

The Security-Oriented Effects on the Domain of Maximal Criminalization

Farhad. Namjoo¹, Atefeh. Namjoo^{2*}, Zahra Sadat. Modaber Nejad³, Zahra Sadat. Modaber Nejad⁴

¹ Department of Criminal Law and Criminology, Ta.C., Islamic Azad University, Tabriz, Iran

² Department of Criminal Law and Criminology, Ur.C., Islamic Azad University, Urmia, Iran

³ Department of Criminal Law and Criminology, Mar.C., Islamic Azad University, Maragheh, Iran

⁴ Department of Criminal Law and Criminology, Shab.C., Islamic Azad University, Shabestar, Iran

* Corresponding author email address: baharakshahed@iau.ac.ir

Received: 2025-06-01

Revised: 2025-10-12

Accepted: 2025-10-20

Initial Publish: 2025-10-20

Final Publish: 2026-04-01

Criminalization is a process through which the government transforms the legitimate behaviors of its citizens into prohibited ones. In recent decades, the inefficacy of reformatory and rehabilitative policies, coupled with the shift of governments from compassion-oriented strategies toward security-centered approaches, has led to the evident influence of this orientation on the process of criminalizing behaviors. Consequently, criminalization has extended beyond its conventional and normative boundaries. Undoubtedly, the maximalization of criminalization inflicts harm on both the state and the structure of society, thereby heightening the significance of the issue. This study, employing a descriptive-analytical method and through the examination of library sources, seeks to analyze the consequences of the securitization of criminal policy within the context of maximal criminalization. First, it demonstrates that such securitization has expanded the scope of criminalization and facilitated the encroachment of criminal law into the realm of individual rights and freedoms. Second, it shows that, in implementing this approach, governments have often resorted to violating fundamental legal principles. Finally, the study proposes potential solutions to mitigate the adverse outcomes resulting from the securitization of criminalization.

Keywords: legislation, security-oriented criminal policy, maximal criminalization, human rights and securitism, minimal criminalization, penal policy.

How to cite this article:

Namjoo, F., Namjoo, A., Modaber Nejad, Z., & Modaber Nejad, S. A. (2026). The Security-Oriented Effects on the Domain of Maximal Criminalization. *Interdisciplinary Studies in Society, Law, and Politics*, 5(2), 1-11. <https://doi.org/10.61838/kman.isslp.296>

1. Introduction

TIn the past two decades, with the emergence of new forms of criminality and the evident inefficiency of reformatory and rehabilitative approaches in criminal justice systems, the traditional view of crime and punishment has gradually given way to a security-oriented logic. This logic, by emphasizing “security” as an absolute value, broadens the scope of what constitutes crime and elevates penal reactions to their maximum

levels. Linguistically, security refers to “being safe from danger, free from fear, and achieving tranquility,” which is an intrinsic necessity for every society. However, within the realm of criminal law, this concept has evolved from protecting citizens toward becoming a tool for legitimizing coercive measures and exerting pressure on individual rights.

In this context, securitism is defined as “the subordination of criminal rules and regulations to state sovereignty, even at the cost of undermining justice and



disregarding the principles of equality and the right of defense for the accused.” It has gradually become a dominant trend in the criminal policy of many countries. A prominent example of this transformation can be observed in legislative responses following the September 11, 2001 attacks, when governments, seeking to counter terrorist threats, swiftly enacted anti-terrorism laws that expanded the range of criminalized behaviors beyond traditional offenses, established special judicial procedures, and imposed harsher punishments. This sweeping wave of criminalization—often justified under the guise of security—rapidly spread across various legal and social domains, with notable manifestations in cybercrime legislation, organized crime laws, and even migration policies.

In reality, securitism has not only expanded the range of prohibited behaviors but also transformed the very structure of judicial processes and the way citizens are treated. Global experience in recent decades shows that the absolute prioritization of security has had serious consequences for civil liberties, the rule of law, and democratic institutions. With intensified governmental surveillance, increased detention without judicial warrants, reliance on exceptional measures, and restrictions on the right to defense, deviations from the presumption of innocence and the weakening of judicial independence have occurred. From a human rights perspective, the sacrifice of some of the most fundamental rights of defendants in the name of collective security raises a critical question: can security-oriented criminal policies simultaneously ensure public safety and uphold individual dignity and freedoms?

Answering this question requires a profound understanding of the mechanisms through which the discourse of security is embedded in criminal legislation and an analysis of its consequences for social life and fundamental rights. This study, using a descriptive-analytical method, first seeks to explore the historical and theoretical trajectory of securitism in criminal policy—a trajectory shaped by geopolitical transformations and socio-political pressures that have gradually fostered rigid penal frameworks. It then examines comparative examples from different countries to analyze how legal and executive security-oriented instruments are applied during both crisis and non-crisis periods. The main objective is to identify similarities and divergences in maximal criminalization

policies to reveal which cultural, political, and legal components have played the most significant role in shaping securitism.

