

De-violentization of Iran's Substantive Criminal Law in Light of International Instruments

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Iranian substantive criminal law still reflects manifestations of violence in a considerable part of its provisions, including corporal punishments, long-term imprisonment, and severe restrictions on individual rights and freedoms. At the international level, human rights instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture, by emphasizing the inherent dignity of the human person, have influenced the process of de-violentization in the criminal policies of states. Focusing on Iranian substantive criminal law, this article seeks to examine the extent and manner of the impact of these instruments on reducing manifestations of violence and promoting decriminalization and depenalization. The present study was conducted using a descriptive-analytical approach and a library-based method. The data were collected from domestic sources, including Iranian criminal laws, the Ta'zirat Bill, jurisprudential works, and legal studies, as well as international sources, including binding and soft-law human rights instruments, interpretations issued by supervisory committees, and international practices, and were then analyzed through a comparative method. The study shows that international instruments have influenced Iranian substantive criminal law in three main areas: decriminalization of certain behaviors or limitation of the scope of criminalization, particularly in the domain of individual and social freedoms; complete or relative depenalization through the abolition or reduction of the severity of certain punishments and the expansion of alternatives to imprisonment; and moderation of punishments in line with the principle of proportionality between crime and punishment and with due regard to human dignity. Nevertheless, significant gaps remain between international requirements and domestic laws, and certain punishments continue to conflict with international standards. International instruments have played a decisive role in orienting the process of de-violentization in Iranian criminal law; however, their impact is more evident at the discursive and policy-making levels than at the levels of legislation and implementation. The persistence of certain jurisprudential, cultural, and institutional barriers has hindered the full realization of this process. Reforming criminal laws, strengthening supportive institutions, and promoting a human rights culture in society can facilitate greater alignment of Iranian criminal law with international standards.

Keywords: decriminalization, substantive criminal law, violence, de-violentization, depenalization.

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1. Introduction

The phenomenon of violence has always been one of the fundamental concerns of human societies and

has had extensive effects on the security and well-being of individuals and society across various social, psychological, cultural, and legal dimensions. In this regard, criminal law, as the most important instrument



of sovereignty for regulating public order and responding to crimes, has a dual relationship with violence: on the one hand, it is tasked with controlling and reducing violent behaviors; on the other hand, through criminalization and penalization, it itself becomes a ground for the emergence of legitimate and legal violence. This duality between the protective and violence-producing functions of criminal law has long been one of the most important issues in the philosophy of law and criminal policy. Classical criminal-law thinkers such as Beccaria and Bentham emphasized the limitation of criminalization and the necessity of proportionality in punishments, and they attempted to reduce the severity of legal violence by proposing rational models. Over time, the intellectual and political developments of the nineteenth and twentieth centuries and the emergence of disciplines such as criminology and empirical criminal sciences shifted criminal law from a sole focus on criminal conduct toward attention to the personality of the offender. At the same time, with the expansion of democracy and the formation of the international order after the Second World War, a new wave of human rights thought emerged that directly influenced criminal law. Foundational instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture recognized principles such as human dignity, the prohibition of inhuman and degrading punishments, and the guarantee of fair trial as global norms (Donnelly, 2003; Nowak & McArthur, 2008; Schabas, 2002). By limiting the penal powers of states, these instruments in fact introduced a new model of “de-violentization” in criminal law. The concept of de-violentization, which has become prominent in the literature of criminology and criminal law in recent decades, refers to a set of approaches and policies aimed at reducing the severity and scope of penal responses and replacing them with more humane methods of dealing with criminality. This concept, on the one hand, rests on the foundations of restorative justice and modern criminology and, on the other hand, is strengthened in light of international human rights instruments. In other words, de-violentization means moving from severe and violence-reproducing punishments toward supportive, restorative, and rehabilitative policies. In the Iranian criminal justice system, the influence of international human rights

instruments, despite specific cultural and jurisprudential considerations, has gradually been reflected in some areas. For example, in the Criminal Procedure Code of 2013 and the Law on Dispute Resolution Councils, institutions such as criminal mediation, reconciliation, and restorative justice have been accepted. This indicates that the international discourse of human rights has been able to play an effective role in the procedural dimension of Iran’s criminal justice system. However, in the field of substantive criminal law, some severe and violent punishments such as the death penalty, long-term imprisonment, and corporal punishments still persist and are inconsistent with global standards. In addition, violations of the principles of fair trial, deprivation of accused persons of fundamental rights such as access to counsel, and cases of unlawful detention have increased the level of legal violence and widened the gap with international requirements (Donnelly, 2003; Schabas, 2002). This situation makes the need to reconsider Iran’s criminal policies even more pressing. Indeed, aligning penal policies with international human rights standards is an undeniable necessity not only from the perspective of Iran’s legal obligations but also in terms of the efficiency of the criminal justice system. The persistence of penal violence has led to social dissatisfaction and weakened public trust, and it can distance criminal justice from its primary objectives. Therefore, examining the role and place of international instruments in reducing substantive and procedural forms of violence in Iran’s legal system constitutes a fundamental step toward enhancing human dignity and the effectiveness of criminal policy. This study, by focusing on the concept of de-violentization and analyzing the influence of international instruments on Iranian substantive criminal law, seeks to answer the central question of the extent to which, and the manner in which, these instruments have been able to affect the processes of decriminalization, depenalization, and humanization of the country’s penal policies. Explaining legal instances, identifying existing obstacles, and proposing solutions for aligning Iranian criminal law with global standards constitute the main objectives of this research. It is hoped that the findings of this study will open a new horizon toward reducing legal violence, strengthening restorative justice, and realizing a dignity-oriented criminal justice system in Iran.

2. Conceptual Framework and Foundations of De-violentization in Light of International Instruments

An analysis of the concept of de-violentization in criminal law would be incomplete without attention to its theoretical framework and legal foundations. International human rights instruments, especially the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture, provide clear and binding criteria regarding the prohibition of penal violence and the protection of human dignity. These instruments, on the one hand, define and delimit legitimate and illegitimate violence within the realm of criminal law and, on the other hand, introduce fundamental principles such as the inherent dignity of the human person, proportionality between crime and punishment, the prohibition of inhuman punishments, and the guarantee of fair trial as the principal pillars of modern criminal policy. From this perspective, de-violentization is not merely a domestic penal policy but an international necessity and a manifestation of respect for the global obligations of states. Accordingly, this section first addresses the concepts of violence and de-violentization, then examines the human rights foundations in international instruments, and finally explains the fundamental principles of de-violentization.

2.1. The Concept of Violence and De-violentization in Criminal Law

Violence, in simple terms, refers to the use of physical or psychological force to impose the will of an individual or group on another, but in the social sciences and criminal law it has a broader meaning. Violence has been divided into three types: direct violence, such as murder and battery; structural violence, arising from institutional and political inequalities; and cultural violence, rooted in social beliefs and values (Foucault, 2016). In the criminal justice system, these three levels are present: direct violence in the commission of crime, structural violence in the organization of the judicial apparatus, and cultural violence in the acceptance or legitimation of harsh punishments. In criminal law, violence is both the subject of criminalization and the instrument of legal response; punishments such as the death penalty, long-term imprisonment, or flogging, although legally legitimate, are regarded from the perspective of critical criminology

and human rights as manifestations of “state violence” (Foucault, 2016). This duality has caused the concept of violence to extend not only to the conduct of offenders but also to legal responses. From the second half of the twentieth century onward, with the rise of human rights movements, attention to the “softening” and “humanization” of penal responses increased. Modern theories of criminology, restorative justice, and preventive approaches, by focusing on compensation for victims, the social reintegration of offenders, and the enhancement of public trust, show that combating crime does not necessarily require violence. Within this framework, de-violentization of criminal law does not mean the absolute abolition of punishments; rather, it is a process for reducing the severity and scope of legal violence through three mechanisms:

- Decriminalization: limiting the scope of criminalization and eliminating unnecessary offenses;
- Depenalization: replacing or moderating harsh punishments with alternative measures such as community service or proportionate fines;
- Dejudicialization: reducing the direct intervention of the judicial apparatus and strengthening mediation and out-of-court dispute resolution institutions.

The main objective of this approach is to redefine the relationship between “social security” and “human dignity” in such a way that penal responses do not exceed the threshold of unnecessary violence while maintaining their effectiveness in controlling crime. Comparative examples include the abolition of the death penalty in Europe, the development of restorative justice in Canada and New Zealand, and alternatives to imprisonment in Scandinavian countries (Ahmadi, 2002; Coyle & Scott, 2023). In Iran, despite jurisprudential and cultural limitations, developments such as criminal mediation, dispute resolution councils, and institutions such as suspension of punishment, conditional release, and mitigation of punishments are considered steps toward de-violentization. Nevertheless, the persistence of some corporal punishments and the death penalty indicates a gap between Iranian criminal law and international standards. Therefore, de-violentization is not only a theoretical idea but also a practical necessity for enhancing social legitimacy and aligning the criminal justice system with international obligations.

