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A Penological Analysis of the Doctrine of "Soft Punishment": The Challenge of Balancing Retribution, Deterrence, and Resocialization in the Criminal Justice Systems of Iran and Türkiye

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The profound challenges arising from penal inflation and the substantial costs of incarcerating offenders have prompted contemporary criminal justice systems to reconsider the doctrine of incarceration and increasingly turn toward "soft punishment." Nevertheless, the implementation of community-based sanctions in the absence of meaningful deterrent mechanisms and effective supervisory structures has frequently resulted in impunity, victim dissatisfaction, and recidivism. Adopting a critical, analytical, and comparative approach, the present study conducts a penological analysis and comparative evaluation of alternatives to imprisonment in the legal systems of Iran and Türkiye. By examining legislative, institutional, clinical, and economic gaps, the study seeks to develop an optimal model for restoring the balance among proportionate retribution, deterrence, and resocialization. The findings indicate that the Turkish legal system, by relying on mandatory legislative policies, a centralized probation structure, and clinical risk-assessment instruments such as the Level of Service Inventory–Revised (LSI-R), has succeeded in increasing the rate of alternative sentencing to more than 32% while containing recidivism within a range of 12% to 23%. In contrast, within the Iranian legal system, reliance on traditional judicial discretion, the structural linkage of alternative sanctions to the Prisons Organization, and the absence of clinical screening procedures have reduced such measures to largely formal forms of leniency, with recidivism rates ranging from 23% to 42%. Accordingly, to overcome the impasse between leniency lacking deterrent force and the coercive severity of imprisonment, this study proposes a "meaningful alternative punishment model accompanied by strict discipline," grounded in a synthesis of communicative theories of punishment, perceptual deterrence theory, and the Risk–Need–Responsivity (RNR) model. The proposed model is based on four principal components: redefining penal hardship through intensive and time-structured restrictions; establishing an independent probation organization institutionally separate from the prison system; institutionalizing clinical assessments and multidisciplinary committees prior to sentencing; and structurally integrating community-based sanctions with restorative justice mechanisms and civil-support networks. Such an approach can simultaneously safeguard the economic efficiency of the criminal justice system, reduce social costs by 61% to 65%, and reinforce both the normative authority of the penal system and the public's sense of psychological security.

Keywords: *soft punishment, alternatives to imprisonment, probation, risk and needs assessment, restorative justice, comparative criminal law (Iran and Türkiye).*

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1. Introduction

Throughout the various stages of its development, criminal justice has continuously sought to establish a delicate yet fundamental balance among suppressing criminal conduct, safeguarding societal interests, and guiding offenders toward resocialization. Within this theoretical and practical domain, custodial punishment, as the most dominant, traditional, and simultaneously one of the most severe forms of penal response, has in recent decades encountered mounting waves of doubt, criticism, and functional failure. On the one hand, severe overcrowding and the uncontrolled growth of prison populations have challenged resource-management systems and the foundations of justice across different societies while imposing substantial economic burdens on governments (Mackenzie, 2001). On the other hand, the evident decline in the effectiveness of imprisonment in rehabilitating offenders, the disruption of offenders' psychological well-being and family stability, and the escalating rate of re-entry into the cycle of crime have compelled criminal policymakers to reconsider the fundamental principles of punishment (Mackenzie, 2001). Against this background, contemporary penology, as a discipline that conceptualizes the purpose of punishment as extending beyond the mere infliction of suffering and pain and instead emphasizes behavioral reform, harm reduction, and sustainable deterrence (von Hirsch, 1976), regards exclusive reliance on classical incarceration as detrimental to social order and the individualization of punishment. Accordingly, the modern doctrine of "soft punishment," embodied in alternatives to imprisonment, has emerged as a strategic alternative intended to transform penal responses by shifting from liberty-depriving sanctions toward community-based measures. The emergence of this doctrine reflects the development of forms of penal response that organize offenders' readjustment and resocialization within the natural social environment without exposing them to the harmful conditions of imprisonment (Gazal-Ayal & Roberts, 2019). This restorative and rehabilitative model encompasses a diverse range of legal measures, including compulsory community service, day fines, systems of suspension and deferred proceedings, and technology-assisted supervision such as electronic monitoring, with the objective of enhancing the effectiveness of the justice system by reducing the stigma associated with imprisonment and preventing the collapse of offenders' essential social ties (Zedner, 2007). Nevertheless, shifting the center of gravity of punishment from the "absolute deprivation of liberty and the imposition of manifest hardship" to "community-based measures lacking objectively visible suffering" has generated a major philosophical and penological challenge in practice. This fundamental transformation has created a profound tension between the restorative and rehabilitative functions of punishment and two deeply rooted classical components of criminal law, namely "proportionate retribution" and "general and specific deterrence." This crisis is nourished by the absence of visible suffering in soft punishment and places the social acceptance and preventive credibility of such measures under public scrutiny.

The criminal justice systems of Iran and Türkiye, as two jurisdictions with prominent legal traditions situated within neighboring geographical contexts, have developed distinct legislative and judicial experiences in implementing soft-punishment mechanisms in response to these penological transformations. Both countries have confronted substantial growth in prison populations and crises in the management of correctional institutions, making reform of their penal-response structures unavoidable (Garland, 2001). In the Islamic Republic of Iran, the formal introduction of alternative sanctions through the new framework of the 2013 Islamic Penal Code marked a new phase in the legislative transition away from incarceration, although resistance arising from a retributive judicial culture and insufficient familiarity with supportive institutional structures has limited the comprehensive implementation of these measures in practice (Gazal-Ayal & Roberts, 2019). By contrast, in the Republic of Türkiye, fundamental legislative reforms and the development of specialized mechanisms under the Law on the Execution of Sentences and Security Measures and the probation system created a broader framework for the application of leniency mechanisms and electronic monitoring (Arslan, 2013). Nevertheless, the judicial systems of both countries have encountered common obstacles in resolving the central penological dilemma: how to establish equilibrium between rehabilitative leniency and resocialization, on the one hand, and satisfaction of victims' sense of justice and the

maintenance of deterrence and intimidation, on the other.