Subsequently, the study investigates the effects of this approach on individual rights, criminal justice, and social order. The analysis includes potential harms such as delays in judicial proceedings, restrictions on access to legal counsel, the imposition of disproportionately severe penalties, and the creation of a climate of fear within society. Furthermore, it considers the long-term implications of securitism, including the erosion of public trust, the decline of civic participation, and the widening gap between state and citizens. This comprehensive perspective allows for a more accurate assessment of the costs and benefits of security-driven criminal policies and offers a realistic portrayal of their social and legal repercussions.

Ultimately, the study aims to propose solutions to restore balance between security and justice. Emphasis will be placed on reforming legislative structures, ensuring independent oversight of security measures, enhancing transparency within judicial processes, and strengthening institutions that protect the rights of the accused.

2. Foundations

2.1. *The Concept of the Securitization of Criminal Law*

Securitization is a twofold concept that emphasizes the state’s interference in all affairs beyond what is permitted by law or expected by its citizens. In essence, securitism in its initial sense refers to the state’s growing tendency to fulfill collective demands for greater security (Kalantari, 2022).

At this stage, governments tend to prioritize a security-oriented approach over the rights, freedoms, and privacy of their citizens. However, the implementation of such a policy by states, even in times of threat, does not necessarily mean that it is a rational or beneficial approach. Frequently, the state prioritizes its own policies over societal needs and sacrifices individual rights and freedoms to preserve its own sense of security. In this regard, ignoring justice-based human rights principles has become one of the most common strategies embraced by states (Hashemi, 2020).

Nevertheless, achieving sustainable security can never be accomplished through emergency or instantaneous

actions. Rather, there is an undeniable necessity for mechanisms that restrain the state from encroaching upon citizens' rights and freedoms under the pretext of maintaining security or combating insecurity. One of the key reasons behind the securitization policies of governments is the existence of perceived threats, which justifies the adoption of security-oriented measures (Hashemi, 2020).

However, threats in society must be actual rather than hypothetical; mere assumptions cannot justify the securitization of law. Therefore, factors that threaten social security must be capable of disrupting the public order in unusual or unprecedented ways, and must be irreparable through ordinary legal means. In such cases, governments tend to adopt rigid and security-based measures in response (Ghannad & Akbari, 2016).

2.2. *The Difference Between Minimalist Criminalization and Security-Oriented Criminalization*

Criminalization is a process through which the state incorporates the previously lawful and permissible behaviors of citizens into its sphere of control, thereby subjecting offenders to pain and suffering resulting from the commission of such acts. This process visibly represents the tension between individual freedoms and governmental power in the formulation of penal laws (Khosrowshahi & Ganji, 2018).

To understand this process, one must first define the concept of crime. In criminological and sociological theories, "crime" refers to a behavior that, regardless of its inclusion within the formal jurisdiction of the criminal justice system, is considered undesirable within that framework (Mandaei & Ashouri, 2015). According to Article 2 of the Islamic Penal Code, a crime is any act or omission for which a punishment or corrective and preventive measure has been prescribed by law.

This process is undertaken with the aim of protecting socially accepted values and preserving public interest. The legislative criminal policy must therefore clarify and justify the purpose behind criminalizing behaviors that were previously legitimate. Because of this, the principle of minimal criminal law must always be observed in the process of criminalization (Mohammadnejad & Tajik, 2018).

The principle of minimal criminal law implies that the scope of criminal intervention, whether through legislation or state action, should remain consistent with

the principles of autonomy and immunity from unnecessary state interference. Even when legislative intervention is justified, the use of criminal law—which inherently entails restriction of freedoms—must remain a last resort, applied only in the most essential cases (Bakhshizadeh, 2023).

Hence, in this approach, the presumption is minimal state interference; the government should restrict only those behaviors that are demonstrably harmful and require criminalization. Therefore, distinguishing between ordinary social behaviors and truly criminal acts becomes crucial, with an emphasis on preserving the private sphere of citizens' lives (Arabian & Akhtari, 2024).

In contrast to the minimalist principle, there exists an alternative approach in which states, under the pretext of maintaining public order and political sovereignty, embrace maximalist criminalization for security-related harms. Through this, coercive and punitive measures become the primary instruments of a security-oriented criminal policy. The state redefines its primary objective as combating "enemy criminals" who are perceived as outsiders or threats (Ghannad & Akbari, 2016).

As a result, this approach—ostensibly in the name of preserving public order—may become dangerously expansive in the future, seeking to preempt potential crimes and manage social risks. This can ultimately lead to a retreat from justice-based legal principles and an expansion of coercive social control, manifesting through the proliferation of criminal laws and punishments (Majidi & Taj Abadi, 2019).

