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**Investigating Iran's Criminal Justice Policy in Identity Document Crimes**

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**Abstract**

Today, one of the concerns of governments and states is to keep the identity and national identity documents of the people of their society safe, the invasion of which is a dangerous act and detrimental to the social order. In addition, because it has a direct relation with the security of a country, it is dealt with a particular sensitivity by governments.

Our country is no exception and has played a major role in supporting the Identity Documents through the approval of the law of violations, crimes, and penalties related to Identity Documents and birth certificates approved. This represents the criminal policy of Iran; other laws are used as a subordinate.

In spite of the sensitivity of the legislature and the determination of various penalties for the crimes pertaining to the identity documents, these crimes, and in particular, the counterfeiting and misuse of aliens from identity documents continue to grow and get coplicated, the outbreak of which affects the public order and security of the country. It seems that Iran's criminal policy has not succeeded and the law has less deterrence due to the challenges to the manner of criminalization and judicial and administrative systems and failure to take preventive measures, and various other reasons.

This paper looks at Iran's judicial policy and is carried out with the presumption that reviewing the laws and reforming and upgrading the legal, judicial and administrative structure is an effective step in preventing and dealing with such crimes. In the following, we have analyzed the existing structures.

**Content**

**Introduction**

The issue of Criminal Policy of Iran in the realm of identity document crimes has been one of the concerns of government officials in recent years. Increasing the spread of crimes and serious threats against the security of the country has made this issue completely tangible. One of the important features of such crimes is the importance and the great impact they have in the formation and structure of the community and their impact on the people of the community in comparison with other crimes. In fact, here, the victim is not a specific person or group, but it may cause irreparable damages to society and government.

Every state and government is trying to identify his own individuals \_ the country’s real citizens \_ exactly and completely. The basis of this identification is upon two elements of identity and nationality. In order to differentiate between the people living in the country and its territory and the people outside this territory, any government must in any case provide its people with the evidence on the acceptance of their relationship with that state. Establishing an integrated and coherent registration system in the countries relates to the 19th century. In Iran, as with the modernizing and restructuring of the country, the need to identify the citizens of the country for the establishment of a regular army, tax collection, and so on . . . put the establishment of Civil and Personal Status Registration on the agenda. In 1297 AH, the first approval of Civil and Personal Status Registration was approved by the Board of Ministers and the task of giving identity document, which was later became known as identity card and birth certificate, was delegated to this organization.

The civil and personal status registration system in Iran is 95 years old and records and maintains the information about the population and citizens of the country in the form of identity documents.  
It also captures and preserves other fundamental changes of individuals such as marriage, divorce, child characteristics, and death.

The identification of individuals in the form of identity and nationality documents is of particular importance in a certain political geographical area, since the allocation of the identity and nationality document to each individual of the community serves two purposes: the first one is the first step in identifying and enforcing each individual's political, social, and economical rights; the second one is the generation demographic data and vital data such as marriage, divorce, death, and other important vital indicators that are of great importance in economical, political, social, and cultural planning.

The necessity of supporting and protecting identity documents has been considered by the legislature from the beginning of the legislation and some laws of civil and personal status registration have been allocated to the determination of crimes and punishments in accordance with the time conditions. However, the mutation-like changes in social, economical, political, cultural, and … conditions of the society in the last 30 years, on the one hand, and the advances in science and technology, on the other hand, have led to the lack of compliance and ineffectiveness of existing laws in this field.

Crimes of identity documents are among the most serious issues in judicial authorities, especially in the border areas. Not only are different sentences issued in the same cases, but also no proper enforcement is being made in the administrative and judicial stages. Although the law of violations has been adopted for more than two decades, the crimes and penalties related to identity documents and birth certificates have not been solved so far; As such the author, as far as his scientific knowledge, examines the existing situation in terms of criminal policy.

**First part - Concepts and Generalities**  
In research and investigations, it is always attempted to firstly deal with the definitions and terminologies in order to clarify the subject and understand the scope of the thesis. Understanding the scope of the discussion requires the understanding of words, concepts and terms. In other words, a simple, clear, and concise definition of this research words is of great importance in the recognition of the Article.[[1]](#footnote-1)

**A. The Concept of Criminal Policy**  
Criminal policy of any country differs depending on the country’s political system; legal system and legal sentimental views differ depending on the customs and culture of the society. Hence, there are differences in the criminal polices among different systems, parallel with the thoughts, cultures, and ruling political system. For the convenience, the scientists in this field have been working to categorize various models based on the subscription in some indices.

The criminal policy of the early 1990s, after the interregnum of Second World War, its events, and its criminal acts against humanity, was once again came to the attention of scientists and professors of criminal law and criminology. It was largely expanded by Mark Ansel's works in the context of social defense movement; he relied on the human criminal policy.[[2]](#footnote-2)

The term criminal policy was first used as a field study by the German scientist “Feuerbach” in his book, "The Criminal Law" in 1803. This German scientist defines criminal policy as "a series of repressive practices used by the government to react against crimes.” His definition is an implicit concept of criminal policy and in fact represents the same penal policy. In his opinion, criminal policy is based on violent, punitive, and official methods and only applies against crimes.[[3]](#footnote-3)

Of course, this same meaning is the perception of some contemporary writers about criminal policy. Nevertheless, today, we see that criminal policy has been separated from both criminal law and criminology and has acquired an independent meaning and concept. Of course, if we consider the definition of Mr. Feuerbach as a criterion and expand it, we can say that criminal policy involves a set of methods that the community organizes the responses to criminal phenomenon through them. In this way, criminal policy synonymous with the theoretical and practical aspects is manifested in social control and inequality in various forms.[[4]](#footnote-4)

Another German scientist and founder of the International Criminal Law Association (Fon List) in defining criminal policy says: "The systematic set of principles that governments and societies deal with and fight against crime and delinquency"[[5]](#footnote-5) And for the purpose of identifying a criminal policy, two points can be considered on the one hand, social prevention, with the aim of completely eliminating or limiting the social conditions of the crime, and on the other hand, the fight against the specific crime that committed the offense.

