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## A comparative analysis of suspect arrests without judicial authorization in Iranian and english law

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### Abstract

In cases involving evident or significant crimes, law enforcement agencies have the authority to arrest, detain, and investigate individuals. However, a critical gap exists in many legal systems, particularly in Iran, regarding comprehensive protocols and regulations to uphold the rights and dignity of arrested individuals during this process. While the Iranian legal framework provides for the written notification of charges, it remains silent on several internationally recognized legal safeguards essential for ensuring justice and protecting individual rights. These safeguards include the obligation to respect the fundamental rights of detainees, the assurance of their safety and dignity, and the provision of clear information regarding their rights. Additionally, practices such as recording interrogations, enabling arrested individuals to notify a lawyer or acquaintances about their detention, ensuring private consultations with legal counsel, and requiring the presence of impartial authorities during investigations are notable omissions. Other important protections are also missing, like the right to a lawyer while working for the police, judicial oversight of detention periods, and ways to make sure that illegal investigations are not carried out. In contrast, the English legal system incorporates many of these safeguards, ensuring adherence to the principles of justice and transparency. Such practices include supervision of the investigation process, strict time limits on detention without justification, and the presence of a lawyer to advocate for detainees at every stage. These measures collectively aim to balance the state's investigative powers with the protection of individual rights. The absence of these protections in Iran's legal system underscores a pressing need for reform to align with international standards and ensure a more equitable justice system. This study examines the legal and procedural discrepancies in the Iranian system and highlights the potential benefits of adopting practices from more established legal frameworks, such as the English legal system, to safeguard the rights of individuals during arrest, detention, and investigation.

**Keywords:** Conventional Reason; Arrest; Detention; Seizure; Blatant Crimes; Judicial Order; Police; Legal Safeguards; Human Rights; And Judicial Reform

## 1. Introduction

### 1.1. The Concept of Arrest and Its Legal Dimensions

Arresting individuals and depriving them of their liberty contravenes the rights to freedom and personal security of citizens. This stage lays the foundations of criminal proceedings, whose consistency and strength depend on adherence to the rules and principles of judicial engineering. Most of these principles and rules naturally aim to safeguard individuals' rights of defense and guarantee proper treatment for those arrested. Being imprisoned is considered a great hardship, and whatever is said about this right remains open to debate (Akhoundi, 2008: 144). Given the importance and role of the police in the criminal justice system and the undeniable impact of joint actions on the outcome of cases, it is necessary to examine the concept and criteria of police arrest in the legal systems of Iran and the United Kingdom. It is clear that the police have had to use harsh policies because of the rise of security-focused crime policies over the

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past ten years. This, along with the fact that there isn't any comprehensive or detailed legislation on the subject (Seyyed Esfahani, 2009: 49), has made it necessary to look into, focus on, and compare the range of activities the police carry out in the criminal justice system, especially in our country. The international community's tendency to criticize the judicial system of the United Kingdom, often regarded as a symbol, has also prompted comparisons between the rules and regulations governing police arrests in this country and local regulations. Furthermore, the Islamic justice system is essentially an accusatory system.

*1.1.1. This article's main questions are:*

- What are the concepts and examples of police arrests?
- What are the governing rules and regulations in the two legal systems?
- This research is based on the following assumptions:
- Arrest is a judicial decision that results in the deprivation of liberty for defendants.

The inappropriateness of using force, the written notification of charges, and the time limitation in police custody compared to judicial arrests are among the commonalities of the two legal systems in this area.

An explanation of key concepts

## **1.2. Liberty and Its Types**

The fundamental and essential result of the right to liberty is protection against unlawful arrest. In legal terminology, liberty means freedom from slavery or a condition in which, concerning public authority, an individual can use their creative power to live according to what they believe to be right. Types of liberty include:

- Political freedoms,
- Public freedoms,
- Individual freedoms (Jafari Langroudi, 2017: First Edition, 78).

## **1.3. Freedom of Movement**

The right to move freely to any desired place without hindrance from others is one type of individual freedom. Modern thinkers refer to this as "freedom of movement," which allows everyone to travel and stay anywhere within the country or abroad. This fundamental natural right also ensures protection from unjustified arrest.

## **1.4. Bodily Freedom**

There are various ways to restrict bodily freedom. Sometimes it entails complete deprivation, such as arrest, seizure, legal or illegal detention, imprisonment, or even abduction. Other times, it involves partial restrictions without complete deprivation of liberty, such as forced residence in a specific location under the guise of mandatory residence. This study focuses on one type of deprivation of liberty: arrest.

## **1.5. The distinction between arrest and detention**

Arrest means seizing or detaining a suspect or offender to deprive them of their freedom of movement (Jafari Langroudi, a.g.e. 1906). Similarly, arrest is defined as: Forcibly taking or restraining someone. Legal authorities may seize or detain a person in response to a criminal charge (Garner, 2004: 115). The term "arrest" literally means to seize or detain (Amid, 2010: 522). Terminologically, arrest refers to detaining someone to respond to charges brought against them (Mehra, 2013: 70). In other words, arrest refers to the deprivation of an individual's freedom by legal authorities to ensure their presence in response to a criminal charge. Legal authorities are not the only ones who can carry out an arrest; ordinary individuals with legal authorization or even without authorization can also carry it out. When another citizen or law enforcement arrests a citizen without a judicial order, this is known as an arrest of a citizen. Although the duty of arresting a suspect belongs to the judiciary and police, many countries today allow for the arrest of suspects by ordinary citizens, with relevant laws enacted. Under common law, anyone can arrest another person for violating a command. Before the 2012 criminal proceedings, there was no explicit legal provision recognizing citizens' right to arrest. However, Article 45 of the aforementioned law introduced this right in a new way. Iranian law articulates this right as follows, in contrast to the English legal system:

This Law A newborn baby requires legal explanations and interpretations, as well as examinations, to ensure its proper growth and development. Of course, prior to this, the country's jurists have debated whether to accept or reject the authority to arrest various citizens, based on their respective beliefs and values. In terms of terminology, the majority

of jurists believe that summonses are not independent of arrest, often viewing these two terms as synonymous. However, given the specialized nature of the current discussion and the impossibility of equating the two concepts, we can define arrest as a sudden action involving the temporary and violent physical restraint of the suspect and accused, such as the use of handcuffs. Or with a warning, the legal/stop warning is canceled and accepted. In principle, judicial officers should issue the summons based on the judicial authority's order, the defendant's previous summons, the defendant's failure to appear at the specified time, and in exceptional cases, without any justification. If the alleged crime is significant and the defendant's residence or profession and work are not known, there is no obstacle to his arrest. To put it another way, the judicial authority orders a summons, which the bailiff then executes (Goldoost, 2010: 73). Of course, despite the conceptual difference, there is not much difference between summoning and arresting in terms of practical effects (Salahi, 2008: 46). Despite the above-explained differences between the concepts of arrest and summons, it is important to note that the present discussion does not equate the concept of arrest with seizure and arrest, as these two have their own distinct areas. In fact, detention (sometimes called preventive detention) and arrest (sometimes called temporary detention) require the deprivation of the freedom of movement of the accused in a certain place (Khalaghi, 2009: 164, 165). Furthermore, unlike arrest, detention lasts for an extended period, sometimes extending until the conclusion of the investigation and the verdict (Ashouri, 1997: 155). In other words, arrest is the initial stage of deprivation of liberty, and its continuation is referred to as detention.

