

**How to cite this article:**

Marhaba, N., Mousavi Mojab, S. D., & Nekoonam, V. (2026). Pathology of the Legal Systems of Iran and Iraq in the Criminal Protection of Women Victims of Domestic Violence (A Case Study among Iranian and Iraqi Women). *Journal of Historical Research, Law and Policy*, 4(2), 1-18. <https://doi.org/10.61838/jhrlp.235>



Article history:
Original Research

Dates:

Submission Date: 30 October 2025
Revision Date: 09 February 2026
Acceptance Date: 16 February 2026
First Publication Date: 17 February 2026
Final Publication Date: 10 March 2026

Pathology of the Legal Systems of Iran and Iraq in the Criminal Protection of Women Victims of Domestic Violence (A Case Study among Iranian and Iraqi Women)

1. Narjes. Marhaba^{id1} : Ph.D. student, Department of Criminal Law and Criminology, Qo.C., Islamic Azad University, Qom, Iran
2. Seyed Doraid. Mousavi Mojab^{id2*}: Assistant Professor Criminal Law and Criminology, Faculty of Law, Tarbiat Modares University, Tehran, Iran
3. Vahid. Nekoonam^{id3}: Associate Professor, Faculty of Theology and Law, Hazrat-e Masoumeh University, Qom, Iran

*corresponding author's email: D.Mojab2@Modares.ac.ir

ABSTRACT

Domestic violence, as one of the fundamental social and legal challenges, has consistently exposed women to physical, psychological, and social harm. Despite the expansion of international discourses emphasizing the necessity of criminalization and differential penal responses to this phenomenon, many legal systems still lack comprehensive legislative approaches in this field. The present study, focusing on the legal systems of Iran and Iraq, examines the challenges and legal gaps concerning the criminal protection of women victims of domestic violence and analyzes the existing deficiencies from a comparative perspective. Employing a comparative research method, this study integrates both library-based and field research. In the field section, data were collected through a researcher-developed questionnaire and an analysis of the perspectives of Iranian and Iraqi women victims. The findings indicate that the absence of a differential criminal protection framework for domestic violence against women has not only deprived judicial and executive institutions of the possibility of effective intervention but, in certain cases, has implicitly legitimized this form of violence. In both countries, existing laws generally lack independent criminalization of domestic violence, and criminal protections for women are provided within the framework of general and non-differential provisions. More concealed forms of violence, particularly psychological and sexual violence (including marital rape), do not possess an independent criminal characterization. This situation not only complicates the proof of victimization during judicial proceedings but also, in many instances, results in women's complaints being dismissed through decisions of non-prosecution or limited to the payment of diya (blood money), thereby perpetuating the cycle of violence. Furthermore, cultural and social barriers further undermine the effectiveness of criminal protection. The findings underscore that, in order to establish effective criminal protection, the enactment of differential and specific legislation criminalizing various forms of domestic violence against women is essential. Additionally, complementary approaches—such as the application of restorative justice mechanisms and the provision of psychosocial support—may contribute to reducing women's victimization and strengthening the accountability of the criminal justice system in addressing domestic violence.

Keywords: Domestic violence, Victims' rights, Criminal protection, Differential norm-setting.



© 2026 the authors. This is an open access article under the terms of the Creative Commons Attribution-NonCommercial 4.0 International (CC BY-NC 4.0) License.

Introduction

Violence against women is a global and multidimensional phenomenon rooted in the complex cultural, social, and economic structures of societies. This phenomenon not only violates women's fundamental rights but also produces destructive consequences for their physical and psychological well-being, for families, and for society as a whole. Within this framework, legal systems, as the principal guarantors of individual rights and security, play a vital role in addressing violence against women. From a human rights perspective, every individual, by virtue of being human, is entitled to inherent rights and protections (1). In this sense, a "right" denotes an entitlement or privilege to which a person is legitimately entitled, including the right to receive various forms of state protection (2). Accordingly, violence against women constitutes not merely a private matter but a violation of fundamental human rights standards that bind states under international law (3).

