



## Penal Populism in Criminal Cases in Courts

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### Abstract

Penal populism is an approach in which the criminal justice system policy makers and practitioners formulate and implement dramatic and popular criminal policies to draw public opinion regardless of scientific findings. Populism may penetrate substantive criminal rules, and in this regard, severe penalties might be approved by lawmakers. Penal populism has its own traces in ceremonial laws as well; the laws that provide the best context to implement the populism actions and policies and thus provide the best condition for this phenomenon to shape. The practitioners of the criminal justice system may consider fast and dramatic trials and immediate and public enforcement of the sentences in their agenda under public pressure or political propaganda.

### Introduction

During the last few decades some of the applications of the penalties and rules of criminal procedure are marginalized under the shadow of penal populism and delinquency risk management, severe and rapid responses toward crime and its control and punishment, and debilitation of dangerous criminals have become the main purpose of the punishments and the judicial action in the inquiry process.

In the meantime, although the history of penal populism in criminology literature refers only to the last two decades, several factors make this approach one of the most influential issues of penal policy and criminal procedure in different countries. In fact, under the influence of penal populism, policies, and procedures of criminal investigation, rather than being developed and implemented based on scientific resources and expertise, are developed to win the public interest and their verification. Penal populism is a term used by western especially U.S criminologists in recent years for the right-wing Conservative governments of their countries and nationalist criminal policies, while the dominant model of their criminal policy is liberal-democratic.



According to Iranian lawyers and criminologists, advocates of penal policy (politicized penal policy) believe that social precautionary and clinical (correctional) measures have been inefficient and view the public criminal system and criminology resume as ineffective in the second half of the twentieth, and simplistically believe that and inhibiting criminal offenses is only possible through criminal stricter in its broad sense, and at the best situation consider the precautionary situational-technical possible<sup>[1]</sup>. This politicization (pragmatism) approximates the penal and liberal criminal policy of penal and liberal criminal policy of democratic countries to partly pervasive authoritarian criminal policy model which is in the opposite side of it<sup>2</sup>. Democratic countries to a partly pervasive authoritarian criminal policy model which is on the opposite side of it<sup>[3]</sup>.

Governments based on their criminal policy have different procedural methods. In some legal systems practitioners in criminal policy try to present their criminal policies as helpful and in line with public opinion by caring about the ideas and demands of the public. A prominent example of such a criminal policy can be seen in performing rapid trials: in a way that when a violent type of crime, particularly street crime occurs it is reflected through the media, and a lot of emphases has been put on trial and punishment of the perpetrators and immediately implement it. Such a policy, especially in the last decade has been more apparent than in any period in the criminal justice system in Iran which is very effective in the scope of conversion of the type, the severity of the punishment, and criminal procedure.

For example, armed robbery is converted into belligerence and instead of experiencing the full criminal procedure, the criminals are arrested, and tried and the sentence is executed in 55 days. Therefore, the practitioners of criminal policy, through resourcing the public emotions which are usually aroused through committing severe crimes, have the most severe encounters with the criminals even at the price of their lives.

## 1. The Concept and Historic Background

### 1.1. The concept and Definition of Penal Populism in criminal cases

Penal populism is a term used to describe a political climate in which politicians and the public demand harsher punishments for criminal offenders, often without regard for the effectiveness or fairness of those punishments. This concept is often associated with the rise of "tough on crime" policies in the United States and other countries over the past several decades<sup>4</sup>.

One of the defining features of penal populism is its focus on punishment as a means of addressing crime. Rather than investing in crime prevention or rehabilitation programs, politicians and the public often demand longer sentences, more prisons, and stricter enforcement of existing laws. This approach is often driven by a belief that

<sup>1</sup> Lazhar, Christian, an introduction to criminal policy, translated by Ali Hussain Najafi Abrand Abadi, the publication of Nashr-e-Mizan, the second edition, 2001.

<sup>2</sup> The same

<sup>3</sup> The same

<sup>4</sup> Garland, D. (2001). The culture of control: Crime and social order in contemporary society. University of Chicago Pres. 109-115



criminals are inherently bad people who deserve to be punished, rather than a recognition that many factors (such as poverty, addiction, or mental illness) can contribute to criminal behavior.

