

Analysis of Privacy Violations in Iranian Criminal Policy Models

Abstract

Privacy is the realm of every person's life that person expects not to be invaded in that area. The criminal response to a privacy breach depends on the value and importance that the criminal policymaker places on privacy. The state's movement toward security and authoritarianism is a major threat to privacy. Governments cannot violate the privacy of individuals on the pretext of preventing crime and establishing security. Therefore, the criminal policy of the Islamic Republic of Iran in the field of legislation, judiciary, enforcement, participation, and prevention against crimes committed through the implementation of various policies, and programs to protect privacy, but still faces challenges. Hence the problem of the present article is that; what is the position of the penal policy of the Islamic Republic of Iran towards crimes committed in private privacy? In this regard, the issue was discussed using the library method. Legislatively, the legislature has not provided the necessary protection, whether criminal or civil. From a judicial point of view, the lack of careful attention of judges and the macro-policies of the judiciary to the concept of privacy has led to the intractable interference of judicial officers in the privacy of individuals. In terms of implementation, the police should be prevented from intractably interfering in the privacy of individuals as executive officers. In terms of the partnership, there is a lack of a special, cohesive, and responsible public institution in the realm of public participation that can organize participation and coordinate with government institutions in the realm of privacy. From a preventive point of view, the government is forced to intervene in some areas of human relations to maintain security and prevent crime.

Keywords: Penal Policy, Privacy, Criminal Justice Act, Constitution, Islamic Republic of Iran.

Andisheh Reisi*

MA, Department of Criminal Law and Criminology, naragh Branch, Islamic Azad University, naragh, Iran. Email: Andishehr20@gmail.com

Shahid Shateripour Esfahani

Assistant Professor, Department of Criminal Law and Criminology, naragh Branch, Islamic Azad University, naragh, Iran. Email: shahidshateri@jri.ac.ir

Padideh Reisi

BA, Department of English Language and Literature, Sheikhbahaei University, Esfahan, Iran. Email: Padider194@gmail.com

Introduction

The consequence of the establishment of the Islamic Republic of Iran in Iran, as a governmental institution, based on the acceptance and separation of the three legislative, judicial and executive powers, was that a religious government with the guardianship and the religious and Islamic authority exercise authority, through independent and defined institutions. Among its consequences was the adoption of a parliamentary legislative system in the two longitudinal institutions of the Islamic Consultative Assembly and the Guardian Council of the Constitution. In this regard, many jurisprudential penal rulings in the form of legal materials were drafted in the official language of the country and were approved by the Islamic Consultative Assembly and the Guardian Council of the Constitution, and were documented by the judicial authorities. (Hosseini, 2004, p. 123)

Concerning the discussion about adapting the situation of the country's penal policy with one of the penal policy models, in addition to the fact that today it is emphasized and accepted that placing the current system of countries in specific models of penal policy is dominant and similarity of the main characteristics of a system to a specific model and there is always a tendency towards other tools within the systems themselves. It should be noted that with the position of the Constitution of the Islamic Republic of Iran, especially in Article 156 and other penal laws of the country, the response to crime has an official and governmental aspect, and prevention of crime is another aspect of the penal policy shall

be borne by the governmental and official institution (judiciary). Of course, over time, we are witnessing the growth of a kind of participatory penal policy in the form of popular institutions in charge of crime prevention and other institutions such as the Dispute Resolution Council and/or the jury in the country's laws (Shaykh al-Islami, 2001, 2001).

Several topics are related to government Executive policy in the prevention of crime. Because in every human society, different crimes are committed, conflicts and conflicts occur, and sometimes these events lead to revenge, aggression, and abuse. To maintain security and prevent crime, the government is forced to intervene in some areas of human relations. Since the purpose of developing and implementing preventive measures is to protect the integrity and dignity of the individual and not violate it, the use of various preventive techniques should be in line with the general protection of individuals. One of the most important of these protections is the protection of privacy.

