

Analysis of the Effects of Criminal Sanctions in the Family Protection Law from the Perspective of Criminal Sociology

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The Family Protection Law in the Islamic Republic of Iran has been enacted with the aim of preserving the foundation of the family and preventing legal and social problems in family relationships. One of the features of this law is the provision of criminal sanctions to combat family-related offenses. This study analyzes the effects of the criminal sanctions within the Family Protection Law from the perspective of criminal sociology and seeks to examine the positive and negative impacts of these sanctions on the structure of the family and society. On the one hand, the Family Protection Law is designed to prevent social harm and support vulnerable groups such as women and children. On the other hand, the law employs criminal tools as a control mechanism in dealing with family issues, which may lead to challenges such as excessive criminalization, a reduction in the role of reconciliation within the family institution, and the weakening of emotional foundations. In this study, using a descriptive-analytical method and the theoretical framework of criminal sociology, issues such as the criminalization of family matters, the impact of criminal policies on reducing family conflicts, and the effectiveness of criminal tools in supporting family values are examined. The results indicate that while the law has been successful in protecting family victims in certain cases, it has also contributed to increased tensions and legal and social complexities in resolving family disputes. This analysis can assist policymakers in reviewing and improving the law from the perspective of criminal sociology.

Keywords: Criminal sanctions, Family Protection Law, Criminal sociology, Family

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1. Introduction

The family, as the most fundamental social institution, holds a central position in shaping values, norms, and social stability. It serves as the primary environment for human upbringing and plays a crucial role in the cultural, social, and psychological development of society. Living in a healthy family, where ethical, cultural, and legal principles are observed, has a significant impact on individual and social progress. Therefore, maintaining the structure and cohesion of the

family has always been a primary concern for governments and legislators. The family is the oldest and most important social group. It is the oldest because it is a natural group that has existed since the beginning of human life. It is also the most important because life without society is inconceivable (Safā'i & Emāmī, 2008). As the first and most significant social group, the family has played a key role in human life, nurturing moral and social principles.



Family law is a domain where criminal sanctions are rarely applied, especially in marital relationships. However, in certain cases, criminal protections are necessary to maintain order and counteract deviant behaviors. Following the victory of the Islamic Revolution, the legislator formulated legal and criminal regulations in the domain of family law. In recent years, new laws with more punitive and deterrent aspects have been enacted to protect the family.

One of the areas that has increasingly attracted the attention of criminal legislators in many countries is the family. The concept of family, as an institution, is closely linked to the values related to family dignity. A key feature of criminal law regulations is their enforcement mechanisms, as no criminal rule exists without sanctions. In fact, enforcement measures are effective when a legal rule is violated, and without a doubt, every legal rule inherently requires enforcement measures (Mohseni, 1996).

In Iran, given the emphasis of Islamic law and the principles of the Constitution, the family holds a special position in the legal system, and numerous laws have been enacted to protect it. The Family Protection Law, enacted in 2012, is one of the most significant legislative measures aimed at safeguarding the family institution and the rights of its members by criminalizing harmful behaviors such as abandonment of financial support, violation of marriage formalities, prevention of child visitation, and certain offenses related to custody and marriage.

However, sociological and legal analyses indicate that the existing laws still face fundamental challenges. On the one hand, the fragmentation of criminal regulations and the absence of coverage for certain crimes, such as child abuse, forced marriage, and economic exploitation of family members, have created serious gaps in protecting vulnerable family members. On the other hand, in some cases, an imbalance in legal protections may lead to the violation of one party's rights, whereby the rights of either the husband or wife are excessively guaranteed or overlooked.

Recent social and cultural developments, changes in family structure, and the complexity of relationships among family members have revealed the necessity of revising criminal sanctions and providing more comprehensive solutions. Therefore, this study adopts a

criminal sociology approach to analyze the criminal sanctions of the Family Protection Law.

The main objective of this research is to examine the strengths and weaknesses of existing laws, identify legal gaps, and propose solutions to enhance the effectiveness of these sanctions in protecting vulnerable family members, especially women and children. Additionally, this study aims to analyze the interrelationship between the legal, social, cultural, and psychological dimensions of the family and demonstrate how criminal laws can contribute to the prevention of deviant behaviors, the enhancement of family cohesion, and the reduction of social harm.

The examination of the material, moral, and legal elements of family-related crimes and the comparison of pre- and post-Islamic Revolution laws are among the key focuses of this study.

2. Criminalization to Preserve the Foundation of the Family

One of the key measures in this regard is the criminalization of behaviors that threaten the foundation of the family or its members. Behaviors are criminalized when their occurrence leads to the destabilization of the family structure. In some cases, such behaviors do not directly harm a specific family member but undermine the integrity of the family as a whole. Additionally, behaviors that disrupt lineage, reproduction, and procreation also fall within this category; although no specific individual may be directly harmed, criminal intervention is deemed necessary to preserve the family unit.

In the realm of criminal law and criminalization, understanding the key actors in the legislative process and recognizing the capacity and origin of law are of significant importance. Criminal law legislators are individuals involved in drafting, amending, and approving laws or participating in various stages of the legislative process. In the domain of family-related offenses, the legislator has criminalized several behaviors, some of which are highlighted below:

1. **Mandatory Registration of Marriage, Divorce, and Reconciliation:** One of the primary objectives of criminalizing the failure to register a marriage is to prevent the corruption and complications that may arise from non-registration. Article 16, paragraph 2 of the

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) emphasizes that states should take measures to make the registration of marriages in official registries mandatory (Amir Arjomand, 2002).