Another defining feature of penal populism is its tendency to prioritize the interests of victims and potential victims over those of offenders. This can lead to a focus on retribution rather than rehabilitation, and a willingness to tolerate harsh and degrading treatment of prisoners in the name of public safety<sup>1</sup>.

Critics of penal populism argue that it is often driven more by emotion and political expediency than by evidence-based policy making. They point out that harsh punishments can be expensive, ineffective, and even counterproductive, as they may lead to increased rates of recidivism and perpetuate cycles of poverty and disadvantage. They also argue that the focus on punishment can obscure the underlying causes of crime and lead to a lack of investment in prevention and rehabilitation programs.

Despite these criticisms, penal populism remains a powerful force in many countries around the world. In the United States, for example, the "tough on crime" rhetoric of politicians from both major parties has led to a dramatic increase in the number of people incarcerated, with more than 2.3 million people currently behind bars. This has come at a significant cost to taxpayers, with some estimates suggesting that the annual cost of imprisonment in the US is more than \$80 billion<sup>2</sup>.

## 1. 2. Historic Background of Penal populism

Penal populism refers to the phenomenon where politicians and policymakers respond to public fear and outrage over crime by implementing harsher and more punitive criminal justice policies. This approach often involves prioritizing punishment over rehabilitation and focusing on deterrence rather than addressing the root causes of crime<sup>3</sup>.

The role of penal populism in criminal cases can be traced back to the late 20th century when crime rates began to rise in many Western countries. In response to public concern over crime, politicians started to adopt tough-on-crime rhetoric and policies as a way to appeal to voters and demonstrate their commitment to law and order.

One of the key factors driving penal populism is the media's portrayal of crime, which often sensationalizes and exaggerates criminal incidents, leading to heightened public fear and demand for harsher punishments. Politicians, eager to capitalize on this fear, have increasingly embraced punitive measures such as mandatory minimum sentences, three-strike laws, and the expansion of the prison system<sup>4</sup>. The impact of penal populism on criminal cases has been significant, with many individuals being subjected to harsher sentences and longer periods of incarceration. This approach has also led to a focus on punishment rather than rehabilitation, resulting in high rates of recidivism and overcrowded prisons.

<sup>1</sup> Pratt, J. (2007). Penal populism and the political economy of punishment. *Punishment & Society*, 9(2), 147-165.

<sup>2</sup> Simon, J. (2007). *Governing through crime: How the war on crime transformed American democracy and created a culture of fear*. Oxford University Press. 111-120

<sup>3</sup> Pratt, John. "Penal Populism." *Criminal Justice Matters*, vol. 77, no. 1, 2009, pp. 4-5.

<sup>4</sup> Simon, J. (2007). *Governing through crime: How the war on crime transformed American democracy and created a culture of fear*. Oxford University Press. 111-120



Critics of penal populism argue that it is ineffective in reducing crime rates and fails to address the underlying social and economic factors that contribute to criminal behavior. They also point out that punitive measures can disproportionately affect marginalized communities and perpetuate cycles of poverty and crime<sup>1</sup>.

In brief, the role of penal populism in criminal cases reflects a broader trend towards punitive justice policies driven by public fear and political expediency. As policy makers continue to prioritize punishment over rehabilitation, it is important to consider the long-term consequences of these policies on individuals, communities, and society as a whole.

## 2. The criminology reasons of penal populism

One of the important criminology factors influencing penal populism is the evolution of the concept of a dangerous state. Based on recent developments, the dangerous state is a person's mode that knowingly and willingly committed serious or repeated offenses. The concept of a dangerous state is different from what used to fulfill the Positivism school. As the dangerous state issue rose again with the inefficiency of the prison system, remedial mechanisms, and the criticisms against it the ground for the failure of the remedial and correctional theory was provided and the situation directed toward the severe penal policies.