Privacy is considered in the constitutions of Iran and various countries. In the Iranian Constitution, which is inspired by the Holy Quran and the precepts of Islam, although the word privacy is not explicitly mentioned, in the analysis of the discourse of some important principles of the constitution, special but insufficient attention of policymakers and legislators to the concept of privacy can be seen. Although the Iranian constitution does not explicitly use the term privacy, it can be interpreted that Constitution protects the privacy. In Iranian law, in the third chapter of the constitution, this is

related to the rights of the nation, this issue has been addressed by mentioning examples of privacy. Among principles 22, 25, and 24 of law, privacy has been considered more explicitly and principles 12, 13, 14, and 20 have implicitly dealt with privacy. With these details, the main issue of the present article is how to define and explain the "penal policy of the Islamic Republic of Iran against crimes committed in privacy." What is the position of the penal policy of the Islamic Republic of Iran towards crimes committed in privacy?

Research Methods

The present study is fundamental in terms of purpose and theoretical type. To collect information, the library method and filing tools were used, so the information was collected by reviewing books, articles, and Internet resources related to the field of penal policy and privacy.

The concept of penal policy

"Penal policy means the deliberate and thought-out organization in preventing crime, which the legislature has previously known as crime, and this prevention is carried out through various means and with clear goals. This is the definition of penal policy that is being used today." Based on this definition, it can be seen that this policy is different from penal policy. Because "Penal Policy is a set of penal law rules that organize the government's response toward crimes and offenders." Thus, it becomes clear that criminal policy includes both penal and non-penal instruments, while penal policy includes only penal instruments. This criminal policy has changed over the past decades in terms of meaning and concept for penal law thinkers (Najafi Aberandabadi, 1991-71, p. 63).

The definition that has been considered comprehensive and obstructive was provided by the French jurist Ms. Miri Delmas Marti, which is as follows: "A set of methods by which the social body (community body) organizes its responses to the criminal phenomenon." (Iranshahi, 2010, pp. 51 and 52)

The concept and nature of privacy

In the national and religious culture of Iran, which is derived from Islam and is influenced by the law of revelation and is in line with human nature, while defending and protecting human privacy, any analysis, interception, or attack on the privacy of individuals based on the humanizing words of the Qur'an and Hadith - is forbidden and contrary to the Shari'a and is insisted on as an important moral principle in the Holy Qur'an in Surah Al-Hujurat in verse 12 it is pointed out to the privacy.

O you who believe! Avoid any suspicions, because some suspicions are sinful, and never spy (in the work of others) and none of you gossip about the other (Bahrami, 2009, pp. 9 and 10).

In one definition, "privacy is a pervasive concept that encompasses, among other things, freedom of thought,

controls the privacy of the individual and the privacy of the home, examines other information; it also includes the release of spies, the protection of a person's reputation and the protection of investigations and inspections." (1088, 2002, solve)

The most comprehensive definition of privacy is: "The realm of a person's life in which he or she typically and traditionally expects others not to have access to information about that domain without his or her consent or to do not enter that realm, or look at that realm, or monitor it, or otherwise to invade it. Private homes and places, people's bodies, personal information, and private communications are the most important examples of privacy. Unauthorized access to private homes and places, physical checkpoints and body searches, interception of conversations and communications, access to personal information "Disclosure of private issues in society, interference in the affairs of others, and monitoring of individuals are also among the most important examples of privacy violations." (Ansari, 2007, pp. 38 and 39)

Violation of privacy in Iranian criminal policy models

Iran's legislative criminal policy and violation of privacy

In value analysis, the laws governing society are divided into three categories: 1- Value-based laws, which determine rights and duties within limits and values and based on them. 2. Facts-based reality, which regulates rights and duties within the limits of objective facts and the normal requirements of society. These objective facts and requirements are rooted in the national beliefs and habits of the people or are rooted in the new requirements of society. 3- Laws that have a mixed texture of values, facts, and requirements, such as the criminal laws of Iran.

It is necessary to mention that constitutional and civil laws protect the rights of citizens and penal laws have a protective role by resorting to executive guarantees, so penal law represents a part of society's values. The basic premise is that this support should be to preserve the public and popular values of the people and not to pay attention to one class so that it can be accepted by the people and enjoyed by the people and turn away from violating it. And this does not mean that there is no absolute criminal protection of values. In other words, it is not permissible to commit a crime that is against the need for justice for the majority of citizens (Mahmoudi Janaki, Bitá, pp. 178 and 179).