2.2. Principles and Foundations of De-violentization in International Instruments

De-violentization, as one of the fundamental principles of human rights, goes beyond the direct prohibition of violence and obliges states to adopt preventive measures, support victims, and be accountable in the face of violence. International instruments, including the Charter of the United Nations (1945), the Universal Declaration of Human Rights (1948), and the International Covenant on Civil and Political Rights (1966), by emphasizing the right to life, human dignity, and personal security, provide a framework for preventing violence and creating a human-centered criminal justice system. The Convention against Torture (1984), the Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Convention on the Rights of the Child (1989) also require states to prevent torture, degrading treatment, and violence against vulnerable groups. The fundamental principles of de-violentization include the inherent dignity of the human person, proportionality between crime and punishment, the prohibition of inhuman punishments, and the guarantee of fair trial. Human dignity, as the axis of all human rights, obliges states to design their penal policies and measures in such a way that accused and convicted persons are not subjected to degrading treatment or torture. Observance of proportionality between crime and punishment prevents the imposition of excessive or degrading punishments and strengthens public trust in the judicial system. Moreover, the guarantee of fair trial includes access to counsel, the right to an impartial adjudication, and equal opportunity to present evidence, and makes possible the reduction of systemic violence in criminal justice systems (Shaw, 2017). The development of correctional programs as alternatives to imprisonment, such as conditional release and vocational training for convicted persons, and international monitoring, including reporting to the United Nations Human Rights Committee, are examples of the practical application of these principles. Observance of these principles not only reduces violence in the criminal justice system but also creates a fair, legitimate, and accountable judicial system and strengthens public trust in justice.

3. Manifestations of Violence in Iranian Substantive Criminal Law

Iranian substantive criminal law, despite its effort to regulate criminal conduct and ensure public order, reveals various manifestations of legal violence. Although these forms of violence are formally applied within the framework of legal punishments, from the perspective of criminology and international instruments they may be regarded as a form of state violence. The manifestations of this violence can be observed in three main areas: corporal violence, violence restricting rights and freedoms, and financial violence. Corporal violence includes deprivation of life, amputation and retaliation against limbs, and flogging, and reflects aspects of the enforcement of criminal laws that have been criticized under human rights standards. Violence restricting rights and freedoms includes imprisonment, supplementary deprivations, and restrictions on social rights, which directly affect individual rights and freedoms. Financial violence appears in the form of seizure and confiscation of property, diya, and monetary fines, and is examined in light of international human rights principles in terms of proportionality and justice. Studying these manifestations makes possible a comparative analysis with international instruments and an examination of the extent to which Iran's criminal justice system conforms to global standards of de-violentization.

3.1. Corporal Violence

Corporal violence in Iranian criminal law is one of the tangible manifestations of legal violence and includes punishments that directly harm the body and health of the individual. Although these punishments are not precisely defined in the laws of the country, they usually include deprivation of life, amputation, and flogging, and are applied with the aim of disciplining, reforming, or deterring. From a criminological and comparative perspective, these punishments may constitute state violence because intentional bodily harm is inflicted by official institutions and conflicts with international human rights standards. The history of corporal punishments shows that in the past their main motivations were often revenge, obtaining divine satisfaction, and moral correction. In traditional societies, the enforcement of punishments such as

flogging, amputation, branding, and mutilation, in addition to punishing the crime, served as a means of humiliation and display of state power. With the emergence of modern philosophical and legal thought in the seventeenth and eighteenth centuries, thinkers such as Beccaria and Bentham regarded the use of severe violence as inhuman and ineffective and called for its limitation. Global legal developments also confirm this tendency: the Eighth Amendment to the United States Constitution (1791) prohibited cruel and unusual punishments, and corporal punishments have been expressly prohibited in Sweden and Switzerland. In France after the Revolution, flogging and bodily torture were abolished, and the death penalty remained only for a limited number of crimes until it was eventually abolished in 1981. These examples show that the elimination of corporal violence in modern judicial systems has become an internationally accepted principle. In Iran, corporal violence continues to appear in the form of execution, qisas of life, amputation, and flogging. Although Islamic jurisprudence classifies these punishments under the category of “jinayat,” serious criticisms have been raised against the continuation of these punishments with the development of human rights thought and international standards. The main critique is based on the principles of human dignity, the prohibition of inhuman and degrading treatment, and the necessity of moving toward a correction-oriented and de-violentized criminal justice system. Examining the practical instances of corporal violence in Iran, including deprivation of life, amputation, and flogging, provides a clear picture of the degree of conformity or distance of Iran’s criminal justice system from the principles of de-violentization. Each of these instances is analyzed and evaluated separately below in order to clarify the manifestations of corporal violence in Iranian laws and the challenges of reducing it.

A. Deprivation of Life

Life-depriving punishments are recognized as the most prominent manifestations of corporal violence in Iran’s criminal justice system, because such punishments directly target the fundamental right to life and their enforcement means the complete termination of the convicted person’s life. From a criminological and legal perspective, these punishments are a clear symbol of legal violence or state violence; a violence that is applied systematically, within the framework of law, and with

formal legitimacy. This violence is not limited to the convicted person but also has broad symbolic and psychological effects on society, and its consequences are significant in shaping social norms and deterring crime. Qisas of life, one of the most important instances of deprivation of life in Iranian criminal law, is an example of a legal retaliatory response to crime; that is, punishment is determined in proportion to the committed offense. The Islamic Penal Code of 2013 introduces qisas of life as the principal punishment for intentional murder. Although this punishment has religious legitimacy from the perspective of Sharia, its violent nature is undeniable because its implementation requires the infliction of pain, the threat to life, and the direct use of violence against the body of the convicted person. This punishment reflects the intersection of law and violence in the criminal justice system and shows that even within the legal framework, the direct use of violence against the individual has been legitimized as an instrument for realizing justice. Other life-depriving punishments, such as killing and execution, although terminologically and jurisprudentially different, are similar in their violent nature. The term “killing” has replaced the word execution in hudud laws, but its purpose and consequence, namely the termination of the individual’s life, remain. Crucifixion and stoning are also clear examples of physical violence that, while inflicting severe pain and suffering, deprive the individual of the fundamental right to life. In these instances, violence is manifested not only in the outcome but also in the process of enforcement, showing that the criminal justice system, through legal instruments, is capable of applying direct and organized violence to the human body and life. The common feature of all life-depriving punishments is their severity, irreversibility, and non-modifiability. Even with legal and religious restrictions on the manner of implementation, the inherent violence of these punishments is always prominent and evident. This reality shows that life-depriving punishments, as a manifestation of state violence, have broad and long-term effects on social norms and the collective psyche of society. From a legal perspective, these punishments are an example of the coexistence of law and violence; a law that, with jurisprudential and legal legitimacy, performs acts with direct and irreversible effects on the body and life of the individual. Analyzing these punishments from the perspective of violence shows that even punishments

defined under the titles of “justice” and “deterrence” are, by their nature, instruments for the exercise of organized violence. This violence is observable at both individual and social levels, and for this reason, the examination of life-depriving punishments reveals the role of the criminal justice system in expanding legal violence and its extensive effects on fundamental human rights in Iran.

B. Amputation and Qisas of Limbs

Amputation and qisas of limbs are among the prominent instances of corporal violence in Iran’s criminal justice system, because their enforcement directly affects the body and physical health of the individual and, by inflicting severe pain and suffering, constitutes a clear manifestation of legal violence. Although the phrase “amputation” is used in statutory texts as a punishment, no clear definition has been provided of the exact meaning of “cutting” or the boundaries of a “limb.” From a legal and criminological analytical perspective, amputation means separating a specific and natural part of the body that has an essential role and effective function in the life and activities of the individual; therefore, paralysis, bone fracture, or cutting a small part of flesh does not fall within this definition. This distinction indicates legal precision in identifying the instances of corporal violence; nevertheless, the violent nature of this punishment remains prominent and undeniable, because by destroying a part of the body, it creates the possibility of permanent harm, disability, and physical limitations for the individual. The Islamic Penal Code of 2013, in Articles 386 to 439 and also Article 296, subjects intentional amputation and injury of a limb to qisas. Thus, qisas is applied only when the injury or amputation is intentional, and in cases where harm results from unintentional battery and injury, the law places it under diya and provides a different punishment. This legal distinction, while creating a specific framework for the application of corporal violence, makes its violent nature more prominent from a legal perspective, because the intentional nature of the act entails more severe legal responsibility and consequences and has a direct impact on the individual’s body and health. From an analytical perspective, the punishment of amputation and qisas of limbs not only directly applies physical violence but also has broad psychological and social consequences. The experience and observation of the enforcement of this punishment

in society constantly recalls the power and will of the state in applying legal violence and simultaneously conveys a deterrent and warning message to others. In this way, this punishment constitutes a manifestation of organized and legitimate violence within the framework of law, because its enforcement requires the direct intervention of judicial institutions and official authorities, and any error or mistake in its application entails irreparable consequences for the convicted individual.

Overall, the punishment of amputation and qisas of limbs is a clear example of legal violence in the Iranian criminal justice system, applied with the aim of responding to crime and creating deterrence; while directly affecting the individual’s body, it shows how violence is embodied within the framework of criminal law. By inflicting specific and intentional physical harm, this punishment clearly demonstrates the place of corporal violence in Iran’s penal policies, and its analysis is of particular importance for understanding the dimensions of legal violence and the structure of the country’s criminal justice system.