Dangerous state which is the major goal of clinical criminology surfaced and became prevalent from the beginning of the nineteenth century with the development of psychology and hospitalization of psychiatric patients with mental illnesses for an unlimited period of time<sup>2</sup>. Internationally the term dangerous state was discussed for the first time in the International Union of Penal Law in 1910 and then gradually entered the criminal laws of different countries<sup>3</sup>. The final resolution, adopted unanimously by the union, was as follows: "The law should establish special measures of social security against delinquents who are dangerous because of either their After that, the dangerous state was addressed in the penal laws of some countries but based on the dangerous state and the society's reaction against it, the dangerous state was analyzed in the second International Congress on Criminology in Paris in September 1953<sup>4</sup>. The contemplation and reflection on the history of dangerous states it is concluded that it has been used for the prevention of crime and treatment of delinquents.<sup>5</sup>

In order to define the dangerous state based on penal populism policy we have: "Dangerous criminals are those whose mental and moral characteristics, and the quality and intensity of their crime, put them in the state of committing future crimes, therefore, the court based on the potential danger (and regarding the public opinion toward expedition of the administration of justice) implements measures to accelerate criminal procedure in order to manage the risk, control the delinquency, or decreasing

<sup>1</sup> Garland, David. "The Culture of Control: Crime and Social Order in Contemporary Society." University of Chicago Press, 2001. 23-25

<sup>2</sup> Danesh. Tajzaman (2007), Who is criminal? What is criminology? Twelfth Edition, Tehran, Keyhan Publication, 2007, pp. 333

<sup>3</sup> Rymond, Gassen (1991): Applied Criminology, Translated by Keynia; First edition, Tehran, Tehran University Press

<sup>4</sup> Sedarat, Ali,(1965) Penal law and criminology, 1<sup>st</sup> Ed, Kanoon Marefat Pub, pp. 138 and 137

<sup>5</sup> Ardebili, Mohammad Ali(2009), general penal law, Volume II, 20th Edition, Tehran, Mizan Pub, p 285



criminal threats or transference which might have different intensity degrees from the removal of the delinquent from the society to exclusion and neutralization or permanent or temporary prevention of harming the society.

It is noted that the dangerous state has been explicitly accepted in the Security and Educational Law 1339 of Iran which was the result of these changes. (However, this law is explicitly prescribed under the Article 728 of the Islamic Penal Code, 1392). The simple dangerous state occurs among several criminals because the emotional and collective states of criminals cause the individual to commit crimes under immediate emotions<sup>1</sup>. But the severe dangerous state means that the mental and moral status of delinquent leads to social conflicts which is fixed and permanent or in other words “a self and moral cognitive state with anti-social characteristic”<sup>2</sup>.

In the stage of crime detection, primary investigations, and criminal procedure for the simple dangerous criminals the bails are issued, and they are under less control while for the severely dangerous criminals with chronic states, strict controls are imposed and, in most cases, they are under detention and for the next stages the situations will be the same. For example, in the sentencing stage the magistrate proceeds relying on his judicial experience based on tables and the criteria that predict legal relapses which are presented to him by clinical or stats experts<sup>3</sup>.

Moreover, regarding the risk of criminal action adopts an appropriate decision. Generally, in the last three decades, based on state laws and regulations of countries, the treatment of criminals has been eliminated and priority is given to public security and management of the groups at risk of delinquency and their control. The penal populism’s lack of attention to scientific findings has made the temporary and commercial policies superior to scientific policies and there is no place left for scientific methods such as criminal’s treatments<sup>4</sup>.

On the other hand, the failure of the reform and treatment movement, particularly after the criticisms against it and the frustration of society about severe and dangerous crimes such as drug trafficking, terrorism, and street crimes provided the basis for further penal populism policies. Martinson (1974) evaluated 231 types of research on reformatory programs during 1945-1967. Based on his evaluation he concluded that apart from a few exceptional rehabilitation efforts that have been made throughout this period, they had no confirmed effect on the criminal relapse<sup>5</sup>. So, the expression “Nothing works” means that only a small portion of correctional efforts has had a positive effect on crime reduction. As a result, criticisms of the reform approach and subsequently the theory of “it works” have been proposed by American criminologists and lawyers<sup>6</sup>.