The key reasons for criminalizing the non-registration of marriage include: facilitating the proof of spousal relationships and lineage, and protecting the rights of children (Kātūzīān, 2006). Other objectives include preventing fraud against the law and financial disputes arising from unregistered marriages, reducing disorder and court cases, and preventing deception and unauthorized or repeated marriages.

Registering a marriage can prevent subsequent illegal marriages, deception, and crimes such as marrying a woman during her waiting period ('iddah) or a married woman, as addressed in Article 644 of the Islamic Penal Code of 1996. Furthermore, in cases where one spouse is unaware of the other's prior marriage, registration helps prevent deception in marriage. It is important to note that the criminalization of non-registration of marriage applies only when the marriage has been conducted legally and legitimately; otherwise, failure to register a marriage that contradicts civil law is not considered a crime. The criminalization of non-registration of divorce aims to ensure the validity of the divorce, facilitate the proof of the parties' rights, and prevent future disputes.

2. **Marriage to a Married Woman or a Woman in Her Waiting Period ('Iddah):** If an individual knowingly marries a woman who is already married to another, the two individuals become perpetually prohibited from one another (Article 50 of the Civil Code). The primary objective of Islamic law in prohibiting such marriages is to prevent confusion regarding lineage. The legislator, with the aim of protecting the sanctity of the family, has prescribed penalties for those who jeopardize this sanctity through their actions.

The inclusion of legal provisions addressing these issues reflects the legislator's particular attention to safeguarding the family. To protect the integrity of the family, the legislator has criminalized certain acts and established corresponding legal sanctions. Measures such as the mandatory registration of marriage and divorce, as well as the prohibition of marriage to a married woman, not only serve to uphold the sanctity of

the family but also prevent social, legal, and economic harm.

2.1. *Criminal Regulations for Preserving the Foundation of the Family*

A) Non-Payment of Alimony

To maintain public order and safeguard the family structure, the legislator has imposed the obligation of alimony payment on individuals. Article 1106 of the Civil Code assigns the responsibility of providing alimony to the husband in a permanent marriage, while Article 642 of the Islamic Penal Code criminalizes the refusal to pay alimony. Additionally, Article 53 of the Family Protection Law (2012) provides stronger criminal protection for the wife by imposing stricter discretionary imprisonment and the possibility of applying supplementary punishments under Article 23 of the Islamic Penal Code.

The realization of this crime requires the intention to commit and criminal intent. If the omission occurs due to factors beyond the individual's control (e.g., imprisonment), the mental element of the crime is not established. Payment of alimony after a complaint does not nullify the crime but may remove the element of criminal intent.

This provision offers greater protection for the wife and includes considerations such as the right of retention or fear of harm to the wife (Articles 1085 and 1115 of the Civil Code). However, its failure to cover specific cases, such as alimony for a pregnant woman in a temporary marriage or during the waiting period ('iddah) after an irrevocable divorce, is a notable shortcoming.

Article 53 of the Family Protection Law is a significant step towards supporting wives and achieving social justice; however, addressing ambiguities and ensuring comprehensive coverage of specific cases would enhance its effectiveness (Khosravi, 2014).

B) Criminal Regulations Regarding Denial of Marriage or Failure to Register Marriage

In 1932, the legislator enacted a law addressing the denial of marriage to protect women's rights against men's denial of marital relationships. This law imposed lenient penalties, such as short-term imprisonment or minor fines, reflecting a lenient legislative approach at the time.

With the enactment of the Family Protection Law in 2012, the penalties for denying marriage were

intensified, prescribing equal discretionary imprisonment or fines for both men and women. General criminal intent and awareness of the marital relationship are the primary conditions for the realization of the crime.

The new law, by eliminating gender distinctions in punishment, has adopted a stricter approach to dealing with this offense, imposing sixth-degree penalties for offenders (L. Asadi, 2008; L. S. Asadi, 2008).

However, Article 817 of the Islamic Penal Code (2013) has not fully addressed the existing shortcomings, including:

- Emphasis on legislative objectives within the text of the article, which allows for analogical interpretation.
- The lack of mandatory registration of temporary marriages, which can lead to legal complications for women and children.
- The limitation of penalties to men, despite the potential role of women and marriage officiants in the failure to register marriages or divorces.

It is recommended that Article 871 of the Islamic Penal Code be amended to include all parties involved in the failure to register marriage and divorce (spouses, officiants, witnesses, and the bride's guardian) under its sanctions. Additionally, temporary marriage registration should be mandated under specific conditions (L. Asadi, 2008).

C) Criminal Regulations on Early or Underage Marriage

According to the amended Article 1041 of the Civil Code, marriage before puberty is prohibited; however, under the article's proviso, marriage before puberty is permitted with the guardian's consent and provided it is in the minor's best interest.

