

## Iran's Legislative Policy in Dealing with Fraud During Covid-19 Pandemic

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### ABSTRACT

*The fear of the coronavirus has led to various types of scams related to the virus on the internet and in people's homes, including in Iran. Scams include fraud through corona vaccine cards, fake coronavirus tests, counterfeit drugs, phishing fraud, and sites selling masks at exorbitant prices. Criminals have also been visiting homes for corona testing or disinfection, and using the pretext of livelihood loans or pre-sale advertisements of tourist tours with corona vaccine injections. As the COVID-19 virus spreads, Iran's legislative policy has been to punish criminals to maintain the psychological safety of society. However, implementing legal principles in emergencies like this can be challenging, especially when ensuring the right to health and compliance with the basic human rights of criminals or their rehabilitation is necessary. Therefore, criminal policymakers should identify technological punishments and penal policies that are suitable for emergencies. They should create suitable grounds for achieving the goals of criminal justice in these circumstances. This article uses the descriptive-analytical method to explain Iran's legal criminal policy towards criminals in the coronavirus era. It examines the principles of human rights and criminal principles that lead to appropriate legislative policies in upcoming events like COVID-19. The paper concludes that Iran's legislative policy in emergencies like Corona is severe punishment of criminals to maintain the psychological safety of society. However, it also seeks to rehabilitate the criminals.*

*Keywords: Legal criminal policy, Iran legal criminal policy on COVID-19, fraud in Corona time*

### INTRODUCTION

There are various economic crimes, some of which are primarily related to epidemics and crises, and others may not. Fraud is one of the crimes against property that has existed since the distant past and what makes this crime different from the past is the method and means of committing the crime.<sup>1</sup> One of the aspects of the importance of this crime in crimes against property is that this crime causes a lot of damage to individuals and society every year, and what is interesting about this crime is that the victim, with his consent, puts his property in the fraudster's authority and this distinguishes the crime of fraud from other crimes against property.<sup>2</sup> In the definition of fraud in the law of "intensifying the punishment for the perpetrators of embezzlement, bribery and fraud", it is stated: "Anyone who deceives people through trickery and fraud into the existence of companies or businesses, houses or factories, or fictitious institutions or into having fictitious properties and powers or to hope for unreal things, or to fear from unreal events and occurrences, or to adopt a fake name and title, and to use one of the mentioned devices or other fraudulent devices, or property and documents, money orders or bills,

and account settlements and People like them who are educated and take other people's money in this way are considered fraudsters".<sup>3</sup> Various factors are involved in committing this crime. Among these factors are economic crises. COVID-19 is the biggest global crisis of this century, which has a huge depth and scope. This health crisis, an epidemic, threatens around seven billion and eight hundred million people on earth, and today in all countries of the world we can see its effects. Doctors, nurses, political leaders, and ordinary people, all have struggled with this disease. This creates hope that men and women around the world can achieve victory in responding to this extraordinary challenge. To be safe from the widespread phenomenon of Corona human social life is also changed by it. Although there are no official and comprehensive reports on the exact impact of this phenomenon on the rate and type of crimes, if it cannot be said that the rate of crimes has increased, at least it has caused some kind of shift in the types of crimes. In any case, it seems that a kind of crisis has emerged in the criminal policy of the countries, part of which is due to legislative gaps and another part is due to the impossibility of using penal measures such as imprisonment and its alternatives in the current situation. The spread of coronavirus

in the world as well as the increase in the fear of the disease caused by it, has led to an increase in various types of fraud related to this virus on the Internet and also in visiting people's homes all over the world.<sup>4</sup>

Legislative criminal policy has been based on the taste of different legislators and their choices in all types of crimes and punishments and in general how to deal with the criminal phenomenon and criminal proceedings<sup>5</sup> Based on this type of criminal policy of the countries towards the phenomena, countries are divided in terms of the type of attitude and dealing with the criminal phenomena. the manifestation of criminalization and the definition and determination of the types of responses to behaviors that indicate a departure from social norms that are considered criminal should be searched at the level of the legislative criminal policy of a country. Today, despite the criminalization of fraud, there are still shortcomings and ambiguities in this field and also beyond that in the field of reducing and dealing with this crime.<sup>6</sup> In this research, we seek to investigate facing cases. Has the crisis of the spread of coronavirus created opportunities for fraud? Are the criminals in these areas, the same ones who commit fraud at other times or are there new entrants into the criminal markets? How does the behavior of victims, whether individual, corporate, or governmental, change in such situations? Pandemics and crises are mostly the only hooks on which to hang the scams that may have been committed anyway.

In Iran, we have seen various frauds since the outbreak of the coronavirus, and perhaps special measures have not been taken to deal with these crimes. Therefore, according to the importance of the topic in this research, we are looking to investigate different types of fraud during the Corona epidemic and the methods of dealing with these crimes in two topics. In the first topic, we have examined the types of frauds during the Corona era, and in the second topic, Iran's legislative policy in dealing with these types of frauds.

#### TYPES OF SCAMS IN THE ERA OF CORONA

Since Corona made many people afraid of death, the types of scams in Corona time have been so wide that some examples of which will be mentioned in the following.

#### FRAUD AND DECEPTION THROUGH THE CORONA VACCINE CARD

Due to the growing trend of injecting the coronavirus vaccine in Iran, we saw the publication of fake news, notices, and text messages about registering to receive the vaccine or vaccination of some target communities and age groups in cyberspace, especially social networks. In such a way the publication of these announcements, text messages, and fake news confused people and also caused problems for valid coronavaccine injection centers.<sup>7</sup> It seems that with the start of vaccination, fraudsters have reached the coronavirus vaccine card in such a way that some people have pocketed huge amounts of money for getting the vaccine. Because some foreign countries, especially Arab countries, only permit people who have been vaccinated with certain vaccines to visit and travel in that country, the profiteers in ambush took advantage of this opportunity and through brokers and fake vaccines could pocket huge sums.<sup>8</sup> Cybercriminals use platforms such as Instagram, Telegram, Twitter, and others to sell fake vaccine cards, and by announcing that they can provide valid vaccine cards, they encourage people to deposit money and carry out their criminal acts<sup>9</sup> In such a way that the fear of corona and the losses caused by corona crimes together deprived the society of psychological security and inevitably the legislator was required to adopt a legal criminal policy to prevent this problem.

