

Examining the Jurisprudential Grounds of Pre-Trial Detention with a Comparative Approach in Iranian and French Law

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Abstract

Pre-trial detention, as one of the most severe preventive measures in criminal proceedings, lies at the intersection between maintaining public security and safeguarding individual rights and the presumption of innocence. With the increasing complexity of crimes and the heightened risks associated with releasing the accused prior to judgment, the legitimacy of this institution in both jurisprudence and statutory law has become the subject of growing debate. This study aims to examine the legitimacy of pre-trial detention within Imami jurisprudence and to compare it with the legal systems of Iran and France. The research employs a descriptive–analytical method based on library sources. The findings—through the analysis of Qur’anic and hadith-based evidence, jurisprudential principles, statutory provisions, and legal doctrine—indicate that pre-trial detention is an exceptional measure governed by the principles of necessity, proportionality, temporal limitation, and judicial supervision. Nevertheless, the French legal system demonstrates a more coherent structure in this regard. Consequently, revising certain provisions of Iranian law is essential to strengthen the rights of the accused and ensure greater conformity with Islamic legal standards and the principles of criminal justice.

Keywords: pre-trial detention, accused, Imami jurisprudence, Iranian law, French law.

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1. Introduction

Pre-trial detention, as one of the most severe forms of criminal preventive measures, is employed to safeguard the judicial process and to prevent the escape or collusion of the accused. However, since it deprives an individual of liberty prior to the establishment of guilt, it constitutes a significant exception to fundamental principles such as the presumption of innocence and the prohibition of punishment before trial (Fletcher, 2005; Safari, 2007). Therefore, the legitimacy of this institution can only be justified when supported by strong jurisprudential and legal foundations (Aghababayi Bani, 2005; Mohaghegh Damad, 2000).

In Imami jurisprudence, pre-trial detention prior to the establishment of guilt is permitted solely under exceptional and specific conditions (Golpayegani, 1413; Najafi, 1404). Nevertheless, the Iranian legal system—rooted in Imami jurisprudence—has encountered numerous practical difficulties due to the dispersion of sources, ambiguity in legal bases, and lack of legislative coherence (Fallah, 2010; Madani, 2006). Consequently, in some instances, defendants remain in detention for extended periods. In contrast, the French legal system, through gradual reforms, has sought to achieve a balance between the efficiency of the judiciary and the protection of individual rights (Boulloc, 2006; Bourikan, 2009; Elahi Manesh, 2019).

Given the critical role of pre-trial detention in the justice system, assessing its efficiency and jurisprudential legitimacy becomes essential. The central question of this research is whether sufficient legal and Sharia-based foundations exist to justify this institution, and to what extent convergence and complementarity can be achieved among Imami jurisprudence, Iranian law, and French law regarding the conditions and limits of its application (Aghababayi Bani, 2005; Boulloc, 2006). This question remains surrounded by theoretical ambiguities and legislative gaps, lacking clear answers (Ghabel, 2013; Vaeili, 2013).

The main concern of this study is that, although pre-trial detention plays a role in crime detection, it conflicts with principles such as individual liberty and the presumption of innocence, and there is no consensus among jurists regarding its legitimacy (Makarem Shirazi, 1993; Mohaghegh Damad, 2000). Moreover, despite the existence of legal frameworks in both Iranian and French systems, contradictory and sometimes unclear practices are observed concerning the issuance and extension of pre-trial detention (Dindo, 2007; Elahi Manesh, 2019; Largier, 1999). Therefore, it is necessary, through critical and comparative analysis of the existing evidence, to delineate a clear, reasoned, and jurisprudentially grounded framework for this institution (Afshar Manesh & Tarem, 2010; Tabasi, 2008).

To answer the aforementioned questions, the structure of this paper is organized as follows: first, the jurisprudential arguments regarding pre-trial detention in Imami sources are examined; second, the legal rules and judicial practices related to this institution in Iran and France are analyzed; and finally, the conclusions of the study are presented based on comparative analysis. The research method adopted is descriptive-analytical, and the data collection technique is library-based (Mousavi, 2001; Omid, 2003).

2. Literature Review

Several studies have addressed pre-trial detention, each focusing on certain jurisprudential or legal dimensions of the issue. In the article *“Legitimacy of Pre-Trial Detention from the Viewpoint of Islamic Jurisprudence”* by Ali Akbari Bouboukani et al. (2014), an analytical approach was used to discuss jurisprudential evidence and specific cases of pre-trial detention, concluding that this institution can be justified in certain exceptional circumstances (Fazel, 2007; Mohaghegh Damad, 2000).

In the article *“An Analysis of the Legitimacy of Detention and Interrogation before the Proof of Accusation from the Perspective of Imami Jurisprudence with a Comparison to the Criminal Procedure Code (2013)”* by Mohammad Reza Elahi Manesh (2024), jurisprudential arguments regarding detention are examined using a descriptive-analytical method, concluding that pre-trial detention may be justified if based on valid Sharia evidence, while emphasizing that the presumption of liberty should remain central throughout the trial process (Aghababayi Bani, 2005; Elahi Manesh, 2019).

In the article *“Comparative Study of Pre-Trial Detention in Iranian and French Law”* by Moharram Taghizadeh (2017), the regulations concerning pre-trial detention in the two legal systems are examined comparatively, finding that the French legal system, through more efficient oversight mechanisms, has achieved greater success in protecting defendants' rights (Boulloc, 2006; Bourikan, 2009).

Furthermore, in the book *“Temporary Detention Order and Its Alternatives in Iranian and French Law”* authored by Mohammad Reza Elahi Manesh (Majd Publications, 2019), legislative aspects of pre-trial detention and its alternatives in both legal systems are analyzed, emphasizing the need for revision and strengthening of legal oversight in Iran's legal system (Boulloc, 2006; Elahi Manesh, 2019).

The present study seeks to address the gaps of prior research by, for the first time, systematically analyzing the jurisprudential legitimacy of pre-trial detention from the perspective of Imami jurisprudence and comparing it with the Iranian and French legal systems (Aghababayi Bani, 2005; Mohaghegh Damad, 2000). The innovation of this research lies in its

analytical framework that integrates jurisprudential and legal arguments to evaluate this institution within the context of criminal justice, aiming to establish a principled balance between judicial efficiency and the protection of defendants' rights (Afshar Manesh & Tarem, 2010; Bouloc, 2006; Vaeili, 2013).

