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Iran's Legislative Criminal Policy toward Popular Protests: An Analysis of Articles 500, 610, and 618 of the Islamic Penal Code in Light of the Regulatory Approach

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Popular protests, as a manifestation of social and political participation, are governed by different legislative mechanisms across legal systems. In Iranian criminal law, a significant part of the legislative response to this phenomenon is implemented through provisions concerning offenses against national security and public order. These provisions define the scope and framework of criminal intervention in relation to assemblies and protest activities. Examining the manner in which these provisions are formulated and their consequences from the perspective of legislative criminal policy is therefore of particular importance. Using a descriptive–analytical approach and drawing on the concepts of legislative criminal policy, the present study examines the criminal-law provisions relating to popular protests within the Iranian legal system. The article primarily focuses on Articles 500, 610, and 618 of the Islamic Penal Code, which have been most closely associated with the criminal-law response to public protests in legislative and judicial practice. The research data were collected through an examination of statutory texts, legislative documents, and library-based sources. The findings indicate that the broad scope of certain criminal offenses and the manner in which their legal elements are formulated may expand the extent of criminal intervention in the sphere of protest activities. Within this framework, the article evaluates the relevant provisions in light of the principles of necessity and proportionality in criminal policy, examines the possibility of adopting a more restrictive interpretation of criminal intervention, and analyzes the resulting legislative implications. The findings may provide a basis for reconsidering the criminal regulation of popular protests and enhancing transparency and legal predictability within the Iranian legal system.

Keywords: *right to protest, legislative criminal policy, securitization of protests, offenses against national security and public order, principles of proportionality and necessity, limited regulatory criminal policy*

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1. Introduction

The right to protest and to hold peaceful assemblies constitutes a fundamental manifestation of public freedoms and one of the principal mechanisms through which citizens participate in the political and social life of contemporary legal systems. This right enables the collective expression of demands, criticism of public policies, and influence over decision-making processes and, in this respect, plays a decisive role in strengthening the accountability of public power and maintaining the dynamism of the legal order. In public-law scholarship, civil protest is regarded neither as an exceptional phenomenon nor as conduct detached from the legal order, but rather as an internal component of the mechanism regulating the relationship between the state and civil society (Habermas, 1984).

Within the constitutional system of the Islamic Republic of Iran, Article 27 of the Constitution, by recognizing the right to hold assemblies and marches, establishes a framework based on the primacy of liberty and the exceptional nature of restrictions. The omission of a prior authorization regime and the imposition of only two general conditions—"the absence of arms" and "the absence of disruption to the foundations of Islam"—indicate that the Constitution regards protest as an enforceable public right rather than a privilege dependent on the will of the governing authorities. From this perspective, state intervention in the sphere of protest is subsidiary and limited in nature and requires clear legal justification (Hashemi, 2016).

Nevertheless, an examination of ordinary criminal legislation and legislative developments following the Islamic Revolution demonstrates that the legislative response to protest activities has primarily been formulated through broad and interpretable criminal offenses. In particular, the application of certain provisions governing offenses against security and public order, including Articles 500, 610, and 618 of the Islamic Penal Code, has resulted in insufficient clarity and predictability in the boundary between peaceful protest and criminal conduct disturbing public order. From the perspective of the fundamental principles of criminal law, particularly the principle of legality of crimes and punishments and the rule of strict interpretation, this situation raises serious questions regarding the legal security of protesting citizens (Najafi Abrandabadi, 2021).

At the international level, the right to peaceful protest has also been recognized as a component of the freedoms of assembly and expression, and its restriction is permissible only under stringent criteria such as legality, necessity, and proportionality. The emphasis placed on these principles by human rights supervisory bodies demonstrates the importance of transparent legislation and the avoidance of expansive criminal intervention in the management of public protests (United Nations Human Rights Committee, 2020).

Accordingly, using a descriptive–analytical approach and operating within the framework of legislative criminal policy, the present article examines the regulation and application of criminal-law provisions governing popular protests in the Iranian legal system. The study primarily focuses on a reconsideration of Article 27 of the Constitution and an analysis of Articles 500, 610, and 618 of the Islamic Penal Code in order to assess the logic governing criminal intervention in this field in light of the criteria of necessity, proportionality, and minimization. The central issue is the extent to which this legislative model is compatible with the presumption of freedom of assembly and the requirements of a limited regulatory criminal policy, and whether a coherent and non-securitized interpretation of the criminal-law response to protests can be derived from the existing provisions.

From a methodological perspective, this study is normative–analytical in nature and evaluates, within the framework of legislative criminal policy, the rationale of criminalization and the compatibility of criminal-law provisions governing popular protests with constitutional requirements and international human rights standards. The article is therefore not based on empirical or statistical data but relies on the analysis of statutory texts, legislative documents, and doctrinal sources to conduct a normative assessment of the structure of criminal intervention.

2. General Principles and Theoretical Foundations of the Right to Protest

An analysis of legislative criminal policy toward popular protests is impossible without a precise explanation of the theoretical, philosophical, and legal foundations of the "right to protest." Disregarding this conceptual formulation leads to the conflation of security-related and legal categories, because the legislative response to protests directly depends on the legal system's understanding of the nature of this right (Hashemi, 2016).

In this regard, the first part seeks, by drawing on theoretical and legal foundations, to clarify the conceptual criteria distinguishing "legitimate protest" from "criminal conduct" and thereby to establish a principle-based framework for evaluating legislative criminal policy. The foundations of this analysis draw both on comparative studies and contemporary philosophical thought and on the interpretation of the capacities of domestic jurisprudence and constitutional law.

From this perspective, the present part is organized into three sections:

- Section One addresses the concept and nature of the right to protest.
- Section Two explains the philosophical and jurisprudential foundations of the right to protest.
- Section Three examines constitutional capacities and international obligations as criteria for limiting security-oriented criminal policy.

The outcome of this theoretical explanation provides the basis for a critical assessment of criminal-law provisions and an examination of their relationship with the mandatory requirements of constitutional law and international standards.

3. The Concept and Nature of the Right to Protest

An analysis of legislative criminal policy toward popular protests, without a precise explanation of the nature of the "right to protest," inevitably results in the conflation of public freedoms with security-related categories. The manner in which the legislature intervenes criminally in protests directly depends on its conception of the status of protest within the legal order: if protest is perceived as a "threat," criminal policy becomes security-oriented; if it is recognized as a "right," criminal intervention is reduced to an exception. Conceptual clarification of the right to protest is therefore not merely a descriptive introduction but a necessary condition for evaluating criminal policy.

3.1. Conceptual Explanation of the Right to Protest

In public law, protest does not merely signify an emotional reaction or an expression of social dissatisfaction. Rather, it is a conscious and collective action directed toward changing or reforming public decisions. Such action acquires the status of a "right" when it is recognized within the legal structure and supported by protective guarantees. In other words, the fundamental distinction between rights-based protest and conduct that is merely tolerated lies in the extent to which the former is grounded in legal rules, rather than in the degree of temporary tolerance exercised by the governing authorities.

In contemporary public-law theories, protest is regarded as an internal component of the political order rather than as external or disruptive conduct. Its function is to provide social feedback and facilitate the correction of public decisions where formal representative institutions or ordinary channels of participation have lost their effectiveness. From this perspective, protest does not negate the legal order but constitutes a form of critical participation in its reproduction. A securitized perception of protest arises when this corrective function is disregarded and protest is viewed solely through the lens of its law-enforcement consequences (Habermas, 1984).

In Iranian constitutional law, the inclusion of the right to protest within the system of public freedoms means that the presumption favors its exercise and that the burden of proving the necessity of any restriction rests with the legislature. Any restriction of this right can be defended only where it is based on an explicit law, pursues a clearly defined public objective, and complies with rational limiting criteria. Otherwise, restriction is transformed from an exception into the rule (Hashemi, 2016).

3.2. Distinguishing Legitimate Protest from Criminal Conduct

One of the most important premises of rational criminal policy is the possibility of drawing a clear distinction between legitimate protest and criminal conduct. Criminal law is exceptional in nature and is designed to respond to actions that cause serious and intolerable harm to fundamental social values. By contrast, peaceful protest, even where it causes a temporary disruption to the ordinary course of affairs, does not necessarily possess this characteristic and cannot presumptively be placed within the sphere of criminal intervention.

The criminalization of protest is justified only where the conduct exceeds the unavoidable level of social disruption and reaches the threshold of meaningful harm. An expansive interpretation of concepts such as "disturbance of public order" or "action against security," without precise and predictable criteria, obscures the boundary between public freedom and criminality and facilitates the unjustified expansion of criminal law. Such a situation is not only inconsistent with the principle of legality of crimes and punishments but also undermines the legal security of protesting citizens (Katouzian, 2006).

