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TÍTULO: La seguridad en las investigaciones policiales y judiciales en la legislación iraní se basa en la nueva criminología de los derechos.

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RESUMEN: La nueva teoría de la criminología de los derechos es un tipo de orientación político-económica que se ha vuelto criminológica. Esta idea surgió a raíz de la crisis financiera generalizada en Occidente, basada en políticas económicas neoliberales de los años 1970 y acogida por políticos de derecha, donde la criminalidad y la censura son reemplazadas por una política interactiva y participativa, siendo más probable que la participación del gobierno en la privacidad de los ciudadanos se ocupe de manera decisiva de los elementos abrumadores del orden social; eso con el objetivo de garantizar la vida, las finanzas y la dignidad de los ciudadanos y asegurar las instituciones públicas, viendo la prevención de la delincuencia solo a través de un procedimiento penal riguroso.

PALABRAS CLAVES: Nueva criminología directa, seguridad, investigaciones policiales y judiciales.

TITLE: Security in police and judicial researches in Iranian law is based on the New Criminology of Rights.

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ABSTRACT: The new theory of the criminology of rights is a type of politico-economic orientation that has become criminological. This idea emerged as a result of the widespread financial crisis in the West, based on neoliberal economic policies of the 1970s and welcomed by right-wing politicians, where crime and censorship are replaced by an interactive and participatory policy, and participation is more likely than of government in the privacy of citizens is decisively occupied with the overwhelming elements of social order; that with the aim of guaranteeing life, finances and dignity of citizens and ensuring public institutions, seeing the prevention of crime only through a rigorous criminal procedure.

KEY WORDS: new straight Criminology, Securityism, Police and Judicial Investigations.

INTRODUCTION.

Through the globalization of crimes and the flagrant violation of national and international security, global criminal policy seeks to ensure maximum security. The emergence of the category of security and the explanation of a different look at the criminal cycle has created a new discourse called securityism, and in a more general sense, a new knowledge called "security science". This discourse has given maximum attention to the fundamental concepts of security and the peace and tranquility of the citizens (Najghi Ebrahbandadi, 2014).

Today, governments, based on crime control and risk management, intensify their criminal policies, and in the midst of justice or security, have established their policy on security and risk management. Decisions on crime control and risk management have certainly shone on criminal law and has had

a special impact in policing and judicial investigation of crimes and punishments and how to deal with delinquents. In some cases, it has undermined the principles of fair trial.

Based on the views and beliefs of the formation of this criminal policy, the concepts of crime and diversion, and government responses, will replace social responses. The feedback and practical effects of this attitude toward the criminal phenomenon have reduced the interactions between government and civil society to a minimum level in the context of the security agenda in the community context and it lowers the participation of the social system in criminal policy, in this way, the repressive criminal responses, as the lever and the executive arm of security, are imposed on the structure of the criminal justice system (Najghi Ebrahbandadi, 2014; Ardakani et al, 2015).

The security of the criminal policy, followed by the rigor of the criminal justice system, has penetrated the entire fabric of the criminal policy and made it a completely different place that the criminal policy formed on the basis of it goes out of its original direction so that at one point the deviations may become a crime, and government responses will replace social responses (Ghanad & Akbari, 2017; Ingavale, 2013).

Problem statement.

After the first and second world wars in the 1930s, due to the severe damage that countries had suffered at various levels of economic and social development, government structures were significantly altered, and governments with controlled and centralized economic systems in Europe and the United States were formed.

By restoring their mother industries and nationalizing them and trying to repair damaged tissues, these governments tried to increase their income, along with tax increases, and by using such resources, they began to create welfare systems for low-income groups; however, factors such as the weakening of American domination and authority, civil rights movements, street riots, the Vietnam War and protests against it, and the increase in crime rates, the establishment of OPEC and the Arab-

Israeli war, which imposed heavy charges on the US government, caused the US government, and consequently, US economies, as European countries, faced a recurring financial crisis in the 1970s. As a result, economic thinkers such as Milton Friedman, August von Hayek, and so on, emerged from the crisis and attracted the most from capital and reduced public spending, based on the principles of neoliberalism, which was considered by many right-wing politicians.

The United States, England, and gradually other countries have undergone structural changes in their economies based on new economic ideas (Birch & Khonenko, 2010; Bin Madasa et al 2016). Its main focus is the negation of the market power and police surveillance of the state, on all areas of economic activity, in order to ensure fair competition and to prevent any unpopular competition in the market.