#### FRAUD WITH FAKE CORONA TEST

One of the common scams in the Corona period is the scam under the pretext of a test, and the tests can also turn out to be fake.<sup>10</sup> In this way, fraudsters stole people's fingerprints by designing fake applications and by receiving people's account information so that they were able to empty people's bank accounts. during the Corona quarantine, scams from people mostly were done through cybercrimes. One of the common scams during the Corona days was the scam by imitating the voice of Iran's communication minister. Because people were encouraged to use cyberspace during this period and had more free time, fraudsters and cybercriminals also took advantage of this opportunity and committed fraud.<sup>11</sup> The issue that caused the fraud to take place through simulating the voice of government officials naturally caused the government to be more sensitive to this issue. As an example, on April 15th, 2021, Khorasan newspaper reported a case where a citizen's mother

was admitted to the ICU department of Shariati Hospital in Mashhad due to COVID-19. The citizen received a call from a person who claimed to be the mother's doctor. The imposter asked for \$600 to inject three vaccines, claiming that it was necessary for the patient's recovery. The victim deposited the requested amount to the given bank card number, assuming that the imposter was present in the hospital and had witnessed their conversations with the real doctor. The victim discovered the fraud when they visited the hospital the next day, and the attending physician did not know about the incident. The victim's family was emotionally vulnerable, and the imposter took advantage of their situation, posing as a compassionate and concerned doctor. The victim later regretted their lack of vigilance and urged others to be cautious and not fall for such scams.<sup>12</sup>

#### COUNTERFEIT DRUGS

The period of Corona is the period of consumption of some disinfectant products and special medicines, and counterfeiting of these products has been seen a lot.<sup>13</sup> Among them was fraud through the sale of counterfeit anti-coronavirus medicine and counterfeit solutions during the quarantine period. Iran's head of the Food and Drug Organization warned against counterfeit samples of remdesivir (a nucleotide prodrug of an adenosine analog. It binds to the viral RNA-dependent RNA polymerase and inhibits viral replication by terminating RNA transcription prematurely. remdesivir has demonstrated in vitro and in vivo activity against SARS-CoV-2)<sup>14</sup> in the black market, which is sold at exorbitant prices, and stressed that doctors should refrain from prescribing it until the effectiveness of this drug is confirmed by the scientific committee.<sup>15</sup> He, First of all, requested the medical colleagues not to prescribe a drug until the scientific committee approves it. The second issue was that these drugs have already been provided in the form of clinical studies in the country and are available. Third, people should not buy these medicines from unauthorized centers. Now we have received a large number of samples that the family prepared at astronomically high prices, but that drug is not remdesivir at all, but another drug that they changed the cover of and presented instead of remdesivir.

#### FRAUD UNDER THE PRETEXT OF A LIVELIHOOD LOAN

During the Corona period, fraud by calling for help has increased significantly. Police officials have announced that there has been a 100% increase in card-to-card fraud during the Corona period. With the increase of the allowed limit of money transfers, the value of Riyal card-to-card fraud increased by 128% from the 28th of March 2018 to the 15th of March 2021.<sup>16</sup>

Fraud under the pretext of paying the Corona livelihood loan was also on the rise during the quarantine. Corona loan was the payment of ten million Riyals (20 Dollars) to the account of family heads, which was paid at the beginning of May 2019.<sup>17</sup> In the fraud related to the payment of this amount, some fraudsters sent SMS numbers to people's mobile phones, asking them to reveal their bank account details, and by receiving this information, they emptied people's accounts. This group of fraudsters also used the traditional method of "phishing" or creating fake electronic payment pages to steal people's account and bank card information, to the extent that fraud by phishing fake bank pages and creating fake applications is the biggest cause of online fraud all over the world.<sup>18</sup> In this situation, it is possible that, unfortunately, profit-seeking people take criminal actions and misuse the applicants' bank accounts or even their personal information by designing websites or fake payment gateways. In such scams, cybercriminals exploit the feelings of citizens by inserting unrealistic images of the needy in channels, groups, and pages of social networks and demand money to help the needy, in some cases, to pay citizens' financial aid, they Fake banking pages and portals lead to phishing.

#### PRE-SALE ADVERTISEMENTS OF TOURISM TOURS ALONG WITH CORONA VACCINE INJECTION

Cybercriminals are trying to deceive citizens by offering pre-sale tickets for cheap tourism tours with the injection of the coronavirus vaccine on channels and social networks to defraud them with this trick. Cybercriminals gain the trust of the buyer with social engineering and language and ask him to pay for the custom ticket and the cost of his vaccine. Unfortunately, the compatriots did not receive any services related to vaccination after depositing the funds into the fraudster's account, and no one was responsible, or the tour ticket delivered to them was

fake. Following the pre-sale advertisements of tours along with the injection of the coronavirus vaccine, we saw fake links being sent on channels and social networks, which steal the bank information of citizens and empty their bank accounts.<sup>19</sup>

In this method, fraudsters send emails that appear to be from official authorities of countries such as insurance organizations, banks, or websites to protect against the coronavirus or even the World Health Organization, asking people to click on the links in these emails and by clicking on them a form will open asking the user to enter his personal information, insurance number or bank card information and in this way, they will access the sensitive information of the users. In France, this type of fraud, for example, has tried to obtain people's bank account information by promising to pay "rewards related to the quarantine period".

#### EMERGING SITES SELLING MASKS AT OUTRAGEOUS PRICES

In a situation where more or less, all countries were facing a shortage of masks,<sup>20</sup> fraudsters by launching new sites tried to sell surgical masks or "FFP2" masks to users at very high prices. The advertisements of these fraudsters are sometimes supported by influencers who do not have a good history on Instagram or Snapchat. These companies do not have a specific address and the phone numbers provided on their websites are not answered by anyone.

#### VISITING HOMES FOR DISINFECTION

With the outbreak of the COVID-19 pandemic, the world is witnessing an unprecedented global health crisis. In Iran, some individuals are taking advantage of the situation and committing fraud and theft under the guise of disinfecting people's homes. These incidents have raised concerns among citizens, who are worried about their safety and security. According to Iranian authorities, they have not authorized any personnel to enter people's homes for disinfection purposes. Therefore, any claims made by individuals posing as responsible personnel for disinfection are false and misleading.