Domestic violence against women, as one of the most prevalent and serious forms of gender-based violence, possesses distinctive characteristics that render it particularly significant when compared to other forms of violence against women. This type of violence often occurs within an intimate environment and is perpetrated by a trusted individual (such as a husband, father, or brother), and it may encompass various forms including physical, psychological, sexual, and economic violence. The continuity and repetition of domestic violence, particularly when accompanied by abuse of power and positional dominance, can inflict irreparable physical and psychological harm on women and may even lead to death. Furthermore, domestic violence frequently remains concealed due to fear of stigma, threats, or lack of institutional support, leading victims to refrain from reporting it. Such circumstances hinder timely identification and intervention and necessitate the adoption of differential approaches within the criminal justice system. In this regard, independent criminalization of domestic violence, the establishment of specific mechanisms for the protection of witnesses and victims, and the imposition of penalties proportionate to the severity and nature of the violence are among the measures capable of improving women's protection against domestic violence (4). In particular, the issue of marital sexual violence and the evidentiary challenges associated with it highlight the need for specialized legislative responses (5, 6).

The present study comparatively examines the approaches of the legal systems of Iran and Iraq concerning differential criminal protection for women against domestic violence. In both systems, although legal scholars, judicial authorities, and women's rights advocates have emphasized the necessity of differential criminal protection for women in cases of domestic violence, and although certain legislative bills and proposals have been introduced, no specific and comprehensive criminalization of violence against women has yet been enacted. In other words, specialized criminal protection for women against domestic violence and the various forms of victimization arising from it has not been firmly institutionalized within the legislative frameworks of these two countries. This reality reflects a significant and evident normative gap. From the standpoint of victim rights within Iranian and Iraqi law, effective protection requires not only formal recognition but also practical mechanisms ensuring implementation (7). Additionally, international reporting mechanisms have underscored the importance of legislative and institutional reforms in Iraq to strengthen protections against gender-based violence (8).

The research employs both qualitative and quantitative methods, gathering data from diverse sources including library research, examination of legal documents, and field study among Iranian and Iraqi women. The importance of this study derives from the fact that domestic violence, as a social problem, seriously affects women in both Iran and Iraq. Nevertheless, the legal systems of these countries face multiple challenges in addressing this

phenomenon. A comparative analysis may facilitate the identification of effective strategies and normative models, particularly in light of contemporary theories of victim-centered justice and the evolving principle of parity between the rights of victims and offenders within fair trial standards (9). Moreover, modern criminal law doctrines emphasize that criminal intervention must be justified within the framework of harm prevention and protection of legally recognized interests (10).

This article first examines the importance and necessity of criminal protection for victims of domestic violence, particularly women, and analyzes the existing challenges in this domain. It then explains differential criminalization and sentencing as the principal foundations of specialized criminal protection for women against domestic violence, emphasizing the specific characteristics of this form of violence and women's heightened vulnerability. In this context, attention must also be paid to crimes against the spiritual and psychological integrity of persons, which are often insufficiently recognized in traditional penal frameworks (11). Furthermore, specific protection mechanisms for female victims of domestic sexual violence within the Iranian criminal justice system reveal structural limitations requiring reform (12).

Subsequently, the measures and approaches adopted by the legal systems of Iran and Iraq regarding criminal protection for women victims of domestic violence are comparatively examined. The findings of the field study conducted among Iranian and Iraqi women who have experienced domestic violence are then presented and analyzed. Ultimately, in the conclusion, based on a synthesis of the research findings, recommendations are offered for improving the status of criminal protection for women victims of domestic violence in both countries, with emphasis on the necessity of differential criminalization, strengthening protective mechanisms, and transforming prevailing cultural attitudes.

The Importance and Necessity of Criminal Protection for Victims

Criminal protection is founded upon the criminalization and penalization of prohibited conduct. In this form of protection, a value, interest, or entity deemed worthy of respect and protection constitutes the basis upon which certain behaviors are legally identified as crimes and subjected to punishment or other sanctions. Through the mechanism of criminalization, criminal protection represents the most common and traditional form of safeguarding victims within the framework of legislative criminal policy. In its simplest form, it requires the establishment of a specific sanction, typically penal in nature. Criminal laws, in addition to their preventive function within the framework of individual and collective deterrence, also assume a protective role by preventing victimization.