Another French professor, Don Dave Duver, considers criminal policy to be an art whose object is the discovery of methods of combating crime. Thus, the attitudes and attitudes of jurists of criminal law up to the middle of the twentieth century, based on the narrow concept of criminal policy, are based on the fact that criminal policy does not include all the ways in which the government has the right to commit and prosecute crimes. In this sense, the prevention that the government faces is outside of the criminal policy, since preventing it to any effective extent does not completely eliminate the criminal phenomenon, and with the emergence of this phenomenon and the second state of affairs, which precisely includes its criminal policy. It means punishing and repressing the crime.[[6]](#footnote-6)

With the advent of post-World War II philosophical schools and the presence of many scholars during these schools, the concept of criminal policy evolved and moved from a narrow concept to a broad one. Mark Ansel is one of these scholars who believes that criminal policy deals with deviation and divergence as a social concept in addition to knowing crime as a legal and repression concept and that the punishment of delinquency is done with the tools and penal system; in fact, he pays a great deal of attention to the prevention of crime. The reliance of the modern criminal policy is on using all methods and tools, especially methods based on the compensation and mediation, instead of mere using repressive methods and social participation in the fight against and prevention of delinquency.[[7]](#footnote-7)

In the process of the evolution of criminal policy concept, a French scientist, Miri - Dallas Marty, professor at the University of Paris, proposes a comprehensive definition of criminal policy, considering the quantitative and qualitative changes that have emerged in recent decades in the different types of crimes and the way of dealing with them; he reconsiders the definition of Feuerbach.

In his opinion, "Criminal policy includes a set of methods that the board of directors organizes the responses to the criminal phenomenon by resorting to them. Thus, the criminal policy is manifested as synonymous with the theoretical and practical aspects of the various forms of social control (crime and deviation). Obviously, criminal law will have a very strong presence in criminal policy, in this perspective, like the core with a strong pressure and tension, as well as the greatest visibility. However, criminal instruments are no more alone in the realm of criminal policy, but there are other methods of social control, including non-criminal, such as non-repressive administrative performance guarantee, (prevention, compensation and remedy, mediation) and non- state (repressive methods of private militia, protest actions of Amnesty International type).”[[8]](#footnote-8)

Thus, it can be said that criminal policy at the end of the twentieth century, about two centuries after the first use of the term criminal policy by Feuerbach, includes crimes and deviations, as well as all criminal, non-criminal, and preventive suppressive measures by the government and society, either independently or with their organized participation, for the suppression of delinquency and the prevention of crime and deviation.[[9]](#footnote-9)

**1- Types of criminal policy  
1 - 1 - Legislative criminal policy**   
Legislative criminal policy is the formulation and recognition of a legislative authority in the form of adoption of various laws of criminal policy. In other words, when the legal texts on a criminal phenomenon are passed by the legislator of any country, it expresses the specific legislative criminal policy of that country in relation to the criminal phenomenon in question.

**1-2 - Judicial Criminal Policy**  
Judicial Criminal Policy means "the criminal policy which is reflected in the decisions and actions of the courts of justice." This criminal policy can be affected by judicial procedures, directives, instructions, judgments of the country Supreme Court, and similar cases.

The interpretation of penal laws and regulations at different time and places varies and differs. Different understanding of the rules and messages of the legislative and judicial criminal policy, different implementation of rules by judges, and weak structural and material facilities can be important in investigating and influencing a modern and law-based judicial criminal policy. In a judicial criminal policy, the judicial authority uses judicial and legal tools on how to enforce the law at all stages of prosecution, trial, and punishment. Thus, the views and interpretations of the judicial authorities of the law, including the criminal offenses, prosecution, punishment, and enforcement are too important. Uundoubtedly, the way to prosecute, handle, decide, and punish (its extent, and how to execute it) a crime with no acceptable legal, judicial, or customary support \_ and if a criminal behavior has become pervasive \_ is different. Laws which have criminalized a behavior scientifically, legally, and as needed, in fact, have raised the level of acceptance and legal acceptance, facilitated law enforcement, and made easier the legislator’s goal in criminalization.

The performance of judicial authorities against criminal behavior will have a direct effect on general and specific prevention. Undoubtedly, law enforcement in terms of certainty can prevent a perpetrator of crime from persuasion and forbids others from committing such a crime. On the contrary, the wide range of judges' powers on reduction and conversion of penalties (without the legal limits and in accordance with scientific standards) undermines one of the objectives of punishment (i.e., its certainty). In describing the duties of the judiciary, Article 156 of Constitution of the Islamic Republic of Iran knows the appropriate action to prevent the crime and reformation of criminals as one of the main concerns of the judiciary. Therefore, this part includes non-criminal and prevention responses as a category of judicial criminal policy.

**1-3 – Executive Criminal Policy**  
In the new concept of criminal policy, reviewing the policies and decisions adopted by the executive and its pillars is necessary alongside the criminal policy of law and justice. Although the executive branch does not have criminal instruments, it plays an important role in the settlement of criminal policy and its movement and dynamics through possessing specific supervisory levers, administrative performance guarantee, and proposing specific bills for parliamentary approval.

The way to take the repressive or preventive measures against a criminal phenomenon (crime and deviation) has a special place in criminal policy. The science of taking repressive measures rooted in the violent reactions of a society against a criminal phenomenon was firstly named as “the science of enforcing sentences, the science of punishment, and the science of healing” and then was entitled as criminology. Criminology deals with the nature and content of punishments, in addition to reviewing the forms of execution of punishments.

**1-4 - Participatory criminal policy**   
One of the latest effects of people's participation in recent decades is the presence and intervention of people in community control, which is referred to as participatory criminal policy or criminal policy accompanied with the broad compay of the society, that is, considering the effects of the vital need to create other reinforcement levers, other than the police or the judiciary for further validating a criminal policy plan.[[10]](#footnote-10)

Participatory criminal policy or system of social reaction measures means a criminal policy accompanied with the broad compay of the society.[[11]](#footnote-11) The assumption that the fight against the criminal phenomenon and the prevention of delinquency should be a comprehensive and inclusive opposition has led to the emergence of another form of policy called participatory criminal policy, because, given the spread and development of different types of delinquency and the inefficiency of criminal instruments (imprisonment, whip, cash penalty, etc.), the participation and cooperation of all people in a society are necessary to prevent and deal with a criminal phenomenon.