By applying neoliberal policies and orienting governments to capitalist systems, vulnerable people who suffered from economic and social weaknesses, in response to the status quo, resorted to behavior and speeches, which had been criminalized by the supreme capitalist regime. This group of protesters was introduced by the ruling system as a threat factor, and while governments were required to provide security for maximum profitability and profitability, they needed security of supply, therefore, the underprivileged and vulnerable class was carefully monitored and suppressed and the purpose of punishment was changed in this political-economic strategy and other modification, treatment or adaptation of social response was not the amount of the fault and the outcome of the individual, but the social reaction was the means of social management for controlling and suppressing high-risk groups (Kurmanali et al, 2018; Oliveira et al, 2018; Kenan, 2018).

These major political, economic and inefficiencies of the reform system, the treatment of reducing crime rates, have caused the criminal justice system to be criticized by neoconservative and right-wing parties, which is why the limited budget of the criminal justice system is spent on them. There

is no hope of reforming them without reducing the crime rate! Therefore, they demanded the consolidation of the security system and the proclamation of the security system in the face of delinquency.

The idea of a new right criminology is based on two important points: a. Placing the responsibility for the crimes directly on individuals and reaffirming the importance of penalties in responding to crimes, b. Emphasizing the focus of the individual in society and paying attention to the criminal liability of the offender and his accountability to the offender (Babaei & Ansari, 2012). This approach is opposed to the idea of social defense, and dismisses the views of thinkers such as Filippo Gramattia and Marc Ansella, who are based on the socialization of the perpetrators and pursuit of their medical and educational goals by the state (Roberts et al., 2013) and a reformist attitude towards the perpetrators of change with the aim of guaranteeing the lives, finances and dignity of citizens, on the one hand and the security of public institutions on the other hand, relying on popular policies, it is possible to restrain crime only through a rigorous criminal procedure, in its broadest sense.

From the perspective of neoliberals, reform is the source of discrimination and injustice. Therefore, it is time that correction and treatment are abandoned and replaced by a "justice-centered" model. Therefore, following some of the political foundations in some legal systems has led to the formation of rejection measures such as "statistical justice". These political foundations, which mainly include "neoliberalism" and "neoconservativeism", have emerged in opposition to welfare policies and referred to "New Right Criminology." and often looking for a direct responsibility for crime, it is the responsibility of the perpetrator and the re-emphasis on the importance of punishment in relation to crime (Wight & Fiona, 2010).

In this approach, the perpetrator is excluded from society on the basis of his moral status. Such strict criminal procedures are shaped by certain intellectual and political foundations (Kemshall & Wood, 2007) In the eyes of the neoconservatives, the government must enforce severe and harsh executions

against the perpetrators. So what has actually happened about neoliberal and neoconservative politics is the combination of two types of politics and the formation of a so-called "new right" policy. The "new right" is economically neoliberal and it emphasizes economic freedom, tax cuts, free markets, and limited government. But morally, culturally and socially, it is neo-conservative, and protects the religious principles in society from the maintenance of natural inequalities, a strong government.

On the new front, the government will be economically small, but it will be politically and secured by order and security. Like many developing countries, Iran, as a result of the globalization process, neoliberal policies and structural adjustment in various states, have put their economic strategies at the top of their agenda, and political parties have supported this trend. The penal policy of the country, in line with the general policy of the state, has been affected by disruptive factors influenced by the ruling political atmosphere, with a securityism approach and intensity of action.

The importance of the subject and the necessity of research.

The new right criminology implies the view that individuals are committing crime commensurately and wisely, and all of them have freedom of will; therefore, the punishment must be so severe and deterrent that the power of parental separation from the offender and the criminal opportunity never emerge.

This thinking always calls for more severe and violent punishments, and the criminality and rigor in it will replace the interactive and participatory policies. In this strategy, we often see the violation of the rights and freedoms of the accused, in the legislative, executive, investigative and judicial process, and in questioning the principles of fair trial. Therefore, this was the motive for the author to examine and analyze the dimensions of this thought of criminology and its pathology, and strategies for modifying a rigorous approach to protecting and protecting citizenship rights.

Examples of Securityism in preliminary studies.

Iran's legislator, with religious and sometimes security principles, has, in addition to repeated denunciations, has used other mechanisms to narrow the rights and freedoms of the defendants in the process of police and judicial investigation, in line with the policy of denial of tolerance.