This provision has resulted in social irregularities, particularly in terms of the physical health of girls and boys and the dissolution of families after reaching maturity. It has had adverse effects on the formation of family life and has caused numerous challenges for the Islamic Republic of Iran in international forums. Furthermore, it has facilitated exploitation by unqualified individuals and undermines the principle of consent, which is an essential condition for a valid marriage contract.

The imposition of marital obligations outside the will and awareness of young boys and girls leaves lasting

negative effects on their physical and psychological well-being. To address these issues, it is suggested that the proviso under Article 1041 of the Civil Code be removed and replaced with a provision requiring judicial oversight for marriage.

This proposed amendment would ensure greater legal supervision over family formation, strengthen marital relationships, and reduce divorce rates due to incompatibility. Judicial approval would be contingent upon expert opinions certifying the physical, mental, and social readiness of the parties for marriage, which would yield positive outcomes in terms of ensuring their well-being.

The proposed ages of 14 and 17 years for girls and boys, respectively, were initially suggested but were later revised to 15 and 18 years in the final draft approved by Parliament. However, the Guardian Council rejected this proposal, and as a result, the current legal basis for the minimum age of marriage remains Article 1041 of the Civil Code.

The Family Protection Law of 2012, enacted on March 20, 2013, does not contain specific provisions regarding the minimum age of marriage, and the only criminal sanction related to non-compliance with Article 1041 of the Civil Code is found in Article 11 of the law, which stipulates:

"If a man marries in violation of Article 1041 of the Civil Code, he shall be sentenced to sixth-degree discretionary imprisonment. If such a marriage results in the woman's permanent disability or illness, the husband shall, in addition to paying blood money (diya), be sentenced to fifth-degree discretionary imprisonment; and if it results in the woman's death, the husband shall, in addition to paying blood money, be sentenced to fourth-degree discretionary imprisonment.

If the minor's legal guardian, mother, legal custodian, or caretaker played a direct role in the commission of the offense under this article, they shall be sentenced to sixth-degree discretionary imprisonment. This punishment also applies to the officiant (marriage registrar)."

This article replaces Article 646 of the Islamic Penal Code of 1996, which had previously established criminal sanctions under Article 3 of the 1931 Marriage Law. It is noteworthy that Article 646 did not provide penalties for cases leading to permanent disability or death.

Although the Family Protection Law of 2012 is the most recent legislative measure in the field of marriage and family, its failure to address the adverse consequences of early marriage—despite its potential harm to the family unit and vulnerable groups such as women and children—remains a significant shortcoming. The lack of consideration for this issue in the chapter on criminal regulations is one of the notable deficiencies of this law. Like other provisions related to crimes against family rights and obligations, Article 872 of the new Islamic Penal Code has faced criticism and objections that, if addressed, could enhance the legislator's objectives in providing criminal protection, particularly for children. Some of the key criticisms include:

1. **Criminalization of Marriage Contracts:** The article considers the mere conclusion of a marriage contract in violation of Article 1041 of the Islamic Penal Code as a crime. This contradicts the principle of necessity in criminalization and the rule of "*al-ta'zir li-kull haram*" (discretionary punishment for every prohibition). The mere conclusion of a marriage contract with a girl below the legal age does not, in itself, constitute a sinful act or harm to the girl that would justify criminal sanctions. Instead, the legislator could have employed civil sanctions, such as making the validity of the marriage conditional on the guardian's consent or the court's determination of the minor's best interests (Hājī Deh Ābādī & Karamatī Mo'az, 2017).
2. **Ambiguity in the Article's Note:** The note in Article 50 contains ambiguities. The criminal liability of the individuals mentioned in this note is not clearly specified, leading to differing interpretations among judges. Some judges consider these individuals as accomplices, while others classify them as direct perpetrators of the crime. However, the prevailing view leans toward considering them as accomplices (Qorbān Vand, 2023).
3. **The Need for Common Legal Terminology and Clarity:** Instead of using vague terms such as "direct influence," the use of more established terms like "complicity" could prevent ambiguity. Clarity and precision in legislation, as a fundamental principle, necessitate that the law

be simple and comprehensible to avoid multiple interpretations (Hājī Deh Ābādī, 2016; Hājī Deh Ābādī & Karamatī Mo'az, 2017).

Article 50 of the Family Protection Law (2012), despite its notable innovations in differentiated criminal protection, requires revisions to address existing ambiguities and shortcomings. The use of civil sanctions and precise legal terminology can contribute to enhancing the transparency and effectiveness of this provision.

D) Criminal Regulations on Fraud in Marriage

Islam, recognizing the sanctity and importance of the family foundation, has not remained silent on fraud and deception in marriage. From an Islamic jurisprudential perspective, the right to annul the marriage is granted to both spouses. Similarly, under the Islamic Penal Code, the legislator has criminalized fraud and deception in marriage as an offense against family rights and obligations. It has been included under Chapter 19 of the Islamic Penal Code, with Article 873 (formerly Article 647 of the 1996 code) providing criminal sanctions. According to this provision, if either spouse deceives the other before marriage by presenting false information such as having a higher education, financial stability, social status, a particular job, or being single, and the marriage is concluded based on such falsehoods, the perpetrator shall be sentenced to discretionary imprisonment from six months to two years.