In describing the status of participative criminal policy against delinquency, Ms. Christine Lazarez writes “Understanding the importance of this issue and paying attention to it should in practice lead to the participation of people in criminal policy with all the changes that it entails; this is not because we are ideologically supportive of the lesser presence of the government, but rather on the sake of realism, because the participation of the general public in criminal policy brings about its efficiency, and this leads us to popularize the practical life of the people. Involving the general public in criminal policy, in addition to eliminating legitimate concerns and improving its efficiency, means that today, the prevention and suppression of delinquency is one of the issues related to all the people of the society. According to some writers, the participation of people in criminal policies means the delegation and administration of the powers and responsibilities of the government and state to the people, and vice versa. Some other authors see it as an active approach aimed at upgrading the responsibility training to the people, on the one hand, and paving the field of local democracy, on the other hand.”

At present, people's participation in the judiciary has also expanded. In addition to the role of the people in determining the deputies, and in effect their impact on the legislation and criminalization, they also participate in various ways in responding to the criminal phenomenon. Participatory criminal policy with its organized or spontaneous stance against delinquency varies from one community to the other; this criminal policy is the least costly way to confront a criminal phenomenon; ethics, fairness, affection, and set forth are among the resources and capital of this kind of criminal policy. In the Islamic religion, we can explore and use the roots of participatory criminal policy measures, in particular the invitation to mediate. The establishment of peace and reconciliation between the parties to the lawsuit is deeply rooted in the Islamic legal system.

**2 - Iran's Criminal Policy**  
The consequence of the establishment of the Islamic Republic of Iran in Iran, as a government entity based on the acceptance and separation of the three branches of the legislative, judicial and executive of the country was that a religious government with religious and Islamic authority exercise its sovereignty through independent and defined competent institutions. Among its consequences was the adoption of the parliamentary legislative system in the two bodies of the Islamic Consultative Assembly and the Guardian Council. In this regard, many jurisprudential criminal sentences were drafted in the form of legal materials in the official language of the country, were approved by the Islamic Consultative Assembly and the Guardian Council, and were documented by the judicial authorities.

With this view to the legal approach in Article 156 of the Constitution of the Islamic Republic of Iran, the task of detecting crimes, pursuit of criminals, and preventing crimes is on the judiciary as its official and state proctor. In spite of the above-mentioned issues and principles of the Constitution, including Principles 22, 32, 33, and 166 of the Constitution, which imply the confinement of criminality and definition of punishment in codified laws, Article 167 of the Constitution \_ while prohibiting the refusal to execute and issue a ruling for the excuse of silence, defect, brief, or conflict of laws \_ has obligated the judges of courts to refer to authoritative Islamic sources or authoritative judicial decrees to issue a ruling, in cases where the judgment of the lawsuit is not found in the codified laws. Subsequently, ratification of the provisions of the Islamic Penal Code and the Criminal Procedure Law effectively challenged the issue of the confinement of qualification of criminalization and the practice of merely codified laws. The origin of this dichotomy in our laws is upon the famous promise of the jurists that every sin, whether a forbidden act or leaving an obligatory action, is required to be blamed, if there is no definite punishment in Sharia.

In practice, given the fact that today the form of legislature and setting up the rules are based on Islam and Sharia in Islamic societies, including the Islamic system of Iran and the rules set out the citizens' behavioral prohibitions, the dichotomy of the criminalization source and the legislative criminal policy leads to some gaps. Punishing the religious sanctities not criminalized in the laws, on the basis of the general license for any prohibited act \_ in addition to the crimes described in the codified laws \_ does not have a practical criminal support, and in effect will result in the loss of the integrity, credibility, and assertiveness of the judicial system, because all Shariah forbidden acts can not be threatened by worldly punishment. Therefore, it is worthwhile for the legislator to correct the duality of the legislative criminal policy in criminalizations and comply with the provisions of Article 2 of Islamic Penal Code.

In discussing the adaptation of the criminal policy of the country with one of the models of criminal policy, we disregard the wide belief that today, the placing the existing system of states into specific models of criminal policy is upon this that similarity of the main characteristics of the system to a particular model and that within the systems themselves, the tendency to other tools is always the case. It should be noted that with the position of the constitution of the Islamic Republic of Iran, in particular Article 156 of the Constitution and other criminal laws of the country, the response to the crime has an official and governmental aspect and the crime prevention as another aspect of criminal policy is available to the governmental and official body (the judiciary). Of course, over time, we have witnessed the development of a kind of participatory criminal policy in the form of NGOs and prevention of crimes and other institutions, such as dispute resolution councils or jurists, in the laws of the country, indicating the separation of the country's criminal policy from pure state models and a movement towards community models. However, this is a dim and slow movement which defines an example of the formation of a social institution in the judiciary (as an official and state institution) with the participation of the people.

Thus, today, the concept of criminal policy in its broad meaning is defined as a series of legal and social strategies implemented based on the findings of the criminal science to fight against criminal and tactful behaviors, in the form of criminological preventive models derived from punishment and repression. It includes legislative criminal policy, judicial criminal policy, executive criminal policy, and participative criminal policy.

The manner of criminalization and the determination of the criminal performance guarantee for a crime is called legislative criminal policy; the interpretation of the judges and judicial authorities from the criminal law in practice is judicial criminal policy; the implementation prevention policies and mass control by the government and state institutions is named as executive criminal policy; the organized and voluntary participation of people, forums, and non-governmental institutions in crime prevention is defined as participative criminal policy.

**B. Reviewing the developments  
1. Background of the Civil Registration Organization**   
Sabt (registration) is an Arabic word which means: putting, being out, proof, stability, stability, contention, reason, argument, evidence, king, seals, and detachment. It is the subject of the word, stability (sobat, sobut). But the organization which nowadays works as the “Civil Registration Organization” on a wide scale as one of the organizations to the Ministry of Interior does not fit in the form of this meaning. The Civil Registration Organization is currently an independent legal personality, which is dependednt on this independency officially, financially, executively, and its responsibilities.