3. **Criminological Consequences of Securitization in the Context of Maximalist Criminalization**

3.1. *The Role of Politics in Defining the Limits of Crime*

The interaction between law and politics represents a highly significant and sensitive dimension of social life. The relationship between these two domains reflects the level of societal maturity; yet, such a relationship must always be defined within precise boundaries. Within this balance, politics inevitably draws upon law, while law, in turn, often pursues policies that emerge organically from society and embody its collective will. However, policies formulated by central governments require separate scrutiny, as the influence of political agendas on lawmaking is undeniable (Ghaderi Namin, 2021).

Political actors, by criminalizing certain behaviors, delineate the limits of social reactions. If politics becomes legalistic, citizens' rights and freedoms will be properly safeguarded (Hashemi, 2020). Rising insecurity and fear of crime have, in recent decades, made issues of public safety central to political discourse. In nearly every political or electoral campaign, candidates emphasize crime control and public order, using security-oriented slogans to attract votes. Examples include the election of Nicolas Sarkozy in France and George W. Bush in the United States, both of whom leveraged securitarian ideologies such as counterterrorism and global safety to garner popular support (Bashiriye, 2022).

Studies conducted across various countries show that crime has become one of the primary concerns of citizens. Consequently, politicians, instead of addressing crime through research-based and scientific approaches, have often relied on superficial, temporary, and politically expedient solutions. In pursuit of power, they postpone evidence-based crime prevention and rehabilitation efforts, ignoring the fact that the increase in violent crimes and social aggression may itself be a byproduct of their rhetoric and policies. This politicization of criminal legislation—where law becomes an extension of political will—is one of the principal manifestations of securitization within the realm of criminalization (Mahdavi Pour & Shahrani Karani, 2014).

After the September 11, 2001 attacks in the United States, numerous governments, including the U.S., introduced major changes to their criminal laws, ostensibly to ensure security and eliminate public fear. Under the banner of combating terrorism and protecting national security, many of these laws disregarded individual rights and freedoms, targeting critics and opponents as potential threats. The U.S. Patriot Act, originally designed as an anti-terrorism measure, exemplifies this trend, as it ultimately facilitated the erosion of fundamental human rights and reflected an authoritarian, politicized orientation of lawmaking (Majidi, 2009).

Therefore, when laws become political instruments and tools of governance, fundamental rights and freedoms lose their substantive meaning and devolve into hollow expressions devoid of binding force against state authority (Ardestani Boranji, 2010).

In Iran as well, the exercise of power in the process of criminalization reflects the objectives and ideological tendencies of the ruling elite. At times, those entrusted with legislative authority act beyond the limits of established legal and procedural norms, enacting maximalist criminal laws aimed at consolidating governmental control and ensuring public compliance. Such dynamics reveal how the securitization of criminal law can evolve into an instrument for the centralization of power (Mohammadnejad & Tajik, 2018).

3.2. Lack of Clarity in Criminal Laws

The principle of legality in criminal law is a foundational rule that today demands precision and clarity in legislation. In Iran, this principle is formally recognized in Article 69 of the Constitution of the Islamic Republic of Iran, and it is further emphasized in Article 2 of the Islamic Penal Code enacted in 2013. The definition of crimes is an exclusive function of the legislature. In fulfilling this function, the legislator must strive to define criminal acts or omissions explicitly and unambiguously so that no room remains for expansive interpretation by judges or other interpreters of the law. Clarity of expression is a constant imperative in drafting penal statutes: the legislator's terms must contain a complete definition of the material conduct deemed contrary to public order and, with respect to the mental element, must indicate the degree of the actor's awareness regarding the result of the act. In addition, any aggravating or mitigating circumstances that increase severity or reduce punishment must be stated expressly and without ambiguity (Ghaderi Namin, 2021; Khosrowshahi & Ganji, 2018).

Beyond creating new offenses, the security-oriented approach sometimes generates "new" criminalized acts under older labels, or else relies on interpretive tools to read earlier penal provisions expansively so as to subsume novel behaviors within the scope of prior offense categories (Bashiriye, 2022; Majidi, 2017).

In practice, a security-driven legislature may too readily attribute the quality of "threat to individual and collective security" to a wide array of acts and, indirectly, add to the weight of criminalization. Such indirect criminalization often correlates with presumptions of guilt: when lawmakers attempt, without statutory clarity, to force behaviors under existing offense titles, they simultaneously presume the individual guilty and

treat them as a violator of a law presumed to have been known beforehand. A presumption of guilt conflicts with the presumption of innocence; such ambiguities reconfigure adjudication so that, instead of innocence being the default, guilt is presumed unless the accused proves their innocence (Hashemi, 2020; Mandaee & Ashouri, 2015).