From this perspective, distinguishing between the "legal order" and the "policing order" becomes fundamentally important. The legal order is based on general and pre-existing rules, whereas the policing order is fluid and dependent on case-specific assessments. The dominance of policing considerations in the sphere of protest transfers the authority to determine the legitimacy of protest from the law to executive institutions, a transfer that is incompatible with the underlying principles of public freedoms (Bay, 2017).

3.3. The Right to Protest as a Component of Citizenship Rights

Within the theory of citizenship rights, the right to protest represents the active participation of citizens in political and social life. In this sense, a citizen is not merely the addressee of public decisions but an actor who contributes to the criticism and reform of policies through protest. Protest makes it possible to expose the distance between the public will and governmental decisions and prevents the mechanisms of power from monopolizing decision-making.

The broad and pre-emptive restriction of the right to protest does not merely limit an individual freedom; it weakens the entire system of citizenship rights. Blocking lawful avenues of protest, rather than increasing security, results in the accumulation of dissatisfaction and the displacement of conflicts to more costly levels. The legal regulation of protest and the reduction of criminal intervention are therefore conditions for the rationality of public order and the predictability of state responses, rather than threats to them (Najafi Abrandabadi, 2021).

4. The Philosophical and Jurisprudential Foundations of the Right to Protest

An analysis of legislative criminal policy toward popular protests that disregards the philosophical and jurisprudential foundations underlying the recognition or denial of this right is reduced to a mere examination of legal provisions. Theoretical foundations are important here not as abstract discussions but as normative criteria for assessing the justification of criminalization and the limits of criminal intervention. The explanation of the philosophical and jurisprudential roots of the right to protest is therefore a necessary preliminary step in the critical evaluation of the legislature's security-oriented approach and in assessing its compatibility with the requirements of rational and regulatory criminal policy.

4.1. The Philosophical Basis of the Right to Protest in Contemporary Political Thought

In contemporary political philosophy, the right to protest is understood as one of the logical consequences of limiting political power. Within this framework, political power is not regarded as self-grounded or immune from criticism; rather, its legitimacy continuously depends on the possibility of supervision, criticism, and reform by citizens. In this sense, protest is not an action that disrupts the legal order but an endogenous mechanism for maintaining the balance between political authority and institutional justice.

Theories based on the social contract emphasize that law retains its binding authority only insofar as the possibility of its critical reconsideration has not been foreclosed. From this perspective, protest becomes particularly important where formal institutions of political participation lose their effectiveness and citizens are compelled to use direct and collective methods to express dissatisfaction. Under such conditions, protest is regarded not as an indication of separation from the legal order but as a rational response to dysfunction in ordinary mechanisms of representation.

Within the same framework, the theory of civil disobedience considers the limited and conscious violation of law—provided that it is nonviolent and accompanied by general fidelity to the legal order—to be compatible with the legitimacy of the political system. Accordingly, criminal intervention in protest activities can be justified only in exceptional circumstances and on the basis of compelling necessity. Treating protest as presumptively criminal is inconsistent with the internal logic of political justice. This understanding provides an important philosophical basis for criticizing security-oriented criminal policy that redefines protest not as a right but through the logic of threat (Rawls, 1999).

4.2. Shiʿi Political Jurisprudence and the Possibility of Recognizing the Right to Protest

Contrary to reductionist interpretations, Shiʿi political jurisprudence contains credible theoretical capacities for recognizing and tolerating civil protest against political authority. The basis of this capacity lies not in the unconditional acceptance of protest activity but in the particular understanding of Imami jurisprudence concerning the nature of power and its relationship with justice. Within this framework, political power—even where it is presumed legitimate—is not regarded as inherently sacred. Its presumed fallibility therefore creates space for criticism and protest as corrective mechanisms within the religious order.

One of the most important jurisprudential foundations that may be relied upon in this regard is the principle of "enjoining good and forbidding wrong." Within the logic of Imami jurisprudence, this principle functions to prevent the gradual deviation of political authority from the requirements of justice and the public interest. In later jurisprudential analysis, the principle is understood as gradual, noncoercive, and proportionate in nature and can therefore be reconciled with peaceful forms of civil protest. Accordingly, social protest, where it does not involve organized violence or conduct aimed at overthrowing the political order, may fall within the ordinary methods through which religious citizens discharge their social responsibilities.

Furthermore, Shiʿi political jurisprudence draws a clear distinction between "protest" and "rebellion" or *baghy*. In classical jurisprudence, *baghy* requires an organized armed uprising against a legitimate ruler, and extending this concept to peaceful protest activities lacks a reliable jurisprudential basis. Disregarding this distinction not only conflates jurisprudential concepts but also facilitates the expansion of coercive and criminal intervention into a field that, within the logic of Imami jurisprudence, essentially performs corrective and preventive functions. From this perspective, Shiʿi political jurisprudence potentially supports an approach that regards criminal intervention in protests as exceptional and dependent upon compelling necessity rather than as the default response to social dissatisfaction (Azmayesh, 2018).

4.3. The Conflict Between Philosophical and Jurisprudential Foundations and Security-Oriented Criminal Policy

The combined implications of contemporary philosophical foundations and Shiʿi political jurisprudence demonstrate that, at the theoretical level, "protest" is presumptively tolerable and performs a corrective function within the legal order. Its legitimacy is evaluated according to criteria such as peacefulness, the absence of organized violence, and continued general fidelity to the legal order. Within this framework, criminal intervention is not the starting point but an exceptional and ultimate instrument for responding to protest.

Iranian legislative criminal policy toward popular protests, however, is founded on a different basis. Criminal legislation, particularly in the field of security offenses, has been structured in a manner that redefines protest activity not as a right but as a potentially threatening situation. This approach produces a form of structural suspicion toward protest and prioritizes the logic of criminal control over that of legal regulation. As a result, the assessment of protest legitimacy is displaced from foundational criteria to expansive judicial and security assessments.

This displacement of criteria generates an internal inconsistency within the legal order. On the one hand, philosophical and jurisprudential foundations regard protest as part of the mechanism for correcting power and preserving institutional justice. On the other hand, security-oriented criminal policy subjects the same activity to broad offenses that lack substantive differentiation. Such a situation not only weakens the normative function of theoretical foundations but also undermines the coherence of criminal policy.

From this perspective, the criticism of security-oriented criminal policy is not an external or merely political position but an internal systemic necessity for restoring consistency among philosophical foundations, jurisprudential principles, and criminal-law instruments. This necessity becomes objectively apparent in the analysis of the application of Articles 500, 610, and 618 of the Islamic Penal Code, where the extension of security offenses to peaceful protests clearly demonstrates the distance between legislative criminal policy and the requirements of a regulatory and rights-based approach (Najafi Abrandabadi, 2021).

5. Constitutional and International Capacities for Limiting Security-Oriented Criminal Policy

Following the explanation of the conceptual, philosophical, and jurisprudential foundations of the right to protest, it is necessary to examine the binding capacities within the legal system that can limit security-oriented criminal policy. Constitutional law and international obligations create a normative and supervisory level at which the criminal legislature faces explicit restrictions when criminalizing popular protests. The examination of these capacities establishes the framework for evaluating legislative criminal policy and provides the basis for analyzing the relevant criminal-law provisions in the subsequent part.

5.1. Article 27 of the Constitution and the Rights-Based Logic of Regulating Protests

Article 27 of the Constitution of the Islamic Republic of Iran recognizes the right to hold peaceful assemblies and marches as a fundamental freedom and removes it from a prior authorization regime. The structure of this article demonstrates the primacy of freedom and the exceptional nature of restriction, so that the presumption favors the legitimacy of protest and the burden of justifying restrictions rests with the state. Within this framework, civil protest is regarded not as a crisis-producing situation but as part of the ordinary legal order.

From a constitutional-law perspective, the consequence of this recognition is that the ordinary legislature faces a structural constraint when criminalizing conduct related to protests. Any criminal-law rule that extends its scope to conduct protected by Article 27 must necessarily be interpreted strictly and applied only on the basis of compelling necessity. Article 27 therefore performs a fundamental normative function in limiting the security-oriented logic of legislative criminal policy (Hashemi, 2016).

5.2. The Principles of Proportionality and Necessity as Instruments for Controlling Criminalization

One of the most important constitutional capacities for restraining security-oriented criminal policy is the principle of proportionality in restricting fundamental rights and freedoms. Although this principle is not expressly articulated in the Constitution, it has been recognized in public-law doctrine and interpretive practice as a requirement of the rule of law and the law-governed state. Under this principle, criminal intervention is justified only where it is necessary, proportionate, and not replaceable by less burdensome alternatives.

