OPEN PEER REVIEW

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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1. Round 1

1.1. Reviewer 1

Reviewer:

In the second paragraph of the Introduction, the manuscript refers to "compulsory community service, day fines, systems of suspension and deferred proceedings, and technology-assisted supervision such as electronic monitoring" as components of the same restorative and rehabilitative model. This classification should be reconsidered. A monetary sanction such as a day fine is not inherently restorative, electronic monitoring is primarily supervisory and restrictive, and suspension of proceedings may constitute diversion rather than punishment. The authors should construct a typology distinguishing punitive, supervisory, rehabilitative, restorative, and diversionary alternatives and indicate where each mechanism falls within that classification. Such a typology would prevent conceptual overextension and would provide a stronger analytical basis for the later comparison between Iran and Türkiye.

The paragraph discussing "symbolic hardship" makes the theoretically significant claim that social legitimacy in the absence of physical suffering may require visible forms of penal burden, referring to greater acceptance of public community service and visible electronic-monitoring devices. This argument needs ethical and human-rights qualification. Public visibility of punishment may increase expressive condemnation, but it may simultaneously generate stigmatization, humiliation, employment discrimination, and secondary exclusion, thereby undermining resocialization. The authors should explicitly engage with this trade-off and distinguish legitimate communicative censure from degrading or stigmatizing punishment. The proposed model should not imply that public exposure of offenders is inherently desirable merely because it increases popular acceptance.

In Section 3, the description of Iranian alternative sanctions should be legally rechecked and reorganized. The sentence beginning "Articles 46 to 54 of the 2013 Islamic Penal Code… have recognized a fourfold typology of alternatives to imprisonment" appears to combine institutions with different legal functions, including suspension of execution, suspension or postponement mechanisms, community service, fines, and electronic monitoring. The authors should distinguish "alternative punishments to imprisonment" in the strict statutory sense from suspension, semi-liberty arrangements, electronic monitoring, and other noncustodial institutions. A doctrinally precise table identifying the exact statutory basis, offense eligibility, sentencing threshold, competent authority, and revocation conditions for each sanction would strengthen the comparative legal analysis considerably.

Table 1 is potentially one of the manuscript's strongest contributions, but several indicators require normalization and methodological clarification before valid comparison is possible. For example, the row "Rate of application of alternatives in final judgments" compares 7.4% in Iran with 42% in Türkiye, yet the denominator, offense composition, sentencing population, and included types of alternatives are not defined. Similarly, comparisons of social-worker-to-offender ratios, numbers of centers, and recidivism rates may reflect different administrative definitions. The authors should add a column entitled "Operational Definition/Measurement" and ensure that every quantitative comparison uses equivalent denominators and observation periods. Where comparability cannot be established, the table should explicitly label the figures as non-equivalent descriptive indicators rather than direct comparative measures.

The manuscript repeatedly relies on recidivism as the central outcome variable, but the operational definition of recidivism changes across sections. At different points, recidivism appears to mean rearrest, reconviction, return to prison, commission of a new offense, or violation of supervision. The statement that "recidivism in Türkiye has been reported at 12% for community service and 9% for electronic monitoring" cannot be interpreted scientifically unless the follow-up period and event definition are specified. The authors should standardize the concept throughout the manuscript and, where source studies use different definitions, explicitly distinguish "rearrest," "reconviction," "reincarceration," and "technical violation." A comparative article should avoid placing heterogeneous recidivism measures in the same table without methodological qualification.

In Section 4.1, the manuscript interprets lower recidivism among individuals receiving alternative sanctions as evidence of their greater effectiveness. This inference should be moderated because substantial selection bias is likely. Offenders receiving community sanctions are generally lower risk, have less serious criminal histories, more stable housing, stronger employment ties, or greater judicially perceived rehabilitative potential than offenders sentenced to imprisonment. Therefore, raw differences between groups cannot establish a causal treatment effect. The authors should discuss confounding by indication and selection effects and should distinguish randomized or matched evidence from uncontrolled observational comparisons. Where possible, effect sizes adjusted for baseline risk, offense seriousness, prior convictions, age, and socioeconomic characteristics should be prioritized.

The sentence describing Türkiye's YADES program as reducing "the mean LSI-R risk score from 32 to 21 ($p < .001$), whereas Iran's 'Nasim' program… did not produce a statistically significant change" needs considerably more methodological information. Changes in risk scores are not automatically equivalent to reductions in actual offending, and statistical significance alone does not establish substantive or clinical significance. The authors should report sample sizes, standard deviations, effect sizes, follow-up duration, study design, and whether the comparison involved matched or randomized groups. They should also explain whether the same validated instrument was administered in both jurisdictions. Otherwise, the comparison may create an appearance of precision without sufficient evidentiary equivalence.