Yet the presumption of innocence is a cardinal principle of criminal law. Article 37 of the Constitution of Iran states: “[The principle is innocence; no one is regarded as a criminal under the law unless their crime is proven in a competent court].” One implication of this principle is that the prosecution, as claimant, must establish evidence of the material and mental elements and the attribution of the offense to the accused; in other words, the burden of proof lies with the prosecuting authority, while the defendant articulates defenses in response. Under security-oriented criminalizations, however, guilt is often presumed, and the accused must provide evidence of innocence—an approach that contravenes the principle of legality of crimes and punishments and undermines justice (Hashemi, 2020; Mandaee & Ashouri, 2015).

Therefore, a lack of clarity in criminalization has expanded judicial intervention into the realm of individual rights, freedoms, and security, which can be deemed contrary to the principle of legality of crimes and punishments in statutory law (Ardestani Boranji, 2010; Bakhshizadeh, 2023).

A) One example grounded in Islamic jurisprudence within the Islamic Penal Code of 2013 is the offense of *efsād-fel-arz* (“corruption on earth”) in Article 286: “[Whoever, on a widespread scale, commits crimes against the bodily integrity of individuals, offenses against the internal or external security of the state, dissemination of falsehoods, disruption of the national economic system, arson and destruction, dissemination of toxic, microbial, and dangerous substances, or the operation of centers of immorality and prostitution in a manner that causes severe disruption to public order, insecurity, or major harm to the bodily integrity of individuals or to public and private property, or results in the widespread propagation of corruption or prostitution, shall be deemed a *mofsed-fel-arz* and shall be sentenced to death. Note: If the court, based on the totality of the evidence and indications, does not establish the intent to disrupt public order, cause

insecurity, inflict major harm, or propagate corruption or prostitution on a broad scale, and if the committed offense does not fall under another statutory punishment, the perpetrator shall, considering the extent of harmful results, be sentenced to a fifth- or sixth-degree *ta’zir* imprisonment.]” In this provision, the legislator anticipates eight categories of offenses framed in broad and indeterminate terms—such as offenses against bodily integrity, offenses against internal or external security, dissemination of falsehoods, disruption of the national economic system, arson and destruction, dissemination of toxic and microbial and dangerous substances, or operating centers of immorality and prostitution—many of which span multiple, distinct statutory titles (e.g., homicide, assault and battery, acid attacks, abortion for bodily integrity; Articles 498–512 of the 1996 *Ta’zirāt* for internal and external security). The statute also employs additional open-textured phrases such as “extensive disruption,” “major harm,” and “widespread propagation,” which invite interpretive variability (Kalantari, 2022; Mahdavi Pour & Shahrani Karani, 2014).

B) Ambiguity in the concept of *mohārebeh* (armed enmity): The scope and instances of *mohārebeh* are not delineated with sufficient precision in Iranian criminal law. This ambiguity appears in the most basic provision, Article 279 of the Islamic Penal Code: “[*Mohārebeh* is drawing a weapon with the intent against the life, property, or honor of the people, or to intimidate them, in such a way that it causes insecurity in the environment. Whoever, with a personal motive, draws a weapon against one or several specific persons and whose act lacks a public aspect, and also whoever draws a weapon against the people but, due to incapacity, fails to cause insecurity, shall not be deemed a *mohāreb*.]” The statute posits three core conditions: (1) intent to disrupt public security; (2) use of a weapon; and (3) the actual disturbance of public security, which relates to the requisite mental element. Thus, the perpetrator must intend to disrupt order and public security; absent such intent, the realization of *mohārebeh* is doubtful. Given the legislative ambiguity, jurisprudence diverges over whether indirect (oblique) intent suffices, or direct intent must be established; some revolutionary court decisions have adopted an expansive interpretation that accepts indirect intent for *mohārebeh* (Arabian & Akhtari, 2024; Majidi & Taj Abadi, 2019).

C) Article 500 of the Islamic Penal Code (*Ta'zirāt*): “[Whoever engages in any form of propaganda activity against the system of the Islamic Republic of Iran or in favor of groups and organizations opposing the system shall be sentenced to imprisonment from three months to one year.]” This offense—“propaganda against the system”—is an example of vague criminalization that affords the legislator and interpreters latitude to classify a wide range of civic acts and expressions as criminal propaganda. Disagreement exists over its scope: some read the offense as limited to propaganda against the territorial integrity or the entirety of the system, urging a narrow construction consistent with the rule of strict interpretation in penal law; others, by contrast, view the offense as requiring breadth and repetition to be realized. The indeterminacy enables security-oriented readings that potentially expose any critic of political conditions or of institutional performance to criminal labeling (Khosrowshahi & Ganji, 2018; Mandaie & Ashouri, 2019).