In the field of popular protests, the application of proportionality requires criminal law to remain the "ultimate response," while the state must employ noncriminal regulatory mechanisms before resorting to criminalization. The use of broad security offenses in responding to protests, without establishing an actual threat to public order, weakens the logic of necessity and unjustifiably expands the scope of criminal intervention (Katouzian, 2006).

5.3. Iran's International Obligations and Human Rights Requirements in Responding to Protests

Iran's international obligations, particularly those arising from the International Covenant on Civil and Political Rights, create an additional layer of control over legislative criminal policy. Article 21 of the Covenant recognizes the right of peaceful assembly and makes restrictions upon that right conditional on compliance with stringent criteria such as legality, necessity, and proportionality. These criteria are binding in nature and cannot be treated as merely recommendatory.

According to the interpretations issued by supervisory bodies, the state's presumptive approach to protests must be based on their legitimacy and peaceful character, and criminal intervention must be limited to exceptional and violent circumstances. The expansive development of security-related criminal offenses and their application to protest activities may create a conflict between domestic criminal policy and the international obligations of states, a conflict that cannot be disregarded when evaluating ordinary legislation (Najafi Abrandabadi, 2021).

5.4. The Supervisory Function of These Capacities in Evaluating Criminal-Law Provisions

The combined effect of domestic constitutional law and international human rights standards provides a normative framework for evaluating security-oriented criminal policy. Within this framework, the criminalization of protests must be exceptional, transparent, and based on an actual and serious threat to public order. Broad and interpretable concepts in criminal legislation facilitate the expansion of criminal intervention into an area previously recognized as the sphere of exercise of a fundamental right.

These supervisory capacities provide the necessary legal basis for analyzing Articles 500, 610, and 618 of the Islamic Penal Code, because the degree of their compatibility with Article 27, the criteria of proportionality and necessity, and international requirements constitutes a decisive indicator in assessing the rationality and coherence of legislative criminal policy. The transition to the second part of the article is therefore a natural continuation of this framework and a necessary step in the specific assessment of Iranian criminal policy toward popular protests (Najafi Abrandabadi, 2021).

5.4.1. Iranian Legislative Criminal Policy toward Popular Protests

Following the explanation of the theoretical and normative foundations of the right to protest in the first part, it is now necessary to examine how these foundations are reflected at the level of criminal legislation. Legislative criminal policy, as the field in which the legislature's determination regarding the limits of criminal-law intervention is manifested, plays a decisive role in the practical protection or restriction of public rights and freedoms. The examination of criminal legislation concerning popular protests therefore provides an appropriate criterion for assessing the extent to which ordinary legislation complies with Article 27 of the Constitution (Mehrpour, 2020).

Within this framework, Articles 500, 610, and 618 of the Islamic Penal Code are analyzed as the principal provisions capable of being applied to protest activities. Owing to their broad formulations and considerable interpretive capacity, these provisions play an important role in determining the boundary between civil protest and conduct subject to criminal prosecution (Najafi Abrandabadi, 2021).

The purpose of this part is to analyze the rationale of criminalization underlying these provisions and to assess their conformity with the criteria of necessity, proportionality, and legal predictability, which occupy a fundamental position both in Iranian constitutional law and in contemporary criminal policy (Katouzian, 2006).

6. Examination of Legislative Criminal Policy in the Criminalization of Popular Protests

An analysis of the criminalization of popular protests requires recognition that, through the selection and formulation of criminal offenses, the criminal legislature reflects its understanding of the nature of protest and its relationship with public order. The examination of criminal-law provisions governing protests is therefore not merely descriptive but also constitutes an analysis of the orientation of legislative criminal policy (Azmayesh, 2018).

In this section, Articles 500, 610, and 618 of the Islamic Penal Code are examined individually in order to evaluate their position in the legal regulation of popular protests and their compatibility with constitutional principles and the requirements of minimal criminal law.

6.1. The Status and Function of Article 500 of the Islamic Penal Code in Legislative Criminal Policy

6.1.1. Legislative Formulation of Article 500 and Its Position within the System of Security Offenses

Article 500 of the Islamic Penal Code, contained in Book Five on Discretionary Punishments, is one of the principal criminal offenses within the field of crimes against internal and external security and has, in practical terms, played a prominent role in the legislative response to protest activities. By criminalizing "any form of propaganda activity against the State," this article introduces into the statutory text a broad concept with an extensive interpretive scope and thereby creates considerable capacity for its application to a variety of circumstances, including nonviolent protest activities.

The position of Article 500 within the Iranian legal system can be analyzed not merely as a specific conduct-based offense but as a pre-emptive instrument of security-oriented criminal policy. It enables the state to intervene criminally before any objective disturbance of public order has occurred (Najafi Abrandabadi, 2021).

6.1.2. The Rationale of Criminalization and Its Relationship with the Pre-Protest Stage

From the perspective of criminal policy, the distinctive feature of Article 500 is that it operates at a pre-protest stage, before collective action has materialized in the public sphere. Unlike provisions such as Article 618, which concern street-level situations and public order, Article 500 focuses on discourse, expression, the production of meaning, and symbolic influence. This focus places the provision among the instruments of preventive criminal policy intended to manage potential risks to political security before they develop into concrete collective action.

In such a structure, however, the boundary between "critical expression," "civil protest," and a "threat to security" is not fully delineated in the statutory text. This deficiency strengthens the capacity of the provision to encompass a broad range of civic conduct (Azmayesh, 2018).

6.1.3. The Relationship Between Article 500 and Article 27 of the Constitution

An analysis of Article 500 in light of Article 27 of the Constitution requires recognition that, according to the logic of the constitutional framers, the right to assemble and protest is founded upon the principle of freedom and a notification-based regime. Any restriction of that right must therefore be exceptional, necessary, and based on an actual threat. Article 500, however, permits criminal intervention without expressly requiring violence, objective disruption, or a direct connection with collective action.

From this perspective, the relationship between Article 500 and Article 27 may be described as one of structural incompatibility, insofar as the protective logic of the Constitution and the pre-emptive logic of criminal legislation do not operate along the same normative continuum (Hashemi, 2016).

6.1.4. Evaluation of Article 500 According to the Criteria of Necessity and Proportionality

Under the accepted principles of rational criminal policy, criminal intervention is justified only where, first, its necessity has been demonstrated and, second, criminal law constitutes the most proportionate available response. In relation to Article 500, the broad scope of the concept of "propaganda activity" and the failure to distinguish among different levels of protest activity render the necessity of criminal intervention uncertain.

Particularly where protests are peaceful and nonviolent, the use of criminal law as an instrument of intervention elevates it from the position of an "ultimate means of intervention" to that of a primary instrument for regulating social conduct. Such a situation is not fully compatible with the logic of minimizing criminal law (Katouzian, 2006).

The analysis of Article 500 in light of the criteria governing the right to protest demonstrates that, in terms of its conceptual structure and criminalization rationale, the provision performs a pre-emptive function in managing the possible risks arising from protest activities rather than responding to actual security threats. The interpretive breadth of the concept of "propaganda activity" and the absence of a clear distinction among critical expression, peaceful protest, and conduct threatening public security create uncertainty regarding the provision's conformity with necessity, proportionality, and legal predictability. Within this framework, criminal intervention departs from its exceptional and minimal position and approaches the status of a primary mechanism for regulating protest conduct. This situation highlights the need to examine the subsequent provisions, particularly Article 610 and the concept of "assembly and collusion," in order to assess the transition of criminal intervention from the sphere of expression to that of collective action.

6.2. The Status and Function of Article 610 of the Islamic Penal Code on Assembly and Collusion in Legislative Criminal Policy

6.2.1. The Legislative Position of Article 610 and Its Distinction from Article 500

By criminalizing "assembly and collusion to commit offenses against internal or external security," Article 610 of the Islamic Penal Code represents the point at which criminal policy shifts from controlling discourse and expression to regulating organized collective action. Unlike Article 500, which primarily focuses on propaganda activities and symbolic influence, Article 610 concerns the formation of collective intent and preliminary coordination for action and therefore represents a more advanced stage of criminal intervention.

The position of this provision within the system of security offenses indicates that the legislature intends it to cover the intermediate stage between "critical expression" and "the material commission of conduct disturbing security." This intermediate stage occupies particular importance within preventive criminal policy (Najafi Abrandabadi, 2021).

6.2.2. The Rationale of Criminalizing "Assembly and Collusion" and Its Pre-emptive Function

The principal rationale underlying Article 610 is the prevention of the transition of collective protest activities into effective action against public security. Within this framework, the mere existence of an initial agreement and mental coordination among several persons is treated as criminal, without any requirement that the contemplated offense be completed or that objective harm occur. This feature places Article 610 among the instruments of pre-emptive criminal intervention, the purpose of which is to interrupt the chain of action before a security crisis emerges.