Section 4.2 contains one of the manuscript's most important theoretical conclusions: "reduced severity of deterrence is not necessarily a deficiency; where certainty and socially meaningful accountability are strengthened, criminal justice itself may be reinforced." This proposition should be more explicitly integrated with contemporary deterrence theory. The manuscript should distinguish certainty, severity, celerity, perceived risk of detection, perceived probability of sanction, and experiential updating. It should also avoid conflating "shame" with deterrence, because shame may operate through social control, stigmatization, moral emotions, or reintegrative processes rather than through classical deterrence alone. The authors should explain whether the Turkish evidence supports deterrence, reintegrative shaming, procedural legitimacy, or some combination of these mechanisms.

Authors revised the manuscript and uploaded the document.

1.2. Reviewer 2

Reviewer:

The manuscript argues that shifting punishment from "absolute deprivation of liberty and the imposition of manifest hardship" toward community-based sanctions generates a conflict with "proportionate retribution" and "general and specific deterrence." This is a central theoretical proposition and deserves substantially deeper engagement. The current formulation seems to assume that visible suffering is a necessary component of retributive proportionality, whereas contemporary desert theories often focus on censure, proportional deprivation, and communicative condemnation rather than physical suffering per se. The authors should explicitly distinguish retribution from punitive severity and examine whether restrictions on movement, mandatory reporting, compulsory labor, electronic monitoring, and structured treatment can themselves constitute proportionate penal burdens. This revision is essential because the article's normative model ultimately depends on redefining rather than abandoning penal hardship.

In the paragraph comparing Iran and Türkiye, the manuscript states that "both countries have confronted substantial growth in prison populations and crises in the management of correctional institutions." This comparative claim requires a clearer evidentiary foundation and temporal specification. The authors should identify the relevant period, provide comparable prison-population indicators, and ideally distinguish absolute prison populations from incarceration rates per 100,000 inhabitants. Comparative criminal-justice claims are particularly vulnerable to distortion when jurisdictions differ substantially in population size, sentencing practices, prison admission rules, and sentence duration. The manuscript should therefore establish a standardized comparative baseline before drawing conclusions regarding the relative urgency or severity of prison overcrowding in the two systems.

The fifth paragraph of the Introduction states that previous studies "have been limited to formal descriptions and repetitions of statutory provisions" and have insufficiently addressed the tension among resocialization, retribution, and deterrence. This claim establishes the manuscript's research gap, yet it remains too general. The authors should identify the specific categories of prior scholarship being criticized—for example, doctrinal legal studies, descriptive comparative analyses, criminological evaluations, or empirical probation studies—and explain precisely what each strand has omitted. The research contribution would become considerably clearer if the authors articulated three separate gaps: a theoretical gap concerning the relationship among penal aims, an institutional gap concerning implementation structures, and an empirical gap concerning comparative outcomes in Iran and Türkiye.

In Section 2.1, the manuscript presents five conventional functions of punishment: "retribution based on proportionality to the gravity and blameworthiness of the conduct; specific and general deterrence; rehabilitation and resocialization; physical or selective incapacitation; and reparation of harm suffered by the victim." This taxonomy requires conceptual refinement because victim reparation is not universally treated as a conventional function of punishment in the same sense as retribution, deterrence, incapacitation, and rehabilitation. The authors should distinguish theories of punishment from broader objectives of criminal justice and restorative justice. Moreover, the manuscript should clarify whether restorative justice is being incorporated as a penal theory, an alternative process of dispute resolution, or an independent justice paradigm. This distinction becomes particularly important later when restorative mechanisms are used to justify the legitimacy of alternative sanctions.

The manuscript states that 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)." This is one of the most consequential empirical and legal claims in the article and should be verified and qualified with exceptional care. The authors should specify the legal or administrative instrument establishing such a requirement, identify which offenders are subject to assessment, and clarify whether LSI-R and PCL-R are routinely mandated at sentencing, used within probation services after sentencing, or employed selectively in correctional assessment. LSI-R and PCL-R also have substantially different purposes and psychometric foundations; the latter is a specialized measure of psychopathic traits rather than a general risk-needs assessment instrument. Treating them as interchangeable risk-assessment tools should therefore be avoided.

The discussion of empirical findings in Section 2.1 includes several precise percentages, such as "68% of citizens in Tehran," "52% of citizens in Ankara," and "31%" who do not regard electronic monitoring as genuine punishment. The manuscript

should report the methodological characteristics underlying these figures. At minimum, the authors should specify sample size, sampling strategy, year of data collection, population characteristics, measurement items, and whether the results are nationally representative or based on local convenience samples. Numerous numerical claims throughout the manuscript are presented as definitive population-level findings even though the underlying design is not described. A dedicated methodological note or evidence table summarizing the empirical studies used in the comparative analysis would considerably improve transparency and scientific credibility.

Authors revised the manuscript and uploaded the document.

2. Revised

Editor's decision: Accepted.
Editor in Chief's decision: Accepted.