## 1.6. The Activity Of An Arrest

### 1.6.1. A Thematic Issue or Legal Order

The UK system correctly states that arrest is a subjective concept rather than a legal one. An arrest is a situation. Whether or not a person is arrested is not a matter of the lawfulness of the arrest; rather, it is a matter of whether or not he is deprived of his liberty to go where he wishes. *Daws v. ppp* reinforced this definition. In this case, a police-set lock automatically closed the car door, trapping an offender who had forced his way inside. No express statement of arrest is required. When authorities determine that the arrested person cannot leave, they make an arrest. Every arrest involves depriving a person of his liberty to go where he wishes, but not every deprivation leads to arrest. The police may interfere with people's freedom of movement in different ways that do not (temporarily) lead to arrest. An example is the courts' acceptance that the police may detain a person or persons to prevent a breach of the peace without resulting in an arrest. Another example is the lawful search of a person (during which the police may use the force reasonably necessary to carry out the search, for example, by forcibly detaining the person), which is considered by the courts as nothing more than an arrest. The boundary between arrests and other forms of detention is not clearly defined. The basic structure and official function of an arrest involves depriving a person of their physical liberty to aid in the investigation of a crime or to guarantee their presence in court. Of course, arrests can serve both protective purposes, such as the detention of individuals who are intoxicated, children, or those with varying health concerns, and preventive purposes, such as the formal detention of a person to prevent a breach of peace (Sanders and YoTo put it simply, an arrest happens when a police officer declares a person under arrest, applies force to detain them, or verbally or in practice threatens to use force if necessary to prevent the person from moving. son from moving. If the expression is not used clearly, in this case, the person concerned is not considered to be under arrest. Naturally, this becomes particularly crucial when the individual under arrest is intoxicated or has impaired hearing.

### 1.6.2. History of Citizen Arrests

A comprehensive examination of emerging issues requires an investigation into their historical background. Why is this necessary? Historical research serves as the foundation for understanding any phenomenon in the present. The historical roots of citizen arrests trace back to England, to a time when law enforcement officers were rare or nonexistent. In such circumstances, the responsibility of maintaining public order fell upon private individuals (Anderson and Gardner, 2012: 386). Around 900 AD, Danish and Anglo-Saxon culture deeply embedded the responsibility of maintaining peace and order in society.

This period established the tradition of citizen arrests. Local order became a shared responsibility, with all men living in a specific area being collectively accountable for maintaining peace in various ways. The Frankpledge system reorganized earlier institutions and practices after the Norman conquest of England in 1066 AD. Individuals bound to the king by an oath of loyalty or kinship shared the responsibility of maintaining peace under the "Frankpledge" system (Hollin, 2013: 238-239). Indeed, in medieval England, citizen arrests were a vital part of law enforcement. Criminal prosecutions began when a citizen brought the accused before a judge. This citizen could be the victim of the crime or the person who apprehended the offender in the act (Radzinowicz, 1956: 76).

Sheriffs also encouraged people to perform citizen arrests, emphasizing the active participation of capable individuals in towns and villages under their jurisdiction. During this era, the right to arrest rested on principles similar to those

governing a sheriff's or police officer's authority (Grossack, 1994: 2). Moreover, arresting a fellow citizen or calling for help was not merely a right but, in some cases, a duty. For instance, if someone knowingly allowed a thief to escape without raising an alarm, they would have to either compensate for the theft's damages or swear that they were unaware of the thief's criminal intentions. Additionally, anyone who heard another's cry for help but ignored it was required to pay the king's compensation or free themselves by taking a full oath. Although this duty has persisted into modern times as a distinctive feature of common law, the practice of private individuals performing arrests is not unique to England's legal system. For example, the Code of Hammurabi held citizens present at a crime scene responsible for arresting the perpetrator. McClean (1993: 236) deemed the failure to fulfill this duty a compensatory liability.

It is important to note that England did not organize professional police forces until 1829 AD. At that time, police powers regarding citizen arrests were no greater than those of ordinary citizens. Throughout the history of England's legal system, the justice system has highly trusted and valued citizens. Even today, the distribution and reinforcement of responsibilities within social institutions, especially police forces, ensure the preservation of citizens' powers to the highest degree (Parvizifard, 2012: 156). However, with the passage of the Prosecution of Offenses Act in 1985, marking the birth of the Crown Prosecution Service, England finally moved away from the idea that prosecuting offenders was solely the duty of citizens, instead assigning this responsibility to the government (Goudarzi, 2005: 62).

In Iran's legal system, prior to the approval of the 2012 Criminal Procedure Code, there was no explicit provision addressing the right to arrest. Scholars held differing opinions on the matter; some recognized this right based on other criminal law principles, while others denied its existence. Indeed, it would be illogical to convict a citizen who apprehends a dangerous fugitive fleeing a crime scene. Now, we must firmly establish the foundation for this right. At a glance, fundamental principles such as protecting public order and interests, ensuring the defendant's appearance in court, preventing the accused from fleeing or conspiring, deterring repeat offenses, and supporting both the victim and the accused justify arrests. In addition to these cases, legal scholars without explicit legislative guidance have sought other documents to validate this right. Among these sources, law enforcement is particularly important. The defendant's prosecution and punishment, and the legitimate defense of oneself or others, are subsets of these factors. Even the single article approved in 1976 on avoiding assistance to the injured and eliminating life-threatening risks, as well as the Islamic institution of enjoining good and forbidding evil, has been cited.

Perhaps these disagreements, coupled with the lack of a legal document, prompted lawmakers to draft a relevant provision to end the debate. Consequently, discussions about the background of the right to arrest citizens occupy a limited space in Iran's legal system. Note that Article 8 of the Constitution aligns with this issue. In 2014, the Islamic Consultative Assembly approved the law for protecting those who enjoin righteousness and forbid evil, consisting of 24 articles and 19 clauses. The Speaker of Parliament eventually ratified and enacted this law, despite objections from the executive branch. Importantly, this law does not explicitly grant citizens the authority to arrest as part of public order enforcement.

Article 4 of the law stipulates: "The levels of enjoining beneficial behavior and forbidding evil include the heart, speech, writing, and action. The levels of speech and writing are the responsibility of individuals, the people, and the state, and their implementation is the exclusive duty of the government within the boundaries and circumstances prescribed by law." In this context, Article 17 requires the Basij organization to take action within legal frameworks by employing Basij members to promote and implement enjoining beneficial behavior and forbidding evil at the level of speech. However, Article 5 of the law prohibits harm to dignity, life, property, residence, work, privacy, and rights in the implementation of enjoining good and forbidding evil, except as prescribed by law. In essence, this article permits interference with individual rights and considers violations of freedoms permissible within the framework of general principles and laws. One of the most notable manifestations of this is undoubtedly the arrest of citizens under the conditions outlined in criminal law.

### *1.6.3. Citizen Arrest Conditions*

To grant citizens the right to arrest others, legislators have established both positive and negative conditions to prevent misuse of the law and chaos that may arise from its use. Furthermore, the act of arresting individuals clearly restricts citizens' freedom, necessitating specific conditions and rituals (Newburn and Neyroud, 2013: 6). The legal systems of Iran and England both follow this rule and accept the right of arrest only under special circumstances and for crimes. Today, common law has limited the theory of citizen arrests. The Police Act is the first and most important new legislation in this area. Additionally, the Criminal Evidence Act of 1984 explicitly states the conditions for arrests and detention, both for police forces and other citizens. Article 24 of this law states: "Anyone who has reasonable suspicion that a person has committed an arrestable offense, or that such a person is about to commit an offense, may arrest that individual."