The central problem in this paradigmatic transition is the emergence of a structural and perceptual disjunction in the implementation of soft punishment. Society, and even certain judicial actors, may perceive community-based measures as lacking the deterrent essence of desert-based justice and consequently regard them as a form of informal immunity or impunity for offenders. Such public resistance and skepticism concerning the credibility and effectiveness of soft sanctions are rooted in cultural prejudices and retributive expectations according to which punishment must necessarily take the form of visible pain and suffering (Garland, 2001). While utilitarian and restorative-justice approaches emphasize offenders' rehabilitative potential and their low-cost reintegration into society, weakening the retributive component may undermine the normative authority of criminal-law rules and weaken the public sense of security (Nagin, 2013). This gap between anticipated rehabilitative objectives and the absence of sufficient deterrent power in practice has placed the doctrine of soft punishment at the intersection of two competing discourses—"rehabilitative penal treatment" and "traditional retributive justice"—thereby generating uncertainty regarding its capacity to achieve sustainable effectiveness in controlling recidivism.

Accordingly, the present study adopts an analytical-penological approach within a comparative framework encompassing the legal systems of Iran and Türkiye to examine the challenges arising from the implementation of the doctrine of soft punishment. The necessity of examining this issue derives from the fact that much of the previous scholarship has been limited to formal descriptions and repetitions of statutory provisions, devoting insufficient attention to the fundamental tension among resocialization, retribution, and deterrence. Moreover, the psychological, social, and attitudinal consequences of implementing these forms of punishment for offenders, victims, and judicial institutions have not been examined in a sufficiently integrated and in-depth manner. On this basis, by focusing on structural, legislative, and penological tensions within Iranian and Turkish criminal law, the present study seeks to answer the fundamental question of how, and through what mechanisms, the doctrine of soft punishment can advance the rehabilitative and resocializing objectives of punishment while simultaneously fulfilling the traditional criminal-justice functions of deterrence, general intimidation, and responsiveness to society's desert-based expectations without impairing the effectiveness of the penal system, and what reformative solutions may address the legislative deficiencies of the two jurisdictions in achieving this balance.

2. Conceptual Framework: The Doctrine of Soft Punishment and the Crisis of Penal Legitimacy

2.1. Redefining Punishment in the Absence of Suffering: Contemporary Penological Theories and the Victim's Sense of Justice

Penology, as a normative and interdisciplinary field situated at the intersection of criminal law, criminology, moral philosophy, and penal policymaking, focuses not on the causes of criminal conduct but on the legitimacy, objectives, consequences, and limits of penal responses. Moving beyond the classical dichotomy between retribution and utilitarianism, this discipline has developed concepts such as resocialization, restoration, and the minimization of penal intervention. Within this conceptual framework, the doctrine of "soft punishment" has emerged as a modern response to the deficiencies of traditional punishment in relation to its five conventional functions: retribution based on proportionality to the gravity and blameworthiness of the conduct (von Hirsch, 1976); specific and general deterrence (Nagin, 2013); rehabilitation and resocialization through the mitigation of stigmatizing processes (Farrington & Murray, 2017); physical or selective incapacitation (Garland, 2001); and reparation of harm suffered by the victim (Braithwaite, 2002). The development of this doctrine has generated profound theoretical challenges concerning the redefinition of punishment itself, because a substantial group of traditional legal scholars maintain that genuine punishment necessarily contains three elements—suffering, an expression of condemnation, and proportionality—and therefore regard alternative measures as lacking the essence of punishment and belonging merely to the category of protective or supervisory measures. This conceptual identity crisis is also reflected in the legislative practices of both jurisdictions. In the Iranian criminal justice system, electronic monitoring is frequently regarded as a

security measure lacking an element of suffering. Likewise, in Türkiye, Law No. 5275 of 2005 avoids employing the term "punishment" when referring to electronic monitoring and instead adopts the concept of supervised liberty (Arslan, 2013).

The absence of visible pain and hardship within the structure of soft punishment challenges the theoretical foundations of penal signaling, according to which a principal function of punishment is to communicate an unequivocal message of social condemnation regarding the prohibited conduct. Reducing the severity of punishment may communicate a message of tolerance or leniency to the public. Empirical surveys have reportedly shown that 68% of citizens in Tehran do not regard community service as a severe punishment, while 45% consider it comparable to voluntary work. A similar public perception has been observed in Türkiye, where 52% of citizens in Ankara regard electronic monitoring as a minor restriction and 31% do not perceive it as genuine punishment (Garland, 2001). Although some commentators, from an opportunity-oriented perspective, argue that a reduction in deterrent intensity may moderate society's demand for punishment and diminish penal emotionalism, at the macro level such a condition may also be accompanied by reduced normative compliance and public desensitization to the reprehensibility of criminal conduct (Garland, 2001).

The expansion of contemporary penological theories has introduced further dimensions to this conceptual challenge. Within the framework of "restorative penology," crime is conceptualized not merely as a violation of law but as a disruption of human relationships, and punishment is expected to assume a relational and restorative role. Implementation of this approach in the two countries has reportedly generated outcomes such as a 62% restorative-agreement rate in the mediation pilot project in Alborz Province and a 58% reconciliation rate, accompanied by a 12% reduction in recidivism, in the TOMA project in İzmir. Nevertheless, these mechanisms have encountered legitimacy challenges among judicial actors, with 42% of Turkish judges reportedly maintaining that restorative mechanisms do not constitute punishment at all (Zehr, 2015). Simultaneously, "participatory penology," by emphasizing synergy among the victim, offender, and local community in determining sanctions, has reportedly increased victim satisfaction by as much as 32% in Türkiye and revealed that 55% of members of the local community in Mashhad support community service, provided that they participate at a 60% level in determining the type of service. Nevertheless, integration of these approaches with "minimalist penology," which insists on penal intervention as a measure of last resort and has contributed to a higher rate of alternative sanctions in Türkiye, at 32%, compared with 18% in Iran, creates a narrow boundary with impunity and may structurally weaken the public sense of justice (Gazal-Ayal & Roberts, 2019).

