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# Pathology of Procedural Rules Governing Petty Crimes in the Context of the McDonaldization of the Criminal Justice System

MohammadSaeed. Ghanbari Kermanshahi[1], Fatemeh. Ahadi[2*], Babak. Pour Ghahramani[2]

[1] PhD Student, Department of Criminal Law and Criminology, Maragheh Branch, Islamic Azad University, Maragheh, Iran
[2] Associate Professor, Department of Criminal Law and Criminology, Maragheh Branch, Islamic Azad University, Maragheh, Iran

*** Corresponding author email address**: fatemeh.ahadi1394@gmail.com

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Petty crimes are among the significant issues related to criminal justice, as despite their limited impact, their high frequency leads to psychological pressure and anxiety while affecting public order. This necessity has prompted the present study. The aim of this article is to examine the critical question of how the procedural rules governing petty crimes can be assessed in the context of the McDonaldization of the criminal justice system. This study is descriptive-analytical and employs a library research method to address the aforementioned question. The findings indicate that crime control, efficiency, calculability, and predictability are the most critical principles of the McDonaldization of the criminal justice system. These principles lead to the adoption of zero-tolerance policies and broken windows theory while also promoting the use of non-judicial methods to expedite proceedings. The results suggest that the procedural rules governing petty crimes in Iranian criminal law align with the McDonaldization of the criminal justice system in some instances while deviating from it in others. For example, the suspension of prosecution contradicts the efficiency and zero-tolerance policy derived from the McDonaldization of criminal justice. Meanwhile, summary proceedings without an indictment and referral to mediation align with the principle of expediting proceedings under the McDonaldization of criminal policy, as these methods prevent trial delays. However, overall, the criminal policy of procedures governing petty crimes reflects a form of legislative tolerance and leniency toward petty crime offenders, which is inconsistent with efficiency and zero-tolerance policies.

***Keywords:*** *Procedural rules, petty crimes, McDonaldization, criminal justice.*

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## 1. Introduction

The rise in crime rates, the emergence of new forms of delinquency, the implementation of new strategies and measures in criminal activities, the increase in organized crimes, and the various methods of laundering illicit proceeds from such crimes, along with the expansion of criminal activities in recent decades, have led to heightened feelings of insecurity and fear of crime among citizens, particularly concerning violent crimes. As a result, crime has become one of the primary concerns of the public, prompting governments to conduct studies, develop strategies, and formulate policies to control crime and reduce insecurity.

On the other hand, the inability of the criminal justice system to effectively control criminal phenomena has led to profound distrust and an increasing sense of insecurity among a significant portion of the population. This has fueled public demands for a return to severe

punishments, which were previously mitigated, adjusted, or even abolished by the humanistic movement in criminal justice. Consequently, since the 1970s, some scholars and criminologists, particularly in the United States, have strongly criticized rehabilitation theories and their proponents. These critics argued that offender treatment and rehabilitation programs, based on medical, psychological, psychiatric, and social principles, were ineffective in preventing recidivism, costly, and even served as a means for the ruling authorities to control and exploit offenders under the guise of humanitarian and therapeutic measures, often at the expense of the offenders' legal and human rights.

Despite its seemingly humanitarian and progressive ideals, offender rehabilitation failed to meet expectations. The phrase "nothing works" became a widespread critique of the rehabilitation approach, emphasizing its ineffectiveness. Fear of crime continued to escalate. A comparative study conducted in the late 1980s in Europe clearly demonstrated the prevalence of insecurity. According to the study, one-third of individuals took one or two precautionary measures when commuting at night. More than half of women in Germany and England adopted protective and precautionary measures when leaving home at night. Additionally, 54% of Germans and 46% of Swiss respondents expressed fear of burglary within a twelve-month period. In England and France, this figure stood at 40%, while in Belgium and the Netherlands, it was 30% (Kashfi Esmaeilzadeh, 2005, pp. 253–294).

Under such circumstances, the theoretical foundations of offender rehabilitation weakened, and correctional institutions came to be regarded as costly, inefficient, and unproductive establishments. This led to a revival of traditional approaches, culminating in the resurgence of crime suppression and punitive measures under a modern interpretation of classical theories, referred to as the "retributive justice theory." Proponents of this theory, emphasizing the necessity of enforcing criminal justice, paved the way for the revival of deterrence theory. The dual objectives of protecting society and maintaining public order on the one hand, and enforcing justice on the other, served as a justification for reinstating punitive measures that had previously been deemed inhumane and rejected under rehabilitative and reformative ideologies.