Freedom is one of the most precious human rights, a feature of early societies in its freedom. The necessity of forming a society and establishing a social pact required the transfer of part of this freedom to society, but this does not mean the unlimited power and authority of the representative of the public will. It is true that to establish order in society, some requirements must be set and some freedoms must be restricted. But the criterion for restricting freedom is self-

liberation. Freedom must be limited for freedom (Davoodi, 2006, p. 24).

But the question is, can the legislator consider crime any action he wishes? The first answer that comes to mind is to pay attention to the rights and privacy of individuals. Therefore, the first obstacle for the legislator is the sanctity of individual freedom and privacy of individuals. But the need to maintain public order and organize the relationships of individuals in social life requires restricting these freedoms. This is where specific criminal law and public criminal law provide the basis for respect for individual freedoms (privacy), justice, and social security (Davoodi, 2006, p. 2).

The most severe form of reaction to behaviors that disrupt public order is the penal response. General criminal law, on the one hand, and specific criminal law, on the other, define the boundaries between the realm of liberty and criminal requirements. The basis of the operation of these two fields of law is based on the "legal definition of crime". A crime is an act for which the legislator has imposed punishment. So far, by joining the social contract, individuals have accepted that some acts against social order can receive a criminal response, but the discussion is about determining the examples of these behaviors and drawing the line between criminal behaviors and criminal charges. "Exclusive criminal law, which is the law of punishment, has always moved towards restricting the realm of liberty, and public criminal law is a regulation designed to maintain respect for freedoms to limit the boundaries of exclusive criminal law, and in this regard," It relies on "necessity", "justice" and "law". It is important that extremism in resorting to the function and role of each of these two legal fields, and in a first way in both of them, has subjected freedom to anomalies and instability (Davoodi, 2006, pp. 24 and 25).

Iran's criminal justice policy and violation of privacy

The role of a judge in the criminal procedure of the Islamic Republic is to establish the occurrence of a crime and its application to one of the special or general penal laws and to determine a specific punishment or punishment from the types or amounts of punishment provided by law or law. The existence of "analogy" as one of the sources for inferring the verdict in some schools of Islamic jurisprudence and the existence of "ta'zir" as a punishment assigned to the ruler cause the emergence of this notion among some foreign writers who lack sufficient knowledge of Islamic criminal policy that a judge can criminalize (punish) an act and punish it as he wishes. In the ta'zir system, the judge does not commit crimes and punishments arbitrarily and can only identify and evaluate the individual circumstances and circumstances of the previously committed crime and from the types and amounts of punishments provided in the Shari'a, to rule on the type and amount of appropriate and proportionate punishment. In

practice, in the penal system of the Islamic Republic, due to the lack of judges with full knowledge of the Shari'a (Mujtahid), the powers and competencies of "authorized" judges are limited in legal matters related to canonical punishment, and the judge only has the right to consider the criminal punishments or stated in the Shari'a, to rule on the types and amounts authorized in the Shari'a law and, following principle 166 of the Constitution and Article 214 The procedure of criminal proceedings, the verdict of the court must be reasoned and justified and documented by law or sharia. Therefore, the judge is not allowed to issue an "arbitrary" sentence at the sentencing stage and is required to comply with the law (Hosseini, 2002, pp. 61-63).

The Code of Criminal Procedure of the General and Revolutionary Courts in Criminal Matters, which was approved by the Ministry of Justice suggestion at the session of the Islamic Consultative Assembly on 27.01.2000, defines judicial officers as follows:

Article 15: "Judicial officers are officers who, under the supervision and training of a judicial official, act in detecting a crime and conducting preliminary interrogation, preserving the effects and causes of the crime, preventing the accused from fleeing and hiding, and notifying papers and enforcing judicial decisions following the law and are as follows:

- 1- The police force of the Islamic Republic of Iran.
- 2- The heads and deputies of the prison regarding the affairs of the prisoners.
- 3- The Basij Resistance Force of the Islamic Revolutionary Guard Corps and the officers who are considered to be the officers of the Judiciary according to special laws.
4. Other Armed Forces in cases where the Supreme National Security Council entrusts all or some of the tasks of the police force to them.
5. Officials and agents who, according to special laws, are considered officers of the judiciary within the limits of their duties (Mahabadi, 2002, pp. 108 and 109).

