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The Rights of Defendants in Political and Press Crimes in Iran and the United States in Light of the Principles of Fair Trial

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ABSTRACT

The adjudication of political and press crimes is regarded as one of the fundamental pillars of the criminal justice system and a key criterion for assessing governments' commitment to human rights principles and fair trial standards. On the one hand, the broad and sometimes ambiguous scope of legal definitions and interpretations, and on the other hand, the lack of transparency and coherence in the relevant regulations, together with structural weaknesses in the protection of defendants, have made access to judicial justice increasingly difficult. A comparative examination of Iranian and United States law in the field of political and press crimes demonstrates that the high sensitivity of governing authorities toward these offenses has given rise to divergent approaches and attitudes at both the legislative level and in judicial practice. Although both legal systems formally recognize the distinctive nature of proceedings in political and press crimes, they encounter numerous challenges at the stage of implementation. In the Iranian legal system, despite the formal recognition of certain specific privileges for defendants in political and press crimes—such as public hearings and the presence of a jury—the limited scope of offenses covered, the lack of legal clarity, and prevailing socio-political pressures have led to the practical weakening of effective protections for defendants' rights. Conversely, the United States legal system, notwithstanding its progressive legal guarantees in the areas of freedom of expression and human rights, may still, under certain political or social pressures or exceptional governmental circumstances, experience shortcomings in ensuring the impartial administration of justice. This study adopts a descriptive-analytical approach to compare and critically assess the legislative and executive structures of both legal systems, with the aim of identifying their respective strengths and weaknesses and proposing appropriate strategies to enhance legal protections for defendants and to promote higher standards of criminal justice. Overall, the principal strength of the United States criminal justice system can be identified in its narrower definition of political and press crimes and its stronger adherence to fundamental human rights principles, whereas the primary weakness of the Iranian system lies in the expansion of criminal titles and the fragmentation of regulations and judicial practices in this domain.

Keywords: *political crimes, press crimes, Iranian law, United States law, defendants' rights, fair trial.*

Introduction

In legal systems, the concept of *political crimes* refers to acts that are primarily committed against the structure of governing institutions and whose motive, subject matter, or objective is generally in conflict with the political order, independence, or national security of a state. This concept varies fundamentally across different legal systems, including Iran and the United States, in terms of scope, instances, and definition, as it is deeply influenced by the



nature of territorial sovereignty and the governing authorities' approach. The more a governing system tends toward monopolization of power and political closure, the broader the scope of political crimes and confrontation with political opposition becomes. This tendency, observable in the historical development of Iranian law, has led to an expansive and foundational conception of political crimes and, in many cases, to the absence of a clear and precise distinction between such crimes and other offenses, particularly crimes against national security.

Press crimes, likewise, encompass behaviors committed within the media and press sphere that are directed against public interests or the foundations of governance, some of which may fall within the category of general crimes or specialized press offenses. On this basis, the functional importance of the media and their agenda-setting role in shaping public opinion and citizens' behavior necessitates definitions grounded in specific legal and criminal-policy considerations. In the United States legal system, the notion of political crime mainly refers to conduct aimed at achieving political objectives or influencing governmental structures, to the extent that even certain administrative or financial offenses—such as corruption, bribery, or embezzlement—may be classified as political crimes if motivated by political intent.

With regard to defendants' rights, the foundations of defensive rights—rooted in fair trial principles, the presumption of innocence, the right to counsel, the principle of public hearings, the presence of impartial judges and juries, as well as the right to be informed of charges and to personal security—are recognized in both Iranian and U.S. legal systems, although their modes of implementation and enforcement guarantees differ significantly. In Iran, pursuant to Article 168 of the Constitution, the adjudication of political and press crimes is conditioned upon public hearings and the presence of a jury; however, the interpretation and enforcement of these principles face challenges such as restrictive statutory interpretation, security considerations, and the lack of practical independence of juries. In contrast, in the United States, alongside full recognition of defense rights and the guarantee of appointed counsel, criminal proceedings are structured around adversarial fairness and institutional independence, and even in so-called press-related offenses, the freedom of the media and journalists is guaranteed to the maximum extent possible. From this perspective, comparative analysis indicates that, despite formal recognition of principles, the defensive rights of defendants in political and press crimes in Iran face serious limitations at the implementation stage, particularly in ensuring equality of arms, judicial independence, and full realization of fair trial standards, whereas the U.S. legal system, despite lacking special preferential status for political or media defendants, operates on the basis of ensuring the effective and concrete realization of core principles of criminal justice. Accordingly, comparative evaluation of the strengths and weaknesses of these two systems provides an appropriate framework for revisiting and enhancing defendants' rights in the adjudication of political and press crimes.

Conceptualization and Distinction Between Political and Press Crimes

At the initial stage of this research, in order to achieve adequate understanding of key concepts and terminology, the relevant notions are explicated.

The Concept of Political Crime

The theory of duality in the domain of political and press crimes begins from the premise of distinguishing between these two categories of offenses and emphasizes their conceptual and practical separation. According to this view, political crimes and press crimes constitute two independent categories, each subject to its own specific

procedural regime, and Article 168 of the Iranian Constitution governs special procedures for both. In contrast, the unitarian approach considers Article 168 applicable only to political crimes and excludes non-political press crimes from its scope. This overlap or distinction in applying Article 168 simultaneously aims, on the one hand, to achieve justice in adjudicating crimes related to public affairs, and on the other hand, to safeguard the supreme interests of governance. The tension between these two elements necessitates an independent and detailed legal examination of the concepts of political and press crimes (1).

In defining political crime, it must be acknowledged that this concept transcends the mere lexical combination of “crime” and “politics” and reflects each legal system’s understanding of public order and supreme national interests. The definition of political crime remains difficult and controversial, to the extent that many scholars consider the formulation of a comprehensive and exclusive definition practically impossible. The Iranian legislator, in Article 2 of the Political Crime Act, enumerates specific instances of political crimes; however, this enumeration is contingent upon compliance with the conditions stipulated in Article 1 and the exceptions set forth in Article 3 of the same law. Consequently, this enumerative method functions more as a restriction of political crime instances than as an expansion of the concept. Such a restrictive approach, contrary to the lenient and protective mechanisms observed in more developed legal systems, has resulted in narrowing the scope of political crime and has complicated the pursuit of judicial justice (2).

In the United States legal system, analysis of the concept of political crime primarily revolves around “acts against the state” and organized behaviors that, beyond individual offenses, signify conflict with the prevailing political–economic system. The distinction between political crimes committed by the state or state-affiliated entities and political crimes committed against the government reflects a society-centered and structural approach to this category of offenses. These include violations of domestic or international law, acts of evasion from law enforcement, and symbolic breaches of legal norms driven by political motives. Examples such as abuse of political position for personal gain—bribery, forgery, or betrayal—may be classified as political crimes when imbued with political intent. Despite the strong constitutional protection of freedom of expression and belief in the United States, when political actions are accompanied by violence, disorder, or crimes against the state, the scope of the term “political crime” becomes applicable (3).