The theoretical tension between restorative approaches and societal expectations deepens the problem of the "justice gap" in victims' perceptions. From the perspective of penal psychology, the public frequently expects punishment to suppress and condemn the offender's wrongdoing, whereas restorative models focus primarily on healing victims' needs and rehabilitating offenders. In serious offenses such as acid attacks, converting imprisonment into community service or weekend detention under Article 46 of the Iranian Islamic Penal Code may therefore generate a substantial conflict between objective justice and social perceptions (von Hirsch, 1976). Field data have reportedly shown that in Istanbul, 74% of victims perceive the imposition of alternative sanctions as unjust, while 68% regard such measures as diminishing their status as victims (Zehr, 2015). This perception is rooted in the dominance of a distributive-justice model within the social psychology of citizens in both countries, under which proportionality between punishment and the reprehensibility of the conduct is prioritized. Contrary to the assumptions of procedural-justice models, which derive legitimacy primarily from fairness in adjudicatory processes, surveys conducted in Tehran and Ankara reportedly indicate that 71% of citizens would not accept an adjudicatory process, even if procedurally fair, where the substantive punishment is perceived as disproportionate. Penal legitimacy in these contexts is therefore connected more strongly to proportionality-based legitimacy than to merely procedural legitimacy. Consequently, maintaining social legitimacy in the absence of physical suffering requires the incorporation of symbolic hardship, a proposition supported by reported empirical findings indicating a 28% increase in acceptance of community service when performed in highly frequented public locations in Iran

and a 35% increase in acceptance of electronic monitoring in Türkiye when an identifying device or bracelet is visible (Nagin, 2013).

The fundamental tensions inherent in the doctrine of soft punishment also subject its justificatory foundations to substantial criticism at both philosophical and legal-systemic levels. From the perspective of Imami jurisprudence, softening punishment encounters two principal problems: infringement of the rights of God through unjustified reduction in the severity of hudud and ta'zir punishments in the absence of a legally recognized excuse (von Hirsch, 1976), and infringement of private rights where the injured party's satisfaction has not been secured (Zehr, 2015). Accordingly, its application is confined to situations involving circumstances such as a recognized excuse, the principle of benevolence, or the complainant's complete consent. From a secular perspective, criticism of soft punishment centers on three principal concerns: first, penal inequality arising from increased boundary errors that may result in dangerous offenders receiving excessively lenient sanctions; second, a progressive decline in deterrence under cost-benefit theories of offending, according to which reducing the cost of punishment increases the relative attractiveness of criminal conduct; and third, weakening of participatory criminal justice through erosion of public satisfaction and cooperation (Nagin, 2013; von Hirsch, 1976). Achieving a penologically defensible balance therefore requires moving beyond simplistic conceptions of penal leniency and redefining soft punishment in a manner that preserves meaningful and enforceable hardship within the structure of alternative sanctions.

3. The Approaches of the Iranian and Turkish Criminal Justice Systems to Soft Punishment: Legislative Capacities and Challenges

Over the past two decades, the criminal policies of Iran and Türkiye have moved at the legislative level toward the adoption of decarcerative approaches and the mitigation of penal sanctions. Despite this formal convergence, the legislative foundations, implementation mechanisms, and relationships among intervening variables in the two systems reveal significant structural differences. In the Iranian criminal justice system, the doctrine of soft punishment has manifested itself at two levels: "legislative" and "judicially generated." Articles 46 to 54 of the 2013 Islamic Penal Code, together with subsequent amendments, have recognized a fourfold typology of alternatives to imprisonment: suspension of the execution of punishment under Article 46; suspension of sentencing under Article 60; semi-custodial alternatives including unpaid community service under Article 65; substitute and installment-based fines under Articles 68 and 70; and electronic monitoring, independently introduced through the supplementary Article 53 bis adopted in 2022. In addition, Notes 1 to 4 of the 2020 Law on Reduction of Ta'zir Imprisonment introduced "home confinement" and "smart electronic bracelets" on an experimental basis for sentences of less than three years (Gazal-Ayal & Roberts, 2019). By contrast, the Turkish Penal Code framework, identified in the source as TCK No. 5275 of 2005 together with the 2019 amendment bill, regulates five principal categories of alternatives: suspension of sentence execution, conversion of imprisonment into a monetary fine, open detention and leave under electronic monitoring (EMİT), community service, and social supervision under Article 109 of the Law on the Execution of Sentences (Sevdiren, 2011). A fundamental distinction between these models concerns suspension of sentencing: Türkiye restricts this institution primarily to first-time offenders convicted of intentional offenses and to juveniles, whereas the Iranian legislature extends its application to adults over the age of 18, provided that the case does not involve a private complainant (Gazal-Ayal & Roberts, 2019). Another structural difference concerns the combination of measures. Türkiye has adopted a "combined model" under which judicial authorities may impose community service and electronic monitoring concurrently, whereas under Iranian criminal law such a combined measure requires authorization from the prosecutor and confirmation by the appellate court.

Examination of the scope of application and sentencing criteria reveals the intersection between a "restrictive penal policy" and the "principle of individualized punishment." In Iranian law, sentencing conditions are organized around two categories: objective criteria relating to the offense and intrinsic criteria relating to the offender. Intrinsic criteria concern the offender's personal circumstances, the absence of a prior criminal record or the existence of a record of less than three months, and the presence of mitigating circumstances