The offense of fraud in marriage is an intentional crime requiring both general and specific criminal intent. General intent includes the will to commit the criminal act with knowledge of the necessary conditions for the offense, thereby forming the intent to engage in the fraudulent act. Specific intent refers to the perpetrator's intention to enter into the marriage. Therefore, if an individual engages in deceptive actions without the intention of marriage (e.g., to boast about their status), and the other party consents to the marriage, the crime of fraud in marriage is not established due to the lack of concurrence between the material and mental elements of the offense, even though proving such lack of concurrence is quite challenging (L. Asadī, 2008; L. S. Asadī, 2008).

The drafters of the Islamic Penal Code aimed to ensure the consent and awareness of both parties before marriage and to prevent deception by introducing criminal sanctions of six months to two years of

discretionary imprisonment for the perpetrator of marriage fraud. Although the criminalization of fraud aims to protect the spouse's rights and can be justified based on the principle of *la darar* (no harm), the legislator's primary goal in criminalizing this offense is to protect the integrity of the family. This is why fraud in marriage is considered a non-pardonable crime.

Under Article 647 of the Islamic Penal Code, the punishment for fraud in marriage is discretionary imprisonment ranging from six months to two years. The designation of "discretionary" indicates that the offense is not considered a deterrent crime, and thus, it is not subject to the statute of limitations under Articles 173 and 174 of the Criminal Procedure Code for General and Revolutionary Courts.

In distinguishing between the criminal and civil consequences of marriage fraud, it is important to note that Islamic jurisprudence does not recognize criminal consequences for fraud; rather, it grants the deceived party the right to annul the marriage. The civil consequences of fraud in marriage include annulment and compensation, with annulment required to be immediate upon discovering the fraud. However, in criminal law, immediacy is not a requirement, as inferred from Article 647 of the Islamic Penal Code.

Fraud in marriage is classified as a non-pardonable offense, meaning that the victim's forgiveness does not result in the cessation of prosecution or the suspension of punishment execution. However, it may be considered a mitigating factor under Articles 22 of the Islamic Penal Code and 277 of the Criminal Procedure Code. Nevertheless, the severity and significance of this crime may not warrant its classification as a non-pardonable offense.

Thus, it appears that criminal intervention in this matter may not have positive effects and could even lead to the breakdown of families. As in Islamic jurisprudence, marriage fraud does not have a criminal aspect; it would be preferable for the legal system to treat it solely as grounds for annulment, rather than imposing criminal sanctions.

Given the importance and sanctity of the family foundation, the legislator has criminalized any form of fraud and deception in marriage, enacting Article 873 of the Islamic Penal Code to serve as a deterrent. However, several criticisms have been raised against this provision:

1. **Negative Consequences of Imprisonment:** If the deceived party files a criminal complaint leading to the discretionary imprisonment of the fraudulent party, it may only exacerbate resentment, hostility, and enmity between the spouses, ultimately eliminating the possibility of reconciliation and continuation of their marital life. Moreover, imprisonment does not compensate the victim's losses (Zeynāli & Maqdasi, 2009).

Therefore, it would be more appropriate for the legislator to pursue a policy of imprisonment reduction in family-related offenses and instead impose alternative penalties such as monetary fines. This approach would be more effective in compensating the victim and, at the same time, provide an opportunity for the spouses to reconcile and prevent the dissolution of the family unit.

2. **Lack of Provision for Compensation:** The legislator has focused solely on the deterrent aspect of the offense and has stipulated punishments for offenders. However, the material and moral damages resulting from deception in marriage are not addressed in Article 647 of the Islamic Penal Code or the Civil Code. In contrast, according to the general principles of civil liability, there is a possibility of compensating for both material and moral damages suffered by the deceived party.
3. **Ambiguity in Identifying Deception:** Since the examples of deception mentioned in the article are illustrative rather than exhaustive and their determination is left to common custom (*'urf*), which varies across different cultures, the potential for abuse of this provision remains high. This ambiguity may pose challenges for judges in adjudicating deception claims.

Identifying the instances and methods of deception through judicial and scholarly research can prevent the misuse of deception claims in marriage. Moreover, requiring each spouse to fully disclose their identity in the marriage registry, including the presentation and verification of recorded information by both parties, would help prevent fraud. In many cases, the fraudulent party attempts to exonerate themselves by claiming that they disclosed their deficiencies or lack of desired attributes in private before the marriage. Therefore, mandating the full disclosure of attributes and defects

and their official registration could serve as an effective preventive measure.

4. **Lack of Awareness and Legal Exploitation:** On the one hand, women are often unaware of their right to annulment when they are deceived. Consequently, despite proving the fraud, they file for divorce, which, since it is initiated by the woman, results in *khul'* divorce. In such cases, the woman not only relinquishes her dowry but also forfeits any overdue alimony. Had she been aware of her rights, she could have pursued annulment and retained her legal entitlements.

On the other hand, some men, well-versed in the laws governing annulment and Article 1128 of the Civil Code, exploit legal loopholes to evade paying half of the dowry in cases of separation before consummation by seeking annulment rather than divorce.

Therefore, it is essential to provide clearer and more explicit definitions of fraud in marriage as recognized by both Islamic law and statutory regulations. Increasing public awareness and clarifying legal ambiguities can prevent misuse and ensure justice for both parties.