In the Criminal Procedure Code, The trial of general and revolutionary courts in penal matters, the duties of officers are divided into several sections as follows:

- 1- Obvious crimes: These crimes are mentioned in the Article of mentioned law. According to Article 18, it has given such an obligation to the judicial officers ... and in the case of obvious crimes, it has taken all necessary measures to preserve the tools and equipment and the effects and signs and causes of the crime and to prevent the accused or collusion from escaping. Conduct routine and preliminary investigations and notify the judicial authority immediately.

- 2- Intangible crimes: The beginning of the above article has provided: "As soon as judicial officers are informed of the occurrence of a crime, in intangible crimes, they shall notify the competent judicial authority to obtain the necessary task and order."
- 3- Preliminary investigation: The provisions of Article 19 seek to define the preliminary investigation and define it as follows: "Preliminary investigation is a set of measures to detect a crime and preserve the effects and evidence of its occurrence and prosecute the accused from legal prosecution to surrender to judicial authority. Judicial officers do not have the right to obtain security from the accused."
- 4- Determining the deadline for completing the case: Article 20 of the said law stipulates in this case: "Judicial officers are obliged to carry out orders and complete the case as soon as possible and within the time determined by the judicial authority. If for any reason the execution or completion of the order is not possible, they are obliged to send a report to the relevant judicial authority at the end of each month stating the reason, and the violator will be sentenced to the punishment provided for in Article 216 of this law."
- 5- How to report the occurrence of a crime: Article 22 of the Criminal Code. The Public and Revolutionary Courts in criminal matters state the following in this regard: "If the evidence of a crime is suspicious or the information of judicial officers is not from reliable sources, before informing the judicial authorities, they should carry out the necessary investigations without having the right to arrest or enter someone's house and report the result to the authorities."
- 6- Authority of the officer in detaining the accused: Article 24 also states, "Judicial officers shall inform the competent judicial authority of the result of their actions. If the said authority does not find sufficient measures taken, it may request its completion. In this case, the officers are obliged by the order of the judicial authority to carry out investigations and legal measures to discover the crime, but they cannot detain the accused, and if in obvious crimes, the detention of the accused is necessary to complete the investigation, the subject of charge must be mentioned with reasons should be notified to the accused in writing immediately, and they can keep the accused under surveillance for a maximum of 24 hours, and they should inform the judicial authority as soon as possible to make a legal decision. The judicial authority shall determine the continuation of the detention or release of the accused. Also, the search of homes, places, and objects and the arrest of persons in intangible crimes shall be with the special permission of the judicial authority."

- 7- The last article that has been assigned to the officers in the Code of Judicial Procedure of General and Revolutionary Courts in Criminal Matters is Article 25 of the above law, which stipulates: "After the arrival of the judicial authority, the judicial officer's hand over the investigations they have carried out to him and no longer have the right to intervene, except by the order of the judicial authority or the new agents referred to them by him." (Mahabadi, 2002, pp. 119-121)

According to the note of Article 104 of the Code of Criminal Procedure, "control of the telephone of individuals is prohibited except in cases related to the security of the country or deemed necessary for the realization of the rights of individuals at the discretion of a judge." This remark has allowed the violation of individuals' telecommunication privacy in two cases:

- 1- Violation of privacy in cases related to national security.
- 2- Violation of privacy in cases related to the realization of rights, except these two cases, if the judge allows the control of people's phones, he has violated privacy." (Rahmadl, 2005, p. 142)

Also, according to Article 96 of the Code of Criminal Procedure, searches, and inspections of houses, places, and objects are carried out in cases where, according to the reasons, there is a strong suspicion of discovering the accused or the tools and reasons for the crime in that place. The opposite meaning of this article implies that if there is no strong suspicion of discovering the accused or the tools and reasons for the crime in the mentioned neighborhoods, the search and inspection will not be justified, and to do so for the relevant judge is a minimum violation. It will be disciplinary and a violation of privacy (Rahmadl, 2005, p. 134).