C. Flogging

Flogging, as one of the prominent instances of corporal violence in Iran’s criminal justice system, represents the infliction of direct pain and suffering on the body of the convicted individual and is applied with the aim of discipline, punishment, or deterrence. The word flogging is derived from the Arabic root “sh-l-q” and originally means striking with a whip; in historical sources, this instrument of punishment was widely used in ancient Iran, from the Achaemenid period to the Sassanian period, and its enforcement was always accompanied by severity and a prescribed minimum and maximum number of lashes. Studies show that the punishment of flogging was applied in the past not only to humans but also to animals and objects, which indicates the violent and physical nature of this punishment in the historical development of criminal law. Over time and with legal developments, especially after the Constitutional period and the establishment of modern criminal laws, the tendency toward corporal punishments gradually declined, and imprisonment and monetary fines became the main penal instruments. In the General Penal Code of 1925, the punishment of flogging had almost been abolished, although it was provided in some miscellaneous criminal laws in a limited manner. Even in

1965, a law entitled the “Abolition of the Punishment of Flogging” was enacted, which declared the implementation of this punishment obsolete in specific cases. However, after the Islamic Revolution and the return to the general principles of Islamic criminal law, flogging was once again provided in the current laws of Iran and is used as one of the Sharia-based and ta’ziri punitive instruments. From an analytical perspective, flogging is a clear instance of legal violence because of its direct and physical effect on the body. Although its aim is to administer justice or create deterrence, its nature remains violent and imposes severe suffering on the convicted person. The number of lashes, the severity of their application, and the conditions of enforcement all highlight the violent aspects of this penal instrument and show how law, through the punishment of flogging, can directly affect the body and physical experiences of the individual. In addition, flogging, like other corporal punishments, is a symbol of power and the exercise of legal violence by judicial institutions, which, through the official enforcement of punishment, entails broad psychological and social consequences for the convicted person and society. As a result, despite historical changes and legal reforms, the punishment of flogging remains an obvious manifestation of legitimate corporal violence in Iran’s criminal justice system, and its examination within the framework of legal-violence analysis is of special importance for understanding the structure and dimensions of legal violence.

3.2. Restrictive or Rights- and Liberty-Depriving Violence

Penal violence is not manifested only in overt physical forms such as execution, qisas, or flogging; it also appears in subtler and more complex forms, the most important of which are deprivation of liberty and restriction of the individual’s fundamental rights. Indeed, one of the most fundamental human values recognized in human rights thought and the philosophy of modern criminal law is individual liberty; a right that is not only an essential condition of human dignity but also the foundation of social participation and individual flourishing. Any infringement of this right, even if applied within a legal framework and in the name of criminal justice, is an instance of state violence that can have destructive effects on the life of the individual and society. In Iranian criminal law, as in many legal systems, punishments have been provided that directly lead to

deprivation or restriction of individual freedoms. Imprisonment, supplementary deprivations, and consequential punishments are among the legal instruments that appear to have a non-physical nature, but in reality they deeply intervene in the realm of the individual’s liberty and social rights. Because of the scope and depth of their effects, such interventions fall within the category of legal violence, which sometimes leaves even heavier consequences than corporal punishments. Imprisonment, as the most common form of deprivation of liberty, appears to be a rational measure for preventing crime and reforming the offender, but deprivation of liberty and disruption of family, occupational, and social bonds in practice place the convicted person in a situation that, from a criminological perspective, may constitute a form of structured violence. The length of prison terms and the failure to observe proportionality between crime and punishment in many cases intensify this violence and create the grounds for irreparable psychological and social consequences. On the other hand, supplementary deprivations, which are often applied in the form of supplementary measures such as compulsory residence, prohibition of employment, or restrictions on place of residence, despite their apparently managerial nature, constitute hidden forms of legal violence by restricting the individual’s legitimate freedoms. These restrictions confront the convicted person with long-term deprivations not only during the punishment but even after it, and in practice deprive him of the possibility of fully returning to ordinary life.

Consequential punishments also display another dimension of penal violence by automatically imposing deprivations such as deprivation of social rights or prohibition of employment in public positions. The distinctive feature of this category of punishments is the continuation and persistence of their effects even after the principal punishment has been served; a matter that, in the words of some criminologists, constitutes “double violence” in the criminal justice system. A person who, after serving the formal punishment, remains subject to social exclusion and legal restrictions is in practice faced with a secondary and indirect punishment that can push him toward social isolation and the reproduction of criminality. Therefore, restrictive or liberty-depriving violence in Iranian criminal law is not merely a legal instrument for controlling crime but an objective

manifestation of the state's penal power, which directly intervenes in individual and social life by restricting the most fundamental human right, namely liberty. Because of its hidden and gradual nature, this form of violence has received less attention than corporal violence, but in practice it leaves broader effects on the personality, dignity, and social status of the individual.

A. Imprisonment

Imprisonment, as the most common and widespread liberty-depriving punishment in contemporary criminal justice systems, is a clear manifestation of legal violence that, by depriving the individual of the most fundamental human right, namely liberty, deeply affects the physical, psychological, and social life of the convicted person. Although in the eighteenth and nineteenth centuries, under the influence of the teachings of thinkers such as Beccaria and the developments arising from the French Revolution, prison was introduced as a "milder" alternative to corporal punishments (Foucault, 2016), practical experience has shown that this punishment can be just as violent and harmful, if not more so. In Iran as well, similar to other legal systems, imprisonment entered the criminal justice system in a modern form during the first Pahlavi period and, with the gradual development of laws and regulations, became one of the main pillars of criminal policy (Shirian Nasl et al., 2020). However, the continuous increase in criminal titles and the legislature's tendency toward excessive criminalization have turned imprisonment into a pervasive instrument for responding to criminal conduct. Thus, under Iran's criminal laws, there are currently approximately 1,400 criminal titles, and imprisonment is prescribed for 400 of them (Shirian Nasl et al., 2020). This has caused overcrowding and inflation of the penal population. Such inflation is not only a sign of structured violence within the criminal justice system but also leads to crises such as prison overcrowding, the reduction of humane living standards for prisoners, and violation of the inherent dignity of the human person. From a criminological perspective, prison is an environment that often becomes a "school of crime" rather than a place of correction and rehabilitation. Domestic and foreign studies have clearly shown that the coexistence of professional offenders with occasional offenders creates a ground for learning criminal patterns and recidivism. This process not only demonstrates the inefficiency of the rehabilitative functions of

imprisonment but also places it among the instances of hidden violence; violence that gradually destroys the individual's personality and makes his return to society more difficult. Imprisonment also has secondary effects on family and society. The separation of the prisoner from the family environment, the economic and psychological pressure on family members, and the social stigma resulting from a prison record are all consequences that expand the circle of violence caused by this punishment beyond the convicted individual. Thus, imprisonment affects not only the offender but also the network of human relationships around him and creates a wave of deprivations and harms. In addition, the heavy financial costs of imprisonment for the state and society, along with the physical and psychological harms inflicted on the prisoner, have distanced this punishment from its principal function, namely preserving social order and deterrence. As Ahmadi states, prison "does not teach respect for the law" and has become more of a site for the reproduction of crime (Ahmadi, 2002). From this perspective, imprisonment can be regarded as a form of double violence: violence that, on the one hand, deprives the individual of liberty and, on the other hand, by failing to reform and rehabilitate, reproduces new violence-producing conditions in society. Therefore, although imprisonment in Iranian criminal law appears to be a more humane alternative to corporal punishments, in practice, because of its wide application, the severity of its effects, and its social, psychological, and economic consequences, it must be regarded as one of the prominent instances of penal violence. This is a violence that is not applied in overt scenes of corporal punishment but in the hidden structures of imprisonment, over the long term and in a gradual manner.

B. Supplementary Deprivations

Supplementary or complementary punishments must be regarded as one of the clear manifestations of legal violence in Iran's criminal justice system. Although this category of punishments does not appear to have the severity and explicitness of corporal punishments such as deprivation of life, qisas of limbs, or flogging, its social, psychological, and even economic consequences are much deeper. The essence of these punishments lies in restricting the fundamental rights and freedoms of convicted persons; restrictions that often continue after the principal punishment has been served and constitute

a form of “continuation of penal violence” in a non-physical form. Historical examination shows that supplementary deprivations first entered Iran’s criminal justice system through the reforms of the General Penal Code in 1949, and later, with the enactment of the Islamic Penal Code of 2013, their scope and variety increased. In Article 23 of the latter Code, the legislature has provided a broad range of these deprivations, including prohibition of residence in a specified place or places, prohibition of engagement in a particular job or profession, prohibition of driving or carrying weapons, prohibition of leaving the country, dismissal from public service, and even publication of the judgment of conviction in the media. This breadth shows that supplementary punishments are no longer merely marginal measures but have become serious instruments for restricting the individual and social freedoms of convicted persons. From a criminological perspective, the rationale for these punishments is mainly sought in preventing recidivism and managing the dangerous state of offenders. This means that the legislature seeks to reduce the possibility of reoffending by eliminating or restricting the conditions that facilitate the commission of crime (Ebrahimi & Bazouband, 2018). For example, prohibition of employment for an individual whose crime was committed in the context of his profession, or prohibition of residence in a place where the offense occurred, apparently aims to sever the relationship between the offender and the context of crime. Nevertheless, it must be noted that such measures, to the same extent that they have a preventive function, can in practice constitute a clear instance of structural violence, because they deprive the individual of fundamental rights and place him in a position of social exclusion. The violence of this category of punishments does not appear in an overt physical form but in more hidden and complex forms. Cutting off access to legitimate sources of livelihood, imposing social stigma through publication of the conviction judgment, or restricting freedom of movement and employment can impose more severe psychological and economic pressure on the individual. Such pressures often lead to the weakening of the individual’s social status and trap him in a cycle of isolation, deprivation, and in some cases reproduction of crime. Therefore, although these punishments are considered “milder” compared with hudud and qisas, their violent effects at the individual

and collective levels are no less than those of corporal punishments. From a theoretical perspective, there is also disagreement as to whether these measures should be regarded as punishments or security measures. Some jurists believe that because these measures lack the element of retribution and punishment, they belong more to preventive and security measures than to penal responses (Ebrahimi & Bazouband, 2018). In any case, the reality is that in practice the legislature has placed them within the criminal justice system, and the judge, relying on his powers, can use them as instruments for restricting individual freedoms. For this reason, supplementary deprivations, although softer in appearance and preventive in title, are clear instances of legal violence. Ultimately, it must be acknowledged that supplementary deprivations, despite the absence of overt physical violence, constitute a complex and persistent manifestation of legal violence in Iran’s criminal justice system because of their direct impact on human dignity, the right to work, freedom of movement, and social participation. By pushing the individual to the margins of society and creating structural obstacles to his return to ordinary life, these punishments not only scarcely realize their claimed corrective function but often become instruments for consolidating social exclusion and reproducing violence at a more hidden level.