This new approach strongly advocated for a tough stance on crime, endorsing strict punitive reactions toward offenders. As a result, the previously flexible and tolerant criminal justice system was replaced with a zero-tolerance approach. Consequently, stringent and severe policies began to encroach upon fundamental aspects of rehabilitation and correctional strategies. Given the increasing recidivism rate, the failure of rehabilitation policies, and the significant role of repeat offenders in crime rates—along with their familiarity with the shortcomings and inefficiencies of law enforcement and prosecution systems—the need for specialized task forces within prosecution offices gained attention, particularly in countries such as the United States. Efforts were made to recruit and organize expert personnel under the supervision of law enforcement and prosecutorial authorities to minimize the likelihood of repeat offenders evading arrest.

The assumption underlying this approach is that increasing the certainty of punishment enhances its deterrent effect, thereby contributing to crime control. This development led to the emergence of the concept of the "McDonaldization of criminal policy." According to this approach, criminal policy must not only be effective in confronting crime but must also be swift, with predictability being a crucial element. This perspective is particularly applicable to criminalization and penal policies. However, in this article, an attempt is made to examine procedural rules in Iranian criminal law from the standpoint of the McDonaldization of criminal justice. Specifically, the study seeks to determine whether the procedural rules governing petty crimes align with the principles of the McDonaldization of the criminal justice system.

To address this research question, the study first defines petty crimes and then examines examples of such offenses in both Iranian and English legal systems. Finally, it assesses the extent to which procedural rules governing petty crimes align with the McDonaldization of the criminal justice system.

## 2. Definition of Petty Crimes

From a criminological perspective, "petty crimes are behaviors that are immediately beyond the threshold of criminalization and closely resemble deviant behaviors that elicit social responses. However, for various reasons and out of necessity, the legislator has designated

criminal penalties for them. In fact, if we were to illustrate a spectrum of behavioral abnormalities, petty crimes would be adjacent to deviant behaviors, and their social reprehensibility is not so severe that the public considers their perpetrators deserving of harsh punishments or severe condemnation. The damages resulting from these crimes are also not particularly significant, but what highlights the importance of this category of crimes is their high statistical frequency and prevalence" (Norouzi, 2005a).

Beyond the challenge of defining petty crimes, there is also ambiguity regarding the criteria for identifying them. The concept of petty or minor delinquency is variable across time and place. A crime that is considered minor and insignificant in English law may be classified as a moderate or even serious offense in Iranian law, and vice versa. Likewise, an act that was deemed serious three decades ago may now be regarded as a petty crime. Undoubtedly, the factors contributing to the rise of these crimes differ among countries. If we somewhat loosely equate petty crimes with minor offenses, this category would include crimes with lesser punishments. The extent to which victims pursue petty crimes depends on the cultural characteristics of a society.

Nonetheless, "simple thefts such as pickpocketing, bag-snatching, purse-snatching, theft of motorized and non-motorized vehicles, or theft of objects inside or outside vehicles, vandalism of public property, minor violent assaults and attacks in public places (especially against elderly individuals or women), petty drug dealing and distribution at the neighborhood level, drug use in public spaces such as parks, graffiti and obscene drawings on public walls, and behaviors interpreted as rudeness and public indecency are generally considered examples of petty crimes" (Najafi Abrand Abadi, 1999).

In societies that highly value educational principles, social control, and moral and disciplinary norms, victims of petty crimes exhibit sensitivity similar to victims of serious crimes, actively reporting offenses and persistently seeking the identification, correction, or punishment of offenders. These individuals believe that remaining silent about current petty crimes exposes them to more serious crimes in the future. However, in some societies where collective conscience and social cohesion are weaker, individuals base their decision to report and pursue complaints purely on personal cost-benefit calculations. If personal gain outweighs the effort required, they may take legal action. For instance, they may consider the theft of a radio worth 100,000 tomans not worth the time and effort of visiting a police station or prosecutor's office, reasoning that it is illogical to spend significant time and resources to recover a small loss (Mohammad Nasl, 2015).

"Petty crimes are not related to the fundamental values and foundations of a country's political system; rather, they pertain to maintaining public order, a concern common to all societies. The maintenance of public order is particularly significant in urban areas, especially in metropolitan cities. A review of legal texts and dictionaries indicates that the term 'petty crime' generally refers to offenses that disturb public order. Most of these offenses carry penalties of imprisonment for less than a year or small fines, and they include crimes such as vagrancy, begging, fraud, verbal abuse, harassment, environmental pollution, driving without a license, and public intoxication" (Mesgarani Torghabeh, 2003).