3- Iran's executive criminal policy and violation of privacy

"The police are a governmental organization whose mission is to protect the constitution, prevent violations, ensure public order, and protect the lives and property of individuals," says Fralick. In the regulation of the police department approved in 1954, taking care of public security and establishing order, and enforcing sentences are one of the duties of the police. The law enforcement of the Islamic Republic of Iran was established by the merger of the police, the Islamic Revolutionary Committee, and the gendarmerie following the law of the law enforcement force of the Islamic Republic of Iran approved on 20.07.1990. And according to Article 4 of this law, the establishment of order and security and ensuring public and personal comfort, combating crimes against security and public crimes, ensuring the security of communities, preventing disorder in communities, etc. are among its important duties.

The important point is that at this point, and concerning the expansion of the concept of security and the objectives of law enforcement responsibility in the field of modern criminal policy, law enforcement should take action when other ways to deal with a crime have been achieved and no results have been achieved (Mahmoudi Janaki, *Bitā*, pp. 193-196).

The biggest threat to privacy is that the government interferes in the privacy of citizens based on vague and interpretive titles. Intrusion into privacy should only take the form of limited, precise, transparent, and supervised processes. Titles such as the interests of the state and the system, and even the interests of society, are never appropriate to prescribe a violation of privacy. However, legal guarantees of privacy are of particular importance. The role of criminal law in protecting privacy remains limited. To defend privacy against government authority, efforts should be made to ensure that the government does not involve at all and that criminal protection is limited to what is necessary (Nobahar, 2008, p. 273).

Because the main purpose of the constitution and ordinary laws is to guarantee human rights and freedoms. Regulations must ultimately be evaluated by benchmarking such substantive control. Of course, in the substantive control of the bylaws, the existence of the organizational idea of control, which is mainly shown in judicial control and review, is of special importance. Explaining that substantive control finds real meaning in the light of the existence of an institutionalized organizational system. Today, the idea of judicial review is based on the fact that executive bodies may jeopardize the rights and freedoms of citizens by leaving their jurisdiction and outside the legal framework, and therefore require careful control. It is clear that the departure from the realm of jurisdiction is not limited to the actions and decisions of citizens or administrative contracts, but it seems that the establishment of administrative regulations can threaten the rights and freedoms of citizens on a much wider scale (Qari Fatemi, 2009, pp. 264 and 265).

Maintaining security and maintaining order and security in society is one of the duties of the government and the government. This is usually done by the police. The police may violate the privacy of individuals in some cases, including In Iranian law, according to Article 24 of the Code of Criminal Procedure, the inspection of cars in intangible crimes is subject to obtaining permission from the authorities. But in practice, however, law enforcement officers inspect cars without obtaining a judicial permit. In a way, the case was referred to the Administrative Court of Justice based on the complaint of one of the judges. The law enforcement agencies did not make the car inspection subject to the permission of the judicial authority, whether the crime was obvious or invisible. As a result of raising the issue in the General Assembly of the Court of Administrative Justice, the said board, in its vote No. 77 in case 408/79, dated 19.08.2001 stated that:

"The circular of the Legal and Parliamentary Affairs Department of the law enforcement force is contrary to the explicit logic of the said article and the legislative ruling on the duty of judicial officers to obey judicial affairs and outside the authority of the said department in enacting government regulations and according to the second part of Article 25 of the Administrative Justice Court Law, it is annulled." He argued that the directive was contrary to the explicit logic of Article 24 of the Criminal Civil Procedure Code and the legislature's ruling on the duty of judicial officers to comply with judicial orders. But in obvious crimes, the permission of a judicial officer is not required (Rahmadl, 2005, p. 136).