The reliance of the offense on concepts such as "assembly" and "collusion," which possess a relatively broad interpretive scope, nevertheless means that the boundary between peaceful protest coordination and planning for violent conduct is not clearly drawn at the legislative level (Azmayesh, 2018).

6.2.3. Article 610 and Its Relationship with Article 27 of the Constitution

An analysis of Article 610 in light of Article 27 of the Constitution demonstrates that the provision lies at a sensitive intersection between the right of assembly and security considerations. Article 27 emphasizes the presumption of freedom of assemblies and gatherings and confines restrictions to exceptional and narrowly defined circumstances. Article 610, however, makes criminal intervention possible before an actual assembly has occurred or any real disturbance of public order has materialized.

From this perspective, the relationship between Article 610 and Article 27 may be described as a form of functional incompatibility. The notification-based and rights-oriented logic of the Constitution and the pre-emptive criminal logic of Article 610 do not operate within the same normative continuum and therefore require strict and controlled interpretation (Hashemi, 2016).

6.2.4. Evaluation of Article 610 According to the Criteria of Necessity and Proportionality

From the perspective of rational criminal policy, the criminalization of "assembly and collusion" is justified only where the risk of committing an offense against security is actual, imminent, and incapable of being addressed through effective noncriminal alternatives. Article 610 does not expressly require objective indicators of danger and instead relies upon the existence of a preliminary agreement. This feature creates significant challenges in assessing the necessity of criminal intervention.

Within such a framework, criminal-law instruments may be employed before noncriminal regulatory capacities—such as policing supervision, administrative measures, or social preventive mechanisms—have been activated. This situation exposes the principle of proportionality to expansive interpretation and distances criminal law from its minimal role (Katouzian, 2006).

In summary, Article 610 of the Islamic Penal Code, as the intermediate link in legislative criminal policy toward popular protests, plays an important role in transferring criminal intervention from the sphere of expression to the realm of collective action. Nevertheless, the conceptual breadth of the elements of "assembly" and "collusion" and the provision's reliance on pre-emptive logic increase the risk of extending this criminal offense to peaceful protest coordination. This feature underscores the need to examine Article 618, which transfers criminal intervention from the stage of agreement to the actual manifestation of protest in the public sphere and thereby reveals the final dimension of legislative criminal policy in this field.

6.3. Article 618 of the Islamic Penal Code—Disturbance of Public Order

6.3.1. Legislative Position and Rationale of Criminalization

Article 618 of the Islamic Penal Code, contained in the Book of Discretionary Punishments, criminalizes "disturbance of public order and tranquility" and "preventing officials from performing their lawful duties" and therefore falls within the category of criminal provisions with policing and security functions. Unlike Articles 500 and 610, which directly concern national security or collective action against it, Article 618 is primarily directed toward preserving "ordinary order" and ensuring the functioning of state institutions. The inherent ambiguity of concepts such as "public order" and "public tranquility," however—concepts that lack an objective and fixed definition in legal scholarship—

facilitates expansive interpretation and the application of this provision to a wide range of protest activities (Katouzian, 2006; Najafi Abrandabadi, 2021).

6.3.2. *The Relationship Between Article 618 and the Right to Legitimate Protest*

At first sight, Article 618 may be regarded as an instrument for responding to riotous conduct and serious disturbances of public order. The principal difficulty, however, is that the provision does not distinguish between a "temporary and minor disruption resulting from a peaceful assembly" and a "serious disturbance of public order." Any protest assembly may inherently cause temporary changes in the ordinary course of affairs, but such changes do not necessarily constitute harm to the fundamental value of public order. The absence of objective criteria distinguishing these two levels effectively increases the possibility of using Article 618 to criminalize peaceful protests (Hashemi, 2016).

6.3.3. *Evaluation of the Necessity and Proportionality of Criminalization*

From the perspective of the principle of necessity in criminal law, the fundamental question is whether resorting to criminal-law instruments is necessary for managing disruptions arising from protests. The experience of developed legal systems demonstrates that many such disruptions can be addressed through administrative, policing, and civil mechanisms, including directing the route of an assembly, negotiating with organizers, or requiring appropriate assurances, without the intervention of the criminal justice system. Broad criminalization in this field not only increases the burden on the judiciary but also intensifies social tensions by transforming protest into a "crime" (Azmayesh, 2018).

6.3.4. *Structural Conflict with Article 27 of the Constitution*

By recognizing the right to assemble "without carrying arms" and "provided that the foundations of Islam are not violated," Article 27 of the Constitution implicitly accepts that protests may be held without prior authorization and that certain minor disruptions to ordinary order must be tolerated. Through its broad and unregulated definition of "disturbance of public order," Article 618 effectively overshadows this constitutional right. The conflict becomes more apparent where judicial practice interprets the mere holding of an unauthorized assembly—which is permissible under Article 27—as an instance of "disturbance of public order" or "preventing officials from performing their duties" (Mehrpour, 2020).

6.3.5. *Comparative Analysis with Articles 500 and 610 and Its Practical Function*

Compared with Articles 500 and 610, which are primarily invoked in cases involving national-security allegations, Article 618 has the greatest practical application in responding to street and civil protests. The provision has become a flexible instrument available to law-enforcement and judicial authorities, allowing them to prosecute almost any unauthorized or even nominally authorized gathering that, in their assessment, has disturbed "order." This demonstrates how an apparently policing-oriented provision has, in practice, become a principal foundation for the "legal securitization" of protests (Bay, 2017).

The examination of Article 618 demonstrates that, despite its ostensibly policing-oriented character, its conceptual ambiguity and lack of objective criteria have transformed it into an effective mechanism for expanding the scope of criminalization in the field of protest. Its extensive use in judicial practice supports the conclusion that Iranian legislative criminal policy, rather than distinguishing legitimate protest from criminal disturbance, has preferred to expose all forms of protest to the threat of criminal prosecution through broad offenses. This approach is not only inconsistent with the spirit of Article 27 of the Constitution but also undermines the legal security of citizens. The combined analysis of Articles 500, 610, and 618 demonstrates that existing legislative criminal policy requires fundamental reconsideration, which may be undertaken in light of the model of "limited regulatory criminal policy" examined in the following section.

7. Analysis of the Bill on the Organization of Assemblies and Marches (2023)

Moving beyond a purely criminal and provision-specific analysis, the second section of this part examines the Bill on the Organization of Assemblies and Marches (2023) as the most important recent legislative development concerning the state's response to popular protests. The importance of this bill lies in the legislature's attempt, after years of reliance on criminal and security instruments, to redefine the management of protests within a regulatory and administrative framework.

The fundamental question, however, is whether the bill truly represents a transition from security-oriented criminal policy to regulatory criminal policy or merely reproduces security logic in a softer and noncriminal form. This section therefore critically analyzes the 2023 bill in terms of its stated objectives, enforcement mechanisms, and relationship with constitutional principles and regulatory criminal policy in order to determine the extent of its success or failure in achieving the noncriminal management of protests.

In the present study, the "securitization of popular protests" is understood not in its discursive meaning within security studies but as a process of legislative criminal policy through which rights-based protest activities are gradually redefined through broad and interpretable criminal offenses. This process is accompanied, on the one hand, by the expansion of the scope of offenses against security and public order and, on the other, by the transfer of authority to determine the legitimacy of protest from the legislature to law-enforcement and security institutions. Ultimately, it transforms the presumption of freedom of protest into a presumption of risk and threat. Accordingly, securitization in this article refers to a legislative–interpretive transformation in the logic of criminal intervention rather than to the description of a particular social or security situation.

7.1. General Features of the Bill and the Legislature's Expressly Stated Objectives

The Bill on the Organization of Assemblies and Marches, submitted to the Islamic Consultative Assembly in 2023, constitutes the first coherent legislative attempt since the Islamic Revolution to regulate assemblies and marches specifically and independently. Through this bill, the legislature seeks to address the existing legislative gap in the implementation of Article 27 of the Constitution and to establish a codified framework governing the exercise of the right of assembly. At the declaratory level, the bill presents itself as an alternative to a purely criminal approach by claiming to "regulate" and "legally manage" protests and to balance the preservation of public order with the protection of fundamental freedoms.

The preamble and initial provisions of the bill place particular emphasis on distinguishing "peaceful assemblies" from "violent conduct." On its face, this distinction is consistent with constitutional foundations and rational criminal policy because it presumes the legitimacy of protest and confines coercive intervention to exceptional cases. Had this approach been applied consistently throughout the bill, it could have represented a shift from security-oriented criminal policy to a regulatory model of the type explained theoretically and normatively in the first part.

A closer examination of the legislature's stated objectives, however, demonstrates that "public order" and "security" continue to occupy a central position in justifying the proposed interventions. Although the use of administrative and noncriminal terminology creates an appearance different from that of earlier criminal legislation, the logic governing the bill focuses more heavily on controlling, predicting, and pre-emptively managing assemblies than on facilitating the exercise of the right to protest. This feature raises serious questions regarding the actual character of the bill's legislative approach.