The Civil Registration Organization \_ apart from the public service, the most important of which is to cover the Iranian people through the birth certificate \_ indirectly provides services to the executive and planning agencies. Based on the existing laws, regulations, and procedures, it directly cooperates with many government agencies and organizations, such as the Judiciary, the Ministry of Education, Ministry of Higher Education, Ministry of Foreign Affairs, Military and Armed Forces of the country, and set forth. In September, 1916, the Council of Ministers approved a letter containing 41 Articles on statistics and civil registration, but it was not implemented until December, 1918. In this year, Civil Registration Organization was established in Tehran and gradually developed elsewhere in the country. In 1924, a detailed regulation on the statistics and the collection of various statistics was approved by the Council of Minsters.

The Civil Registration Organization was firstly named as “Sejel Ahval” (Civil Code) and was sometimes under the supervision of the municipality and sometimes the Ministry of Interior departments. In 1928, it was entitles as “The Census Bureau and the Civil Code of the whole country". In 1931, a special school was set up to train statisticians. In 1937, the name was changed to the “Statistics and Civil Registration Organization". In June 1939, the law of the census was approved by the National Consultative Assembly, and from that date on to September, 1941 the census was made in 35 cities. In 1958, the duties of the statistical departments and civil registry were separated from each other and the current civil registry organization was called the “Civil Registration Organization".

Currently, two independent organizations (the Civil Registration organization and Statistical Center of Iran) Center of the Islamic Republic of Iran) affiliated with the Ministry of Interior and Planning and Budget Organization run the country's birth certificate and statistical affairs. The activities of this organization began in this way; for the first time around 1918, in the city of Tehran, the municipal officials (Baldia) began to set up documents and distribute the identity cards (Sejel) for the people; offices were allocated to record vital events.

According to the law passed in June 1925, it was decided that the citizens of Iran are required to receive the birth certificate from the date of the establishment of the Civil Registration Organization in each district. Following this, “Sejel Ahval” (Civil Code) departments were established in the cities through the Ministry of Interior and began to issue and distribute birth certificates established according to the law passed in June 1925. Subsequently, upon the law passed in June 10, 1928, the Civil Registration Office in the name of the the Census Bureau and the Civil Code under the Ministry of the Interior was established and started to work.

From the date on, the evolutionary process proceeded reasonably; with the amendments made in the law of June, 1928, various tasks were placed on this organization (General Directorate), which indicated that there was a long and extensive road ahead. Among the important changes made later was the abstraction of the statistics and population census (from the tasks of the General Office of Statistics and Registration).

The continuation of the reforms ultimately led to the widespread formation of the “Civil Registration Organization", whose current tasks differ from the previous ones. However, addressing the general discussion and the main report requires mentioning their tasks which include the current tasks as well.   
1. Birth registration and issuance of birth certificates  
2. Replacing birth certificates in the hands of the people  
3. Death registration and issuance of death certificates   
4. Registration of marriage and divorce and transformation changes  
5. Setting the documents of civil registration offices and keeping them  
6. Setting up the whole events registeration offices and the names and surnames

7. Carrying out all birthh certificate affairs of the foreigners living in Iran, the Iranians, and Iranians residing abroad   
8. Collection and preparation of human statistics across the country and its distribution   
9. Carrying out tasks such as the provision of statistics and list of students and / or those whose education is obligatory \_ for the planning of the Ministry of Education  
10. Replacing birth certificates in the hands of the people.  
11. Establishing a national demographic database.

**2- Legislative developments**  
Identity (Sejeli) documents (Asnade Sejeli) is composed of the two words, identity (sejeli) and document (Asnad). *Asnad* is the plural form of *Sanad* in Arabic script which is used frequently in Persian. According to Article 1284 of the Civil Code, it means "a writing that can be cited as litigation or defense." Sejeli or sejel is pronouned with [e] for [s] and [j] and stress for [l], namely, revealing. Literally, it means a commitment, author, and writer, however, it has a different meaning in the legal and juridical terms. In the jurisprudence term, *sejel* is synonymous with the execution sheet; according to the Iranian law, it is synonymous with the birth certificate. “Sejel Ahval” (Civil Code) means writing and recording birth, death, marriage, and divorce at special offices. “Sanad sejeli” (identity document) describes the personal situation of the people and is registered by the official agents, according to the provisions of the Civil Registration Act. The contents of identity document are official and valid.

For the first time in 1918 and immitating the new rights, “Sejel Ahval” (Civil Code) office was established according to the passage of a letter by the Board of Ministers which contains 41 Articles. This office was assigned to the police department in cities where there was a high level of discipline and in the absence of the police department, it was imposed on the rulers, lieutenant governors, headman of villages, and pious. After the establishment of this office, the first identification card number was issued as numbered one, in the second district of Tehran, on the 8th of December, 1918, for Ms. Fatemeh Irani.

The first “Sejel Ahval” (Civil Code) law including 35 Articles was approved by the National Consultative Assembly in 1925. Under this law, Sejel Ahval” (Civil Code) Office was established and the identity card, which was initially named as *Sejel* according to its approvals was renamed to the Identity Sheet. According to this law, it was stipulated that all Iranian citizens, inside and outside of the country, should have identity sheet. After one year from the date of implementation of the civil code in each location, the government officials were obliged to demand the identity sheet from the clients who refer to the government departments; penalties were also foreseen for the offenders. The Interior Ministry was the agent for the implementation of the provisions of this law. Immediately after its approval, its tools were provided and after six months, it started to run.

Three years after the adoption of the first Civil Registration Act, in 1928, the new law on civil registration, including 16 Articles, was ratified and replaced by the previous law. According to this law, the duty of the census of all the population of the country was also assigned to the Civil Code Office; hence the name of this office was changed to “The Census Bureau and the Civil Code”.

Birth certificate was initially named in accordance with the approval of 1918 as *sejel*, to the extent that it is still known among a particular class of people by the same title. Later on, it was identified as identity sheet in the first law approved and the subsequent developments.

In 1937, this word was translated to birth certificate by the Academy and the council who were responsible for translating Arabic words used in Persian language. This is definitely a very proper word. In the course of legal developments of civil registration, especially in the law approved in 1940, it was formally named as birth certificate.