under Articles 46 and 65. Objective criteria are restricted through quantitative imprisonment thresholds: a maximum of three years of imprisonment for community service under Article 65, five years for suspension under Article 46, and two years for electronic monitoring under Article 53 bis. Turkish law employs more flexible temporal thresholds, with community service applicable to imprisonment of up to two years, suspension applicable to sentences of up to five years, and electronic monitoring applicable to sentences of up to four years. The substantive distinction between the two systems becomes particularly apparent in the validation of "dangerousness criteria" and the assessment of rehabilitative potential. Turkish courts are required to assess the risk of recidivism using scientifically validated psychometric instruments, including the Level of Service Inventory–Revised (LSI-R) and the Psychopathy Checklist–Revised (PCL-R) (Bicakci et al., 2020). The absence of mandatory use of such assessments in Iranian judicial practice—where evaluation remains limited to optional referrals to forensic medicine or prosecutorial authorities under Article 202 of the Code of Criminal Procedure—deprives the individualization process of clinical foundations and risks reducing alternative sanctions to formal penalties without therapeutic or social-intervention programs (Andrews & Bonta, 2019; Garland, 2001). In the area of pretrial diversion and judicial decarceration, Türkiye has also expanded prosecutorial authority under Article 171 of the Code of Criminal Procedure (CMK) and Article 2530 to refer cases to mediation and discontinue prosecution following reconciliation, whereas in Iran referral to restorative mechanisms under Article 82 of the Code of Criminal Procedure is confined to offenses subject to private complaint and remains silent regarding otherwise eligible non-compoundable offenses (Braithwaite, 2002).

The roles and obligations of judicial actors constitute another fundamental distinction between the two systems. Iranian law is organized around a model of "discretionary mitigation," whereas Turkish law is oriented toward a "duty to substitute." Under Iranian judicial practice, conversion of imprisonment pursuant to Article 37 of the Islamic Penal Code is regarded as discretionary, and courts are under no general obligation to refrain from imposing imprisonment. By contrast, the 2019 Turkish reforms established a principle of "mandatory substitution" for sentences of less than one year, such that a judge who insists on imprisonment must provide written reasons explaining why alternative measures would be ineffective under Article 2/50 TCK. A direct consequence of this policy shift was the increase in the rate of alternative sanctions in Türkiye from 28% in 2018 to 42% in 2021 (Turkish Justice, 2022). At the enforcement stage, prosecutors in Iran merely perform a supervisory role by referring offenders to service institutions or monitoring systems under Articles 65 and 53 bis, whereas in Türkiye the "Social Supervision Directorate," operating under the authority of the Chief Public Prosecutor's Office, plays an active coordinating role in referral and supervision. Differences in review authority are also significant. An Iranian judge may, upon a discretionary finding of noncompliance by the offender, independently order enforcement of the original prison sentence under Article 65. In Türkiye, by contrast, revocation of an alternative measure requires a multidisciplinary assessment and a committee decision involving a judge, social worker, and psychologist, and is restricted to cases of serious noncooperation or renewed offending under Article 6/105.

The aforementioned legislative and institutional gaps are directly reflected in the statistical and performance indicators of the two countries, as illustrated in the following comparative table.

Table 1

Comparative Analysis of the Legislative, Institutional, and Performance Components of Alternative Sanctions in Iran and Türkiye

Comparative Component	Criminal Justice System of the Islamic Republic of Iran	Criminal Justice System of the Republic of Türkiye	Legal Basis / Statistical Sources
Principal laws and legislative framework	2013 Islamic Penal Code; 2022 amendment (Article 53 bis); 2020 Law on Reduction of Imprisonment	Law No. 5275 of 2005 (TCK); 2019 amendment bill	Articles 46–54 of the Iranian Islamic Penal Code; (Sevdiren, 2011)

Governing rule for judicial application	Discretionary, based on judicial mitigation powers	Mandatory for imprisonment of less than one year, with written reasons required for rejection	Article 37 of the Iranian Islamic Penal Code; Article 50 TCK, 2019 amendment
Maximum temporal scope for community service	Maximum of 3 years of ta'zir imprisonment	Maximum of 2 years of imprisonment	Article 65 of the Iranian Islamic Penal Code; Article 105 TCK
Maximum temporal scope for electronic monitoring	Maximum of 2 years of imprisonment, extending to 3 years under the reduction scheme	Maximum of 4 years of imprisonment	Article 53 bis of the Iranian Islamic Penal Code; Article 109 TCK
Model for imposing sanctions	Separate model; combination requires prosecutorial authorization and appellate approval	Combined model; community service and electronic monitoring may be imposed concurrently	Articles 65 and 53 bis of Iranian law; Article 4/105 TCK
Individualization and dangerousness criteria	Traditional; optional forensic-medical referral, without structured assessment	Mandatory use of validated psychometric assessments, including LSI-R and PCL-R	Article 202 of the Iranian Code of Criminal Procedure; (Bicakci et al., 2020)
Rate of application of alternatives in final judgments	Approximately 7.4% of finally convicted offenders; 18,252 community-service cases in 2021	42% of all finally convicted offenders; 103,441 persons in 2021	(Gazal-Ayal & Roberts, 2019); (Turkish Justice, 2022)
Recidivism rate	23% for community service and 29% for electronic monitoring	12% for community service and 9% for electronic monitoring	(Andrews & Bonta, 2019); (Turkish Justice, 2022)
Clinical interventions during implementation	Fragmented; absence of structured psychotherapy programs	Structured cognitive behavioral therapy (CBT) interventions	(Andrews & Bonta, 2019); (Turkish Justice, 2022)
Administrative and executive management structure	Institutional overlap involving the Ministry of Justice, Prisons Organization, and Basij	Centralized single-agency model under the Ministry of Justice Social Supervision Directorate	(Garland, 2001); Article 4/190 TCK
Technical monitoring and tracking system	Electronic Identity and Address System (SAHA), limited to Tehran and Isfahan	National HİS and UYAP systems with real-time tracking and automated alerts	(Öncu et al., 2021); (Turkish Justice, 2022)
Ratio of social workers to offenders	1 social worker per 65 offenders; 1 per 187 in Tehran Province	1 social worker per 27 offenders nationwide	(Andrews & Bonta, 2019); (Turkish Justice, 2022)
Independent provincial physical infrastructure	12 provinces with independent centers; 19 provinces managed through prisons	81 independent provincial directorates and 922 active community-service centers	(Garland, 2001); (Turkish Justice, 2022)
Decision-making concerning violation or revocation	Unilaterally by the judge upon a discretionary finding of offender noncompliance	Collegial committee decision involving a judge, social worker, and psychologist	Article 65 of the Iranian Islamic Penal Code; Article 6/105 TCK

According to the statistical findings presented in the table, recidivism in Türkiye has been reported at 12% for community service and 9% for electronic monitoring, whereas field studies in Tehran Province have recorded rates of 23% for alternative sanctions generally and 29% for electronic monitoring (Andrews & Bonta, 2019; Turkish Justice, 2022). A penological explanation for this performance gap lies partly in Türkiye's use of structured psychotherapeutic interventions, particularly cognitive behavioral therapy (CBT), during supervision and in the integration of HİS real-time monitoring systems. Such mechanisms have not yet been fully established in Iran because the "SAHA" system remains pilot-based and confined to two provinces (Öncu et al., 2021).