Iran's criminal justice system, like many countries based on the system of written rights in preliminary investigations, follows a system of audits and at the trial stage of the criminal system, in this way, in the preliminary investigation phase, the pursuit and investigation is carried out secretly, in an open and written manner, In addition, the investigative authority has the power of inequality to the accused, and in some cases this inequality will lead to a violation of legal rights in the process of prosecution and prosecution and will question the concept of fair trial. However, the criminal law of each country represents the extent of its development and progress towards the realization and protection of human rights and values and it has to prevent any possible violations of the rights, defense and freedom of the citizen.

Stringiness of custodians to maintain order (law enforcement).

The criminal justice system plays an important role in security after the legislative system. Judicial authorities, in particular the police, the prosecutor's office and the courts, are among the caretakers of the criminal justice system, which are involved in the elaboration, implementation, and implementation of well-documented criminal law. Therefore, one cannot ignore the role of the criminal justice system and its custodians, the police and judges in dealing with criminal or pseudo-criminal phenomena.

In recent years, the Police Organization in Iran, with a rigorous approach to some behaviors, has shown the effects of zero tolerance policy. For some, the "Social Security Promotion" scheme can be a stroke of this rigorous play, so we look at the implications of this view. Among the various stages of the proceedings, the prosecution stage is the most important, since at this stage the

prosecutor, with his subordinates, has been collecting evidence against the accused and laying the foundations for his probable conviction.

The Iranian security forces, as an important part of the country's political system, have a major responsibility for domestic security. The Islamic Republic of Iran's law enforcement force was established by the law, enforcement law of the Islamic Republic on July 20, 1990, from the integration of the police, the Islamic Revolutionary Committee and the Gendarmerie, and according to the law, 26 missions have been defined for the police force, according to paragraph 8 Article 4 of this law, one of the most important is the existence of a judicial system in the pre-trial phase.

Among the duties assigned to the law enforcement force by the judiciary, is "crime prevention, the fight against vices and corruption, the arrest of the accused and the perpetrators", and, on the other hand, supervision of the defendants in accordance with Article 19 of the Criminal Procedure Code of 1999 and Article 28 of the law of 2013, is the responsibility of the prosecutor of each city (Salar Kia, 2007). In this way, the law enforcement force in Iran continues to operate with two law enforcement functions. Perhaps the recent approach of Iranian law enforcement to protecting urban security is described in compliance with the policy of intolerance. In this view, the reduction of crime rates has been emphasized as a result of dealing with behavioral crimes, such as ill-treatment. So, in the case of the harassment of women, dress and makeup of the victimized women have been described as the most important reasons.

The "Social Security Promotion Plan", called the Guardship of Guidance, is the enforcement program of the law enforcement force in 2007, which was implemented in line with the resolution of the Supreme Council of the Cultural Revolution, entitled "Comprehensive Chastity Plan". The first steps of the project focused on women's clothing, and in the next stages, the gathering of addicts and then the gathering of thugs, inspection of workshops and clothing stores and men's hairdressers,

photography and ... were also on the agenda of the law enforcement; the implementation of this plan has had a lot of responses and, in many cases, it was faced with the resistance of citizens.

During the implementation of this project, the police banned various types of clothing and makeup, and prevented the production, import, sale and use of it, and took action to remind or arrest and transfer people to police stations and file a lawsuit for them. This bill is a social plan that is designed to promote social security in line with goals such as increasing citizens 'sense of security, decreasing the prevalence of social exclusion and disturbances, increasing citizens' satisfaction from NGOs, reducing protest actions, increasing dignity, the dignity and authority of the police force, the purification of the capital of the Islamic Republic of Iran from the occupations, increasing the spirits of vitality and happiness, performing intrinsic missions and providing a context for growth and personal and collective progress and achievement. Following the implementation of this plan, many legal and legal persons, as well as the mass media, have taken a stand against this plan and criticized it from various angles.

To this end, in 2007, a research-based research methodology was conducted by the Police Chief of Tehran Province, with the aim of assessing the level of people's trust in the police and its reflection in society, reducing crime, increasing police satisfaction, increasing popular participation, increasing police authority, increasing the sense of security, the rule of law, and so on with the population of 440 thousand inhabitants and businessmen of Karaj.