From the perspective of legislative criminal policy, a formal departure from the framework of criminal legislation does not necessarily constitute a change in orientation. Administrative legislation may perform a function similar to repressive criminal law where it is restrictive, founded upon a presumption of suspicion toward citizens, and based on extensive intervention by executive institutions. In evaluating the 2023 bill, it is therefore necessary to distinguish "rights-based regulation" from "administrative securitization." This distinction depends not merely upon the formal category of the legislation but upon the logic governing its provisions (Hashemi, 2016; Mehrpour, 2020).

It is noteworthy that, instead of reaffirming the notification-based regime contained in Article 27, the bill effectively redefines the right of assembly within a conditional framework by imposing extensive administrative requirements and multilayered coordination mechanisms. Although this redefinition has not expressly been transformed into an "authorization requirement," it nevertheless shifts the exercise of the right from presumptive freedom to conditional freedom.

From a constitutional perspective, such a change requires particularly compelling justification consistent with the principle of proportionality (Katouzian, 2006).

Overall, this subsection demonstrates that, at the level of its stated objectives, the 2023 bill claims to move toward legal organization and a reduction in criminal intervention. Initial signs of the dominance of policing and pre-emptive logic, however, are also apparent. This conceptual duality creates the basis for serious contradictions within the bill's enforcement mechanisms, which are examined in detail in the following subsection with a focus on administrative structures and the powers of executive institutions.

7.2. Examination of the Administrative–Regulatory Mechanisms of the Bill

The administrative mechanisms envisaged in the Bill on the Organization of Assemblies and Marches (2023) are formally designed to perform a "regulatory" function. A detailed analysis of the bill, however, demonstrates that these mechanisms follow a prior supervisory and controlling logic. The bill's three principal components—"notification accompanied by burdensome formalities," "multilayered administrative coordination," and "expansive law-enforcement powers"—effectively reconstruct the right to protest within a conditional framework. This feature is incompatible with the normative logic of Article 27, which emphasizes presumptive freedom and exceptional restrictions (Hashemi, 2016).

First, the bill's "notification" mechanism requires a highly detailed set of information, including the complete particulars of organizers, the route, time, program, estimated number of participants, and even the anticipated slogans. In terms of its practical consequences, this mechanism functions more as an "application for authorization" than as notification. This substantive transformation is inconsistent with the notification-based regime derived from Article 27 and the interpretations of public-law doctrine. Where notification becomes conditional upon administrative "acceptance," the right is effectively reduced to an administrative privilege (Mehrpour, 2020).

Second, by establishing an "obligation to coordinate" between organizers and institutions such as municipalities, the Ministry of Interior, and law-enforcement authorities, the bill places the power to determine and even alter the location and time of assemblies in the hands of executive bodies. In the absence of objective criteria, such authority enables executive institutions to manage the location of protests in a manner that may reduce their social effectiveness. From the perspectives of administrative law and proportionality, this approach lacks adequate limiting standards and is inconsistent with the requirement that restrictions on public freedoms be governed by clear criteria (Katouzian, 2006).

Third, the bill grants law-enforcement authorities broad powers to "prevent disorder," including the authority to suspend or dissolve an assembly where there is a "possibility of disruption to public order or tranquility." The broad and interpretable terminology of these expressions, which lacks transparent legal criteria, produces what may be described in criminal-policy terms as "administrative securitization," namely, the transfer of security logic into the form of administrative regulations (Najafi Abrandabadi, 2021).

A fourth structural weakness of the bill is the absence of an impartial supervisory body capable of providing rapid and reliable review of challenges to administrative decisions. Referring disputes to the same interested executive institutions, without the possibility of immediate judicial review, effectively deprives citizens of the right to protest. Public freedoms become effective only where an independent supervisory mechanism exists to review restrictive decisions (Bay, 2017).

In conclusion, the administrative–regulatory mechanisms of the 2023 bill perform a controlling and pre-emptive function rather than facilitating the exercise of the right to protest. By transforming notification into authorization, granting extensive powers to executive and law-enforcement institutions, and eliminating effective judicial supervision, these mechanisms reproduce security-oriented logic under an administrative form. Such a situation is incompatible with the principles of regulatory criminal policy (Azmayesh, 2018).

7.3. Overall Evaluation of the 2023 Bill in Light of Regulatory Criminal Policy

In the overall evaluation of the Bill on the Organization of Assemblies and Marches (2023), the fundamental question is not whether the bill possesses a formally regulatory appearance but whether the logic governing it reflects regulatory criminal policy or represents the continuation of a security-oriented model under an administrative form. Regulatory criminal policy is based on reducing criminal intervention, prioritizing freedom, and employing noncriminal instruments in accordance with necessity and proportionality. Despite its claim to organize protests, the bill continues, in its decision-making logic, to formulate protest as a "potential security risk" (Najafi Abrandabadi, 2021).

The first indicator of the dominance of the security-oriented approach is the prevalence of pre-emptive policing considerations throughout all layers of the bill. Notification and coordination mechanisms and the possibility of dissolving an assembly are activated not on the basis of actual criminal conduct but according to the "possibility of disruption" or the "anticipation of unrest." This form of intervention is inconsistent with the logic of minimal and regulatory criminal law because it focuses on managing hypothetical risks rather than responding to actual and materialized dangers. Such a situation reflects the gradual departure of criminal policy from the sphere of rational necessity (Azmayesh, 2018).

Second, at the institutional level, the bill fails to distinguish between the "regulator" and the "security controller." Under a regulatory criminal-policy model, the regulatory institution must be independent, rule-bound, and accountable, and its decisions must be subject to rapid judicial review. Under the 2023 bill, however, law-enforcement and executive institutions simultaneously perform the roles of decision-maker, risk assessor, and enforcer. Such a concentration of authority is inconsistent with the rule of law and the limitation of administrative power (Katouzian, 2006).

Third, the bill does not effectively distance itself from criminal law but preserves the possibility of returning regulated protests to the sphere of criminalization. The provision of criminal or quasi-criminal sanctions for noncompliance with procedural requirements demonstrates that administrative regulation is not the endpoint of criminal intervention but a preliminary stage leading to it. This situation conflicts with the philosophy of regulatory criminal policy, which emphasizes "reducing the gateways into the criminal justice system" (Bay, 2017).

Fourth, from a constitutional perspective, the bill reverses the primacy of freedom over restriction by transforming the notification-based regime of Article 27 into an implicit authorization-based system. Such a structure treats protest not as a right founded on a presumption of freedom but as an activity conditional upon administrative approval. This transformation constitutes a form of gradual erosion of public freedoms (Mehrpour, 2020). This conceptual displacement facilitates the continuation of security-oriented criminal policy in a softer but potentially more effective form.

In summary, despite its claim to establish regulatory governance, the Bill on the Organization of Assemblies and Marches (2023) structurally perpetuates security-oriented logic from the perspective of criminal policy. Rather than genuinely transitioning from criminalization to regulation, the bill makes security the starting point of decision-making and restricts freedom of protest within a conditional and pre-emptive framework. It should therefore be understood not as a point of departure from security-oriented criminal policy but as its reproduction in administrative and regulatory form, thereby emphasizing the need for legislative reform based on limited regulatory criminal policy.

8. Analysis of the Bill on the Organization of Assemblies and Marches (2023) in Light of Legislative Criminal Policy

Whereas the second section provided an internal and structural analysis of the 2023 bill, the third section adopts a broader perspective and evaluates the position of the bill within the system of Iranian legislative criminal policy. Its purpose is to move beyond individual provisions and focus on the legislative logic governing popular protests—a logic that determines whether the legislature understands protest as a fundamental right or as a problematic situation potentially threatening public order.

Accordingly, drawing on the concepts of regulatory criminal policy, constitutional principles, and the criteria of minimizing criminal intervention, this section seeks to determine the extent to which the 2023 bill has departed from the security-oriented model or, conversely, contributed to the soft and administrative securitization of protests. This overall assessment connects the criticism of existing legislation with the need to propose an alternative model of regulatory criminal policy in the third part of the article.

The Bill on the Organization of Assemblies and Marches (2023) cannot be regarded merely as a legislative initiative in the field of administrative law. It must be analyzed within the broader developments of Iranian legislative criminal policy and as evidence of the manner in which protest is being redefined within the legal order. The importance of the bill lies not in its individual provisions but in the logic governing state intervention in public protests, a logic that determines whether protest is understood as a "fundamental right presumed legitimate" or as a "security risk subject to prior management" (Najafi Abrandabadi, 2021).