Similarly, paragraph 1 of Article 45 of Iran's Criminal Procedure Code, approved in 2012, states the right of citizens to intervene and arrest: "Under subsections (b), (c), and (t) of Article 302 of this Code, in the absence of judicial officers, all citizens may take the necessary measures to prevent the offender's escape and preserve the crime scene." While some argue that this authority is different from an arrest because officers can only use coercive measures like handcuffs or weapons during an arrest (Shakeri et al., 2011: 101), the author maintains that the most crucial step in "preventing the escape of the offender" is to detain and take custody of the individual. Only when it is impossible to prevent the suspect's escape, concealment, or collusion in any other way do we take this step. If not, citizens have the right to arrest and detain the suspect. Upon examining the relevant legal articles, it becomes evident that the possibility of intervening in crimes depends on two conditions and a specific time frame.

While differences exist in the discourse of lawmakers in the two countries, the necessity of arrest remains the most important condition for realizing a citizen's right to arrest. We will explain and analyze these conditions below.

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## 2. Opportunity for intervention in specific crimes and times

### 2.1. Regarding the Type of Crime

According to Article 24 of England's Police and Criminal Evidence Act, the first condition for citizens to intervene and arrest a suspect is that the crime in question must be among arrestable offenses. For the first time, criminal law divided offenses into two categories in 1967:

- *Offenses with arrest authority.*
- *Offenses without arrest authority.*

It is worth noting that arrestable offenses refer to crimes whose penalties are specifically defined by law. Such crimes allow for the arrest of offenders without the need for an arrest warrant. Examples include: Crimes with a statutory sentence, such as premeditated murder, are punishable by life imprisonment. b. Crimes punishable by five years or more imprisonment if the offender is 21 years or older, such as criminal damage to property (excluding arson). c. Other specified crimes (e.g., customs offenses or certain sexual offenses in public spaces).

Now, Article 110 of the Police and Organized Crimes Act, approved in 2005, has replaced Article 24 of the aforementioned Act. In summary, the law preserved existing powers and, in some cases, expanded them. For example, its application extended from arrestable offenses to all indictable offenses. Thus, citizens can arrest individuals without an arrest warrant (Sanders, Young, and Burton, 2010: 153).

Upon examining the relevant legal articles, it becomes evident that the possibility of intervening in crimes depends on two conditions and a specific time frame. While differences exist in the discourse of lawmakers in the two countries, the necessity of arrest remains the most important condition for realizing a citizen's right to arrest. We will explain and analyze these conditions below. Clarifying what constitutes indictable offenses is necessary to understand citizens' right to arrest suspects for crimes. Contrary to the previously stated expansion of citizens' powers under the Police and Organized Crime Act, these indictable offenses actually cover a narrow range of offenses, including simple charges. In this Act, the term "indictment" does not simply refer to offenses prosecuted by indictment. Rather, in addition to this category of offenses, it also includes crimes handled in two ways—either prosecuted in magistrates' courts or under indictment in criminal courts (Lloyd, 2005: 126). In other words, citizens have the right to arrest suspects for both single and dual offenses. Therefore, the view of some Iranian authors, who argue that "in fact, all crimes are arrestable if the conditions stipulated in the law are met" (Shakri and Jadi Hosseini, 2012: 103-104), is incorrect. First, the English legislator specifically mentions indictable offenses in the text of the article. No mention would have been needed if it intended to include all crimes. Second, the legislator may conduct prosecution of dual offenses in either magistrates' courts or criminal courts, depending on various factors. Similar to the English legal system, the Iranian legislator does not allow citizens to intervene in all crimes or take necessary measures to prevent the suspect's escape and preserve the crime scene. After that, Note 1 of paragraph 1 of Article 45 of the Criminal Procedure Code says that the crimes it talks about are only those in Article 302 subsections (a), (b), (c), and (t). Therefore, to understand the legislator's reasoning behind this decision, it is first necessary to enumerate these crimes.

### 2.2. Historical Background of Citizen Arrest

The comprehensive examination of emerging issues requires investigating their historical background. Why so? Such historical research forms the foundation for understanding any phenomenon today. The historical roots of citizen arrests trace back to England, when law enforcement officers were rare or non-existent. In such cases, the responsibility

for maintaining public order fell on private individuals (Anderson and Gardner, 2012: 386). Approximately 900 years ago, society took on the responsibility of preserving peace and order, deeply embedded in Danish and Anglo-Saxon culture. From this period onwards, the tradition of citizen arrests established itself, making the maintenance of local order a collective responsibility. Consequently, all men living in a particular area assumed responsibility for maintaining peace in certain ways.

The Frankpledge system reorganized previous institutions and rituals after the Normans conquered England in 1066. This system divided the responsibility of maintaining peace among individuals who pledged loyalty or kinship to the King (Hollin, 2013: 238-239). Indeed, citizen arrests were a significant part of law enforcement in medieval England. Criminal prosecution began when a citizen brought a suspect before a judge. This citizen could either be a victim of the crime or someone who arrested the criminal in the act (Radzinowics, 1956: 76).

Sheriffs also encouraged individuals to make citizen arrests by emphasizing the active participation of influential people in their cities and villages. At that time, the right to arrest depended on authority akin to that of a sheriff or police officer (Grossack, 1994: 2). It was not just a right but, in some cases, a duty to arrest a citizen or call for help from others. For example, if someone knowingly allowed a thief to escape without raising the alarm, they would be required to compensate for the theft or swear that they were unaware of the person's guilt. Additionally, anyone hearing a cry for help but ignoring it would be required to pay royal compensation or free themselves with a complete oath.

This duty remains a significant feature of common law in modern times. Moreover, arrests by private individuals were also features of other ancient legal systems. For instance, Hammurabi's Code held citizens present at a murder or theft scene accountable for arresting the criminal, and failure to do so resulted in compensation liability (Maxwell, 1993: 236). It is important to note that England did not organize professional police forces until 1829. Police arrest powers were no greater than citizens'. Citizens, as part of law enforcement, have garnered much trust and value throughout the history of this country's legal system. Even now, responsible social institutions, especially the police, maintain the highest level of oversight and preserve the powers of citizens (Parvizifard, 2012: 156). However, with the adoption of the Criminal Prosecution Act in 1985—marking the birth of the Crown Prosecution Service—England finally moved away from the idea that criminal prosecution was always the duty of citizens rather than the government (Goudarzi, 2005: 62). Although there was no explicit provision regarding the right of arrest in Iran's legal system before the adoption of the Criminal Procedure Code in 2012, legal scholars held differing views on the matter. Some recognized this right based on other criminal law institutions, while others argued that it was absent. Indeed, it defies logic to convict a citizen for apprehending a dangerous killer who is fleeing the crime scene. We now need to establish the foundation for this right. On a broader level, basic principles and objectives, such as maintaining public order, ensuring justice and accessibility for the accused, preventing the escape or collusion of the perpetrator, and supporting both the victim and even the criminal, justify arrests. In addition to these cases, legal scholars who did not have explicit texts before them sought other documents to justify the right of citizens to arrest individuals.

Among these justifications, law enforcement plays a crucial role. In other words, factors like self-defense or the need to eliminate immediate danger are subsets of these arguments. They even cite the Islamic doctrine of enjoining good and forbidding evil. Perhaps the absence of a legal document and the resulting disputes prompted lawmakers to address this matter in legislation, ending the debate over differing opinions. As such, the discussion about the historical background of citizen arrests occupies little space in Iran's legal system. Article 8 of the Constitution must also be considered. In 2014, the Islamic Consultative Assembly approved the Protection Law for Enjoining Good and Forbidding Evil, consisting of 24 articles and 19 clauses. Despite objections from the executive branch, the law, eventually signed and implemented by the Speaker of Parliament, contains an important provision indicating that this law does not explicitly grant citizens the authority to arrest as a matter of public order.