The data collection tool was a self-made questionnaire with 32 questions about the project "Promoting Social Security". The result of the research suggests that the sense of security of the people as the first presumption has increased since the implementation of the said plan and the amount of crimes committed during and after the implementation of the plan, and the participation of the public and the satisfaction of the upgraded police and as a result, police authority and people's legitimacy after the implementation of the plan are increasing (Abdi et al, 2008).

According to critics of the security forces, who design and implement a social security promotion plan, by identifying examples of disruptive social security behaviors as criminal behavior, it has promoted this institution from the status of "judicial remedies" to "legitimate status" while determining criminal behavior is only the legislator's competence, not the law enforcers. The manifestation of rigorous criminal law in Iran's judicial system, mainly in the form of expediting the proceedings, limiting the defendant's defense rights, limiting appeals, rigorous issuance of a sentence, disclosing the names of defendants, and emphasizing the public and demotion of punishment, along with the rejection and humiliating the prisoners.

This interpretation and interpretation of the outcome of this project is worth considering, maybe bad veiling or bad cover does not directly disturb public order and people's security, but in fact provides the context and conditions for the growth of crime and crimes against women, we live in an Islamic society and we chose the religion of Islam, so we must adhere to the teachings of this religion, certainly, the issue of the freedom of individuals in the community and the prohibition of the discovery of opinions or the prohibition of the entry into the privacy of individuals is one of the main categories established in the Islamic Republic system; however, the rights of individuals must be accepted, and the rights of the community mean the rights of the majority of individuals and the freedom of individuals is bound to be respected so that they cannot be harassed by others.

The person who accepted the Islamic system as a ruling system and lives in Islamic society has the right to be far from the manifestations of western culture and tolerance and indifference in the type of dress and makeup and indiscretion of the type of relationship between men and women in society, and protest against these abnormalities and address community leaders that why they do not react to the growth of non-religious and non-Islamic manifestations in society. Why do we insist on introducing this plan as non-expert and rigorous and against the security of the people? Critics are convinced that the organizers of the project, based on surveys they conducted, spoke of the support

of the majority of the people for implementing such a plan; therefore, the implementation of some programs, such as the so-called "Social Security Promotion", has only been carried out based on surveys and in-house findings and their details have never been available to the public and after a while they are being spoken about the success of such designs and the satisfaction of the people, but this claim is not accepted, has there been a ban or limitation on the study of the issue by non-governmental organizations, evaluations by trusted institutions cannot be considered biased and out of neutrality.

According to critics, the political and security perspective and the violent confrontations in this plan, not only cannot solve the social problems of Iran, but because citizens of the community are not helped to solve social abuses, it is itself prone to the formation of more problems. Perhaps security is fast in response, but it does not seem sustainable.

Attention has not been paid to the cause or causes of the crime that led to insecurity and so, people's dissatisfaction with the misuse of the defendants on the pretext of combating delinquency is provoked and so, the government itself is the cause of the loss of security feeling among the people.

Temporary arrest.

The priority of community security on the release of high-risk groups requires that new criminals identify high-risk suspects and detain them from the community until they are tried. Therefore, this agreement, which is aimed at securing presence, is also used for security purposes.

Pre-emptive detention, like the selective disability policy, condemns and separates high-risk offenders from other community members, makes them incapable of committing a crime until the time of the trial (Hosseini et al, 2012). Therefore, the concept of risk has led to a procedural approach in which it is not necessary to prove the desirability of individuals for detention; fear of danger justifies a person's dangerous prediction of his arrest. The disabling project is attempting to manipulate the public as a mass population and, by identifying the most perilous categories of

perpetrators, disable them under a temporary detention order. In this approach, the objective of providing alternative behavior is not the result of rational calculations by individuals, but rather the objective of controlling a dangerous population by imprisonment, delinquency through the development of regulatory networks, including simple monitoring and intensive monitoring of criminals and suspects. The perpetrators are monitored by police, financial, economic, educational, cultural and administrative control networks, the main purpose of such networks is to prevent the repetition of crime through the abandonment of criminal opportunities.

The circumstances of the accused in detention are more severe than those who hold the prison as a legal offense for committing an offense, as the accused in temporary detention cannot enjoy the possibility of working and the probationary release.

