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# Smart Management of Criminal Records with a Hybrid Penological Approach

1. Kamran. Hadipour<sup>1</sup>: Department of Law, Qo.C., Islamic Azad University, Qom, Iran
2. Ali. Arman<sup>2</sup>: Department of Law, Bo.C., Islamic Azad University, Borujerd, Iran
3. Hydarali. Jahanbakhshi<sup>3</sup>: Department of Law, Isl.C., Islamic Azad University, Islamshahr, Iran

\*corresponding author's email: [ali.arman@iau.ac.ir](mailto:ali.arman@iau.ac.ir)

## ABSTRACT

The management of criminal records within the Iranian legal system, despite reform-oriented approaches reflected in higher-level policy documents, has become one of the principal obstacles to the realization of criminal justice and the prevention of recidivism. Employing a descriptive–analytical method and grounded in labeling theory, this study examines the pathology of the gap between “law in the books” and “law in action.” The central issue concerns analyzing the causes underlying the inefficiency of Articles 25 and 26 of the Islamic Penal Code (2013) in eliminating the adverse consequences of criminal records, as well as investigating the process through which “legal punishment” transforms into “permanent social exclusion.” The findings indicate that the duality between “legal rehabilitation” and the perpetual retention of information within law-enforcement databases, combined with indiscriminate occupational restrictions and employers’ risk-averse practices, has resulted in the blockage of reintegration pathways and the emergence of “secondary deviance” among convicted individuals. In effect, the criminal justice system, by preserving what may be described as an institutional “memory of dangerousness,” unintentionally contributes to the reproduction of criminal cycles. To overcome this structural impasse, the present article proposes a model of “hybrid penology,” grounded in a transition from “mechanical exclusion” toward “intelligent risk management.” Key policy solutions include the legal recognition of the right to be forgotten, the specialization and proportionalization of social disabilities, and the smart modernization of the criminal record system based on an access-level classification model. The study concludes that sustainable security lies not in the exclusion of offenders but in their reintegration through data-driven mechanisms and post-penal support measures.

**Keywords:** *Criminal Record; Labeling Theory; Hybrid Penology; Risk Management; Right to be Forgotten.*

## Introduction

Criminal justice systems throughout their historical development have consistently struggled with a profound paradox: the tension between security-oriented policies, which seek the exclusion and continuous supervision of offenders, and rehabilitative approaches, which aim at their reintegration into society (1). While modern criminal law discourse and international policy frameworks emphasize reform and treatment, practical realities and administrative practices in many jurisdictions, including Iran, reveal the predominance of an approach that may be



described as “silent exclusion.” Within this framework, although physical punishment such as imprisonment formally ends, social punishment effectively begins through a powerful mechanism known as the criminal record (2).

Originally designed as an institutional memory enabling courts to individualize punishment in cases of recidivism, the criminal record has gradually acquired an extra-legal function. Moving beyond judicial boundaries, it has evolved into an instrument of social and economic screening and a form of risk-assessment tool employed by employers and administrative authorities (3).

The principal issue examined in this article is the deep gap between “law in the books” and “law in action” in the domain of criminal record management. With the enactment of Article 25 of the Islamic Penal Code (2013), the Iranian legislator attempted to advance the concept of legal rehabilitation by classifying crimes into graded categories and determining specific time limits for the removal of conviction effects (4). According to this provision, criminal convictions remain legally “effective” only for certain offenses and for limited durations, after which they should be erased from an individual’s legal record.

However, empirical observations and pathology-oriented studies demonstrate that such erasure largely remains a legal fiction. In practice, traces of criminal conduct persist within police databases, security institutions, and even employment screening systems. Supervisory mechanisms, sustained by an institutionalized memory of risk, prevent past mistakes from being forgotten (5). Individuals who have long since reformed continue to face deprivation of fundamental citizenship rights due to the enduring label of “ex-offender” (6). This condition exemplifies what criminologists describe as “invisible punishments”—sanctions not stated in judicial sentences yet often more destructive than the sentence itself, effectively targeting the civil life of the individual (7).