From a criminological perspective, the widespread prevalence of petty crimes in a society is a sign of moral decline and a diminishing stigma associated with criminal behavior. On the other hand, some statistics and expert analyses indicate a sharp increase in petty crimes in Iran, provoking concern among some authorities while being met with silence or indifference by others. Although, at first glance, it may seem that petty crimes pose a lesser threat to society compared to serious crimes—suggesting that the primary concern should be the rise of serious crimes rather than petty offenses—this view appears superficial. A more accurate judgment on this issue requires deeper reflection and analysis.

## 3. Instances of Petty Crimes in Iranian and English Law

The Iranian legislator has not provided a specific definition of petty crimes, and the tendency to categorize crimes as petty or serious is not evident in the legislative developments of Iran. This term has primarily entered Iranian criminology through translation and global criminological literature. In reality, within Iranian law, this classification is more of a criminological distinction than a legal or statutory one (Mohammad Nasl, 2015).

Based on the explanations provided in defining petty crimes, three major characteristics, generally common among societies, can be identified:

1. The definition of petty crimes varies over time and across different locations.
2. Petty crimes are predominantly committed in urban environments.
3. Petty crimes do not undermine the fundamental values of societies.

Considering these aspects, the following characteristics can be outlined for petty crimes in the Iranian legal system:

1. Their punishments are neither severe nor harsh.
2. These crimes are frequently committed and are directly related to daily life.
3. Most of these crimes have a material nature, with little to no emphasis on the mental element. The mere occurrence of the act or omission suffices to impose a penalty.
4. The principle of recidivism does not apply to them.
5. Extradition requests for such crimes are not accepted.
6. The rule of cumulative sentencing is enforced in this context.
7. Accessory liability does not carry a penalty for these crimes.
8. The statute of limitations for these crimes is shorter than for other types of crimes.
9. They do not result in additional legal consequences (Akhondi, 1999).

In Iranian criminal law, "the legislator has, at times, criminalized behaviors such as vagrancy, begging, driving without a license, verbal abuse and profanity, public drunkenness, and harassment primarily to establish order in citizens' daily lives. A review of laws in other countries also indicates that these crimes carry short-term imprisonment and fines. Interestingly, despite fundamental differences, minor offenses under Article 11 of the 1925 General Penal Code were punishable by imprisonment ranging from 2 to 210 days and fines up to 200 rials. Similarly, the punishment for lesser misdemeanors ranged from 11 days to one month of imprisonment, with fines between 201 and 500 rials, while the punishment for serious misdemeanors exceeded one month of imprisonment" (Norouzi, 2005b).

"One criterion for identifying petty crimes is the severity of their penalties. Another criterion distinguishing between serious and petty crimes is their scope, tangible impact, and the extent of the harm they cause. Thus, it may be said that, considering the eight levels of discretionary punishments classified under Article 19 of the Islamic Penal Code, crimes that carry discretionary punishments of levels six, seven, and eight can be regarded as petty and minor crimes" (Esfandiari & Nourpour, 2017).

Under Article 19 of the Islamic Penal Code, level six discretionary punishments include eight different types of penalties:

1. Imprisonment of more than six months up to two years
2. A fine of more than 60,000,000 rials (approximately $1,200) up to 240,000,000 rials (approximately $4,800)
3. Flogging from 31 to 74 lashes (and up to 99 lashes for offenses against public morality)
4. Deprivation of social rights for more than six months up to five years
5. Publication of the final court ruling in the media
6. Prohibition from one or more professional or social activities for legal entities for up to five years
7. Prohibition from public capital-raising activities for legal entities for up to five years
8. Prohibition from issuing certain commercial documents for legal entities for up to five years

The statute of limitations for crimes with level six discretionary punishments expires five years after the execution of the sentence. Additionally, conditions for reducing, converting, or suspending level six fines include having at least one mitigating factor and no more than two prior criminal convictions.

Level seven discretionary punishments are significantly less severe than the previous levels and are typically assigned to crimes with reparable consequences. A frequent question in legal discussions concerns what constitutes a level seven crime. For example, if an offender's act does not result in bodily harm or leave any lasting effects, liability is negated; however, in intentional cases where no settlement occurs, the offender may be sentenced to a level seven discretionary imprisonment. Level seven punishments are as follows:

1. Imprisonment from 91 days up to six months
2. A fine of more than 30,000,000 rials (approximately $600) up to 60,000,000 rials (approximately $1,200)

3. Flogging from 11 to 30 lashes
4. Deprivation of social rights for up to six months

It should be noted that if the punishment determined by the judge does not match any of the levels defined under Article 19 of the Islamic Penal Code, it is considered a level seven punishment. According to subsection (t) of Article 134 of the amended Islamic Penal Code under the Law on Reducing Discretionary Imprisonment, "in cases of multiple offenses of levels seven and eight, they shall be handled per the provisions of this article, and the aggregation of level seven and eight crimes with level six or higher does not increase the penalty for the latter. Instead, separate punishments are assigned for level seven and eight crimes per this article, and in any case, the most severe punishment shall be enforced."