Together with the day-to-day laws, the civil registration institution was also updated. This organization only had 94 offices in Tehran and other cities, until 1931. In 1929, birth registration and issuance of birth certificate for Iranian nationals residing abroad were assigned to embassies and agencies of Iran abroad. In 1958, the department of statistics was separated from the civil registration and, under the name of the General Statistics Office, formed an independent organization (as was mentioned).  
The name of the civil registration institution was changed to the General Civil Registration Organization after being separated. Eventually, passing the law of country divisions of provincial and county offices, this organization was expanded; by the adoption of the law on the conversion of the “General Civil Registration Organization” to “Civil Registration Organization” in 1973, its name was changed to the “Civil Registration Organization” of the country. According to the mentioned law, he was also the head of the “Civil Registration Organization” also became the deputy of Ministry of Interior.

In 1987, it was felt that the penal provisions approved in 1976 were not sufficient to deter people from abuse and economic offenses of birth certificates. Therefore, the Board of Ministers passed the government regulations and sanctions related to the abuse and economic offenses of birth certificates and communicated it to the Civil Registration Organization and the governors throughout the country for implimentation. On the other hand, the valuable cooperation and assistance of the judiciary with the country's Civil Registration Organization in 1987 and using the government regulations and sanctions related to the abuse and economic offenses of birth certificates caused the number of cases referred to the judiciary to become lower since last year \_ and instead of predicting 100,000 rulings in normal conditions, it reached around seventy thousand\_ , for the first time in the seventy years since the registration of the organization.

In 1988, another law, in the form of an Article, was adopted by the Islamic Consultative Assembly in order to preserve the identity documents. According to its note, the owner of the birth certificate can correct his age, only once in his lifetime, in case the difference between his real age and his age stated in the identity document is more than five years, according to the committee detection specified in the law. In the following, the useful experience to use the government's sanctions, the assistance of the judiciary, the law to maintain the authenticity of the identity documents, and the prognosis of the Age Detection Commission, and the prevention of unnecessary changes in identity documents provided the background for the subsequent follow-up. At last, following the increase in the number of crimes related to identity documents and birth certificates, in 1991, a law came into force in 23 Articles and 3 notes in the final approval of the Expediency Council, which counted all the violations, crimes, and penalties related to the identity documents and birth certificates. Passing this law was a turning point in the 75-year history of the Civil Registration Organization.

**Second part - Review of Iran's Judicial Criminal Policy**  
The performance of judicial authorities against criminal behavior will have a direct effect on general and specific prevention. Undoubtedly, law enforcement in terms of certainty can prevent a perpetrator of crime from persuasion and forbids others from committing such a crime. On the contrary, the wide range of judges' powers on reduction and conversion of penalties (without the legal limits and in accordance with scientific standards) undermines one of the objectives of punishment (i.e., its certainty). In describing the duties of the judiciary, Article 156 of Constitution of the Islamic Republic of Iran knows the appropriate action to prevent the crime and reformation of criminals as one of the main concerns of the judiciary. Therefore, this part includes non-criminal and prevention responses as a category of judicial criminal policy.

Finally, it should be said that in order to move towards a coherent, cohesive, and powerful Judicial Criminal Policy, we should make effort to correct the laws through judicial authorities in the form of specialized commissions and to use the existing capacities and opinions of jurists and judges to to make the laws more precise and meet the updated needs of the community. Undoubtedly, the openness, comprehensiveness, and imposition of rules; holding judicial hearings to unify the performance of prosecutors and courts in specific matters; and referral of cases to the branches of the judicial authorities can be effective in achieving the desired.

The crimes related to identity documents are among the general crimes of the community. The way to deal with it, the views and interpretations of judges in dealing with it, and most importantly, the structure of the judiciary in dealing with it are among the effective and important factors in the discussion of judicial criminal policy. In other words, if the prosecuting authority or the enforcement authority is not determined to deal with this crime, he will facilitate its commission and, in such a situation, not only will it not reduce the crime, but also, it can increase its actual statistics in the community.

**A. Investigating authorities  
1 - Judicial authorities**Basically, the subject of the law of violations about identity documents and birth certificates approved by the Expediency Council is about the investigation of crimes and violations of the identity documents; As such and depending on the refernce type, it is considered as follows:

**1 - 1 - Criminal Court 2**  
In accordance with Article 301 of the Criminal Procedure Code, the Criminal Court 2 is the authority to handle all crimes except those mentioned in Article 302 of the same law. On the other hand, the crimes concerning the identity documents are among the general crimes; in accordance with the provisions of the criminal court 2, it can deal with these crimes.

**1-2 - Dispute Resolution Council**In implementing Article 189 of the Law of the Third Plan of Economic, Social and Cultural Development of the Islamic Republic of Iran, in order to reduce the appeals of the people to the judiciary and to develop popular contributions, the Dispute Resolution Councils have gradually been established in the provinces and cities of the country from 9/30/2002, based on the policy of the judiciary.

The Dispute Resolution Council Regulation inclusive of 23 Articles was communicated to the Chief Justice of the Provinces by the head of the judiciary through Circular No. 13205/81/1 dated September 30, 2002. From the date on, thousands of urban and rural branches of the Dispute Resolution Council were established in different regions of the country, which deal with the affairs according to the law and regulations approved.

Regardless of the issues that are and have been for the Dispute Resolution Council in the academic and legal assembalies, the dispute resolution councils, according to Articles 8 and 9 of the Dispute Resolution Council Act, deal with criminal matters as follows:  
Article 8- In the following cases, the Council shall establish peace and reconciliation, with the consent of the parties:  
(A) all civil and legal affairs  
(B) all cancellable crimes  
(C) the private aspect of not cancellable crimes

Note- If the council decides on the request of one of the parties and by the end of the first session, the other party declares his unwillingness to appear before the Council, the council shall archive the request and direct the parties to a competent authority.

Article 9: The Council shall consider and decide on the following:  
(A) In preventive crimes, securirty and educational measures, and wrongdoings such as traffic crimes whose maximum penalty is up to thirty million Rials or three months in prison.  
Note: The Council is not authorized to issue a sentence of imprisonment.