The logic of this approach is based on pragmatism, delinquency control, insecurity, and fighting environmental factors directly causing the crimes. Therefore,

<sup>1</sup> Nurbha, R (2008), fields of criminology, first edition, Tehran, Ganje Danesh Publications, pp. 201

<sup>2</sup> Ghasemi, N.(1995), measures of the criminal law, first edition, Tehran, Mizan Pub, pp. 104

<sup>3</sup> Najafi Abr Abadi, p 737

<sup>4</sup> Farajiha, M. and Moghadasi, MB, approach to criminal justice and juvenile penal populism, legal doctrines magazine, No. XIV, 2010, p. 3

<sup>5</sup> Martinson, Robert, (1974) What works? Question and Answers About prison Reform, Reform, the public Interest, No35.,p.22

<sup>6</sup> Kashefi, Esmaeilzadeh, H., movements of return to penal in criminal policy of Western Western countries, cause and effects, Journal of specialist science/theology and law, Issue 17 and 16, second edition, Spring and Summer 2005





practical purposes surpassed scientific purposes and the defects of practical purposes hide behind their usefulness<sup>1</sup>. Thus, the main goal of the deterrent theory to reduce the incentives the crimes is the threat of criminal penalty or its execution and in some cases to put the trial in the media. That means the use of penalties and expedition of trial proceedings as a deterrent to prevent the criminals from repeating the offense and reduce the incentive to commit the crime by other parties<sup>2</sup>. Inhibition is usually used because of the preventive effect of imposing punishment on criminals which terrorizes potential<sup>3</sup>.

The populism that seeks severe punishments and restriction, limitations on the rights of the accused criminal in the procedure, and general intervention of the penal system should not be mistaken with strict Criminology Community arguments that defend the prison and generally hard penalties or aggravated criminal law institutions and promotion of the rights of the accused and the powers of prosecutors. In fact, the populists justify the stricter to expedite justice.

### 3. The effects of populism on investigation procedure in Iranian and Iraqi criminal systems

#### 3.1. Populism in Iranian Criminal System

In the populist criminal policy, in the process of criminal investigation, according to public and emotional inquiries and its publication in the mass media, stigmatization of a criminal defendant is the first risk that threatens him and makes his return to the community problematic. In addition, public pressure causes severe sentences and penalties which make the rehabilitation and reformation of the criminal impossible. The policies related to the disclosure of the criminals' identity are in line with this purpose. However, the purpose of disclosure is not to make the criminals shameful; they also aim for public satisfaction and draw their political attention, prevailing the competitors as well as controlling the disclosure actions of the competitors. But stigmatization cannot be ignored and justified.

However, in view of populism, the disclosure of the identity is done with the aim of public satisfaction, but criminals' stigmatization and its adverse outcomes are integral parts of it. For example, an initial reform Clause 3 of Article 188 of the Criminal Procedure Law Public and Revolutionary Courts Amendment Act 1378 and the accession of Tuesday Amendment (passed in 1385) can be pointed out, in which severe acts like exposing the names of all convicted before a definitive identification was predicted, but in the end the range of subjects under this policy extended by Article 36 of the Islamic Penal Code 1392. Public announcement of important economic corruption cases, including the case of Sh. J who collected enormous wealth through illegal rents, was the most important event.

In addition, disclosure of the names of criminals and economic corrupters especially the main authorities (Aghazadeh) became one of the main topics of the ninth presidential elections. After the election, the new government stressed the need to disclose the name of the corrupters at different levels. On the other hand, the lack of

<sup>1</sup> Robinson, Gwen, Exploring Risk Management in Probation practice punishment and Society, vol 4, 2002, p.12.

<sup>2</sup> Tebbit, Mark, Philosophy of law, translated by Hassan Rezaei (2005), Khavari, 1<sup>st</sup> edition, Mashhad, Qods Cultural Institute, p. 252

<sup>3</sup> Gholami, H.,(2003) repeated offense, the analysis of law and criminology, first edition, Tehran, publication of Mizan, p 90.



proper notification of the judicial system about important economic corruption cases caused pessimism toward legislative action in combating economic corruption. In such a situation this system, to get released from the accusation of negligence against economic corruption, tried to amend the scheme of Article 188 of the Criminal Procedure Act to disclose the name and identity of the corruptors. The parliament proceedings show that the fear of the public intensified mistrust against the legislation system and announced that the parliament is determined to fight corruption as well as the government had an important role in this scheme. Hence, the plan providers frequently referred to public demand to approve the plan<sup>1</sup>. In addition to these efforts through an emergency request for approval of the plan and demonstrate their determination<sup>2</sup>.