It is important to note that such fraudulent activities can put people's lives at risk, as criminals may take advantage of the situation to gain access to households and steal valuable items. Therefore, citizens must remain vigilant and report any suspicious activities to the authorities.<sup>21</sup>

In conclusion, citizens should be aware of such deceptive tactics and not fall prey to fraudsters. It is the responsibility of the government and law enforcement agencies to take strict action against those who engage in such malpractices to ensure the safety and security of citizens.

#### FRAUD THROUGH THE LIVELIHOOD SUPPORT SCHEME FOR INJURED BUSINESSES

Recently, a group of fraudsters operating in Iran have been found to have launched fake websites aimed at luring unsuspecting individuals into submitting their bank card information. The websites claim that if users register and enter their bank details, the Iranian government will deposit a certain amount into their accounts to support businesses that have been adversely affected by the COVID-19 pandemic.<sup>22</sup> It is important to note that these claims are false and merely a ploy to obtain sensitive financial information from users. Individuals are advised to refrain from submitting their bank card information to such websites to avoid falling victim to financial fraud.

#### LEGAL CRIMINAL POLICY TO DEAL WITH DRUG FRAUD

This discussion tries to explore how Iran is dealing with cases of fraud during the COVID-19 pandemic and tries to analyze Iran's policies and strategies for dealing with such crimes and assess its effectiveness in curbing fraudulent activities. Additionally, this part attempts to gain a deeper understanding of the broader implications of Iran's criminal policy and how it may affect the country's response to the ongoing health crisis.

#### GUARANTEE OF LEGAL EXECUTIONS IN DEALING WITH DRUG OFFENSES AND CRIMES

When an individual violates the norms and laws of society, one of the severe consequences is legal execution. Legal execution is the reaction of the legislator to the commission of crimes, which refers to behavior that causes violations of the law. The guarantee of legal execution in criminal law serves as a deterrent to would-be offenders and a means of ensuring justice for victims of crimes.<sup>23</sup> It is a well-established fact that legal execution is the ultimate punishment for the most heinous crimes, such as murder, terrorism, and genocide. The process of

legal execution involves a rigorous legal procedure that ensures the rights of the accused are protected, and justice is served.<sup>24</sup> This execution guarantee may be in the form of criminal responses (punishments) or non-criminal responses (substitutions of punishments). The main punishments in Iran law are fines and imprisonment or a combination of these two punishments.<sup>25</sup> In addition to that, the closure of the institution by the license holder, the suspension of the license of the technical officer, and confiscation or destruction of imported and manufactured drugs without a license are added as punishments. The punishments can be the most severe. For example, if the use of counterfeit drugs is the sole cause of death, the death penalty would be considered and if its use is one of the causes of death, the punishment would be permanent imprisonment. Also, if the use of counterfeit drugs leads to a permanent illness or the absence or defect of one of the senses or organs of the user, permanent imprisonment is considered.<sup>26</sup> With this explanation, the punishments prescribed in the law related to medical and pharmaceutical matters regarding pharmaceutical crimes can be divided as follows.

#### Monetary Penalty

This type of legal execution guarantee is a financial punishment that is often included in criminal laws as one of the main or supplementary punishments in different legislations. This punishment is sometimes considered as a guarantee of main execution and sometimes as a guarantee of supplementary execution by the criminal courts of Iran.<sup>27</sup> It is necessary to mention that although monetary fines do not have bad educational effects on prisons, this type of punishment for rich criminals lacks deterrence and correction features. In various articles of the law related to medical and pharmaceutical affairs, this punishment is one of the guarantees of executions intended by the legislator in response to committed crimes, including in Article 3 and its notes 1 and 2, Article 4, Article 5, and its following notes, like 4 and 5 of article 14, articles 15 and 16 and finally paragraph c of the article.<sup>28</sup>

#### Prison

This type of punishment is also considered a type of guarantee of execution of the penalty of deprivation of liberty. Imprisonment, like fines, is one of the most common punishments, both in the form of laws and in the opinions of courts and other

competent authorities. While prison punishment can be a deterrent and correction, because there are many criminals in prisons with different moral characteristics, of course, it can become a very dangerous environment for the formation of gangs and criminal groups.<sup>29</sup> On the other hand, in this environment, different people can get acquainted with the ways of committing crimes, so it is possible that people who are sent to prison will become very dangerous criminals after the end of their sentence, and will repeat their crimes after leaving the prison.

#### Other Penalties

Among the other punishments intended by the legislator in the law related to medical and pharmaceutical matters are the punishments of closing the work environment (Articles 3 and 4), confiscation of drugs (Commentary 1 of Article 3, Articles 15 and 16), deprivation of employment (Commentary 2 of Article 3), Destruction of the drug (Articles 15 and 16), license cancellation (Articles 15 and 16), suspension of the license (Article 14 and Note 4 thereof), and prohibition of the right to re-open (Article 4).<sup>30</sup>

These types of punishments are a guarantee of light executions that are often considered for administrative and police violations, but the legislature has used this type of criminal response for drug crimes, which seems to be due to the negative effects of these types of crimes. Said punishments; Performance guarantees are not enough.

#### FEATURES OF PUNISHMENTS PRESCRIBED IN PHARMACEUTICAL LAWS

The punishments mentioned in the law related to the regulations of medical and pharmaceutical affairs generally include fines and imprisonment, but in the government punishments law, only it is a fine. Of course, in one case of the last mentioned, the punishment of imprisonment has been given, other punishments such as the closure of the pharmacy, written reprimand and entry in the file, confiscation of property and exposed substances, and cancellation of the license of the pharmacy manager are foreseen. In addition, Article 20 of this law stipulates the execution of punishments regarding the subject of the article, provided that more severe punishments are not provided in other laws. In the law related to the regulations of medical and pharmaceutical affairs, the punishments include closure of the premises, fines, temporary and permanent

imprisonment, confiscation of drugs, exclusion from employment in pharmaceutical affairs, temporary suspension of license, confiscation of drugs for the benefit of the government, and in one case, the death sentence. In the case of pharmaceutical fraud, which is the subject of Article 18 of the above-mentioned law, severe punishments have been provided in terms of the importance of the crime and its serious effects, so that if the use of counterfeit drugs is the sole cause of death, the sentence is death, and if one of the causes is or It causes permanent disability or permanent illness, the punishment is permanent imprisonment And in other cases, imprisonment is considered.