Within regulatory criminal policy, transferring the management of protest from the criminal sphere to administrative mechanisms is meaningful only where it reduces the role of criminal law to that of an ultimate resort. Although the 2023 bill formally emphasizes administrative regulation, it structurally preserves criminal intervention as a default possibility. Burdensome administrative obligations, expansive law-enforcement powers, and the absence of effective judicial supervision demonstrate that the bill's purported regulation does not replace criminal law but constitutes a preliminary stage for activating it. This situation represents the continued instrumental use of noncriminal rules in the service of criminal logic (Azmayesh, 2018).

From a constitutional perspective, the bill introduces a fundamental normative displacement by transforming the notification-based regime of Article 27 into an implicit authorization-based regime. Although the text does not expressly refer to an "authorization," the hierarchy of administrative decision-making and the authority to reject or alter an assembly effectively reverse the presumption of freedom and subject the right to protest to evaluation by executive institutions. This transformation conflicts with a rights-based interpretation of Article 27 and the principle of the primacy of freedom over restriction and constitutes a form of silent restriction of public freedoms (Mehrpour, 2020).

From the perspective of legislative criminal policy, one of the bill's principal deficiencies is the integration of the roles of regulator and security actor within a single institutional structure. Under a regulatory model, the regulator must be independent, rule-bound, and accountable. Under the bill, however, the same institution that assesses risk also possesses the authority to restrict or even dissolve the assembly. This concentration of authority is incompatible with the rule of law, proportionality, and limitations on administrative power and increases the likelihood that administrative decisions will be securitized (Katouzian, 2006).

The combined implications of this analysis demonstrate that the Bill on the Organization of Assemblies and Marches (2023) cannot be regarded as an effective step toward implementing regulatory criminal policy. Rather than genuinely departing from security-oriented logic, the bill reproduces it in a softer and more administrative form. Consequently, it does not constitute a point of rupture with security-oriented criminal policy but an example of the soft securitization of protests within contemporary Iranian legislation. This situation underscores the need for a fundamental reconsideration of the legislative regulation of the right to protest.

The second part demonstrated that Iranian legislative criminal policy toward popular protests has structurally departed from the rights-based logic of Article 27 of the Constitution and has been redefined within a security-oriented framework. The analysis of Articles 500, 610, and 618 of the Islamic Penal Code revealed that the conceptual ambiguity and expansive interpretability of these offenses make it possible to extend criminal law to peaceful protest activities and obscure the boundary between legitimate protest and criminal conduct.

The examination of the Bill on the Organization of Assemblies and Marches (2023) also demonstrated that the legislature's attempt to transfer protest management from the criminal sphere to administrative mechanisms has not resulted in genuine regulatory criminal policy because it has not reconsidered the underlying security-oriented presumptions. By preserving a pre-emptive policing approach, granting extensive executive powers, and failing to provide effective judicial supervision, the bill effectively reconstructs freedom of protest within a conditional and controlling framework.

The conclusion of this part is that Iranian legislative criminal policy remains governed by security-oriented logic not only at the level of criminal legislation but also in administrative regulations. These findings highlight the need to transition toward a model of "limited regulatory criminal policy," based on minimizing criminal intervention, institutionally separating regulation from security, and genuinely returning to the freedom-oriented logic of Article 27 of the Constitution.

This conclusion provides the basis for the third part of the article.

9. A Model of Limited Regulatory Criminal Policy for Responding to Popular Protests

The preceding analysis of Iranian legislative criminal policy toward popular protests demonstrated that the legislature's response, both in existing criminal legislation and in recent legislative developments, has primarily been founded upon a security-oriented and pre-emptive logic. Within this framework, popular protest has been represented not as the manifestation of a fundamental freedom but as a situation potentially threatening public order and security. Consequently, criminal and quasi-criminal instruments have become the principal mechanisms for its management. This approach has expanded the scope of criminalization, encouraged expansive interpretation of broadly formulated offenses, and weakened the normative function of Article 27 of the Constitution as a guarantee of freedom of peaceful assembly and marches (Hashemi, 2016).

As demonstrated in the second part, the continued operation of this security-oriented logic—particularly through the application of Articles 500, 610, and 618 of the Islamic Penal Code and the 2023 Bill on the Organization of Assemblies and Marches—has obscured the legal boundary between legitimate and peaceful protest activity and violent criminal conduct. Expansive judicial interpretations of vague legislative offenses have effectively displaced criminal law from its position as an "ultimate resort" and transformed it into an instrument for the general management of social dissatisfaction. This situation conflicts with the principles of legality, strict interpretation of criminal legislation, and the legal security of citizens (Katouzian, 2006; Najafi Abrandabadi, 2021).

The criticism of security-oriented criminal policy is not confined to its conflict with fundamental rights and freedoms but also raises serious functional concerns. Legislative and enforcement experience demonstrates that expanding criminalization in the sphere of popular protests has not reduced social conflict. Rather, by intensifying public distrust, weakening social capital, and increasing the caseload of the criminal justice system, it has itself become a factor in reproducing crises. Under such circumstances, the fundamental issue is not the "existence of protest" but the manner and logic of state intervention in responding to it. Where such intervention lacks a regulatory framework and legal guarantees, it inevitably results in the structural securitization of protests (Hashemi, 2016).

In response to this situation, constitutional law and contemporary criminal policy offer an alternative model under which popular protest is recognized with a presumption of legal legitimacy and criminal intervention is limited to exceptional circumstances involving serious and actual violence. This approach, which may be described as "limited regulatory criminal policy," is founded upon transferring the primary management of protests from criminal law to administrative and policing regulation, accompanied by effective judicial supervision. The objective of this model is not to suppress protest but to organize it within a rights-based framework while simultaneously protecting public freedoms and the requirements of social order.

From the perspective of the constitutional law of the Islamic Republic of Iran, limited regulatory criminal policy is not alien to the domestic legal order but is grounded in the internal capacities of the Constitution. A hermeneutic interpretation of Article 27, based on a notification-based regime, the primacy of rights over restrictions, and strict interpretation of limitations, requires the state to act as a facilitator and regulator when responding to popular protests rather than as an authority that determines the legitimacy or illegitimacy of protest in advance. Any expansion of the role of security institutions in deciding whether a protest may occur conflicts with the logic of Article 27 and the philosophy underlying constitutional guarantees of public freedoms (Hashemi, 2016; Mehrpour, 2020).

Furthermore, the foundations of Shiʿi political jurisprudence provide the necessary theoretical capacity to limit criminal intervention in the sphere of popular protests. The jurisprudential distinction between *baghy* and civil protest, under which armed rebellion and a fundamental threat to the political order are required for severe criminal responses, demonstrates that extending criminal sanctions to peaceful protests lacks jurisprudential and legal justification. This distinction provides an important theoretical basis for minimizing punishment, prioritizing noncriminal regulatory

responses, and limiting the scope of criminal law in Iranian legislative policy (Najafi Abrandabadi, 2019).
Accordingly, the third part of the article moves beyond a purely critical approach and seeks to formulate a normative and institutional alternative model for Iranian legislative criminal policy. It first explains the theoretical and legal foundations of limited regulatory criminal policy, then analyzes the institutional architecture appropriate to this model and the separation of administrative, policing, and criminal levels of intervention, and finally examines the legal and judicial guarantees necessary to prevent the reproduction of security-oriented approaches under the guise of regulation. The ultimate objective is to present a model consistent with Article 27 of the Constitution and human rights requirements that can establish a balance between the right to protest and public order through legal rather than security-oriented mechanisms.

10. Theoretical and Normative Foundations of Limited Regulatory Criminal Policy

Limited regulatory criminal policy, as an alternative model to the security-oriented approach toward popular protests, is founded upon theoretical and normative principles rooted both in Iranian constitutional law and in contemporary criminal-policy doctrine. This model recognizes protest with a presumption of legal legitimacy and treats criminal intervention as exceptional, minimal, and subject to stringent requirements. Explaining these foundations is a necessary condition for designing the institutional and legislative architecture addressed in the following sections.

10.1. The Principle of Minimal Criminal Law and the Position of Criminal Law as the Ultima Ratio

The most fundamental component of limited regulatory criminal policy is adherence to the principle of minimal criminal law. Under this principle, criminal law may intervene only where other instruments of social regulation—including administrative, policing, civil, or preventive policies—are ineffective. Iranian legal doctrine regards this principle as a requirement of legislative rationality and the rule of law and as a barrier against penal inflation (Katouzian, 2006; Najafi Abrandabadi, 2021).

In the sphere of popular protests, the principle of minimality signifies the inherent priority of noncriminal responses over criminalization. Where protest can be managed through noncoercive policing mechanisms or administrative measures, recourse to criminal offenses—particularly broad and vague offenses—constitutes a clear violation of this principle and reduces criminal law from the status of *ultima ratio* to that of a primary instrument for managing social dissatisfaction (Azmayesh, 2018).