Although the penal justice policy in the sentencing phase is relatively more flexible than the penal legislative policy, issuing harsh penalties in recent years has faced the Iranian judicial system with a serious challenge. Based on some verdicts of the Iranian courts we can say that the first approach in dealing with the crime compared with the court of appeals with multiple judges is more likely to have a policy of zero tolerance through pure punishment. Other items that may be mentioned in this context include the radicalism of the punishment due to the dramatization of the trials and disclosure of the identity of the accused and criminals.<sup>3</sup>

The penal populism arguing that ignorance of the people about the firmness of the criminal justice system in dealing with allegations of defendants and punishing the accused individuals are the main cause of their mistrust supports the measures that notify people about how the criminal justice responds. Thus, they support measures such as conducting dramatic trials, disclosure, of the identity of the accused, sentencing, and penalties causing public awareness regarding the response of the criminal justice system in the context of criminal proceedings. In this connection, even some criminal laws, such as the ban on stigmatization and humiliation of subjects, the principle of individuality of the penalties, and the principle of legality of crimes and punishments are ignored. The investigation of the murder case in Kaj square is a clear example of this.

In this case, the defendant attended the court in an undesirable condition with injuries on his head and face, torn clothes, and chained to his legs. The appearance of the accused showed that he was not appropriately mannered during the judicial investigation. However, the defendant was presented in court with such conditions and the media published his picture<sup>4</sup>. The statements of the judge also showed that he was already condemned before the court with the presupposition of being guilty.

Among other effects of populism in the overall judicial procedure and the violation of the rights of the accused include the negligence of differential filed of proceeding children and adolescents, the silence right of the accused, the lack of sufficient authority of solicitors, indulgence in temporary detention, the formation of the Special Court for the sensitive crimes from society or government point of view. Also, the fundamental and structural effects include 1- Personalization of Criminal Justice 2- Empowering the authority of the criminal justice system - 3 - The possibility of abuse of the criminal justice system.

<sup>1</sup> Parliamentary proceedings, Volume VII, second session, Session 185, 1384, pp. 13-12

<sup>2</sup> Omid, J. (2008), criminal policy discourse seventh parliament, including the rights of Justice, No. 62, 63, 1387, p 48.

<sup>3</sup> Omid, J. (2008), criminal policy discourse seventh parliament, including the rights of Justice, No. 62, 63, 1387, p 48.

<sup>4</sup> Moghadasi, Mohammad Bagher, penal populism, and the effects of the criminal policy, previous, page 194



### 3.2. Populism in Iraqi Criminal System

In Iraq, penal populism has been a significant factor in the country's legal system, especially since the fall of Saddam Hussein's regime in 2003. After the Iraq War, the Iraqi government faced the challenge of creating a legal system that was both efficient and legitimate. One response to this challenge was the adoption of a punitive approach to crime, with strict penalties and harsh sentences for offenders. This approach was seen as a way to demonstrate the government's commitment to law and order and win the support of the Iraqi public.

One of the most prominent examples of this approach was the introduction of the death penalty for a wide range of offenses, including terrorism, drug trafficking, and murder. Iraq is among the countries with the highest number of executions in the world, with over 100 executions in 2019<sup>1</sup>. Another example of penal populism in Iraq is the widespread use of pretrial detention. Many individuals are held in pretrial detention for months or even years without being charged or given a fair trial. Also regarding Kurdistan Region's legal system as a part of Iraq for satisfying public opinion the death penalty is implemented by law while there is not execution for this penalty in real.

This approach is seen as a way to demonstrate the government's commitment to cracking down on crime, but it has also been criticized for violating the rights of suspects and undermining the legitimacy of the legal system<sup>2</sup>. Despite these criticisms, there is little evidence to suggest that penal populism has had a significant impact on reducing crime rates in Iraq. Instead, it has contributed to a legal system that is often viewed as arbitrary, unjust, and ineffective. As one commentator has noted, "the Iraqi legal system is driven more by politics than by justice."<sup>3</sup>

Briefly, penal populism has been a significant factor in shaping the legal system in Iraq, particularly in the post-Saddam era. While it has been used as a way to demonstrate the government's commitment to law and order, it has also been criticized for being arbitrary, unjust, and ineffective. As Iraq continues to face significant challenges in terms of security and stability, it will be essential for policymakers to find a more balanced approach to criminal justice that balances the need for punishment with the need for fairness and legitimacy.