The Concept of Press Crime

With regard to the concept of press crime, it should be noted that the meaning and scope of this term in Iranian and U.S. law differ substantially as a result of governmental policies and scholarly interpretations. In Iranian law, press crime is sometimes regarded as an independent offense—based on the publication of content or images through the press—and at other times as a subset or instrument for the realization of political crime (4). This offense is examined both in a general sense, encompassing all forms of written publications from books to leaflets, and in a specific sense, limited to periodicals under the Press Law. In the United States, the legal foundation of press freedom is grounded in the First Amendment to the Constitution, and the media are entrusted with the mission of monitoring and scrutinizing political power as the “fourth estate.” Nevertheless, when published content incites unrest, threatens national security, or calls for criminal action, the press may be subject to prosecution. Historical experiences such as the Pentagon Papers and the Watergate scandal underscore the vital role of the media in accountability, oversight, and governmental transparency; however, the legal system consistently balances the preservation of social order, public interests, and the boundaries of individual freedoms (5).

Distinguishing Political Crime from Press Crime

In the Iranian legal system, political crime and press crime are two distinct concepts with different foundations, consequences, and legal frameworks. Although they may overlap in certain instances, they differ fundamentally in terms of nature, objectives, and procedural rules. Political crime, pursuant to the Political Crime Act adopted in 2016, refers to offenses committed with the motive of reforming public affairs and without the intent to undermine the foundations of the Islamic Republic of Iran. Such crimes include acts such as insulting political officials, criticizing the performance of governmental institutions, or engaging in political activities against the system within the scope defined in Article 1 of the Act, encompassing instances such as the dissemination of false information, insult, or defamation committed with a reform-oriented purpose. Due to their connection with freedom of expression and political activity, these crimes are, under Article 168 of the Constitution, adjudicated in public courts with the presence of a jury, and offenders benefit from certain privileges, including mitigation of punishment, separation from ordinary offenders, and prohibition of imposing prison uniforms, except in cases where the offense amounts to treason or espionage. Political crime is predominantly ideological and political in nature, with the offender's motive directed toward public interests or protest against governmental policies, such as issuing critical statements or organizing peaceful assemblies without intent to overthrow the system.

By contrast, press crime refers to offenses committed through the publication of content in print or digital media, including newspapers, magazines, or licensed news websites, as defined under the Press Law adopted in 1985 and its subsequent amendments. These crimes include instances such as insult, defamation, dissemination of falsehoods, publication of content contrary to public morality, or disturbing public opinion through the media, as enumerated in Articles 6 and 7 of the Press Law. Unlike political crime, press crime is not necessarily dependent on political motive and may involve non-political content, such as the publication of personal rumors or immoral material. Adjudication of press crimes, pursuant to Article 168 of the Constitution, also takes place with the presence of a jury; however, the focus is placed on the responsibility of the managing editor and the author for the published content, and unlike political crime, no special privileges such as sentence mitigation or special detention conditions are *предусмотрены* for the offender. Furthermore, the Press Law imposes requirements such as the necessity of obtaining a license for media outlets, the violation of which constitutes an independent offense, whereas political crime is not confined to a specific medium and may occur in any context, from public speeches to cyberspace (4).

Another key difference lies in the scope of applicability and the competent judicial authority. Political crimes are generally examined in specialized criminal courts, and the judge must have jurisdiction to hear political offenses, whereas press crimes are adjudicated in designated branches of criminal courts, such as the Tehran Press Court, with an emphasis on violations of media regulations. From an evidentiary perspective, in political crime, establishing the reform-oriented motive of the offender is of particular importance, and if such motive is not proven, the offense may be reclassified as a security-related crime, as indicated in Article 2 of the Political Crime Act. In press crime, however, the mere act of publishing content through the media suffices, and the offender's motive receives less attention, except in the context of criminal defense. For example, publishing an insulting article in a newspaper may constitute a press crime even without political intent, whereas the same content, if published with the aim of criticizing and reforming the system, may be considered a political crime (6).

Ultimately, political crime is more closely associated with beliefs and political activities and is accompanied by specific legal privileges, whereas press crime is confined to the media domain and focuses primarily on regulating published content and media responsibility.

The Concept of Defendants' Rights and Its Instances

Following the clarification of concepts, and after examining political and press crimes, attention is now directed to the concept of defendants' rights.

The Concept of Defendants' Rights

In legal terminology, the concept and status of the “defendant” occupy a position between the presumption of innocence and the establishment of criminal liability. The lexical and technical definition of a defendant indicates the possibility of commission of an offense without the attainment of certainty. According to Iranian legal scholars, a defendant is a person against whom an accusation has been raised but whose adjudicative process has not yet resulted in a final judgment; only upon the definitive establishment of guilt does the status of “offender” apply. This definition emphasizes that the defendant is merely suspected of committing a crime and that confirmation or refutation of this suspicion requires fair and impartial judicial proceedings. This approach, in addition to providing a structured definition, underscores the importance of the presumption of innocence and the prohibition of prejudgment within the criminal justice system.

In the realm of defendants' rights, ensuring individual and social security necessitates guarantees against any unlawful interference by the state or third parties. Within this framework, governments are obliged not only to enact clear regulations and establish appropriate administrative and judicial structures to secure fundamental rights, but also to observe legal boundaries in their dealings with defendants' freedoms and rights. These guarantees are reflected not only in Iran's domestic legal instruments, particularly the Constitution—such as Articles 32, 35, and 38—but also in international instruments including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The development of defendants' rights is likewise influenced by the traditions of public law, which present the conditionality and transparency of criminal proceedings as key indicators distinguishing democratic systems from authoritarian orders. In comparative and international contexts, including Iran and the United States, defendants' rights constitute a set of requirements and guarantees that extend beyond the technical dimensions of judicial procedure and are rooted in a broader philosophy of protecting human dignity (7).

In the United States legal system, pursuant to the Constitution and the Bill of Rights, defendants, from the initiation of criminal charges until the issuance of a final judgment, enjoy rights such as protection against unreasonable searches, the right to remain silent, the right to counsel, public trial, hearing of evidence, confrontation and cross-examination, and access to courts. These rights, which stem from historical experiences of colonial oppression, have today become a benchmark for the treatment of defendants, and their observance is regarded as a fundamental obligation in the modern legal order. The presumption of innocence, the right to defense, and procedural transparency are considered the foundations of a fair trial system (8).

Instances of Defendants' Rights

The instances of defendants' rights, particularly in political crimes, encompass a broad spectrum of requirements, including the principle of non-discrimination and equal treatment, prohibition of torture and inhuman or degrading treatment, the right to be informed of the reasons for arrest and the charges, the right to counsel, and the right to objection and judicial remedy in criminal proceedings. Standards of health and hygiene, access to medical services, the possibility of communication with the outside world, the right to adequate nutrition, and the performance of religious duties are also considered part of the interconnected rights of defendants in detention. These rights have been institutionalized through various principles enshrined in international charters and Iran's constitutional law (9). In the United States, in addition to all the aforementioned rights, guarantees such as prompt adjudication, the right to trial by jury, the presentation of exculpatory evidence, and the prohibition of arbitrary detention are emphasized. In both systems, any deprivation of defendants' fundamental rights constitutes a clear violation of fair trial principles and may invalidate the outcomes obtained against the defendant (10).

