, we can wait for the supervision of the "International Human Rights Fact-Finding Committee" to prevent political and security crimes. In addition, having legislative authority in the light of jurisprudence and Islamic principles and using the opinions and goals of constitutional law experts can be a suitable way to advance the goals of a country towards peace.

At the level of the international "human rights" community, serious attention has been paid to political crime and its related aspects, especially in the way of dealing with "political crime" criminals. One of the international covenants of human rights, which will be discussed in the following: is the international covenant of civil and political rights, which is organized in 6 sections and 53 articles; Therefore, in the interpretation of the above articles, it became clear and obvious that the domestic laws of some countries interacted with the International Covenant on Human Rights in some cases, and countries, such as Iran were in conflict with the human rights perspective.

Therefore, the need and necessity of security in society comes from the nature of human rights, but securityism sometimes leads to attaining some of the necessities of human rights. International human rights documents and covenants regarding internal and external security in Articles 3 and 9 of the Universal Declaration of Human Rights, Article 9 of the International Covenant on Civil and Political Rights, Article 37 of the Convention on the Rights of the Child, as well as important regional human rights documents from Article 5 of the European Convention on Human Rights, Article 7 of the American Convention on Human Rights, Article 6 of the African Charter on Human and People's Rights and Article 20 of the Islamic Declaration of Human Rights have been recognized, the right to personal security in Article 3 of the Universal Declaration of Human Rights apart from the subject of Article 9 i.e, freedom from arbitrary arrest has been recognized. Of course, in the



European Convention on Human Rights and the International Covenant on Civil and Political Rights, the right to personal freedom is combined with the right to personal security and it is expressed in the form of the right to personal freedom and security.

Regarding security crimes, in the International Covenant on Civil and Political Rights in Article 20 / Section 3; It is mentioned in the first paragraph: "Any propaganda for war is prohibited according to the law" and also in the second paragraph of the same law, it is stated: "Any invitation (incitement) to national, racial or religious hatred (hatred) that is a source of discrimination" or conflict or use of force is prohibited by law.

According to the above, the human rights laws regarding security crimes and political crimes prohibit the actions of the perpetrators and only introduced political and security crimes in the "prohibition" of incitement, propaganda, invitation to incite against the regime, etc. and regarding the method of punishing criminals and perpetrators of political and security crimes, except in the matter of article 6/paragraph 2 in the third part, it emphasized the prohibition of execution and did not consider it permissible.

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