

The References and sources

Persian reference

1. Ebrahimi, Shahram, **Assesment of Recent Changes of criminal policy for acute offenders by the role of human rights (from discipline & punish to punish & discipline)**, Collection of Essayin first national Congress for prevention of crime, recidivism & victimization, for role of police, 2010.
2. Omidi, Jalil, **Criminal Policy of the Seventh Majlis**, The Judiciary Law Journal. V. 72, N. 62 – 63, 2008.
3. Omidi, Jalil, **Interpretation of Statute in Criminal Law**, First edition, Tehran, Mokhatab, 2016.
4. Iravanian, Amir, **The General Theory of Criminal Policy Making**, First edition, Tehran, The SD Institute of Law Research & Study, 2013.
5. Babaei, Iraj, **The Theory Foundations of Study Economic Rights**, Public and Law Research, N. 23, 2008.
6. Barker, Chris, **Cultural Studies**, Translated by: Mahdi Faraji & Nafise Hamidi, Assosition Cultural & Social Studies, 2013.
7. Bohm, Robert M. **On the MacDonalidization of Criminal Justice**, Translated by: Hossein Gholami & Yusof Babaei, The Judiciary Law Journal, V. 74, N. 70, 2010.
8. Paknahad, Amir, **Risk – Oriented Criminal Policy**, First edition, Tehran, Mizan, 2010.
9. Paknahad, Amir, **Feeling Insecure and Fear of Crime**, Criminal Law Doctrines, Razavi University of Islamic Sciences, N. 5, 2011.
10. Pratt. John, **Penal Populism**, Translated by: Honeye Hojabrosadati, Tehran, Mizan, 2014.
11. Tebbit, Mark, **Philosophy of Law**, Translated by: Hassan Khavari, First edition, Mashad, Razavi University of Islamic Sciences, 2007.
12. Djafari, M.. **Sociology of Criminal Law**, A Critical Approach in Criminal Law, First edition, Tehran, Mizan, 2013.
13. Davoudi Garmarodi, Homa, **Neo – Classical School and Revival of Retributivism**, School of Law, University of Tehran, N. 68, 2006.
14. Roberts, Julian &etc, **Penal Populism and Public Opinion: Lessons from Five Countries**, Translated by: Zaynab Bagheri Nejad & etc, Tehran, Mizan, 2013.

15. Rahmanian, Hamed & Mohammad Jafar Habibzadeh, Penal Instrumentalism: Domain, Concept, Indicator, Criminal Law research, V. 2, N. 5, 2013- 2014.
16. Schapiro, J. Salwyn, **Liberalism, Its meaning & history**, Translated by: Mohamad Kashani, Tehran, Capital, 2012.
17. Shaw, Donald & Maxwell Mccobs, **The Agenda – Setting Function of Mass Media**, Translated by: Omid masoudi, Tehran, Khojaste, 2005.
18. Taheri, Samane, **Punitive Penal Policy**, First edition, Tehran, Mizan, 2014.
19. Alikhah, Fardin & Maryam Najibi Rabiei, **Fear of Crime among Women at Public Spaces**, Social Welfare, V. 6, N. 22, 2006.
20. Farajiha, Mohammad, **The Media Reflection of Crime**, Social Welfare, V. 6, N. 22, 2006.
21. Farajiha, Mohammad & Mohammad Bagher Moghaddasi, **Populistic Responses to Economic Corruption**, Encyclopedia of Criminal Sciences (Collection of Essay on Criminal Sciences), V. 2, First edition, Tehran, Mizan, 2013.
22. Farajiha, Mohammad & Mohammad Bagher Moghaddasi, **Populism Manifestation Penal Policies of Drug**, V. 17, N. 564, 2014.
23. Farajiha, Mohammad & Razieh Ghasemi Kahrizsangi, **The Challenge of Justice and Efficiency in the Discourse of the Criminal Managerialism With Emphasis on the Law of Iran**, Criminal Law Doctrines, Razavi University of Islamic Sciences, N. 9, 2016.
24. Farahbakhsh, Mojtaba, **Growth and Common Sence in Precedents (study verdict of Setayesh case)**, Precedents of Criminal Law, V. 1, N. 2, 2017.
25. Ghadri, Rohallah, **Foundation and Theory Framework in Contemporary World, in: Terrorism and Its Confront**, First edition, World Assembly of Islamic Peace, 2012.
26. Ghasemi Moghadam, Hassan, **The Approach of Risk Management and Prevention of Recidivism**, Collection of Essay in first national Congress of prevention of Recidivism, Police research Office, 2010.
- Kashefi Esmaeilzade, Hassan, **The Movement back to Punishment**, Journal of Theology and Law, N. 15 – 16, 2006.
27. Karimi, Fateme & Kazemi, asghar, **A Study of Death Penalty Situation**, First edition, Qom, 2012.