The last classification of discretionary punishments, level eight, consists of the lightest penalties, which are subject to reduction or suspension at the judge's discretion. Under Article 19 of the Islamic Penal Code, level eight discretionary punishments include:

1. Imprisonment of up to three months
2. A fine of up to 30,000,000 rials (approximately $600)
3. Flogging of up to ten lashes

In English criminal law, crimes are classified based on their source or the method of prosecution. Crimes based on their source are divided into common law crimes, statutory offenses, and regulatory offenses. Many criminal offenses originated from common law courts, and even today, the definitions of certain crimes, such as murder, manslaughter, and general assault, can only be found in judicial precedents. A crime derived from common law retains its designation even if statutory law, such as the Homicide Act of 1957, modifies its defenses or punishments.

Historically, crimes were categorized as felonies and misdemeanors, but this classification was abolished under Section 1 of the Criminal Law Act of 1967 (Clarkson, 1995). Today, courts do not have the authority to create new crimes, as affirmed in the cases of *Knoller v. DPP* (1973) by the House of Lords and *Shaw v. DPP* (1962). Currently, statutory law is the primary source of criminal law in England. Some statutes, such as the Homicide Act of 1957, merely reform common law crimes, while others, such as the Criminal Damage Act of 1971, repeal and replace older laws.

Another classification in English criminal law is based on the method of prosecution:

1. **Indictable offenses**, which are tried in the Crown Court before a judge and jury, such as murder and aggravated theft.
2. **Summary offenses**, which are tried before magistrates, such as most traffic violations.
3. **Either-way offenses**, which may be tried summarily or on indictment, such as theft.

A further classification distinguishes between **arrestable offenses** and **non-arrestable offenses**. Arrestable offenses are serious crimes for which an offender can be detained without a warrant. Under Section 2 of the Criminal Law Act of 1967, offenses carrying fixed penalties or a possible sentence of five years' imprisonment qualify as arrestable offenses. Additionally, a statute may declare an offense arrestable even if its penalty is less than five years, such as under Section 12 of the Theft Act of 1968 (Rietzer, 2004).

When comparing the classification of petty crimes in English law with those in Iranian law, it is evident that offenses categorized under levels seven and eight in Iran closely correspond to petty crimes in England, which are handled summarily in magistrates' courts without formal indictment. Accordingly, higher-level discretionary punishments in Iran fall outside the scope of petty crimes with minimal penalties.

## 4. The McDonaldization of Criminal Justice Procedure

"McDonaldization" is a term introduced by the American sociologist George Ritzer. He defines McDonaldization as a process by which the principles governing fast-food restaurants extend to other sectors of society. This model is based on four key elements: (1) efficiency, (2) calculability, (3) predictability, and (4) control. Estimated justice, in selecting its tools, prioritizes these four elements over individuals' emotions and efforts toward rehabilitation and correction (Gholami & Babaei, 2010).

Efficiency refers to the optimal method for accomplishing a task. In this context, Ritzer assigns a very specific meaning to "efficiency." In the case of McDonald's customers, efficiency is the fastest way to move from hunger to satisfaction. Within McDonaldization, efficiency implies that all aspects of an organization are structured to minimize time (Ritzer,

2004, p. 89). "Regarding efficiency, given the massive volume of cases processed annually within criminal justice systems, achieving efficiency is a fundamental necessity, albeit often an elusive goal. Crime control mechanisms are less important than the ultimate goal of control itself. Proponents of efficiency seek to streamline procedures, expedite case processing, and reach resolutions faster" (Packer, 1968). This logic in McDonaldized criminal justice reflects a zero-tolerance policy (Gholami & Babaei, 2010).