C. Consequential Deprivations

Consequential punishments, as one of the clear manifestations of legal violence in Iran’s criminal justice system, are intrinsically different from principal and even supplementary punishments. They are imposed on the convicted person automatically by operation of law and without the need for specification in the court judgment; for this reason, both theoretically and in practice, they produce broad effects on the life of the individual and even those around him (Salmanpour & Kazemi, 2016). Indeed, the “automatic” nature of these punishments causes the convicted person, even after completing the principal punishment, to continue to face legal and social restrictions; restrictions that in many cases not only lack a corrective function but also constitute the continuation of structural violence against the individual. In Article 25 of the Islamic Penal Code of 2013, the legislature has enumerated instances of consequential deprivations, including deprivation from employment in sensitive governmental and public

occupations, inability to run for or be elected in elections, deprivation from receiving governmental honors and medals, and even deprivation from the right to practice law or notarial work. These deprivations sometimes continue for up to seven years after the sentence is executed. Thus, upon completion of the principal punishment, the convicted person is in practice faced with a new stage of “hidden punishment” that prevents his return to the normal cycle of social life. The violent nature of these punishments can be analyzed from several perspectives: first, in terms of violation of the principle of individualization of punishments, because their consequential effects in practice are not directed only at the convicted person; rather, his family and those around him are also harmed through social stigma, financial deprivations, and occupational exclusion. Second, from the perspective of the philosophy of punishment, consequential deprivations are not very compatible with corrective and therapeutic objectives. The continuation of social restrictions pushes the individual to the margins and creates the ground for the reproduction of crime. This means that instead of rehabilitation and reintegration, these punishments in practice play a role in preventing the convicted person’s reintegration into society and exposing him to reoffending. On the other hand, the legislative history of this institution in Iran also reflects a kind of fluctuation between acceptance and rejection. In pre-Revolution criminal laws, consequential punishments were provided in Articles 15 and 19 of the General Penal Code of 1925, but they were removed in some subsequent reforms. After the Revolution, this institution was neglected for a period until it was revived in Article 62 bis of the Islamic Penal Code of 1998 and was finally consolidated in the 2013 Code with a relatively coherent structure. This fluctuating development indicates the conflict between the necessity of preserving public order through restricting the social rights of offenders and human rights considerations based on the principle of human dignity. From the perspective of penal sociology, it must be emphasized that the continuation of social deprivations after the principal punishment has been served has profound and sometimes irreparable effects. An individual who, upon completion of his sentence, seeks a second chance to return to society is in practice pushed to the margins through consequential deprivations: from dismissal or inability to work in

appropriate jobs to political and social restrictions. This situation, in addition to intensifying social exclusion, institutionalizes a sense of injustice and structural inequality in the convicted person and his family (Pourghahramani & Teymouri, 2021). Ultimately, consequential violence does not target the individual’s body; rather, by penetrating the sphere of social rights and human dignity, it creates a deeper form of violence that is far more effective psychologically and socially. In other words, consequential deprivations are a clear instance of “indirect legal violence” in Iran’s criminal justice system. Instead of being an instrument for rehabilitating the convicted person, these punishments become an obstacle to his resocialization and lead to the consolidation of a cycle of exclusion, isolation, and reproduction of crime. For this reason, although they are apparently considered “light punishments,” in reality they can constitute a persistent and complex instance of violence in the criminal justice system. In general, regarding restrictive or rights- and liberty-depriving forms of violence, it must be acknowledged that this category of punishments, although apparently less violent than corporal and life-depriving punishments, in fact displays more complex and more lasting dimensions of violence. “Imprisonment,” by depriving the individual of physical liberty and social life, embodies a form of structural violence; “supplementary deprivations,” by creating direct restrictions on civil and professional rights, deprive the individual of free and equal action; and “consequential deprivations,” by continuing the effects of punishment after the end of the sentence, impose a hidden and erosive violence on the life of the individual and his family. Overall, all these punishments share one common point: the continuous restriction of individual and social freedoms and the weakening of human dignity under the cover of “legal punishment.” Therefore, restrictive violence is manifested not merely in detention or imprisonment but in the continuation of deprivations and restrictions that structurally and institutionally prevent the individual from returning to ordinary life.

3.3. Financial Violence

Financial violence refers to a set of measures that, instead of applying physical violence or depriving the individual of liberty, deprive the person of economic resources, property, or income and thereby create penal,

deterrent, or punitive consequences. Although this type of violence does not directly affect the physical freedom of individuals, because it pressures livelihood, economic capacity, and social status, it can be highly effective and even destructive psychologically and socially. In criminal justice systems, financial violence usually appears in three basic approaches: first, seizure and confiscation of property, which are applied with the aim of preventing the offender from benefiting from the instruments or proceeds of crime and securing the rights of the injured party; second, diya, which, with its compensatory aspect, in addition to having a financial impact on the offender, seeks to vindicate the rights of the victim; and third, monetary fines, which, as direct economic punishment, create financial pressure and deterrence against the commission of crime. From the perspective of criminology and criminal law, financial violence can have deterrent and corrective functions; however, if applied disproportionately or beyond the offender's economic capacity, it can itself become a catalyst for recidivism, severe psychological pressure, and weakening of the social position of the individual's family. For this reason, the design and implementation of this type of punishment require observance of proportionality between the crime, the offender's economic capacity, and the objective of crime prevention. Financial violence, unlike imprisonment or liberty-depriving sanctions, also has a broader range of social effects. This is because, in addition to affecting the offender, it can also affect his family, dependents, and even the surrounding economic community, and in some cases it can restrict access to basic life resources and economic opportunities. Therefore, in designing financial punishments, maintaining a balance among deterrence, compensation for harm, and social justice is of great importance.

A. Seizure, Freezing, and Confiscation of Property

One of the most prominent manifestations of financial violence in the criminal justice system is the seizure, freezing, and confiscation of property. Although these measures appear to have a financial character, in practice they can profoundly affect the economic and social life of convicted persons and sometimes even lead to indirect familial and social deprivations. Therefore, precise analysis of their nature and effects is necessary. In the literature of criminal law, seizure of property has a security and educational nature and is usually applied to prevent the continued use by the offender of the

instruments or proceeds of crime. Seizure is a measure that is generally non-mitigable and non-convertible and is necessarily enforced upon issuance of the judgment. This feature distinguishes it from confiscation of property. Confiscation, by contrast, is a penal punishment and is among financial punishments and may be subject to mitigation or conversion into a monetary fine (Aghaei Jannat Makan, 2020). In addition, the difference in the authority competent to hear objections is important; objections to a confiscation judgment fall within the jurisdiction of the Supreme Court, while objections to a seizure order fall within the jurisdiction of the provincial court of appeal. On the other hand, freezing of property has a temporary nature and its purpose is to prevent the transfer or alteration of the status of property until a final determination is made during the proceedings. Therefore, freezing differs from seizure, because seizure leaves a permanent effect, whereas freezing does not necessarily lead to confiscation and may result in restitution or sale. Despite these distinctions, in all three cases the common principle is that the owner is deprived of the right to freely use and dispose of his property. This feature causes the seizure, freezing, and confiscation of property to fall among the prominent instances of penal financial violence; violence that, instead of physical harm, targets the individual's economic foundation. Accordingly, financial punishment functions not only as an instrument for preventing recidivism and returning illegitimate benefits to society but also becomes a kind of secondary punishment for the family and dependents of the convicted person. From the perspective of criminal justice, there is always concern that total confiscation of property, without observing the necessary exemptions for life, may lead to violation of the fundamental rights of the individual and his family. For this reason, the legislature has expressly emphasized in Note 5 of Article 19 of the Islamic Penal Code that the ordinary living expenses of the convicted person and his dependents must be excluded from confiscation. This rule reflects the legal system's effort to create a balance between the necessity of applying punishment and protecting minimum livelihood requirements. Therefore, seizure, freezing, and confiscation of property, although placed within the category of financial punishments or security measures, because of their heavy economic and social effects, contain within

themselves an obvious manifestation of penal violence that directly targets the property and financial security of individuals.

