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The Perspective of Islamic Criminal Policy Towards the Doctrine of Securitization in Dealing with Crimes

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Abstract

The set of responses that society adopts in dealing with the pervasive phenomenon of crime and offenses, considering the Islamic approach to the doctrine of securitization, has been the subject of this research. By referring to Islamic jurisprudential and legal sources through data analysis and description, the hypothesis was proven that in Islamic security-oriented criminal policy, the two elements of crime and offenses on the one hand and security as an undeniable necessity on the other hand, have never been considered as a general illusion, and therefore it has significant differences with the idea of securitization in Western criminal policy. The main differences that distinguish Islamic criminal policy from Western criminal policy in the area of security control and containment of crime are, in addition to the area of legislation, which is mostly within the jurisdiction of the legislative body to criminalize behaviors and abandon behaviors, the judge's authority to determine the type of punishment, as well as the police having a certain amount of authority to monitor the identity of individuals in public places and streets. Some differences can also be observed in the area of implementation. For example, in Islamic criminal policy, judges and witnesses, given the special sensitivity that exists regarding their role in achieving rights and administering justice, must be characterized by the characteristics of justice. In addition to the description of justice, the number of witnesses is also a condition, commensurate with the importance of the crime and social deviations and the overall content of legal and criminal cases, while we did not observe such an issue in Western security-oriented criminal policy.

Keywords: *Islam; Criminal Policy; Securitization; Crime; Punishments*

Introduction

Today, attention to security and the way to maintain and provide it for the lives of citizens has become one of the main concerns of statesmen. The most precious commodity that is unfortunately looted by a large number of people every day, and as a result, what irreparable damage is caused to the lives, property, chastity and morality of citizens. The expansion of the scope of crime, offenses and small and large deviations has caused thinkers in the fields of criminal law, criminology and other related sciences to think about achieving more practical methods to logically confront and control the speeding train of the above phenomena. Along with the implementation of criminal policies, criminal policy has shown special

attention as a set of practical methods and strategies at the disposal of the government and social institutions in order to respond to the growing phenomenon of crime and crimes.

Term and concept of criminal policy (kriminalpolitik)As a field of scientific study, it was first introduced by the German scientist Anselm von Feuerbach(Anselm von fuerbach) It dates back to 1803 in the book Criminal Law. Feuerbach defined criminal policy as "a set of repressive methods by which the state reacts against crime," thus giving it a narrow meaning, which is in fact "criminal" policy. (Najafi Abrandabadi/Lazerge, Spring 2003, p. 11) But "Kush," another French scientist, calls criminal policy an "applied science whose goal is scientific success in the rational and effective organization of the fight against crime." Just as Donde Yondweyer believes that "crime policy is an art and science, its subject is the discovery of methods that enable effective struggle against crime," Ansell also views crime policy as "the science of observation and study" and "the art, technique or strategy of principled and systematic anti-crime response" (ibid., pp. 12-13). Based on this definition, the concept of crime policy is slightly expanded and is not limited to just punitive and harsh approaches. It goes beyond the realm of repression and is considered as a strategic knowledge.

However, given the tremendous development that occurred in the field of criminology studies and the subsequent emergence of criminal policy, its approach and definition also underwent fundamental changes. These changes can be clearly seen over time in the valuable book Great Systems of Criminal Policy by Mrs. Mary Delmas Marti. According to her, "criminal policy is defined as the set of methods by which society organizes and applies various responses to the criminal phenomenon" (Delmas Marti/Abrand Abadi, Payz 2014, pp. 69 and 103). This definition covers a much wider area and goes so far as to take the position of criminal policy beyond the scope of repressive approaches based solely on criminal policy, as well as the art and science of combating the criminal phenomenon and anti-criminal response, and includes it within the scope of a set of policies, ranging from the science of studying and harsh criminal approaches to methods of rehabilitating the criminal and rebuilding his personality in order to return honorably to social life.

Therefore, the present study seeks to answer the fundamental question of what is the view of Islamic criminal policy towards the doctrine based on security in dealing with crime and offenses, and what approach does it take in this direction?

Our initial assumption, which is the result of a study, albeit limited, in Islamic sources, is based on the fact that Islamic criminal policy is fundamentally a comprehensive and all-encompassing policy. A policy that looks at issues related to all aspects of the social life of citizens with a broad and comprehensive view. This view, in addition to discussions related to law, including criminal law, also includes growth-oriented and humane teachings of morality and healthy upbringing. In other words, Islamic criminal policy also advocates harsh repression and severity of action in some cases and of course, under certain conditions, which is consistent with the theory of security and thus confronts and controls crime. In other words, from the perspective of Islamic criminal policy, punishment is considered as the last solution in confronting crimes and crimes, not the first option. The tendency towards security and repression is limited to specific areas, and the time and manner of its implementation also seem very different from the perspective of the proponents of this theory.

Definition of Crime

In Persian language dictionary, crime is defined as behavior accompanied by harshness and rudeness (Anvari, 1381, Vol. 4, p. 2769) or rudeness and rudeness (Amid, Hassan, 1384, Vol. 2, p. 1024), rudeness, rudeness (Dehkhoda, 1347, Vol. 21, p. 593). A meaning whose traces can be clearly seen in its practical definition. Usually, crime is used with the concept of aggression, and the definition of aggression states, hostile acts that are done intentionally and harm people and objects. Others interpret it as a reaction with the aim of harming another living being (Nazarinejad, 131390, p. 28). Also, criminal

and terrorist acts, civil unrest and international conflicts are mentioned as obvious signs of crime (Žižek, Slav, 2010, p. 9). Because crime is the act of a specific individual who attacks and attacks the life, property or honor of others (Perfit, 2019, p. 27). This is while, according to the World Health Organization, crime is the intentional use of physical force or power in terms of coercion or threat or intimidation of oneself and other individuals, including groups and communities, and even the entire society, which can lead to limb impairment, psychological damage and death of the person and them (Mohammadi Asl, 2009, p. 25). Therefore, crime is a produced system, not an issue that results from individual pathology (Ellhampton, 2009, p. 30).

Types of Securitism in Dealing with Crime from the Perspective of Islamic Criminal Policy

In this section, before we enter into the discussion of the Islamic criminal policy perspective regarding the position of crime in the criminal policy of securitism, it is necessary to briefly explain the origins and contexts of the formation of the idea of securitism in Western criminal policy and, by listing some of its characteristics, we will continue the discussions around the Islamic approach to the issue of security.