Examination of the Foundations and Principles of Defendants' Rights in Political and Press Crimes in Iran and the United States

The manner in which legal systems treat defendants accused of political and press crimes reveals the extent of their commitment to fair trial principles, freedom of expression, and the rule of law. Although both Iran and the United States emphasize the necessity of respecting defendants' rights, significant differences exist in their theoretical foundations, procedural structures, and enforcement guarantees. In Iran, despite constitutional provisions mandating public trials with the presence of a jury, challenges such as restrictive interpretations of political crime and questions regarding the independence of judicial institutions remain subjects of debate. In contrast, in the United States legal system, principles derived from constitutional amendments provide a relatively stable framework for the protection of political and press defendants. Accordingly, a comparative examination of the foundations and principles governing defendants' rights in these two systems can, in addition to clarifying similarities and differences, offer a basis for reforming and strengthening legal guarantees in support of public freedoms and fair trial standards in Iran.

Theoretical Approaches to Distinguishing Political–Press Crimes from Other Offenses

Various legal and philosophical theories have sought to propose criteria for identifying these categories of offenses, including the political motive of the perpetrator, the impact of the offense on public interests or state security, and the role of freedom of expression and critique of power in the occurrence of the offense. These theories also engage in comparative debates on the differential judicial treatment of political and press defendants as opposed to perpetrators of ordinary crimes. Examining these theories, while clarifying the criteria for identifying and classifying such offenses, contributes to the development of coherent legal frameworks and to the effective protection of defendants' rights.

Theories Ensuring Defendants' Rights at the Pre-Trial Stage and During Trial

In this section, theories that secure defendants' rights at the pre-trial stage and during trial are examined.

The Presumption of Innocence

The presumption of innocence fundamentally emphasizes that every person is deemed innocent unless and until the offense attributed to them is proven before a competent court on the basis of sufficient evidence. This substantive principle constitutes the most important shield protecting individual liberties against sovereign power.

Liberal–Democratic Theory

Based on the teachings of thinkers such as Locke, Montesquieu, and Kant, the presumption of innocence is the cornerstone of liberal–democratic criminal justice. By emphasizing natural rights, separation of powers, and the limitation of governmental authority, this system insists on strict adherence to the presumption of innocence. The function of this principle is both to protect citizens’ freedoms and to prevent state abuse. Requiring the state to prove guilt prevents arbitrary action by law-enforcement and judicial institutions. This approach, in addition to domestic law, is reflected in international instruments such as Article 11 of the Universal Declaration of Human Rights, Article 6 of the European Convention on Human Rights, and the Charter of Fundamental Rights of the European Union. United States judicial practice, through emphasis on constitutional guarantees and Supreme Court jurisprudence, similarly safeguards the presumption of innocence (11).

A Hardline and Severe Approach to Political and Security Crimes

Based on categorizations presented regarding recognized governance structures, it is evident that where the structure is dictatorial, its legislative criminal policy toward political crimes will be characterized by the criminalization of political conduct, the imposition of punishment, expansion of the scope of political crimes, and broad interpretation in practice, raising the “cost” of offending through severe penalties such as capital punishment or long-term imprisonment, among others.

For instance, certain political activists in the period prior to the Islamic Revolution were arrested for publishing a political statement and for positions attributed to leaders of the Freedom Movement in 1962, and after three months of solitary confinement were tried before a military court; following roughly two years of pretrial detention, they were charged with forming an association with an orientation and practice opposed to the constitutional monarchy, as well as insulting the monarch, and after sixty court sessions were sentenced to long-term ten-year imprisonment (12). In other cases, military courts during the Pahlavi era sentenced certain political activists to multiple years of exile and banishment (13).

Human Rights Theory

From a human rights perspective, the presumption of innocence is an imperative and non-derogable rule that is expressly affirmed in core human-rights instruments such as the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966), binding all states to implement it regardless of the type of offense or the status of the accused. This principle also entails proceedings with sufficient guarantees, including the right to counsel, prohibition of torture, and the right to remain silent. Nevertheless, in practice, challenges such as non-public trials, restrictions on independent counsel, or the issuance of generalized accusations (such as security offenses) can weaken this principle, as illustrated by United Nations reporting on Iran and by the performance of U.S. judicial authorities under security-related laws.

The Right to a Fair Trial

A fair trial requires adjudication by an independent and impartial authority, access to counsel, and the possibility of effective defense.

Under restorative justice theory—which emphasizes the restoration of human dignity, active participation of the parties, and compensation for harm—a transparent process, avoidance of stigmatization, and reform of attitudes

toward defendants (particularly in political and press offenses) are central demands. However, frequent deprivation of independent counsel, the absence of a jury, and the holding of non-public sessions are inconsistent with this approach.

Participatory democracy theory likewise considers public hearings a guarantor of increased public trust and judicial accountability, because the presence of civil institutions, juries, and media coverage strengthens the administration of justice and the legitimacy of judicial decisions. In the United States, this principle is observed to some extent, whereas in Iran—especially in political cases—it is, in practice, confronted with limitations.

Prohibition of Torture and Violent or Degrading Treatment

A basic condition of any legal system is respect for the inherent dignity of the accused. Human-rights instruments (Article 5 of the Universal Declaration of Human Rights and Article 7 of the International Covenant on Civil and Political Rights) and the constitutional frameworks of Iran and the United States absolutely prohibit torture and degrading treatment; however, in practice, tensions between security powers and weak judicial independence can restrict the effective operation of this prohibition.

Under deterrence theory, criminalizing torture and providing strong enforcement mechanisms, in addition to protecting defendants' rights, constitutes a key tool for restraining arbitrariness by officials and safeguarding the integrity of the adjudicative process.

Theories Based on Trial-Stage Requirements

This section examines theories whose focus is on the requirements of the criminal trial stage.

Judicial Independence

The theory of separation of powers and the rule of law emphasizes the necessity of complete judicial independence, free from political, security, or ideological influence. However, in Iran, the adjudication of political crimes is often conducted by special courts or courts affiliated with specific bodies, which conflicts with this principle.

The Right of Access to Counsel

Effective defense theory considers the presence of an independent lawyer from the outset of investigations to be the foundation of justice in the criminal process. In the United States, this right is implemented comprehensively, whereas in Iran, exceptional categories—such as security offenses—impose limitations (14).

Equality of Arms

The principle of equality in defensive opportunities and evidence for defense counsel and the prosecutor, and the accused's ability to access case documents and information, is essential to justice. However, in the domain of political and security offenses, its practical realization in Iran is open to doubt.

Transparency of the Adjudicative Process

Theories of accountability and public trust consider transparency and the public nature of proceedings among the fundamental principles of justice. Observing open hearings contributes to enhanced legitimacy and increased social capital for the judicial system.

Prohibition of Special Courts

Natural justice and human-rights theory view the adjudication of political accusations in special or military courts as a threat to fair trial and defendants' rights; proceedings must occur only in ordinary, independent courts.

Criteria for Distinguishing Political–Press Crimes from Other Offenses

In the second discussion, criteria for distinguishing political and press crimes from other offenses are explained.