The importance of this study lies in its argument that high rates of re-imprisonment should not primarily be attributed to the intrinsic characteristics of offenders but rather to the closure of reintegration pathways. When mechanisms of exclusion restrict access to employment, marriage, and social participation, individuals may find survival possible only through reentry into deviant subcultures. Research demonstrates a direct relationship between unemployment caused by criminal records and recidivism rates (8). In this context, the criminal record transforms from a tool of security into a criminogenic factor.

Drawing upon labeling theory, particularly the works of Howard Becker and Edwin Lemert, this article illustrates how the criminal justice system redefines an individual’s identity through the imposition of an official label, thereby directing the person toward secondary deviance (9). The persistence of criminal records stabilizes individuals within a criminal role and obstructs the formation of a renewed civic identity (10).

The research adopts a descriptive–analytical methodology with a critical orientation. Data were collected through documentary analysis, examination of statutory provisions, analysis of judicial practices, and review of domestic and international scholarly sources. A comparative approach was also employed to examine leading international experiences, including European record-expungement systems and Anglo-Saxon risk-management models.

The article is structured in three principal parts. The first part explores theoretical foundations and core concepts to clarify the place of criminal records within modern criminological literature. The second part provides a detailed pathology of Iranian law, particularly Articles 25 and 26 of the Islamic Penal Code, along with their implementation challenges. The third part moves beyond critique by presenting operational solutions and the study’s proposed reform model. The ultimate objective is to provide criminal policy-makers with a roadmap for transforming criminal records from a “barrier to reintegration” into an instrument of intelligent risk management.

## Theoretical Foundations, Concepts, and Analytical Models

A comprehensive understanding of criminal record challenges within the Iranian legal system cannot be achieved through statutory interpretation alone. Criminal records constitute a multidimensional phenomenon rooted in punishment philosophy, the sociology of deviance, and contemporary surveillance technologies. Accordingly, before entering strictly legal discussions, it is necessary to examine the phenomenon beyond rigid legal definitions and within the framework of critical criminology and modern penology.

This section outlines the theoretical framework of the study by integrating classical and contemporary theories to establish a solid analytical foundation.

### *Ontology of the Criminal Record: From Organizational Memory to Permanent Stigma*

In its classical administrative definition, a criminal record consists of documented information concerning an individual's interactions with the criminal justice system, including arrests, charges, convictions, and acquittals (11). From the perspective of criminal sociology and legal philosophy, however, the ontology of the criminal record is far more complex. In modern societies, criminal records have acquired symbolic and identity-forming functions, constructing an individual's official biography that overshadows the person's real, evolving human biography.

In the information age, criminal records have gained a characteristic of digital immortality. Whereas in traditional societies forgetting was a natural feature of collective memory—allowing individuals to bury their past through the passage of time or geographic mobility—the digitization of data has transformed criminal records into a form of permanent memory (12). This paradigm shift from “default forgetting” to “default remembering” fundamentally conflicts with the concept of rehabilitation, which inherently requires moving beyond past wrongdoing. Digital records freeze the past within the present, preventing time from fulfilling its restorative function (13).

Scholars argue that modern criminal records may produce a condition resembling civil death, whereby individuals remain physically alive yet are deprived of meaningful participation in employment, housing, and political life (14). These consequences illustrate how criminal justice systems have expanded punishment beyond incarceration into what may be described as imprisonment within society (15).

Within Iranian law, despite the existence of legal rehabilitation mechanisms under Article 25 of the Islamic Penal Code (2013), the persistence of records in police databases and extra-legal access mechanisms continues to overshadow individuals' social existence, effectively placing them in a state of permanent suspension (15).