Ms. Christine Lazerge writes about the initial contexts for the formation of the securitization ideology: "This ideology undoubtedly arose from the increase in (small) and (medium) crimes that are related to the economic crisis, unemployment, and real problems arising from finding and employing more than half of young people under 25 years of age" (ibid., p. 52) and further emphasizes that "it is obvious that (real crime) can only be estimated, it has not been calculated or reflected anywhere... and by distinguishing an indescribable feeling, namely the feeling of insecurity from real insecurity, it should be noted that the feeling of insecurity has been raised to justify the securitization ideology (which advocates repression and the severity of criminal action)... in the name of a feeling of insecurity that is not fundamentally rational, but is a feeling that exists among the people and is intensified by the mass media." (ibid., p. 53), which means that the securitization criminal policy is actually associated with unrealistic and It is simply a matter of feeling insecure. In their view, in general, the security ideology involves reducing the judge's authority in choosing punishment and individualizing the guarantee of criminal execution, as well as granting the broadest powers, for example, in the field of controlling the identity of individuals in public places, to police officials, with the risk that the exercise of these powers may conflict with the freedom of movement of citizens and the presumption of innocence (ibid., p. 54).

So far, it has been clear that the main basis and origin of the criminal policy of securitization is not based on security or real crime; but rather on the general feeling or illusion of insecurity and unreal crime. Now, we must see what is Islam's view of the category of security and which of the two types of crime, real crime and unreal crime, does it deal with in the face of crime?

Before answering the above question and addressing the detailed scope of the discussion, the point that seems to distinguish Islamic criminal policy from other criminal policies is that "the criminal policy of the Islamic state is, to a large extent, a normative criminal policy. Given the inevitability of normative criminal policy, the Islamic system certainly has something in common with other secular and other systems in principle, relying on normative criminal policy, and the only difference is in the norms invoked by these systems. The Islamic system is subject to Sharia in its policies... Islamic Sharia is manifested in jurisprudence, and jurisprudence is the knowledge of the rulings of those who are obligated." (Jalal al-Din Qiyasi, 2006, p. 73) This criminal policy, firstly, pays attention to all the actions and deeds of obligated and responsible citizens, and secondly, the system for dealing with these responsibilities, whether personal or individual, as well as civil and criminal, is defined within a specific and specific framework of principles and goals. Epistemological infrastructures are aimed at looking at all aspects of individual and social life, as well as defining the process of finding answers from the set of functions existing in a human being, such as where the Holy Quran warns individuals against any unscientific statements or blind following and says: "Indeed, hearing, sight, and the heart are all responsible for their actions" (Al-Isra, 15/36).

Therefore, it seems that in Islamic criminal policy, in this respect, it has nothing to do with real insecurity or the illusion of public security, but rather, considering the type of interests and corruptions that exist in the actions and behaviors of responsible citizens, it sets laws and regulations, criminalizing some criminal behaviors and emphasizing others at a lower level as musts and mustn'ts. In other words, from the perspective of Islamic criminal policy, the goodness and ugliness of actions are inherent, which in fact form the basis for regulating individual and social relations in the field of behaviors and attitudes, and thus, are a criterion for engineering a strategy to confront the criminal phenomenon. The continuation of the discussions will clarify in which of the factors discussed or general indicators, of course, within the scope of this article, there is a common ground between Islamic criminal policy and the idea of security, and where and how we encounter differences between them. For this reason, we will continue the discussion by explaining the characteristic types of securitization in Islamic criminal policy in the face of crime.

1) Securitization in the Field of Legislation

If we accept that “human society can be likened to a sea where beliefs and assumptions cover its surface like noisy waves and roll on it.” (Ismail Golestan, 2007, p. 2), it is imperative that appropriate laws and regulations be prepared so that the course of this ship sailing on turbulent waves ends well. It is in such circumstances that securitization in the field of legislation makes sense, but what is important is to know how securitization is meant in the Islamic view in the field of legislation in order to determine what its difference and symmetry with securitization in Western criminal policy is based on and what areas it covers. To clarify this topic, we will briefly examine the following.

1-1-) Reduction of the Judge's Authority in Choosing Punishment

In Western security-oriented criminal policy, when "security networks are created to strengthen the criminal system (reinforcement criminal policy) or vice versa (generally in the form of medico-social) with the aim of replacing the criminal system (substitution policy)" (Delmas Marti, ibid., p. 372), the issue of reducing the judge's authority in choosing the type and amount of punishment comes up. For example, "the procedures of electronic monitoring of the offender through cuffs or shackles implemented in England under sections 12 and 13 of the Criminal Justice Act 1991" (Ibid., p. 374) clearly demonstrates the process of reducing the judge's authority.

Now the question that arises is what role does Islamic criminal policy in the field of legislation consider for the judge and his authority in choosing the punishment, including the type, amount and method of execution. Does the Islamic legislative system leave the judge's hand free in this regard to the extent that he can consider any punishment for the perpetrators of the crime according to his personal discretion, or is this authority limited and he does not have the right to choose and execute the punishment according to his personal desire in any possible way outside the predetermined legal framework?

To answer this question, it should be said that: "In principle, the role of the judge in the Islamic criminal procedure is to establish the occurrence of a crime and apply it to one of the specific or general criminal laws and determine a specific punishment or a punishment from among the types or amounts of punishment foreseen in Sharia or law" (Seyyed Mohammad Hosseini, previous, p. 196). The judge's hand in determining punishment is not completely free, but he is required to observe the predetermined framework of the laws in this regard. Although the Islamic legislative system is such that it leaves the window of correct interpretation of the texts open to the judge using the necessary mechanisms of principles, this does not mean that he acts according to his absolute personal will in determining and implementing punishment.

In the section on procedural rules, Sheikh Mufid, in explaining the duties of the judge when hearing a case, considers him obliged to write down the complete specifications of the parties to the case (Sheikh Mufid, 1413 H Q, p. 722). ShH Qid I also considers the judge's responsibility in the method of

hearing a case and the quality of issuing a verdict to be well-defined and predetermined, and believes that the judge does not have the right to guide one of the two parties to the case and it is makruh to step in the middle to nullify the right. He also has the duty to ask the denier for evidence if he himself does not know... (ShH Qid I, 1410 H Q, p. 89). Also, the judge cannot pressure witnesses who are more insightful and religious to exaggerate further in relation to the subject of testimony, or take testimony from them separately, unless they seem suspicious (ShH Qid I, 1413 H Q, vol. 13, p. 416). Because in the Islamic judicial system, the judge is required to comply with the Sharia laws and regulations provided to him by the Islamic government, and if in some cases the validity of the judge's knowledge is discussed as a means of proving a crime or other disputed issues in legal cases, it does not mean that he is completely incompetent in handling these matters; rather, its validity is also granted under specific conditions and within the scope of the laws.