It should be noted that the law of the Dispute Resolution Council including 51 Articles and 10 notes was approved by the judicial and legal Commission of the Islamic Consultative Assembly, on July 8, 2008, in accordance with Article 85 of the Constitution of the Islamic Republic of Iran. After the consent, its testing stage was confirmed by the Guardian Council for 5 years. Thus, one of the disadvantages of the dispute resolution council was resolved by the above law. In this law, we see changes in increasing the qualifications of claims and penalties in terms of the structure, supervision, training, and so on.

**2 - Quasi-judicial authorities**

The quasi-judicial authorities in the crimes in question are not competent to investigate, but are the authority in handling some of the violations that can be effective in judicial criminal policy, to some extent. They will be investigated as follows:

**2-1 - High Council for Civil Registration**To study and propose technical methods, comment on the modification or changing of forms and statistical and identity document samples, to the way to collect and send them, to prepare the technical instructions and techniques of identity documents, to the way to collect waste papers, to regulate and mainten the identity documents, at the center of the Civil Registration organization, a council was established, namely, High Council for Civil Registration. how they are collected and distributed, and the preparation of technical instructions and procedures for the collection of waste paper and the regulation, maintenance and protection Senior Citizens' Documents are registered at the Center for the Registration of Civil Status of the Council of the State in the name of the Supreme Court Registry. The members of the High Council for Civil Registration were composed of 5 persons: 1. Head of the Civil Registration Organization of the Country or his Deputy 2. One of the professors of the Faculty of Law appointed by Tehran University 3. One Judge appointed by the Minister of Justice 4. One of the informed employees of Civil Registration appointed by the head of Civil Registration Organization 5. Representative of Iran's Center of Statistics.The chairman of the council is with the deputy of Ministry of Interior and the head of Civil Registration Organization or his deputy; the majority vote will be binding.

According to Article 2 of the Civil Registration Act, the High Council for Civil Registration plays an important role in directing and supervising all departments of the Civil Registration Organization, approving circular letters and strategic guidelines. The resolutions of this council are binding on all commissions and civil registration authorities. Even some courts of justice have cited them and they played a significant role in their voting. Legislation in the Civil Registration Act, including Note 2 of its Articles 19 and 40, refers to the supervisory role and the authorities of the approval of the necessary directives and guidelines. Thus, it has an effective and useful role in predicting and fighting against identity document crimes and is responsible for fighting against such administrative, financial, and ….. crimes or corruptions .

**2 - 2 - Dispute Resolution Board of the County Civil Registration Ofiice**At the headquarters of each civil registration office, there is a the Dispute Resolution Board composed of the head of the county civil registration office, the head of the archives (or their deputies or representatives), and one of the informed employees of the mentioned office appointed by the head of the provincial civil registration office. The duties of the dispute resolution body are as follows:

1- Correction of any kind of mistakes in writing the whole record of events and deaths, after signing the document and before lodging the birth or death certificate and document completion in terms of the specifications that are unclear.  
2- Resolving mistakes caused by typing while registering the events or transfering the contents of the documents and announcements to the o the Registry offices and other offices.   
3. The revocation of documents and birth certificates used by aliens, provided that, within certain deadlines, they inform the civil registery officers of having a frequent birth certificate, using birth certificates of others, using a fictitious birth certificate, or using an Iranian birth certificate with a foreign nationality in the ad. In this case, they are exempt from prosecution and punishment and their documents and birth certificates are only cancelled.   
4. Revocation of repeated or undocumented documents, correcting the mistake in registering the document for the document owner, and changing the prohibited names  
5. Removal of extra, unnecessary, or misleading words in person's identity documents.  
6. The authority of examining the proclamation of persons whose Iranian citizenship has been dismissed in the Security Council.   
The Dispute Resolution Board is at the Civil Registration Office and becomes officially valid in the presence of all the members. The votes must be well-writen and detailed. Votes of the Board, within 10 days of the notice, is to be appealed to the common pleas court of the place of residence.

**2-3 – Governorship Security Council of the City**Whenever citizenship is suspected and no evidence is submitted to prove it, it is referred to the Security Council in order to prove it. The council consists of 6 members: 1- Governor 2- Public Prosecutor and Revolutionary of the City 3- Head of the intelligence bureau; 4- Commander of the Police Force; 5- Commander of the Resistance Force; 6- Head of the Local Justice Department. The council is formed under the chairmanship of the Governor. Having the right to vote, the head of the Local Civil Registration Office can participate in the meetings of the council formed for the abovementioned purpose.

The Council determines the citizenship of two groups of individuals, which are as follows:   
A) Those without an identity document   
This term refers to those who claim to be Iranian and whose age is more than 18 years old. In addition, no identity document has been set for them.   
B) Those whose nationality is suspected  
This term refers to those who have an identity document or birth certificate, but their identity and nationality have been questioned (whether their names have been registered under the suspected names or not).

After the necessary investigations, the council and afterwards the civil registration office (upon the said report) will make a decision. In case of a protest, the dispute resolution body of the Local Civil Registration Office will consider the objection; this decision will be made objectable within 10 days, in the common pleas court of the place.

The point to consider is that the authority to handle the protests to the decision of the Security Council of the Dispute Resolution Board is the Local Civil Registration Office. However, if the head of the Civil Registration Office is one of the members of the Security Council in the subject matter, and the head of the Dispute Resolution Board should handle the objection, we witness the violation of the legal principles and background of this person. In the second place, the authorities of the Security Council are of a higher level of administration and political, security, and judicial responsibility; however, the members of the Dispute Resolution Board who are local civil registration employees are far lower for their experience, mastery and executive power \_ this is due to the the legal defects. The decision of the Dispute Resolution Board will be made objectable within 10 days, in the common pleas court of the place. Formerly, the head of the local judiciary, especially in the counties where the judge is responsible for handling the cases, as a member of the Security Council made a decision, which is also contrary to the legal principles.

The Security Council, as well as the Dispute Board of the Civil Registration Office play an important role for those without an identity document and those whose nationality is suspected in the discussion of the preventive policy and combating the crimes of identity documents, in particular, the crimes in Articles 11 and 12 of the law of violations and penalties related to identity documents and birth certificates. This council can play a role in two aspects of criminal policy.