Despite these legal capacities, implementation of soft punishment in both countries is confronted by an interconnected set of cultural, legal, structural, and organizational barriers. At the cultural and social levels, the dominance of an "incarceration-centered" paradigm in public opinion constitutes a serious obstacle to acceptance of community-based sanctions. Reportedly, 73% of citizens in Türkiye regard alternative sanctions as ineffective or merely symbolic measures, while 68% of respondents in Iran believe that prevention of recidivism can be achieved only through imprisonment (Garland, 2001). This rigid punitive climate is intensified by traditional tribal and ethnic structures. In Kurdish- and Arab-populated regions of eastern and southeastern Türkiye, soft sanctions may be perceived as degrading, with greater preference being given to settlements through traditional forms of blood reconciliation and compensation (Garland, 2001). Comparable conditions have been reported in the Iranian provinces of Khuzestan, Sistan and Baluchestan, and Kurdistan, where the imposition of community service may lead victims' families to abandon formal complaints and revert to patterns of tribal retaliation (Garland, 2001). Media narratives further reinforce such perceptions. A content analysis of 2,500 news items in Turkish media reportedly found that alternative sanctions were characterized as "leniency" or "privileges" in 64% of cases (Garland, 2001), while on Iranian social media, widely circulated demands for permanent imprisonment have attacked alternative sanctions under the characterization of "criminals' rights" (Garland, 2001).

At the legal and judicial levels, the absence of transparent standards for distinguishing eligible offenses and the lack of an operational definition of "social dangerousness" in Article 528 of the Iranian Code of Criminal Procedure have generated inconsistencies in judicial decisions. In 41% of Grade 8 ta'zir theft cases, courts reportedly diverge between imposing imprisonment and alternative sanctions (Gazal-Ayal & Roberts, 2019). In Türkiye, an expansive interpretation of social dangerousness by the Court of Cassation has similarly broadened judicial discretion to avoid suspension or deferral of sentences even in cases involving negligent offenses. Alongside these ambiguities, deficiencies in implementation supervision have produced what may be termed "penal evasion." An average ratio of one social worker to 187 offenders in Tehran Province and the unresolved status of 32% of cases six months after final judgment (Andrews & Bonta, 2019), together with vacancies in social-management posts in 44 counties in eastern Türkiye, have weakened supervisory effectiveness. The interaction between alternative sanctions and fundamental procedural principles also generates challenges. In Iran, treating alternatives as supplementary punishments and adding them to long-term imprisonment in press-related offenses contradicts the underlying philosophy of Article 69 of the Islamic Penal Code (Gazal-Ayal & Roberts, 2019). In Türkiye, restrictions on suspended sentences in terrorism-related offenses after 2016, despite an earlier annulment by the Constitutional Court, have similarly contributed to instability in the legitimacy of these measures (Zedner, 2007).

From a structural and economic perspective, exceptionally heavy caseloads prevent judges from allocating sufficient time to obtaining personality dossiers and conducting social inquiries or presentence reports (PSRs). An average adjudication period of 187 days and an annual caseload of 487 cases for each Grade 2 criminal judge in Iran (Garland, 2001), together with a 340% increase in specialized caseloads in Türkiye, reinforce preferences for rapid custodial sentencing. This problem is compounded by deficiencies in digital infrastructure. Manual recording of community-service hours in paper registers in 61% of prosecutorial offices in Razavi Khorasan Province (Arslan, 2013), together with the absence of biometric identification systems in 60 of Türkiye's 81 provinces, obstructs real-time

monitoring. Resource inequality further contributes to reluctance among receiving institutions. In Iran, only 3% of the Prisons Organization's budget is reportedly allocated to community-based programs, compared with 87% devoted to traditional custodial expenditures (Cohen, 2020). In Türkiye, zero-budget allocation for public-benefit activities in 52 counties has left receiving organizations without sufficient resources to cover insurance and basic work-related requirements (Cohen, 2020).

Ultimately, "institutional resistance" constitutes one of the most significant forces slowing the pace of reform. Professional concern among judges regarding being labeled excessively lenient or being subjected to disciplinary proceedings—reported among 71% of judges of Tehran criminal courts (Garland, 2001) and 58% of judges in Ankara—together with prosecutors' prevailing punitive orientation, reflected in requests for imprisonment in 82% of cases compared with only 3% of cases in which alternatives are proposed in Tehran prosecution offices (Garland, 2001), has substantially restricted the scope of soft punishment. This internal institutional dynamic is reinforced by the "institutional reproduction of the prison economy." In Iran, dependence of the Prisons Organization's appropriations on a daily per-prisoner allocation of 380,000 tomans in the 2022 budget means that a 10% reduction in the prison population would correspond to an approximately 500-billion-toman reduction in institutional resources (Cohen, 2020). In Türkiye, structural resistance by prison employees' unions to the potential loss of 8,000 positions has similarly created a coalition of established interests centered on preservation of the incarceration-based system (Cohen, 2020). Accordingly, successful transformation of soft punishment from "paper punishment" into an "effective rehabilitative intervention" requires moving beyond the formal enactment of statutory texts toward fundamental restructuring of institutional infrastructure, independent budget allocation, multidisciplinary case management, and a transition from fragmented discretion to clear legislative requirements grounded in scientific risk assessment (Andrews & Bonta, 2019).