B. Diya

In Iran's criminal law system, diya is regarded as a Sharia-based and legal institution, an alternative to qisas or a complement to it, and its main philosophy is to compensate the material and, to some extent, psychological harm suffered by the victim or the victim's survivors. This means that the legislature, by providing for diya, has attempted, on the one hand, to contain the cycle of physical violence and individual revenge and, on the other hand, to create a basis for repairing harms arising from crime. Nevertheless, closer examination of the nature and effects of diya shows that this institution is not free from challenges and may be counted among the instances of "financial violence." From the first perspective, diya appears to be a rational and civilizing instrument for replacing qisas, because it distances society from reciprocal violence and the continuation of blood revenge and establishes a kind of balance between the rights of the victim and the obligation of the offender. From the second perspective, however, diya itself is a form of financial punishment that places a heavy burden on the convicted person and his family. This financial obligation sometimes exceeds the individual's economic capacity and in practice leads to the collapse of his family's livelihood. In other words, just as qisas is an obvious instance of corporal violence, diya can also be an instance of economic violence, because the offender not only loses financial freedoms but also his family members—who played no role in the commission of the crime—indirectly suffer economic and social harms. On the other hand, the Iranian legal system, by accepting diya, while attempting to realize restorative justice, has in some cases also paved the way for the reproduction of inequality; because in practice the amount of diya is the same for all offenders, without making any distinction based on their financial condition and economic capacity. As a result, diya, alongside its deterrent and restorative functions, also has a coercive and sometimes unjust aspect and may constitute a clear instance of financial violence.

C. Monetary Fine

Monetary fines in Iran's criminal justice system are among the most important ta'ziri punishments and, after life-depriving and liberty-depriving punishments, are

one of the most common penal responses. In essence, this punishment consists of obliging the convicted person to pay a sum of money to the state or public treasury. Indeed, in its historical and conceptual position, the monetary fine has replaced terms such as "indemnity," "cash penalty," or "financial punishment," and it is now established as one of the legislature's principal instruments for confronting a range of ta'ziri crimes in Iran's criminal laws. The function of the monetary fine can be analyzed at several levels: on the one hand, because of its low implementation costs and flexibility, this punishment is considered efficient and useful for the criminal justice system and even enables the state to cover part of its expenses through income derived from fines. In addition, compared with imprisonment, monetary fines have fewer destructive social and psychological effects and can be considered a milder and more humane alternative to short-term imprisonment (Hemmati, 2012). Nevertheless, from a critical perspective, monetary fines, as one of the instances of "financial violence," face serious challenges. First, this punishment directly imposes heavy economic pressure on the convicted person, and in many cases it is not the offender personally but his innocent family and dependents who bear the main burden of this punishment. Especially when the convicted person lacks sufficient financial means, the requirement to immediately pay money or the freezing of his property and wages can create the grounds for poverty, collapse of family livelihood, and even reproduction of the cycle of criminality. In other words, like other financial punishments, monetary fines have indirect effects that appear to be directed at the offender but in practice expose a wider circle of individuals and social institutions to harm. On the other hand, in the enforcement of monetary fines, challenges such as lack of proportionality between the amount of the fine and the economic and social status of the offender, absence of supportive mechanisms after payment, and legal limitations on installment payment or mitigation are observed. This is particularly evident in economic or financial crimes, where the amount of the monetary fine is sometimes set equal to or several times the property obtained. Consequently, this type of punishment can not only function as a deterrent but, if the principle of proportionality is not observed, also become an instrument for the exercise of economic violence and

double deprivation. Therefore, although the monetary fine appears to be an efficient and flexible punishment, in the final analysis it is part of a criminal justice system that, by imposing financial pressure on the convicted person and his family, falls within the manifestations of financial violence and, without balancing the objectives of deterrence and social justice, can produce a result contrary to the corrective and educational philosophy of punishments. In general, examination of the instances of financial violence in Iranian criminal law shows that this category of punishments, although apparently non-physical and different from corporal punishments, deeply and structurally affects the economic and social life of convicted persons and their families. Seizure and confiscation of property by depriving ownership and threatening economic security, diya by imposing the financial burden arising from compensation for harm, and monetary fines by requiring the payment of heavy sums all fall within instruments that can reproduce inequality and psychological and social pressure. Such punishments, especially when implemented without observing proportionality, flexibility, and supportive considerations, appear overtly or covertly as “penal violence.” Therefore, financial violence, alongside corporal violence and liberty-restricting violence, constitutes one of the three main sides of Iran’s penal structure, and without consideration of its social and human consequences, the achievement of criminal justice and the corrective aims of punishments will face serious challenges.

4. From Decriminalization to Depenalization: Models of De-violentization Influenced by International Law

The present section, by focusing on international instruments, examines mechanisms for reducing violence in substantive criminal law. In this regard, the concept of decriminalization and its strategies, including the alignment of domestic laws with international standards and judicial practice, are first analyzed. Attention then turns to depenalization, which includes the abolition or moderation of harsh punishments and the development of alternative punishments. In this process, the distinction between complete and incomplete depenalization is clarified, and the role of leniency institutions in reducing penal violence is explained. Thus, this section shows how international

law can guide the process of reducing violence in Iran’s criminal justice system both at the stage of defining crime and at the stage of enforcing punishment.

4.1. Decriminalization and Its Types

Decriminalization is a process through which the competence of the criminal justice system to impose sanctions on certain behaviors is reduced or completely removed (Najafi Abrandabadi & Hashem Beigi, 2016). This process may appear in various forms, including legal or formal decriminalization, practical or procedural decriminalization, and relative decriminalization. Legal decriminalization involves the amendment or repeal of criminal laws by the legislature, and the behavior is formally removed from the scope of criminal prosecution. Relative decriminalization occurs when punishments are reduced or eliminated, but the legal prohibition of the conduct remains, and the criminal justice system does not completely abandon it. By contrast, practical or procedural decriminalization is a gradual and operational process through which, although the legal competence of the criminal justice system has not changed, criminal justice activity is reduced in practice. This type of decriminalization may include the application of minimum punishments, referral of cases to non-judicial institutions, non-prosecution of certain specific offenses, or changes in judicial practice. For example, in hudud theft cases, if the prescribed conditions are not established, judges may rule for ta’ziri theft; or in the offense of qazf, if the full conditions are not realized, the act may be prosecuted under the title of insult. The application of minimum punishment is also an example of practical decriminalization that reduces pressure on the criminal justice system and legal violence. Overall, this classification shows that decriminalization is a structural and procedural change that requires attention to all influential factors, including culture, social expectations, penal policies, and economic considerations (Nobahar & Ghaffari, 2023). Although the formal term and concept of decriminalization are relatively recent, its history is long, and similar processes existed in past criminal law, albeit without specific planning or predetermined objectives. In recent decades, decriminalization in the West has been pursued in a planned manner with humanitarian and liberal objectives, such as protecting offenders against severe punishments, reducing penal

interventions in the sphere of individual freedoms, and social and medical motivations. Pressure on the criminal justice system, its inability to control the volume of crimes, and declining efficiency have been among the most important factors initiating this process. In Iran as well, the pressure of case accumulation, prison overcrowding, and the increase in the penal population have guided the legislature and judiciary toward practical decriminalization and legal reform (Shojaei et al., 2023). Tangible examples include the reform of the Law on Issuance of Checks, the drafting of the Dejudicialization Bill, and the application of minimum punishments in specific cases. From a sociological and legal perspective, decriminalization is not merely a legal reform but a social process shaped under the influence of structures, culture, policies, and public views (Keehn, 2018). Decriminalization may also take the form of transferring the control of behaviors to non-penal systems such as education, health, social welfare, and restorative justice. In this method, formal deterrence is reduced and the focus shifts to social prevention and repairing the effects of criminal behaviors. For example, in economic, environmental, and guild-related offenses, the use of administrative fines, deprivation of public services, or obligation to take corrective measures replaces criminal punishment, and its speed and effectiveness are often greater than traditional punishments (Mahmoudi Janaki, 2008). In sum, decriminalization, whether formal and legal or practical and procedural, is a multidimensional instrument for reducing the violence of criminal law, managing judicial resources, increasing individual freedoms, and protecting public rights. Practical decriminalization in particular, by controlling the manner in which laws are enforced and applying minimum punishments, plays a key role in creating a balance between criminal justice and citizens' freedoms.