It should be emphasized that one of the defining characteristics of modern criminal law is its responsiveness to human rights principles. Human rights constitute a distinct branch of rights that every individual enjoys simply by virtue of being human (1). In this sense, a "right" signifies an entitlement or privilege to which a person is legitimately entitled, including the benefit of various forms of governmental protection (2). A victim is a person who, as a result of the commission of a crime or crimes, has suffered harm; from a human rights-oriented perspective, such an individual, as a human being, deserves protection and reparation for the damage endured. This approach has been described as "victim-centered human rights," deriving from the principle of parity between the rights of victims and offenders within the framework of a fair trial, itself rooted in the inviolability of international human rights law (9).

According to another perspective, protection of victims, as a positive approach within victimology, represents the outcome of integrating victimological findings with criminal policy under the concept of "prevention." In this interpretation, protective victimology constitutes a novel strategy for preventing victimization alongside the

prevention of crime, forming two complementary dimensions of criminal policy. One of the most notable developments in criminal law doctrines in recent decades has been the growing attention to the status of victims within criminal justice systems. This evolution reflects not only a transformation from classical to sociological approaches but also the recognition that criminal law cannot effectively fulfill its function if it neglects the needs and interests of victims. Consequently, among the various forms of protection to which a victim is primarily entitled, criminal protection occupies a fundamental position.

Differential Criminalization and Sentencing: The Principal Basis of Specialized Criminal Protection for Women against Domestic Violence

Regrettably, a major deficiency within the Iranian legislative system lies in the absence of specific and differential criminalization of domestic violence against women. At the time of writing, no distinct legal title under the rubric of domestic violence against women has been independently criminalized within Iran's penal laws. Consequently, the legal response must be sought within general provisions and under broad categories such as assault, battery, or insult; in other words, until specific criminalization and sentencing concerning domestic violence against women are enacted within national criminal legislation, reliance on general provisions remains unavoidable (4).

In any event, the absence of differential criminalization and sentencing with respect to domestic violence against women constitutes a serious challenge. Resorting to general rules or to offenses against spiritual and moral integrity reflects a legislative shortcoming in addressing the phenomenon of domestic violence against women. This is particularly problematic given that, in international instruments and in many legal systems, differential criminalization has been adopted in this field, and domestic violence against women is often met with significantly more severe penal responses than other forms of violence. A clear example of the absence of differential criminalization is observed in cases of sexual victimization within marriage (11). Unfortunately, within the Iranian legal framework, because a husband is generally not recognized as capable of committing a sexual offense against his wife, many forms of domestic sexual violence perpetrated by husbands remain without criminal response (6). In practice, the existence of the marital bond is interpreted in such a manner that a wife is expected to comply with her husband's sexual demands at any time; should she be unwilling or even unable to do so, fault is often attributed to the woman rather than to the husband.

The absence of specific and differential criminalization of domestic violence against women, including spousal sexual violence, in the Iranian legal system stands in contrast to other legal systems that have enacted special legislation emphasizing the necessity of state criminal intervention to protect women victims of domestic sexual violence. In Iran, the lack of independent criminalization of sexual/domestic violence in general, and marital sexual violence in particular, has created serious challenges in recognizing victimization before the courts.

Research conducted in this field demonstrates that women's criminal complaints under such circumstances frequently result in decisions of non-prosecution, and only where physical injury is established does the perpetrator face liability, typically limited to the payment of diya (blood money) (13). In practice, the difficulty of proving the offense and the absence of objective standards for determining the scope of marital compliance have led either to discretionary judicial interpretations or to deliberate judicial inaction, resulting in inconsistent jurisprudence. Given the inadequacy of existing substantive and procedural criminal mechanisms, as well as the inefficiency of evidentiary rules in this domain, the foremost protective measure is the necessity of independent criminalization of marital sexual violence within legislative discourse, accompanied by sanctions proportionate to victims' needs and

differential judicial procedures before criminal courts (12). Indeed, due to the absence of an independent criminal title in Iran, in many cases the victimization of women who have experienced domestic sexual violence is not formally recognized by judicial authorities, or their complaints are dismissed for insufficiency of evidence owing to the private nature of marital life and the inherent difficulty of proof. Even in cases where prosecution and conviction occur, existing penal responses fail to meet the needs of women victims or to adequately repair their suffering. Consequently, many women who initiate complaints experience secondary victimization as a result of their discouraging encounters with the judicial system (14).