**B. Penalties**Iran’s Legislative Policy in dealing with violations of legal protections from identity documents is more to do with criminal policy in the narrow sense, rather than criminal policy in the broad sense, because it focuses only on one aspect of criminal policy, namely, penal policy. In other words, it does not pay attention to the fact that along with penal policies, there are also non-penal policies that can help protect the privacy of community identity documents. Preventive practices are among the other non-penal policies or other aspects of criminal policy. Public education, reporting, and facilitation of legal conditions are among the issues that can be considered alongside penal policy for the legislation. Under the law of violations and penalties related to identity documents and birth certificates, there are three types of penal performance guarantees: imprisonment, cash penalty and expulsion from the country.

**1 - Detention penalty**  
Imprisonment as the most common penal performance guarantee is considered among the important crimes. Given its implications, especially with regard to its short-term imprisonment, it has changed over time. Under the law on crimes, imprisonment is imposed only on the crimes whose perpetrators damage the order of the community and the validity of the identity documents, irreparably; this law is expected to intensify the punishment and is for the offenders who repeat the crimes. Most of these imprisonments are with fines. It can be deduced that the main punishment is the same as a fine. Prison is foreseen to increase the punishment of offenders who repeat the crimes and those who commit important crimes of identity documents.   
   
The crimes whose penalty is imprisonment in the law of violations are as follows:

1. False declarations on declaration of birth, death, or identity (Clause A, Article 2)  
2. Using frequent birth certificate, receiving repeated and fictitious birth certificates, and using the birth certificates of others (clause B, Article 2)   
3- Issuing a false certificate of birth and death by the midwife or doctor (Clause C, Article 2)  
4- False testimony on birth and death (Clause B, Article 2)

5. Unauthorized seals of authentic birth certificates for more than twice (Article 5)  
6. Using the birth certificates of others to escape the pursuit, execution of punishment, or unauthorized exits from the country (Article 9)  
7. Creation of the damages in identity documents and birth certificates with the intention of fraudulent (Article 10)  
8. Settlement of identity documents and receipt of birth certificates by a non-Iranian person prior to having Iranian citizenship (Article 11)  
9. Using Iranian birth certificates by non-Iranian people to show themselves Iranian (Article 12)

10. The unauthorized printing of identity sheets and documents and building and supplying identity stamps and stealing them (Article 13)  
11. Using unauthorized printed identity sheets and documents, with knowledge and awareness (Article 14)  
12. Buying and selling birth certificates and identity documents in the form of an occupation or profession (Article 15)  
13. Establishment a band and network for committing the crimes in the law (Article 16)  
14- False declarations on the introduction of the parents of the child, in the identity documents and birth certificates (Article 51 of the Civil Registration Act)

Of course, in the first four cases, the court may order one of the imprisonment or fines, or impose a maximum of both, however for the rest of the crimes (with the exception of row 14, which is merely the sentence of imprisonment foreseen) the court must impose both penalties on the perpetrator. The penalty for imprisonment has a minimum and maximum, such as fines, and the court determines the punishment according to the personality, background, and physical and mental state of the offender, within this framework.

**2 - Cash penalties**A cash penalty has been imposed on all identity documents crimes. In this case, there is no definite cash penalty but a minimum and maximum one which the court, according to the personality, records of criminal conviction, and financial ability of the offender, detremines (minimum and maximum). The minimum amount of cash penalty is for unauthorized sealing of a valid birth certificate for the first time, which is set up from a hundred thousand to five hundred thousand Rials. The highest amount is for those who establish a band and network to commit identity document crimes, which is from two to ten million Rials \_ determined by imprisonment. The amount of the fine imposed in the law of violations is basically not for intimidation and people can easily commit such crimes by providing a fine and cash penalty and even repeat these crimes without fear for the second and third times. In other words, this punishment is not compatible with the criminal policy that is being adopted today against offenders. It seems that the legislator was more concerned with the government's income in adopting the law and punishments and paid no attention to the philosophy and purpose of the punishment. That is why, these punishments do not have the power of deterrence and people commit them, weighting their profits and losses; this critique is heavily against the law.

**3 - The penalty of expulsion from the country**  
Article 22 of the law of violations, crimes, and penalties of the identity documents states: "If the perpetrators of the crimes specified in this law are non-Iranians, after bearing the sentence of the court, we can expel them from the country."

Clause 3 of Article 8 of the Law on Security Measures, dated 12/22/1339, has announced expelling foreigners from the country as one of the security measures restricting liberty. It seems that according to Article one of this law, which announced the existence of the records of criminal conviction and a dangerous state as the condition of taking security measures. Courts have no right to expel aliens convicted of identiry document crimes, in any case, unless the two mentioned conditions are fulfilled. Also, it can be deduced from the jurisdiction of the courts that the court has the complete authority to expel a foreigner and can try not to expel them. Anyway, the courts can order to expel foreigners, according to the Law on the Status and Residence of Foreign Nationals in Iran, adopted on the 5/10/1931, and amendments to the law of the said law, without the need to comply with the above conditions, because the law deals only with illegal residence of foreigners in Iran, whether it is a dangerous state or not.

Regarding the method of expulsion, it should also be noted that, in accordance with Article 11 of the Law on the Status and Residence of Foreign Nationals in Iran, at any time when an expulsion decision is made and the delay in its execution is not in conflict with the state, a deadline will be set for its implementation from the security forces or competent authorities. The person who should be fired will be warned. Whenever the foreigner tends to withdraw from Iran within the time determined by the qualified authority, he will be freely released; otherwise, he will be fired under guard.

Unauthorized entry of foreigners into the country (especially in the eastern part of the country) has become widespread in recent decades. After entering the country, for the benefit of citizens' rights, they resort to any illegal act to access the identity document. They manage to get documents through forgery or illegal purchase, and in effect, the security risks, unstable Iranian citizenship, and background to many crimes are provided; which will be further explained in the context of preventive non-criminal measures.