### *Labeling Theory and the Mechanism of Secondary Deviance*

One of the principal theoretical pillars of this study in explaining recidivism among individuals with criminal records is labeling theory. Developed by scholars such as Howard Becker and Edwin Lemert and empirically examined in later criminological research, the theory posits that crime is not an inherent or genetic reality but rather the product of processes of social definition and reaction (16).

Labeling theory distinguishes between two forms of deviance. Primary deviance refers to an initial act—for example, a minor theft motivated by need or impulse—that has not yet altered the individual's self-identity. At this stage, the person does not perceive themselves as a criminal.

Secondary deviance emerges when society and the criminal justice system respond formally through arrest, prosecution, and the registration of a criminal record, thereby imposing the label of “offender.” Under the pressure

of this label and the resulting social exclusion, individuals gradually internalize the imposed identity and adapt their behavior to the newly assigned criminal role (17).

The criminal record constitutes the most powerful technical mechanism for institutionalizing secondary deviance. Individuals with criminal histories encounter persistent presumptions of dangerousness and dishonesty in everyday interactions—from job applications to housing arrangements and even marriage prospects. Studies demonstrate that such continuous exclusion erodes an individual's social capital (18).

As ties with conventional society weaken, individuals may turn to deviant groups that provide acceptance and material support. The resulting paradox is striking: a criminal justice system intended to prevent crime may, through the preservation and dissemination of criminal records, become a producer of crime itself (19).

Within the Iranian legal context, this theoretical framework explains why recidivism rates are significantly higher among individuals whose criminal histories are publicly disclosed and who consequently lose employment opportunities, compared with those able to conceal or overcome their records (2). Consequently, the necessity of revising criminal policy regarding criminal record management becomes unmistakably evident.

### *Modern Penology and Risk Management*

In analyzing the contemporary status of criminal record management both globally and in Iran, it is essential to consider a major paradigmatic transformation that emerged during the 1990s. In contrast to traditional penology—which emphasized moral responsibility, retributive justice, and individualized punishment—a new paradigm known as modern penology developed, focusing primarily on systemic efficiency and population management rather than individual reform (20).

Within this framework, the objective of the criminal justice system is no longer the moral transformation of the offender or the realization of ethical justice. Instead, the primary goal becomes the management of high-risk populations through mechanisms designed to achieve maximum efficiency at minimal cost. The language of this new penology is statistical and probabilistic. Criminal records are no longer treated as files enabling moral judgment about an individual's past but rather as raw data used for risk calculation and behavioral prediction (21).

The growing use of artificial intelligence algorithms and statistical models to predict recidivism—such as algorithmic assessment systems and intelligent criminal record databases—is grounded in this logic. Within these models, criminal history functions as the central variable determining an individual's future trajectory. Although proponents claim scientific neutrality and objectivity, serious critiques have emerged. Research on judicial decision-making in the age of automation demonstrates that excessive reliance on criminal records produces a form of statistical determinism, reducing individuals to predictive probabilities rather than recognizing their social context (22).

Such systems frequently ignore structural factors such as poverty, inequality, and social marginalization. Moreover, risk-management approaches may lead to preventive incapacitation, whereby individuals are deprived of social rights not because of crimes committed but because of risks they might allegedly pose in the future. A similar logic can be observed in Article 26 of the Islamic Penal Code (2013), where individuals may be subjected to social disabilities solely due to prior convictions unrelated to the rights being restricted (23).

This approach transforms the convicted person into a manageable risk category, often disregarding human dignity and individual transformation (24). Under such circumstances, meaningful rehabilitation of individuals with criminal records becomes unattainable without adopting the principles of a hybrid penological framework.

### *Hybrid Penology and Causal Inference: A Normative Model*

Critiquing both preceding extremes—the exclusionary classical model and the purely managerial and mechanized modern model—this article proposes hybrid penology as the preferable theoretical framework. Drawing upon advances in causal inference, the model seeks to establish equilibrium between social security and the rights of convicted persons (25).