3. The Effects of Criminal Responses from the Perspective of Criminal Sociology

Every society, to sustain its existence, is compelled to establish laws and obligate its citizens to comply with them. However, a minority of individuals often perceive their interests in violating these laws and regulations. Consequently, society enforces legal sanctions to confront such behaviors.

3.1. Positive Effects of Criminal Sanctions from the Perspective of Criminal Sociology

A) Protection of the Family Foundation

The family is considered a personal social environment that significantly influences the formation of individuals' personalities in society. Since each family differs from others, it is termed a personal environment. The family can fulfill its role through functions such as socialization of its members, thereby preserving its foundation (Ayatollahi, 2001).

If the family structure weakens, as Shaw and McKay highlighted in their research, the erosion of traditional social control and the weakening of traditional forms of regulating social behavior, such as the family, can lead to an increase in delinquency. Therefore, it is essential to

support the family foundation through various means, one of which is legislation. Based on this principle, Article 10 of the Constitution obligates the legislator to enact laws that prevent actions leading to the disintegration of the family and to protect its foundation. The Sixth Parliament, through the establishment of the Supreme Family Council, assigned this institution to oversee the implementation of Article 10 of the Constitution (Najafi Abrandabadi, 2007).

Since the term "laws" in this article is general and encompasses all types of laws, criminal laws are not excluded from its scope. In drafting such laws, family rights should take precedence over the individual rights of spouses. This consideration was included in the initial draft of Article 11 of the Constitution; however, during the review process, this point was omitted. The proposed Article 11 stated that "the family is the fundamental unit of the revolutionary Iranian society, and laws should facilitate the stability of marriage based on mutual belief and affection. In drafting these laws, family rights should take precedence over individual rights of spouses, and the relationship between men and women should be based on purity, piety, and high human values, rather than materialistic pride and hedonism" (Hedayat-Niyā, 2009).

Since not all social values are present or uniformly accepted in every society, the list of crimes differs among countries. If the prevailing values of a society change, criminal law must adapt to these new values; otherwise, social control measures and criminal policies will lose their effectiveness (Sāne'i, 1992).

In the domain of family, legislation reflects family values. For example, by criminalizing adultery, the legislator aims to protect the sanctity of the family and the purity of lineage (Bernardes, 2005). Some of these values include maintaining family health and preventing the exploitation of vulnerable individuals.

To prevent the spread of genetic diseases, the birth of children with congenital defects, and the transmission of contagious diseases, the legislator has provided criminal support. In fact, by criminalizing the failure to register permanent marriage, divorce, and reconciliation, the legislator indirectly supports the value of family health.

To prevent the transmission of infectious diseases, Article 1040 of the Civil Code stipulated a medical certificate requirement before marriage. However, since the wording of the article used the term "may," its

enforcement was optional, and couples could waive it out of politeness or respect, leading to potential adverse consequences. Therefore, in 1938, Article 2 of the Law on the Requirement of Medical Certification before Marriage mandated all marriage registry offices to require a medical certificate verifying the absence of significant contagious diseases before solemnizing and registering a marriage.

It is worth noting that the 1931 Marriage Law had already criminalized the failure to register marriage, divorce, and reconciliation, making it obligatory for couples to register their marriage. The 1938 law further imposed an administrative obligation on marriage registrars, stipulating that failure to comply would result in prosecution of the registrar, although non-compliance did not affect the validity of the marriage (Mohaqqeq Dāmād, 1994).

The 1974 amendment to the Family Protection Law continued this approach by requiring marriage registrars to demand not only the health certificate stipulated in the 1938 law but also a general health certificate concerning other factors or diseases that might affect the health of offspring or spouses (Safā'i & Emāmī, 2008). Thus, this law extended its focus beyond contagious diseases to include hereditary conditions that could harm offspring or spouses.

Furthermore, under the 1988 Law on Mandatory Tetanus Vaccination for Women before Marriage, women were required to be vaccinated against tetanus, and marriage registrars were obligated to request the relevant certificate. Additionally, a Cabinet resolution in 1997 made thalassemia screening mandatory, requiring marriage registrars to obtain a certificate confirming that neither party is a carrier of the disease.

Thus, with the legal requirement to register permanent marriage and the criminalization of non-compliance, couples are compelled to visit marriage registries for registration. Since marriage registration is conditioned on ensuring family health, the requirement to obtain these medical certificates contributes to the protection of family health as one of the primary effects of criminalizing the failure to register marriage.

B) Protection of Lineage Purity and the Sanctity of the Family

The institution of the family has been regarded as sacred by thinkers of ancient Greece and Renaissance intellectuals, as it holds a revered position in religious

texts, particularly the Torah and the Bible. Additionally, its significant functions grant it a certain sanctity (Sotūdeh, 2007).

Article 10 of the Constitution of the Islamic Republic of Iran also emphasizes the sanctity of the family, stating: *"Since the family is the fundamental unit of Islamic society, all laws, regulations, and planning must be directed toward facilitating family formation, preserving its sanctity, and strengthening family relationships based on Islamic rights and ethics."*

During parliamentary debates on this article, one representative inquired about the meaning of sanctity. In response, the late Dr. Beheshti explained that it pertains to cultural planning. In some cultures, family formation is perceived purely in materialistic, sexual, and economic terms. However, in others, family formation is considered to have a spiritual value beyond these aspects. It encompasses a divine and religious essence in addition to its material, economic, and social cooperative functions. In Islamic traditions, ethical relationships between spouses, parents, and children transcend mere social and economic ties, introducing divine satisfaction and rewards into these relationships. Thus, both men and women view their family relationships within a spiritual framework (Parliamentary Debates, 1985).