"Zero tolerance" is a term in criminal law used to describe a policy of enforcing statutory law in a mandatory and non-discretionary manner. Some interpret this term as "enforcing the law rigidly and aggressively, without any leniency" (Dixon, 2003). Others define it as "a policing strategy for maintaining order as part of a broader set of strict crime-fighting approaches in specific areas" (Grabosky, 1999). "Zero tolerance refers to a policy or strategy of absolute intolerance toward undesirable behaviors such as violent acts or illegal drug use by imposing mandatory, severe sanctions upon the first offense" (Rietzer, 2004). "Excessive intolerance toward behaviors contrary to social norms manifests as rigid and uncompromising legal enforcement—essentially, a refusal to tolerate antisocial behavior through strict, inflexible, and unwavering legal application. In other words, zero tolerance refers to any policy that permits no exceptions" (Clear, 2000).

Based on the above definitions, "zero tolerance" can be described as the implementation of mandatory disciplinary strategies against antisocial behaviors, requiring law enforcement officials (typically the police) to react and impose mandatory penalties on individuals who violate pre-established rules of order, irrespective of the severity of the act or the offender's intent (Gholami, 2005).

As mentioned earlier, calculability is another principle of McDonaldization in criminal justice. Under this principle, objectives must be quantifiable (e.g., sales) rather than qualitative (e.g., personal taste). McDonaldization advances the notion that quantity equates to quality. If a large volume of a product is delivered to customers in the shortest possible time, it is perceived as a high-quality product. This component allows individuals to compare the value of what they receive against what they pay. Organizations encourage consumers to accept that receiving large quantities of products and services is only possible with significant monetary expenditure. Employees in these organizations are evaluated based on the speed of their work rather than the quality of their performance. In essence, "calculability relates to the quantitative aspects of McDonaldization. McDonaldized institutions can rapidly produce and distribute vast quantities of goods, enhancing efficiency. Moreover, calculability increases predictability and control within McDonaldized institutions" (Packer, 1968).

Additionally, predictability is another component of McDonaldization, referring to standardized and uniform services. "Predictability" means that regardless of location, individuals will receive the same service and product when interacting with a McDonaldized organization. This consistency applies to employees as well, whose tasks are repetitive, routine, and highly predictable. "In McDonaldized institutions, predictability ensures that products and services remain consistent across time and space. It is unsurprising that predictability provides consumers with a sense of security" (Rietzer, 2004).

"In the mid-1970s, U.S. legislators began replacing indeterminate sentencing—the most common form of sentencing at the time—with determinate sentences, and several states eliminated parole. This shift meant that every individual, regardless of circumstances, would know in advance precisely what punishment awaited them for committing a crime."

The final component of McDonaldized criminal justice is control. "Criminal justice employees are controlled by numerous laws and regulations. For example, the U.S. Constitution prohibits law enforcement officers from conducting unreasonable searches and seizures. It also restrains correctional authorities from imposing cruel and unusual punishments. Laws control judicial decisions through determinate sentencing principles and mandatory minimums. Criminal procedure laws dictate courtroom practices, and professional conduct rules, administrative policies, and internal regulations govern most criminal justice officials."

Furthermore, the control component extends to criminals and crime prevention. One prominent approach to crime control in society is the "broken windows theory." According to this theory, "if a broken window in a building remains unrepaired, it signals neglect, leading to further vandalism and the eventual

deterioration of the entire building, the neighborhood, and ultimately the entire community. The equivalent of a broken window in human behavior is a public drunk, a rude teenager, or a persistent beggar. If such 'broken windows' are left unchecked, disorder will escalate into more serious crimes because violent street crimes tend to emerge in areas where deviant behaviors go unaddressed" (Wilson, 1997).

The prevalence of petty crimes in a society creates a public perception that nothing is under control. Consequently, this perception fosters an environment where serious and major crimes can be committed without fear of punishment or legal repercussions. In other words, unchecked disorder and violence in a particular area serve as an implicit invitation for opportunistic criminals (Kelling & Coles, 1996).

## 5. Compatibility of McDonaldized Criminal Procedure Rules with Procedural Rules Governing Petty Crimes in Iran

### *5.1. Suspension of Prosecution*

The Code of Criminal Procedure of 2013 has established specific considerations for dealing with petty crimes. "In discretionary punishments of levels six, seven, and eight, the prosecutor may suspend prosecution after obtaining the accused's consent and, if necessary, securing appropriate guarantees. In discretionary punishments of levels six, seven, and eight that are subject to suspension, the judicial authority may, at the request of the accused and with the victim's consent, grant the accused a maximum period of two months to obtain the complainant's pardon or compensate for the damage caused by the crime" (Ashouri, 2015).