### 4. Penal Populism in the light of International Law of Human Rights

Penal populism refers to the use of harsh and punitive measures against offenders, often driven by public demand for stricter punishment. However, the use of such measures often goes against international human rights law and can lead to violations of fundamental rights. The use of harsh punishment as a response to crime is not a new phenomenon. However, the rise of penal populism has been linked to a number of factors, including media sensationalism, political rhetoric, and public fear of crime. The result is a demand for stricter laws and harsher punishments, often without regard for the individual rights of offenders.

<sup>1</sup> Amnesty International. Death Penalty in Iraq: A Flawed System of Justice. 2020. <https://www.amnesty.org/en/countries/middle-east-and-north-africa/iraq/report-iraq/>

<sup>2</sup> Human Rights Watch. Iraq: Widespread Torture in Detention. 2020. <https://www.hrw.org/news/2020/10/28/iraq-widespread-torture-detention>

<sup>3</sup> Scharf, M. Iraq's Penal Populism: A Legacy of the Ba'ath Regime. 2016. <https://digitalcommons.law.case.edu/cgi/viewcontent.cgi?article=1203&context=jil>





In light of this, International human rights law provides a framework for protecting the rights of individuals, including those accused of crimes. The Universal Declaration of Human Rights (UDHR)<sup>1</sup> and the International Covenant on Civil and Political Rights (ICCPR)<sup>2</sup> set out the fundamental rights of all individuals, including the right to a fair trial, the prohibition on torture and cruel, inhuman, or degrading treatment, and the right to be free from arbitrary detention.

However, the use of harsh punishment, such as mandatory minimum sentences or the use of the death penalty can often be a violation of these rights. For example, the UN Special Rapporteur on Torture<sup>3</sup> has stated that the use of the death penalty is a form of torture, and that mandatory minimum sentences can lead to cruel, inhuman, or degrading treatment.

Furthermore, the use of harsh punishment can also lead to discrimination and inequality. Studies have shown that penal populism often targets certain groups, such as racial and ethnic minorities, and those from low socio-economic backgrounds. This can lead to a disproportionate impact on these groups and a violation of their right to equality before the law.<sup>4</sup>

Briefly, while the use of harsh punishment may be popular with the public, it often goes against international human rights law. The protection of individual rights, including the right to a fair trial and the prohibition on torture, should be paramount in any criminal justice system. It is important for governments to balance the demands of the public with the need to protect fundamental human rights.<sup>5</sup>

## Conclusion

In recent decades, several factors including media representation of crime and intensified competition among political groups and parties to win public opinion have made the short-term promise to increase security through severe responses the main topic of the politicians and the lack of conformity with such processes could have serious expenses for them. Thus, the fundamental schemes to uproot the main causes of crime and criminal are not the priority of the criminal policymakers who prefer to follow the policies that lead to the stabilization of their governance through satisfying public opinion. Based on the criminologists in penal populism like other forms of populism it is attempting to consider complex social problems as trivial problems and simple premises and superficial, dramatic, and popular solutions are provided for them.

<sup>1</sup> UN General Assembly. (1948). Universal Declaration of Human Rights. Retrieved from <https://www.un.org/en/universal-declaration-human-rights/> . Articles 10&11.

<sup>2</sup> UN General Assembly. (1966). International Covenant on Civil and Political Rights. Retrieved from <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> . Articles 9,14 and 15.

<sup>3</sup> UN Special Rapporteur on Torture. (2016). Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Retrieved from <https://digitallibrary.un.org/record/831519?ln=en>

<sup>4</sup> Pratt, J., & Clark, D. (2019). Penal Populism and the Politics of Criminal Justice. In *The Oxford Handbook of Criminology* (pp. 275-296). Oxford University Press.

<sup>5</sup> van Zyl Smit, D., & Snacken, S. (2009). *Principles of European Prison Law and Policy: Penology and Human Rights*. Oxford University Press. PP. 310-350



Consequently, mechanisms and publicity campaigns are prioritized over the policies that are focused on solving the root causes of crime. Considering this view, dramatic suppressive policies have become superior to preventive programs and the recent programs have become less favorable. About the factors affecting the disposition of criminal populism, it can be stated that exaggerated representation of crime in the media, the increase in public insecurity and political focus on the issue of crime, and offering promises and slogans to attract public attention, were among the most important factors in the development of penal populism. It should be noted that although crime and criminals are a danger to the society and its security, no inhuman and oppressive act is allowed in the form of populism because the sole purpose of criminology is not inhibiting, neutralizing, and rejecting criminals but its main purpose of this science is to reform, treat and rehabilitate the offenders and to create a controlled and safe community for all human beings.