Under hybrid penology, criminal records should neither function as instruments of absolute exclusion nor operate solely as mechanistic risk indicators. Instead, they should serve as information enabling targeted support and proportionate supervision.

The first foundational principle is differentiation and proportionality. Criminological research demonstrates a fundamental distinction between occasional offenders and professional offenders. Recidivism curves among occasional offenders typically decline rapidly over time. Consequently, criminal records relating to this group should fall within the scope of a legally recognized right to be forgotten, allowing complete removal after a reasonable period (26).

The second principle concerns the dynamic nature of criminal records. Criminal history must not constitute a static status. When individuals acquire skills after release, demonstrate lawful citizenship behavior, and participate in rehabilitative programs, their assessed risk level should decrease accordingly. Hybrid penology therefore conceptualizes criminal records as living systems capable of reflecting positive personal change (3).

The third principle is reciprocal responsibility. Society and the state share responsibility regarding the consequences of criminal records. If governmental record registration creates employment barriers, compensatory mechanisms—such as employment insurance programs for former offenders or tax incentives for employers—must accompany such intervention (27).

A comparative analysis of theoretical literature alongside the Iranian context indicates that the national legal system currently exists in a state of normative suspension and policy ambiguity. On the one hand, reform-oriented discourse in higher-level policy documents, including the Judiciary Transformation and Excellence Document, reflects rehabilitative ideals (28). On the other hand, strict administrative inquiries, exclusionary employment regulations, and intensive control mechanisms align more closely with a security-driven risk-management model that obstructs reintegration.

Relying on causal inference, this study argues that the relationship between criminal records and recidivism is not linear. Rather, unemployment caused by criminal records constitutes the missing causal mechanism driving repeated incarceration. Without resolving this theoretical contradiction and adopting a hybrid penological model—one that recognizes the right to be forgotten and secures public safety through integration rather than exclusion—piecemeal legislative reforms will remain ineffective, and the cycle of crime reproduction will persist.

### **Pathology of the Role of Criminal Records in the Iranian Legal System**

Moving beyond theoretical abstraction, this section examines concrete institutional realities within Iran's criminal justice and administrative systems. Although lawmakers have undertaken reforms concerning criminal records in recent decades, detailed analysis reveals how legislative gaps, institutional inconsistencies, discretionary interpretations, and traditional security-oriented attitudes have created structural barriers to reintegration.

These challenges extend beyond purely legal issues and constitute a complex interaction of legislative, structural–administrative, and socioeconomic–cultural obstacles that ultimately produce systematic exclusion.

### *Legislative Challenges: A Structural Critique of Articles 25 and 26 of the Islamic Penal Code*

Through Articles 25 and 26 of the Islamic Penal Code (2013), the Iranian legislature sought to regulate the legal consequences of criminal convictions. Nevertheless, criminological analysis exposes fundamental structural deficiencies that undermine the rehabilitative function of these provisions.

#### The Ambiguous, Quantitative, and Restrictive Standard of the “Effective Conviction”

Article 25 classifies criminal records based on a quantitative criterion, namely the severity of punishment, dividing convictions into “effective” and “non-effective” categories. Only final convictions involving capital punishment, life imprisonment, amputation, retaliatory corporal punishment exceeding half the prescribed compensation, fixed corporal penalties, and discretionary imprisonment grades one through five produce social disabilities (4).

The epistemological weakness of this classification lies in its misalignment with labor-market realities and administrative practices in Iran. Many offenses resulting in short-term imprisonment (grades six to eight) or discretionary corporal punishment—legally categorized as “non-effective”—nevertheless appear in employment background checks and function as stigmatizing markers. The legislator has failed to establish civil or criminal liability for employers who refuse to hire individuals solely because of such “non-effective” records. Consequently, the right to possess a non-effective criminal record becomes a right without enforcement guarantees (29).