If the fake drug is serum, vaccine, or antibiotic, it is considered as one of the cases of aggravated punishment. According to Note 6 of Article 18, these crimes have a general aspect and can be prosecuted and punished without a complaint from a private plaintiff. Therefore, if a person dies due to the use of counterfeit medicine and his parents do not complain or if they abandon their complaint after filing a complaint, it will have an effect. However, if the parents file a complaint and demand retribution or ransom, the court depending on the case is obliged to issue a judgment of retribution or ransom. It is necessary to mention this point regarding drug crimes, especially the crimes under Article 18, that if the accused commits an act that is one of the examples of the three mentioned articles on retribution of the Islamic Penal Code, it is considered intentional murder and causes retribution. An interesting point to note is that in the crime of distributing corrupt drugs or drugs with a short or expired date of use, the punishment is directed at the company, which this attitude according to the new Islamic Penal Code, will be completely correct. The last point is that in the Law on Government Penalties for Health and Pharmaceutical Affairs, the punishments are different based on whether it is for the first second third, and sometimes fourth time and each stage is more severe than the previous one. This method has also been used in some articles of the law related to the regulations of medical and pharmaceutical affairs, but in other cases where this method has not been used, it will be treated based on the repetition of crimes from the new Islamic Penal Code. The result is that despite different laws in the field of drug crimes; The criminal policy of Iran's legislator is still a criminal policy, in other words, the legislator has used the guarantee of executions and criminal responses such as imprisonment and

finer, etc. And subsequently, in this policy, there is no place for guaranteeing non-criminal actions such as free social services. However, in an effective criminal policy, the guarantee of criminal executions and the guarantee of non-criminal executions often exist together, and both criminal and non-criminal responses are used. With the aforementioned explanations, it is clear that the legal criminal policy of Iran, especially the existing policy in the Penal Law, needed reforms both in the field of reforming the type and number of punishments and in the field of introducing non-punishment guarantees and non-criminal responses to drug laws.

#### THE PRINCIPLES OF HUMAN RIGHTS IN THE IMPLEMENTATION OF PUNISHMENT AFTER THE EPIDEMIC OF THE VIRUS COVID-19

One of the types of punishment for fraud is imprisonment.<sup>31</sup> There are many principles of human rights related to prison. But ensuring the health of prisoners the existence of suitable facilities for living in prison, and creating the necessary platforms to achieve basic rights and freedoms, such as the right to education and freedom of communication, are among the most important of them. With the emergence and spread of the COVID-19 virus, the implementation of the aforementioned principles has faced many challenges.

#### Ensuring the Health of Prisoners

Even though the imprisoned criminals have violated the criminal norms and basic values of society, they are human beings and naturally have basic human rights. In the meantime, the right to health is one of the most prominent rights; Because this right is related to the lives of these citizens and their security.<sup>32</sup> Prison as a punishment inflicts the pain of deprivation of freedom on criminals. The freedom of movement of these people is denied so that the perpetrators of the crime learn from this passer-by, fear, and distance themselves from crime.<sup>33</sup> But despite this, the other rights of these citizens are still intact, and proper grounds for access to them should be provided in the prison arena. This is the reason that in the minimum rules of the United Nations standard in the field of treatment of prisoners approved in 1955, the benefit of medical services, nutrition, and proper health are among the rights of prisoners. Therefore, in the prison environment, necessary measures should be taken to ensure the right to health. In addition, in the basic principles of treating prisoners approved in

1990, the right of prisoners to access health services is also mentioned.<sup>34</sup>

It is in this framework that the second chapter of the bylaws of the organization of prisons and provision and educational measures of the country, approved in 2014, is dedicated to the nutrition and health program of the prisoners.<sup>35</sup> According to this chapter, necessary measures should be taken to ensure the health and hygiene of the prisoners. According to Article 102, the institution or prison is obliged to perform medical tests on all prisoners at least once a month. Ensuring the mentioned right is so important that in the absence of proper facilities in the prison for the treatment of criminals, the facilities of treatment institutions and hospitals outside the prison should be used. According to Article "103", as far as possible, an arrangement should be adopted to meet the medical and health needs of sick convicts inside the institution or prison, so that there is no need to transfer the convict outside the institution or prison. However, in the necessary cases, the convict must leave the prison for treatment with the approval of the prison health department, the permission of the head of the institution or prison, and the approval of the judge in charge of the prison. It is obvious that according to these articles, the health of prisoners and its provision in a proper way, on the one hand, is among the basic rights of prisoners, and on the other hand, it is foreseen as an undeniable duty of the prison system. Even according to Article 104, the provision of the necessary medical expenses of the prisoners has been entrusted to the prison so the lack of financial resources does not prevent them from achieving the mentioned right. In addition, the prison system must take care of prisoners against diseases, especially infectious diseases. According to Article 105, "all places of prisons and related places must be disinfected once a month; Unless, due to the appearance of insects or the occurrence of an epidemic and the spread of the virus, seasonal and local diseases require the disinfection of related equipment and spraying of poison in the prison area earlier than the scheduled time. Also, according to Article 110, "The health care of the institution or prison is responsible for the prevention of the spread of communicable diseases, such as tuberculosis and the like, implemented using the cooperation and financial and technical assistance of the ministries and the institution. and associations to prepare the place and medicine for the complete treatment of the mentioned patients In this way, criminal politicians in line with the human rights approach and consider

that prisoners are human beings before they are criminals and should enjoy the same basic rights as criminals even in the arena and during the execution of punishments, this right is given to criminals in Iran's legal system. imprisoned and in return, they have recognized this task for the prison officials so that the health of the prisoners can be guarded.

Ensuring prisoners' access to their basic human rights is crucial, particularly with the emergence and spread of highly contagious and dangerous diseases like COVID-19. It is essential to prioritize the health and safety of prisoners, even as they serve out their sentences as a form of punishment. According to the penal policy foreseen by the rule makers, the prisoners are those criminals who, due to the commission of a crime, deserve to face the punishment resulting from deprivation of freedom of movement, and therefore, criminals sentenced to prison should not be punished beyond this.