It is noteworthy that Article 22 of the aforementioned law refers to the expulsion of foreign nationals, but the necessary mechanism is unforeseen and, in practice, the judicial authorities delegate the duty of expulsion to the border checkpoints. They transfer the foreign national to the points of departure of the country; the foreign national will return to the country after a long distance, and there will be practically no benefits. Therefore, taking the following measures can play a very important role in preventing crimes related to the identity documents: controlling and caring the borders, overseeing foreign nationals, as well as evacuation of residents of neighboring villages (since foreigners generally stay in the first border village).

**Conclusion**

The term "criminalization" about the identity document crimes includes all acts related to the violation of legal protections of the identity documents. The legislator has not defined the identity document crimes, but has cited its examples in the criminal texts. In addition, in reviewing the relevant legal documents, it is considered that the identity document crimes are not exclusively for the criminal offenses of the Iranian nationals, in the view of the legislator. That is, being Iranian is not the main condition for the commission of identity document crimes. In other words, some times, the perpetrators of such crimes are foreigners and non-Iranians. Currently, in the legal system of the country, the legislative criminal policy about identity documents is stated in the law of violations, crimes, and penalties of the identity documents approved by the Expediency Council in 1991 and Article 51 of Civil Registration Act in 1976.

In legislative terms, identity document and birth certificate crime is defined as committing any kind of deliberate criminal act against the identity documents and birth certificates by the Iranian people or foreigners who endanger the credibility of the documents. Identity document crimes have a public side and can not be forgiven because in the the law approved by the Expediency Council, there is no mention of the forgiveness of these crime. However, if the crimes could be overlooked, this would certainly have been the cause of the attack, so the forgiveness of the plaintiff or the private claimant has no effect on the matter.

In the material element of these crimes, the perpetrators are positive in the vast majority of crimes. For the element of psychology, all crimes are intentional crimes. Also, most of the crimes are absolute crimes, in which the fulfillment of the criminal offense is not conditional. In terms of participation and vicegerent in the identity document crimes, the investigation and determination of the punishment is according to the general principles of general criminal law. The law is silent about the start of these crimes and has set no punishment for their start, though it is possible to imagine starting the crime in such crimes. In the case of punishments, it should be said that the punishment set for the identity document crimes is a deterrent type. Most of these crimes are punishable by a fine, and only if they are repeated, it changes into imprisonment. Of course, the imprisonment is seen in some crimes. In the case of a fine, it can be said that this type of punishment is not intimidating in relation to the crime, and people can easily commit such crimes by providing a fine and cash penalty and even repeat them without fear for the second and third times. This punishment is incompatible with the criminal policy that is being adopted today against the perpetrators, because the legislator was in approving the law and punishing was more concerned with the government's income and did not pay attention to the philosophy and purpose of the punishment. Therefore, these punishments do not have the power of deterrence, and individuals commit these crimes, weighting their profits and losses; this critique is heavily against the law.

Among the identity document crimes, the crime of forgery has the highest rate, therefore, considering the destructive effects and the updated information of the criminals and other perpetrators about the modern methods and techniques, they forge and use forgery documents. Uderstandably, it is essential and inescapable to pay attention to the prevention and elimination of the grounds and causes of the crime. One of the crimes that threatens society and causes people to lose confidence in documents and writings is the crime of forgery, which can be the main cause of other crimes. In many cases, the detection of counterfeiting and its compliance with the provisions of the law is not easy, because the documents, writings, objects, or what is considered to be the tools for such crimes are very diverse and different in terms of the punishment. Practically, crime detection officers, experts, specialists, and judicial authorities should spend a lot of their time to handle forgery issues. Thus, detecting the fraudulent isssue in forgery crime whose subject is the writings, documents, or objects which play a very important role in regulating daily human relationships, including financial and non-financial issues, political papers, writings of the top officials of the country, commercial and banking documents, judicial judgments, and ordinary documents, practically requires more precision. The growing population and the quality of communication in today's society have increased this crime rate. Most people are forging birth certificates to change their personal characteristics, including changing the birth date in relation to public service and marriage, changing the identification number to obtain a check book from banks, using subsidies, and displacement of birth certificate photo for committing crimes against properties.

Iran’s Legislative Policy in dealing with violations of legal protections from identity documents is more to do with criminal policy in the narrow sense, rather than criminal policy in the broad sense, because it focuses only on one aspect of criminal policy, namely, penal policy. In other words, it does not pay attention to the fact that along with penal policies, there are also non-penal policies that can help protect the privacy of community identity documents. Preventive practices are among the other non-penal policies or other aspects of criminal policy. Public education, reporting, and facilitation of legal conditions are among the issues that can be considered alongside penal policy for the legislation.

As a result, the judicial criminal poicy of Iran has been ineffective in dealing with the crimes related to identity documents and birth certificates and no effective measures have been taken. Even, issuing non-normative rulings, they have encouraged the criminals towards such crimes and the judiciary has not had any effective preventive measures so far. In other words, it seems that handling the crimes is non-critical; non-expert and uninformed judges have been used. Due to the possibility of the entry of foreign nationals to our country, the possibility of misusing identity documents is quite evident. The point to be considered is that according to Article 9 of the Dispute Resolution Council, crimes whose punishment is less than thirty million Rials can be deal with in dispute resolution councils. The investigation of these crimes which have a direct relation with the security of the country and social order by the dispute resolution council is a non-normative action. It is frequently observed that the criminals abused the unprofessional Dispute Resolution Councils and repeatedly committed such crimes. Until the above issues are resolved, our country's judicial criminal policy will not be successful. Thus, in order to move towards a coherent, modern, and powerful criminal policy, it would be necessary to amend the laws and judicial bills in the form of specialized commissions and to use the available capacities and opinions of the judiciary, in order to better represent laws and to meet the updated needs of the community. Undoubtedly, the clarity, comprehensiveness, and precariousness of the rules and the holding of judicial hearings in order to unify the functioning of the courts in specific matters and file referrals in a specialized way can be effective in achieving desirable results. What makes the field more productive and hopeful is the attention of the head of the judiciary to the updated scientific concepts of criminal law and pursuing the debates on criminal policy, removing punishment, removing prosecution, removing detention, and tendency toward modern judicial criminal policy which is currently in the form of judicial letterheads; it is hoped that these efforts will be made more effective by covering the legal framework.

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