According to Article 81 of the 2013 Code of Criminal Procedure, for discretionary punishments of level six that are subject to suspension, if there is no private complainant or the complainant has pardoned the accused, or if the accused has compensated the victim's damages or arranged for compensation within a specific period with the victim's consent, and provided that the accused has no prior effective criminal conviction, the prosecutor may suspend the prosecution for a period of six months to two years, requiring the accused to fulfill one or more obligations outlined in Article 31. "The decision to suspend prosecution in the Code of Criminal Procedure is aligned with the principle of prosecutorial discretion, serving as an alternative to prosecution, allowing the prosecutor to suspend public prosecution for a specified period if they determine that the negative consequences of criminal proceedings and a conviction outweigh the benefits for society. If the accused refrains from committing another offense during this period, they will not be prosecuted for the initial crime" (Khaleghi, 2015).

It is evident that after the suspension period has elapsed without any violations by the accused or the discovery of prior effective criminal convictions, the original charge for which prosecution was suspended will be considered null and void. Additionally, "the decision to suspend prosecution can be appealed within ten days of its notification in the competent court." Therefore, if this decision obstructs the complainant from achieving their intended remedy, it is deemed prejudicial to them, and they may object to the suspension of prosecution if their damages remain uncompensated, no arrangements for compensation have been made with their consent, or they have not pardoned the accused. Similarly, the accused may object to the suspension if they seek to establish their innocence or if they consider the obligations imposed by the prosecutor beyond the legal limits defined in Article 81.

For a suspension of prosecution to be issued, three essential conditions must be met:

1. The accused must confess, and their confession must align with the case evidence.
2. The accused must have no prior effective criminal record.
3. The case must either have no private complainant, or the complainant must have consented to the suspension or withdrawn their complaint.

Issuing a suspension of prosecution is somewhat disadvantageous to the complainant, which is why such a decision is typically issued in cases where there is no private complainant or where the complainant has explicitly consented to the suspension or withdrawn their complaint. The suspension of prosecution reflects a lenient legislative policy, which contradicts the efficiency and zero-tolerance policy inherent in the McDonaldization of criminal justice.

### 5.2. *Referral to Mediation*

According to Article 1 of the 2016 Criminal Mediation Regulations enacted by the Cabinet: *"Mediation is a process in which the victim and the accused, under the supervision of a mediator, engage in discussions in a suitable environment regarding the causes, consequences, and effects of the alleged crime, as well as ways to compensate for the damages suffered by the victim. If an agreement is reached, the rights and obligations of both parties are determined."*

"The judicial authority may refer the case to a Dispute Resolution Council, an individual, or an institution for mediation with the mutual consent of the parties to achieve reconciliation. In this manner, the legislator seeks to decriminalize petty and minor offenses by adhering to the principle of minimum criminal intervention, thus avoiding labeling the accused as a criminal. Essentially, granting the accused a deadline to obtain the complainant's pardon or compensate for the damage caused by the crime, as well as referring cases to mediation, represents another instance of the legislator's leniency towards petty crime offenders" (Esfandiari & Nourpour, 2017).

Under Article 82 of the 2013 Code of Criminal Procedure, "in discretionary punishments of level six that are subject to suspension, the prosecutor may, at the accused's request and with the consent of the victim or private complainant, and upon obtaining appropriate guarantees, grant the accused up to two months to obtain the complainant's pardon or compensate for the damage caused by the crime. This deadline may be extended once more if necessary."

Additionally, "the prosecutor may refer the case to a Dispute Resolution Council, an individual, or an institution for mediation with the mutual consent of the parties to achieve reconciliation. This mediation process has a maximum duration of three months, which can only be extended once if necessary. In both cases, if the complainant pardons the accused and the offense is legally pardonable, the prosecution will be permanently dismissed. However, if the offense is non-pardonable, the prosecutor may suspend the prosecution for six months to two years after obtaining the accused's consent, provided that the complainant has pardoned the accused, the damages have been compensated, or an agreement has been reached for compensation, and the accused has no prior effective criminal conviction. The procedure will then proceed according to Article 81" (Khaleghi, 2015).

Mediation is an approach inspired by restorative justice principles, designed to compensate victims, facilitate reconciliation between parties, and remove petty crime cases from the formal judicial process, as stipulated in Article 82 of the Code of Criminal Procedure (Koushki, 2010). Furthermore, mediation aligns with a judicial diversion strategy (Mohammad Beigi Khortaei, 2013).

In practice, judges may refer certain cases to mediation or arbitration to avoid prolonged court proceedings. The mediator's role is to accelerate the resolution process and reduce trial delays, which aligns with the McDonaldization of criminal justice. Since speed and efficiency are key elements of McDonaldized criminal policy, mediation is an example of procedural acceleration that corresponds with McDonaldization's emphasis on efficiency.

