

A Comparative Examination of the Position and Role of Legal Paternalism in Iranian and French Criminal Law

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1. Round 1

1.1. Reviewer 1

Reviewer:

The paragraph identifying four research gaps is valuable; however, the manuscript does not subsequently demonstrate how each gap is specifically addressed in the Results and Discussion sections. I recommend adding a brief subsection at the end of the Introduction that explicitly maps the identified gaps to the analytical structure of the article.

In the Research Method section, the statement “The method of the present study is descriptive-analytical and based on library documents” is overly general. The authors should clarify the criteria used for source selection, inclusion and exclusion procedures, the temporal scope of materials reviewed, and the analytical framework used for comparative legal analysis. Without these details, methodological replicability remains limited.

The subsection “Hard and Soft Paternalism” provides a useful overview; however, the authors should clarify whether they adopt a particular normative position regarding the legitimacy of either form. The current exposition remains descriptive and does not explain which evaluative criteria are subsequently used to assess Iranian and French criminal law.

In the sentence “Mandatory helmet use for motorcyclists, the prohibition of suicide and assisted suicide, and strict restrictions on abortion are among the instances of this type of paternalism”, the examples are presented without acknowledging substantial scholarly disagreement concerning whether some of these regulations are actually paternalistic or are instead justified under broader public-interest rationales. A discussion of this debate would improve conceptual precision.

The subsection entitled “The Distinction between Legal Paternalism, the Harm Principle, and Legal Moralism” would benefit from a comparative table summarizing the core features, objectives, protected interests, and criminal-law implications of each doctrine. Such a table would significantly improve clarity and analytical accessibility for readers.

The discussion of Feinberg's theory in the paragraph addressing "harm to others" is rather brief. Given the centrality of Feinberg's work to the topic, the authors should provide a more detailed analysis of the distinction between direct harm, indirect harm, offense, and paternalistic intervention.

In the subsection "Types of Paternalism in Modern Legal Systems", the classification of physical, economic, moral, and professional paternalism is informative, but the manuscript does not explain why these categories were selected over alternative typologies found in the literature. A justification of the adopted classification framework is necessary.

The section "Rejection or Limited Acceptance of Paternalism in French Liberal Doctrine after the Revolution" would benefit from a more detailed historical account of the evolution of French criminal law from the Napoleonic era through contemporary constitutional jurisprudence. The transition from revolutionary ideals to modern doctrine is currently summarized too briefly.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The claim that "the Iranian legal system... has criminalized a wide range of conduct contrary to Islamic morality" is an important argument, yet the analysis would be more persuasive if supported by a systematic review of specific statutory provisions and judicial interpretations rather than illustrative examples alone.

In the subsection "The Role of Paternalism in Criminal Laws Based on Shiite Jurisprudence", the manuscript places substantial emphasis on the principles of *amr bi al-ma'ruf* and *nahy az al-munkar*. However, there is insufficient discussion of contemporary debates regarding the scope of these principles in modern constitutional governance. Incorporating competing interpretations would improve scholarly balance.

The paragraph discussing the maxim "*la darar wa la dirar fi al-Islam*" treats self-harm and harm to others as equally encompassed by the doctrine. The authors should provide additional jurisprudential evidence for this interpretation, as the scope and application of the maxim remain contested among legal scholars.

In the section on suicide and assisted suicide, the statement "Under Article 375 of the Islamic Penal Code adopted in 2013, assisting suicide is considered a crime" requires a more detailed legal analysis, including discussion of the precise elements of the offense, relevant judicial practice, and any doctrinal disagreements concerning interpretation.

The discussion of abortion in Iranian law would be significantly strengthened by examining the interaction between the Islamic Penal Code and the Therapeutic Abortion Act, as well as recent legislative developments concerning population policy and reproductive rights. The current treatment appears somewhat incomplete.

In the subsection "The Relationship between Paternalism, the Principle of Public Interest of the System, and the Preservation of Religious Values", the manuscript relies heavily on theoretical justification but provides limited empirical evidence demonstrating how these principles actually influence legislative and judicial decision-making. Case studies would substantially enhance the argument.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.