D) Terrorist offenses: A further illustration appears in French law. Under Article 1-421 concerning terrorist crimes, the legislator employs indeterminate expressions such as “coordinated plan,” “intimidation,” and “terror,” which both open the door to erroneous or overly broad interpretations and, simultaneously, erode the principle of legality of crimes and punishments. Comparative experiences in security-oriented criminalization, particularly in France, highlight how such open-textured terms can expand punitive reach in moments of perceived emergency (Buzan et al., 2023; Kalantari, 2022; Majidi, 2009).

3.3. Accumulation of Penal Legislation

In the contemporary world, the evolution of societies and the continuous transformation of their political, economic, social, and cultural dimensions have led legislators in many countries toward a kind of extremism in enacting criminal laws and an ever-increasing reliance on the coercive and punitive functions of criminal law. These developments have exposed criminal justice systems to what has come to be known as the *inflation of criminal legislation*. This phenomenon results from the unchecked growth in the number of behaviors being criminalized and the consequent expansion of the reach of penal law (Hashemi, 2020).

Whenever a serious crime or shocking incident occurs that agitates public emotion, governments tend to respond quickly by introducing new legislation to combat criminal phenomena, uphold the fundamental values of society, and appease public outrage. Such circumstances often push policymakers to enact multiple statutes under various pretexts, leading to the accumulation of criminal laws. Furthermore, the instrumental use of criminal law by governments as a means of exercising authority has become another key contributor to the phenomenon of legislative inflation (Mahdavi Pour & Shahrani Karani, 2014).

At times, the consolidation of central political power transforms the state itself into a potential source of threat against individuals, one that arises from the very enactment and enforcement of domestic law. As Buzan and his colleagues explain, the state’s drive for self-preservation can produce insecurity for its citizens when the logic of security expands beyond its appropriate limits (Buzan et al., 2023).

Similarly, a security-oriented approach, under the guise of safeguarding public safety, often supports unnecessary penal legislation and resists the decriminalization of outdated offenses. This trend is evident in the criminal policies of numerous states, particularly those that have intensified punitive efforts to counter violent crimes and terrorism (Bashiriyeh, 2022). The United Kingdom, for instance, has in recent years adopted the most extensive legislative initiatives in the fight against terrorism and its prevention (Kalantari, 2022).

In Iran as well, the process of criminalization appears to be expanding steadily. In recent years, new offenses have been created alongside severe and rigid penalties, especially concerning crimes against national security and public order. A prominent example is the offense of *baghi* (armed rebellion) introduced as a security crime in the 2013 Islamic Penal Code, punishable by death or discretionary imprisonment (Shams Nateghi & Jahed, 2008).

A critical question arises regarding this expansion of criminal legislation: what are its actual costs and benefits? Does such excessive criminalization truly yield social advantages, or does it primarily produce harm? Criminalization inherently carries social and economic costs—ranging from investigation, prosecution, and punishment to the maintenance of correctional

institutions and the resulting inflation of criminal justice mechanisms. A utilitarian assessment must precede any decision to criminalize conduct, ensuring that the expected benefits outweigh the accompanying burdens. Excessive legislative density in criminal matters can undermine fundamental freedoms, engender public fear, and disrupt the equilibrium of institutional powers, affecting entities such as judicial officers, prosecutors, courts, and prisons (Ardestani Boranji, 2010; Bakhshizadeh, 2023).

3.4. Aggravation of Punishments

Behavioral control should, wherever possible, rely on non-penal branches of law; recourse to criminal law must remain a measure of last resort. Every society must respect individual rights and freedoms and should invoke penal sanctions only when absolutely necessary for the protection of collective interests (Mandaei & Ashouri, 2015).

When a government intervenes directly or indirectly in its citizens' social, political, economic, and religious relations and responds by expanding both the number of crimes and the severity of punishments, it reveals a criminal policy in which penal sanctions occupy the central role (Ghannad & Akbari, 2016).

The persistent insistence on setting maximum penalties in many instances grants courts broad interpretive discretion between the statutory minima and maxima—often separated by wide margins—producing instability and inconsistency in sentencing. This tendency undermines the predictability of punishment and distorts the principle of proportionality (Shams Nateghi & Jahed, 2008).

Iran's penal system, particularly since the 2013 Islamic Penal Code, has displayed a broad pattern of severe and security-centered criminalization, most notably in the provisions concerning *moharebeh* (armed enmity) and *efsād-fel-arz* (corruption on earth). Similarly, the 2015 Anti-Terrorism Financing Law (Article 2) provides that if an offender's act falls under *moharebeh* or *efsād-fel-arz*, the death penalty shall apply—even though *efsād-fel-arz* is already defined elsewhere in the Penal Code. Another instance appears in the 2007 Law on the Punishment of Persons Engaged in Unauthorized Audio-Visual Activities, where Article 3(a) equates the production, duplication, and distribution of obscene materials with *efsād-fel-arz*, subjecting offenders to capital punishment.