Article 4 asserts that the levels of enjoining good and forbidding evil encompass the heart, speech, writing, and action. Speech and writing levels are government and citizen responsibility. Implementation is exclusively the duty of the government within the limits defined by law." In this context, Article 17 obliges the Basij Organization to take action within legal frameworks by employing Basij members to promote and implement enjoining beneficial behavior and forbidding evil at the level of speech. However, Article 5 of the law states: "In implementing enjoining good and forbidding evil, there shall be no violation of dignity, life, property, residence, work, private life, and rights except in cases provided by law." Indeed, this article allows for intervention in rights and permits violations of personal freedoms within the framework of general principles and laws. One of the most significant manifestations of this is undoubtedly the arrest of individuals under the conditions stipulated in criminal law.

### 2.3. Necessity of Arrest

Both the Iranian and English legal systems have reported the "Principle of Necessity" as one of the most important conditions for citizen arrests. On one hand, this condition is a logical axiom; on the other, legal provisions have also emphasized it. In England, the 2005 Police and Serious Organized Crime Act applied the right of arrest. It subjected citizen arrests to the "principle of necessity" by explaining that the presence of the other two conditions for citizen arrest demonstrates the necessity principle (Burton, Young, Sanders, 2010:153).

First, a citizen must believe that it is impossible for a police officer to normally arrest the suspect. Secondly, the citizen must have conventional reasons to believe that the arrest is necessary for one of the following: preventing physical harm to any person, preventing the loss or destruction of the arrested person's property, protecting the arrested person from self-harm until a police officer can assume responsibility, or preventing the individual's escape (Others & Sanders, 2010:153). This restriction does not apply to police officers, who may arrest and detain individuals based on reasonable suspicion of a crime or fault. Indeed, the criterion for police arrests is the presence of reasonable grounds for suspicion (Orfeild, 2015:15). Even if no crime is found, police are not liable. However, citizens may only arrest individuals who have committed a crime and are subject to legal repercussions if they make a mistake, unlike police officers. A shopkeeper illustrated this situation by arresting a suspect for theft and assault after he took a package of chocolates from a store. Despite the suspect's acquittal of theft, the court convicted them of unlawful assault. However, the Court of Appeal ruled that even if there was reasonable suspicion, the arrest itself was illegal if no theft occurred, leading to the overturning of the conviction for unlawful assault. Resisting an unlawful arrest is not a crime (Sanders et al., 2010:153).

Thus, if a citizen makes an error in identifying a crime, the other party has the right to file a lawsuit for illegal arrest or seizure. In contrast to police officers, citizens generally do not receive institutional support for their actions (Feldman, 2002:329).

In Iranian law, two general rules govern the possibility of citizen arrests, reflecting the "principle of necessity." First, the crime must be obvious, and second, judge must not be present. Below, we briefly analyze these conditions. We divide crimes into evident and non-evident categories based on their material elements and observations. Many countries recognize this distinction in their laws (Sharifi, 2007:10). However, England does not have a legal institution named "evident crime". Nonetheless, an evident crime refers to an offense that has occurred or is visible to the police or the public (Ansari, 2010:32).

Article 45 of the Iranian Code of Criminal Procedure of 2013 does not define evident crimes but provides examples in seven paragraphs. These crimes demonstrate greater audacity and impudence by the accused, with stronger evidence against them. However, not all examples cited in the text, including paragraphs C, D, and E, are inherently evident. Thus, using the title "evident crimes" for naming these offenses is possible. However, identifying such crimes is not entirely feasible. Citizens have the right to arrest the suspect if they meet the requirements of this law. This is because the nature of evident crimes necessitates urgency and immediacy, which are incompatible with judicial and police procedures. The role of police powers in dealing with these crimes is significant. Of course, if lawmakers expect ordinary people to correctly recognize such cases, they should first provide the necessary education. Schools, universities, official institutions, and non-governmental organizations can provide this education through various means, including mass media such as radio and newspapers, and courses on the level of crimes and violations.

In Iranian law, another rule governing the possibility of citizen arrests is the absence of judicial officers. Ensuring public safety and security through law enforcement is a direct and immediate responsibility of officers. Officers are at the forefront of the criminal process and often face citizens as plaintiffs, suspects, or defendants. Crimes are usually discovered and reported by law enforcement first. Despite their importance in society, these forces may not be present at or after the crime scene. Criminals also seek to commit crimes outside the view of law enforcement to evade justice. Therefore, the absence of judicial officers is entirely necessary and justified for ordinary people to intervene in the criminal process. When police or other officials are present, others should not intervene.

### 2.4. Limits of Citizens' Authority in Arrests

Citizens do not possess absolute authority when dealing with crimes and cannot act as they wish under the guise of maintaining order or discovering offenses. Like police and other judicial officers, they lack practical freedoms and must act according to legal regulations. Indeed, in conflicts between individuals' rights and freedoms and the maintenance of public order and interests, neither is superior to the other. The law correctly defines the scope of actions for police and other individuals. In other words, the detection of crimes, pursuit and arrest of criminals, and investigation and handling of allegations must adhere to the law and the correct, reasonable interaction of legal elements. The criminal process

must be free of any personal whims, abuses of power, or improper application of actions. This is because the accused and the guilty have human dignity and citizenship rights, but the accused may not be guilty. Thus, we cannot disregard their citizenship rights by accusing them (Alidousti, 2005:60).

## 2.5. Scope of Actions

Under English law, a citizen's arrest does not grant access to additional powers and authorities, such as conducting searches or taking samples from a corpse. Most citizen arrests occur in urgent circumstances that necessitate arrest without a warrant (Walters Halibozek, Fischer, 2012:106). For example, today, numerous arrests by citizens occur, especially during thefts from stores. However, the principle of minimum intervention necessitates promptly handing over the arrested individual to the police. That is, a citizen's arrest must quickly transition into a formal judicial arrest, typically executed by the police or a magistrate. Sometimes it's best to temporarily move the suspect. Legislation does not cover this issue, but the case of *John Lewis Company v. The Times* mentions it. In this case, the legitimacy of a suspect's arrest by a store employee and subsequent questioning by the store manager stemmed from claims that the suspect was acting on behalf of another individual (Saunders and Others, 2010:154). Another issue involves informing the suspect about the reasons for their arrest, which is regarded as one of their defense rights. Knowledge is power, and suspects must adequately and correctly understand their situation and the reasons against them. In English law, this requirement applies not only to police officers and judicial authorities but also to citizens making arrests. Therefore, any individual arresting another must immediately, or as soon as possible, inform the arrested person of the reasons for their arrest. This rule is unavoidable, even if the reasons for the arrest are obvious (Parvizifar, 2012:159).

Official statistics from the British government indicate a fivefold decrease in citizen arrests over the past decade. In 2002, citizens in London alone made over 14,000 arrests, but by 2011, this figure had dropped to less than 2,000 cases. The most significant factor in this decrease is the establishment and functioning of police social support officers, or "social support officers," with certain powers. These officers primarily handle citizen arrests and detentions, supported by reforms under the 2005 Police and Organized Crime Act (Hughes, 2012:18).