Iran also faces a phenomenon commonly described as penal inflation. When criminal sanctions are attached to thousands of behavioral offenses, a substantial portion of the active population inevitably acquires criminal records at some stage of life, particularly in relation to traffic violations, minor financial offenses, and interpersonal conflicts (1). Article 25 lacks the institutional capacity to filter this vast volume of records, resulting in widespread stigmatization of the young labor force for relatively minor mistakes.

Furthermore, in offenses subject to private complaint—where proceedings terminate following victim consent—collateral consequences of conviction may still persist within administrative systems. No fully automated mechanism exists to ensure immediate deletion of records across all governmental databases following termination of prosecution (30).

#### Disproportionate Social Disabilities and the Absolutism of Article 26

Article 26 of the Islamic Penal Code (2013) enumerates a long, exhaustive list of social rights from which a person with an “effective conviction” is disqualified. This list includes eligibility for election to legislative bodies, membership in associations, employment in all governmental agencies, practicing law, serving as an official expert, and receiving state decorations (31).

The central critique of this provision is its violation of the principle of proportionality between offense and punishment. The logic embedded in the article reflects a form of blind retributivism rather than intelligent prevention: why should a person convicted for a non-financial, impulsive offense—such as a street fight resulting in bodily injury—be barred from establishing a commercial company or serving on the board of a housing cooperative? There is no rational nexus between the *nature of a violent altercation* and *managerial risk within a cooperative*. This

approach, criticized in comparative law as an overextension of collateral consequences of conviction, is applied in Iran in an especially severe manner (24).

These extensive disqualifications may, in practice, push the individual toward civil death (7). When a person is barred from public employment—often the largest employer—public-facing occupations, and even certain private-sector licenses, survival may appear possible only through renewed offending, frequently in the form of theft, smuggling, or street-level drug distribution. Studies indicate a meaningful relationship between the severity of social disabilities and rates of return to prison (7). This dynamic amounts to the reproduction of the cycle of crime.

### *Structural and Implementation Barriers: The Duality of “Judicial Records” and “Police Memory”*

Perhaps the most destructive and under-examined challenge within Iran’s legal system is the profound gap between court judgments and the operational practices of security and law-enforcement institutions. This phenomenon may be conceptualized as a duality of system memory, the logic of which can be described as follows.

#### The Phenomenon of Perpetual Data Retention

Under the spirit of Article 25, once the prescribed time limits lapse—such as two, three, or seven years depending on the offense—the conviction should be removed from the criminal record, restoring the person to “no-record” status and enabling legal rehabilitation. In practice, however, the information is typically removed only from the certificate of no criminal record issued to the applicant. The underlying data remain indefinitely within comprehensive police databases and security systems (5).

These datasets may include arrests, unproven allegations, acquittals, and closed files. Studies show that supervisory systems possess an inherent tendency toward information hoarding, retaining rather than discarding data (11).

#### Extra-Legal Background Checks and the Failure of the Right to Be Forgotten

In sensitive vetting processes—such as recruitment into armed forces, judicial institutions, internal security bodies, banks, and other public-sector occupations—selection authorities do not rely solely on paper certificates submitted by applicants. Instead, they directly request information from intelligence-protection units and security police. In response, the system often reports “everything” in detail, including adolescent mistakes or cases in which the person was acquitted.

This practice effectively means that a legally meaningful right to be forgotten does not exist within Iran’s administrative system. The bureaucracy operates with an unforgiving institutional memory that does not recognize legal repentance or the normative purpose of rehabilitation (15). Such practices undermine the presumption of innocence in the post-adjudication context and place the individual under a condition of persistent suspicion (32).

#### Labeling Within Vetting and Selection Processes

Statutes and implementing regulations governing the selection of teachers and administrative personnel constitute among the strictest entry filters into the labor market. Concepts such as “good reputation” and “practical commitment” are interpreted so expansively that even a non-effective record, a suspended conviction, or a past

temporary arrest ending in non-prosecution may be treated as evidence of “lack of general competence,” leading to disqualification (6).