4.2. Depenalization

The term "depenalization" has been used more than anywhere else in the field of policies for dealing with addiction to narcotics, alcohol, and offenses related to unlawful sexual relations, including prostitution and abortion. Nevertheless, its scope and concept are not understood uniformly among scholars, and three main approaches—process-oriented, complete, and partial—can be extracted from the literature of this field. In the

process-oriented approach, the focus is on managing the flow of proceedings and criminal prosecution in such a way that it ultimately does not lead to conviction and enforcement of punishment. This method overlaps in many cases with the concept of "dejudicialization" (Najafi Abrandabadi & Hashem Beigi, 2016). Some scholars have regarded depenalization as broader than dejudicialization and deprosecution (Coyle & Scott, 2023), while others have limited it to measures leading to deprosecution (Najafi Abrandabadi & Hashem Beigi, 2016). Nevertheless, in a considerable part of the literature, depenalization has been treated as synonymous with dejudicialization, and even the Council of Europe, in its Sixth Conference of Ministers of Justice, introduced it as referring to the transfer of some offenses from the criminal sphere to the administrative or civil domain (Coyle & Scott, 2023). Similarly, Delmas-Marty has analyzed depenalization within the framework of dejudicializing measures (Coyle & Scott, 2023). In the literature of criminal policy related to addiction, the use of treatment-oriented courts or alternative prosecution mechanisms has also been considered a clear example of this approach (Sadeghi & Gholampour, 2021). Consequently, in this understanding, depenalization in its broad sense includes a set of policies whose common purpose is to reduce the application of formal punishment. In the second type, referred to as complete depenalization, this term approaches decriminalization. In this understanding, depenalization and decriminalization are sometimes used synonymously (Coyle & Scott, 2023), and sometimes decriminalization is regarded as a specific and narrower type of depenalization (Pacul et al., 2005). In other words, if decriminalization means removing the criminal character from a behavior, depenalization encompasses it at a broader level and leads to the complete removal of the penal sanction. Some have also referred to it as incomplete decriminalization (Najafi Abrandabadi & Hashem Beigi, 2016). What is common to all these views is the removal of punishment from behaviors that either should not have been criminalized in the first place or for which a penal response produces harmful social results. The third approach, which has the most supporters in legal texts, defines depenalization as reducing the severity of punishment in certain offenses, especially minor offenses (Coyle & Scott, 2023). According to the Council of Europe report, at this level, depenalization

means the moderation of punishment; that is, the crime is not completely removed, nor is punishment entirely abolished, but at the legislative or judicial level the severity of punishment is reduced (Coyle & Scott, 2023). This moderation sometimes appears in the form of legislative depenalization, meaning that the legislature reduces the type or amount of punishment prescribed for an offense, and sometimes takes the form of judicial depenalization, where the judge reduces the severity of the penal response by using instruments such as suspension of execution of punishment, conditional release, or statutory excuses. The philosophy of these approaches can be traced in the history of developments in criminal law. From the beginning of the formation of societies, punishment has been an instrument for defending order and confronting violations of the rights of others. However, excessive expansion of criminalization and overreliance on punishment, especially imprisonment, led to “penal inflation” and an increase in prison populations, which itself contributed to the formation of new cycles of violence and criminality. These very consequences justify the need to rethink the role of punishment and to seek measures such as decriminalization, dejudicialization, and depenalization. Today, these measures are recognized as part of macro-policies aimed at reducing the structural violence of the criminal justice system and preventing the harmful effects of severe punishments. Accordingly, depenalization may be regarded as a multilayered strategy: sometimes by eliminating the path of prosecution and substituting non-penal institutions, sometimes by completely removing the criminal character, and sometimes by reducing the amount and severity of punishment. The common feature of all these methods is the attempt to manage penal violence; violence that is imposed on the body, property, or liberty of individuals in the form of punishment and in many cases not only fails to lead to rehabilitation but also creates new social harms. In light of the preceding discussion, it becomes clear that decriminalization and depenalization are not merely theoretical concepts but practical instruments for managing the criminal justice system and reducing the violence arising from it. Since many of these policies emerged in response to the negative effects of severe punishments and penal inflation, it is natural that international human rights instruments and the resolutions of regional and global

bodies have also addressed this issue directly or indirectly. Thus, examining international instances of decriminalization and depenalization provides an opportunity to clarify how the global community has sought to prevent the expansion of penal violence by restricting or removing certain offenses, especially those involving corporal punishments and restrictions on fundamental freedoms. These instances can serve as criteria for assessing the position of domestic laws, including those of Iran, in relation to global standards.

4.3. *International Instances*

An examination of international instruments and practices shows that contemporary penal policies increasingly emphasize reducing the violent aspects of criminal law. Within this framework, decriminalization and depenalization are used as the main instruments of de-violentization. The penal abolitionist movement, by identifying the state criminal justice system as an inherently violent and harmful institution, calls for its replacement with restorative and needs-based models. This approach, rooted in the struggle against structural forms of violence such as racism and racial capitalism, argues that penal responses not only intensify corporal, financial, and liberty-restricting violence but also reproduce the cycle of violence by ignoring the socioeconomic roots of criminality (Coyle & Scott, 2023). Thus, international instances of de-violentization may be examined within the framework of this movement’s fundamental critique of systemic penal violence and its call for real equality.

4.3.1. *Corporal De-violentization*

The idea of de-violentization in the corporal sphere is one of the most important manifestations of the transformation of international criminal policy. This transformation is particularly traceable in international texts concerning the prohibition of execution, flogging, and other corporal punishments. A historical review of international instruments shows that from the middle of the twentieth century onward, human rights and criminal-law instruments have continuously limited or eliminated the scope of legitimacy and permissibility of harsh corporal punishments. The first global instrument in this regard is the Universal Declaration of Human Rights of 1948, Article 5 of which provides that “no one

shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” This general principle provided the moral and normative foundation for all subsequent binding instruments (Donnelly, 2003). Subsequently, within the framework of international humanitarian law, the Geneva Conventions of 1949 and especially Common Article 3 emphasized the prohibition of “violence to life and person, in particular murder, mutilation, cruel treatment and torture.” Thus, even in situations of armed conflict, the imposition of corporal punishments, including amputation, was deemed unlawful and prohibited (Sassoli, 2019). The next step was the European Convention on Human Rights of 1950, Article 3 of which provides that “no one shall be subjected to torture or to inhuman or degrading treatment or punishment.” In its case law, the European Court of Human Rights has interpreted this article in a manner that regards any corporal punishment, including flogging or amputation, as incompatible with human dignity (Bigzadeh & Azarpandar, 2025). At the global level, the International Covenant on Civil and Political Rights of 1966 is a turning point. Article 6 of the Covenant guarantees the inherent right to life and provides that the death penalty may be imposed only for the “most serious crimes” and with full observance of fair trial. Article 7 of the same Covenant expressly prohibits all forms of torture and cruel, inhuman, and degrading punishments. In General Comment No. 20 (1992), the United Nations Human Rights Committee emphasized that Article 7 includes the complete prohibition of punishments such as flogging and other forms of corporal punishment. The movement toward the complete abolition of the death penalty was strengthened by the adoption of the Second Optional Protocol to the International Covenant on Civil and Political Rights in 1989. Article 1 of this Protocol provides that “no one within the jurisdiction of a State Party shall be executed” and that each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction. This instrument creates a binding obligation for the complete abolition of the death penalty (Schabas, 2002). From the perspective of prohibiting torture and other corporal punishments, the United Nations Convention against Torture of 1984 is a foundational instrument. Article 1 defines torture as the intentional infliction of severe physical or mental pain or suffering by a public official for purposes such as

punishment or coercion. Although the text of the article states that pain arising from lawful sanctions is excluded from the definition, the Committee against Torture has repeatedly stated in its practice that punishments such as flogging and amputation, even if provided in domestic laws, are inherently inhuman and prohibited (Nowak & McArthur, 2008). In the field of child protection, the Convention on the Rights of the Child of 1989, in Article 37, prohibits the imposition of the death penalty and life imprisonment without possibility of release for persons below 18 years of age. The Committee on the Rights of the Child also states in General Comment No. 8 (2006) that all forms of corporal punishment, including flogging, are prohibited with respect to children. At the regional level, significant developments have also occurred. Protocol No. 6 (1983) and Protocol No. 13 (2002) to the European Convention on Human Rights abolished the death penalty in peacetime and then in all circumstances, respectively. The American Convention on Human Rights of 1969 also expressly emphasizes in Article 5 that punishments must not include acts incompatible with human dignity, including corporal punishments. In Africa, the African Charter on Human and Peoples’ Rights of 1981 prohibits all forms of torture and inhuman punishment in Article 5 (Murray, 2004). At the level of international criminal law, the Rome Statute of the International Criminal Court of 1998 lists “torture and other similar inhuman acts” as crimes against humanity in Article 7. Therefore, the systematic and widespread enforcement of punishments such as flogging or amputation may constitute an international crime (Cassese, 2008). Alongside binding treaties, United Nations General Assembly resolutions have also played an important role in expanding the norm prohibiting execution. For example, Resolution A/RES/73/175 (2018) called for a moratorium on executions with a view to moving toward complete abolition. Although these resolutions are not binding, they reflect a growing global consensus in this field. Overall, a review of international instruments shows that the death penalty has gradually moved toward complete abolition, and corporal punishments such as flogging and amputation have been absolutely prohibited under the title of “torture or inhuman treatment.” This trend not only reflects a transformation in international criminal law but also constitutes a clear instance of the policy of “de- violentization” of the criminal justice system.