This same concept was included in the draft of Article 11 of the Constitution, which stated: *"The relationship between men and women should be based on purity, piety, and high human values, rather than materialistic pride and hedonism."*

It is evident that, unlike other contracts, marriage contracts heavily incorporate moral and religious values. This contract has long been accompanied by formalities that distinguish it from other types of agreements and grant it a unique sanctity. One of the crimes legislated to protect the sanctity of the family and its governing moral values is *adultery (zina mohsenah)*. Through the criminalization of adultery, the legislator aims to preserve both the purity of lineage and to confine sexual relations within the framework of legitimate marriage (Kātūzīān, 2006).

"In general, criminals tend to target the weak and vulnerable, avoiding risks to themselves. It is the critical responsibility of criminal policy officials in every society to provide additional protection for vulnerable individuals by employing all possible tools to prevent victimization and

any form of exploitation. One of these tools is criminal protection through legal criminalization."

Accordingly, the Islamic Penal Code includes several provisions aimed at protecting women and children, such as Articles 621, 619, 623, 642, 646, and 713, some of which specifically pertain to the family. For instance, given the crucial role of age in forming a family, marriage at an age when individuals lack physical and psychological readiness can lead to severe harm to the wife. One way to protect family formation is by setting a minimum legal age for marriage and establishing criminal sanctions for marriages conducted below this age. This has been addressed by the legislator in Article 646 of the Islamic Penal Code.

B) Prevention of Disputes and Protection of Family Members' Rights:

Among the positive effects of criminal sanctions in the family domain is the prevention of disputes and the protection of members' rights. By prescribing certain crimes and establishing criminal sanctions for violations of family members' rights, the legislator can effectively prevent conflicts within the family.

The need to prevent disputes among family members arises from the fact that the family serves as a haven of comfort for its members, governed by principles such as affection and mercy. Disputes within the family contradict these principles and can lead to discord and separation.

Furthermore, considering the obligations and responsibilities of family members toward one another, blocking avenues for evading these duties is among the positive aspects of criminal sanctions in the family context, which will be further elaborated below (Tavajjohi, 1998).

3.2. *Negative Effects of Criminal Sanctions from the Perspective of Criminal Sociology*

A) Family Disintegration

The breakdown of the family unit has numerous adverse consequences for both family members and society, including emotional crises, the vulnerability of divorced women, moral corruption, behavioral disorders in children, and an increase in crime rates. The criminalization of non-payment of alimony aims to protect both the integrity of the family and the rights of the wife. On the one hand, the husband's conviction is contingent upon his financial capability, which supports

the stability of the family. On the other hand, since this offense is subject to the wife's complaint and can be withdrawn by her, it indicates a focus on protecting the wife, even though it may appear that the support of the wife takes precedence over the protection of the family as a whole.

Despite recent social changes and the equality of men and women, allowing women to participate alongside men in various social occupations, many women in the country still lack independent income and are compelled to seek legal recourse due to the non-payment of alimony. According to Articles 1111, 1112, and 1129 of the Civil Code, women have the right to claim alimony and compel their husbands to provide it, and the legislator has provided criminal sanctions for enforcement.

Some believe that increasing the penalties for this crime is necessary due to its adverse social impacts and the harm it causes to women, who are considered a vulnerable segment of society. They argue that in cases of persistent non-payment, the application of supplementary punishments provided under Articles 19 and 20 of the Islamic Penal Code is essential (Khalili, 2008). Others argue that imposing harsher penalties may prevent the expansion of this crime, given the respect accorded to the family institution in society and the harm caused to the wife by the husband's neglect.

However, imprisonment as a punishment for non-payment of alimony does not effectively support the family members and its foundation for several reasons (L. S. Asadi, 2008):

1. One of the fundamental principles of criminal law is proportionality between crime and punishment, which is not observed in the case of non-payment of alimony. The imposition of imprisonment deprives the husband of earning income, further exacerbating the family's financial instability, and the wife's complaint does not necessarily result in alimony payment.
2. The enforcement of punitive measures may contribute to the destruction of family foundations and intensify disputes. When a wife files a complaint against her husband, forcing him to appear before judicial authorities, it creates hostility and resentment, leading to further discord. In many cases, the husband, after serving his sentence, either divorces his

wife or mistreats her to the extent that she relinquishes her rights and requests a divorce. Thus, the application of this law facilitates family disintegration.

3. Marriage is not an ordinary contract but rather a sacred bond, requiring legal provisions to reflect this sanctity. One researcher notes that the family is established with the goal of mutual cooperation between spouses to create a warm and affectionate environment for their psychological well-being and the upbringing of future generations. Consequently, the involvement of criminal measures in family disputes can disrupt the harmony and cooperation between spouses, even at a minimal level (L. S. Asadi, 2008).