Iranian law defines the limits of citizens' authority in dealing with crimes by using the phrase "to prevent the offender from escaping and preserve the crime scene." The question emerges whether this phrase solely refers to the right of arrest or includes other measures. One of the most important aspects of this provision is citizens' arrest rights. Citizens can arrest and detain offenders if no other means can prevent them from escaping. Similar to English law and general principles, this detention period is not indefinite. To facilitate necessary legal proceedings, the police or other judicial officials must hand over the suspect at the earliest opportunity or at the crime scene. "Preserving the crime scene" is another option that requires safeguarding the evidence and causes of the crime for future use. Preserving the crime scene may involve measures such as local inspection, entering and searching homes and premises, or seizing the tools and equipment used by the crime. Do ordinary citizens possess all these powers? While it may initially seem logical to grant individuals such rights, granting unlimited authority contradicts the exceptional and minimal nature of this right. Even judicial officials have not been granted such broad powers by the legislator, except in cases of obvious crimes. Moreover, these extensive powers could violate the suspect's rights. Not only could this lead to an expanded interpretation, but it could also create opportunities for abuse. However, we cannot narrowly interpret or limit the law's text to the right of arrest, as this interpretation contradicts the clarity of the law's language. Thus, to avoid the disadvantages of either extreme interpretation, it is possible to propose the rule of "necessity of action." This rule states that when it is necessary to prevent the offender's escape or preserve the crime scene, ordinary citizens, like law enforcement officers, have the right to take appropriate action. Therefore, when necessary, authorities may permit measures like local inspection, entering and searching homes and premises, and seizing tools and equipment related to the crime. However, actions such as interrogating the suspect, witnesses, or crime scene observers; conducting scientific or medical tests; or obtaining expert opinions are unnecessary until law enforcement arrives and will be conducted directly by law enforcement or at the request of judicial authorities. Of course, we cannot make a definitive ruling in every case. Therefore, the judicial authorities have the authority to determine necessity. Consequently, the scope of citizens' authority in dealing with crimes in Iran extends beyond mere arrest and encompasses a broader range than in the English legal system. Regarding the suspect's right to know the reasons for the arrest and the obligation to inform them, Iranian laws remain silent on this matter. Therefore, the absence of legal documents and mechanisms clearly precludes the imposition of such a duty on citizens. However, in practice, logic dictates that anyone arresting another must also explain the reasons for the arrest.

## 2.6. Limits of Coercive Force

The limits of coercion and the use of force are among the most crucial issues to address under the conditions of citizen arrest. Human dignity and rights closely intersect with this area. International human rights documents and the laws of both advanced and developing countries support humans as honorable beings. Thus, individuals enjoy immunity from



arbitrary and illegal assaults and arrests, in addition to their right to security. In England, ordinary citizens, like police officers, may use traditional coercive force to conduct lawful arrests. The reasonableness of coercion depends on necessity, which must consider all circumstances, including the severity of the crime, the suspect's resistance, and other related factors. Excessive use of force may also lead to accusations of illegal arrest. Therefore, in English law, the use of coercive force must always be traditional and reasonable (Newburn and Others, 2013:7). Various laws, such as the 1967 Act, the 1998 Human Rights Act, the 1998 Criminal Code, and the 2002 Police Reform Act, mention this principle. In Iranian law, the previously explained "necessity of the case" criterion allows the use of coercive force against an arrested individual. Therefore, the law permits the use of force when apprehending the suspect is impossible or if they intend to escape. However, we must also adhere to the principle of proportionality, limiting violent actions to those that reduce the likelihood of arrest. One of the factors justifying actions is "the application of significant law," which can legitimize individuals' actions in this area. The critical point is that Iranian law remains silent on this issue, which could lead to abuse and various problems. Now, interpretations must rely on general principles. Due to the novelty of the subject, judicial procedures have not yet adopted a specific position. However, it would be appropriate for the legislator to define precise levels of violations in this area. This is because human dignity, the right to freedom of movement, and immunity from illegal assaults are critical rights. Individuals have security rights against both the government, including police officers, and other citizens. Therefore, we must develop, approve, and interpret laws in this area with minimal interventions.

### **2.7. Conditions for the Execution of the Defendant's Arrest**

The execution of a defendant's summons necessitates careful consideration of the following issues, specifically the delivery of the summons to the defendant and the absence of legal justifications for the defendant's non-compliance.

### **2.8. Summons are delivered to the Defendant**

Article 111 of the Criminal Procedure Code mandates the issuance of an arrest warrant, which includes the defendant's details and the reasons for the arrest. According to Article 115 of the Criminal Procedure Code, judicial officials must present and communicate the original summons to the defendant during the arrest to ensure they understand their legal position and cooperate with them (Khalghi, 2008: 171). Judicial officials must not serve a copy of the summons or even a replica of the original document to the defendant. Enforcement officers cannot execute the arrest if they do not present the defendant with a summons.

If officers arrest defendants without presenting a summons, they are considered in violation of the law. In England, an arrest is executed through a judicial order by informing the person of their detention. The police officer must present the arrest record to the defendant (Eby, 2008: 12). Although Iranian law does not explicitly mandate it, Article 51 of the British Police Act mandates that the officer informs the suspect of the reasons for their arrest as soon as possible, even if the arrest record is unavailable at the time. If a suspect claims to resemble the arrested person in name or appearance, they must provide identification documents to prove their innocence. Judicial officials will release the individual if official documents confirm that they are not the suspect. However, if doubts about the person's identity remain, Article 2, Clause 3 of the 1963 Police Law requires transferring the suspect to police headquarters for identity verification. The law does not specify the duration or scope of actions that judicial officials may take to verify identity, leaving these matters to the discretion of the authorities. Special attention is needed. According to Article 46 of the British Police Act, the police in the UK may use three methods for identification: witness identification, fingerprinting, and sample collection, all of which serve to establish the suspect's identity. Regarding the rights of the defendant, there is no specific law in either Iran or England regarding the timeframe for identity verification by police or judicial officials.

### **2.9. Absence of legal justifications for arrest**

In Iran, if a defendant fails to appear within the prescribed period after being summoned by the judicial authority, they may provide justifications. Article 171 of the Criminal Procedure Code and its notes outline valid excuses. If these excuses are accepted, the defendant must remove the obstacles to their appearance. If valid excuses are presented and accepted by the investigator or judicial authority, the defendant is not obligated to appear for three days, necessitating a new summons. However, there is no provision to allow defendants to present legal justifications during the execution of the summons until they appear before the judicial authority. If the judicial authority were aware of these justifications, they would not issue an arrest warrant and would defer the matter until the justifications were resolved. If a summons has been issued and delivered to the judiciary, and legal justifications are presented during its execution, Article 178 of the Criminal Procedure Code requires enforcement officers to promptly seek orders from judicial authorities. They should not delay the matter at their discretion. In cases where the defendant cannot appear due to illness or other reasons, the investigator or judicial authority must bring them before the court under Article 187 of the Criminal Procedure Code.

## 2.10. Enforcement Officers, Courts, Judicial Authorities

Article 53 of the Criminal Procedure Code defines enforcement officers, categorizing them as general and special enforcement officers. Paragraph 1 of this article identifies prosecutors as the Iranian Police Force, responsible for the arrest of suspects. Generally, the participation of special officers is equivalent to the Criminal Procedure Code in specific situations (Akande, 2010: 155), such as enforcing the arrest of defendants in custody who refuse to appear in court.

In this case, special officers documented in Article 53 of the Criminal Procedure Code, including the commander, deputy, and prison officials, are subject to enforcement orders for the defendant's arrest. In English law, arrests are executed by the local police under a judge's order. Divisions were established in 1974 to maintain law and order in England. According to Article 90 of the 1996 Police Act, their jurisdiction extends throughout England. In Iranian law, judicial officials can only perform their duties within their designated areas of jurisdiction. This excludes administrative or preventative employees, such as officers, from performing judicial tasks (Shakeri and Jedi Hosseini, 2014: 31). However, according to Article 2, Clause 1 of the 1989 Police Act, officers performing policing duties are considered judicial officials. Regarding conscripts, only those working in the police force are judicial officials, as documented in the note to Article 29 of the law. They cannot be considered judicial officials or entrusted with executing arrest orders unless requested by the investigator or judicial authority.