The Objective Approach to Defining Political Crime

Under the objective view, political crime is any criminal act that harms the existence, organization, or essential interests of the state. In this view, the state is always treated as the injured element, and the political offender is a person who infringes the rights and standing of the state as public authority. Accordingly, the primary focus of this criterion is the nature of the subject matter of the crime and its objective, external effects, such that if the result of the offense is harm or loss to the political order of the state, that conduct acquires a political character. This definition recognizes only those offenses as political that are committed directly against political rights or the political sovereignty of the community, and it does not treat the perpetrator's will or motive as determinative; thus, even offenses such as electoral fraud may fall under this criterion because they disrupt the legitimacy structure and the mechanisms of public power (15).

The Subjective and Critical Approach Centered on the Political Offender's Motive

In subjective theory, the criterion for distinguishing political crime from other offenses is focused on the perpetrator's motive and objective. This approach concentrates not on external consequences but on the offender's intent. From this perspective, an act can be regarded as political only where it is committed with the purpose of reforming or changing political conditions and with altruistic or idealistic motives, such that the motive is oriented toward public interest and social benefit rather than personal gain, revenge, or individual power-seeking; consequently, separating political motive from other motives becomes the key diagnostic factor. However, relying exclusively on the subjective criterion may lead to an unregulated expansion of the category of political crimes, even placing severe violent crimes under this title merely because a political motive is asserted—an outcome inconsistent with fundamental criminal-law principles aimed at protecting public order and security (16).

The Mixed Theory and Functional Synthesis

Given the gaps and shortcomings of purely objective or purely subjective theories, the mixed approach is founded on combining both objective and subjective criteria. Under this theory, establishing political crime requires simultaneous proof of (i) political motive on the part of the offender and (ii) harm to the fundamental interests of the state or the basic rights of citizens. In other words, the mere existence of political motive, or the mere infliction of harm upon the state, is not sufficient to confer political character; rather, both elements must be established concurrently. Put differently, a crime is political where a person, with a political aim or motive, engages in conduct that results in harm to the state's political order or the violation of fundamental rights and freedoms. This comprehensive consideration has been reflected in Iran's Political Crime Act, in that both altruistic motive and the subject matter of the offense—framed as conflict with public governmental interests—are treated together as conditions for identifying political crime. Accordingly, this approach prevents the unprincipled attribution of the label "political crime" either to acts that merely oppose the political order or to offenses driven by personal motives, and it guards against both uncontrolled expansion and excessive narrowing of the scope of this concept (17).

Legal Foundations of the Requirements for Guaranteeing the Rights of Defendants in Press–Political Crimes in Iran and the United States

In the contemporary legal order, the defense rights of defendants in political and press crimes are regarded as one of the pillars of fair trial and a manifestation of fundamental human-rights principles. These rights include the right to counsel, the right to a fair and public hearing, the right not to be compelled to confess, the presumption of innocence, the right of free access to case-file information, and the right to be tried before an impartial authority—each of which plays a significant role in safeguarding civil liberties and ensuring the integrity of adjudicative processes. The importance of these rights becomes more pronounced in political and press cases than in ordinary disputes, because the special nature of these offenses bears a direct relationship to freedom of expression, criticism of power, and the participation of the public in the formation of public opinion. Nonetheless, structural challenges and political-security exigencies can restrict the practical realization of these guarantees, which necessitates that legal systems adopt special measures to ensure their effective protection.

Within Iran's domestic legal framework, the defense rights of defendants in political and press crimes are rooted in constitutional principles, Islamic legal foundations, and national and international instruments, including Article 35 of the Constitution, which recognizes the necessity of counsel; Article 36 concerning the requirement of a judgment by a competent court; and Article 38 prohibiting coercion to confess. However, in practice—particularly in political, security, and press cases—substantial obstacles are observed, such as restrictions on free access to counsel, challenges in obtaining full access to case-file information, heightened pressure to obtain confessions, and the lack of complete judicial independence in the face of influence from executive and security institutions. These problems cast doubt on the genuine implementation of defense-rights principles and underscore the need for structural reform of the criminal justice system, strengthening judicial independence, and enhancing procedural transparency—especially because insufficient guarantees of these rights may, in practice, lead to weakened judicial legitimacy, diminished credibility of judicial rulings, and explicit human-rights violations (see p. 78) (18).

By contrast, the legal system of the United States, grounded in democratic foundations and basic liberties, has established a comprehensive structure for guaranteeing defendants' defense rights. The First, Fifth, and Sixth Amendments to the U.S. Constitution guarantee the right to counsel, public proceedings, the principle against compelled confession, and the right to defend against self-incrimination (Miranda rights) for all defendants; they also treat the presumption of innocence and the right to an impartial jury as obligatory irrespective of the nature of the charge. Despite challenges associated with national security or political pressures, these requirements, in dominant judicial practice and implementation, are oriented toward effectively guaranteeing defense rights for defendants—especially in political and press cases—and, through clear procedures, transparent proceedings, and multi-layered avenues of appeal, they provide a suitable framework for preventing abuse of power (14).

Overall, notwithstanding fundamental commonalities between the two legal systems in recognizing and articulating fair-trial guarantees for defendants in political and press crimes, there are meaningful differences in the implementation and practical realization of these rights. In Iran, certain political and security obstacles restrict judicial independence and the possibility of effective defense, particularly in sensitive cases, whereas in the United States—despite periodic critiques—the judiciary, relying on constitutional norms and public and media oversight, ensures transparency and repeated avenues of challenge to judgments to a considerable extent. Therefore, improving guarantees of defendants' defense rights in political and press crimes requires regulatory reform,

consolidation of judicial independence, and the protection of the freedom of lawyers and the media in both systems, and more specifically within Iran's legal order, so that the foundations of criminal justice remain robust.

Rights of Political and Press Defendants Across the Stages of Criminal Proceedings in Iran and the United States

This section examines the rights of political and press defendants across different procedural stages under Iranian and U.S. law.

Rights of Political and Press Defendants Before Trial

The pre-trial phase in the adjudication of political and press crimes holds a sensitive position in securing defendants' rights. In Iran's legal system, defendants at this stage are predominantly confronted with constraints such as insufficient access to counsel and to case information, and they may at times be subjected to psychological or physical pressure. This lack of effective oversight over judicial processes and the broad powers exercised by security and judicial authorities increase the risk of infringement of defendants' fundamental rights and erode public trust in criminal justice. By contrast, in the United States legal system, the legal framework expressly entitles the defendant to rights such as access to counsel and the right to remain silent, while oversight by the media and non-governmental institutions provides stronger guarantees for compliance with rights during this phase.

Prohibition of Pre-Trial Detention and Harm to the Right of Defense

In Iran, pre-trial detention—particularly in the sphere of political and press crimes—has been associated with prolonged detention without access to counsel or legal consultation. Until the commencement of the trial process, whether public or non-public, defendants often cannot mount an effective defense and, during this period, face a serious risk arising from weak human-rights safeguards. In addition, exposing defendants to unlawful pressure to obtain confessions entails an explicit violation of the presumption of innocence and human dignity and often has a negative impact on the outcome of proceedings. In the crime-detection stage, the role of judicial officers in Iran is highly significant; however, the absence of sufficient enforcement guarantees, the breadth of authorities' powers to detain, and the lack of an obligation on authorities to ensure transparency can lead to violations of defendants' rights. Lack of access to information and counsel, pressure for coerced confessions, and the absence of independent oversight bodies have created an insecure and non-transparent environment. In contrast, in the United States, greater transparency and media and civil oversight of law-enforcement performance constrain deviations from defendants' rights standards and keep the adjudicative system accountable (5).