Moreover, challenges related to the compensation of both moral and material damages sustained by these victims must not be overlooked. Experience indicates that women victims of domestic sexual violence, when seeking recourse before judicial authorities, frequently confront reactions such as character defamation, humiliation, ridicule, justification of the husband's entitlement to sexual relations in any manner or degree of force, and sometimes even endorsement of spousal violence. Under such circumstances, the harms inflicted upon women victims remain unrecognized and uncompensated within judicial forums.

Psychological and emotional violence, compared to physical violence, often produces more severe and enduring consequences for women. Yet the aforementioned challenges are equally present in cases of psychological and emotional abuse or mental harm resulting from domestic sexual violence. Acts such as humiliation, threats, excessive control, social isolation, psychological pressure to comply with spousal demands, and deprivation of decision-making autonomy constitute prominent manifestations of psychological and emotional violence whose effects may persist for years. Nevertheless, due to their intangible nature, such forms of violence often receive less attention from legislative and judicial systems, leaving victims doubly marginalized and deprived of effective legal protection. In addition, the psychological consequences of domestic sexual violence—such as feelings of guilt, anxiety, depression, diminished self-esteem, and even suicidal ideation—are frequently treated as private matters beyond judicial scrutiny. Many women refrain from disclosing their experiences due to fear of social judgment, negative family reactions, or the absence of effective legal protection, suffering in silence. Yet the psychological consequences of such violence may be more devastating than physical injuries, gradually eroding women's mental and emotional resilience and complicating recovery.

The failure to recognize women victims of violence and the absence of differential criminalization in this domain contribute to the reproduction of the cycle of violence and the continuation of physical and psychological harm. The inefficiency of current criminal laws in providing specific and differential criminalization and sentencing for domestic sexual violence constitutes not only a profound legislative weakness but also fosters greater victim frustration, distrust toward the judiciary—and even toward the broader political and governance system—and repeated victimization beyond the initial experience of harm (5, 13).

In such a context, fundamental reforms of criminal legislation, the enactment of differential provisions criminalizing domestic violence, and the establishment of effective protective mechanisms for women victims—including judicial, psychological, and financial support—appear both necessary and unavoidable. Without such reforms, women victims will continue to face not only violence perpetrated by offenders but also compounded harm and marginalization at the hands of judicial and social institutions.

Legislative Capacities of Iran and Iraq in Providing Differential Criminal Protection for Women against Domestic Violence

Protection of women victims of domestic violence, first and foremost, requires effective legislative capacities. Legal systems seeking to address this phenomenon and safeguard victims must rely upon clear laws, robust enforcement mechanisms, and differential criminal policies. Therefore, a precise examination of the existing legal mechanisms in Iran and Iraq may reveal the effectiveness of these protections and expose potential normative gaps. Such a comparative assessment not only contributes to a better understanding of the strengths and weaknesses of the criminal systems of the two countries in this domain but may also lay the groundwork for legal reforms and the improvement of protective policies aimed at ensuring effective criminal protection for women victims of domestic violence. In what follows, the principal legislative capacities of these two countries are examined.

The Legal System of Iran

Despite long-standing and repeated emphasis on the necessity of criminal protection for women against domestic violence, the Iranian legal system still lacks a comprehensive and binding statute in this field. Although efforts have been undertaken in the form of drafting the “Bill on the Prohibition of Violence against Women,” and although this bill was submitted to Parliament during the Twelfth and Thirteenth administrations, it has not yet completed the final enactment process and has therefore not become an enforceable law. If ultimately adopted and enacted, this bill may provide a valuable legislative capacity for criminal protection of women against domestic violence.

In the bill’s preamble, its principal objectives are stated as preserving women’s dignity and status; protecting women against various forms of violent conduct; strengthening the foundations of the family and safeguarding its integrity; providing necessary measures, actions, services, and empowerment programs to support women against violence; determining the duties of agencies and institutions responsible for combating violence against women; establishing a coherent structure for coordination and oversight of executive bodies’ activities in this area; criminalizing new forms of harassment and violations of women’s rights and setting appropriate sanctions for them; and consolidating and harmonizing the multiple and scattered laws in this domain. The table below presents a summary of the capacities envisaged in the bill, which may constitute a statutory basis for protecting women victims of domestic violence:

Table 1. The Most Important Capacities for Criminal Protection of Women in the Bill on the Prohibition of Violence against Women