Thus, criminal sanctions are inconsistent with the nature of the family institution. The prescribed punishment for this offense—imprisonment—poses a significant threat to the family unit, especially as the imprisonment of the husband may cause extreme hardship for the wife, allowing her to seek divorce under Article 1130 of the Civil Code, ultimately leading to the dissolution of the family.

B) Inconsistency of Punishment with the Fundamental Principles of Family

According to Islamic teachings, the family system is built upon principles such as love, compassion, tolerance, forgiveness, sacrifice, and altruism. These principles necessitate the application of appropriate enforcement measures within the family unit. While imprisonment and corporal punishment may be suitable responses to many offenses, they may have counterproductive effects in the family context. Many legal scholars argue that law alone cannot adequately address issues within the family. Marriage is a contract based on affection and unity, not merely cooperation and partnership. While legal enforcement can compel spouses to live together, it cannot force them to love and care for one another (Hikmat-Niyā, 2009).

Two key principles governing the family—love and compassion, and forgiveness, sacrifice, and altruism—are discussed below:

1. The Principle of Love and Compassion (Motahhari, 1990, p. 4): One of the foundational principles of the family, emphasized in numerous Quranic verses and narrations, is the principle of love and compassion. As

mentioned earlier, God Almighty states in Surah Ar-Rum, verse 21, that one of His signs is the creation of love between spouses. This indicates that spouses do not need to create love; rather, they must strive to preserve this God-given affection.

Martyr Motahhari writes that a woman's need for a man's emotional support is so crucial that marriage without it is intolerable for her. A woman's existence must be nourished by the affection and emotions of her husband so that she can, in turn, provide emotional sustenance to her children. Love acts like the law of gravity and is essential for maintaining familial happiness (Hikmat-Niyā, 2009).

In such an environment, if spouses file complaints against each other, they may succeed in legally penalizing the other party, but they overlook the fact that marriage is not like other contracts, where each party seeks personal gain at the other's expense. When such a dynamic prevails, love, unity, and harmony are undermined (Motahhari, 1990).

4. Alternative Measures to Mitigate the Adverse Effects of Criminal Sanctions

Despite the implementation of preventive measures, disputes remain inevitable, necessitating the use of criminal sanctions. Therefore, it is essential to adopt measures aimed at reducing the negative consequences of these sanctions, which are discussed below.

A) Imprisonment Reduction and the Use of Alternatives to Imprisonment

For many years, imprisonment has been one of the primary sanctions used in family-related offenses. However, given its detrimental effects on the imprisoned individual and their family, the necessity of reducing imprisonment and employing alternatives is undeniable. Alternatives to imprisonment include several options, such as suspended sentences, supervised probation, prohibition from residing in a specific location or engaging in a particular profession, restrictions on presence in certain areas, serving imprisonment only on holidays or at night, mandatory vocational or literacy training, community service for a specified period, and fines proportionate to the offender's income. Judges can select the most appropriate alternative based on the nature of the offense and the offender's personality, thus facilitating their rehabilitation (Mir Mohammad Sādeqī, 2002).

For example, instead of imprisoning a husband who fails to pay alimony, a court order could mandate the allocation of a portion of his income to the wife by government agencies. In the case of an individual who neglects their parental responsibilities, they could be required to attend educational classes and serve weekend imprisonment, allowing them to spend the rest of the week with their family without disrupting family functions.

B) Social Impacts of Reducing Discretionary Punishments on Families

Social responses to criminal behavior include regulating social relations and preserving prevailing values, typically achieved through the punishment of norm violators. However, imprisonment has led to negative consequences such as insufficient deterrence, high incarceration costs, professionalization of criminals, and stress on their families. These challenges have prompted legislative reforms to reduce reliance on imprisonment (Karamati Mo'az, 2017).

The enactment of the 2020 Law on Reducing Prison Sentences has mitigated some social harms, such as family disintegration, loss of employment opportunities for prisoners, lack of family support, and decreased social and economic productivity. The law halved the minimum and maximum discretionary sentences, reducing the prison population and allowing for the replacement of short-term imprisonment with alternative penalties. For instance, the punishment for breach of trust was reduced from six months to three years to three months to 1.5 years, and offenses such as intentional assault, defamation, and insult were converted to fines.

Despite these reforms, some legal scholars have criticized the reduction of discretionary penalties, particularly the expansion of prosecutable offenses under the law. Critics argue that reduced penalties weaken the victim's incentive for restitution and increase the likelihood of offenders exploiting lenient provisions for serious crimes such as fraud, breach of trust, and forgery.

Another concern is the shortened statute of limitations, which may infringe on the rights of victims and society. Some offenders may delay complaints through persuasion or promises, leading to the expiration of the statute of limitations. For example, the one-year limitation period under Article 106 of the Islamic Penal

Code may undermine victims' rights and exacerbate the inefficiency of judicial authorities in handling cases (Ardabili, 2024).

C) Social Impact of Reducing Discretionary Penalties for Imprisoned Mothers

According to Article 50 of the Prison Regulations and Articles 520 and 528 of the Criminal Procedure Code (2013), incarcerated mothers have the right to care for their breastfeeding children up to the age of two. However, the imprisonment of mothers raises challenges related to the principle of personal punishment and creates numerous social consequences, as children, due to their dependency on their mothers, are directly affected by their criminal fate. The fundamental need for maternal attachment is undeniable, and the criminal justice system seeks to prevent the deprivation of children from their mothers.