This process is clearly seen in the case of hudud, qisas, and even diyat. For example, in the case of hadud for theft, all Islamic jurists agree that if other conditions are met and there are no factors that remove criminal liability, the judge is required to cut off the thief's hand. Researcher Sabzevari considers cutting off the thief's hand to be one of the indisputable penal principles of Islam (Sayyid Abdul-Ali Sabzevari, 1413 H Q, vol. 29, p. 182) because it is explicitly emphasized in the Quran, as in the noble verse that says:وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جَزَاءً بِمَا كَسَبَا نَكَالًا "Cut off the hands of the male and female thieves in response to their behavior" (Al-Ma'idH Q, 38/5) and there are also numerous narrations in narration sources that, in addition to having sufficient documentary credibility, also clearly indicate the necessity of observing it by the judge. In this regard, it should be said that the judge's hand in choosing the method of investigation or the type of issuing a criminal verdict and choosing the punishment is tied by the legislator from the very beginning and he is obliged to observe the procedural rules from the stage of discovery, investigation and prosecution of the violent criminal to the issuance and execution of the punishment. The only place where the judge's hand is somewhat open in determining some punishments and sometimes choosing the type and method of execution is the discussion of Reinforcement punishments is[1] .On the basis of well-established narrations, the balance of discretion is a measure of a legal definition. From the narration of Hammad bin[2]Othman, according to Imam Sadiq (peace be upon him), referred to the amount of discretionary punishments. A question about how much punitivei is to be used... I used the end of this sentence with a chain of transmission to specify the amount of discretionary punishment. It is required to be examined by a competent judge based on the type of crime committed and the physical ability of the perpetrator, and may be subject to discretionary punishment. (Kulayni, 1407 H Q, vol. 7, p. 241). This is what is done by a scholar of Islamic jurisprudence, or as an excuse for the use of metaphors for your devotion and devotion to God, in the face of a person who has not slept with such duties as he has disturbed his imbalance in growth, or the spread of hilarity and ugliness. How important is KurdH Q Bashid (Abu al-SalH Q Halabi, 1403 H Q, p. 416), but the topic is so important that it is an independent jurisprudential rule under the title«التعزير بما يراه الحاكم»OR«التعزير بما دون الحد»It has been the subject of extensive discussion. From the totality of the narrational and jurisprudential discussions on this subject, it is clear that in the category of Punitive punishments, the judge's hand is somewhat free in choosing the amount and type of punishment, contrary to the theory of security, which in this part has

[1]It should be noted that all Islamic punishments, including ta'zir, are based on criteria, and "the criteria for implementing ta'zir is consideration of expediency. In the presence of expediency, the ruler can order the implementation of ta'zir; even if the unperformed act is not a sin or a transgression... and only committing forbidden acts is a cause for ta'zir, and leaving recommended acts and doing abominable acts is not a cause for ta'zir... In non-prescribed ta'zir, the ruler has discretion over the type and amount of ta'zir and can punish the offender with less than the prescribed ta'zir. In contrast, prescribed ta'zir is applied to crimes for which the extent of the punishment has been specified by the lawgiver, and they can be called prescribed ta'zir..." (QudratollH Q Ansari, 2007, pp. 87, 88, and 93). Among other topics in Islamic criminal law, the Ta'ziri punishment has occupied a large territory in terms of the various foundations, structures, and categories that Islamic jurists have considered for it based on ijtihad sources. Since the approach of this writing is merely a brief analytical reference to the subject, we have refrained from providing further explanation that would lead to deviation from the main topic. In this regard, respected readers can refer to detailed jurisprudential discussions.

[2]الْحُسَيْنُ بْنُ مُحَمَّدٍ عَنْ مُعَلَّى بْنِ مُحَمَّدٍ عَنِ الْحَسَنِ بْنِ عَلِيٍّ عَنْ حَمَّادِ بْنِ عُثْمَانَ قَالَ: قُلْتُ لِأَبِي عَبْدِ اللَّهِ ع كَمِ التَّعْزِيرُ فَقَالَ دُونَ الْحَدِّ قَالَ قُلْتُ دُونَ ثَمَانِينَ قَالَ فَقَالَ لَا وَ لَكِنْ دُونَ الْأَرْبَعِينَ فَإِنَّهُ حَدُّ الْمَمْلُوكِ قَالَ قُلْتُ وَ كَمْ ذَلِكَ قَالَ قَالَ عَلَى قَدْرِ مَا يَرَى الْوَالِي مِنْ ذَنْبِ الرَّجُلِ وَ قُوَّةِ بَدَنِهِ.

generally tied the judge's hand and limited his scope of authority. It is necessary and essential to note that the criminal legislative policy of Islam has never left the judge's hand free in criminalizing behaviors and determining the amount of punishment based on personal taste and perception; rather, in the field of legislation, it has distinguished from the very beginning between criminal behaviors with a high level of risk and low-risk behaviors or simply deviations, so the idea of some Western writers[3] In this context, it is completely incorrect and Abdul Qadir Odeh's defense seems correct and logical. It is clear that in Islamic criminal policy, when it comes to punitive, the intention is not the autonomy of the judge in determining punishment in the legislative sphere. The intention is that the Islamic criminal judge is obliged to sentence the perpetrators to punishment in a predetermined structure and a distinction between high-risk criminal behaviors and deviations and errors that do not pose a high risk, considering the type of act committed and the conditions governing his physical abilities and mental and psychological characteristics. Incidentally, this is a good criminal policy that, while limiting the judge's authority in some areas, considers his hand in choosing punishment appropriate to the condition governing the body and soul of the criminal. In addition to observing the legislative characteristics, it also provides the basis for the rehabilitation and reformation of the criminal offender, which is one of the goals of punishment.