A comparable pattern is found in foreign jurisdictions such as the United States, where “three-strikes” legislation imposes life imprisonment upon third-time offenders who previously committed violent or drug-related crimes, reflecting the same punitive escalation in response to social fear (Bashiriyeh, 2022).

3.5. Restriction of Individual Rights and Freedoms

The proliferation of offenses such as terrorism, sabotage of public facilities, cyber-attacks on classified systems, and transnational organized crime has visibly threatened the structural integrity of states. Consequently, many governments have adopted stringent, security-oriented criminal policies that authorize extensive surveillance of communications, installation of closed-circuit cameras, and infiltration into individuals' digital information spaces. These measures are often justified through the enactment of new laws expanding state powers (Hashemi, 2020).

An illustrative example arises in France, where legislators, consistent with a security-oriented mindset, broadened the definition of espionage from “acts against the state” to “acts against the essential interests of the nation.” By replacing the term “state” with “nation,” lawmakers expanded the potential scope of espionage to include numerous previously uncriminalized acts (Kalantari, 2022).

Security mechanisms also manifest through substantive penal laws—such as life imprisonment and capital punishment—and procedural laws that limit due-process rights, including prolonged pre-trial detention. These practices openly encroach upon individual rights and freedoms, especially when officials invoke the preservation of order and security to justify minimal adherence to lawful procedure (Mandaei & Ashouri, 2019).

The multiplicity of legislative bodies further exacerbates this situation, allowing many institutions to enact regulations outside ordinary channels of legal oversight. Such a security-driven criminal policy, rather than ensuring genuine public safety, often empowers law-enforcement agencies to act unrestrainedly toward citizens under the rationale of maintaining order (Hashemi, 2020).

A further critique concerns the legislature's disregard for the *no-harm principle* (*lā ḍarar*). Within human-rights-based legal systems, this principle is central to

determining the legitimacy of criminalization. Derived from Islamic jurisprudence, it forbids transgression beyond legitimate bounds and is now widely accepted across legal traditions. Under maximalist criminal policy, excessive penalization restricts individual liberty beyond what is justified. According to the *no-harm principle*, conduct may only be deemed criminal when it infringes upon others' freedoms or causes tangible harm. This principle mediates between liberty and legislation: freedom must not deprive others of their rights, but neither should law inflict unnecessary harm. Accordingly, all individuals in society are entitled to enjoy political, economic, and legal freedoms without arbitrary interference (Arabian & Akhtari, 2024).

3.6. *Inducing the State to Criminalize in Line with the Economic Approach to Crime*

One of the classic criminological perspectives is rational choice, which holds that offenders calculate the costs and benefits of offending in a reasoned manner; in other words, they act when the opportunity to commit crime presents itself and they judge it advantageous to do so (Mandaei & Ashouri, 2015; Mohammadnejad & Tajik, 2018).

Accordingly, the offender is presumed to exercise basic rationality and, before actualizing a criminal intention, weighs the prospective gains against the probable losses. Punishments, therefore, must be determinate and knowable so that the pain imposed by the criminal justice system is sufficiently salient to deter; the would-be offender then compares expected utility with expected sanction severity. If the perceived value of the contemplated crime exceeds its anticipated costs, the actor will not desist. Hence, criminal laws should be designed so that offending is not worthwhile—either by inducing desistance or by rendering the act economically irrational (Bakhshizadeh, 2023; Majidi, 2017).

Criminal policy is often constructed on the premise that there will always be some for whom the expected loss outweighs any potential gain. Economic crises do not only pressure offenders; they also impel governments to adopt reactive measures that harden responses and attempt to raise the costs of crime to deter offending in difficult times (Arabian & Akhtari, 2024; Hashemi, 2020).

4. **Strategies to Prevent the Influence of Security-Oriented Criminology on Criminalization**

4.1. *The Approach of Separating Governmental Functions*

Since earlier centuries, political thinkers have sought an optimal government by analyzing political power, distinguishing the existing powers, and specifying the functions and attributes of each to identify the best custodians. Greek rulers—particularly Plato and Aristotle—examined distinct powers and set out their political-philosophical programs accordingly. The modern principle of separation of powers, as used by jurists and statesmen today, is a product of the seventeenth and eighteenth centuries, first articulated by John Locke and later elaborated by Montesquieu in *The Spirit of the Laws* (Ghaderi Namin, 2021).

In contemporary public law, the separation of governmental functions is recognized as a paramount constitutional principle and implies the division of the state into three independent branches: the legislature (parliament) charged with law-making, the executive charged with enforcement, and the judiciary charged with adjudication. Exceptions may occur—e.g., the legislature's exercise of quasi-judicial functions or the executive's issuance of regulations with legislative effect—but only within defined limits and for justified reasons. On the basis of separation, no branch may intrude upon or perform the essential functions of another (Ghaderi Namin, 2021; Mohammadnejad & Tajik, 2018).