Establishment of interim detention is one of these cases in Articles 32, 35, 36 and 132 of the Criminal Procedure Code of 1999 and Article 217 of the Criminal Procedure Code of 2013, which is the most intense act of judicial authority in order to gain access to the accused. According to the recent law: "In order to access the accused and his timely presence, preventing the accused from fleeing or hiding and guaranteeing the rights of the victim to compensate for his losses, the investigator, after hearing the charges and the necessary investigation, if there are enough reasons, issues one of the following deals: .....Also, according to Article 226 of the Law: "An accused who has been ordered to pay a bail or a bail in order to introduce a bribe or deposit a bail to a detention center; however, in case of arrest, the defendant can protest the verdict of the interrogator for ten days from the date of the announcement, against the principle that the arrest or non-acceptance of the guilty party or the bail will be objected"; therefore, in the former law, the extension and maintenance of the arrest warrant (bail or bail) was objectionable to the court, however, in the present law, if the charge of providing security (bail) is initially charged with arrest, it can also be appealed to the court.

Meanwhile, in Iran's criminal justice system, cases of interim detention, whether voluntary or compulsory, are not taken into account during the period in which initial investigations are to be completed. Also, the prohibition of temporary arrest in short-term imprisonment has not been considered by the legislature, and in practice, the arrest was not justified (Article 38 of the Criminal Procedure Code of 1999) (Ashouri, 2007).

Another important argument, the lack of anticipation of the rules on compensation for uninvolved detainees was in the Criminal Procedure Code, the municipality only spoke in Article 58 and 14 of Law 1999 in a general and vague way of compensating for the loss of life and the restoration of dignity. According to this article: "A worker may demand compensation for all material and spiritual losses and possible benefits of the crime". Note 1: "Harmful harm is a mental injury or damage to personal dignity and personal, family or social credence". The court can, in addition to issuing a warrant to compensate for damages, order the removal of damages in other ways, such as the obligation to apologize and insert a sentence in a sentence and the like. "This generalization is likely to raise some questions, including whether the father could be a plaintiff in the province of his daughter in the absence of chastity crimes? And whether the husband or wife are the plaintiff or one of the offenders to be the offender? It seems that in case of complaints by the husband or the woman against each other, they are still not authorized to investigate and prosecute, and they will only be the offenders against each other.

According to Article 255 of the Penal Procedure Code 1392: "People who are detained in the course of preliminary investigations and prosecution for any reason and are issued by a judicial authority, a court of law or prosecutor, can claim damages from the government in accordance with article 14 of this law".

According to articles 32 and 35 of the Criminal Procedure Code of 1378, prosecutors prosecuted with the authority to expel it, claiming to avoid collusion with other defendants, or intimidate or escape or hide. In this way, interim detention in Iran seemed to be used as leverage by judges of the investigation stage against the accused. Articles 217, 237 to 242 of the Criminal Procedure Code of 2013, have made the issuance of temporary interim detention a very limited and minimized requirement.

According to Article 237, "The issuance of interim detention is not permissible except in the following crimes, in which reasons, indications and emirates sufficiently indicate the charge of the accused:

A. Crimes that are punishable by deprivation of life or amputation and in deliberate crimes against physical integrity, crimes that amount to a third of the total amount of dishonest crimes against or over.

B. Sanctions of Grade Four and above.

C. Crimes against the internal and external security of the country whose penalties are five degrees and over.

D. To harass and harass women and children, and to pretend, punish, and harass persons to be executed by knife or any type of weapon.

E. Theft, fraud, bribery, embezzlement, betrayal, forgery or use of a document other than in accordance with paragraph (B) of this article and the accused has one final conviction for committing any of these offenses. Note: Provisional interim detention, the subject of certain laws, except for the laws on the crimes of the armed forces since the date of entry into force of this law is abolished".

According to Article 238 of the Law: "The issuance of interim detention in the cases referred to in the preceding sentence shall be subject to the following conditions:

A. The accused person causes the destruction of the works and evidences of the crime or the collusion with the other defendants or the witnesses and informs the incident or cause witnesses to refuse to testify.

B. The fear of escaping or hiding the accused and cannot be prevented by any other means.

C. The freedom of the defendant to disrupt the public order would endanger the plaintiff, witness or his family and the accused himself".

Therefore, in the recent law, contrary to the law of 1999, the issuance of temporary interim detention in certain laws, as part of the law on the crimes of the armed forces, has been abolished, in addition, in the case of licenses: the rounds are foreseen only for specific crimes, at the same time, the provisions of Article 238 of the law must also be considered for these crimes.