Here, the criminal record is not treated as a legal fact with an expiration horizon but rather as a marker of supposed inherent moral unfitnes. This essentialist understanding—contrary to reform-oriented criminology—assumes that “someone who erred once always retains the potential to err” and therefore should be permanently excluded from the state apparatus (13). This mode of labeling runs against the legislator’s objectives in establishing rehabilitation mechanisms.

### *The Political Economy of Criminal Records: Labor Markets and Employers’ Risk Aversion*

In any final pathology of criminal-record governance, economic variables cannot be ignored. In Iran, criminal records have become a negative economic variable that increases labor transaction costs.

### Absence of a Protective Safety Net and the Risk Paradigm

In jurisdictions such as Scandinavia—often associated with successful rehabilitative models—the state absorbs a portion of the “employment risk” to encourage employers to hire formerly convicted persons, for example through insurance schemes and other risk-sharing mechanisms (27). In Iran, by contrast, labor law and civil liability frameworks tend to allocate the full burden of risk to the employer. If an employer hires a person with a criminal record and that employee later steals or harms a customer, the employer may face not only financial loss but also potential legal exposure for negligent hiring.

This asymmetric cost structure makes private employers strongly risk-averse. As a result, the requirement to provide a certificate of no criminal record has expanded beyond sensitive occupations to include low-skill jobs such as construction labor, cleaning, delivery services, and retail work (8).

### Skill Gaps and the Erosion of Social Capital

Beyond formal legal barriers, individuals who spend time in prison experience a form of human-capital depreciation. They lose up-to-date occupational skills and see their professional networks and social capital erode. Research indicates that, despite vocational programs in Iranian prisons, these programs often fail to provide credentials that are perceived as competitive in the open labor market; some prison-issued vocational certificates are met with skepticism (33).

This compounded interaction—formal exclusion from public employment and informal economic/social exclusion in the private sector—places individuals into what sociologists describe as a condition of alienation (26). Under such conditions, entry into the shadow economy and illegal markets becomes not a choice but a survival strategy.

### The Impact of Sanctions and Macroeconomic Conditions

Although the core subject of this article is legal, macroeconomic pressures should not be overlooked. Under conditions of stagflation and broad unemployment, competition for available jobs becomes intense. In a labor market with a large pool of unemployed university graduates, employers possess substantial bargaining power and may deploy “no criminal record” as the first screening filter (3). In effect, the criminal record becomes a tool for reducing employers’ search costs—even when it bears no meaningful relationship to job competence.

## Proposing an Optimal Model and Exit Strategies: Transition Toward Hybrid Penology

Based on the extensive pathology identified in the previous sections, it becomes evident that Iran's criminal justice system faces a functional deadlock in the management of criminal records. On the one hand, existing legal provisions—particularly Articles 25 and 26 of the Islamic Penal Code (2013)—reflect a traditional exclusionary logic incapable of addressing the complexities of social reintegration. On the other hand, administrative and security practices, through their insistence on maintaining a form of permanent institutional memory, effectively obstruct rehabilitation.

To overcome this situation, the present study proposes an innovative framework grounded in hybrid penology. Hybrid penology seeks to transcend the classical dichotomy between punishment and treatment. Under this model, the ultimate objective of the criminal justice system is neither the mere suppression of offenders nor their unconditional liberation, but rather intelligent risk management based on data-informed decision-making and the establishment of balance between social security and individual rights (34).

The proposed solutions constitute an integrated policy package operating at three interconnected levels: legislative, technological–administrative, and economic reform.

### *Legislative Strategies: Rewriting Legal Rules and Transforming Criminal Policy*

Incremental reforms are insufficient to address current structural deficiencies. What is required is a genuine transformation in legislative philosophy—a form of legal paradigm shift.

### Explicit Recognition and Criminal Protection of the Right to Be Forgotten

In the digital age, the right to be forgotten represents a prerequisite for meaningful reintegration into society. Without enforceable guarantees, rehabilitation remains merely rhetorical (12).