Public Proceedings, the Role of the Media, and Extra-Judicial Pressure on Journalists

In the context of press crimes, journalists and media activists in Iran may face direct threats prior to the initiation of trial. In many cases, their professional activity is forcibly halted or suspended under severe pressure, or they are compelled to make confessions against themselves or others, which in practice undermines professional independence and violates fair-trial principles. Restrictions on access to legal consultation and an increase in unlawful detentions likewise result in serious deficiencies in defense rights and can lead to the loss of credibility of the judicial process. In the United States legal system, the rights of defendants in political and press crimes are rooted in the federal Constitution, particularly the First and Sixth Amendments. The First Amendment explicitly

guarantees freedom of speech and of the press and prohibits legislation aimed at restricting these basic rights: “Congress shall make no law ... abridging the freedom of speech, or of the press.” On this basis, the general presumption is that criminal prosecution due to political expression or press criticism—except in clear cases of national-security threats—runs contrary to the foundations of the U.S. legal order. In addition, the Sixth Amendment provides extensive procedural rights for defendants, including the right to a public trial, the right to prompt notice of the nature and cause of the accusation, and the right to the assistance of counsel (see p. 190) (19).

The Right to Counsel

In the United States legal system, although press and political cases may also involve difficulties, most fundamental rights of defendants are generally observed. Among these, the Sixth Amendment expressly recognizes the defendant’s right to counsel from the earliest stages of detention. Detention without a judicial warrant is, in practice, regarded as unlawful, and the defendant has the right to be promptly informed of the reasons for arrest. This legal quality provides broader space for defense and for preventing abuses by security institutions and the police.

Despite these guarantees in the United States, in certain political and journalism-related cases, defendants may, due to national-security considerations or informal pressure from governmental officials, face limitations regarding freedom of expression or access to counsel (see p. 319) (20). These constraints are, of course, far less pronounced than comparable experiences in Iran; however, it should be noted that case-specific extra-judicial pressure may still occur, affect defense rights, and at times disrupt legal consultations and case-related notifications.

Access to Information and Evidence

Defendants’ right to access case documentation and evidence in Iran is often subject to serious limitations, particularly in political and press cases where security justifications are treated as a barrier to the free provision of information. This reduces the effectiveness of legal defense and undermines equality before the law. In the United States, however, defendants, consistent with procedural standards, have access to evidence and documentation and can structure their defense on the basis of such materials, thereby benefiting from more equal opportunities for defense.

In Iran, the Code of Criminal Procedure stipulates that in political crimes, the authority responsible for preliminary investigations must be independent from the prosecution authority, which requires that interrogations be entrusted to impartial investigating judges so that investigations remain insulated from bias or influence by security officials. Nevertheless, in judicial practice, instances of violation and intervention by prosecutorial judges are observed, which is also inconsistent with international fair-trial principles. Such separation constitutes one of the key components for protecting defendants’ defense rights. Public proceedings and the presence of a jury are among the most important defense guarantees for defendants in political and press crimes. Under the Sixth Amendment, every defendant has the right to be tried by an impartial jury composed of citizens of the state or judicial district where the offense occurred. The presence of a jury ensures that the political or press-related character of the accusation, as well as the legitimacy of governmental interventions, is assessed from a public and independent perspective. Likewise, the principle of public trials—also enshrined in the same Amendment—reduces media restrictions or confidentiality in political proceedings to exceptional circumstances and only pursuant to a judicial order; this significantly contributes to ensuring procedural transparency and protecting defendants’ rights (see p. 37) (21).

The Confidentiality of Preliminary Investigations and the Prohibition on Disclosure of Information

In Iran, the principle of confidentiality in preliminary investigations is emphasized by law, and the publication of images and information relating to the identity of political and press defendants is prohibited; however, in particular and exceptional circumstances, publication may occur to a limited extent on grounds of public interest or in connection with the pursuit of the case. Nevertheless, the importance of protecting the defendants' social and political reputation requires that the principle of non-disclosure be observed broadly and consistently. In the United States, the media play a strong oversight role, yet—pursuant to judicial practice—courts may, in certain cases, impose restrictions on media coverage in order to preserve trial fairness and judicial impartiality (11).

The Right to Silence and Its Enforcement Guarantees

Finally, the defendant's right to remain silent, as a cornerstone of human dignity and fair trial, is recognized in both legal systems; however, in practice, Iran faces challenges regarding enforcement guarantees and the obligation of officers to inform defendants of this right, and ambiguity persists in the communication and observance of the right to silence for defendants (22). In the United States, the obligation to explicitly inform an arrestee of the right to remain silent (Miranda rights) is clearly prescribed, and failure to comply results in the practical exclusion of confessions. Accordingly, the effectiveness of the United States system in protecting the freedom to remain silent and prohibiting any compulsion to confess is broader in degree and scope than in Iran (23).

Rights of Political and Press Defendants During Trial

At the trial stage, one of the most important safeguards of defendants' rights in political and press cases is the principle of public hearings. In Iran, although Article 168 of the Constitution and provisions of the Code of Criminal Procedure stipulate that such courts must be held publicly and with the presence of a jury, in practice there is a discernible tendency toward closed hearings or the imposition of limitations on the presence of the media and civil observers, particularly in sensitive political and press cases. This issue is often justified on grounds of national security or public interest and conflicts with the principle of transparency and the public's right to oversee adjudicative processes. By contrast, the United States legal system not only emphasizes the presence of a jury, but also allows the media and civil society to play an active role in covering and monitoring proceedings, which constitutes one of the most important mechanisms for preventing judicial misconduct or interference with defendants' rights (11).

The Right to Independent Counsel and Effective Defense

A fundamental element in securing criminal justice is the right to retain a chosen and independent lawyer throughout the proceedings. In Iran, although the law explicitly recognizes this right, restrictions such as limited access to the full set of case-file materials, threats or pressure against defense counsel, the selection of specific "approved" lawyers, or barriers to meaningful participation of counsel in court sessions—especially in press and political cases—create serious implementation challenges. In the United States, by contrast, even where a defendant lacks financial means, the right to appointed counsel is recognized and the justice system provides broad enforcement guarantees for the effective presence of independent counsel. This facilitates a more balanced defense system and enables defendants to present genuine defenses, and any restrictions in this domain can be

pursued legally through oversight bodies or higher courts. One of the defendant's core rights—of heightened importance in political and press cases—is access to counsel at all stages of the proceedings. Under established judicial practice, the court is obligated to provide appointed counsel even if the defendant lacks financial capacity. This right is expressly guaranteed under the Sixth Amendment, and the judicial authority must ensure it without discrimination or discretionary interference. The role of counsel is not only central to clarifying the case dimensions and presenting legal defenses, but also to safeguarding adjudicative fairness in the face of social, governmental, or media pressures. In press cases, counsel occupies a particularly significant position in protecting the fundamental value of freedom of expression (24).