The zero tolerance policy can even be seen in the literature of the prosecutor's office in Iran; the prosecutor also deals with the creation of criminal offenses, as well as talk of the exile of the convicts of Article 638 of the Islamic Penal Code (Section of Sanctions) in 1996. However, in Article 2 of the Act, the lawmakers have emphasized the principle of the legality of crime and punishment.

Indifferent attitude to the presence of a lawyer in the proceedings.

The most complex and sensitive stage of the trial is the interrogation phase, investigation and prosecution. In the interrogation phase, the inequality of the psychological position of the interrogator and the accused, as well as the important thing that the interrogator knows what he wants to do and what he can do, and what words the accused can make him feel comfortable with, but the accused is deprived of these advantages.

In 1999, when the Criminal Procedure Code was approved in a test case, legislators were expected to consider legislative developments in criminal proceedings to protect the right to defense, and in particular the right to choose a lawyer and explicitly orders the investigating judge (investigator) to accuse him of the right to be heard, but not only was the topic of the investigating officer's duty to

declare the right to have a lawyer investigated, he was forgotten, but with the constitution mentioned in the note of Article 128 of the 1999 Law, the attorney's role at the investigation stage was reduced to a degree of discretion.

Interpreting Article 35 of the Constitution, the actual presence of a lawyer was merely a matter for the trial stage, and the preliminary investigation phase was removed from the scope of the said law. Thus, the judge could have interpreted the word "confidential" under any heading of the criminal law, and the term "corruption", whose scope or scope was not defined, prevented the presence of a lawyer in the investigation.

Although the legislature, in revising this view, in paragraph 3 of the single article of the law on respect for legitimate freedoms and the maintenance of citizenship rights approved in 2004, regardless of its enforcement, recommended: "Courts and prosecutors are required to observe the right of defense of the accused and the victim of anonymity and provide them with the opportunity to use their lawyers and experts". Five months after the adoption of the recent law, in clause 7 of Article 130 of the Law "Fourth Plan of Economic, Social and Cultural Development of the Islamic Republic of Iran", adopted in October 2004, again the presence of a lawyer is to be reminded at all stages of the proceedings, including investigations, proceedings, and enforcement of judgments, except in cases where the subject is of a confidential nature or the presence of non-accused judge is corrupted. As a result, in Iran's criminal justice system, some of the defendant's rights are not fundamentally or foreseeable, or in a vague, inadequate situation with a variety of interpretations and tastes.

The limitation of the rights and freedoms of individuals, in the laws of Iran, is sometimes observable. Previously, in Articles 32 and 35 of the Criminal Procedure Code of 1999, the prosecutor completes the case by charging the accused without permission to meet with a lawyer, arrests him and, with the help of the defendants under his embarrassment, without the permission of the accused lawyer

to freely access the file information, he then filed the case, announcing the end of the investigation and issuing the indictment.

At the trial, the prosecutor's or his representative's statements were heard first, the defendant's complaint to the defendant was then heard, and finally, the contents of the indictment and the reasons for the accusation were heard and his statements and defenses were taken, either accepting the accusation, or rejecting the charge, provided sufficient evidence of his innocence.

This topic is noteworthy, sometimes the type of accusation, the detailed description of the indictment, and sometimes, the statements of the prosecutor's representative, the victim's cry and stroke, and of course, the criminal records and the appearance of the swindler leads the mentality of the judge of the defendants to blame the them, before hearing their defenses, or examining the evidences, and suppresses the assumption of innocence in a fair trial.

While it is necessary to be careful, the indictment should not exclude the judge from neutrality or creates the default or criminal mentality for the judge, because the accused may invoke self-defense for some reason, which requires review by the judge, or summoning another person, or even new indications, but the judge of the court, with the same mental assumption and the notion that the accused is trying to get out of court and distract the case, or denigrate the prosecutor's case and of course, the prosecutor's telephone conversations about the issue and frequent visits by the family and victim's relatives (mother, spouse and children) are unaffected by this unfair direction.

This is especially true in offenses that are devoid of chastity, or crimes that are detrimental to security and public order, in this case, the defendant was present at the first appearance in the court, not as an opponent, but as a cruel and vicious offender and sometimes the judge will deal with him violently and the plaintiff also sometimes interrupts the accused with the accused by observing this adherent judgment of the judge; the judge also merely requests the complainants to calm him down and, of course, give the plaintiff the right to be so upset and nervous, the defendant is also thrown under the

scuffle, waiting for his conviction. This causes the judge to object to a rebate to provide or convert it and the accused is arrested while the defendant in custody is unable to gather the evidence necessary to prove his innocence and to bring it before the court. Although, despite the foregoing, there is no doubt about the legality of unconditional interim detention; however, the Criminal Justice Institutions have consistently emphasized the non-legality of many temporary arrest warrants.