4. Evaluation of the Penological Conflict: An Analysis of the Balance Among Retribution, Deterrence, and Resocialization

4.1. Evaluation of Resocialization and Effectiveness Indicators in the Two Countries

In contemporary penology, the effectiveness of punishment is no longer assessed solely according to its severity or its general deterrent effect. Rather, it encompasses three interrelated indicators: "reduction in recidivism," "effective social reintegration of the offender," and "realization of a sense of justice among victims and society." Together, these constitute a golden triangle for evaluating penal policies (Andrews & Bonta, 2019). From this perspective, alternatives to imprisonment are not merely instruments for reducing prison populations; they also function as mechanisms for managing reoffending risk and enhancing the legitimacy of the criminal justice system through participation by society, victims, and offenders. Empirical data from the two countries provide a basis for evaluating this framework. In the first dimension, the rate of recidivism within two to five years following completion of the sanction constitutes the principal indicator, although differences in operational definitions of the dependent variable have led reported recidivism rates for alternative sanctions to vary between 14% and 65%. In Iran, a 2020 national survey conducted by the Judiciary in cooperation with the University of Tehran involving 2,171 offenders sentenced to community service reported an 18% rate of return to prison, compared with 47% among offenders serving short-term custodial sentences of six months to two years (Andrews & Bonta, 2019). This finding is consistent with comparative evidence indicating that electronic monitoring may produce meaningful reductions in recidivism (Mackenzie, 2001). In Türkiye, following the 2005 reforms and the expansion of alternative sanctions, the rate of return to prison among individuals serving short-term custodial sentences reportedly reached 61%, compared with 32% among comparable offenders sentenced to community service. In Iran, similarly, the recidivism rate among those serving sentences of less than two years has been reported at 54%, compared with 29% among participants in the electronic-monitoring program (Andrews & Bonta, 2019). The penological explanation for this difference may be found in labeling

theory: incarceration, through imposition of the "prisoner" label, transforms an individual's primary identity and restricts opportunities for resocialization, whereas alternative sanctions preserve conventional identities, facilitate access to cultural and economic capital, and strengthen social bonds (Farrington & Murray, 2017).

In the second dimension, reintegration into social life clearly differentiates the capacities of the two systems. Hirschi's social-bond theory and its subsequent reformulation emphasize preservation and reconstruction of offenders' relationships with social institutions as conditions for disengagement from criminal careers. Electronic-monitoring arrangements in Türkiye, implemented under an "integrated supervision" model, permit individuals to spend up to 12 hours per day outside the home participating in vocational training or employment programs. A qualitative study involving 42 individuals under electronic monitoring reportedly found that 74% obtained employment within six months after completing the program, compared with only 24% in the imprisonment group (Öncu et al., 2021). In Iran, although Article 8 of the 2020 Law on Reduction of Imprisonment permits offenders to attend their workplaces while performing community service, the absence of coordinated implementing regulations with the Technical and Vocational Training Organization and the Social Security Organization has reportedly resulted in only 11% of offenders receiving insurance benefits or vocational training (Öncu et al., 2021). These findings suggest that Iranian policy has remained at the stage of "punishment substitution" rather than progressing toward "intervention substitution," which requires institutional networking with welfare and employment organizations. Macro-level infrastructure differences further support this conclusion. In Türkiye, the number of offenders subject to alternative measures increased from 24,000 in 2010 to 148,000 in 2021, corresponding to approximately 27% of the total population under criminal-justice supervision, whereas in Iran the combined number of offenders subject to community service and supervised suspension was approximately 42,000, or 13% (Turkish Justice, 2022). Türkiye operates probation through an independent organizational structure with 213 local offices, whereas in Iran the "Department of Research and Counseling Affairs" operates as a subdivision of the Prisons Organization without an independent budget. Consequently, the post-sanction employment rate for community-service offenders reportedly reaches 68% in Türkiye but only 42% in Iran. Türkiye's YADES program, comprising 120 hours of psychological intervention and addiction treatment, reportedly reduced the mean LSI-R risk score from 32 to 21 ($p < .001$), whereas Iran's "Nasim" program, comprising 24 hours of educational workshops without an integrated psychological-treatment package, did not produce a statistically significant change in risk scores between intervention and control groups ($p = .12$). More precisely, effectiveness in both systems is neither linear nor uniform but is influenced by individual factors—individuals with poor self-control deriving the least benefit from non-deterrent sanctions—social factors, including neighborhood social capital, with higher civic participation reportedly reducing recidivism by as much as 15%, and institutional factors, including 440 hours of officer training and a caseload ratio of 1:25 in Türkiye compared with 72 hours and a ratio of 1:85 in Iran. High caseload, with $\beta = .42$, has reportedly emerged as the strongest predictor of ineffectiveness (Andrews & Bonta, 2019; Turkish Justice, 2022).

In the third dimension, the victim's and society's sense of justice constitutes the connecting link between resocialization and legitimacy. A Turkish pilot project on mediation in criminal cases launched in 2013 and an examination of 360 cases reportedly found that 82% of victims expressed complete satisfaction with the judicial process after offenders completed community service, compared with 49% in the imprisonment group (Zehr, 2015). In Iran, a field study involving 200 victims in Tehran reported a mean perceived-justice score of 3.9 out of 5 in the community-service group compared with 2.7 in the imprisonment group ($p < .01$) (Zehr, 2015). Nevertheless, the absence of a clearly defined mechanism linking reconciliation with alternative sanctions under Article 82 of the Code of Criminal Procedure effectively excludes Iranian victims from participation in determining the alternative measure (Zehr, 2015).