Impartiality and Independence of the Adjudicative Authority (Judge and Jury)

One of the most important pillars of a fair trial is the independence and impartiality of the judge or adjudicative body. In Iran, although the principle of judicial independence and the requirement of a jury in political and press cases are emphasized in principle, in practice non-judicial institutions (including executive and security bodies) may at times influence verdict formation and offense classification. The legitimacy of judgments is secured only where the judge and jury assess evidence and decide without pressure or political considerations—an issue that continues to face structural and practical challenges in Iran (25). In the United States, by contrast, the composition of the jury and the procedures for its selection are designed to minimize any appearance of bias. Moreover, a multi-layered appellate structure and objection mechanisms provide opportunities to correct unjust judgments, and the emphasized principle of due process is observed across adjudicative stages. Public proceedings and the presence of a jury are among the most important defense safeguards in political and press cases. Under the Sixth Amendment, every defendant has the right to be tried by an impartial jury composed of citizens of the state or judicial district where the offense occurred. Jury participation ensures that the political or press-related characterization of the accusation, as well as the legitimacy of governmental interventions, is evaluated from a public and independent perspective. Likewise, the principle of public trials, also embedded in the same Amendment, reduces media restrictions or confidentiality in political proceedings to exceptional cases and only by judicial order, thereby substantially supporting transparency and the protection of defendants' rights.

Among the rationales for the presence of a jury in political-crime adjudication is that political crime, in addition to its legal character, possesses political and social dimensions; therefore, political and social considerations must also be taken into account in such cases. The political and social measure of differentiating the procedure for political crimes can function as a restraint on sovereign power, because officials of public authority—although obliged to maintain neutrality in judicial affairs and administer justice—may naturally seek to apply a more stringent approach toward those who oppose governing authorities through alleged political offenses. Consequently, there is always a risk that public authorities may, directly or indirectly, use state capacities to create conditions for heavier punishment against defendants and, in effect, against their opponents; for this reason, involving representatives of public opinion and enabling their oversight is highly important (26).

The Presumption of Innocence and the Standard of Proof

In both systems, the presumption of innocence is a foundational pillar; however, its operational basis and the extent of compliance during trial differ noticeably. In Iran, despite legal recognition, a lack of transparency in evidentiary grounds and unequal opportunities for presenting defenses can weaken the presumption of innocence

and accelerate conviction processes, often relying primarily on confessions or security-based reporting (27). In political and press cases, the risk of a security-oriented approach prevailing over a legal approach is significant. In the United States, the burden of proof rests entirely on the prosecutor, and the defendant is not required to prove their own innocence. Strict proof standards and the principle of interpreting penal provisions in favor of the accused provide an appropriate basis for the presumption of innocence and support the practical guarantee of “innocent until proven guilty.” In the common-law system, and pursuant to the Fifth Amendment, the fundamental rule against self-incrimination and the presumption of innocence are established. This principle is particularly sensitive in political and press proceedings because any history of misuse by security or political institutions to obtain coerced confessions can undermine the adjudicative system. Accordingly, the defendant has an absolute right to silence, and the court is obligated to reject any pressure, threat, or inducement aimed at obtaining an admission. The presumption of innocence has priority in the United States legal order, and the burden of proving the charge lies exclusively with the prosecutor, such that any doubt must be interpreted in the defendant’s favor (28).

Rights of Political and Press Defendants After Trial and Issuance of Judgment

In the third discussion, focusing on the post-trial stage and the issuance of judgment, the rights of political and press defendants at this stage are addressed.

Appeal, Compensation, and Restoration of Reputation

In democratic legal systems, accountability and responsibility of all officials, including judges, are regarded as fundamental principles. Accordingly, political and press defendants, after a conviction judgment is issued, possess the right to appeal and to اعتراض to judgments, and if punishment is carried out, they will be protected under the rule against double prosecution and double trial. Where a defendant is ultimately acquitted, the law, in addition to prohibiting renewed prosecution (except in limited cases involving new evidence under the relevant procedural framework), also recognizes the right to compensation and restoration of reputation (29). Nevertheless, certain existing practices—such as provisions that place the cost of publishing an acquittal ruling in the press on the acquitted person—have been criticized from the standpoint of criminal justice and underscore the need for reconsideration. In completing the protections of political and press defendants, affected persons have the right to object to judgments and seek review at higher levels, including appellate courts and the supreme judicial authority. Federal judicial practice provides that where fair-trial principles are violated, defense rights are impaired, or a conflict with constitutional amendments is established, the adjudicative process may be set aside and retried. In addition, transparency of judicial decisions, the possibility of public access to records and adjudicative documents, and the obligation of the judiciary to remain accountable play a significant role in the effectiveness and integrity of the judicial process (30). These oversight mechanisms, particularly in political and press matters, help ensure that the balance between national-security requirements and fundamental freedoms is entrusted to the highest level of judicial precision.

Prison Conditions and Protective Rights

With respect to the enforcement of sentences and the preservation of the dignity of political and press defendants, the Iranian legislature—pursuant to paragraph (a) of Article 6 of the Political Crime Act adopted in 2016 and the Regulation on the Separation and Classification of Prisoners adopted in 2005—has explicitly emphasized

the separation of the place of detention for such prisoners from ordinary offenders, insofar as this separation is important from therapeutic, rehabilitative, and rights-protection perspectives. In addition, under paragraph (th) of Article 6 of the same Act, solitary confinement and solitary detention of political defendants are absolutely prohibited, subject only to two exceptions: the necessity of preventing collusion, or the need to complete investigations—both of which are capped at a maximum of fifteen days, although this exception is limited to the preliminary investigation phase. Moreover, rights such as the ability to visit and correspond with first-degree relatives (paragraph (j) of Article 6) and access to books and periodicals, radio, and television (paragraph (ch) of Article 6) are also provided for this category of prisoners, even though the Prison Organization’s internal regulations in multiple respects prescribe a wider scope of visitation and cultural access for other categories of sentenced persons as well.

Under the law, a prisoner must be classified according to criminal record, personality, and type of offense, and on that basis, a political prisoner cannot lawfully be placed in the same cell as ordinary offenders. Furthermore, it is not appropriate to detain political prisoners together with drug traffickers, fraudsters, thieves, or murderers, because political prisoners are, as a matter of legal principle, entitled to access mass media and, through the possession of books, writing instruments, newspapers, and radio, to preserve at least minimal channels of intellectual freedom. The political prisoner should, whenever leaving the prison or detention facility for any reason, do so in ordinary civilian clothing rather than standardized prison uniforms; the applicable regulations also relate the necessity of prison attire exclusively to periods of confinement within the prison. Because these provisions are potentially susceptible to varying interpretations and constructions, interpretation should be made in a manner closest to the interests of the accused or offender rather than other institutional purposes, akin to a narrow and defendant-favoring construction. Consequently, for example, political prisoners should not be transported through public streets in prison uniforms, nor should they even be compelled to appear in prison in such attire. In sum, political offenders—by virtue of their political worldview and their asserted defense of collective freedoms and human rights—are often perceived as meriting broader public sympathy, and states may regard providing them refuge as part of their civic responsibilities (31).