According to the examples, it can be concluded that in Iran, it is not easy to talk about the policy of returning to punishment, nor can we speak of punishment, after the revolution, the concern of the drafters of the relevant laws was mainly the observance of Islamic and religious rules and regulations. Therefore, the laws and regulations adopted after the revolution in the field of substantive criminal law are typically far from scientific findings and are more representative of the attitudes and ideologies of the legislature of each period (Abdian Abadi & Elham, 2005). So that even about them, the term "ivory tower rules" - i.e. the laws of authoritarianism, which are adopted and ratified regardless of the country's sociological conditions and expert opinions, has been used.

Failure to declare the right to remain silent.

According to Article 129 of the Criminal Procedure Code of 1378, the defendant's right to silence is recognized in the Iranian judicial system, however, no charges were made against the defendant and the phrase "... the investigator reminds the accused to take care of his statements ..." has been used. In the poisonous matter, the assignment did not infer the right to silence.

In practice, judges of the investigation did not inform the defendant of the right to remain silent. On the other hand, under Article 24 of the Act, in cases of obvious crimes, if the defendants find that the defendant's detention is necessary for the completion of the investigation, he should immediately inform the accused in writing of the charge and can keep him under supervision for a maximum of 24 hours. While in Articles 46, 52, 86, 190 and 195 of the Criminal Procedure Code of 2013, law enforcement officials and judicial authorities were required to understand the defendant's defense

rights during his arrest (Rahmati & Rajabi, 2017). Article 46 "... If, in the evident crimes, the maintenance of the accused is necessary for the completion of investigations, the defendants must promptly and in writing inform the accused about the charge and the evidence... However, the defendants cannot observe the accused for more than 24 hours". Article 52 states: "If the defendant is being examined, the defendants of the judiciary are obliged to inform the defendant of the rights contained in this law in respect of the person under observation ..." Article 86 "In non-offenses under article 302 ... The prosecutor can ... arrange oral criminal proceedings immediately .... In this case, the court will meet without delay and inform the accused that he or she has the right to appoint a lawyer and provide a deadline for defense, which, if he so requests, be debarred for at least three days. The answer to this question and the defendant's response must be in the form of a court of law". Article 190 "The accused may have at least one lawyer in his preparatory phase. This right must be communicated to the accused prior to the commencement of the investigation by the investigator". Article 195 "The investigator shall immediately inform him of the charge and the evidence in advance of the investigation into the rights of the accused ..."

CONCLUSIONS.

The first achievement and result in the analysis and analysis of this intellectual trend is that it is provided in the context of the economic crisis, conditions and conditions. The paternalistic and security-oriented and intensive practice of criminal law, as a strategic policy, is the policy of criminal justice custodians, to this end, the stability and security of the economy and financial discipline in the community should be deployed. This rigorous and sometimes inalienable approach, in some cases, leads to a violation of the citizens' legal rights and freedoms and undermines the principles of fair trial in the legislative, executive, and judicial process.

Meanwhile, Iran, like many developing countries, has placed economic neoliberal economic policies in the prevailing economic crisis in its economic crisis and the country's criminal policy, in line with public policy, has been influenced by the ruling political atmosphere, with a rigorous approach to preserving the stability and security of investment and dealing with disruptive factors.

It seems that the trail of this intellectual trend in the Iranian criminal justice system and the choice and strategy of this economic policy has not been denied by the custodians, rather, it has been a deliberate, deliberate solution to the current situation.

The implementation of this strategy actually leads to the creation of a value system of capitalism and the splitting of society into two types of capitalist and laborer and adopting a rigorous and security-oriented approach is critical to confident investors to deal with disruptive and protesting individuals.

It should be noted, however, that the reason for the strictness of some of the approvals and security approach in the preparatory research is not solely limited to the effects of new right criminology and neo-liberal economic-political strategies, rather, it can be one of the justifications for such rigors, from other factors of securityism, populist and massist tendencies, and the effects of religious and religious principles on dealing with the phenomenon of crime. The strategy has used mechanisms to narrow the rights and freedoms of the accused, in the legislative and executive process, to strengthen the government's security system; therefore, it is advisable to seek solutions to adjust it based on fair trial principles. Some suggestions are as follows:

a. Reforming the view and changing the look of authorities, from capitalist policies, to internalize policies.
b. Reviving the judicial police in the police force.
c. Reducing criminal law intervention in social anomalies.
d. Correct the security look at social protests.
e. Manage media and penetration groups through timely notification.