With the spread of this virus, the health of prisoners can be guaranteed in two ways. The first way is to use prison measures and return these criminals to society. Several prison reduction mechanisms, such as parole, semi-parole, and leave, are available to criminal justice officials, so that by using them, the penalty of the prisoners, instead of staying in the prison environment, which may be an area for the transmission of this disease, would be considered. These mechanisms, which are foreseen in the framework of the Islamic Penal Law approved in 2012, can be used based on the principles of minimum prison and the need to preserve the lives of prisoners. therefore, the criminal justice authorities should take steps towards it and as a result replace the mechanisms. For example, according to Article 57 of the mentioned law, "in punishment prisons of the fifth to the seventh degree, the convict can request the issuance of a sentence of half freedom during the period of serving the punishment, if he meets the legal conditions, and the court is obliged to process it." "Of course, according to Article 8 of the Law on Reduction of Penal Imprisonment 2019, in the case of second, third, and fourth-degree penal imprisonments, if a quarter of the prison term is served, half freedom can be used and therefore it can be compared to it" A group of prisoners who have spent a quarter of their prison time benefited from this method.

In this framework, with the spread of the mentioned virus, a judicial decree No 100/214056/9000 was issued in March 2018, so in light of it and for the "necessity to preserve

the health of prisoners”, several criminals were released from prison. In this way, although the execution of punishment on criminals plays a role in their rehabilitation, maintaining public order, and establishing security, as well as deterrence, it should be done with the guarantee of their health. Obviously, in the case of high-risk conditions, the mentioned right prevails over other rights, and therefore, steps should be taken towards removing this punishment or stopping its implementation for a while. Of course, in this situation, to abandon prisons, on the one hand, the existing legislative capacities should be used. Anyway, according to Article 494 of the Criminal Procedure Law approved in 2012, it is “the principle of admissibility of the process of execution of criminal sentences”; Unless it is foreseen in the framework of the laws to stop its implementation. In this context, it seems that the methods of semi-freedom and parole can be used when the conditions exist. On the other hand, when it is impossible to preserve the health of the prisoners through the existing legislative capacities, it should be taken in line with the policies and resolutions of the National Headquarters to deal with Corona.<sup>36</sup>

The establishment of this headquarters is rooted in the approval of the Supreme National Security Council. According to Principal 176 of the Constitution of the Islamic Republic of Iran approved in 1988, this council was established to “secure national interests and safeguard the Islamic revolution and territorial integrity and national sovereignty” and must make policies in this field. In this context, the Supreme National Security Council has approved the establishment of the aforementioned headquarters with special powers due to the spread of the mentioned virus and its transformation into a widespread threat to the lives of the citizens, to speed up its, Take necessary measures in emergencies.<sup>37</sup>

Therefore, the release of prisoners based on the decisions of this headquarters, which considers the health and safety of citizens as the basis of decisions, can be considered as another normative capacity. Of course, considering that according to article 247 of the regulations of the organization of prisons and provision and educational measures of the country approved in 2014, this regulation was approved by the head of the judiciary, by identifying a set of criteria related to emergencies, at least the level of use of the mechanism can be increased the leave of prisoners, which play a role in reducing the population of prisoners and maintaining

their health.<sup>38</sup> In this way, it seems that due to the prevalence of the mentioned virus, it is necessary to increase the amount of use of the prison mechanisms by relying on the existing legislative capacities, and then in line with the drafting of the law suitable for these conditions and the development of the methods of punishment and release of prisoners. The overcrowding in prisons increases the risk of COVID-19 spreading among inmates, putting many lives at risk. One solution is to implement health and safety measures within the prison environment. However, dangerous criminals who pose a persistent threat and have committed serious crimes should still be punished by imprisonment. It is important to take appropriate steps to ensure the health and safety of these individuals as well. Provision of a suitable space for the inmates of the prison, isolation of prisoners with special and vulnerable conditions, the use of preventive health measures, the creation of necessary facilities for the treatment and quarantine of sick prisoners, and maintaining social distancing in the prison area are among the measures to protect the health of prisoners. According to articles 102 to 121 of the regulations of the organization of prisons and provision and educational measures of the country approved in 2004, with appropriate preventive and then curative measures, this institution should eliminate the background of contracting this disease and its spread among prisoners.<sup>39</sup> In addition to this, according to the note of Part 1, Clause (c) of Article 38 of the Law on Permanent Provisions of the Country’s Development Programs approved in 2015, the Ministry of Health, Treatment, and Medical Education has also been tasked with the organization of prisons and security and educational measures of Iran to include prisons as a health zone under the comprehensive and universal health services of the country” the implementation of this task can play a role in increasing the facilities of prisons in terms of the health of prisoners who are at risk of the aforementioned virus. In the same framework, according to Article 3 of the Executive Regulations, Clause (c) of Article 38 of the Law on Permanent Provisions of National Development Programs approved in 2018 by the aforementioned Ministry, it is necessary to “provide health care according to the integrated service packages in the health network system, appropriate to the conditions of the prisoners”. the application of appropriate health measures to ensure the health of criminals in the prison arena is among the basic duties of the aforementioned institutions so that the execution of



the prison sentence for these citizens can be carried out in a health-oriented manner.

#### Guaranteeing the Basic Freedoms of Prisoners

Humans are created free. This right has many manifestations, some of which refer to prisoners. In any case, the criminals who have been imprisoned, on the one hand, as human beings, and like all human groups, have an equal right to access freedom, and on the other hand, their punishment is deprivation of liberty, and on this basis, this should not be the case.<sup>40</sup> It's important to ensure that prisoners have access to certain freedoms even when they are confined. One of the most crucial freedoms is their ability to communicate with people outside the prison. Despite being deprived of their liberty, they should still be able to maintain relationships with family and friends and keep up with events in the world. However, to achieve this, it's necessary to limit the freedom of citizens who are not imprisoned, as they could pose a risk to the safety and security of the prison environment.