Although frequently discussed in theoretical terms, the separation of powers—together with other oversight institutions—has practical value: absent such checks, the state, when setting legal norms, may present an extreme, interventionist posture. In political structures that neglect separation, the government is prone to curtail rights and freedoms in both public and private spheres (Ardestani Boranji, 2010).

Under such conditions, state-backed institutions may consider themselves authorized to set norms and, by shaping governance patterns, to expand the reach of the penal bureaucracy quantitatively (Bashiriyeh, 2022; Ghannad & Akbari, 2016).

4.2. *A Minimalist Approach to Criminal Law*

Recognizing and applying the principle of minimal criminal law characterizes advanced criminal justice systems. Such systems resort to criminal prosecution only for the most serious offenses; other infractions are categorized and redirected to educational or administrative interventions outside the criminal forum. For example, in 1923 the German judiciary opened a path for educational measures as alternatives to imprisonment (Bakhshizadeh, 2023).

Under this principle, punishment is imposed only when necessary, after other control options have failed, and is further constrained by proportionality. Minimalism seeks equilibrium between state power and citizens' rights and requires the state to use penal law sparingly rather than imposing categorical commands through its coercive arm (Khosrowshahi & Ganji, 2018; Majidi, 2017).

Criminalization should therefore occur strictly on grounds of necessity, as an exceptional remedy to be considered only after the effectiveness of non-penal approaches has been tested. By subjecting criminalization to general and special principles, the resort to penal legislation can be minimized (Bakhshizadeh, 2023).

3-3. Decriminalization

Decriminalization consists in the complete removal of criminal status from conduct or its transfer out of the penal domain into the ambit of public powers requiring non-criminal controls. It can take formal and practical forms: formally, the state declares prosecution of specified acts unlawful; practically, decriminalization may arise through simple, routine practices driven by structural changes or evolving public attitudes (or both), eventually prompting formal legal reform (Bashiriyeh, 2022; Khosrowshahi & Ganji, 2018).

4.3. *Depenalization*

Depenalization means recalibrating sanctions without eliminating the offense itself and aligns with the minimalist approach. The state should not, through maximal intervention, unduly restrict citizens' freedoms. As a second-track penal method more acceptable to governments than full decriminalization, depenalization preserves the offense while removing or softening penal reactions, thus posing fewer risks to state interests. The

Islamic Penal Code of 2013 incorporates a range of depenalizing mechanisms, including mitigation of penalties, suspension of sentence enforcement, semi-liberty schemes, conditional release, alternatives to imprisonment, general and special pardons, and victim forgiveness (Bakhshizadeh, 2023; Majidi, 2017; Mandaei & Ashouri, 2015; Mohammadnejad & Tajik, 2018).

4.4. *Legalization (Law-Governance) of the Criminal Process*

Here, an act or omission becomes permissible only under legally defined conditions, reflecting the fact that legalization typically emerges in sensitive areas with potential to disrupt public order and thus requires direct state involvement. Legalization does **not** signify state endorsement of the conduct; rather, by setting boundaries, the state offers a concrete, workable solution to exit a policy deadlock (Hashemi, 2020; Kalantari, 2022).

A salient example is the wave of drug-policy legalization in the 1990s. Recognizing major weaknesses and ineffectiveness in traditional prohibitionist strategies, proponents argued that repealing certain drug prohibitions could yield benefits: reduced state expenditure on combating producers and distributors, the creation of tax revenues on regulated production and distribution, the diminution of associated crimes such as theft and snatching (often committed by users), and improvements in public safety and health among users. Countries such as the Netherlands, by distinguishing between "soft" and "hard" drugs and permitting consumption of the former, illustrate a model in which trafficking remains criminal but certain forms of consumption are legally structured (Kalantari, 2022; Mohammadnejad & Tajik, 2018).

5. Conclusion

Ensuring the security and psychological well-being of citizens has always been a guarantee for the preservation and continuity of society. In recent decades, however, political and security developments have led governments to exploit such circumstances, invoking the pretext of safeguarding national security to justify the adoption of repressive and security-oriented policies. This orientation has manifested itself prominently in the sphere of criminalization.