Article 580 of the Islamic Penal Code stipulates imprisonment for one to three years for employees and judicial or non-judicial officials or persons to whom public service has been referred and who enter someone's house without legal order without the permission and consent of the owner of the house. If this happens at night, the perpetrator will be sentenced to the maximum punishment. The ruling of Article 580 Civil Code. It is the responsibility of government officials. This article protects the privacy of individuals in the face of possible threats from government officials and provides for the enforcement of criminal penalties. The condition of violating the privacy of the home in Article 580 penal code is that, first, the entry was made without a legal order, and the legal order is in Articles 22 and 25 of the Penal Code and Articles 103 to 196 Criminal Civil Procedure Code is generally expressed. Therefore, when entering the homes of individuals, government officials must comply with the legal rules and enter only with permission and observe the legal arrangements.

Preventive criminal policy of Iran and violation of privacy

Mechanical crime prevention is the newest category of crime prevention that is emphasized nationally in some countries. Of course, to many people, the mechanical processes of increasing security through web locks, burglar alarms, and other equipment seem too naive (Mohammad Nasal, 1387, p. 45).

Clarke uses the following methods to prevent a crime situation.

A) Tightening the target of the crime: such as installing a safety lock on the steering wheel and using hard and unbreakable glass on the cabin of public telephones to prevent their rapid destruction.

B) Controlling the entrances to different places or accessing the relevant purposes, such as fencing around the yard or garden and installing an ID card on the chest of authorized persons, and using a password number and CCTV camera.

C) Changing the direction of the perpetrators' criminal acts, such as closing some streets and installing special signs in places where people commit certain indecent acts by writing or installing garbage bins in different places to prevent the streets and special places from getting dirty.

D) Controlling and restricting the use of crime-facilitating tools, such as banning the carrying of weapons or posting photos on bank credit cards (to prevent the misuse of unauthorized persons) and installing the necessary technology on telephones to identify the caller to prevent telephone harassment.

Clarke considers the following methods to identify and arrest the perpetrator:

A) Monitoring entry-exit in public places: such as border patrols, checking luggage at airports and passenger terminals (with electronic devices), and installing library labels on books to identify them when leaving through electronic devices.

B) Formal surveillance, such as police patrols, use of security guards, alarms, and infrared cameras.

C) Supervision by employees, such as the use of a bus driver's assistant (to prevent non-payment of tickets), supervisors of parks and parking lots, installation of public coin telephones in supervised places such as shops, etc.

D) Natural surveillance, such as street lighting, inside banks and shops, and creating a defensible environment (Saffari, Bitar, pp. 293 and 294).

Situation prevention measures are incompatible with individual freedoms, the openness of work and life, freedom of movement of persons, and freedom of movement of property and objects that are considered valuable in a law-abiding society. The use of new technologies such as cameras and electronic eyes and video surveillance that record all movements without informing the citizens and the possibility of processing and abuse of these scenes for observers and their agents, especially in government provides disregard for the rule of law is contrary to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and is a violation of privacy.

Isn't the sound of house alarms that may disturb the comfort of neighbors a violation of privacy?

Some have argued that preventing the situation leads us to the "older brother thing" communities. In his book, George Orwell introduces big brother as an influential and powerful person who has an invisible presence in all walks of life of individuals and society. Big Brother simply considers any decision and interference in the private life of individuals and the monitoring of their movement and way of thinking as his right and does not place any restrictions on this right. Opponents argue that the status quo has jeopardized individual rights and freedoms in some ways. Extreme and unattractive use of harassment methods to support and protect the targets of crime (for example, barbed wire, guard dogs and the like, or formal care such as CCTV), Evokes hostile societies or societies controlled by the dominant power (Mirkhalili, 2009, pp. 92 and 93).

Iran's participatory criminal policy and violation of privacy

In participatory criminal policy, it is not only the judiciary that is responsible for combating crime, but also the executive and administrative institutions, non-governmental social organizations and authorities, and each member of the community, even the victims, should be involved in this process.