This freedom is so important that it is identified in articles 37 to 39 of the minimum rules of the United Nations standard in the field of treatment of prisoners approved in 1955. Based on these materials, the prison should provide suitable conditions for the prisoners to meet their family and friends and allow them to be aware of the events through access to the media. At the level of Iran's criminal policy, such freedoms have been foreseen in the first chapter of the third section of the charter under the title "meetings". According to Article 180, all convicts and accused persons are allowed to communicate with their relatives and acquaintances under full supervision and according to the provisions of this regulation, and this communication is done through meetings and correspondence. Therefore, the prison should create conditions for the imprisoned criminals to reach it through appropriate measures. According to Article 182, the husband or wife, father, mother, brother, sister, and children of the convict or the accused, as well as the parents of his wife, have the right to meet the convict based on the conditions of weekly visits, and other relatives and friends of the convict upon request and obtaining permission. They can meet on behalf of the head of the institution or prison or supervising judge. In addition to having a human rights aspect, this approach is also effective in rehabilitating and rebuilding the personality system of criminals. Anyway, this relationship plays an effective role in

the emergence of cheerfulness in prisoners and the acceptance of rehabilitation programs.<sup>41</sup> With the spread of the COVID-19 (coronavirus) virus and the necessity of social distancing, prisoners' access to this type of freedom has come with many challenges. These criminals can't meet their family members and friends easily, and therefore, to comply with the health and preventive rules regarding this disease, this relationship should be put aside for a while. This challenge increases when family members and friends of criminals live in another city. In this way, the access of those prisoners who must always endure punishment in this environment, to the freedom of communication with the outside, through real meetings, becomes impossible or is reduced to a great extent.

#### THE PENAL PRINCIPLES OF THE IMPLEMENTATION OF THE PRISON AFTER THE EPIDEMIC OF THE VIRUS COVID-19 (CORONA)

The effective implementation of prison punishment hinges on the strict observance of a series of criminological principles. These principles are rooted in the nature and function of the punishment, and as such, their implementation is crucial for achieving the intended goals of the punishment. In the field of criminal justice, several criminological principles have been identified that are vital for the successful implementation of prison punishment. The most prominent of these principles is rehabilitation, which aims to help the offender reintegrate into society and become a law-abiding citizen<sup>42</sup> In addition to rehabilitation, the prison sentence serves several other goals that require the observance of specific principles. For instance, deterrence aims to discourage others from committing crimes by making an example out of the offender. In this context, the principle of proportionality is essential, as the punishment should be commensurate with the crime committed. Another critical principle related to prison punishment is criminal rehabilitation, which aims to address the underlying issues that led the offender to commit the crime.<sup>43</sup> This can include providing education, job training, and mental health treatment, among others. In conclusion, the successful implementation of prison punishment depends on the strict observance of various criminological principles. Rehabilitation, deterrence, and criminal rehabilitation are among the most crucial principles related to this punishment, and they must be recognized and guaranteed in the process of its implementation

## REHABILITATION OF CRIMINALS

The goals of criminal justice and prisons include the rehabilitation of criminals. To achieve this, prisons must implement measures for the social reintegration of criminals after identifying their criminal components and the environment they come from. The prison should serve as a place to teach criminals criminal norms and standards. The United Nations recognizes the importance of this goal in its criminal policy. The International Covenant on Civil and Political Rights requires member countries to improve their prison systems to rehabilitate criminals. The UN has outlined guiding documents to promote the rehabilitative function of prisons, including the Minimum Standards of the United Nations in the Treatment of Prisoners and the Basic Principles for the Treatment of Prisoners. These documents emphasize the importance of humaneness, fairness, differentiation of punishment, and minimal use of prisons. This approach has become global in criminal policy<sup>44</sup>

In Iran, rehabilitation is also a goal of prison punishment at different legislative levels. The Constitution of the Islamic Republic of Iran and the Law on Permanent Provisions of Country Development Programs both require the judiciary to take steps toward rehabilitating criminals.<sup>45</sup> The Law on the Transformation of the Council for the Supervision of Prisons and Provisional and Educational Measures of the Country into "Organization of Prisons and Provisional and Educational Measures of the Country" identifies the correction, guidance, and training of prisoners as important duties. The bylaws of the Organization of Prisons and Security and Educational Measures of the Country give a reformatory aspect to prison by providing education, vocational training, and psychotherapy programs to reintegrate criminals into society. According to Article 3 of the above-mentioned regulation, "Prison... with the purpose of vocational training, rehabilitation, and reintegration..." is an area for punishing criminals.<sup>46</sup> A set of stages and rehabilitation programs have been identified in the above-mentioned regulations to achieve this goal. Forming a file on the personality of prisoners and criminal etiology and identifying appropriate correctional methods as well as rehabilitative care are among them that should be used in the prison arena to reintegrate criminals into society. The implementation of these rehabilitation programs naturally depends on the criminals staying

in the prison environment. The prison officials take steps to identify and implement the mentioned programs according to the condition of the individual and the environment of tolerance of the prisoners. For example, we can refer to Article 136 and the educational program. According to it, "to raise the level of information and prevent the convicts from wasting their time, as well as to strengthen their will and develop their hidden thoughts and talents in all vocational and employment centers and prisons through the relevant ministries and educational, scientific and Technical, professional and governmental or related to the government or charitable organizations and the literacy movement and with their cooperation, under the supervision of the relevant units in the institution or prison, technical, professional and religious training is given. "Thus, the aforementioned program, which is planned for the reformation and treatment of the imprisoned criminals, is enforceable in the prison arena. Or is it the same, Article 154, which places "...the cultivation of ideas and artistic talents and the improvement of the information level of the convicts..." in the prison through appropriate rehabilitation programs. The purpose of the rehabilitation prison is to develop the personality of the criminals during the period of deprivation of their freedom. The prison takes steps to punish and re-normalize this category by providing correctional programs such as education, skill training, and criminal treatment.<sup>47</sup>

The process of rehabilitation of criminals in prison has several stages.<sup>48</sup> The first is the recognition stage. This stage for the rehabilitation of criminals has three parts: "Rehabilitative examination" in the framework of which the collection of information related to the personality and different aspects of the individual and the environment of the criminals is attempted. "Rehabilitative etiology" is another part of this stage. In this part, by creating a personality file and relying on the collected data, the factors of committing crimes are identified and analyzed. Anyway, to correct and treat criminals, it is necessary to first know the problem and why they commit the crime. After this, a "rehabilitative diagnosis" should be done. In this section, based on the etiology performed, appropriate ways of rehabilitating criminals are identified which methods play a role in the re-admissibility of criminals. This stage and its parts are foreseen in the aforementioned regulations. According to the first chapter of the second part entitled "Admission, identification and Classification", the prison through the admission

and identification unit should investigate and recognize the personality of convicts and accused persons. In this framework, according to Article 64, the government is subjected to medical, psychiatric, psychological tests and personality and talent tests for a maximum of two months in the admission and diagnosis section, as well as their physical and mental health and religious, scientific and technical information is examined and determined to know the personality. According to the regulatory forms prepared by the organization based on Islamic standards, the social workers have carried out the necessary investigations on the life history, a complete report on the past of the convict or the accused from childhood to the time of his adjustment in various family, educational, local environments.<sup>49</sup> He prepares a profession and so on by expressing his opinion. At the end of the period of their stay in the admissibility and identification of all the reports of the specialists, they will be concentrated in their file to be presented to the classification council. In this way, in prison, in the process of rehabilitation of criminals, it is necessary to take a step in the direction of knowing the reason for committing a crime by forming a personality file and using a set of measures to comprehensively analyze the dimensions of the personality of criminals. The second stage is implementation. At this stage, appropriate programs and measures are implemented based on the diagnosis of rehabilitation. These programs and measures, each of which has something different from the other, are used to resocialize criminals.