3. Concepts

3.1. Concept of Pre-Trial Detention

The term *detention* in Persian is synonymous with *confinement* and means prevention (Dehkhoda, 1989), restraint (Amid, 2002), and obstruction (Moein, 1996).

In legal terminology, pre-trial detention has various definitions; comprehensively, it refers to the judicial authority's decision to deprive the accused of liberty during the investigation and trial stages, which may, if necessary, continue until the final judgment (Aghababayi Bani, 2005; Ashouri, 2009).

3.2. Concept of the Accused

The word *accused* (*mottaham*) in Arabic derives from the root *wahm* and means to imagine or suppose something in the mind, regardless of whether it exists in reality or not (Ibn Manzur, 1414). It also conveys the meaning of error or something conceived in thought or imagination (Tarihi, 1416).

In legal terminology, the accused is someone suspected of committing a crime without proven guilt (Jafari Langroudi, 1999). The core element of these definitions lies in the uncertainty and lack of definitive attribution of the act to the individual (Jafari Langroudi, 2007).

4. Jurisprudential Arguments for the Legitimacy of Pre-Trial Detention

The legitimacy of pre-trial detention requires valid Sharia-based and statutory foundations, and its justification can be evaluated through the evidence provided in *Imami jurisprudence*, as well as Iranian and French criminal law (Aghababayi Bani, 2005; Mohaghegh Damad, 2000).

4.1. In Imami Jurisprudence

Imami jurists, relying on examples cited in Islamic sources, have presented several arguments to support the permissibility of pre-trial detention (Golpayegani, 1413; Najafi, 1404).

1) Qur'anic Verses

Verse 106 of *Sūrat al-Mā'idah*, which addresses testimony in wills and the oath of witnesses during travel, has been cited as the principal jurisprudential foundation for the legitimacy of pre-trial detention (Mahmoudi, 1993). This verse was revealed regarding testimony in a will during a journey and the necessity of an oath by non-Muslim witnesses (Makarem Shirazi, 1993). Its occasion of revelation concerns the case of Abū Māriyah, a Muslim servant, and two Christian men named Tamīm and 'Adī. After Abū Māriyah's death, the two men returned his belongings to his family. Later, upon finding a will among his possessions, the heirs discovered discrepancies and accused the two of betrayal, which they denied. The Prophet Muḥammad (PBUH) then ordered their detention after the 'Asr prayer so that they would take an oath (Mesbahzadeh, 1989).

According to the context of this verse, the witnesses were accused of *breach of trust*, and the expression "*tahbisūnahumā*" refers to the *preventive detention* of witnesses to ensure the taking of an oath and the protection of people's rights—not as a punitive measure after conviction (Tabarsi; Vaeili, 2013). Some exegetes have regarded this as an indication of the permissibility of *precautionary detention*, especially when the heirs doubt the witnesses' honesty. The term "*shahādah*" is also interpreted as *witness* (active participle) (Tarihi, 1416), while the reference to the 'Asr prayer reflects an Arab custom of adjudicating disputes at that time (Al-Zamakhshari, 1385).

From a jurisprudential perspective, the present author argues that the meaning of verse 106 of *Sūrat al-Mā'idah* cannot be broadly interpreted as a general foundation for pre-trial detention; its extension to other similar cases—such as accusations of concealing testimony or breach of trust—would contradict the Prophet's practice and the early Islamic approach that emphasized personal liberty and the prohibition of detention before the establishment of guilt (Makarem Shirazi, 1993; Mohaghegh Damad, 2000).

2) Narrations (Hadiths)

Numerous narrations from both Shia and Sunni traditions implicitly endorse the legitimacy of pre-trial detention, and many jurists have relied on these reports to issue rulings permitting it (Tabasi, 2008).

The most famous jurisprudential source in this regard is the *ḥadīth of Sukkūnī* from Imam al-Ṣādiq (A), quoting the Prophet (PBUH), who reportedly ordered that a person accused of murder be detained for six days, awaiting the presentation of evidence by the victim's heirs; if no evidence was provided, the detainee was to be released (Kulayni).

Likewise, *Ghayyāth ibn Ibrāhīm* narrates from Imam Ja'far al-Ṣādiq (A) that his father said: “‘Alī (A) would imprison debtors who refrained from paying their debts, but if their financial incapacity was proven, he would release them so that they could work and repay their debts.” (Tusi, 1365).

Another narration states that Imam al-Ṣādiq (A) said: “A man was brought before the Commander of the Faithful (‘Alī), who had acted as a guarantor for another man. The Imam ordered that he be imprisoned and said: ‘Bring your friend.’” (Tusi, 1365).

Both Shia and Sunni collections contain numerous reports concerning pre-trial detention, reaching the level of *general concurrence* (*tawātur ijmālī*). However, these narrations explicitly permit detention only in *cases of homicide*, and in other offenses, such action is justified only in the presence of necessity or public interest; otherwise, it contradicts the presumption of liberty (Aghababayi Bani, 2005).

3) Secondary Jurisprudential Principles Supporting Pre-Trial Detention

a) Necessity (Ḍarūrah)

In Islamic jurisprudence, and in the absence of an explicit textual ruling, pre-trial detention can be justified under the *principle of necessity*. The term *ḍarūrah* refers to the situation in which a person is compelled to commit a normally prohibited act to avert harm (Mohaghegh Damad, 2000; Mousavi, 2001). This principle is grounded in multiple Qur'anic verses and supported by the *ḥadīth al-raḥ* (Hadith of Removal) (Amili, 1412; Muzafar, 1325).

The state of necessity may justify pre-trial detention from two perspectives: substantively, it serves the establishment of divine limits (*ḥudūd*) and protection of human rights; functionally, it aims to prevent escape, destruction of evidence, intimidation of witnesses or victims, and acts of retaliation (Afshar Manesh & Tarem, 2010; Ghorbani, 2005). In Imami jurisprudence, detention becomes legitimate only when essential conditions—such as flight risk or threat to the victim—exist, grounded in the maxim “*al-ḍarūrāt tubīḥ al-maḥẓūrāt*” (necessity renders the prohibited permissible) (Mousavi Bojnourdi, 1385).