Non-Application of Recidivism Rules, Res Judicata, and Annulment of Judgments

Regarding the effects of conviction, pursuant to Article 138 of the Islamic Penal Code adopted in 2013 and paragraph (p) of Article 6 of the Political Crime Act adopted in 2016, the rules concerning recidivism are not applied to political and press convicts (as well as juveniles). The purpose of this exception is to protect political defendants from the aggravating consequences associated with repeated convictions. In addition, adherence to the rule of res judicata and the prohibition of double prosecution and double trial—recognized in the relevant provisions of the Islamic Penal Code—guarantees that an acquitted person or a convicted individual will not be prosecuted or tried again for the same accusation, although the legislature has not accepted the full application of this rule to certain categories such as ḥudūd and qiṣāṣ and has confined it largely to ta’zīrāt. Furthermore, pursuant to the note to Article 455 of the Code of Criminal Procedure, annulment of a trial-court judgment at the appellate stage is permissible and mandatory where essential procedural requirements—such as the principle of a public hearing in political or press cases—have been disregarded. This principle is also expressly protected by Article 168 of the Constitution, in order to ensure that defense rights are not undermined and that the core substance of fair trial is preserved (21).

Rights of Political and Press Defendants at the Sentencing Enforcement Stage

In this part, the rights of political and press defendants are examined specifically at the stage of enforcing the judgment.

Human Dignity

At the enforcement stage, respecting defendants' rights and preserving their human dignity gains heightened significance, because violations at this point can fully erode public confidence in criminal justice. In Iran, although the law emphasizes the observance of prisoners' basic rights, in practice—particularly for political convicts and journalists—reports have described conduct inconsistent with human dignity, restrictions on visitation, incomplete medical care, or prohibitions on contact with counsel and family. In the United States, the requirement of humane treatment of prisoners and the guarantee of access to legal, medical, and psychological services are implemented at a higher level, and violations may lead to review, mitigation, or even suspension of enforcement. The availability of appeal mechanisms and multi-layered legal challenges provides a notable level of protection for convicted persons, especially in cases involving deprivation of liberty connected to political activity or journalism.

Post-Trial Oversight and the Capacity of Oversight Bodies and the Media

In the United States, the scope of protection for political and press defendants continues after trial through strong oversight mechanisms, avenues of appeal, freer media, and the presence of civil institutions. This structure helps ensure that enforcement remains within a human-rights framework and that violations are subject to accountability. In Iran, although oversight mechanisms within the judiciary are referenced, these capacities are, in practice, weaker and accompanied by constraints on media and civil oversight. This reality supports calls for structural reform, strengthening of independent institutions, and expansion of media freedoms as necessities for the practical protection of defendants' rights, particularly in political and press cases. The fundamental divergence between the two systems in protecting defendants' rights during adjudication and enforcement is influenced by the degree of separation of powers, the strength of oversight institutions, judicial transparency, and the extent to which the legal profession and media enjoy effective immunity and protection. Reforming criminal justice, strengthening professional freedoms, and implementing the presumption of innocence in practice require the expansion and consolidation of these enabling infrastructures (32).

Challenges

This section discusses the challenges surrounding the rights of political and press defendants.

Procedural and Substantive Guarantees and Rights After Trial

In democratic legal structures, accountability and responsibility of judges and governing officials are accepted as overarching principles. Accordingly, defendants in political and press cases, after a conviction judgment is issued, possess the right to appeal and to object to judgments. After execution of punishment, the rule prohibiting double prosecution and double trial safeguards defendants' rights, and only in specified circumstances—such as the discovery of new evidence—may renewed prosecution be contemplated. Moreover, in the event of acquittal, the defendant benefits from protection against renewed prosecution and holds the right to claim compensation and

restoration of reputation—rights that are directly guaranteed under constitutional principles recognizing liability for judicial fault or error. Nonetheless, the practical operation of certain subordinate provisions, including rules that place the cost of publishing an acquittal ruling on the acquitted person, has been criticized and may function as a barrier to justice, diminishing the effectiveness of legal support (33).

Separation of Detention Status and Enforcement Protections for Defendants

Separating the detention location of political and press defendants, in order to protect prisoners' dignity and social standing, is emphasized under the Political Crime Act adopted in 2016 and prison regulations. This distinction between political defendants and ordinary offenders, alongside rehabilitative objectives and the observance of security and judicial requirements, is intended to ensure minimal psychological and security harm to political defendants. Within this framework, rules prohibiting solitary confinement of such persons have also been enacted, except in strictly exceptional cases such as investigative necessity or prevention of collusion; even then, a defined time limit (maximum fifteen days) is prescribed and requires judicial authorization and oversight. In addition, Iran's contemporary criminal policy provides political defendants with rights comparable to—or in some respects exceeding—those afforded to other prisoners, including visitation and correspondence with first-degree relatives, access to books and periodicals, radio and television, and measures aimed at preventing the imposition of prison attire when not strictly necessary. These privileges are designed to prevent infringement of the dignity and intellectual independence of political prisoners, even though some analogous provisions may also apply to ordinary prisoners; the legislature's explicit emphasis on these rights for political defendants reflects their special importance (34).

Recidivism, Res Judicata, and Requirements Governing the Adjudicative Process

In order to differentiate political and press offenses from other public crimes, the legislature has recognized an exception excluding the application of recidivism rules to such offenses under relevant provisions of the Islamic Penal Code, with the objective of preventing intensified penal pressure and providing enhanced guarantees for political and press freedoms. Further, the principle of res judicata and the prohibition of double trial, particularly regarding ta'zīr offenses, are recognized in the same framework and preclude duplicate proceedings against acquitted defendants, although these protections have not been accepted in the domain of ḥudūd and qiṣāṣ. Moreover, fair-trial and transparency requirements—pursuant to the note to Article 455 of the Code of Criminal Procedure and Article 168 of the Constitution—treat violations of essential formalities (such as the public hearing requirement in political and press cases) as grounds requiring annulment of the judgment by the appellate authority; thus, failure to observe foundational procedural guarantees results in loss of validity of the judgment and the obligation to retry the case. Collectively, these guarantees constitute the cornerstone of criminal justice and respect for citizens' fundamental rights in the sphere of political and media freedoms at the post-trial stage (35).

The Existence of Totalitarian and Dictatorial Governance Models

Totalitarian and dictatorial systems do not distinguish between state and society and claim authority to regulate all aspects of social life. Such systems believe in governance by a single political party, do not tolerate dissatisfaction or dissent, accept the use of force domestically and internationally, and often defend certain supremacist doctrines (36). Under an all-encompassing ideology, these governance structures intervene across all

domains of individual and social life and attempt to impose ideology upon reality. In this sense, totalitarianism, by politicizing society, destroys private and non-political spheres of life and therefore requires state control over mass communication, education, and cultural institutions. By dismantling spontaneous civil-society institutions, the totalitarian state seeks to impose top-down institutions upon society to consolidate power. From this perspective, people are presumed incapable of discerning their true interests, while the ruling party or group speaks “on behalf of the people,” presenting itself as the representative of the majority’s real interests and authentic will (37).