### 5.3. *Summary Proceedings and Trial Without Indictment*

In general, summary proceedings are characterized by conducting hearings and interrogations during the trial session, with written submissions playing only a complementary role in structuring and organizing oral statements by the parties. In other words, summary proceedings prioritize the court session, while submitting written pleadings is optional.

"Summary proceedings are procedural mechanisms designed by legal systems to enhance the speed of criminal adjudication by eliminating certain formalities. This method is mainly applied to petty crimes, and the removal of procedural formalities is structured in a way that does not compromise fair trial principles. In Iranian law, trials without an indictment include direct court trials, court-ordered summons to trial, and oral prosecution by the prosecutor in court. Not all crimes require an indictment for trial, and in some instances, the law grants courts direct jurisdiction to hear cases without requiring an indictment" (Esfandiari & Nourpour, 2017).

In such cases, the prohibition of an indictment may stem from religious considerations (e.g., the prohibition on investigating offenses against public morality), criminological approaches (e.g., the differentiated treatment of juvenile offenders), or the necessity for expedited proceedings due to the minor nature of the

offense (e.g., discretionary punishments of levels seven and eight). Consequently, certain crimes are directly presented to the court without an indictment. The Code of Criminal Procedure explicitly specifies offenses subject to direct trial, including petty crimes classified under discretionary punishments of levels seven and eight.

According to Article 340 of the Code of Criminal Procedure, "cases involving discretionary punishments of levels seven and eight are directly referred to the court for adjudication without being investigated by the prosecution office." In such cases, the prosecution phase is bypassed, and the court directly issues a ruling.

"Trial without an indictment or summary proceedings is a procedural mechanism aimed at expediting criminal trials by eliminating certain procedural formalities. This approach is primarily applied to minor offenses, ensuring that the elimination of procedural requirements does not compromise the principles of fair trial. In Iranian law, trials without an indictment include direct trials before the court, court-ordered summons, and oral prosecution by the prosecutor. Among these, direct trials, which exclude the prosecution office from preliminary investigations, are the most contentious form of trial without an indictment. In this model, the court itself assumes the role of conducting preliminary investigations, which raises serious concerns about judicial impartiality due to the lack of separation between investigative and adjudicative functions" (Mosaddegh, 2016).

Additionally, the expansion of trial without indictment in Iran to cases involving religious punishments such as stoning and capital punishment for adultery and sodomy, as well as the broad jurisdiction granted to lower courts to adjudicate crimes outside the jurisdiction of provincial criminal courts, raises significant concerns regarding fair trial standards in Iran's criminal justice system.

### *5.4. Postponement of Sentencing*

The postponement of sentencing is a new legal mechanism introduced for the first time in Article 40 of the Islamic Penal Code. This provision is based on labeling theory in criminology and is intended as a means to mitigate the harmful effects of criminal labeling. The structure of this article is designed to rehabilitate offenders and reduce reliance on punishment. The court's issuance of a postponement order is similar to the suspension of prosecution, which is granted to prosecutors at the preliminary investigation stage (Mosaddegh, 2016).

According to Article 40 of the Islamic Penal Code, "for discretionary punishments of levels six to eight, the court may, after establishing the defendant's guilt and considering their personal, family, and social circumstances, as well as the circumstances leading to the crime, postpone sentencing for a period of six months to two years, provided that the following conditions are met:

(a) Existence of mitigating factors;

(b) Likelihood of offender rehabilitation;

(c) Compensation for damages or establishment of arrangements for compensation;

(d) Absence of an effective prior criminal conviction."

An effective conviction refers to a sentence that results in the loss of social rights, as stipulated in Article 25 of the Islamic Penal Code.

"The postponement of sentencing is a new legal mechanism borrowed from Western legal systems, particularly French law. This concept had no prior legislative precedent in Iranian criminal law, making Articles 40 to 45 of the Islamic Penal Code an entirely new development in Iran's legal system" (Mosaddegh, 2016).

The key distinction between postponement of sentencing and suspension of sentence execution is that in the latter, the type and severity of the punishment are determined, but its execution is suspended, whereas in postponement of sentencing, only the defendant's guilt is established, without specifying a sentence.

This legislative approach aligns with the predictability principle of McDonaldized criminal justice, as individuals can anticipate the legal consequences of their actions. However, it contradicts the efficiency and zero-tolerance principles of McDonaldization by promoting leniency instead of strict enforcement.