In other words, the criminal policy of Islam, on the one hand, obliges the judge to implement the predetermined Sharia and legal laws in the field of punitive punishments, and on the other hand, it gives him the authority to consider constructive punishment while examining the personality of the criminal and observing the proportion between the committed act and his spiritual and psychological characteristics. This authority has a two-way application. On the one hand, criminal justice is implemented and no criminal remains unpunished, and on the other hand, the process of rebuilding the personality of the criminal is facilitated in order to return to a healthy social life. Because "according to the Shiite jurists, punitive punishment is limited in terms of its frequency and should not reach the limit" (QudratollH Q Ansari, ibid., p. 88; quoted in; ShH Qid Awal, No date, vol. 2, p. 142), and this limitation can be interpreted along with the judge's discretion. This is where Islamic criminal policy, from a legislative perspective, differs from Western security-oriented criminal policy in granting the judge the authority to choose punishment.

1-2-) Individualization of the Guarantee of Criminal Execution

The purpose of individualization of the guarantee of criminal execution is, in fact, the individualization of punishments. "The principle of individualization of punishments, as one of the progressive principles governing punishments, which has introduced an easy and unavoidable exception to the principle of legality of punishments, means the application and implementation of punishments in accordance with the personality and physical, psychological and social characteristics of the criminal, which has been foreseen by the legislator based on the nature of the crime committed or the characteristics of the victim and has been brought to the fore by the judicial and executive branches and may, depending on the case, lead to an intensification of the reduction or suspension of the punishment and... "(Mohammad Afshar Rad, 2004). And in the theory of security, "The concern for individualization of the guarantee of execution forces the judge to accept the sometimes very large gaps between the

[3]According to Seyyed Mohammad Hosseini, "The existence of (qiyas) as one of the sources of inferring rulings in some Islamic schools of jurisprudence and the existence of (tazir) as a punishment entrusted to the ruler has led to the emergence of this idea among some foreign writers who lack sufficient familiarity with Islamic criminal policy that the judge can (criminalize) an act and punish it in any way he wants. As Madame Delmas Merti has written: Islamic criminal law with its sources, which indicate the impossibility of separating crime and deviation, is characterized by, alongside the Quran, SunnH Q and consensus, qiyas and finally ta'zir, which indicates the delegation of unconditional power to the judge to determine crimes and punishments." (Ibid., p. 166, quoted from; Mirelle1988,p.210 Delmas-marty. He further refers to the criticism of Abdul Qadir Odeh, who believes that "... some have mistakenly believed that Islamic law has not determined the Ta'zir crimes and has left this matter to the judge. They have concluded from this mistaken belief that the judge's discretion in this regard is arbitrary and that Ta'zir crimes and their punishments are unspecified and have been left to the judge; if the judge wants to punish an act - even if it is not preceded by a prohibition - he does so, and if he does not want to, he does not punish. This statement is false and based on baseless and baseless assumptions…" (Previous, p. 197, quoted by Abdul Qadir Odeh, 1405 H Q, vol. 1, p. 142).

punishments foreseen in legal texts and the punishments issued in convictions, as the punishment may (separate from the crime and disproportionately) be manifested in the committed crime. The Law of Security and Freedom was intended to reduce these gaps by objectifying mechanisms such as recidivism, mitigating circumstances, suspension or alternative sentences to imprisonment, and only for criminal offenses." (Laserge, ibid., p. 102) Initially, the individualization of punishments, or in other words, the guarantee of criminal execution, was established in the French penal code after the revolution, and then the laws of other Western countries were influenced by it. However, in the criminal policy of Islam, although this issue was not known in this term at first, all its characteristics were and are clearly understandable and deducible in the primary sources of Islamic legislation, including the verses of the Quran and the narrations of the Infallibles (AS).

Seyyed Mohammad Hosseini writes in this regard: "The adaptation of Islamic laws to the requirements of time and place can be considered a type of (individualization) of Islamic laws on a wide scale of time and place. Another type of this individualization is seen in the adaptation of Islamic laws to specific personal situations, which in turn has an important contribution to the instability of the area of obligation in Islamic criminal policy." (Hosseini, 2004, p. 102) Further exploration of this issue requires a further examination of the Islamic perspective on the goals of punishments. No date, to the extent that one can approach this perspective and organize new jurisprudential research by referring to primary sources, and along with that, to the extent that one can study the philosophy of laws, especially the philosophy of punishments, including hudud, diyat, and punitiveat, one can obtain the type of perspective of Islamic criminal policy towards the individualization of punishments.

Some researchers believe that "in the Islamic criminal law system, there was not only one goal intended for various types of punishments, but in different types of punishments, a specific goal constitutes the main and fundamental goal in that punishment. In retribution and blood money, the implementation of justice..., within the limits of defending the fundamental values intended by Islam... and in punishments, the reformation and rehabilitation of the offender plays a fundamental role."

Looking at the goals of punishments, we find that in Hudud, Qisas, and Diyat, where the implementation of justice and the preservation of the fundamental values of Islamic society are intended, individualization of punishment, that is, the proportionality of punishment to the physical and mental conditions and characteristics of the offender, will naturally be of less importance. Whereas in Punitiveat, where the main goal is the reformation and education of the offender, paying attention to individualization of punishment will be essential and fundamental." (Abhari, 83, pp. 158-159). For example, in Qisas, which is a severe criminal response of the type of deprivation of life for a crime that leads to the killing of a human being by another human being, the reflection of individualization of the guarantee of execution can be easily observed. Usually, Islamic jurists, considering the mechanism of ijtihad and the inference of Islamic rulings, including punishments, from reliable sources, express opposing and different opinions in many cases. Regardless of the basis on which such differences of opinion are based, and should be discussed in their proper place, there is not much difference in terms of individualizing punishments, which reflects the view of Islam's security-oriented criminal policy towards crime. Murder is one of those cases that, according to some experts, "is classified in various categories by Islamic jurists, depending on the intentions, motives, and other characteristics, and the manner of commission and the means used, so that each may entail different types of Islamic punishments within the framework of specific rulings and circumstances... For this reason, there is a strong disagreement between jurisprudential schools, and even between some jurists of the same school, regarding the number and types of murders." For example, Imami, Hanafi, Shafi'i and some Zaidi jurists consider murder to be of three types (intentional, quasi-intentional and pure mistake), Maliki and another group of Zaidis consider it to be of two types and Hanafi considers it to be of five types" (Shams al-Din, 1429 H Q, pp. 15 and 16). In addition to various categories in terms of nature, the type of tool used and the motive of the perpetrator, his mental and psychological condition at the time of committing it is also carefully considered. Perhaps a person who is in a specific mental and psychological condition, such as when suffering from insanity or other causes

and factors that remove criminal responsibility[4] If a person commits murder with the same level of detail as discussed in jurisprudential sources, he will definitely face a different judicial treatment than someone who kills someone under normal conditions and in perfect mental health, consistent with previous planning. Because, based on the general rules governing punishments, “not every act prohibited by law always leads to punishment, and the lack of punishment is not always due to a single reason; sometimes reasons prevent conviction, and sometimes after conviction, punishment is canceled for some reason” (Sajjad-e-Nejad, 2004, p. 103), every violent and criminal act must face a decisive response from the judicial system, and the fact that sometimes even criminal behaviors are excluded from the scope of repressive enforcement and the title of punishment is completely canceled cannot be interpreted as anything other than individualizing punishments. The same interpretation and evaluation is true for other punishments such as blood money and fines.