However, leading jurists such as Imam Khomeini, Shahid al-Awwal, and Sabzevari emphasized that necessity must be *limited, proportional, and a measure of last resort* (Amili, 1376; Mohaghegh Damad, 2000). In cases like suspicion of intentional homicide, pre-trial detention may be deemed obligatory; but in the absence of real necessity, such detention lacks legal or Sharia-based justification (Makarem Shirazi, 1993). Critics also note that pre-trial detention may conflict with principles such as the *protection of personal honor, individual responsibility for punishment, and the presumption of innocence* (Fletcher, 2005; Safari, 2007). Thus, necessity as a justification is valid only when the harm being prevented clearly outweighs that caused by detention—a condition that is often difficult to ascertain in practice.

b) Public Interest (Maṣlaḥah)

Another rationale for the legitimacy of pre-trial detention is *public interest*, understood as the pursuit of collective benefit or avoidance of harm, which, within the framework of *secondary rulings* and *governmental decrees*, is recognized as rationally binding (Amili, 1412; Mohaghegh Damad, 2000). Some jurists, including *al-Ṭabarsī* and *Ṣāhib al-Jawāhir*, have prioritized

public welfare over individual rights and have considered imprisonment obligatory when necessary to preserve the Islamic order (Najafi, 1404; Tabarsi).

The extension of pre-trial detention based on *maṣlahah* is justified by arguing that the Prophet's six-day limit on detention in homicide cases was historically specific and does not apply under modern, complex procedural systems (Aghababayi Bani, 2005). Thus, contemporary jurists have allowed detention in cases such as subversion or threats to public security (Elahi Manesh, 2019; Tabarsi).

Nevertheless, *maṣlahah* can justify pre-trial detention only when the conditions of *necessity*—namely, lack of alternatives, imminent danger, and proportionality—are fully met (Bouloc, 2006; Bourikan, 2009). Consequently, pre-trial detention, whether based on necessity or public interest, remains an *exceptional* measure permissible solely in urgent circumstances and must cease immediately once the justification for its continuation no longer exists (Afshar Manesh & Tarem, 2010; Mohaghegh Damad, 2000).

5. Grounds for the Legitimacy of Pre-Trial Detention of the Accused

The legitimacy of pre-trial detention requires valid Sharia-based and statutory backing, and its justification can be analyzed and evaluated in light of the available evidence in Imami jurisprudence, as well as Iranian and French criminal law (Aghababayi Bani, 2005; Mohaghegh Damad, 2000).

5.1. In Imami Jurisprudence

Imami jurists, by relying on cases cited in Islamic sources, have set out reasons for the Sharia-based permissibility of pre-trial detention (Golpayegani, 1413; Najafi, 1404).

1. Qur'anic verses: Verse 106 of Sūrat al-Mā'idah—which concerns testimony regarding wills and the oath of witnesses while traveling—has been invoked as the most important jurisprudential basis for the legitimacy of pre-trial detention (Mahmoudi, 1993). This verse was revealed concerning testimony over a will during travel and the requirement that non-Muslim witnesses swear an oath (Makarem Shirazi, 1993). The occasion of revelation pertains to the case of Abū Māriyah, a Muslim servant, and two Christian men named Tamīm and 'Adī. After Abū Māriyah's death, they delivered his property to his family, but when the heirs later found a will among his effects, they noticed deficiencies and accused Tamīm and 'Adī of breach of trust; the two denied it. The Prophet then ordered that they be detained after the 'Aṣr prayer so that they would swear an oath (Mesbahzadeh, 1989).

In light of the occasion of revelation and the meaning of the verse, the witnesses were accused of *breach of trust*, and the expression "*taḥbisūnahumā*" points to the *preventive detention* of witnesses to secure the oath and protect people's rights, not to a punishment after proof of guilt; some exegetes have taken it to indicate the permissibility of *precautionary detention*, especially when the heirs doubt the witnesses' veracity. The word "*shahādah*" is also interpreted as *witness* (active participle), and the reference to the 'Aṣr prayer reflects an Arab social custom of hearing claims at that time (Al-Zamakhshari, 1385; Tabarsi; Tarihi, 1416; Vaeili, 2013).

In the present author's view, given the available sources, the purport of verse 106 of Sūrat al-Mā'idah cannot, in a general sense, serve as a basis for pre-trial detention; extending it to all similar cases—such as accusations of concealing testimony or breach of trust—would be inconsistent with the Prophet's practice and the early Islamic approach, which emphasized personal liberty and the prohibition of detention before the establishment of guilt (Makarem Shirazi, 1993; Mohaghegh Damad, 2000).

2. Narrations (ḥadīths): Reports from both Shia and Sunni sources implicitly endorse the legitimacy of pre-trial detention, and many jurists have issued permissive rulings based on these narrations (Tabasi, 2008).

The most well-known jurisprudential basis is the narration of Sukkūnī from Imam al-Ṣādiq (A), quoting the Prophet, to the effect that a person accused of homicide would be detained for six days so that, if the victim's heirs presented evidence, judgment would be rendered; otherwise, the detainee would be released (Kulayni).

Ghayyāth b. Ibrāhīm also narrates from Imam Ja‘far al-Šādiq (A), from his father, that “‘Alī (A) would imprison debtors who refused to pay their debts; but if their financial incapacity was proven, he would release them so that they could work and repay what they owed.” (Tusi, 1365).

It is likewise reported from Imam al-Šādiq (A): “A man who had stood surety for another was brought before the Commander of the Faithful (‘Alī). The Imam imprisoned him and said: ‘Bring your friend.’” (Tusi, 1365).

While both Shia and Sunni ḥadīth corpora contain numerous reports on pre-trial detention—reaching the level of *general concurrence*—it can be said that explicit permission is confined to accusations of homicide; in other offenses, detention is justifiable only where necessity or public interest exists, otherwise it runs contrary to the presumption of liberty (Aghababayi Bani, 2005).