## 6. Conclusion

The analysis reveals that Iranian legislators have adopted a lenient and reconciliatory criminal policy concerning petty offenses, incorporating provisions that emphasize conciliation, mediation, and leniency. For instance, Article 81 of the Code of Criminal Procedure allows the suspension of prosecution for crimes carrying discretionary punishments of levels six to eight.

Similarly, Article 79 provides for the dismissal of prosecution in pardonable offenses, while Article 80 allows the archiving of cases involving discretionary punishments of levels seven and eight at the discretion of the judiciary. Furthermore, Article 82 authorizes the referral of minor offenses to mediation.

All these provisions are intended for petty crimes, reflecting a legislative policy aimed at streamlining the judicial system and prioritizing serious and dangerous crimes. To achieve this, the legislator has adopted lenient policies, emphasizing conciliation, arbitration, mitigation, and the avoidance of punitive and criminal interventions in dealing with petty crimes.

This lenient approach contradicts the efficiency principle and the zero-tolerance policy of McDonaldized criminal justice. However, in cases such as mediation and summary proceedings, the approach aligns with the McDonaldization model, as it accelerates case processing and reduces judicial backlog, fulfilling the McDonaldization principle of speed in criminal justice.

## Authors' Contributions

Authors contributed equally to this article.

## Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

## Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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## Declaration of Interest

The authors report no conflict of interest.

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## Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

## References

Akhondi, M. (1999). The Judiciary's Approach to Petty Crimes. *Journal of Legal and Judicial Affairs of the Ministry of Justice*, *64*(31), 13-18.

Ashouri, M. (2015). *Criminal Procedure, Volume 1 (18th ed.)*. Samt Publications.

Clarkson, C. M. (1995). *An Analysis of the Principles of Criminal Law (H. Mirmohammad Sadeghi, Trans.)*. Shahid Beheshti University Press.

Clear, T. R. (2000). *American Corrections, 6 th ed*. Wadsworth Publishing Company.

Dixon, D. (2003). Beyond zero tolerance.

Esfandiari, M. S., & Nourpour, M. (2017). Consequences and Challenges of Criminal Tolerance in Petty Crimes. *Detective Magazine*, *9*(39), 56-76.

Gholami, H. (2005). *Restorative Justice (3rd ed.)*. Samt Publications.

Gholami, H., & Babaei, Y. (2010). The McDonaldization of Criminal Justice. *Journal of Justice Law*, *70*(74), 153-186.

Grabosky, P. N. (1999). Zero Tolerance Policing(trends& issues in crime and criminal justice),5th ed.

Kelling, G. L., & Coles, C. M. (1996). *Fixing Broken Windows Restoring Order & Reducing Crime in Our Communities,2th ed*. Simon & Schuster.

Khaleghi, A. (2015). *Criminal Procedure, Volume 1 (27th ed.)*. Shahr-e-Danesh Publications.

Koushki, G. (2010). Alternatives to Public Prosecution in the Criminal Procedure System of Iran and France. *Journal of Public Law Research*, *12*(29), 327-350.

Mesgarani Torghabeh, M. (2003). Urban Crimes and the Need for Preventive Policy-Making. *Journal of Legal and Judicial Affairs of the Ministry of Justice*, *64*(33), 134-167.

Mohammad Beigi Khortaei, A. (2013). *The Prosecutor and Social Security (1st ed.)*. Mizan Publications.

Mohammad Nasl, G. (2015). *The Nature of Petty Crimes (1st ed.)*. Iran Newspaper Publishing.

Mosaddegh, M. (2016). *An Explanation of the Islamic Penal Code of 2013 with a Practical Approach (3rd ed.)*. Jangal/Javidaneh Publications.

Najafi Abrand Abadi, A. H. (1999). *Lectures on Criminal Policy (1st ed.)*. Shahid Beheshti University Press.

Norouzi, N. (2005a). *Criminal Policy Towards Petty Crimes and its Impact on Citizens' Sense of Security, with Emphasis on the Broken Windows Theory (Doctoral dissertation, University of Tehran, Faculty of Law and Political Science)*

Norouzi, N. (2005b). Petty Crimes Against Public Order. *Journal of the Faculty of Law and Political Science, University of Tehran*, *68*(517), 257-277.

Packer, H. (1968). *The limits of the criminal sanction,1th ed*. Stanford University Press.

Rietzer, G. (2004). *The McDonaldization of society,1th ed*. Forge Press.

Wilson, J. Q. (1997). Policing zera tolerance & the broken windows theory- workshop presentation, 1th ed.