Deprivation or insecurity in attachment can lead to social disorders in children, such as identity confusion during adolescence (Berk, 2017), increased divorce rates in adulthood (Qā'emī, 1987), and distrust in others (Farnosh et al., 2016).

Children between one and three years of age experience a critical period of development, balancing dependence on their mother and striving for autonomy, which can lead to feelings of doubt and insecurity. Montessori's perspective suggests that nature plays a more significant role for children than for adults, and interaction with nature fosters foresight, patience, and responsibility. Providing a secure and nurturing environment is crucial for their growth. Depriving children of maternal security and placing them in vulnerable situations disregards their fundamental needs (Seyf et al., 1991).

Thus, reducing and converting discretionary penalties for imprisoned mothers is essential to prevent children from being deprived of a supportive environment and vital developmental experiences.

D) Social Impact of Reducing Discretionary Penalties on Families

Families of convicted individuals face numerous social pressures due to the consequences of imprisonment. In societies like Iran, access to higher education and employment opportunities is essential for economic and social advancement, yet families of offenders are often deprived of these opportunities due to financial constraints. The incarceration of the family breadwinner imposes additional responsibilities on other members,

exacerbating financial difficulties. The lack of adequate legal support may push these families towards illegal activities.

Women in such families, particularly female heads of households, face significant challenges in finding employment due to limited social and professional skills. In addition to economic hardships, they also endure social stigma, highlighting the need for social institutions to support skill development and job opportunities for them. Employment with job satisfaction is crucial for improving their quality of life and reducing external pressures (Biyābangard, 1996).

Families of offenders living in suburban areas encounter additional challenges, including economic hardships, unemployment, overpopulation, and limited access to educational and healthcare services. These conditions may lead to psychological pressures such as identity crises, feelings of inferiority, and uncontrolled emotional responses, increasing the risk of criminal behavior. Moreover, even affluent families may face social pressures resulting from criminal sanctions, leading to a gap between their goals and legitimate means of achieving them, which can contribute to deviant behavior (Ahmadī & Imān, 2005; Rasūl Zādeh Aghdam et al., 2015).

E) The Role of Legal Attitudes in Crime Reduction

According to Sutherland's theory, not only association with criminal groups but also their attitudes toward the law significantly influence the learning and repetition of criminal behavior. Criminal responses should aim to alter offenders' beliefs and facilitate behavioral reform. While imprisonment may limit the offender's contact with their family, unjust criminal responses can reinforce negative perceptions of the law.

By adopting more humane approaches, such as judicial supervision orders, supervised probation, and alternative penalties, it is possible to change offenders' beliefs and values. Fair and compassionate interactions by law enforcement with offenders and their families have a positive effect on crime reduction. These measures demonstrate that laws and policies, in addition to fairness principles, should be based on a deep understanding of human motivations and behaviors (Alīverdi Niyā & Ramziyār, 2011).

5. Conclusion

The analysis of criminal sanctions under the Family Protection Law from the perspective of criminal sociology indicates that these sanctions are not only tools for maintaining social order and protecting family values but also have significant impacts on family relationships and social structures. On the one hand, these sanctions, by emphasizing deterrence and imposing specific punishments, contribute to enhancing the sense of security within the family domain. On the other hand, the implementation of these sanctions without considering the social, cultural, and economic contexts can exacerbate tensions and create social divisions.

From a criminal sociology perspective, it is essential that criminal sanctions be designed in a way that, in addition to preserving individual and family rights, contribute to repairing social harm and strengthening the family institution. In this regard, restorative justice approaches and cultural education programs can serve as complementary measures to criminal sanctions, helping to reduce harm and enhance social cohesion within families.

Consequently, criminal sanctions for family-related offenses, such as non-payment of alimony, may not only fail to produce positive outcomes for individuals and society but could also inflict serious damage on the family structure. Negative consequences such as the disintegration of the family unit, the intensification of emotional crises, and psychological issues for family members, particularly children, are among the adverse effects of these penalties. Punishments such as imprisonment and fines, given their potential to increase internal family tensions and financial difficulties, cannot effectively strengthen the family foundation or reduce offenses.

Furthermore, considering Islamic teachings and humanitarian principles, it is crucial that family-related issues and marital relationships be addressed through restorative and educational methods rather than harsh punitive measures. In this regard, alternative sanctions such as family education programs, counseling, and social support can provide effective solutions and mitigate the negative effects of criminal sanctions.

Therefore, to preserve the health and stability of families and to reduce social and economic problems, family-related legal frameworks and criminal sanctions must be drafted with greater precision. Supportive and

rehabilitative approaches should take precedence over punitive measures.

Given the negative consequences and complexities associated with imprisonment in legal systems, especially concerning family matters, adopting alternatives to imprisonment and utilizing social and corrective penalties is of particular importance. These measures not only help in reducing the social harm caused by incarceration but also contribute to the rehabilitation and behavioral correction of offenders. Additionally, the reduction of discretionary punishments and the adoption of fairness- and social justice-based approaches can play an effective role in preventing further offenses and improving the quality of life for families.

Authors' Contributions

Authors contributed equally to this article.

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

Transparency Statement

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