Upon reflection, two *secondary* grounds also support the permissibility of pre-trial detention, the assessment of which against opposing evidence is significant:

a) Necessity (ḍarūrah)

In Islamic law, and absent an explicit text, pre-trial detention is justified under the *principle of necessity*. In jurisprudential usage, *necessity* refers to a situation where one is compelled to commit a normally prohibited act to avert harm (Amili, 1412; Mousavi, 2001; Muzafar, 1325). The necessity of detention may be justified (i) in terms of subject matter—as serving the establishment of divine limits and protection of private rights—and (ii) in terms of risk—preventing escape, destruction of evidence, intimidation of witnesses or the victim, and retaliation (Afshar Manesh & Tarem, 2010; Ghorbani, 2005). In Imami jurisprudence, detention becomes legitimate only where necessities such as risk of flight or threat to the victim exist, pursuant to the maxim “necessities permit prohibitions,” and in some cases it is even deemed obligatory; yet eminent jurists have stressed that necessity must be *limited*, *proportionate*, and a *last resort* (Amili, 1376; Makarem Shirazi, 1993; Mousavi Bojnourdi, 1385). Major objections highlight its tension with principles such as the protection of a believer’s honor, the personal nature of punishment, and the presumption of innocence; therefore, necessity is acceptable only if the harm prevented outweighs the harm inherent in detention—a determination often fraught with ambiguity (Fletcher, 2005; Safari, 2007).

b) Public interest (maṣlaḥah)

Another foundation for legitimacy is *public interest*—securing benefit and averting harm—which, within the framework of secondary and governmental rulings, is recognized as rationally binding. Some jurists, such as al-Ṭabarsī and the author of *Jawāhir*, have preferred public interest over individual rights and, in certain cases like preserving the Islamic order, have deemed imprisonment obligatory (Mohaghegh Damad, 2000; Najafi, 1404; Tabarsi). Extending the permissibility of pre-trial detention through *maṣlaḥah* is defended by arguing that the Prophet’s six-day limit in homicide cases reflected the early Islamic milieu and does not constrain modern, complex criminal procedures; hence, some contemporary jurists have allowed detention in offenses such as subversion of the state (Aghababayi Bani, 2005; Elahi Manesh, 2019). Nonetheless, *maṣlaḥah* legitimizes detention only when the conditions of necessity—absence of viable alternatives, imminence of danger, and proportionality—are fully satisfied; thus, whether grounded in necessity or public interest, pre-trial detention remains exceptional and must cease as soon as the justification disappears (Afshar Manesh & Tarem, 2010; Boulloc, 2006; Bourikan, 2009).

5.2. In Iranian and French Law

From the standpoint of proponents, pre-trial detention prevents escape, collusion, and interference with the proceedings, and it is justified to preserve public order and protect the victim. The reasons advanced by Iranian and French legislators are examined below (Boulloc, 2006; Bourikan, 2009).

5.2.1. Social and Individual Protection

Disturbance of public order threatens social stability and the community’s psychological security. Some jurists regard the purpose of pre-trial detention as preventing future dangers and safeguarding the public interest (Fletcher, 2005; Safari, 2007).

Article 144(7) of the French Code of Criminal Procedure explicitly authorizes detention where there is serious harm to public order (Bouloc, 2006; Bourikan, 2009). In Iranian law, although there is no express statutory text to this effect, in practice this measure is used in grave and violent crimes to temper extreme public reactions and preserve public order (Ashouri, 2009; Madani, 2006).

a. Protection of society (prevention of the commission of an offense or further offenses)

Pre-trial detention of the accused may be justified to prevent re-offending or to put an end to continuing offenses (Ghandour Bijar Pas, 2007). In French law, Article 144(2) of the Code of Criminal Procedure expressly provides for these aims, and Article 122(7) recognizes ending serious disturbance to public order as an independent ground for detention (Bouloc, 2006; Bourikan, 2009). In Iranian law, although there is no direct provision, Articles 237 and 238 of the 2013 Code of Criminal Procedure—by emphasizing the need for reasoning, legal basis, and the defendant’s right to appeal—permit a similar inference (Elahi Manesh, 2019). Article 239, by requiring the reasons for detention to be stated and communicated to the accused, imposes constraints against discretionary misuse—an area where prior laws suffered gaps and judicial misinterpretations (Zeraat & Mohajeri).

b. Protection of the accused (preventing threats to the accused and relatives)

Pre-trial detention can also have a protective dimension for the accused, functioning as a preventive measure against physical or psychological harm (Ashouri, 2009). Such protection may take the form of shielding against potential assaults by the victim or relatives, preventing suicide in acute psychological crises, or protecting the accused from mass emotions; in serious crimes, detention can be justified to avert public backlash or vengeance (Ghandour Bijar Pas, 2007; Khazaei, 1998). However, if the accused proposes a more effective solution for personal safety, detention is not justified—even though the accused’s preference is not determinative (Ghorbani, 2005).

c. Protection of the victim

Pre-trial detention is legitimate, where necessary for investigation or security measures, particularly to prevent re-victimization or further harm—a purpose also emphasized by Jean Largier (Largier, 1999). Under Article 14 of the Law on Security and Corrective Measures, when a person threatens to commit an offense and there is fear of its occurrence, the court may, if no undertaking and security is provided by the threat-maker, order temporary detention. This article addresses victim protection where the threat materializes (Madani, 2006).

5.2.2. Preventing Obstruction of Justice

One of the aims of the criminal justice system is to ensure a fair trial and the victim’s tranquility, such that the offender is admonished and the victim reassured; accordingly, access to the accused until the end of proceedings and an assessment of flight risk are necessary (Ghandour Bijar Pas, 2007; Safari, 2007).

a. Preventing the accused’s escape or concealment

In Iranian law, Article 238(b) of the 2013 Code of Criminal Procedure lists “risk of flight or concealment” among the grounds for pre-trial detention, whereas the French Code’s Article 144 does not specifically mention it (Bouloc, 2006; Madani, 2006). However, determining “risk of flight” must not rest on a judge’s subjective feeling; it should be assessed using objective criteria such as the offense type, the accused’s record, family situation, or prior escapes—while factors like advanced age or stable employment may indicate the contrary (Ashouri, 2009; Khazaei, 1998).

b. Preventing collusion by the accused with others and the destruction of traces of the offense

Pre-trial detention is justified where there is a risk of continued offending, flight, or collusion (Stéphane et al., 1998). Article 238(a) of the Iranian Code cites *destruction of traces and evidence* as a reason for detention, while Article 144 of the French Code focuses on preserving evidence and preventing pressure on witnesses and collusion. Although both systems accept detention to avert collusion or loss of evidence, French law allows such detention only where there is a *real* risk, alternative measures are ineffective, and only as an *exception*, limited to the initial stages of investigation (Ashouri, 2009; Bourikan, 2009).

c. Preserving evidence and indicia

Where there is insufficient time to collect evidence, the accused's liberty may lead to the loss or manipulation of proof; thus, pre-trial detention—considering the accused's character and background—can be justified as a precaution to preserve evidence and facilitate investigation. Article 238(a) of the Iranian Code expressly provides for this necessity ([Ashouri, 2009](#); [Elahi Manesh, 2019](#)).

d. Preventing pressure on witnesses, informants, and others

In both Iranian and French law, safeguarding the security of witnesses, victims, and their families is a legitimate reason for detention. Article 238(a) and (p) of the Iranian Code and Article 144(2) of the French Code recognize that threats or inducements by the accused, where real and reasonable, can justify detention ([Ashouri, 2009](#); [Bouloc, 2006](#)). In the present author's view, where the accused's threat is such that witnesses refrain from testifying or their lives are seriously endangered, pre-trial detention may be necessary to preserve their safety and security.