Therefore, in Islamic criminal policy, there is also an approach to individualizing punishment or guaranteeing criminal execution. The difference is that the Western criminal policy approach to individualization is merely the illusion of conspiracy and a general feeling of insecurity, but in Islamic criminal policy, this view is not based on the illusion of general insecurity like the French Security and Liberty Act, but on the inherent goodness and ugliness of actions, some of which ultimately lead to individuals' tendency to engage in criminal behavior and create a kind of real or external insecurity. Of course, it should be noted that when we talk about real insecurity, we do not mean the statistical amount of criminal behavior that occurs at the level of society, because firstly, it is difficult to detect this type of crime, and secondly, the duty of the legislator and Islamic lawgiver in divine laws is not to provide field reports on the incidence of crime in order to say how many violent behaviors and in which areas, in what form and manner they have occurred, and based on that, we can expect the Islamic legislator to provide us with a policy to deal with the criminal phenomenon. Rather, the Islamic legislative system, with its complete knowledge of the existence and complex physical structures of man, and its complete awareness of his future interests and corruptions and his capacity for criminal offense, sets various regulations. Man has different definitions from the perspective of Islam. Sometimes he is placed in a higher position than angels and sometimes in a lower level than animals. Because man is described in the Quran as a being impatient and impatient in dealing with events: «إِنَّ الْإِنْسانَ خُلِقَ هَلُوعاً، إِذا مَسَّهُ الشَّرُّ جَزُوعاً؛: "Man is created greedy and impatient; when evil befalls him, he becomes impatient" (Al-Ma'arij 44:19-20) is mentioned because he faces conflicting interests in social life. The Islamic legislator knows from the beginning that this man, from a spiritual and psychological perspective and even from the physical structures and tendencies that exist in him, is such that in many cases he violates social regulations, violates the rights of others, and in terms of instincts he is subject to whims and desires, therefore, he establishes regulations in accordance with that and in line with the initial prevention of committing a crime or deterrence in the second and third stages. This is very different from a perspective that has no knowledge of the structure and requirements governing the behavior of citizens and establishes laws and regulations solely based on the general illusion that there may be a possible insecurity.

1-3) The Scope of Police Authority in the Field of Identity Control in Public Places

Social security is one of the most essential needs of the individual, group and society, and the continuation of life and survival of societies without it will be difficult and impossible. (Azam Karimaei Ali et al., 2010, p. 2, quoted from Azar, 1988, 279) No date, ensuring social order and security is one of the main missions of governments. The police forces, which are subordinate to the executive branch and the executive arm of the judiciary, generally have part of their duties as ensuring the public security of society.

[4]According to the teachings of criminal law, "in order to commit a crime in the outside world, it is necessary for an individual or individuals to objectively demonstrate a legally prohibited act, and unlike in the past, today, simply having a criminal thought is not a crime and punishable" (Dr. Ali Gholami, 2012, p. 41; quoted by Sanei, 2015, vol. 1, p. 253). Criminal behaviors must be committed abroad, otherwise, simply having the motive to commit a crime that somehow evokes the illusion of insecurity for the victims and society, no one can be prosecuted.

From the perspective of criminal policy based on security, the police have extensive authority and can use these authorities in the field of identity control in public places and streets in the fight against crime. Now the question that arises is to what extent is the scope of police authority in Islamic criminal policy. In other words, can the Islamic state police monitor public places and passages, like the Western police, in order to gain access to individuals' identities? Answering this question requires a brief examination of privacy from the perspective of Islamic criminal policy, and firstly, to what extent this privacy extends, and secondly, to what extent can the government allow police forces to monitor citizens, especially in public places.

The redefinition that some researchers have provided of the jurisprudential definition of privacy is very different from the definition of Western jurists, and if we were to examine, criticize, and conclude on them, more time would be needed, but given the limited time we have, we will limit ourselves to directly referring to one of the two definitions that are relevant to the subject of the discussion. For example, "Privacy is that part of every human being's life in which he enjoys freedom from legal accountability and punishment, and any decision-making about it, as well as information, entry, and monitoring of it, is exclusively at his disposal, and interference by others in it or access to it without his permission is not permitted." (Eskandari, 2010, p. 157) or "Privacy is a limit of personal life that is determined by law and custom and has no connection with the public in such a way that another's interference in it may hurt the person's feelings or humiliate him in the eyes of others as a human being" (Mousavi and Sarikhani, 2011; quoted by: Mansour RH Qamdel, 2005, p. 128).

Assuming that privacy is a set of conditions and circumstances related to an individual's life, No date, these conditions are also true in public places and streets. Because although people are forced to use public streets to carry out their daily tasks, and to travel to work and other places by public transportation, these are still considered part of their personal lives. Therefore, just as thoughts, beliefs, and issues of this kind fall within the realm of privacy, the identity of individuals, which is certainly a prominent part of their personal lives, also overlaps with and is directly related to their privacy.

Therefore, although the law on the Iranian Police Force approved in 1980 states in Article 3 that the purpose of establishing this institution is to ensure public security and comfort, and in Article 4, it lists one of its duties as monitoring public places and carrying out other matters related to the aforementioned places, it should be noted that, firstly, there is a fundamental difference between monitoring public places and related issues and monitoring the personal identity of individuals. Secondly, other relevant laws have clearly defined the scope of this monitoring, which in itself does not include the issue of monitoring the identity of individuals, with the exception of those suspected of committing a crime or those in a dangerous state.

With the definition of the scope of privacy and the fact that this privacy is not limited to the residence and personal living space of individuals; rather, even in public places, these individuals enjoy such privacy, and no one can enter it without prior notice and even monitor the identity of individuals who are part of their personal lives.

