

OPEN PEER REVIEW

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

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1. Round 1

1.1. Reviewer 1

Reviewer:

In Section 1.1, the bullet-point distinction between “decriminalization,” “depenalization,” and “dejudicialization” is useful, but it should be integrated more rigorously into the later structure of the article. The current manuscript later discusses decriminalization and depenalization in detail, but dejudicialization receives comparatively limited analytical treatment. The author should either expand the discussion of dejudicialization as a third mechanism of de-violentization or explain why the article’s main focus is limited to decriminalization and depenalization in substantive criminal law.

In Section 2.1, the paragraph on “Principles and Foundations of De-violentization in International Instruments” states that documents such as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child require states to prevent violence against vulnerable groups. This point is relevant, but its connection to Iranian substantive criminal law is not sufficiently developed. The author should specify how these instruments affect criminalization, punishment, or mitigation rules in Iranian law, rather than merely listing them as general human rights instruments.

In Section 2, the paragraph introducing “three main areas: corporal violence, violence restricting rights and freedoms, and financial violence” provides a clear taxonomy, but the criteria for this classification are not explained. The article should clarify whether this threefold typology is original, derived from existing criminological literature, or based on the structure of Iranian punishments. A stronger analytical justification would help readers understand why, for example, diya is classified as financial violence, while qisas is placed under corporal violence, despite their close jurisprudential relationship.

In the subsection “B. Supplementary Deprivations,” the sentence “these punishments are no longer merely marginal measures but have become serious instruments for restricting the individual and social freedoms of convicted persons” is analytically valuable, but the section should engage more closely with proportionality and judicial discretion. The author should

examine whether supplementary punishments under Article 23 of the Islamic Penal Code are mandatory or discretionary, how courts justify them, and whether Iranian law provides safeguards against excessive or unnecessary imposition.

In the subsection “C. Consequential Deprivations,” the paragraph describing consequential punishments as “automatic” is important, but the analysis should further distinguish automatic legal effects from judicially imposed sanctions. The author should explain how Article 25 operates in relation to the severity of the underlying offense, duration of deprivation, restoration of rights, and criminal record rules. This would make the critique of “hidden punishment” more doctrinally convincing and less dependent on general normative language.

In Section 3.2 on financial violence, the classification of diya as financial violence requires greater conceptual nuance. The paragraph states that diya may impose an excessive burden on the offender and family, but the article should also acknowledge its compensatory, restorative, and victim-centered functions within Iranian and Islamic criminal law. A balanced analysis should ask under what conditions diya becomes violent or disproportionate, rather than treating the institution as intrinsically equivalent to punitive financial violence.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

In Section 1.2, the paragraph beginning “Corporal violence in Iranian criminal law...” includes a historical comparison with the United States, Sweden, Switzerland, and France, but the comparative examples are too brief and uneven. The sentence “These examples show that the elimination of corporal violence in modern judicial systems has become an internationally accepted principle” should be qualified, because the global position is more complex and varies across legal traditions. The author should either expand the comparative analysis with stronger evidence or narrow the claim to human-rights-based and European legal developments.

In the subsection “A. Deprivation of Life,” the paragraph states that life-depriving punishments have “broad symbolic and psychological effects on society,” yet no evidence or theoretical framework is provided for this claim. The author should support this argument through criminological theories of deterrence, expressive punishment, penal symbolism, or empirical literature on the death penalty. The current formulation is rhetorically effective but needs scholarly grounding to meet the standards of a scientific humanities article.

In the subsection “B. Amputation and Qisas of Limbs,” the paragraph discussing Articles 386 to 439 and Article 296 of the Islamic Penal Code should be made more doctrinally precise. The author should distinguish between qisas of limbs, diya, intentional bodily injury, and the legal conditions for equivalence and enforceability. Since this section evaluates the violent character of these sanctions, it is essential to explain not only that the law permits them but also under what strict procedural, evidentiary, and substantive conditions they may be imposed.

In the subsection “C. Flogging,” the historical paragraph is informative, but it would benefit from clearer separation between historical description and legal analysis. The sentence “In the General Penal Code of 1925, the punishment of flogging had almost been abolished” should be supported with exact statutory references or historical legal evidence. In addition, the author should distinguish between hudud flogging and ta‘ziri flogging in contemporary Iranian law, because their jurisprudential basis, judicial discretion, and reformability differ significantly.

In Section 2.2, the paragraph on rights- and liberty-depriving violence makes the important claim that imprisonment and supplementary sanctions may produce effects “heavier than corporal punishments.” This comparison is provocative and should be revised or substantiated. The author should either provide a theoretical basis for comparing different forms of penal harm or soften the claim by stating that non-corporal sanctions may produce long-term social, psychological, and economic harms that are different from, but not necessarily greater than, corporal punishments.

In the subsection “A. Imprisonment,” the paragraph claims that Iran has approximately “1,400 criminal titles” and that imprisonment is prescribed for “400” of them. This is a significant empirical claim and requires precise sourcing, date, and methodological explanation. The author should clarify whether these figures refer to all statutory offenses, only major criminal

codes, or a specific legal survey. Without this clarification, the statistics may appear unsupported and may weaken the credibility of the argument about penal inflation.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.

Editor in Chief's decision: Accepted.