The rehabilitation of criminals is crystallized when the identified measures are implemented; Because reaching this goal depends on intervention and influence in the personality system of criminals. In fact, after knowing the factors that play a role in the occurrence of crime and the appropriate methods for the correction and treatment of criminals, they should be implemented. This step is very basic and important. For this reason, a separate chapter titled "Rehabilitation programs" has been dedicated to it in the above-mentioned regulation. The forecast for this season shows the importance of implementing correction and treatment programs.<sup>50</sup> Therefore, prison officials should implement identified rehabilitation methods that are appropriate to the situation of criminals, considering the reason for committing crimes. For example, we can refer to Article 136. According to it, "convicts during their stay in the institution or prison, according to the duration of their sentence and the quality and type

of scientific, religious and technical, professional education programs provided in prisons to acquire literacy and continue scientific, religious and professional education. They will have a job. Therefore, at this stage, the diagnosis of rehabilitation finds an operational aspect, so that the prison passer-by is an arena for the implementation of reparative punishment. Anyway, according to Article 3, wide prisons are meant to punish and rehabilitate criminals. Naturally, this goal is crystallized through the reformation and treatment programs in the prison territory. The third stage is post-implementation. At this stage, rehabilitation programs are started. The prison system evaluates how the action and correction and treatment programs affect the criminals. This stage is very important; Because in its framework, relative to the level of effect of the measures used and the situation of readmission of criminals, rehabilitation care is done. Rehabilitative care includes several mechanisms in the light of which criminals are guarded after the end of the prison term to follow the criminal laws and norms and not turn to crime again.

Of course, this care is in line with and a part of the process of correction and treatment of criminals, and therefore, it does not have the aspect of the police. This stage is so important that in 1378, a separate regulation was compiled for how to pass it.<sup>51</sup> According to Article 1 of the above-mentioned regulation, "To reform and educate prisoners to prevent the occurrence of crime through material and moral support of eligible released prisoners and provide a favorable environment for their return to a healthy social life, The care department will be created after the departure. In this way, the care of the elderly has a supportive aspect and for stability and influence, corrective and therapeutic approaches and measures are carried out. This support has different forms; Sometimes it has a social and cultural dimension and sometimes it has an economic aspect. Anyway, this care is used to support the criminals, improve the social, cultural, and economic situation, and provide the necessary platforms for a normal social life and prevent the recurrence of crimes. The spread of the COVID-19 virus (coronavirus) and, in fact, social distancing and the need for people to stay away from each other to prevent its spread and to rehabilitate criminals in prison, making all these actions and passing these stages face many challenges. The completion of this action and the collection of the mentioned information depends on the establishment of communication in the real environment.

In this era, staying away from each other is a good way to prevent the mentioned virus. This is the reason why it is not possible to carry out the mentioned measures in the process of rehabilitation of criminals easily. In addition, the implementation of rehabilitation programs also has the same situation. It is no longer possible to implement educational, skill training, and other rehabilitation programs in the prison environment. It is crucial to consider that the process and approach of rehabilitating prisoners face a fundamental challenge. The set of rehabilitative measures and programs adopted and implemented in prisons is based on the understanding of the factors that cause crime and the dangerous state of the criminals, as well as how to reform and treat them. The dangerous situation refers to the state of the prisoners who pose a threat to committing crimes again in the future. The primary objective of criminology and rehabilitative punishments is to identify and plan to address this situation.<sup>52</sup> However, the current conditions have created numerous uncertainties and obstacles to achieving this goal. This fundamental challenge and problem arise when a decision must be made to expel criminals from prison to safeguard their health. Anyway, these criminals are sent out without being the subject of rehabilitation programs, just to respect and guarantee the right to health and go through prison. This reality has challenged the implementation, the principle, and the right of criminals to rehabilitative programs and actions in the prison arena.

#### CRIMINAL DETERRENCE AND REHABILITATION

Criminal justice has several consequential goals. Just some of them are criminals. In the light of these goals, the rehabilitation of criminals is of interest. But on the other hand, we are looking at how criminals make decisions and their opportunities to advance in the process of committing a crime. In the meantime, deterrence and criminal rehabilitation are among the goals of criminal justice to reduce the number of crimes committed and their repetition.<sup>53</sup>

Punishment deterrence, which has received attention from the hands of penal theorists, especially "Cesar Bekaria", relies more on scaring people from being punished and suffering from it.<sup>54</sup> Criminal justice in the light of it, seeks to create fear among the citizens of passing criminal tools so that those who have criminal thoughts and those who have committed crimes before, will not go to crime again.

Therefore, scaring non-offenders from punishment and as a result giving up on delinquency making criminals afraid of punishment, and then keeping them away from repeating the crime is the goal of criminal justice from this perspective.<sup>55</sup> In this way, reducing the previous and subsequent delinquency of the passer-by is the goal of criminal justice in the light of deterrence.

This goal is made available by using punishment. But there are many approaches in this field. A deterrence approach strongly links punishments, considering that the use of punishments has been intensified to keep non-offenders and criminals away from committing crimes. Because the use of this type of punishment creates a lot of costs for people who tend to commit crimes. Therefore, in the framework of this approach, the use of harsh punishments can play a role in reducing the number of crimes.