Supportive capacities	Bill innovations	Provision
<ul style="list-style-type: none"> • Laying the groundwork for criminalizing domestic violence as an independent offense • Prohibiting restrictive judicial interpretations and extending criminal protections to all women, including single, married, migrant, and religious minority women, etc. • Increasing deterrence in domestic violence-related offenses by intensifying penalties for offenders who exploit women’s vulnerability • Recognizing gender as a factor influencing the commission of crime, acknowledging gender-based violence, and the necessity of a differential penal response • Establishing special criminal protection for women victims of domestic killings, often committed for 	<ul style="list-style-type: none"> • General and unconditional criminal protection against all forms of violence against women: any conduct, whether an act or omission, inflicted upon a woman due to her gender, vulnerable status, or the nature of the offender’s relationship with her. • Intensification of punishment for specific violence against women: where the offender, by exploiting women’s gender or vulnerable position, commits certain offenses, the penalty is increased up to the maximum prescribed by law. 	Article 1 of the bill Article 28 of the bill

familial, “honor”-related, or domestic violence reasons		
<ul style="list-style-type: none"> Reducing perpetrators’ immunity from punishment, particularly where qisas (retaliation) is not carried out for any reason Strengthening criminal enforcement against lethal domestic violence and reducing incentives for premeditated killings against women Differential criminal protection for women against digital violence and reduction of related psychological harm Differential protection to prevent forcing women into committing severe crimes Increasing deterrence by shifting criminal liability to the coercer, ensuring strong legal protection for women under pressure Increasing deterrence against pressure and sexual assault against women, which plays a significant role in reducing domestic violence Strengthening women’s legal position against sexual assault and abuse by obliging authorities to impose severe sanctions and even occupational restrictions on perpetrators Securing women’s right to residence and safety by creating a legal capacity for criminal protection against eviction or restriction of access to their home Providing a legal basis for rapid judicial and police intervention in domestic violence cases, especially in instances of expulsion from the family environment Differential protection of women regarding autonomy in marital status through criminalizing a specific manifestation of domestic violence Increasing deterrence by prescribing sixth-degree imprisonment or a monetary fine for using coercion against women as a domestic violence tool Extending criminal liability to persons holding family authority (guardian, executor, trustee, or custodian) in cases of coercion to change marital status. Preventing exploitation of vulnerable women by prohibiting inducement to flee the home, which may expose them to further violence Distinguishing between protective intervention and harmful coercion, enabling intervention to rescue women from severe violence without prosecuting genuine protectors Increasing criminal control over the exploitation of runaway women and combating trafficking/exploitation networks targeting women fleeing domestic violence Differentiating criminal responsibility where a person removes a woman from a violent environment with benevolent intent. Increasing deterrence against exploiting women in drug-related contexts and begging Criminal protection against coercion and domestic threats linked to substance misuse and economic exploitation Preventing women from being used as instruments for crime by profiteers, especially in unhealthy family settings Reducing domestic violence associated with substance misuse and women’s economic exploitation 	Article 29 of the bill	
	<ul style="list-style-type: none"> Providing for a third- or fourth-degree imprisonment sentence for intentional <i>dua</i> of women where qisas is not executed for any reason, particularly in cases involving premeditation and prior planning. Criminalizing the transmission of obscene/vulgar messages, images, or symbols without a woman’s consent via digital systems. 	Article 30 of the bill
	<ul style="list-style-type: none"> Independent criminalization of coercing a woman to commit an offense punishable by a hadd sanction of deprivation of life, and prescribing third-degree imprisonment for the coercer if the offense occurs. 	Article 31 of the bill
	<ul style="list-style-type: none"> Criminalizing the proposal of an illicit relationship to women, with emphasis on intensified punishment where the relationship entails a hadd sanction. 	Article 32 of the bill
	<ul style="list-style-type: none"> Criminalizing the expulsion of a spouse from the shared residence or preventing her entry as a manifestation of domestic violence against women. 	Article 33 of the bill
	<ul style="list-style-type: none"> Criminalizing coercion in changing marital status: forcing a woman to marry another person or to seek divorce without her consent is treated as a tool of domestic violence and is subject to punishment 	Article 34 of the bill
	<ul style="list-style-type: none"> Criminalizing bribery, incitement, coercion, threat, or deception to induce women to flee their residence, except where intended to protect them from severe violence 	Article 35 of the bill
	<ul style="list-style-type: none"> Prescribing sixth-degree imprisonment or flogging for those who encourage, induce, incite, bribe, or coerce women into drug/psychotropic use or begging 	