10.2. Distinguishing Levels of Order and Preventing Security-Based Conflation

The second foundation is the precise distinction among the legal order, the policing order, and the security order. Limited regulatory criminal policy ordinarily places popular protests within the sphere of legal and policing order and permits the transition to the security level only where there is a serious, organized, and violent threat to the foundations of the political order. The absence of this distinction facilitates the "securitization of protest" and the application of exceptional criteria to civil conduct (Bay, 2017; Hashemi, 2016).
Within the Iranian legislative system, the use of expressions such as "disturbance of public order" or "action against security," without clear boundaries, has conflated these levels and weakened the legal security of citizens. By insisting upon this distinction, the limited regulatory model prevents peaceful protest activity from being transformed into a security threat and confines criminal intervention to exceptional circumstances.

10.3. The Rights-Based Nature of the Regulatory Process and the Position of the Citizen

The third foundation is a rights-based approach to regulating protests. Unlike the security-oriented model, which treats citizens as suspicious and subordinate subjects, limited regulatory criminal policy regards protesters as rights-holders and legitimate actors within the public sphere. This perspective is rooted in citizenship-rights doctrine and an expansive interpretation of public freedoms under the Constitution (Hashemi, 2016; Mehrpour, 2020).
Accordingly, mechanisms such as prior notification of an assembly, negotiation with organizers, and the proposal of reasonable alternatives are not instruments of security control but manifestations of rights-based

regulation. By increasing the legitimacy of administrative interventions, this approach reduces the intensity of conflict and lowers the likelihood of resorting to criminal-law instruments.

10.4. The Principles of Proportionality and Necessity as Criteria Limiting Intervention

The principles of proportionality and necessity constitute the fourth foundation of limited regulatory criminal policy. Under these principles, every restriction of freedom of assembly must be justified in terms of its necessity, intensity, and scope, and the least burdensome instrument capable of achieving the legitimate objective must be selected. Iranian public-law doctrine recognizes these principles as inherent requirements of the rule of law (Katouzian, 2006).

In managing protests, these principles require a hierarchy of intervention, beginning with warnings and negotiation, progressing to policing measures, and culminating only as a final measure in criminal responses. The direct use of criminal or security labels against nonviolent protests constitutes a clear violation of this logic and indicates the dominance of security-oriented criminal policy (Najafi Abrandabadi, 2021).

10.5. Situational Prevention and the Rationality of Contemporary Criminal Policy

The fifth foundation is the use of situational and managerial prevention within contemporary criminal policy. Situational prevention focuses on managing space, time, communications, and participants in order to reduce the likelihood of violence or disorder without resorting to criminal intervention (Zedner, 2010).

In the context of popular protests, this approach includes measures such as designating appropriate spaces for assemblies, providing specialized training for law-enforcement officers, establishing active communication channels with protesters, and creating nonjudicial supervisory mechanisms. Such measures transform protest from a crisis-producing situation into a legally manageable phenomenon and preserve criminal law at the final stage of the intervention chain.

The combined implications of these five foundations demonstrate that limited regulatory criminal policy constitutes a coherent, rights-based, and constitutionally compatible model capable of balancing the right to protest with public order without resorting to securitization. This theoretical framework directly informs the second section of the third part, which addresses institutional architecture and the separation of levels of intervention.

11. The Institutional Architecture of Regulatory Criminal Policy and the Separation of Levels of Intervention

Following the explanation of the theoretical and normative foundations of limited regulatory criminal policy in the first section, the central question is how this model should be reconstructed at the institutional and operational levels. Contrary to a reductionist understanding, criminal policy is not limited to criminalization and the determination of punishments. It encompasses a network of institutions, competences, and decision-making mechanisms that determine how the legal system responds to social conflicts, including popular protests. A transition from security-oriented criminal policy to limited regulatory criminal policy is therefore impossible without reconsidering the institutional architecture of intervention (Najafi Abrandabadi, 2019).

In Iranian legal practice, one of the principal factors contributing to the securitization of protests is the absence of a clear distinction among administrative, policing, and criminal levels and the institutional conflation of these spheres. Under such circumstances, decisions concerning protests are pre-emptively transferred to criminal or security responses rather than proceeding through gradual stages of regulation and management. In contrast, limited regulatory criminal policy emphasizes the design of a hierarchical structure of intervention within which criminal law remains an instrument of last resort.

11.1. The Concept of Institutional Architecture in Criminal Policy and Its Relationship with the Right to Protest

The institutional architecture of criminal policy concerns the distribution of competences, limits of intervention, and response mechanisms among different state institutions. This concept extends criminal policy beyond criminal legislation and connects it with the legal governance of collective action. Within this framework, the principal question is not merely “whether the conduct constitutes a crime” but “which institution may intervene, at what stage, and according to what rationale" (Katouzian, 2006).

In the field of popular protests, the absence of transparent institutional architecture means that protest, rather than remaining within the sphere of legal regulation, is rapidly redefined through security concepts. This situation is incompatible with the rights-based nature of protest as a public freedom and undermines the legal security of citizens (Hashemi, 2016).

By redesigning institutional architecture, limited regulatory criminal policy seeks to prevent security logic from permeating the entire process of protest management and to confine each institution to its specialized field of competence.

11.2. Separating the Administrative–Regulatory Level from the Criminal Level

The first and most fundamental layer of the institutional architecture of limited regulatory criminal policy is the administrative–regulatory level. At this level, protest is not treated as an object of criminalization but as an activity subject to regulation. Administrative rules, managerial decisions, and communication mechanisms with assembly organizers constitute the principal instruments of intervention.

Although Article 27 of the Constitution supports a notification-based regime, the weakness of administrative law in regulating assemblies has resulted in the legislative gap being filled through criminal law. This substitution has displaced criminal law from its position as an "ultimate resort" and transformed it into an instrument for managing social conflicts (Mehrpour, 2020).

By strengthening transparent administrative rules, noncriminal enforcement mechanisms, and predictable procedures, limited regulatory criminal policy seeks to prevent the premature involvement of the criminal justice system and to retain protests, as far as possible, within the sphere of administrative order.

11.3. The Role of the Policing Level as an Institutional Buffer

The second level of intervention is the policing level, whose function is to manage order in the field and preserve the objective security of assemblies without applying criminal labels. Under limited regulatory criminal policy, the police are regarded not as the enforcement arm of criminal policy but as an institution responsible for the nonjudicial management of public order.

In Iranian practice, the absence of this distinction has meant that policing intervention is frequently accompanied by a presumption that protest is criminal. This situation both weakens public trust and expands the scope of criminal prosecution (Bay, 2017).

Under the limited regulatory model, the policing level must operate as an institutional buffer so that progression to higher levels of intervention occurs only where administrative regulation has failed and an actual danger has emerged.

11.4. Limiting Criminal Intervention and Redefining the Role of the Judiciary

Under limited regulatory criminal policy, the criminal level represents the exceptional and final stage of intervention. Judicial involvement and the use of criminal-law instruments are justified only where the protest activity:

1. has departed from a peaceful framework;
2. cannot be effectively managed through administrative or policing mechanisms; and
3. creates a serious and actual threat to public order.

This approach requires judges to analyze protest conduct within its social and legal context rather than solely through broad and expansive criminal offenses (Katouzian, 2006).

11.5. The Role of the Legislature and the Administrative Court of Justice in Restraining Institutional Securitization

Alongside executive and judicial institutions, the institutional architecture of limited regulatory criminal policy would remain incomplete without institutions capable of restraining securitization. The legislature and the Administrative Court of Justice occupy central positions in this regard.

Under this model, the legislature is not merely a producer of criminal rules but is responsible for the legislative prevention of penal inflation. Avoiding vague criminalization and adopting transparent administrative rules for regulating protests form part of this structural responsibility (Hashemi, 2016).

The Administrative Court of Justice can also become an institutional buffer between regulation and security by exercising effective supervision over administrative decisions restricting assemblies. The easier and more rapid the possibility of challenging administrative decisions, the lower the likelihood that protests will spill directly into the criminal sphere (Mehrpour, 2020).

By clearly separating administrative, policing, and criminal levels and strengthening institutions capable of restraining securitization, the institutional architecture of limited regulatory criminal policy makes it possible to manage popular protests without sliding into securitization. Under this model, criminal law is not the starting point but the final link in the regulatory chain, a position more compatible with the Constitution, the rationality of criminal policy, and human rights obligations.