In offenses with an identifiable victim, detention is justified if there is a likelihood of threats to witnesses or the victim; however, where the accused confesses and the confession is consistent with witnesses' statements, continued detention lacks a legal basis. Under Article 238(p) of the Iranian Code, this measure is permissible only in cases of serious risk, emergency conditions, and as a last resort ([Bouloc, 2006](#); [Madani, 2006](#)).

6. Grounds for the Non-Permissibility of Pre-Trial Detention of the Accused

After setting out and analyzing the jurisprudential bases for the permissibility of pre-trial detention and aligning them with the governing legal frameworks of Iran and France, this section examines and critically evaluates the opposing views.

6.1. In Imami Jurisprudence

Contrary to the permissive view, a number of Imami jurists reject pre-trial detention of the accused, arguing that the relevant proofs and jurisprudential maxims emphasize human liberty and do not permit depriving a person of liberty merely on the basis of accusation ([Golpayegani, 1413](#); [Mohammadi Reyshahri, 1379](#)).

1) Narrations

Certain narrations drawn from the practice and sayings of the Infallibles indicate a prohibition of detaining an accused person. The most important basis is the *ṣaḥīḥa* of Zurārah from Imam 'Alī (A), which expressly limits the permissibility of imprisonment to three categories: a usurper (*ghāṣib*), one who consumes the property of an orphan, and a betrayer of a trust. The narration does not mention the "accused" as someone who may be detained merely on account of accusation, and thus does not permit his detention ([Tusi, 1365](#)).

2) Incompatibility with the Principle of Liberty

The principle of liberty in Imami jurisprudence underscores the innate freedom of human beings. Although often discussed in contrast to slavery, it has broad application across many jurisprudential chapters. On this basis, liberty is a foundational rule that can be restricted only by valid proof. Accordingly, across areas such as jihad, adjudication, and *ḥudūd*, detention—except in narrowly defined exceptional cases—conflicts with human dignity and lacks Sharia-based legitimacy ([Golpayegani, 1413](#); [Mohammadi Reyshahri, 1379](#)).

3) Incompatibility with the Presumption of Innocence

In Islamic law, the presumption of innocence (*aṣl al-barā'a*) is among the operative principles that presume the individual's innocence until guilt is established. Although in jurisprudential application it often functions as removal of obligation in cases of doubt, *uṣūlī* jurists also view it as applicable to innocence in adjudication. Critics argue that pre-trial detention conflicts with this principle because it deprives the accused of liberty prior to proof of guilt. Two key criticisms are: first, that the jurisprudential meaning of *barā'a* is confined to doubt in obligation; second, that *barā'a* applies only in the absence of valid proof. Nonetheless, the maxim "the burden of proof is upon the claimant and the oath upon the denier" underscores the centrality of presuming innocence in safeguarding the accused's rights ([Amili, 1412](#); [Mohaghegh Damad, 2000](#); [Muzafar, 1325](#)).

6.2. Principal jurisprudential arguments for applying the presumption of innocence to pre-trial detention:

a) The Rule of *Dar'*

The rule of *dar'* in Imami jurisprudence rests on the maxim “*al-shubahāt tadrā' al-ḥudūd*,” which bars the execution of punishment where doubt exists regarding the occurrence of the offense. Closely aligned with the modern criminal-law doctrine of interpreting doubt in favor of the accused, this rule enjoys broad acceptance among jurists and is regarded as possessing authority beyond mere consensus. In *uṣūl al-fiqh*, juristic consensus in the absence or weakness of an authentic report can be weightier than a text. As a manifestation of the presumption of innocence in the Sharia, the *dar'* rule provides a basis for negating detention or punishment in doubtful cases (Mohaghegh Damad, 2000; Mousavi Bojnourdi, 1385; Omid, 2003).

b) Prohibition of Hastening Punishment

In Islamic jurisprudence, the default is to suspend punishment until the offense is proven by Sharia-compliant evidence; pre-trial detention before such proof is treated as a form of precipitous punishment lacking valid Sharia backing. Jurists such as *Shahīd al-Thānī* and the author of *Jawāhir* thus deem detention prior to proof of guilt impermissible and consider it contrary to the rule forbidding hastening punishment. This position reinforces the presumption of innocence and the need to complete evidentiary stages before any deprivation of liberty (Amili, 1376, 1412; Najafi, 1404).

c) Prohibition of Exceeding the Sharia-Prescribed Punishments

In Imami jurisprudence, imprisonment is accepted only within the ambit of *ta'zīr* and in certain *ḥudūd* contexts. Because pre-trial detention deprives liberty without proof of guilt, it either amounts to an impermissible addition to Sharia-based punishments or to a *ta'zīr* lacking valid evidence. In either case—and apart from narrowly defined, exceptional circumstances—it does not enjoy jurisprudential legitimacy (Mohaghegh Damad, 2000; Safari, 2007).

d) The Restrictive Nature of the Ḥadīths Allowing Detention

Under Islamic law, detention is permitted only in cases of intentional homicide and for a maximum of six days, for the purpose of protecting life and preventing the shedding of innocent blood. For this reason, generalizing the rule to other offenses lacks Sharia proof; even if detention in other offenses were conceded, its duration should not exceed that limit (Fazel, 2007; Ghabel, 2013).

e) The Sanctity of the Believer's Honor

Human dignity occupies a foundational place in the Sharia, and Qur'anic and hadith sources emphasize safeguarding honor and forbidding harm to believers. Detaining an accused without proof of guilt, by placing the person under suspicion, can violate this principle; therefore, detention prior to establishing the offense is contrary to the practice of the Infallibles and lacks Sharia authorization (Mohammadi Reyshahri, 1379; Saqafi, 2022).

f) Requirements of the Principle of the Personal Nature of Punishment

The principle that punishment is personal is a basic tenet of Islamic penal doctrine—“no bearer of burdens shall bear the burden of another.” Yet pre-trial detention, in practice, harms not only the accused but also the accused's family—financially and reputationally—thereby clashing with the spirit of this Qur'anic principle (Afshar Manesh & Tarem, 2010; Fletcher, 2005).