- Intensifying punishment if the crime is realized and the woman is compelled to commit it
- Extending protection to various forms of coercion, including psychological, financial, and physical.
- Reducing familial and social pressure on women to undergo unwanted abortion
- Preventing exploitation and coercion by spouses/family/others to terminate pregnancy
- Protecting women's choice regarding pregnancy and countering related domestic violence
- Strengthening deterrence against abuse of pregnant women, especially in unhealthy and violent relationships
- Criminal protection against coercion or deception to undergo abortion, particularly within domestic violence contexts
- Extending protection to various forms of coercion, including threats, deception, financial inducement, or psychological pressure.
- Reducing exploitation of married women in unhealthy relationships and through seduction
- Preventing psychological harm to women that may arise from such promises and cause family crises
- Preventing family breakdown caused by bribery and deception that may result in serious harm to women
- Increasing deterrence against manipulative conduct placing women in fragile and vulnerable situations
- Extending protection to seduction, bribery, and encouraging divorce through false promises
- Focusing on preventing third-party interference in the family structure and safeguarding married women's psychological security.
- Increasing women's security in judicial processes and preventing unnecessary and irrelevant pressure
- Reducing risks of psychological and moral harassment and discriminatory bias within the judiciary
- Preserving women's dignity and rights in criminal proceedings and preventing abuse of judicial positions
- Increasing women's trust in the criminal justice system and facilitating crime reporting, especially in domestic violence cases
- Extending this protection to women at all procedural stages, including as suspects, complainants, witnesses, or under any other status
- Referring to legal sanctions provided in the Criminal Procedure Code and the Administrative Violations Adjudication Law.
- Increasing deterrence against severe and organized violence against women, especially where the victim is in a vulnerable position
- Special protection for pregnant women, children, older persons, and persons with disabilities against domestic violence and other assaults
- Reducing crimes involving documentation (video/photo), which may be used for threats and perpetuating violence against women
- Preventing abuse of position by public employees or NGO members to perpetrate violence against women
- Reducing weapon-related crimes and preventing lethal violence against women
- Improving the criminal justice system's effectiveness against domestic violence through harsher punishments for dangerous offenders

Article 36 of the bill

- Prescribing sixth-degree imprisonment or punishment for those who encourage, induce, incite, bribe, or coerce women into abortion

Article 37 of the bill

- Prescribing sixth-degree imprisonment or a monetary fine for men who propose divorce to married women by promising marriage

Article 38 of the bill

- Prescribing punishment for police officers, judicial authorities, and other officials who ask women questions or conduct inquiries unrelated to the case

Article 39 of the bill

- Intensifying penalties for offenses covered by this bill when committed under specific circumstances, including organized or group commission

- Imposing harsher punishment where crimes are committed against vulnerable women (under 18, pregnant, breastfeeding, elderly, ill, mentally or physically disabled, homeless, or displaced)
- Intensifying punishment where firearms, cold weapons, toxic substances, or acid attacks are used
- Increasing severity where photos/videos/audio recordings are produced from the crime as a tool for threats and continuation of violence
- Providing harsher punishment for public employees or NGO members who commit offenses by abusing their position
- Prescribing an independent punishment for abduction of women accompanied by other offenses covered by this bill
- Imposing the maximum penalty where more than one aggravating circumstance exists.
- Ensuring women victims' rights to receive medical treatment costs and reducing financial pressure resulting from domestic violence
- Preventing delays in treatment of domestic violence victims, especially in cases of severe physical injury
- Addressing financial discrimination in payment of diya in women's *Qisas* cases and reducing its negative effects on victims' families
- Strengthening enforcement of financial penalties against perpetrators and creating deterrence against severe violence against women
- Providing payment of treatment costs from the Body Injury Compensation Fund where the offender lacks financial capacity
- Covering the diya differential in cases of women killed by men from the Body Injury Compensation Fund, pursuant to the note to Article 551 of the Islamic Penal Code.
- Allowing corrective and rehabilitative sanctions instead of traditional punishments where family relations are complex
- Preventing further disruption of the family structure while maintaining criminal protection for the woman victim
- Emphasizing alternatives to imprisonment and effective corrective measures such as educational courses, mandatory counseling, or behavioral restrictions
- Reducing the likelihood of reproducing violence within the family through proportionate sanctions and supervision of the offender
- Requiring the court to consider the offender's and victim's personal and family circumstances in determining punishment
- Using proportionate complementary punishments in lieu of principal punishments for first-time offenders.
- Creating agency for women in determining the fate of domestic violence-related criminal cases within the framework of pardon/forgiveness
- Possibility of increased family pressure on women to withdraw complaints, potentially perpetuating domestic violence
- Reduced likelihood of punishment where there is family dependency, which may reduce deterrence
- Necessity of ancillary support to prevent pressure for withdrawal, especially in continuing violence
- Allowing pardon in other offenses where the offender is a relative of the woman up to the second degree of the second class