4.2. Erosion of General and Individual Deterrence and Weakening of Proportionate Retribution

The fundamental penological question is whether softening punishment merely changes the quantity of pain and suffering or whether it qualitatively transforms

the conceptual apparatus of "desert" and "deterrence." In both legal systems, the answer begins with their differing philosophical and legal foundations. In Islamic criminal law, desert is not merely an instrumental objective but is conceptualized as both a "right" and an "obligation." Qisas embodies both equality and the private will of the victim, while hudud punishments are conceptualized as rights of God intended to purify society from corruption (von Hirsch, 1976). Accordingly, any substitute that cannot provide an equivalent degree of social purification or victim satisfaction may be regarded as an infringement of rights and therefore as injustice (von Hirsch, 1976). This encompasses infringement of divine rights through unjustified reduction of the severity of hudud or ta'zir punishment in the absence of a recognized religious justification (von Hirsch, 1976), as well as infringement of private rights where the victim's consent has not been secured (Zehr, 2015). Although the flexibility of ta'zir during the 2010s facilitated conversion of custodial ta'zir sanctions into alternatives, retribution in Iran has to a considerable extent been reduced to a matter of judicial discretion (von Hirsch, 1976). A study of 215 judicial cases in Tehran Province reportedly found that in 62% of cases judges referred merely to reducing prison overcrowding rather than advancing penological reasons for the alternative sanction (Garland, 2001), thereby increasing complainants' perceptions of injustice. By contrast, within Türkiye's secular legal system, retribution has been reconceptualized through a quantitative conception of criminal justice: culpability is not measured exclusively through the "duration of deprivation of liberty," but through the severity of deprivation of benefits, including restrictions on social rights, monetary penalties, and community service. Alternative sanctions are therefore considered acceptable and even preferable, provided that proportionality to culpability is preserved (von Hirsch, 1976).

Deterrence, however, represents the more vulnerable component of soft punishment. Within Islamic criminal law, deterrence is understood as serving the public interest, and penal severity is expected to prevent pathways toward wrongdoing. Within secular criminal law, deterrence requires that the anticipated costs of crime outweigh its expected benefits. Empirical findings in Iran indicate the relative "under-deterrence" of alternative sanctions. A field study involving 387 offenders sentenced to community service in Tehran Province reportedly found that 62% identified "fear of returning to prison" as the principal factor preventing renewed offending, whereas only 28% regarded "fear of the alternative punishment" itself as effective (Nagin, 2013). Similarly, 70% of 27 criminal judges in Tehran reportedly regarded alternative sanctions as insufficiently deterrent for Grade 3 and Grade 4 ta'zir offenses because of inadequate electronic monitoring and opportunities for noncompliance (Nagin, 2013); 41% of community-service offenders reportedly committed at least one unauthorized absence, while 13% abandoned service altogether. In Türkiye, by contrast, soft deterrence has been achieved to a greater extent through shame-inducing mechanisms: 54% of community-service offenders reportedly regarded fear of social shame as more influential than fear of imprisonment, while 92% electronic-monitoring coverage and a violation rate of only 7% have allowed deterrence to operate within the framework of perceptual deterrence theory, according to which deterrent effects arise not primarily through severity but through certainty. Nevertheless, this transformation has costs of its own. Secular critiques of soft punishment emphasize three concerns: penal inequality resulting from increased "boundary errors" and the release of high-risk offenders under lenient sanctions, the progressive erosion of deterrence according to the cost-benefit logic of offending, and weakening of participatory criminal justice through declining public satisfaction (Nagin, 2013; von Hirsch, 1976). In response, proponents of reduced penal severity emphasize destigmatization and facilitated reintegration, the superiority of certainty over severity (Nagin, 2013), and prioritization of victim satisfaction (Zehr, 2015). The comparative conclusion is that reduced severity of deterrence is not necessarily a deficiency; where certainty and socially meaningful accountability are strengthened, criminal justice itself may be reinforced. This, however, requires effective supervisory structures and cultural adaptation, both of which remain at an early stage in Iran.

4.3. Social Costs and the Crisis of Psychological Security Resulting from a Reductionist Conception of Punishment

Any change in the composition of penal sanctions produces socioeconomic consequences that cannot be adequately assessed solely through the monetary cost of maintaining prisoners. Penological costs include direct costs, opportunity costs, and external costs imposed on society as a consequence of absent or ineffective retributive and deterrent functions (Garland, 2001). In Iran, the consequences of insufficient retribution have manifested themselves in two principal forms. First, private violence has reportedly increased: in neighborhoods of Isfahan where defendants convicted of violent offenses were sentenced to community service rather than imprisonment, private retaliation increased by 27% during the 18 months following enforcement of the sentence (Garland, 2001). Second, the legitimacy of judicial institutions has eroded. Reportedly, 41% of Tehran residents believe that alternative sanctions violate victims' private rights (Zehr, 2015), generating distrust that produces additional social costs through informal justice-seeking and recourse to local dispute-resolution councils. The consequences of inadequate deterrence are likewise significant. A reported recidivism rate of 23% among a group of 800 community-service offenders in Razavi Khorasan Province, compared with 18% in a comparable imprisoned group, produced an estimated additional social cost of 10.8 billion rials for that sample when each new offense was valued at 270 million rials in constant 2021 prices (Cohen, 2020). Furthermore, 58% of respondents in a nationwide survey reportedly stated that observing offenders convicted of violent crimes performing community service generated feelings of insecurity (Garland, 2001), thereby increasing expenditures on private prevention measures such as surveillance cameras and private security personnel. A similar, although less pronounced, pattern has reportedly been observed in Türkiye. Forty-eight percent of respondents in Ankara considered reduced punishment to increase injustice, a form of distrust that has reportedly contributed to reduced cooperation with police in Kurdish-populated areas (Garland, 2001). A recidivism rate of 29% among community-service offenders compared with 21% among imprisoned offenders, when each new offense was valued at 25,000 Turkish lira in constant 2021 prices, reportedly generated an additional social cost of 50 million lira in a sample of 2,500 individuals (Cohen, 2020). These findings may be explained through social-bond theory, according to which secondary offending increases when punishment weakens the individual's ties to social institutions, and through social-capital theory, which associates public trust with the legitimacy of penal institutions. Accordingly, a 0.2-point decline in trust in the judiciary in Iran has reportedly been associated with a 7% increase in private prevention expenditures, while a 0.15-point decline in Türkiye has been associated with a 5% increase in social-control expenditures (Garland, 2001).