Although Article 25 of the Islamic Penal Code implicitly refers to the removal of criminal records, the absence of enforcement mechanisms allows frequent violations. It is therefore proposed that the legislature amend Article 25 through an obligatory clause—or adopt a comprehensive Reintegration Protection Act—providing that:

- After expiration of statutory periods and removal of conviction effects, the criminal record shall constitute part of the individual's absolute private sphere.
- Disclosure of an expunged criminal record or unauthorized background inquiry by any administrative authority, law-enforcement body, judicial institution, or private employer shall constitute a criminal offense punishable by discretionary sanctions of grade six and dismissal from public service.

Such criminalization would institutionalize respect for the privacy rights of rehabilitated individuals within administrative culture.

### Fundamental Reform of Article 26: The Principle of Specialization of Social Disabilities

The social disqualifications prescribed under Article 26 currently possess a generalized and indiscriminate character. Reform should be guided by the principle of proportionality between offense and restriction. Social disabilities should no longer function as automatic collateral punishments but instead operate as targeted preventive measures linked to occupational risk.

Courts should therefore be required to specify explicitly, within the judgment itself, the categories of employment from which an individual is restricted.

Example 1: A person convicted of fraud or embezzlement may reasonably be barred from financial management, accounting, banking, or corporate board membership; however, exclusion from taxi driving, technical labor, or unrelated teaching positions lacks rational justification.

Example 2: A person convicted of violent or sexual offenses may appropriately be restricted from educational occupations, childcare, eldercare, or high-trust public positions, yet should remain eligible for factory work, agriculture, or remote employment.

Such differentiated regulation—implemented in several European systems—preserves public safety while reopening thousands of legitimate employment opportunities for rehabilitated persons (11).

### Elimination of Criminal Record Requirements for Non-Sensitive Occupations

The legislature should prohibit employers from demanding certificates of no criminal record for low-risk and non-sensitive occupations, including manual labor, cleaning services, construction work, and similar jobs.

This approach parallels the international “Ban the Box” movement, which removes criminal-history questions from initial employment applications and limits background checks to later hiring stages when occupational necessity exists (26). Criminal history should not operate as the first exclusionary filter.

### *Administrative and Technology-Oriented Strategies: Transition to Computational Criminology*

In the era of artificial intelligence, the perceived conflict between security and liberty can be mitigated through intelligent technological design. Administrative reforms should therefore focus on process digitalization and smart governance.

### Intelligent Criminal Record System with Tiered Access Levels

The principal current defect lies in the binary nature of access: either complete disclosure or total concealment. It is proposed that the Judiciary’s Information Technology Center, in cooperation with national law-enforcement authorities, redesign the criminal record system based on three differentiated access levels:

#### **Red Level (Security–Judicial Access):**

Full access to all records—including expunged cases, acquittals, and archived data—restricted to intelligence agencies, security institutions, and judges handling serious criminal investigations. The purpose is national security and organized-crime detection.

#### **Yellow Level (Administrative–Professional Access):**

Access limited exclusively to **current effective convictions** relevant to sensitive governmental employment. Non-effective or irrelevant records remain invisible.

#### **Green Level (Civil–Public Access):**

Designed for private employers and civil inquiries. Instead of displaying criminal history, the system produces an algorithmic response:

“Eligible for employment” or “Requires further review.”

For instance, if an employer selects “school transport driver,” the system evaluates relevant risks. A history of child abuse would generate a “Not eligible” response, whereas an unrelated financial offense such as a dishonored check would yield “Eligible.” This model simultaneously preserves privacy and protects public safety (21).

#### Employment Competency Certification: Replacing the Negative Paradigm of “No Criminal Record”

The current system focuses on proving the absence of wrongdoing. A paradigm shift toward demonstrating positive rehabilitation is required.