Despite the foregoing critiques, pre-trial detention—subject to strict and exceptional conditions such as protecting public interests, preventing collusion, and safeguarding lives, and in certain offenses like homicide—has been deemed jurisprudentially permissible for a limited period (Aghababayi Bani, 2005; Bouloc, 2006).

a. Conflict with the Presumption of Innocence

Pre-trial detention, as a measure depriving liberty, conflicts directly with the presumption of innocence because it restricts an individual's fundamental freedoms before conviction, whereas only those found guilty should be imprisoned (Khazaei, 1998). Article 19 of the *Cairo Declaration on Human Rights in Islam* (1990) similarly emphasizes the innocence of the accused until guilt is proven and mandates humane treatment. Pre-trial detention thus limits fundamental freedoms and reverses the burden of proof: the prosecuting authority must prove guilt, while the accused is under no obligation to prove innocence (Tarkhani, 2003).

In France, pre-trial detention is used very restrictively and accompanied by multiple alternatives (Aghababayi Bani, 2005). According to Professor Jean Carbonnier, with respect to the accused, neither a presumption of innocence nor of guilt should be applied; rather, neutrality must prevail until judgment is rendered (Fallah, 2010). The Iranian Constitution also explicitly enshrines the presumption of innocence, and the 2013 *Code of Criminal Procedure* has advanced the protection of defendants' rights by abolishing mandatory detention and reducing its application. Given the severity of this measure, it is recommended that the scope of Article 237 be further restricted so that pre-trial detention remains an exceptional remedy (Madani, 2006; Mohaghegh Damad, 2000).

b. Inconsistency with Modern Penal Policy and Alternatives to Imprisonment

Modern criminal policy favors non-custodial alternatives—such as fines, community service, and supervised probation—to mitigate the social and psychological harms of incarceration, especially for young offenders (Ansell, 1996). Even short-term detention may result in serious consequences, including loss of employment, social exclusion, family disruption, and reinforcement of criminal tendencies (Khazaei, 1998; Safari, 2007). The indeterminate duration of detention also undermines rehabilitative planning, placing the accused in a worse situation than convicted prisoners (Bouloc, 2006). Overcrowded prisons and poor detention conditions further accentuate the ineffectiveness of this institution (Bourikan, 2009), increasing doubts about the utility of pre-trial detention even compared to long-term imprisonment (Ghandour Bijar Pas, 2007).

c. Influence on the Outcome of the Case

Pre-trial detention has significant psychological and structural impacts on the adjudicative process, potentially increasing the likelihood of conviction (Dindo, 2007). Empirical data show that the longer the period of pre-trial detention, the harsher the sentences imposed (Amili, 1376). In France, research indicates that in 86% of cases where defendants were held in pre-trial detention, they were ultimately sentenced to imprisonment; this figure rises to 95% when the accused remains in custody at the time of judgment (Dindo, 2007). Such findings suggest a form of “*pre-judgment*” against detainees, who are statistically less likely to benefit from suspended sentences or acquittals compared to those tried while free (Aubusson de Cavarlay, 2002).

d. Impairment of the Right to Defense and the Principle of Equality of Arms

Pre-trial detention restricts the accused's ability to prepare an effective defense and undermines the principle of *equality of arms*, a cornerstone of fair trial guarantees (Elahi Manesh, 2019). It hinders communication with counsel, access to documents, witnesses, and other means of defense. This not only violates the defendant's rights but also weakens the overall integrity of criminal justice (Balaghi, 1991).

e. Criminological Arguments Against Pre-Trial Detention

1. **Labeling and Social Stigmatization:** Pre-trial detention imposes both material and moral harm on the accused and their family, including social degradation, loss of professional opportunities, and persistent stigmatization even after release. Criminologists argue that such stigma internalizes a criminal identity and fosters future offending behavior (White & Hines, 2002).
2. **Deprivation of Sentencing-Related Benefits:** Benefits available to convicted prisoners—such as parole, furlough, classification, and personality assessments—do not apply to pre-trial detainees, leaving them disadvantaged in rehabilitation and reintegration processes (Bouloc, 2006).
3. **Reduced Deterrent Impact of Final Punishment:** Criminologists note that pre-trial detention reduces the psychological impact of the final sentence by diluting its deterrent and retributive effects. An accused who has already spent time in custody before conviction is less influenced by the punitive dimension of the final judgment (Safari, 2007).
4. **Erosion of Public Trust in the Criminal Justice System:** Wrongful or excessive pre-trial detention of innocent individuals breeds distrust toward the justice system. The absence of adequate compensation mechanisms exacerbates the damage, as financial redress offers limited remedy for moral and social harm (Elahi Manesh, 2019).

5. **Criminogenic Effects of Detention:** When improperly applied, pre-trial detention may become criminogenic rather than preventive. Professor Jacques Leauté warned that exposure to the criminal subculture of prisons can transform preventive custody into a factor of criminal induction (Gholami, 2002). Contact with delinquent peers in custody often increases the likelihood of recidivism (Bouloc, 2006).
6. **Psychological Anxiety and Uncertainty:** Because the detainee's situation remains uncertain, pre-trial detention generates more severe anxiety and psychological stress than post-conviction imprisonment. This uncertainty deprives the accused of the ability to plan, leading to instability and risky behavior (Madani, 2006).
7. **Financial Burden on the Judicial System:** Pre-trial detention imposes high financial costs for prison construction, maintenance, and the provision of inmate services on the state and taxpayers. Additionally, removing accused persons from economic and social activity negatively affects the national economy and complicates victim compensation (Ashouri, 2003).
8. **Inadequate Health and Hygiene Conditions:** Opponents also point to overcrowded and unsanitary detention centers, inadequate medical services, and prison violence as grounds for rejecting the practice, arguing that the state fails to uphold its duty to ensure detainees' physical and mental well-being (Korbaz, 2005).
9. **Prolonged Duration of Detention:** One of the most serious challenges is the undue prolongation of pre-trial detention due to judicial delays, violating the right to a trial within a reasonable time (Bourikan, 2009).
10. **Disproportionate Duration of Detention Compared to Sentence:** In some cases, the duration of pre-trial detention exceeds the term of imprisonment ultimately imposed. Even when the pre-trial period is credited toward the sentence, the result may still amount to punishment beyond the lawful maximum, infringing the defendant's rights (Madani, 2006).