What plays a more fundamental role in this and has been proven by various experiences to be effective, social participation means the involvement and participation of citizens and non-governmental organizations and groups in this matter. In addition to reducing government spending, this approach forms a comprehensive mobilization to prevent and combat the criminal phenomenon in terms of the responsibility that falls on each member of society. Proposing participatory criminal policy or criminal policy with the participation of the wider community, i.e. considering the need to create leverage other than the police and the judiciary, gives more credibility and strength to criminal policy plans. Emphasizing the need for participatory criminal policy, Christian Lazerge considers the use of the power of the mass media, associations, and citizens to reach agreement and coordination on criminal policy to be crucial in criminal policy. According to him, the participation of the public in criminal policy, in addition to relieving legitimate concerns to increase its effectiveness, "means that today the prevention and fight against crime are among the issues that affect all members of society. . . » (Mir Khalili, 2009, pp. 307 and 308)

Non-governmental organizations (NGOs) are a clear example and perhaps the most obvious manifestation of civil society participation in various areas of society. NGOs have been given various definitions, including internationally.

1- Non-governmental organizations are any organizations in which the government does not interfere in its formation and control.

2. A group of people come together voluntarily and for a non-profit purpose and work locally, nationally, or internationally (United Nations, 1992).

3- Non-profit, voluntary, service-oriented, and development-oriented organizations that act as spontaneous organizations with other people in the community as broker organizations for the benefit of the members (NGO Workshop, 1998, Bangkok).

Enjoining the good and forbidding the evil is one of the strategies of Islamic Criminal Policy that has a unique position and function in comparison with other strategies, because this method is aimed at the general citizens of the Islamic society, regardless of their position. This is a manifestation of the participatory criminal policy of Islam, especially since from the point of view of some Islamic scholars, its collective and

organized form is more in line with the spirit of this strategy. On the other hand, the possibility of applying this strategy in all stages of a criminal process (before, during, and after) has increased its deterrent and corrective effect. Enjoining the good and forbidding the evil is one of the most important teachings of Islamic criminal policy and the legislator has emphasized it in the constitution, but it has not been sufficiently researched, studied, and researched as is necessary. Enjoining what is good and forbidding what is evil in the form of a Shari'a ruling is effective because people feel a duty of Shari'a and rise to face social harms and law-breaking by attending and actively participating, and protecting the norm. The religious leaders of the Islamic society are fulfilling their religious duty and preventing the spread of social perversions. In other words, people must protect virtues and prevent the spread of social corruption (Mir Khalili, 2009, p. 309). But does this matter of the good and the prohibition of the bad conflict with the privacy of individuals or not? When the mobilization forces take a person from his cell phone in the middle of the street and control him, isn't this attack a violation of their privacy?

Conclusion

The criminal policy of the Islamic Republic of Iran faces challenges in the areas of legislation, judiciary, enforcement, prevention, and participation in the field of privacy. Legislatively, the weakness of legislation in the concept of privacy is observed in that the legislator first did not consider all instances of privacy in the way that is considered in the law of Western countries, and even in the part that he considered has not done the necessary support, whether criminal or civil. From a judicial point of view, the lack of careful attention of judges and the macro-policies of the judiciary to the concept of privacy has led to arbitrary interference by judicial officers in the privacy of individuals, which has created many challenges for citizens and the government in recent years. In terms of implementation, the police should be prevented from interfering in the privacy of individuals as officers of the executive branch. The security-oriented of the government and the police has led to the violation of citizens' privacy. It seems that invasion of privacy should be done only in the form of limited, accurate, transparent, and supervised processes. Therefore, topics such as the interests of the state and the system, and even social interests, are never appropriate to prescribe a violation of privacy. In terms of the partnership, there is a lack of a special and popular, cohesive, and responsible institution in the realm of public participation that can organize participation and coordination with government institutions in the realm of privacy. From a preventive point of view, the government is forced to intervene in some areas of

human relations to maintain security and prevent crime. The purpose of developing and implementing preventive measures is to protect the integrity and dignity of the individual and not violate it, the use of various preventive techniques such as the use of strict policies (zero tolerance), security and social degradation, the use of CCTV, use Biometric methods should be in line with the general support of individuals. One of the most important of these protections is the protection of privacy. It can be said that modern technology has developed the realm of privacy violations, so new tools must be created in the form of special legal protections to protect privacy.

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