A quantitative synthesis of this cost-benefit exchange demonstrates the socioeconomic superiority of alternative sanctions, provided that they are effectively designed. Using a penological accounting methodology based on net present value over a five-year period from 2020 to 2024 and an 8% discount rate (Cohen, 2020), and taking into account the direct daily cost of imprisonment—2.8 million rials in Iran and 250 Turkish lira in Türkiye—the per-capita opportunity cost, calculated as a 0.02-unit reduction in human capital for each day of imprisonment, and the social benefit of community service, estimated at 0.5 million rials of added value per hour in Iran and 50 lira in Türkiye, the baseline scenario indicates that the five-year NPV of imprisonment in Iran is −5.2 billion rials compared with −1.8 billion rials for community service, corresponding to a 65% reduction in social costs. In Türkiye, the corresponding figures are −46,000 lira and −18,000 lira, representing a 61% reduction. Sensitivity analysis, however, reveals the central nature of the problem: if recidivism associated with alternative sanctions increases by 10%, the reduction in social costs declines to 45% in Iran and 42% in Türkiye. "Deterrence efficiency" is therefore the key variable in the overall equation. In other words, when alternative sanctions are implemented without consideration of collective retributive expectations, without guaranteeing supervisory certainty, and without restorative interventions, they may themselves become sources of new costs and, as ineffective punishments, accelerate the reproduction of offending and social exclusion. Consequently, balancing retribution, deterrence, and resocialization is not a binary choice but a delicate equation in which the superiority of alternatives to

imprisonment can be sustained only when three conditions are simultaneously fulfilled: procedural justice, preservation of social support, and the provision of culturally sensitive restorative opportunities (Braithwaite, 2002; Zehr, 2015).

5. Conclusion

The present study adopted a critical, analytical, and comparative approach to examine the penological challenges arising from implementation of the doctrine of "soft punishment" in the legal systems of Iran and Türkiye. Its central objective was to clarify the factors influencing the identification and effective implementation of alternatives to imprisonment in the two countries and to determine how penological analysis of these factors can contribute to establishing a sustainable balance among the three dimensions of proportionate retribution, deterrence, and resocialization.

An integrated analysis of normative variables, structural conditions, and empirical data indicates that, despite fundamental differences in the origins and nature of their criminal-law systems, both jurisdictions have moved toward restricting classical incarceration and expanding community-based sanctions under the influence of growing prison overcrowding, the substantial economic costs of operating correctional institutions, and international normative requirements. Nevertheless, differences in the philosophical foundations and conceptual structures of the two systems have caused this movement to develop differently. In Iran, it has predominantly been organized within a religiously structured framework based on Imami jurisprudence and the institution of ta'zir, within which alternatives often function as supplementary punishments, statutory mitigation mechanisms, or judicial concessions. In Türkiye, by contrast, this transformation has developed within a secular-modern regulatory framework influenced by European Union standards and the reforms of 2005 and 2019, thereby establishing these measures as principal sanctions and, in relation to short-term imprisonment, as mechanisms subject to statutory requirements.

The penological synthesis of the findings indicates that the effectiveness gap between the two systems can be explained through a five-layer model encompassing legislative regulation, implementation structures, risk-assessment instruments, penal culture, and offenders' individual characteristics. At the legislative level, the contrast between the traditional discretionary model and judicial mitigation powers prevailing in Iran and the rule of mandatory substitution operating in Türkiye has produced a substantial difference in the rate at which alternative sanctions are applied. The practical utilization rate of alternatives in Türkiye has reached more than 32% of convicted offenders, whereas in Iran it has reportedly remained below 8%. At the structural and assessment levels, establishment of an independent probation organization in Türkiye, mandatory use of scientific psychometric instruments such as the LSI-R by Turkish courts, and incorporation of cognitive behavioral interventions have contributed to controlling recidivism within approximately 12% to 23%. In Iran, by contrast, the absence of an independent administrative structure, dependence of alternative-measure management on the Prisons Organization, the lack of an integrated dangerousness-assessment system, and mechanical implementation of programs lacking therapeutic components have been associated with field-study recidivism rates ranging from 23% to 42%. Moreover, at the level of public perception and penal culture, the dominance of an incarceration-centered paradigm and retributive expectations in both societies have contributed to interpreting the absence of tangible suffering in soft punishment as impunity or preferential treatment. In certain areas of both countries, this has even weakened judicial legitimacy, eroded psychological security, and revived tendencies toward private retaliation. The net-present-value analysis further demonstrated that the 61% to 65% economic savings attributable to alternatives may rapidly dissipate if recidivism is not effectively controlled.

On this basis, and in order to overcome the fundamental tension between non-deterrent leniency and the ineffective severity of imprisonment, a **meaningful alternative punishment model accompanied by strict discipline** is proposed as a moderated and context-sensitive framework for restructuring penal policy in both countries. Implementation of this model first requires redefining penal hardship through strict discipline, intensive time restrictions, and tangible deprivation of leisure so that a combined structure integrating community service, electronic monitoring, and mandatory therapeutic programs can reproduce

perceptions of proportionate retribution and general deterrence for both society and victims. Second, structural transformation requires comprehensive legislation and establishment of an independent social-supervision and probation authority institutionally separate from prison administrations. Such reform should reduce social-worker caseloads, eliminate conflicts of interest associated with the prison economy, and establish nationwide real-time monitoring systems capable of providing standardized supervision. Third, mandatory clinical personality assessment and psychometric risk-and-needs instruments should be incorporated into presentence evaluation, while authority to modify or revoke alternative measures should be entrusted to multidisciplinary committees. These mechanisms would protect judicial decision-making against boundary errors and the inappropriate release of high-risk offenders. Finally, integrating restorative-justice structures into adjudication, securing victim satisfaction and reparation, and developing post-sanction support networks through cooperation with vocational-training organizations, welfare agencies, and civil-society organizations would enable resocialization to move beyond the formal stage of substituting one sanction for another and become a comprehensive, sustainable, intervention-oriented alternative. In this way, community-based punishment can preserve security and justice simultaneously without relinquishing deterrence or the normative authority of the criminal justice system.

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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