- Kia, Ali asghar & Hassan Moazenzadegan, **The Role of Regional and International Organization at the Global Development of Communication Law**: Study tree newspaper; Iran, Hamshahri and Aftab yazd in 1388 Year, Public Law Research, V. 13, N. 35, 2012.
28. Mary, Ph. **Penalty and Risk management, for Instrumental Justice in Europe**, Translated by: Hassan kashefi Esmaeilzade, The Judiciary Law Journal, V. 68, N. 48 – 49, 2004 – 2005.
 29. Malaurie, Philippe, **Anthology Jurisdiction**, Translated by: Mortaza Kalantarian, 2th edition, Tehran, Agah, 2009.
 30. Mahmoodi Janaky, Firouz& Mohsen Moradi, **Public Opinion and Punitiveness**, Legal Studies, V. 3,N. 5, 2012.
 31. **Announced Parliamentary talks**, V. 7, Second meeting, Session 185, 2006/1/25
 32. **Announced Parliamentary talks**, V. 7, Third meeting, Session 229, 2006/6/15.
 33. Moghaddasi, Mohammad Bagher & Mohammad Farajiha, **Characteristics of Penal Populist Policies: A Comparative Study**, Comparative Law Studies,V.4, N. 2, 2013.
 34. McQuails, Denis, **Mass Communication Theory, An Introduction**, Translated by: Parviz Ejlali, 2th edition, Tehran, Media Study Office, 2007.
 35. Morawetz, Thomas, **The Philosophy of Law, An Introduction**, Translated by:BehroozJandaqi, 2th edition, Research Institute of Hawzah and University, 2013.
 36. Mahdizade, Mohammad, **Media & Representation**, Tehran, Media Development & Study Office, 2009.
 37. Najafi Abrandabadi, Ali Hossain, **Ciminal Policy in Criminal Sciences** (Selected Training Papers: Knowledge & Capacity – Building of Officials & Personnels of Drugs Control in Iran),Second Volume, Tehran, selsabil, 2005.
 38. Nobahar, Rahim, **Protection of Public and Private Spheres by Criminal Law**, First edition, Tehran, Jangle, 2012.
 39. Nikokar, hamid Reza & Bahare Hematpor, **The Fear of Crime**, Tehran, Mizan, 2014.
 40. Hobbes, Thomas, Leviathan, Translated by: Hossein Bashriye, First edition, Tehran, ney, 2003.

41. Halleby, Gabriel, *Modern Doctrinal Sentencing*, Translated by: Ali Shojaei, First edition, Tehren, Dadgostar, 2015.
42. Hezarjaribi, Jafar, **The Study of Feeling Social Justice and Effective Factors on It**, *Applied Sociology*, V. 22, N. 3, 2011.
43. Yazdian Jafari, Jafar, **Study of Exception in Competence of Courts Martial in the Constitution**, V. 10, N. 38, 2013.