4.3.2. *Financial De-violentization*

Financial violence, as one of the prominent forms of penal violence, refers to the imposition and enforcement of punishments that, by imposing a heavy economic burden, place individuals in a condition of deprivation, poverty, and structural marginalization. Heavy criminal fines, seizure and confiscation of property, burdensome diya, or other financial punishments can not only violate the right to property but also directly endanger the right to an adequate life and minimum livelihood. International human rights instruments, by emphasizing the principles of proportionality, necessity, and human dignity, have continually emphasized the limitation or replacement of these punishments. The Universal Declaration of Human Rights of 1948 provides in Article 17 that “everyone has the right to own property alone as well as in association with others” and that “no one shall be arbitrarily deprived of his property.” This principle creates a strong basis for limiting broad confiscation and seizure of property as penal instruments. Subsequently, the International Covenant on Civil and Political Rights of 1966 also refers in Article 15 to the principle of legality of crimes and punishments and thereby prohibits the imposition of arbitrary and disproportionate financial sanctions. The Human Rights Committee has repeatedly emphasized in its practice that the imposition of disproportionate fines, especially when it leads to serious economic deprivation, violates the principle of human dignity. In the field of economic and social rights, the International Covenant on Economic, Social and Cultural Rights of 1966 guarantees in Article 11 “the right to an adequate standard of living, including adequate food, clothing and housing.” The supervisory committee of this Covenant emphasized in General Comment No. 7 (1997) on “forced evictions” that state measures, including confiscation of property or financial deprivation arising from punishment, must not place individuals in conditions of homelessness or extreme poverty. This interpretation clearly shows that heavy financial punishments conflict directly with fundamental economic and social rights. Regional instruments have also paid attention to limiting financial punishments. The American Convention on Human Rights of 1969 provides in Article 21 that “no one shall be deprived of his property except for reasons of public utility or social interest and with payment of just compensation.” The

Inter-American Court of Human Rights has recognized broad confiscation of property within the framework of criminal punishment as a violation of the right to property. In Africa as well, the African Charter on Human and Peoples’ Rights of 1981 guarantees the right to property in Article 14 and declares confiscation of property without necessity and proportionality to be incompatible with this right (Murray, 2004). From the perspective of modern criminal policy, United Nations General Assembly Resolution A/RES/45/110 (1990), known as the “Tokyo Rules,” emphasizes the use of non-financial alternative measures instead of heavy fines. These Rules require states to design financial punishments in such a way that they are proportionate to the individual’s economic capacity and prevent his entry into the cycle of structural poverty. The Council of Europe, in Recommendation No. R(92)17 on criminal fines, has also emphasized the necessity of proportionality of fines with the offender’s financial circumstances and recommended the use of non-financial and restorative punishments. Overall, a review of international instruments shows that the imposition of heavy fines and broad confiscation of property as penal instruments violates the fundamental principles of human dignity, proportionality, and the right to property. By contrast, international standards emphasize the use of non-financial and corrective alternatives in order to prevent individuals from entering the cycle of poverty and social exclusion. This approach constitutes part of the broader process of “de-violentization” of the criminal justice system at the global level.

4.3.3. *Rights- and Liberty-Depriving De-violentization*

One of the prominent manifestations of penal violence at the international level is the widespread use of imprisonment as well as the imposition of social and legal deprivations that in practice place the individual in a condition of exclusion and marginalization even after the end of the sentence. The philosophy of international human rights instruments is based on the principle that deprivation of liberty and restriction of fundamental rights must be used as a last resort and only for the most serious crimes, within the framework of necessity and proportionality (Haji Molla & Mohammadi, 2021). The International Covenant on Civil and Political Rights of 1966 provides in Article 9 that no one may be arbitrarily

arrested or detained and that deprivation of liberty must be based on law and within the framework of necessity. In General Comment No. 35 (2014), the Human Rights Committee emphasized that imprisonment must not be a routine instrument of penal policy but a justified exception (Schabas, 2002). In the same direction, Article 10 of the same Covenant obliges states to treat prisoners in a manner that preserves their human dignity, and this obligation in practice paves the way for strengthening leniency institutions and non-custodial measures. In this regard, the United Nations Standard Minimum Rules for Non-custodial Measures, the Tokyo Rules of 1990, provide that "imprisonment should be used only where the seriousness of the offence so requires," and states are required to seriously develop non-custodial alternatives such as deferment of sentence, suspension of execution of punishment, conditional release, community service, social care, and electronic monitoring (Ahmadi, 2002; Shojaei et al., 2023). These Rules expressly emphasize that non-custodial measures must be considered as primary instruments of penal response and that prison should be regarded as the last option. The same approach is even more pronounced in the field of children. The Convention on the Rights of the Child of 1989 provides in Article 37(b) that arrest, detention, or imprisonment of a child must be used only as a measure of last resort and for the shortest appropriate period of time (Bigzadeh & Azarpandar, 2025). In General Comment No. 10 (2007) and General Comment No. 24 (2019), the Committee on the Rights of the Child regarded the development of alternative measures to the imprisonment of children as part of states' obligation to protect human dignity and emphasized the extensive use of mediation mechanisms, restorative justice, and supervised release. The Nelson Mandela Rules of 2015 also state in Rules 6 and 64 that the purpose of imprisonment is solely correction and resocialization, and that states must take all necessary measures to facilitate the return of prisoners to society. These Rules specify that the enforcement of punishment must not lead to permanent deprivation of social and economic rights, and states must remove obstacles to social exclusion and provide the ground for employment, education, and reintegration of convicted persons. From the perspective of economic and social rights, the International Covenant on Economic, Social and Cultural Rights of 1966 guarantees the right to work and the right

to the highest attainable standard of physical and mental health in Articles 6 and 12. In General Comment No. 18 (2005), the Committee on Economic, Social and Cultural Rights emphasized that unreasonable restrictions on employment or deprivation of former convicts from access to the labor market constitute a direct violation of the fundamental right to work. Therefore, consequential and supplementary punishments that deprive individuals of employment or access to social services conflict with these instruments. On the other hand, Article 12 of the International Covenant on Civil and Political Rights guarantees freedom of movement and the right to leave any country. In General Comment No. 27 (1999) and then General Comment No. 35 (2014), the Human Rights Committee stated that prohibition on leaving the country as a general and disproportionate punishment violates Article 12. This rule in practice limits policies that deprive individuals of their freedoms absolutely and without proportionality. In Resolution A/RES/65/230 (2010), the United Nations General Assembly also expressly called for the development of alternatives to imprisonment and decarceration policies in order to reduce prison populations. This instrument shows that the global orientation in criminal policy is focused on expanding leniency institutions and reducing resort to prison.

Overall, a review of international instruments shows that imprisonment must be applied as a last resort and for the shortest possible period, and at the same time states are obliged to develop leniency institutions and alternative measures to imprisonment (Ahmadi, 2002; Shojaei et al., 2023). Social and legal deprivations after release also violate the principles of rehabilitation and return to society and conflict with the standards of international law. Within this framework, decarceration policies and the strengthening of non-custodial measures are among the most important instances of rights- and liberty-depriving de-violentization.

4.4. The Legal Position of Iran in Light of International Decriminalization and Depenalization

After reviewing international instruments and practices in the field of decriminalization and depenalization, the essential question is to what extent Iranian criminal law has aligned with these norms and requirements. Iran, as a member of many foundational human rights treaties, has accepted obligations toward reducing penal violence

and moving toward more humane alternatives; however, at the same time, the structure of domestic criminal law is still based on jurisprudential and traditional teachings that in some cases are significantly distant from international standards. Therefore, analyzing Iran's position in this field requires examination of two dimensions: first, cases in which domestic penal policies have moved in line with global trends toward decriminalization and depenalization, namely convergences; and second, cases that still indicate resistance or serious distance from international instruments, namely divergences. These two dimensions will be examined in detail below.

4.4.1. *Convergences*

A comparative examination of Iran's criminal policy with international standards shows that although challenges and gaps still exist, Iran's criminal justice system has in some areas aligned with international approaches to decriminalization and depenalization and has taken significant steps toward convergence. This convergence is particularly evident in the acceptance of leniency institutions, the development of alternatives to imprisonment, attention to the resocialization of offenders, and the creation of mechanisms for reducing the penal population of prisons.

One of the most important manifestations of this convergence is leniency institutions, which have been provided with the aim of reducing the negative effects of imprisonment and preparing the ground for the social rehabilitation of convicted persons. Conditional release, deferment of sentence, suspension of execution of punishment, and pardon are among these institutions. Article 58 of the Islamic Penal Code of 2013 allocates conditional release to convicted persons who have shown positive behavior, and under paragraph "b" of this article, the court may, if assured that the crime will not be repeated, prepare the ground for the individual's gradual return to society. This provision is consistent with the Nelson Mandela Rules of 2015 and the Tokyo Rules of 1990, which emphasize the resocialization of offenders and the use of alternatives to imprisonment (Sadeghi & Gholampour, 2021). The institutions of deferment of sentence and suspension of execution of punishment have also been designed with the aim of reducing the negative effects of imprisonment and providing an opportunity for social correction. However,

some believe that under certain conditions these institutions also conform to the characteristics of punishments and prevent the legislature from fully achieving its security-oriented objective (Najibian et al., 2020). Alternatives to imprisonment also play a key role in this convergence and are provided in Chapter Nine of the Islamic Penal Code of 2013, Articles 64 to 87. These punishments include supervision periods, unpaid community service, monetary fines, daily monetary fines, and deprivation of social rights, and their aim is to support the correction and rehabilitation of the convicted person and reduce the use of imprisonment. This policy is consistent with the principle of imprisonment as a "last resort" accepted in the Tokyo Rules. In some offenses these punishments are mandatory, and in others they are optional. In general, alternatives to imprisonment have been well incorporated into Iran's criminal laws with the objectives of reducing the penal population of prisons, correcting and resocializing convicted persons, and educating a healthier society. One important innovation in this field is electronic monitoring, which, under Article 62 of the Islamic Penal Code, makes it possible to enforce part of the prison sentence in the free environment under electronic control. This institution is a clear instance of community-based punishment and an effective instrument for reducing prison overcrowding. In addition, the principles of prisoner classification and the risk assessment system have been provided in the Executive Regulations of the Prisons Organization of 2021 and the Judicial Transformation Document of 2020. This system, by taking into account the characteristics and risk of each prisoner, facilitates the use of leniency incentives such as conditional release and pardon for low-risk prisoners. Field studies show that classification councils use indicators such as type of crime, criminal record, age, and sex to conduct statistical assessment of the risk of reoffending, and this process is consistent with concepts of risk-based justice at the international level (Shojaei et al., 2023). In the field of juvenile punishments, Chapter 10—Punishments and Security and Educational Measures for Children and Adolescents—of the Islamic Penal Code of 2013, inspired by the Convention on the Rights of the Child of 1989, provides measures such as entrusting children to parents, requiring participation in educational classes, and applying community service instead of