If a defendant summoned by an investigator or judicial authority refuses to comply, this does not constitute the crime of disobedience, as such a crime requires a positive act (Shakeri, Rastgari, 2014: 195). However, if the defendant or another person obstructs the arrest, they commit the crime of disobedience under Article 607 of the Islamic Penal Code. In English law, refusal to cooperate with the police is not grounds for judicial action against the individual (Stone, 2006: 72).

Clause 5 of Article 13 of the 1996 British Police Act states: "Any person resisting the police or deliberately obstructing the performance of police duties commits a crime." Thus, resistance against government officials is not clear-cut and varies depending on the situation. Judicial officials cannot refuse to arrest a defendant, even if it occurs after working hours, as this issue does not remove their status as judicial officials during the period between shifts. According to Article 115 of the Criminal Procedure Code, officers may request assistance from others in arresting defendants. If this request is unreasonably denied, it does not constitute a crime for the other officers involved. Judicial authorities are responsible for determining the legality of the defendant's actions.

In English law, based on Section 2 of Article 24 of the Police Act and the 1984 Evidence Act, individuals not affiliated with law enforcement can execute arrests. However, under Article 111 of the 2005 Dangerous Organized Crime Act, citizen arrests require two conditions: 1) The citizen must believe it is impractical for a police officer to conduct the arrest, and 2) The citizen must believe the arrest is necessary to prevent harm, property damage, or escape until the individual is handed over to the police. In Iran, citizens can only make arrests for evident crimes under Article 45, Note 1, of the Criminal Procedure Code, or for crimes listed in Clauses A, B, C, and D of Article 302 of the Criminal Procedure Code if no judicial officials are present.

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## 3. Scope of Execution for the Defendant

Examining the "place of execution of the summons," "location for the arrest," and "timing of execution" can shed light on the scope of executing a defendant's summons

### 3.1. Location for Executing the Summons

Depending on the nature of the case, the territorial and intrinsic jurisdiction of general and specific courts limits each court's jurisdiction to a specific geographical area. For example, the jurisdiction of special courts (e.g., clergy courts) may cover one or more specific provinces, while the jurisdiction of general courts in a division applies to regions included in that division. Article 35 of the Criminal Procedure Code restricts the jurisdiction of judicial officers, including the execution of arrests, to the geographical boundaries of their assigned court or prosecutor's office. The judicial authority within their jurisdiction obligates officers to carry out its orders. Any violation of this article may result in imprisonment for three months to one year and dismissal from public service under Article 63 of the Criminal Procedure Code. Arresting a defendant outside the jurisdiction of a specific court requires judicial representation from another jurisdiction. According to Article 119 of the Criminal Procedure Code, the investigator must request the original or copies of necessary documents and case details from the investigating authority in the other jurisdiction if they have issued an arrest warrant. A potential issue arises if the defendant escapes while judicial officers are pursuing them during the execution of an arrest within another jurisdiction. Do the officers who issued the arrest warrant have the right to continue prosecuting and arresting the defendant in the new jurisdiction? Article 119 of the Criminal Procedure

Code specifies that judicial orders are only valid within the issuing jurisdiction, and conducting judicial actions outside it requires judicial representation. Therefore, the issuing court does not permit the execution of the arrest outside its jurisdiction. For clarity, the legislator should think about proposing a legal text that permits immediate action when the defendant enters the jurisdiction of another court, guaranteeing that the new jurisdiction is aware of and involved. Regarding jurisdiction, Article 3, Note 1 of the Reform Act (2002) defines the jurisdiction of General and Revolutionary Courts as the territories of a city or larger urban areas. Accordingly, it is permissible to bring defendants into areas under occupation, foreign waters with Iranian-flagged ships, or Iranian planes outside Iranian airspace. However, Iranian jurisdiction does not apply to foreign aircraft in Iranian airspace. Legislators should consider addressing such important issues in order to safeguard national interests in these cases.

### **3.2. Location for the defendant's arrest**

The defendant's arrest may occur in either private or public spaces. A private space can be defined as a location owned or occupied by private individuals, where entry by others is prohibited without the owner's consent. The legal owner or occupant has the right to prevent others from entering under the law. Thus, merely having a summons does not grant judicial officers the authority to enter private spaces to arrest a defendant. For instance, Article 55 of the Criminal Procedure Code, which addresses unseen crimes, requires prior permission from investigators or judicial authorities to enter homes or private places, detailing the conditions, type of supervision, and elements involved (Fardjiha & Yâri, 2012: 13). Sometimes, summons documentation includes vague and general phrases like "permission to enter a hiding place," which are insufficient and violate individuals' rights. Consequently, "entering the premises requires the necessary permission from judicial authorities." For unseen crimes, unauthorized entry into private spaces by judicial officers may invalidate the evidence and proceedings. However, violations are apparent, and in cases of explicit crimes, such as executing a defendant's arrest, judicial authorities must oversee the action (Parvizifard, 2012: 16). Judicial officers must obtain permission to enter a private space when pursuing a defendant from a public one. If the owner of the private property prohibits the officer's entry, the arrest becomes illegal without proper authorization. However, if the investigator or judicial authority issues an arrest warrant and the officers carry out the arrest, it is lawful. It is important to note that stopping at the entrance of a private space to detain the defendant is not considered a violation. Police officers can enter private spaces to arrest individuals under Article 17 of the British Police and Criminal Evidence Act of 1984, provided they have reasonable grounds to believe the person they are seeking is present. Pursuing a defendant into private spaces in England requires police officers to obtain a warrant from a magistrate's court. Before granting entry, Article 9 of the 1984 Act stipulates that a warrant must include the individual's location and name. In Iran, the Comprehensive National Tobacco Control and Combat Law defines public places in Article 8, Clause 1, as "places used and visited by the public." The law does not automatically extend the concept of public places to include closed venues. Officers must obtain judicial authorization to enter closed public places under Article 55 of the Criminal Procedure Code. Temporary closures or spaces that appear private require judicial authorization for entry.

### **3.3. Police in educational institutions and universities**

The 1973 plan by the Islamic Consultative Assembly outlines the possibility of police arrests in universities and educational institutions. "The entry of armed forces, military, and police into universities and higher education centers is subject to the provisions of the Islamic Republic of Iran Armed Forces Act of 1992." This law prohibits the pursuit and arrest of individuals in universities or higher education institutions without authorization. Amendments to this law remain unresolved in the Consultative Assembly, leaving ambiguity about the possibility of police intervention in educational spaces. However, arrests in open institutions can occur without prior judicial authorization. For closed institutions, officers must obtain judicial approval under Article 55 of the Criminal Procedure Code. Religious scholars' homes, considered private property, also require prior authorization from judicial authorities for entry.