7. Common Grounds for the Legitimacy of Pre-Trial Detention in Imami Jurisprudence, Iranian Law, and French Law

1. The Principle of Exceptionality: In all legal systems, pre-trial detention is permissible only under exceptional or urgent circumstances. Both Imami jurisprudence and Iranian law restrict its application to specific and limited cases, while French law emphasizes necessity, proportionality, and specialized judicial oversight as governing principles.

2. Conditional Legitimacy Based on Necessity: All three systems recognize certain risks—such as the possibility of flight, collusion, destruction of evidence, or threats to public safety or victims—as justifiable grounds for detention. Imami jurisprudence, invoking the maxim “*necessities permit prohibitions*”, allows such detention only in urgent and limited situations. Similarly, Iranian and French law adopt this approach to preserve judicial efficiency and public order.

3. Requirement of Proportionality and Minimal Intervention: In Imami jurisprudence, invoking necessity is acceptable only when the principles of proportionality and non-excessiveness are upheld—meaning detention is lawful only when no other measure is effective. This same principle is explicitly codified in Article 142 of the French *Code of Criminal Procedure*, and in Iranian law the limited scope of detention orders reinforces the same concept.

4. Protection of the Accused's Rights and the Prohibition of Punishment before Conviction: In all three systems, the presumption of innocence is a foundational safeguard limiting the use of pre-trial detention. Imami jurisprudence rejects detention without valid *shar'ī* evidence; Iranian law enshrines this in Article 37 of the Constitution and Article 7 of the *Code of Criminal Procedure*; and in France, the *European Convention on Human Rights* recognizes the presumption of innocence as a fundamental principle of justice.

8. Differences in the Jurisprudential and Legal Foundations of Pre-Trial Detention among Imami Jurisprudence, Iranian Law, and French Law

1. Basis of Legitimacy and Scope of Application: Imami jurisprudence permits pre-trial detention only in exceptional cases such as homicide, and under strict limitations governed by principles of liberty and presumption of innocence. Iranian law, though rooted in jurisprudence and statutory structure, uses ambiguous terms like “disturbance of public order,” allowing broad judicial interpretation and application. French law, emphasizing proportionality and minimal penal intervention, restricts

detention to specific cases, only when alternative measures are ineffective, and under judicial supervision. Thus, while Imami jurisprudence and French law both adopt restrictive approaches, enforcement of such limitations in Iran faces practical challenges.

2. Oversight Mechanisms: In Imami jurisprudence, supervision over detention relies on the integrity of the *ḥākim al-sharʿ* (religious judge) and lacks formal institutional mechanisms. In Iranian law, oversight is confined to prosecutors and judges, and the absence of an independent monitoring body often renders it ineffective. In contrast, French law entrusts supervision to an independent investigating judge who authorizes and renews detention, while also ensuring the accused's right to appeal.

3. Approach to Presumption of Innocence and Prevention of Judicial Bias: In both Imami jurisprudence and French law, the presumption of innocence plays a decisive role in limiting pre-trial detention. The *darʿ* rule in jurisprudence serves as a substantive barrier against detention in doubtful cases. However, in Iran, despite legal recognition of the presumption of innocence, subjective judicial interpretations have weakened its practical application.

4. Influence of Criminal Policy and Human Rights Principles: Imami jurisprudence and French law, both grounded in respect for human dignity, regard pre-trial detention as a restricted and conditional measure. In France, detention is applied only when strictly necessary, prioritizing alternative measures and adhering to proportionality. Iranian criminal policy, however, oscillates between traditional jurisprudential norms and security-driven considerations; the predominance of the latter has limited the effective enforcement of legal safeguards.

9. Conclusion

This study aimed to provide a comprehensive jurisprudential and legal analysis of *pre-trial detention of the accused*, organized around two main axes: first, examination of the Sharia-based evidences supporting or opposing its legitimacy within Imami jurisprudence; and second, comparative analysis of its legal framework in the Iranian and French systems.

The findings reveal that, within Imami sources, textual foundations such as Qur'anic verses, the narrations of the Imams, and jurisprudential principles like necessity (*darūrah*) and public interest (*maṣlaḥah*) justify pre-trial detention only under exceptional and strictly defined conditions. Conversely, principles such as the prohibition of imprisonment without judicial order, presumption of innocence, the *darʿ* rule, and the sanctity of the believer's honor require extreme caution and strong limitation of this measure. This balance between permissive and restrictive arguments underscores the jurisprudential complexity of the issue and calls for prudence in its application.

Comparative analysis further demonstrates that both Iranian and French systems regard pre-trial detention as an exceptional mechanism subject to conditions of necessity, proportionality to the offense, time limitation, and continuous judicial supervision. However, the French legal system, due to its more coherent structure and stricter adherence to these principles, has achieved greater practical success in implementation.

The main innovation of this study lies in its interdisciplinary and integrative approach—examining pre-trial detention simultaneously from the perspectives of Imami jurisprudence, Iranian domestic law, and French law. This synthesis opens new horizons for connecting jurisprudential reasoning with modern legal systems and enables a constructive dialogue between Sharia foundations and positive law.

Overall, the study concludes that pre-trial detention can only align with Islamic and criminal justice principles when applied within clearly defined boundaries and under constant judicial oversight. Therefore, revising and reforming certain provisions of Iranian law—particularly to ensure stronger protection of defendants' rights, enhance judicial supervision, and narrow the grounds for detention—is both necessary and promising for achieving greater justice and consistency with Sharia and human rights standards.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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References