imprisonment. These measures correspond to the principle of imprisonment as a “last resort” in international instruments. Other developmental instruments in Iran also emphasize correction and rehabilitation with the aim of alignment with international standards; these include Article 156 of the Constitution, Articles 44 and 69 of the Regulations of the Prisons Organization, and Article 38 of the Law on Permanent Provisions of National Development Plans, which focus on prisoner education, support for their families, and the social return of convicted persons. The Judicial Transformation Document of 2020 also introduces the strategy of “support and care after release,” which is consistent with the Nelson Mandela Rules regarding preparation of prisoners for return to society. In addition, incentive and rehabilitative measures for prisoners, such as granting credit points based on participation in correctional and educational programs, monthly leaves, in-person and virtual visits, productive employment, and electronic monitoring, have all been provided in Iran’s criminal laws with the aim of resocializing offenders and reducing the use of imprisonment.

Overall, although Iran’s legal system faces challenges such as a high volume of cases, the imprisonment-oriented attitude of judges, and lack of infrastructure, the existence of leniency institutions, alternatives to imprisonment, electronic monitoring, risk assessment systems, and rehabilitation programs indicates a tangible movement toward convergence with international policies and standards of decriminalization and depenalization and facilitates the path of resocialization and reduction of the penal population of prisons.

4.4.2. *Divergences*

A comparative examination of Iran’s criminal policy with international standards shows that alongside instances of convergence, Iran’s criminal justice system continues to face serious challenges and clear divergences in many areas. These divergences can be explained under three main axes: “corporal violence,” “financial violence,” and “rights- and liberty-depriving violence.” In the field of corporal violence, the most important instance of divergence is the continuation of the legal legitimacy of certain corporal punishments in Iranian law. The Islamic Penal Code of 2013 and some specific laws still provide

for the enforcement of corporal punishments such as flogging, amputation, and execution. This is while many international instruments, such as the International Covenant on Civil and Political Rights of 1966, Articles 6 and 7, the Convention against Torture of 1984, and the Nelson Mandela Rules of 2015, regard these punishments as violating the principle of human dignity and as prohibited. In particular, the death penalty and flogging, which are used in Iran as ta’ziri and hudud punishments, have been regarded in the practice of the United Nations Human Rights Committee and the Committee against Torture as clear instances of “inhuman and degrading treatment.” The persistence of this approach indicates one of the most important gaps between Iranian law and international norms. It should be noted, however, that in the Draft Ta’zirat Bill of 2022, the death penalty is provided only in five cases, indicating a movement toward the reduction of execution in ta’ziri crimes. This is while in the Islamic Penal Code, Ta’zirat section, enacted in 1996, it was provided in 25 cases. In the field of financial violence, the general structure of the criminal justice system is still based on severe financial punishments. The provision of heavy monetary fines, confiscation of property, and broad financial deprivations in various laws, including the Anti-Narcotics Law, the Law on Punishment of Disruptors of the Economic System, and regulations related to governmental ta’zirat, in many cases does not accord with the principles of proportionality and necessity in international instruments. The United Nations Standard Minimum Rules for Non-custodial Measures, the Tokyo Rules of 1990, emphasize that financial punishments must not be applied in a way that prevents rehabilitation and the individual’s return to society. Nevertheless, in Iran’s criminal justice system, financial deprivations often lead to the reproduction of poverty, marginalization, and recidivism (Hemmati, 2012). In the field of rights- and liberty-depriving violence, although some leniency institutions have been provided, Iran’s criminal policy remains based on imprisonment orientation. According to official statistics, the penal population of Iran’s prisons is much higher than the standard capacity, and this itself is a sign of distance from the principle of imprisonment as a “last resort” in international instruments. In addition, consequential and supplementary deprivations in Iran’s criminal justice system, Articles 23 and 25 of the Islamic

Penal Code of 2013, are applied broadly and automatically to convicted persons. These restrictions include deprivation from employment in governmental positions, deprivation of social rights, and even prohibition on leaving the country. Such restrictions clearly conflict with the International Covenant on Economic, Social and Cultural Rights of 1966, Articles 6 and 12, the International Convention on the Elimination of All Forms of Racial Discrimination of 1965, Article 5, and the Nelson Mandela Rules of 2015, Rule 64, which emphasize the social return of convicted persons. Also, in the field of child and adolescent offenders, although Article 88 of the Islamic Penal Code provides protective measures, the possibility of issuing and enforcing severe punishments, including execution for persons under 18 years of age in some hudud and qisas crimes, still exists. This directly conflicts with Article 37 of the Convention on the Rights of the Child of 1989 and the interpretations of the Committee on the Rights of the Child, which absolutely prohibit severe punishments against children. Overall, the persistence of corporal punishments and execution, the focus on heavy financial punishments, imprisonment orientation, and the broad application of social and political deprivations are the most important instances of the divergence of Iranian criminal law from international policies of decriminalization and depenalization. These divergences show that while some reforms have been undertaken toward convergence, the general structure of Iran's criminal policy remains significantly distant from fundamental human rights principles and international norms. In general, comparative examination shows that Iran's criminal policy in recent years has taken steps in some areas toward convergence with international norms and standards. Leniency institutions such as conditional release, deferment of sentence, and suspension of execution of punishment, the provision of alternatives to imprisonment, the development of care and electronic monitoring systems, and corrective policies regarding children and adolescents indicate gradual acceptance of the principle of "penal de-violentization" and an effort to reduce the negative effects of imprisonment and harsh punishments. These measures can be evaluated in line with rules such as the Nelson Mandela Rules and the Tokyo Rules, as well as the principles set forth in the Convention on the Rights of the Child, and they are signs of the movement of Iran's criminal justice system toward

human-centered and resocializing policies. However, these convergences are relative and limited, and they face serious structural divergences. The persistence of corporal punishments, execution and flogging, the focus on heavy financial punishments and broad confiscations, the continuation of imprisonment-oriented policy, and the application of broad social and political deprivations are all prominent instances of penal violence that remain distant from global de-violentization policies and human rights. In sum, Iran's penal policy can be described as "dual": on the one hand, the acceptance of some modern institutions and non-violent measures that constitute positive steps toward reducing penal violence and convergence with international standards; and on the other hand, the persistence of harsh and violent punishments that constitutes a serious obstacle to the full realization of the de-violentization approach. This dual situation shows that Iran's criminal policy is in a transitional stage, and movement toward non-violent models of criminal justice requires deeper reforms more compatible with global standards.

5. Conclusion

De-violentization in criminal law, whether at the international or domestic level, is more than a theoretical necessity; it is a practical requirement for guaranteeing human dignity and preventing the reproduction of social violence. Examination of Iran's criminal justice system shows that alongside some legal and institutional reforms, the dominant discourse of the country's criminal policy remains influenced by a strict punitive outlook. This situation has caused Iran's movement toward humane and rehabilitative models of criminal justice to be not a linear process but a path accompanied by conflicts, delays, and instability. In such circumstances, opening new horizons in light of international teachings and adapting them to domestic and jurisprudential capacities can provide a ground for reducing the severity of penal violence and moving closer to models of non-violent justice.

With these explanations, the most important challenges and obstacles to de-violentization in Iranian substantive criminal law may be identified as follows:

1. The gap between international obligations and the domestic legislative system, especially in the field of corporal punishments and imprisonment orientation.

2. Jurisprudential and cultural considerations in the face of international requirements and the difficulty of adapting Sharia rules to global standards.
3. Weakness in enforcement and institutional guarantees for realizing de-violentizing policies, including the absence of a coherent risk assessment system and personality file.
4. Dominance of an imprisonment-oriented culture in the judiciary and society and resistance to non-custodial alternatives.
5. Fragmentation and lack of coordination among ordinary laws, regulations, and policies of the judiciary.
6. Limitations in supportive resources and infrastructure for resocialization and post-release care of prisoners.

In line with de-violentization, the following proposals may also be considered:

1. Revising criminal laws with the aim of eliminating or limiting corporal punishments and strengthening non-custodial alternatives.
2. Creating legal and institutional mechanisms for the gradual adaptation of penal jurisprudence to international norms through dynamic *ijtihad*.
3. Developing personality files, risk assessment systems, and scientific classification of convicted persons.
4. Enhancing legal and judicial culture toward accepting rehabilitative policies and reducing imprisonment orientation.
5. Institutional convergence among the judiciary, parliament, and government in formulating coordinated de-violentization policies.
6. Strengthening social and economic support for convicted persons and their families in order to reduce recidivism.
7. Expanding academic and specialized education in the field of restorative justice and non-violent models.

Authors' Contributions

Authors contributed equally to this article.

Declaration

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

Transparency Statement

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

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