Referring to the sources of Islamic jurisprudence reveals that paying attention to privacy is of particular importance in the eyes of Islamic criminal policy. There are numerous narrations in narrational sources, many of which specifically prohibit other individuals from entering the privacy of citizens, especially in their homes and personal living spaces, and if a warning is of no use, the right of legitimate defense for moral victims is fully recognized, to the extent that in many of these narrations, even permission is given to the individuals themselves to personally approach them without filing a complaint in court, and any claim of personal or financial damages is considered irrelevant. The authentic narration of Muhammad ibn Muslim from Imam Baqir (AS) is one of those narrations that explicitly indicates the

criminalization of entering the area of privacy.[5] Islamic jurists, relying on this group of narrations, have issued fatwas that prohibit individuals from entering the privacy of others and consider it a crime. Qutb al-Din al-Kaidari believes that a person who intrudes into another person's privacy and loses his eye or dies as a result of his defense has no guarantee or expiation (Muhammad ibn Husayn, 1416 H Q, p. 511). This view is not unique to him, but has many supporters among jurists, and if we do not say that it is unanimous, it can be boldly considered one of the famous jurisprudence. Mohaqiq al-Hilli in Shari'a (1408 H Q, vol. 4, p. 177), AllamH Q al-Hilli in TH Qrir (1420 H Q, vol. 5, pp. 376 and 387), Mohaqiq al-Hilli in IdH Q (1387 H Q, vol. 4, p. 546), Shams al-Din al-Hilli in Ma'alem al-Din (1424 H Q, vol. 2, p. 519), all agree on this view. ShH Qid Thani also, in Masalak (1413 H Q, Vol. 15, p. 55), citing SH Qih Al-Halabi, while considering the defense of privacy as a forbidden act, places the view of the forbidden under this heading due to the commonality of the violation of privacy. This is while one of the contemporary jurisprudents, Muhammad Jawad Mughniyeh, quoting SH Qib JawH Qer, claims consensus in this regard (1421 H Q, Vol. 6, p. 295). Also, Muhaqiq Khoei, in addition to the narrations mentioned, claims that there is no disagreement among the jurists (1422 H Q, Musoo'H Q 41, p. 423).

Here, the question may be raised that the subject of the narrations and the views of the jurists only includes the place of residence or physical privacy, and that from a criminal perspective, but in police surveillance, this type of perspective is not the goal; rather, it is a surveillance that is carried out on the identity of individuals in order to control their behaviors so that in the event of violating laws and regulations or moving towards committing a crime, the police can quickly confront the crime and prevent possible damage to other citizens at risk. Therefore, this jurisprudential perspective cannot be considered a type of Islamic criminal policy in line with the limitation of the police's authority in the field of controlling the identity of individuals in public places and streets. In a brief answer to the question, it can be said that although the discussions in the narrations and jurisprudential discourses are mostly focused on the personal places of residence of individuals or their physical conditions, but considering the general rules governing the crime of any investigation into the private lives of individuals, which has Quranic roots[6] And his identity in public places is also included in this area, his place of residence or home and other such matters are not specific; rather, these have been raised merely as clear examples and instances of questions and answers from the referents. Therefore, considering the above Quranic generality and the above narrations, we conclude that the police in Islamic criminal policy, with the exception of special cases,[7] It is not authorized to control the personal identity of citizens and cannot monitor their personal identity by installing CCTV cameras[8]. Yes, what this military institution can and is allowed to do is control public places in order to prevent crime, which is clearly different from controlling the personal identity of citizens. In general, it can be claimed that the legislative criminal policy of Islam differs most significantly from the Western security-oriented policy and follows a very specific path.

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[5]«وَ رَوَى الْحَسَنُ بْنُ مَحْبُوبٍ عَنْ أَبِي أَيُّوبَ عَنْ مُحَمَّدِ بْنِ مُسْلِمٍ عَنْ أَبِي جَعْفَرٍ ع قَالَ عَوْرَةُ الْمُؤْمِنِ عَلَى الْمُؤْمِنِ حَرَامٌ وَ قَالَ مَنِ اطَّلَعَ عَلَى مُؤْمِنٍ فِي مَنْزِلِهِ فَعَيْنَاهُ مُبَاحَتَانِ لِلْمُؤْمِنِ فِي تِلْكَ الْحَالِ وَ مَنْ دَمَرَ 1 عَلَى مُؤْمِنٍ فِي مَنْزِلِهِ بِغَيْرِ إِذْنِهِ فَدَمُهُ مُبَاحٌ لِلْمُؤْمِنِ فِي تِلْكَ الْحَالِ...؛

The Imam said: The private parts of a believer are forbidden to a believer, and he said: "Whoever wanders from a believer's house, in such circumstances, both of his eyes are permissible for the owner of the house, and whoever enters someone's house without permission, his blood is permissible for the owner of the house..." (Muhammad ibn Ali ibn Babawayh Qummi, 1413 H Q, Vol. 4, p. 104)

[6]يا‌أَيُّهَا الَّذِينَ آمَنُوا اجْتَنِبُوا كَثِيراً مِنَ الظَّنِّ إِنَّ بَعْضَ الظَّنِّ إِثْمٌ وَ لاتَجَسَّسُوا...؛

O believers, beware of excessive suspicion, for some suspicions are sins, and some are not." (Al-Hujurat, 49:12)

[7]In Islamic criminal policy, the prohibition of surveillance and interference is limited to personal affairs and the lives of individuals, but surveillance and inspection are emphasized in matters related to the public security of society and exposing the rights of the general public to abuse and neglect... This view of Islamic criminal policy is in relation to interference in the personal lives of others by individuals or the state and sovereignty; this type of policy is also noticeable in criminal regulations, as, for example, in the crime of adultery, several conditions are mentioned for the execution of the sentence to execute the hadd, the absence of any of which makes the execution of the hadd impossible... (Seyyed MH Qmoud Mirkhalili, 2009, p. 244).

[8]For this reason, some researchers believe that "in Islam, it is not possible to determine an area in which the Islamic government is absolutely prohibited from legislating, or at least it cannot be claimed that all known instances of privacy in Western legal literature are also considered private in Islam. On the other hand, based on Islamic jurisprudence, all behaviors of citizens and their private lives will not be subject to interference by the Islamic government; that is, the Islamic government's approach to what is called the private sphere in the West is a special and specific approach." (Qiyasi, ibid., 255), the view of Islamic criminal policy in dealing with the private sphere is very different from Western criminal policy.