The Prisons Organization, in cooperation with vocational institutions, should establish a certification body granting released prisoners an Employment Competency Certificate documenting:

- acquired professional skills,
- participation in psychological or behavioral programs,
- verified indicators of behavioral change.

Providing employers with affirmative evidence of rehabilitation is substantially more informative than presenting a blank certificate lacking substantive evaluation (20). Such certification offers a realistic assessment of employability and supports reintegration.

#### *Economic Strategies: Reintegration Liability Insurance and Financial Incentives*

Economic analysis of crime demonstrates that employers behave as rational actors who seek to minimize risk. Without altering cost–benefit calculations, normative or ethical appeals alone cannot motivate the hiring of formerly convicted persons.

#### Establishment of a National Employment Risk Insurance Fund

The government—through the Ministry of Labor or cooperative foundations supporting prisoners—should establish an employment risk insurance fund protecting employers against potential damages caused by employees with criminal histories.

Under this mechanism, an employer hiring a rehabilitated former offender receives a state-backed insurance policy guaranteeing compensation (for example, up to a specified financial ceiling) if workplace harm occurs.

Such insurance removes the primary psychological and financial barrier preventing employment. Evidence from comparable programs demonstrates substantial increases in hiring rates while actual loss rates remain extremely low (26). Insurance eligibility would apply only to individuals assessed as rehabilitated.

#### Targeted Tax Incentives

Legislators may further encourage reintegration by granting tax incentives to employers hiring formerly incarcerated individuals—for example, exemption from employer insurance contributions for several years or reduced corporate income tax rates.

By transforming formerly convicted workers into an economic advantage rather than a liability, employment becomes a rational business decision rather than a moral sacrifice (24). Properly designed fiscal incentives can thus operate as powerful instruments of criminal policy reform and social reintegration.

## Conclusion

This study was conducted with the aim of examining the pathological role of criminal records in the process of offender rehabilitation, drawing upon the theoretical foundations of labeling theory and modern penology. Analysis of Iranian statutory law—particularly Articles 25 and 26 of the Islamic Penal Code (2013)—together with prevailing administrative and law-enforcement practices, revealed a fundamental paradox. While overarching judicial policies and national strategic documents emphasize rehabilitation and social reintegration, existing operational mechanisms function largely on the basis of exclusion, incapacitation, and the permanent preservation of criminal records.

The findings demonstrate that criminal records in Iran have evolved from a temporary supervisory mechanism into a form of enduring stigma. Although the legislator attempted to limit the consequences of conviction by distinguishing between effective and non-effective offenses, the institutional duality between judicial decisions and police memory has resulted in the continued persistence of criminal information even after formal legal rehabilitation. Consequently, despite the restoration of legal status, the lingering presence of records in administrative and security inquiries continues to shape individuals' social reality. This enduring institutional memory obstructs access to fundamental pathways of civic life—particularly dignified employment—and places individuals in a condition resembling civil death.

From the perspective of labeling theory, such structural exclusion becomes a decisive factor in producing secondary deviance. When legitimate avenues of participation are systematically closed, reentry into criminal activity no longer represents a voluntary preference but rather a survival strategy. The continuation of the current approach—characterized here as exclusionary security-oriented policy—has therefore failed to reduce crime and has instead contributed to the production of a growing population of unemployed individuals marked by criminal stigma, ultimately undermining social security itself.

The study concludes that overcoming this impasse requires a paradigmatic transformation toward a model of hybrid penology. Within this framework, the right to be forgotten is recognized as a fundamental legal and human-rights principle, and risk management replaces exclusion as the central objective of criminal policy. Sustainable public safety cannot be achieved through the permanent marginalization of former offenders; rather, it depends upon structured reintegration supported by balanced legal regulation, intelligent governance mechanisms, and post-penal social inclusion.

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## Authors' Contributions

All authors equally contributed to this study.

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The authors of this article declared no conflict of interest.

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All ethical principles were adhered in conducting and writing this article.

## Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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