### **3.4. Timing of Execution of Arrest**

According to Article 183 of the Criminal Procedure Code, the execution of an arrest warrant must occur during the day. We recommend specifying the defendant's arrest time on the warrant, as failing to do so could result in an illegal nighttime arrest. According to the note under Article 120 of the Criminal Procedure Code, "day" is defined as the time between sunrise and sunset. However, this definition does not consider the defendant's rights. If the seizure occurs during the day but outside working hours, such as when the investigating officer or issuing judicial authority is unavailable, the proceedings for the defendant are postponed. Unintentionally, this could allow the defendant to remain in custody until the next day, a practice that is illegal. Therefore, it would have been more appropriate for the legislator to define "day" as working hours and include an exception for arrests outside those hours based on the principle of "necessity," which would require the judicial authority to promptly address the case. This would ensure that the detention period does not extend unnecessarily due to the absence of the investigating officer or judicial authority and prevent attempts to delay the process without just cause. Iran prohibits judicial officers from arresting a defendant at

night. If officers arrest a suspect at night without adhering to the judicial authority's orders, they are in violation of the law. In cases where law enforcement pursues a suspect during the day and continues the pursuit into the night, the act of arrest should not be considered a violation if it began during the day. To avoid ambiguity in the officers' duties, it is crucial to clarify the timing of the arrest and its compliance with the investigating officer or judicial authority.

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## 4. Concepts and foundations of police arrest

### 4.1. The Concept of Police Arrest

In the current discussion, "police arrest" refers to law enforcement officers depriving individuals of their freedom to go where they please. Given the broad nature of deprivation of liberty and its various aspects, this research focuses on the extent to which police, as an independent entity, can deprive individuals of their freedom, independent of judicial authority directives.

### 4.2. Foundations of Police Arrest in the English Legal System

The focus of the foundation's discussion is on independent police arrests. Although police generally play a passive role in deciding whether or not to make arrests—acting under judicial orders—their actions as executors of those orders are noteworthy. Cases where judicial directives permit the arrest of offenders often serve as the basis for police intervention. It is worth clarifying that in the English legal system, arrests made by police under the authority of a magistrate's warrant (arrest under warrant) follow established rules and are not subject to debate here. This study focuses exclusively on arrests made without a judicial warrant (arrest without warrant) (Felman, 2002: 329). Most (though not all) arrest powers require a police officer to have reasonable grounds to believe that the suspect has committed, is committing, or is about to commit a crime. The term "reasonable grounds" pertains to facts rather than legal interpretation. An officer acting under a misunderstanding of the law might still have traditional grounds for suspicion. Murphy (2002: 959) evaluates the reasonableness of the belief independently from subjective perception. Due to the secondary nature of the discussion, this research does not delve into all aspects of English law. Police powers to arrest without a warrant are based on the Police and Criminal Evidence Act 1984 (PACE) and related statutes. Other authorities include general common law powers regarding breaches of the peace, public order offenses under the Public Order Act 1986, and specific provisions like the Terrorism Act 2000 (ibid: 965). The Police and Criminal Evidence Act primarily outlines these powers in Sections 24, 25, 26, and 27.

### 4.3. Foundations of Police Arrest in the Iranian Legal System

Regarding independent arrests, the basis of police action in the Iranian legal system lies in the Public and Revolutionary Courts Law and Article 24 of the Criminal Procedure Code, ratified in 2000, which grants police forces the authority to arrest and detain individuals. Article 21 of the same law empowers police officers to detain individuals for apparent crimes. As indicated, the Iranian legislator historically considers crimes committed in a specific timeframe as apparent crimes, permitting police intervention and arrests. This perspective suggests that the law does not cover crimes in their initial stages, unless logical reasoning suggests that the initiation of a crime, as defined by the law, itself constitutes a crime, allowing officers to intervene. However, this creates another issue: unless explicitly defined by the legislator, actions of officers detaining individuals at the early stages of committing a crime may lack legal foundation. In such scenarios, officers must possess legal knowledge of the specific crime being committed or wait for the offense to be fully completed, which contradicts the goals inherent to police operations. Consequently, legislative clarity on this matter is necessary to balance police authority with respect for human rights and judicial fairness.

The legislator's approach deserves recognition for listing cases in which intervention is permissible, unlike the English legal system, where police powers are broader. However, the ambiguity surrounding apparent crimes highlights the need for legislative precision. For instance, questions arise, such as:

- Does Article 21's definition of an apparent crime, such as verbal abuse, permit police to detain a suspect the victim has identified without directly witnessing the crime?
- Does the immediate presence of officers at a crime scene automatically authorize the arrest of a specific individual without further justification?
- Does an intent to flee immediately after a crime suffice as evidence of guilt for apparent crimes, or must additional evidence accompany the intent to justify arrest?
- Does the arrest of a suspect under Article 712 of the Islamic Penal Code require actual vagrancy, or does the mere designation as a vagrant suffice?
- Can officers arrest an individual who confesses to a crime, such as murder, long after the event?

## 5. Arrest Criteria at the Time of Arrest

### 5.1. Rules in the English Legal System

Typically, the police inform the suspect of their arrest and transport them to a police vehicle. During the arrest, the police cannot interrogate or question the individual. The police must inform the suspect of their right to free and independent legal advice (Cras, 2014:5).

In the English legal system, improper conduct by police officers at the time of arrest can significantly impact the judicial process. For instance, in one case, a recording revealed a police officer using racial slurs during an arrest of a 16-year-old, leading the court to dismiss charges and discredit the officer entirely (The Guardian, May 20, 2005). Another crucial criterion during arrest is the issuance of a formal caution. The caution's full text is legally defined: "You do not have to say anything, but anything you do not say that you later rely on in court may harm your defense" (Code of C, 10.9). The arresting officer must also inform the suspect of the reasons for the arrest. Failing to provide this information renders the arrest unlawful, even if the reasons are apparent.

### 5.2. Rules in the Iranian Legal System

In the Iranian legal system, there are no detailed regulations explicitly governing police arrests. However, various laws and regulations clearly mandate the communication of arrest reasons in writing. Article 9, Paragraph 2 of the 1966 Civil and Political Rights Covenant mandates that detained individuals receive immediate information about their detention and the charges against them.

Similarly, Article 24 of the Criminal Procedure Code mandates that the accused must receive immediate written notice of the charges against them in cases of apparent crimes where arrest is necessary for investigation. Despite this, enforcement officers rarely comply with these requirements in practice.

Article 32 of the Iranian Constitution further mandates that a written notification of the charges, along with their reasoning, must immediately follow any arrest. Additionally, Article 570 of the Islamic Penal Code imposes penalties, including imprisonment and dismissal from public service, on officials who deprive citizens of their constitutional rights unlawfully. However, failure to comply with these regulations does not necessarily invalidate the investigation or its findings, although it reflects poorly on the judicial process.

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## 6. Mandatory Legal Criteria After Arrest

### 6.1. Rules in the English Legal System

#### 6.1.1. *Guarantee of Proper Custody*

Anyone arresting another person is responsible for ensuring that the arrested individual is taken into proper custody. Sections 2 and 30 of the Police and Criminal Evidence Act (PACE) 1984 require the police to transport individuals apprehended outside of police facilities or arrested by citizens to a station as soon as possible.

The arresting officer takes the initial step upon arriving at the station. The officer must hand over the individual to a custody officer, who is generally of at least sergeant rank and independent of the investigation involving the suspect. This officer acts as a neutral observer in police investigations and should not intervene in collecting evidence against the suspect (Sanders, *ibid*: 170). The custody officer is responsible for ensuring that the detainee receives fair treatment, free from threats or undue provocation. The custody officer's log documents the details of any visits made to the suspect in their cell. Furthermore, the custody officer determines whether sufficient evidence exists to charge the suspect. In the absence of such evidence, PACE 37 (1)(B) mandates the suspect's immediate release.

#### 6.1.2. *Right to legal advice, attorney access, and case file availability*

The custody officer is also in charge of creating a custody record that the detainee and their legal representative can review. This record ensures compliance with the detainee's rights and reviews the necessity of continued detention (Code of Practice, Code C, 2.9, 2.1, 2.3).