12. Legal, Judicial, and Supervisory Guarantees of Limited Regulatory Criminal Policy

Limited regulatory criminal policy cannot be realized solely through the reform of administrative structures and the institutional separation of levels of intervention. Its continuity and effectiveness depend upon legal and judicial guarantees capable of preventing regulatory structures from deviating toward securitization in practice. The experience of different legal systems demonstrates that even the most carefully designed regulatory rules gradually erode under security-oriented logic where they are not accompanied by rights-based judicial supervision and stringent interpretive criteria (Najafi Abrandabadi, 2021).

Within this framework, the judiciary, and particularly the criminal judge, plays a decisive role in consolidating limited regulatory criminal policy. The judge is the final authority capable of retaining protest within the sphere of rights or reducing it to a security and criminal issue. This section therefore explains the most important legal and judicial guarantees without which limited regulatory criminal policy would remain merely a theoretical model.

12.1. The Role of the Judge in Restraining the Securitization of Protests

Under limited regulatory criminal policy, the judge is not merely an executor of the will of the legislature or prosecutorial institutions but the practical guarantor of the distinction between civil protest and criminal conduct. This role becomes particularly important in legal systems containing broad and interpretable criminal offenses. In such circumstances, the judge is the only institution capable of preventing pre-emptive security logic from permeating the judicial process (Katouzian, 2006).

When dealing with protest activities, the judge must analyze the conduct not in isolation but within the social, political, and communicative context of the protest. The absence of such a contextual approach may result in slogans, assemblies, or collective presence being treated as criminal merely because they generate dissatisfaction or temporary disruption. Such an outcome is inconsistent with the philosophy of minimal criminal law (Azmayesh, 2018).

Limited regulatory criminal policy requires the judge to act as an institutional barrier against securitization and to prevent criminal proceedings from becoming an extension of law-enforcement or security decisions.

12.2. The Principle of Strict Interpretation of Criminal Legislation in the Sphere of Protests

One of the most fundamental legal guarantees of limited regulatory criminal policy is the rigorous application of the principle of strict interpretation of criminal legislation. This principle plays a central role in restraining the expansion of criminalization in the sphere of popular protests because criminal intervention in this field is frequently based on broad offenses and elastic concepts.

Under security-oriented criminal policy, expansive interpretations of concepts such as “disturbance of public order” or “threat to security” have become normalized. Under limited regulatory criminal policy, however, any interpretive doubt must be resolved in favor of the right to protest and public freedoms (Hashemi, 2016).

The genuine application of the principle of strict interpretation requires the judge to:

- distinguish between the natural disruption arising from protest and serious harm to public order;
- refrain from extending security offenses to peaceful forms of protest; and
- avoid purposive interpretations based upon “security expediency.”

Without such an interpretive approach, even formally regulatory criminal policy will, in practice, result in the most security-oriented form of criminal intervention.

12.3. The Burden of Proving Violence and Departure from the Presumption of Criminality of Protest

One of the essential elements of limited regulatory criminal policy is the rejection of a presumption that protest is criminal and its replacement with a presumption of the legitimacy of protest activity. Under this framework, the burden of proving violence, destruction, or a serious threat to public order rests entirely upon the prosecuting authority, and any implicit presumption against protesters must be rejected.

Under the security-oriented approach, mere presence at an assembly may be regarded as sufficient to initiate criminal prosecution. Limited regulatory criminal policy, however, requires proof of specific objective elements, including:

- the commission of attributable violent conduct;
- a causal relationship between the individual's conduct and serious harm; and
- the ineffectiveness of noncriminal instruments (Najafi Abrandabadi, 2021).

This reallocation of the burden of proof has an important restraining effect on the securitization of protests and prevents criminal proceedings from becoming an instrument for the pre-emptive control of social dissatisfaction.

12.4. Guaranteeing the Effective Assertion of the Right to Protest in Judicial Proceedings

Under limited regulatory criminal policy, the right to protest is not confined to the pretrial or street context but must be recognized as a substantive defense within criminal proceedings. The effective assertion of this right requires that defendants be permitted to establish the protest-related, peaceful, and rights-based character of their conduct before the court.

This guarantee specifically includes:

- the possibility of relying on Article 27 of the Constitution as a defense;
- judicial consideration of the social context and motivation of the protest; and
- an obligation upon the judge expressly to justify any departure from regulatory logic (Mehrpour, 2020).

A court that relies solely on formal elements or law-enforcement reports, without substantively analyzing the protest, effectively reduces the right to protest from a constitutional right to a fragile privilege. Limited regulatory criminal policy restrains this risk by recognizing the effective assertion of the right to protest in judicial proceedings.

Legal, judicial, and supervisory guarantees constitute the final and most decisive layer of limited regulatory criminal policy. The active role of the judge, the genuine application of strict interpretation, the allocation of the burden of proving violence to the prosecution, and the guarantee of the effective assertion of the right to protest together create institutional safeguards without which regulatory criminal policy would rapidly be absorbed into security-oriented logic.

In light of these guarantees, popular protest is treated not as a security threat but as a rights-based and regulable activity, while criminal law preserves its exceptional and minimal status. This conclusion provides the basis for the final summary of the third part and logically connects it with the overall conclusion of the article.

The third part demonstrated that the transition from security-oriented criminal policy to a model of "limited regulatory criminal policy" cannot be achieved merely by altering criminal-law terminology or formally reducing criminalization. Rather, it requires the simultaneous redesign of normative foundations, institutional architecture, and judicial guarantees governing the response to popular protests. Within this framework, protest was reinterpreted not as a security issue but as a rights-based activity capable of regulation within the legal order, an interpretation rooted in Article 27 of the Constitution and the logic of minimal criminal law.

At the institutional level, this part demonstrated, through a precise separation of administrative, policing, and criminal levels, how the conflation of these levels facilitates the securitization of protests. By transferring the primary management of protests to administrative and policing law and confining the involvement of criminal law to exceptional cases involving objective violence, limited regulatory criminal policy makes it possible to restrain penal inflation and increase the predictability of the legal system. The roles of the legislature and the Administrative Court of Justice as institutions capable of restraining institutional securitization were also explained as complementary components of this regulatory architecture.

Finally, the legal and judicial guarantees identified in this part—particularly the active role of the judge, the application of the principle of strict interpretation of criminal legislation, the reallocation of the burden of proving violence, and recognition of the effective assertion of the right to protest in judicial proceedings—operate as the final safeguards of limited regulatory criminal policy. They prevent security logic from reasserting itself through judicial interpretation or procedural practice. The third part therefore demonstrates that only through such a limited and guarantee-based regulatory model can a rational and judicially defensible balance be established between the preservation of public order and the effective protection of the right to protest. This balance forms the basis of the article's final conclusions and policy recommendations.

13. Conclusion

The examination of Iranian legislative criminal policy toward popular protests demonstrates that, although the right to protest is recognized as a fundamental freedom under Article 27 of the Constitution, the formulation and application of ordinary criminal-law provisions, particularly Articles 500, 610, and 618 of the Islamic Penal Code, have consistently contained the potential for expansive and security-oriented interpretation. The breadth and ambiguity of the concepts used in these provisions have, in practice, challenged the boundary between peaceful protest and criminal conduct disturbing public order or security and extended the scope of criminal-law intervention beyond its exceptional function.

The analysis of the theoretical, philosophical, jurisprudential, and constitutional foundations of the right to protest demonstrated that civil protest, within contemporary public-law systems, is not a phenomenon detached from the legal order but an internal component of the mechanism regulating the relationship between the state and civil society. The constitutional principle of freedom of assembly, the requirements of necessity and proportionality in criminal law, and Iran's international obligations under the International Covenant on Civil and Political Rights all indicate that criminal intervention in popular protests must be limited and exceptional. The dominance of a pre-emptive security and policing perspective in criminal and legislative regulation is therefore incompatible with the logic of minimal criminal law and the requirements of citizens' legal security.

Within this framework, the evaluation of existing legislative criminal policy demonstrates that the reliance on broad and interpretable criminal offenses, rather than the noncriminal and regulatory organization of protests, has reproduced the cycle of securitizing protest activities. The analysis of the Bill on the Organization of Assemblies and Marches (2023) also confirms that, despite its claim to depart from a criminal approach, the logic governing the bill continues to be based on the prior management of risk and the primacy of security considerations. It therefore remains significantly removed from a regulatory model founded on the presumption of the legitimacy of protest.

The combined implications of these findings demonstrate that reconsidering legislative criminal policy toward popular protests requires simultaneous attention to the requirements of public order and the protection of the right to protest in accordance with the criteria of necessity and proportionality. In this respect, limited regulatory criminal policy can provide an analytical framework for developing a more balanced formulation of state intervention. By minimizing recourse to criminal law, separating policing and judicial functions, and strengthening legislative predictability, this framework can facilitate the reconciliation of the protection of public order with the effective safeguarding of fundamental freedoms.

Authors' Contributions

Authors contributed equally to this article.

Declaration

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

Transparency Statement

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Ethical Considerations

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