- Afshar Manesh, Z., & Tarem, M. (2010). Rule of Liability and Its Comparison with the Principle of Personal Punishment. *Qur'anic Studies*(3).
- Aghababayi Bani, A. (2005). *Temporary Detention from the Perspective of Jurisprudence and Law*. Vosough Publications.
- Al-Zamakhshari, A. Q. (1385). *Tafsir al-Zamakhshari*. Mustafa al-Babi Publications.
- Amid, H. (2002). *Amid Persian Dictionary*. Amir Kabir Publications.
- Amili, Z. B. A. (1376). *Masalik al-Afham*. Mo'asseseh al-Ma'arif al-Islami.
- Amili, Z. B. A. (1412). *Al-Rawdah al-Bahiyah fi Sharh al-Lum'ah al-Dimashqiyah*. Office of Islamic Propagation Publications, Hawzah Ilmiyah Qom.
- Ansell, M. (1996). *Social Defense* (Translated by Mohammad Ashouri and Ali Hossein Najafi Abrandabadi. Third edition ed.). University of Tehran Press.
- Ashouri, M. (2003). *Alternatives to Imprisonment or Intermediate Punishments*. Salsabil Publications.
- Ashouri, M. (2009). *Criminal Procedure Code*. SAMT Publications.
- Aubusson de Cavarlay, B. (2002). Filières pénales et choix de la peine. *Panoramiques*(45).
- Balaghi, S. (1991). *Justice and Judiciary in Islam*. Amir Kabir Publishing.
- Boulloc, B. (2006). *Penology* (Translated by Ali Hossein Najafi Abrandabadi. Fifth edition ed.). Majd Scientific and Cultural Assembly.
- Bourikan, J. (2009). *French Criminal Procedure Code* (Translated by Abbas Tadin. First edition ed.). Khorsandi Publications.
- Dehkhoda, A. (1989). *Dehkhoda Dictionary*. University of Tehran Publishing.
- Dindo, S. (2007). *Les prisons en France (Volume 2, Alternatives à la détention: du contrôle judiciaire à la détention)*. Commission nationale consultative des droits de l'homme.
- Elahi Manesh, M. (2019). *Temporary Detention Order and Its Alternatives in Iranian and French Law*. Majd.
- Fallah, E. (2010). *Pretrial Detention*. Nilufaraneh Publications.
- Fazel, M. (2007). A Glance at Prison Punishment from a Religious and Jurisprudential Perspective. *Islah va Tarbiat Journal*(70).
- Fletcher, G. P. (2005). *Fundamental Concepts of Criminal Law* (Translated by Seyed Mehdi Seyedzadeh Thani. First edition ed.). Razavi University of Sciences.
- Ghabel, A. (2013). *Criminal Rulings in the Muhammadan Sharia and Rational Sharia*.
- Ghandour Bijar Pas, E. (2007). *The Position of Imprisonment in Jurisprudence and Iranian Criminal Law*. Pad Andisheh Publications.
- Gholami, H. (2002). Acceptance of Prison Culture. *Research Journal of Law and Politics*(7).
- Ghorbani, A. (2005). *Review of the Judicial Practice of the Human Rights Court on the Right to Liberty and Security and the Right to a Fair Trial* [University of Tehran, Faculty of Law and Political Science].
- Golpayegani, M. R. (1413). *Kitab al-Qada'*. Dar al-Quran al-Karim.
- Ibn Manzur, J. A. (1414). *Lisan al-Arab*. Dar Sader.
- Jafari Langroudi, M. (1999). *Legal Terminology*. Ganj Danesh Library.
- Jafari Langroudi, M. (2007). *Detailed Terminology*. Ganj Danesh Library.
- Khazaei, M. (1998). *Criminal Process*. Ganj Danesh Publications.
- Korbaz, A. (2005). *Monitoring Detention Places: A Practical Guide for NGOs* (Translated by Mojdeh Daqiqi ed.). Vefagh Publications.
- Kulayni, M. B. Y. *Al-Kafi*. Al-Islamiyah Press.
- Largier, J. (1999). *French Criminal Procedure Code* (Translated by Hassan Kashfi Esmailzadeh. First edition ed.). Ganj Danesh Publications.
- Madani, S. J. (2006). *Criminal Procedure Code*. Paydar Publishing.
- Mahmoudi, E. (1993). *Precautionary Detention in Iranian Law* [Islamic Azad University, Central Tehran Branch].
- Makarem Shirazi, N. (1993). *Tafsir Nemuneh* (Vol. 5). Dar Al-Kotob Al-Islamieh Publications.
- Mesbahzadeh, M. (1989). *Quran Margins*. Badraghe Javidan Publications.
- Moein, M. (1996). *Moein Dictionary*. Amir Kabir Publications.
- Mohaghegh Damad, S. M. (2000). *Rules of Jurisprudence*. Center for Islamic Sciences Publishing.
- Mohammadi Reyshahri, M. (1379). *Mizan al-Hikmah*. Office of Islamic Propagation Publications.
- Mousavi Bojnourdi, S. M. (1385). *Qawa'id Fiqhiyah*.
- Mousavi, E. (2001). Rule of Necessity. *Judiciary Legal Journal*(35).
- Muzafar, M. R. (1325). *Usul al-Fiqh*. Jam'iat al-Najaf Publications.
- Najafi, M. (1404). *Jawahir al-Kalam*. Dar al-Kutub al-Islamiyah.
- Omid, J. (2003). Rule of Exoneration and Interpretation of Texts. *Noormags Website*(74).
- Safari, A. (2007). *Penology*. Jangal Publications.
- Saqafi, A. (2022). *Al-Gharat* (Translated by Seyed Mahmoud Zarei ed.). Beyan Ma'navi.
- Stéphane, G., Loasur, J., & Boulloc, B. (1998). *Criminal Procedure Code* (Translated by Hassan Dadban. First edition ed.). Allameh Tabataba'i Publications.
- Tabarsi, F. B. H. *Majma' al-Bayan fi Tafsir al-Quran*.
- Tabasi, N. (2008). *Prisoners' Rights and Cases of Imprisonment in Islam* (Translated by Mohammad Ali Ahmadi Bozar Dilmi, Hadi Ramazani ed.). Boostan Ketab Institute.

- Tarihi, F. (1416). *Majma' al-Bahrain*. Mortezaei Bookstore.
- Tarkhani, S. (2003). *Methods of Obtaining Evidence and Presumptions and Indicators of Crime and Their Enumeration*. Manteh Bahar Publications.
- Tusi, M. B. H. (1365). *Tahdhib al-Ahkam* (Vol. 10). Dar al-Kitab al-Islamiyah.
- Vaeili, A. (2013). *Prison Rules in Islam* (Translated by Mohammad Hassan Baka'i ed.). Islamic Culture Publishing Office.
- White, R., & Hines, F. (2002). *Introduction to Crime and Criminology* (Translated by Mir Ruhollah Sadegh Bathaei Asl ed.). Dadgostar Publishing.
- Zeraat, A., & Mohajeri, A. *Explanation of the Law on Procedure of Public and Revolutionary Courts in Criminal Matters*. Feyz Publishing.