2) Security-oriented in the Field of Implementation

Another stage of security-oriented in the field of implementing laws and regulations. With the brief reference we had to the Western security-oriented criminal policy, it became clear that this theory has taken a different path from the very beginning and, in general, has tied the judge's hand in implementation; from the discovery, investigation and prosecution of the crime and the criminal offender to the process of considering the issuance of a sentence and the execution of the punishment. Whatever the legislator approves, the judge is forced to implement it and that's it. Of course, it should not be forgotten that although Article 1 of the Law of February 2, 1981, "Any criminal damage and injury to persons and property shall be prosecuted in accordance with the following provisions, the purpose of which is to protect the freedom of the individual, strengthen security, and combat crime, while ensuring the speed of the trial and the certainty of punishment," speeds up the process of handling criminal cases, according to Lazerge, "from the perspective of the efficiency of criminal policy, which is primarily aimed at (repression), it is reasonable to foresee general crimes (with criminal titles) in the law, but it is objectionable from the perspective of observing the principle of legality of crimes and punishments and the principle of narrow interpretation.. And the judge responsible for executing the sentences retained his previous powers for some sentences and some criminals - those who did not commit criminal offenses; But for other crimes and criminals - that is, the perpetrators of criminal offenses - this judge became a means for an administrative policy of execution and enforcement of guarantees of executions that he could no longer change based on the personality and signs of social receptivity of the different convicts" (Laserge, 2003, pp. 98, 101 and 105). In this case, the conditions of the execution state appear completely different and the judge's hand remains half-open both in the interpretation and issuance of the sentence and in the execution stage.

Now we must see how Islamic criminal policy has prepared the conditions for implementation and with what necessary mechanism it has welcomed it. Obviously, this stage is also designed differently in different chapters of punishments and in each one it has been separately coded and a roadmap has been placed on the judge's table. Since a detailed examination of all chapters of punishments requires more time and is beyond our working capacity, therefore, for the sake of brevity, we will have a brief look at part of the investigation process up to the issuance of the verdict and the implementation of some of the punishments.

2-1) The Process of Trial and Handling of Criminal Cases from the Discovery of Criminal Behavior to the Execution of Punishment

The handling of legal and criminal cases, since it deals with the execution stage, has a long process that takes a long time from the beginning of the lawsuit in the legal case to the issuance and then the execution of sentences, just as the story goes in the same way in criminal proceedings, and our main point here is actually the criminal trial process itself, which begins with the discovery of criminal behavior or the filing of a criminal complaint and ends with the execution of punishment. For this reason, Islamic criminal policy attaches special importance to the trial process in general. At this stage, we will briefly follow examples from the perspective of Islamic criminal policy in order to clarify what Islam's approach is towards securitization in the general execution stage.

2-1-1) Justice Is a Condition for Assuming the Position of Judge

The judge is among those who, due to his direct connection with the stages of investigation, issuance, and execution of sentences, are the most involved and perhaps the only element involved in this matter. The judge is the only one who handles all the ups and downs of judicial affairs. The fate of the rights of individuals and society is determined by the ink of his pen. Announcing an acquittal or issuing various punishments, including deprivation of life and deprivation of long-term freedoms, etc., all occur from the judge's judicial thoughts in the objectivity of society. Therefore, the policy-maker of Islamic

criminal policy has shown the greatest attention to this stage, to the extent that, in addition to the judge's benefiting from the necessary judicial knowledge in a specialized manner, he has considered having the characteristic and even the condition of establishing justice as a requirement for assuming the position of judge.

The consensus among Islamic jurists in jurisprudential sources indicates that the presence of the attribute or the queen of justice in a judge, which, according to ShH Qid Thani (may AllH Q have mercy on him), is specific to governments, policy-making, and resolving disputes (ShH Qid Thani, 1421 H Q, Vol. 2, 779), is a fundamental requirement. The support for this requirement is the emphasis of the Quran, which explicitly states: « وَ إِذا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ؛ When you sit in judgment between people, judge with justice" (An-Nisa' 58/4). The narration given in Tafsir al-Mizan under this part of the verse gives the meaning that security orientation has a special place in the criminal policy of Islam in the field of implementation. According to this narration, Imam Ali (AS) says: "The Imam is responsible for the orders he issues, in accordance with the divine orders, and thus returns the trust to its rightful owners, and only in such a situation will the people listen to the call of the Imam and the ruler and obey his orders."[9] Tabatabai, 1417 H Q, Vol. 4, 385). For this reason, the author of ManH Qil, in his first comment on the condition of justice for a judge, cites the consensus of jurists; rather, the consensus of the nation as evidence and believes that the place of judgment is a place of trust and an unjust person is not qualified to be in this position. He further quotes researcher Karaki regarding the necessity of a judge having the characteristic of justice, and considers the reason for this to be that a judge is a trustee of the religious and worldly affairs of the citizens and is responsible for the position of someone whose infallibility is the basic condition for being in that position, and an unjust person cannot be in such a position (Tabatabai Hayri, No date, 695 and 696).

The executive nature of this position and the sensitivity that Islam attaches to it have led it to consider the conditions from the very beginning and appoint someone who will make the least slip-up in all stages of the case, from planning and examination to issuing a verdict and its implementation, and who will not have the slightest intention of violating the rights of the parties to the case or the accused and even those sentenced to suffer damages and punishment.

From the perspective of Islamic criminal policy, "the best means of strengthening the social structure that inspires freedom and equality is to make citizens pay attention to their legitimate rights and to deliver these rights to their original owners" (FadlallH Q, 1399 H Q, p. 207), which is the implementation of justice that has its roots in attributing this inner characteristic.

Therefore, it must be stated clearly that this type of view from the perspective of Islamic criminal policy towards the issue of security, safeguarding and delivering trust to the original owners and justly defending the rights of all citizens, judicial dealing with legal and criminal phenomena at the level of society, is the only specific approach that looks at the issue of security with a transcendental view. It is repeatedly emphasized that the exceptionality of this type of view on security goes far beyond the type of view of Western criminal policy on security. Regardless of what happens in practice and what method is used to recruit judges in the judicial systems of Islamic countries today, the practical plan for the systematic selection of judges in Islamic criminal policy is very precise, expert and up-to-date.