But another approach considers deterrence dependent on the certainty and speed of punishment.<sup>56</sup> In light of that, criminal justice can achieve deterrence not through intensified punishments, but through a determined will and in the process of investigation and conventional execution. In the criminal accounting of individuals, the power of criminal justice in the field of execution of punishment is a prominent component that is always taken into consideration. Therefore, if the punishment is intensified, but there is no power to apply it, criminal justice will be challenged in terms of reaching the goal of deterrence. In addition to this, the speed of execution of punishment is also a factor that can play a role in criminal accounting. What is the fact that the mentioned component is a reminder of why criminals should be punished and in fact, citizens should be warned. In this way, in the framework of this approach, it is only the use of the aforementioned components that can lead to a reduction in the number of crimes. Despite this, it seems that what is taken into consideration for criminal deterrence in this era is the certainty and speed of punishment. In terms of prison sentence, although the basic goal of criminal justice is to rehabilitate criminals. But deterrence is also accessible through it. Because with the use of prison, people suffer from the penalty of being deprived of their freedom. Prison is the punishment that comes by depriving the citizens of their freedom and trying to punish them so that the criminals will be educated and avoid committing crimes again due to the fear of punishment. In this way, even though the prison

has a basic mission to reform and treat criminals, it can also play a role in deterrence.<sup>57</sup> Of course, when the aforementioned punishment is determined and implemented in a fast process. Achieving this goal through prison is so important that Iran's criminal policymakers have also paid attention to it. According to Article 3 of the Regulations of the Organization of Prisons and Provisional and Educational Measures of the country approved in 2014, "Prison is a place where convicts whose sentences have been decided, with the introduction of competent judicial and legal authorities, for a certain period or permanently" Punishment...they are kept". In this understanding, prison is referred to as "tolerating punishment". It is obvious that the intention was to prevent this punishment; In this sense, even though the prison tries to make the criminals acceptable to society again by depriving them of their freedom and using rehabilitation programs, it also provides the means to scare the criminals and the prisoners so that as a result they will give up committing crimes. In the same framework, Part 1, Clause (c) of Article 38 of the Law on Permanent Provisions of the Development Programs of the country approved in 2015 also lists "deterrence" as one of the approaches to prison punishment to give it a sustainable aspect through the aforementioned law. With the spread of the mentioned virus, the stability and deterrence of the prison have faced a challenge. To prevent the spread of this disease, the policies of releasing imprisoned criminals are adopted. Within its framework and by using the methods of criminal proceedings and as a result of the release of prisoners, several challenges arise regarding the certainty and speed of the execution of punishment. This is where a solution should be found to curb crime and keep criminal justice firmly in the field of punishing criminals and achieving deterrence. However, the fear of being punished keeps a significant number of citizens away from committing crimes. If there is a challenge in this field, the prison becomes inefficient in terms of deterrence. In addition, the prison can also play a role in the implementation of criminal justice. Criminal justice has several consequential goals, the most important of which is the disempowerment of criminals through punishment.<sup>58</sup> In light of this goal, by taking away the power of the criminals, punishment takes away the opportunity to commit crimes, and on this basis, it becomes impossible for these citizens to commit crimes.<sup>59</sup> This approach is effective in preventing the repetition of crimes.

This is the reason why criminal policymakers pay attention to it in predicting the performance of punishments. In the meantime, prison is one of the punishments that have the purpose of rehabilitation. By using this punishment, criminals always stay away from society and as a result, they don't get many opportunities to commit crimes. In Article 3 of the bylaws of the organization of prisons and security and educational measures of the country approved in 2013, this goal has been recognized. Due to that, prison is a place to keep criminals. Therefore, the ability and opportunity of criminals to commit crimes during the period they are kept in this environment are lost.

This function of the prison has been challenged by the spread of the COVID-19 virus and the release of several prisoners. Because it is taking the power of the criminals from the prison and holding them hostage in the mentioned environment, which naturally becomes impossible to access by releasing these citizens. Therefore, the inability of the criminal justice in the field of incapacitation prisoners who have returned to society after the release policies related to the mentioned virus is the fundamental challenge to the advancement of this system, which is to identify the appropriate solutions in this field and in fact to be effective. Criminal justice is necessary to curb crime.

## CONCLUSION

The COVID-19 pandemic has caused a significant global impact, not only on public health but also on criminal activities. Criminals have taken advantage of the fear and uncertainty brought about by the pandemic to commit fraud and other criminal activities, particularly in the cyber world. With the increased use of artificial intelligence, machine learning, and other automated tools, cybercrimes such as online fraud and credit card scams have also increased. Criminals have also taken advantage of the surge in online sales and e-commerce, targeting vulnerable individuals and businesses to defraud them. In addition to cybercrimes, criminals have also resorted to using emails to commit fraud. They send emails claiming to offer financial assistance to people, asking for their bank account details, and then draining their accounts.

The COVID-19 pandemic has also led to a significant increase in distance education. Unfortunately, even distance learning software has been exploited by criminals who use it to collect personal and financial information from

unsuspecting victims. The pandemic has also created significant challenges in the criminal justice system, and policymakers need to consider the impact of the pandemic on criminal justice principles, particularly those related to prisons. In this regard, it is essential to take into account the need for social distancing in prisons while also ensuring the prisoners' right to health.

To address these challenges, criminal justice and prison systems need to adopt several measures. First, they need to implement jail reduction mechanisms such as criminal regression strategies. These strategies involve the suspension of the prosecution of criminal lawsuits, criminal mediation, and the suspension of the execution of punishment. These measures can significantly reduce the number of people in prison, preventing the spread of COVID-19 while also providing reasons for reducing the criminal population.

Second, they need to consider other reduction methods such as parole and leave of prisoners. Electronic monitoring can also be used as a suitable penal method for these conditions. This method involves monitoring and controlling the person under care continuously or periodically, using electronic tools and equipment. This measure can reduce the risk of contracting the virus in prisons and also provide punishment for criminals at the community level.

However, it is also essential to consider the effect of these measures on the rehabilitation and deterrence of criminals. Therefore, it is necessary to create a context for rehabilitative communication by using information and communication technology. Virtual rehabilitation can be used to educate prisoners and provide vocational training through the virtual environment. This measure is a step in the right direction towards correcting and treating criminals after identifying their dangerous condition. Finally, the separation of sensitive groups in prison is necessary. Some criminals must always be punished in prison, and the health-based isolation method can be used for those who have high-risk conditions, allowing them to spend their prison terms in a separate area. In conclusion, the COVID-19 pandemic has significantly impacted criminal activities and the criminal justice system. It is essential to adopt measures that consider the principles of criminal justice, such as prison reduction, electronic monitoring, and virtual rehabilitation, while also ensuring the prisoners' right to health.

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