As a result in our research, like criminal law's legislature, judiciary, and academic societies, we recommend to apply the rules and principles of criminal laws as they are by respecting the defense rights of accused and giving the opportunity through the trial process in a fair and correct manner. Also, it is necessary to take Positive steps for deterring and preventing crime, and effective measures should be taken by enacting new laws or amending existing laws, especially laws related to the field of media, to prevent popularization of criminal laws. All this can be done through considering following points :

1. The legislature should make laws in line with scientific findings by getting help from experts in this field .
2. The judiciary should be determined and careful that the existing laws are applied in the courts should not be changed under the influence of the people in the process of the trials.
3. The executive branch should act and supervise within the framework of its jurisdiction and away from any political pressure in the executive field .
4. In order to defend the rights of the accused and prevent the phenomenon of populists, suitable solutions should be considered to limit the media and prevent their interference in this field.

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### پۆپۆلیزیمی سزایی له دۆسیه تاوانکارییهکانی ناو دادگاگان

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### پوخته

پۆپۆلیزیمی سزایی رێبازیکه که دارێژههانی سیاسهت و پیادهکارانی سیستهمی دادوهری تاوانکاری سیاسهتی تاوانکاری دراماتیک و جهماوهری دادهپێژن و جێبهجێ دهکهن بۆ پاکیشانی رای گشتی بهبێ گویدانه دۆزینهوه زانستییهکان. پهنگه پۆپۆلیزیم بچیتته ناو یاسا تاوانکارییه گهوههریهکانهوه و له مر پوهوه سزای توند لهلایه ن یاسادانهراوهوه پهسه ند بکریت. پۆپۆلیزیمی سزایی له یاساکای رپورهسمیشدا شوینهواری خۆی ههیه؛ ئه و یاسایانهی که باشتین داڕشتن بۆ جێبهجێکردنی کردار و سیاسهتهکانی پۆپۆلیزیم دا بین دهکهن و به مر شیوهیه باشتین مه رج بۆ داڕشتنی ئه م دیاردهیه دا بین دهکهن. پیادهکارانی سیستهمی دادوهری تاوانکاری دهتوانن له ژێر فشاری گشتی یان پروپاگه ندهی سیاسیدا دادگاییکردنی خێرا و دراماتیک و جێبهجێکردنی دهستهجێ و گشتی سزاکانی ناو کارنامه که یان له بهرچا و بگرن.

کلیله وشهکان: پۆپۆلیزیمی سزایی، سیاسهتی توندتر، دادگاییکردنی دراماتیک و سۆزداری، رێکاری تاوانکاری، رای گشتی.



## الشعبوية الجزائية في القضايا الجنائية في المحاكم

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### الملخص

الشعبوية الجزائية هي نهج يقوم من خلاله صانعو السياسات والممارسون في نظام العدالة الجنائية بصياغة وتنفيذ سياسات إجرامية دراماتيكية وشعبية لجذب الرأي العام بغض النظر عن النتائج العلمية. فالشعبوية قد تخترق القواعد الجنائية الموضوعية، وفي هذا الصدد قد يقر المشرعون عقوبات صارمة. وللشعبوية الجزائية آثارها الخاصة في القوانين الاحتفالية أيضاً؛ القوانين التي توفر أفضل سياق لتنفيذ الإجراءات والسياسات الشعبية وبالتالي توفر أفضل الظروف لتشكيل هذه الظاهرة. قد يفكر ممارسي نظام العدالة الجنائية في إجراء محاكمات سريعة ومثيرة والتنفيذ الفوري والعلني للأحكام المدرجة في جدول أعمالهم تحت الضغط العام أو الدعاية السياسية.

الكلمات المفتاحية: الشعبوية الجزائية، سياسات أكثر صرامة، المحاكمات الدرامية والعاطفية، الإجراءات الجنائية، الرأي العام.