English reference

44. Barr, N, **Economics of the welfare state**, Oxford University Press, 2011.
45. Brown, Darryl K, The reverse effects of efficiency in criminal process, *Virginia Law Review*, Vol.100 No. 183, 2014.
46. Cohen, B. C,**The press and foreign policy**, Princeton, NJ; Princeton University Press, 1963,
47. cook, Dee,**criminal and social justice**, pine forge press, 2006.
48. Deakin, N,**Welfar and the state**; Crisis of the welfare state Taylor and Francis, 2004.
49. Donnely, Jack, Human Right in the new world order, *world policy journal*, Vol. 9, No. 2. 1992.
50. Freiberg, Arie, Managerealism in Australian Criminal justice, RIP for KPIS, *Monash University Law Review*, Vol. 39, No.19. 2004.
51. Garland, D, The Limits of the sovereign stat, *Strategies of Crim Control in Contemporary Society*,*The British Journal of Criminology*, 36 (4). 1996.
52. Gelb. Karen,**Myths and Misconceptions; Public Opinion versus public judgment about sentencing**, Melbourne; The sentencing advisory council, 2006.
53. hall, S. and Jhally, S. **representation & the media**, Northampton, MA; Media Education Foundation,2007.
54. Hollander, J. H,**Economic liberalism**, literary, licensing, 2012.
55. Karl, Liewellyn, A Realistic Jurisprudence,*The next step, Jurisprudence*, *Columbia Law Review*, Vol.30(4). 1930.
56. Lister, Ruth, **poverty**, Cambridge, polity press,2004.
57. McLaughlin, Eugene and Muncie, John, **The Sage Dictionary of Criminology**, Sage Puplications, 2001.
58. Posner, Richard A,**Reflection on Judging**, Cambridge, Massachusetts, London, England, 2013.

59. Rubin, E. L, **Introduction: Minimizing harm as solution to the crime policy conundrum**, in Rubin, E. L. (Eds.) *Minimizing harm: A new crime policy for modern America*, Boulder Co: West View Press, 1999.
60. Sidgwick, Henry, **The Elements of politics**, London; Macmillan, Reprint of 1897 edition by Macmillan, 2000.
61. Svendsen, Lars, **A philosophy of fear**, Reaction Books Publisher London, 2008.
62. Terrill, Richard, j, **World criminal justice systems; A comparative survey**, newness. 2001.
63. Tonry, Michael, **Crime and Punishment in America**, *The Handbook of Crime and Punishment*, New York; Oxford University Press, 1999.
64. War, Mark, **Fear of crime in the united states**; *Avenues For Research and policy, criminal justice*, Vol. 4. 2000.

THE APPEARANCE CONTEXTS OF PENAL POPULISM IN CRIMINAL PROCEDURE

Saeed GOMASHI (Assistant professor, Department of law, University of
Kashan, kashan,Iran)
Anvar AHMADI

Abstract

Securing procedural justice as the basis of efficient criminal policymaking is indebted to that criminal procedure would be health and just. Furthermore, the interference of political structure in criminal policy is unavoidable. Politicians take the advantage of this intervention to get reputation and popularity by directing people's attitude according to their own desires that has resulted to penal populism. Basically emerging the approach in criminal procedure requires specific contexts and utilizing their function in the adverse direction. Politicians misuse trans systemic contexts such as "Populist Punitiveness", "Sense of fear and insecurity", "The media reflection of crime" and "Weakening of the welfare state" and through which they render the existing and important context such as "Managerialism", "Neglect of rehabilitation", "legal realism" and "Distrust of the criminal justice" their assistant for their own popular policies to hide their failure and bad policies. Not only criminal justice should not to contribute in emerging the approach but also it should try in favorite direction to self – contexts by preceding Politicians and ruling rationality and science in order to benefit from function of them and even it should make trans systemic context in the same way to avoid emerging the performance of the them at the unfavorable way. Therefor identifying these backgrounds and their functions is necessary, thus, to use them efficiently to repel popular approach and governing reason and science in criminal procedure.

Key words:

Criminal Policy - making, Penal Populism, criminal procedure, Public Opinion