2-2) The Conditionality of Justice for Witnesses

Witnesses play a fundamental role in discovering the truth and administering justice. The effective functioning of this institution is so great that even today, despite the rapid and extensive advances in modern knowledge in the field of discovering criminal behaviors and evidence to prove a case, the use of testimony in courts continues to be the mainstay, and no criminal policy institution or criminal law code in the procedural section can be found that considers itself without the need for this

[9] عن علي بن أبي طالب قال: حق على الإمام أن يحكم بما أنزل الله- و أن يؤدي الأمانة- فإذا فعل ذلك فحق على الناس أن يسمعوا له- و أن يطيعوا و أن يجيبوا إذا دعوا.

structure. From now on, we can boldly claim that no matter how much human knowledge develops, the need for judicial systems for the institution of testimony will remain constant. The emergence of new industrial technologies, although intelligent and capable of replacing humans in many areas of life and work, will never be able to fully expand their dominance in the field of providing correct testimony in courts, and in this case they will face many challenges that if we were to examine them, we would stray from the purpose.

Unlike the Western security-oriented criminal policy, which allows the judge to use the testimony of even ordinary people in the investigation stage, along with other so-called scientific evidence to discover a crime, the approach of Islamic criminal policy is that the judge cannot trust and give effect to the testimony of any individual, even from outside the judiciary in the form of a purchase by the litigants. Regardless of the fact that in Islamic criminal policy, scientific evidence to discover a crime with all its mechanisms is given judicial validity, but special conditions have been considered for the presentation of testimony and the person of witnesses, and one of the most basic of these conditions is the characteristic of justice. Sheikh Ansari, one of the famous Shiite jurists, while considering justice in the witness as a condition, interprets justice as good appearance based on some narrations (Ansari, 1414 H Q, p. 39). Mirza Javad Tabrizi (No date, 430), Lankarani (1422 H Q, 650), are among the contemporary jurists who explicitly consider justice as a condition for a witness, and Seyyed Sadiq Rouhani (1412 H Q, Vol. 6, p. 244) and Seyyed Sadiq Shirazi, who also believe that justice is a condition for a witness, state that the testimony of those who are clearly not endowed with justice is not accepted (1426 H Q, Vol. 3, 217; Hamo, 1425 H Q, Vol. 2, p. 423). The basis and documentation for all these emphases are rooted in the Quran, in numerous narrations that have been collected in reliable collections of narrations and have been the subject of jurisprudential discussions and research.

In addition to the need for the witness to have the practical characteristics of justice, the distinction between different types of legal and even criminal cases in terms of the number of witnesses is another prominent feature of Islamic criminal policy, which shows that a specific number of witnesses has been considered in accordance with each legal or criminal case. For example, in financial matters, which are purely legal disputes, it is sufficient to present two people and sometimes even one witness, but in proving a criminal case such as theft, which involves financial matters and a criminal behavior, it has made the number of two witnesses mandatory, while in proving the crime of adultery, due to the importance and position it attaches to the public morality and morality of society, it has considered the number of four witnesses, as detailed in jurisprudential sources.

2-3) Immediate and Prompt Execution of Punishments

The final stage in the process of investigation is the execution of punishments. In all legal systems and criminal policies, the immediate and immediate execution of punishments has been accepted as a fundamental principle. If we consider Cesare Beccaria's Treatise on Crimes and Punishments as the first work of the realizationist school of thought, we undoubtedly understand the necessity of immediate execution of punishments and the function that he believes it can have in deterring potential violent criminals from committing crimes.

Regardless of whether the prompt execution of punishments is reserved only for hadd punishments or also includes punitive punishments, there is much debate among Islamic jurists and contemporary researchers regarding the use of the numerous narrations in jurisprudential sources on the necessity or permissibility of the execution of hudd punishments and related discussions, but overall it is certain that from the perspective of Islamic criminal policy, the execution of punishments that have been proven in a fair trial and in compliance with the necessary conditions is desirable; it is even a legal and jurisprudential obligation.

According to some scholars, “Based on customary beliefs and expectations of the execution of punishment, the prohibition of delaying the execution of the maximum penalty in a climate of protection

against the principle of certainty of punishment is understandable. The effect of certainty of punishment on its deterrence and effectiveness will be even greater than the severity of the punishment. Delay and postponement in punishment may distort the principle of certainty of punishment. Therefore, punishment should be executed at an appropriate interval after the crime has occurred." (NoorbH Qar, 1494, 348) From the perspective of the teachings of Islamic criminal policy, certainty of punishment and its deterrence are of primary importance, and delay in the execution of punishment can disrupt this principle and the function of punishment. Of course, it should be noted that "any expedient delay is not an example of violating the hadd and laxity and negligence in its implementation" (Hamo, 349). The certainty of punishment is jeopardized when delaying the implementation of punishment, whether punitivei or hadd, leads to the suspension of the punishment. As long as such a result has not occurred and, considering the conditions and circumstances prevailing in society, the convict, and the contents of the case, there is no significant difference, such a delay is not only not reprehensible; it is also desirable. The meaning of this statement is that the approach of Islamic criminal policy towards social security, especially in the field of implementing punishments, is more decisive and considers the rapid implementation of punishment as one of its basic principles, in accordance with the crimes and the general interests of society, the convicts, and the victims.

Conclusion of the Discussion

In summary, we have reached the following conclusions, which we will briefly mention:

In Islamic criminal policy, which takes into account the inherent goodness and ugliness of actions on the one hand and the legislator's precise and complete knowledge of human nature on the other hand, there are clear differences in the securitization aspect compared to Western criminal policy. The most obvious of these differences in the legislative stage, which is the initial step in establishing social and criminal regulations, is the scope of the judge's authority in determining the type, amount, and method of implementing punishments. Unlike the judge executing Western criminal policy, who, in accordance with the French Law of Security and Freedom, revolved around the illusion and general feeling of insecurity and crime and completely applied the set of criminal regulations with tied hands, in the Islamic legislative code, there is a difference between hadd punishments and punitiveat. In hadith punishments, the judge was not allowed to determine the amount and type of punishment, but in punitiveat, of course, he can, by observing certain conditions, in some cases, according to the type of crime and the personality of the criminal offender, punish him to a certain amount. Also, in Islamic criminal policy, in addition to having expertise in legal knowledge, the judge must also have another necessary condition called justice, otherwise his judgment has no legal value. Also, having this condition for witnesses, along with specifying certain statistics and figures for different crimes and cases, is another advantage of Islamic security-oriented criminal policy. In addition to all this, the immediate execution of punishments, which has been proven to be useful today in deterring criminals from the perspective of criminology, is based on observing certain interests, which the Islamic judge and legislator can act in this regard better than Western criminal policy.

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