Whether detained or voluntarily at the station, the arresting officer must inform suspects of their right to free legal advice. The arresting officer must clearly explain these rights, emphasizing their availability at all stages of detention

(Code C, 6(a), 6.1). Police stations must prominently display a poster detailing the right to legal counsel (Code C, 3(a), 3.1). Police stations must renew legal notices when investigations pause (Code C, 10.1, 10.5).

### 6.1.3. Inclusion of a Duty Solicitor

At this stage, the suspect meets with a duty solicitor. The Legal Services Commission contracts this legal advisor to be available at police stations. Larger stations, like those in London, may have multiple duty solicitors available at all times, while smaller or rural stations may contact them on demand.

Police must inform a detainee of their right to free legal advice from a solicitor before questioning them. If the suspect declines legal assistance, the custody officer must document this and inform the suspect:

- You have the right to free legal advice at any time.
- I am at the police station and can provide you with legal guidance.
- If you want, I can represent you.
- If you seek my advice, the police will pause their questioning.

The police then ask the suspect to sign a form indicating their preference for proceeding without counsel or seeking legal advice. Duty solicitors state that they are independent of the police and can assist suspects during all interrogations.

### 6.1.4. Photographs, Tests, and Destruction of Data

Police cannot take fingerprints, photographs, or other samples from a detainee without written consent unless permitted under specific circumstances. If the suspect receives an acquittal or the case closes, the police must destroy the fingerprints and photographs, provided the individual has no prior criminal record. You must divide samples like blood, urine, or hair into two equal parts, one for police analysis and the other for independent defense testing. Failure to do so may result in a case dismissal (Mnookin, 2013: 12).

### 6.1.5. Preliminary Criteria for Detainees

The police may interview the detainee before filing formal charges, but they must do so in the presence of a lawyer. Once they request legal counsel, they cannot conduct any more interviews (Code E, 112 (2.1)). To prevent errors, the police typically make two separate recordings, one of which serves as a backup. These recordings are sealed after completion. The defense attorney must receive a copy. The Crown Prosecution Service's guidelines mandate informing and providing sufficient time for the defense attorney to attend the initial playback of the recording (Code E, Q6 (6.2)).

The detainee retains the right to remain silent. If the individual is deemed unfit due to intoxication or drug use, no questioning will take place. If the detainee is a minor, their parents must be present alongside legal counsel (Code C, Q12(a) (12.3), and Code C, Annex C). Interrogation rooms must be adequately heated, ventilated, and lit. Code C, Q12 (a) (12.9), (12.5) prohibits forcing the suspect to stand during questioning. The suspect must receive eight hours of sleep each night, meals at regular times, and breaks for fresh air every two hours (Code C, Q12(a) (12.7)).

### 6.1.6. Duration of Detention

The maximum duration for detention without charges is 24 hours, calculated from the moment the detainee enters the police station. If a person voluntarily arrives at the station, the 24 hours begin from the point of arrest. A police superintendent may authorize an additional 36 hours. PACE, S 92 (1) strictly enforces these durations. A custody officer, at least of inspector rank, must review the reasons for detention six hours after it begins and every nine hours thereafter to ensure the original grounds for arrest remain valid (PACE, S 90 (3) (b), (a)). For terrorism-related offenses, the 2005 Anti-Terrorism Act allows for 48 hours of detention, extendable to five days (David Herschel et al., 2008: 300). Police may collect the detainee's fingerprints and photographs once they file charges. Defense attorneys, who may also bring a camera to capture the detainee's condition or identity, remain on the case to assist with bail or release arrangements (Shepherd, *ibid*: 720).

### 6.1.7. Right to Compensation

In the event of the detainee's acquittal, the UK typically pays for legal fees. In cases of wrongful convictions, the government provides compensation to individuals for their time in custody. Section 133 of the Criminal Justice Act 1988 mandates the Crown Prosecution Service to compensate the wrongfully convicted individual or their family, if deceased,

upon the overturning of a conviction due to newly discovered facts indicating a miscarriage of justice. Exceptions apply if the failure to disclose the new fact is attributable to the convicted individual.

On March 5, 1991, in the case of *Lunt v. Liverpool City Justices*, the court awarded £25,000 for 42 days of wrongful detention due to non-payment of local taxes. In 1999, *Regina v. Brockhill Prison Governor* awarded £5,000 for 59 days of wrongful detention.

#### *6.1.8. Rules in Iran's Legal System After Arrest*

In Iran, the primary regulation governing police arrests lies in Article 32 of the Constitution, which mandates written and justified explanations for charges. Additionally, Paragraph 5 of the Law on Respect for Legitimate Freedoms and Protection of Citizens' Rights states: When necessary, we must carry out arrests and detentions in accordance with the procedures outlined in criminal law, adhering to the principle of prohibiting detention and arrest of individuals. The competent judicial authority must receive the matter within the legally prescribed period and inform the detainees' families. While the confirmation that the detainee's family has been notified is commendable, it is insufficient. We should organize and accept communication, consultation, and correspondence between the detainee, their family, and their lawyer as an undeniable axiom of a fair trial. Limiting detention time to 24 hours reduces potential abuses, but safeguards for the detainee's defense rights during this critical period remain weak. One could argue that the legislator has not made respecting individuals' defense rights a priority during this phase. We could amend Article 128 of the Criminal Procedure Code to explicitly guarantee the right to legal representation during investigations. However, accepting such a broad interpretation is difficult, especially when judicial practices do not support it.

### **6.2. Recommendations for Legal Reform**

**Scope of Arrest Authority:** The legislator should replace the current restriction to evident offenses with a broader concept, encompassing traditional suspicion of crime and explicitly including imminent, ongoing, or completed crimes as grounds for police authority. **Criteria Following Arrest:** Clear regulations should address post-detention practices, including:

Rights declarations, Access to a lawyer, the conditions and duration of communication with external parties are important considerations. Oversight, review, and documentation of detention.

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## **7. Conclusion and recommendations**

The pre-trial arrest, detention, and proof of a suspect's crime by police forces represent a crucial stage in criminal investigations, often leaving the individual more vulnerable than ever. Any deviation by the police from legal procedures can lead to potential harm to the detainee. Article 32 of the Constitution, Article 24 of the Criminal Procedure Code, and Article 5 of the Civil Rights Law in Iran mandate the explicit explanation, written justification, and communication of the charges to the detainee's family. These provisions govern the process of arrest and its subsequent stages, emphasizing oversight at the police level. However, cases outlined in Article 21 of the Criminal Procedure Code, while providing examples of evident offenses, display significant and fundamental deficiencies. For instance, in the UK, the officer responsible for reviewing the validity of the arrest and adequacy of evidence does not interfere in investigations or in gathering evidence against the suspect. The possibility and necessity of periodic review (every few hours) of the arrest and its justifications by a superior authority, the requirement to declare the right to remain silent, the possibility and necessity of lawyer involvement, and the mandatory recording of all interactions and providing access to legal counsel highlight significant shortcomings in Iran's regulations.

Additionally, the obligation for detainees to leave their cell for breaks, receive proper nutrition, and sleep; the right to meet privately with a lawyer at specific times; the right to consultation about legal matters; access to case files for the defendant or their lawyer; and the police's commitment to safeguarding the detainee's health illustrate the insufficiency of internal Iranian regulations.

As an active participant in the judicial process, the police should recognize that exceeding specific limits can lead to the annulment of the investigation, regardless of the potential for criminal prosecution. In Iran, the lack of systematic regulations regarding independent police arrests remains a critical characteristic of the investigatory stage that the legislator must address and rectify.

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