In dictatorial political structures, ruling classes often consider it expedient to reduce legislative formalities within existing legal frameworks and concentrate executive power in the hands of one person or a narrow group (12). In an authoritarian government, citizens are in a condition of permanent antagonism, because even absent open conflict, genuine peace does not exist; further, all individuals are painfully “equal” in the sense that all occupy the lower depths of the social and political hierarchy. No one is granted genuine prosperity or honor, and the most capable are pushed into inactivity (38). The existence of totalitarian and dictatorial systems constitutes one of the most serious obstacles to granting defendants’ rights—particularly in political and press cases—because the direction and substance of these offenses often directly concern, and are perceived as challenging, precisely such forms of governance.

Solutions

Given the understanding developed regarding the challenges of guaranteeing the rights of political and press defendants within the criminal adjudication process, this section presents proposed solutions.

Differentiating Political Crime and the Challenges of Legislation and Adjudication

In legal systems—particularly in Iranian law—“political crime” refers to acts that directly target the political structure, state institutions, or the prevailing social order and therefore possess a character distinct from ordinary crimes, such that emphasis is typically placed on the offender’s political motive and the behavioral orientation toward reform or protest against the political status quo (Articles 4 and 5 of the Political Crime Act and Article 168 of the Constitution of the Islamic Republic of Iran). Although the Iranian legislator, by adopting the Political Crime Act in 2016 and relying on amendments introduced in the Code of Criminal Procedure (including Articles 296, 297, 305, and 352), has sought to recognize special conditions for political defendants across the stages of prosecution, trial, and enforcement of punishment, the absence of precise differentiating indicators and the emergence of overlap with security offenses and *moḥārebah* have continuously challenged the independent legal identity of political crime. Article 168 of the Constitution explicitly requires public trials with the presence of a jury for political and press crimes; however, the relevant provisions in ordinary legislation have, in some instances, undermined the clarity and authority of this constitutional requirement by carving out exceptions and granting discretion to hold proceedings in camera. This situation further reinforces the necessity of revisiting the legislator’s criminal policy in order to preserve the requirements of fair trial, judicial transparency, and a clear demarcation between political crimes and other categories of offenses (2).

Legislative and Judicial Measures to Enhance the Rights of Political Defendants

To achieve fair trial guarantees and comply with human-rights standards for defendants in political and press cases, it is imperative to review and reform the structure of existing laws, strengthen judicial safeguards, and

institutionalize a leniency-oriented approach. From a legislative standpoint, a comprehensive revision of rules aimed at expressly ensuring the political defendant's immediate and unrestricted access to counsel (notably Articles 48 and 190 of the Code of Criminal Procedure), as well as the necessity of enjoying the right to silence without pressure, is emphasized; yet persistent gaps in transparency continue to render violations of these fundamental rights plausible in practice. In parallel, establishing independent oversight bodies—such as a specialized commission for the rights of political defendants—operating beyond security and political structures and empowered to conduct review and supervision over adjudicative processes could provide a stronger guarantee of protection. On the judicial plane, strengthening judges' independence, implementing multi-judge panels, enforcing public hearings without exception in accordance with Article 168 of the Constitution, protecting lawyers against intimidation, and reducing problematic forms of interference with the jury (while emphasizing specialized conciliation bodies as alternative mechanisms) are among the proposed measures. If implemented, these mechanisms can materially reduce the existing structural tensions between fair-trial principles and certain conflicting statutory provisions (39).

Reforming Institutional Mindsets and Drawing on International Experience to Secure Criminal Justice

Ensuring fair trial treatment for political defendants requires a shift in the mindset of the legislator, executive authorities, and relevant institutions, aligned with international standards and human-rights teachings. Key solutions include promoting specialized legal training for judges and lawyers, institutionalizing transparency in reporting and the publication of judgments in accordance with procedural requirements, and strengthening the role of the media and civil-society organizations in monitoring and pursuing violations of defendants' rights (32). In addition, recalibrating criminal policy from punitive justice toward restorative justice, pursuing decriminalization, and using non-custodial or non-penal alternatives for press and political offenses—drawing on experiences such as those associated with the United States—can reduce procedural delays, curb penal inflation, and elevate the status of human rights. Ultimately, operationalizing a proportionality-based leniency policy and prohibiting severe or degrading punishments for political defendants depends on the continuous reform of laws and the rigorous enforcement of a clear distinction between political crime and security-related or *mohārebah* classifications, so that the conditions for realizing criminal justice are effectively established (27).

Conclusion

The rights of defendants in political and press crimes in Iran and the United States, despite certain formal similarities in recognizing fair-trial principles and defense rights, differ fundamentally in terms of normative foundations, legislative architecture, and the depth of implementation safeguards. In Iran, the legal framework is structured around Islamic law, the Constitution, and specific statutes such as the Press Law and the Political Crime Act, under which—particularly in cases with security dimensions—restrictions may be imposed on unrestricted access to counsel and on public hearings. Moreover, the determination of whether an offense is “political” and the designation of the competent forum may, in some instances, depend on the discretion of judicial and security authorities, which can destabilize the implementation of Article 168 of the Constitution and generate challenges relating to procedural transparency and the realization of defendants' fundamental rights. By contrast, the U.S. legal structure, centered on the First, Fifth, and Sixth Amendments, safeguards freedom of expression, judicial

independence and transparency, and defense rights such as unrestricted access to counsel and public proceedings, and even in exceptional security conditions it places any limitations under serious judicial and public scrutiny.

In both systems, core defense-rights principles—including the right to silence, the prohibition of compelled confession, fair trial guarantees, the independence and impartiality of the adjudicative authority, and full access to case information—are recognized; however, significant differences in practical implementation and operational obstacles are evident in Iran and the United States. In Iran, constraints on freely choosing counsel, the lack of institutional independence of the jury, deprivations tied to the security characterization of the accusation, and the interpenetration of executive-security and judicial functions may, in some cases, result in violations or dilution of defendants' rights. Particularly in political and press cases—often intertwined with criticism of governance and demands for public freedoms—the level of transparency and openness of proceedings may be reduced, and the pathway for political and security pressures can become more accessible. In the United States, although challenges such as the temporary enactment of restrictive measures during security crises may arise, institutional checks, the meaningful role of the jury, and high-level judicial oversight typically operate to prevent systematic violations of the rights of political and press defendants and to maintain a more calibrated balance between security imperatives and individuals' fundamental rights.

Ultimately, enhancing the effectiveness of defense guarantees for defendants in political and press crimes requires strengthening and reforming legislative and institutional foundations. In Iran, a fundamental review of laws, a clear and criteria-based definition of political crime, reinforcement of judicial independence, removal of restrictions on access to counsel, and the establishment of independent oversight bodies constitute unavoidable necessities. Incorporating modern technologies into adjudicative processes, facilitating public access to judicial information, and enabling renewed review of judgments through independent mechanisms can contribute to greater transparency, increased public trust, and improved judicial justice. In the United States, continuing democratic protections for freedom of expression, guaranteeing competent defense services, and maintaining strong institutional oversight over proceedings—especially in the face of evolving security challenges—remain conditions for the full realization of justice in political and press cases. Accordingly, implementing differentiated procedures consistent with universal human-rights principles and ensuring effective defense guarantees requires an analytical and realistic approach in both legal systems.

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