The findings of the present study can be summarized as follows:

1. One of the principal effects of securitization in criminal policy arises from political influences. At times, politicians—seeking to gain maximum votes during elections—resort to criminalizing certain behaviors in specific domains to attract public support and reinforce their political legitimacy.
2. Another outcome of expanding criminalization is the emergence of ambiguous offenses and the use of controversial terminology in statutory texts. Such legislative techniques enable policymakers to extend criminal responsibility to a broad range of behaviors, thereby undermining the principle of legality of crimes and punishments.
3. The introduction of new forms of criminalization, inspired by religious or political considerations, is another manifestation of securitization. These laws are often enacted to preserve public order or national security but, in practice, risk politicizing the criminal justice system.
4. The inclination toward security-oriented mechanisms within criminalization has also led to the aggravation of punishments—imposing lengthy imprisonment terms—and, procedurally, to measures such as pretrial detention and restrictions on the rights and freedoms of defendants and citizens.
5. To mitigate the adverse consequences of securitization and maximal criminalization, several approaches can be employed: adopting a minimalist criminal law to limit state interference in citizens' private spheres; legalizing or regulating certain behaviors that have resisted reduction through punitive approaches (for example, drug consumption); and implementing decriminalization and depenalization strategies that shift the focus from punishment to prevention and social rehabilitation.

In sum, establishing a balance between security and justice requires the rationalization of criminal policy, the reduction of excessive penal intervention, and the

reinforcement of legal principles that protect human dignity and individual freedom.

Authors' Contributions

Authors contributed equally to this article.

Declaration

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

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

Acknowledgments

We would like to express our gratitude to all individuals helped us to do the project.

Declaration of Interest

The authors report no conflict of interest.

Funding

According to the authors, this article has no financial support.

Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

References

- Arabian, A., & Akhtari, S. (2024). A Comparative Study of Maximalist Criminalization in Iran and the U.S. *Interdisciplinary Fiqh Studies Quarterly*(16), 143-162.
- Ardestani Boranji, M. (2010). A Study of the Effects of Securitization on the Laws of Iran and the U.S. *Journal of Law Enforcement Order and Security Research*(11), 31-64.
- Bakhshizadeh, T. (2023). The Principle of Minimum Criminal Law in Iranian Criminal Law: Challenges and Solutions. *Scientific Quarterly of Fiqh and Criminal Law Teachings*, 2(3), 19-42.
- Bashiriyeh, T. (2022). The Penetration of Punitivism into the Criminal Domain and Its Impact on Decriminalization Policies. *Journal of Criminal Law and Criminology Research*, 10(20), 7-34.
- Buzan, B., Wæver, O., & Wilde, J. d. (2023). *A New Framework for Security Analysis* (Translated by A. Tayyeb. 2nd ed.). Strategic Studies Research Institute.

- Ghaderi Namin, M. (2021). The Principle of Separation of Powers and Existing Theories on It. *Scientific Monthly of Iranian Political Sociology*, 5(11), 2141-2155.
- Ghannad, F., & Akbari, M. (2016). The Securitization of Criminal Policy. *Criminal Law Research Journal*, 5(18), 39-67.
- Hashemi, S. H. (2020). The Consequences of the Securitization of Criminology on Criminal Law and Its Conflict with Human Rights Issues. *Scientific-Promotional Quarterly of Religion and Law*(2), 163-187.
- Kalantari, S. N. (2022). A Comparative Study of Security-Oriented Criminalization in Crimes Against National Security (Case Study: Iranian and French Criminal Law). *Scientific Monthly of Iranian Political Sociology*, 5(12), 561-572.
- Khosrowshahi, G., & Ganji, A. (2018). Investigating Expediency-Oriented Criminalization in the Legal System of the Islamic Republic of Iran. *Criminal Law Research Journal*, 8(28), 175-206.
- Mahdavi Pour, A., & Shahrani Karani, N. (2014). Securitization of Criminology: Strategies and Its Effects on Criminal Law. *Criminal Law Research Journal*, 5(1), 159-188.
- Majidi, S. M. (2009). Manifestations of the Emergence of Security-Oriented Criminal Law in France. *Law Quarterly*, 39(2), 327-344.
- Majidi, S. M. (2017). Strategies for Ensuring Development-Oriented Criminalization in Criminal Law. *Criminal Law Research Journal*, 6(1), 259-278.
- Majidi, S. M., & Taj Abadi, F. (2019). Security-Oriented Criminalization Techniques in Iranian Criminal Law. *Journal of Islamic Jurisprudence and Law Studies*, 11(21), 289-316.
- Mandaei, E., & Ashouri, M. (2015). Justifications, Criteria, and Forms of State Intervention in Criminal Policy. *Journal of Law and Politics*(24), 97-120.
- Mandaei, E., & Ashouri, M. (2019). An Analysis of Security-Oriented Criminal Policy in Light of Ethical Principles and Human Rights Standards. *Journal of Ethical Research*, 9(1), 183-191.
- Mohammadnejad, H., & Tajik, R. (2018). Causes of Maximalist Criminalization and the Imperatives for Its Structural Transformation in Iran. *Quarterly Journal of Private and Criminal Law Research*(38), 141-163.
- Shams Nateghi, M. E., & Jahed, M. A. (2008). Causes and Consequences of Criminal Inflation and Strategies for Countering It. *Journal of Fiqh and Law*, 5(17), 93-120.