

Identification and Status of Customary Punishments in Iranian Law with Reference to French Law

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1. Round 1

1.1. Reviewer 1

Reviewer:

The sentence “This situation may lead to inconsistencies between written laws and judicial practice (Azizi, 2020; Shafiei, 2019)” should be expanded with specific examples from Iranian case law to illustrate the point concretely.

The research question is clearly stated, but it could be rephrased in a hypothesis-driven manner (e.g., “We hypothesize that customary punishments play a more flexible role in Iranian law compared to French law due to jurisprudential foundations”).

The statement “customary ta’zirat represented punishments for other crimes not specified under hudud, qisas, or diyat” needs citations to specific historical legal texts or cases; otherwise, it appears anecdotal.

The sentence “One of the most important customary elements in Iranian law is governmental ta’zirat” should be followed by statistical or doctrinal evidence of how often courts invoke this in practice.

The critique notes “absence of a precise definition of custom” as a challenge. This point is critical—please expand with examples of divergent judicial interpretations to illustrate inconsistency.

The discussion of the French Revolution mentions Enlightenment thinkers but does not cite Beccaria directly. Since Beccaria is referenced, please include a proper citation or explanation of his influence.

The text says “custom continues to complement statutory law” but does not provide examples of contemporary French cases. Adding one or two recent cases would strengthen this section.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The outline of the paper is helpful, but it would benefit from a short justification for why a comparative perspective between Iran and France was chosen, rather than another secular system (e.g., Germany or Italy).

The claim that “customary punishments emerge naturally and gradually within society” requires clarification. Are these punishments enforced by community leaders, courts, or social sanction? Define the enforcement mechanism more clearly.

The text states: “custom may generate rules for social and criminal behavior, provided that it does not contradict the fundamental principles of the legal system.” Please provide examples of how this has occurred historically in Iran or France.

The conclusion that “observing these two dimensions ensures legitimacy” seems normative. Consider rephrasing to a more analytical tone, e.g., “may enhance legitimacy” rather than “ensures.”

The sentence “custom operates as a supplementary mechanism to ensure proportional justice” reads as normative rather than descriptive. Please reframe to avoid evaluative bias.

The phrase “may foster perceptions of injustice” is too vague. Please specify whether there is empirical evidence (e.g., surveys or case law critiques) to support this claim.

The conclusion repeats much of the abstract without adding new synthesis. Strengthen it by highlighting implications for legal reform, judicial training, or human rights compliance.

The recommendation “drawing on the French experience in balancing legal certainty with limited flexibility” would be stronger if supported by an explicit example (e.g., mitigating circumstances codified in French law).

Authors revised the manuscript and uploaded the document.

2. Revised

Editor’s decision: Accepted.

Editor in Chief’s decision: Accepted.