It seems that if we were to say that this criminological thought in the Western countries was successful and effective in the field of executing criminal law, it is because of the type of political system and the different cultural context of the citizens of that society.

Now, if this theory in Iran does not go through the localization process, it will not necessarily be successful; therefore, before implementing a policy of maintaining order, the governing board must first provide an appropriate environment for access to economic, social and judicial security (fair trial).

BIBLIOGRAPHIC REFERENCES.

1. Ashouri, M. (2007). Prison Place in Contemporary Criminal Law. Proceedings of the Conference on Prison Retirement Custody Measures, Legal Fund Size, First Edition, pp. 45-62.
2. Ardakani, M. P., Lashkarian, A., & Sadeghzadeh, M. (2015). Words Without End: Translatability VS Untranslatability in TS Eliot'S Poem "Ash Wednesday". UCT Journal of Social Sciences and Humanities Research, 3(1), 40-51.
3. Babaei, M. A., & Ansari, S. I. (2012). Analysis of Crime Costs. Useful Letter, 94, 37-43.
4. Birch, K., & Khonenko, V. (2010). Beginning and doing Neo-liberalism: the collapse of an economic order. Z Books, New York and London, translated by Amin Ganji (). Economics, 2512(22), 123-143.
5. Rahmati, M. A., & Rajabi, A. (2017). Applied Analytic Discourse in Criminal Procedure. Tehran, Ava Publishing.
6. Hosseini, S. M., Saedi, Z., & Sadeghi, A. (2012). A Look at Conceptual and Functional Developments in Modern Pellology. Journal of Legal Justice, 79, 87-102.
7. Salar Kia, M. (2007). With different affiliates in the social security plan. Aftab Yazd newspaper, No. 2243.

8. Abdi, T., Amin Saremi, N., & Sa'edi, A. M. (2008). The Effect of Implementation of Social Security Promotion Plan on People's Trust in Police in the Central Territory of Karaj. Journal of Police Management Studies, 3, 32-53.
9. Ingavale, D. (2013). An impact of advertisements on purchase decision of youth with reference to consumer goods. Advances in management, 3(1),18-22.
10. Kenan, K. X. (2018). Seeing and the Ability to See: A Framework for Viewing Geometric Cube Problems. International Electronic Journal of Mathematics Education, 13(2), 57-60.
11. Ghanad, F., & Akbari, M. (2017). Criminal Policy Securityism. Criminal Law Research, 5(18), 47-61.
12. Abdian Abadi, A. H., & Elham, Gh. H. (2005). A Study of the New Directions of the Criminal System in Iran in the General Meaning and the Role of the Government Institutions in this Process. Interview with Trans. Hasbeh Journal, 7(8), 56-69.
13. Bin Madasa, A. K., Darmi, R. B., & Baharun, H. B. (2016). Exploring motivational factors in TESL through the lens of the self-determination theory. Humanities & Social Sciences Reviews, 5(1), 46-52. https://doi.org/10.18510/hssr.2017.514
14. Najghi Ebrahbandadi, A. H. (2014). From Critical Criminology to Criminology of Security. Criminology Courses, Ph.D., Criminal Law and Criminology, University of Shahid Beheshti.
15. Wight, R., & Fiona, H. (2010). An Introduction to Crime and Criminology. Translation by Mir Ruhollah Sediq Bhtohei Original, Third Edition, Tehran: The Judge's Publishing.
16. Kurmanali, A., Suiyerkul, B., Aitmukhametova, K., Turumbetova, Z., & Smanova, B. (2018). Analysis of the proverbs related to the lexemes "tongue/language". Opción, 34(85-2), 97-115.
17. Kemshall, H., & Wood, J. (2007). Beyond public protection: An examination of community protection and public health approaches to high-risk offenders. Criminology & Criminal Justice, 7(3), 203-222.

18. Oliveira, F. K. D., Oliveira, M. B. D., Gomes, A. S., & Queiros, L. M. (2018). Identifying User Profiles from Statistical Grouping Methods. Journal of Information Systems Engineering & Management, 3(1), 06.

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