Article 40 of the bill

- Requiring the offender to pay diya along with compensation for victims' medical treatment costs, pursuant to Article 14 of the Criminal Procedure Code

Article 41 of the bill

- Permitting substitution of sixth-, seventh-, and eighth-degree *ta'zir* punishments with complementary sanctions where the offender is the woman's father, mother, or husband

Article 42 of the bill

- Making crimes under Articles 30, 35, 38, and 39 pardonable (compoundable)

<ul style="list-style-type: none"> • Making the woman victim's decision determinative for continuation or cessation of criminal proceedings in such cases. • Accelerating adjudication of domestic violence cases against women and preventing undue delays • Increasing protection through urgent and special procedures • Allowing resolution of family disputes through mediation where the woman wishes reconciliation • Preventing misuse of settlement processes for bribery or pressure to withdraw complaints • Ensuring a judicial pathway if reconciliation fails, to safeguard women victims' rights • Providing a special process where the accused is a family member, subject to the woman's consent • Referring the case to the Dispute Resolution Council for reconciliation with a three-month deadline and at least two sessions • Continuing judicial proceedings where reconciliation is not achieved. • Preventing deprivation of women victims' rights, especially where the offender lacks financial capacity • Reducing financial pressure on women victims' families, particularly in severe violence and crimes resulting in injury or death • Reducing the likelihood of unfair settlements due to financial pressure to withdraw complaints • Conditioning this payment on issuance of an insolvency (i'sar) ruling by the judicial authority. 	Article 43 of the bill <ul style="list-style-type: none"> • Requiring judicial and police authorities to immediately register complaints and to prioritize adjudication of crimes under this law Article 44 of the bill <ul style="list-style-type: none"> • Requiring the state to pay diya to women victims from the Body Injury Compensation Fund where the convicted person lacks financial capacity Article 45 of the bill
---	---

Overall, considering the provisions included in this bill, its eventual adoption could substantially contribute to aligning Iran's legal system more closely with international standards concerning criminal protection of women against domestic violence. Nevertheless, despite the bill's notable innovations, its implementation would face serious challenges. One of the most important challenges is definitional ambiguity regarding concepts such as "psychological violence" or "vulnerability," which may lead to discretionary and unequal interpretations in judicial practice. More importantly, deep cultural and social barriers—such as patriarchal attitudes and social taboos surrounding the reporting of domestic violence—have made passage of this bill difficult, notwithstanding the fact that 13 years have elapsed since its initial drafting.

The Legal System of Iraq

The Iraqi legal system is an example of legal systems that—particularly in recent years—has sought to align its position on the protection of women victims, especially women victims of domestic violence, with international standards. The developments that have taken place in Iraq concerning women's rights and the protection of women in general, and women victims of violence in particular, are notably connected to the Iraqi state's accession to the Convention on the Elimination of All Forms of Discrimination against Women. However, Iraq acceded to this Convention with reservations and, in certain matters—such as requirements relating to spousal permission for actions like leaving Iraqi territory, or the necessity of a guardian's permission for marriage—declared that the Convention's provisions would not be binding upon it by virtue of its reservations. Iraq ratified the Convention on 13 August 1986 and articulated its reservation as follows: ratification and accession do not mean that the Republic of Iraq is bound to implement Article 2, subparagraphs (f) and (g), Article 9(1) and (2), and Article 16 of the Convention.

The latter provisions, as to which a reservation was entered, may not contradict Islamic Sharia, which grants women rights equivalent to those of their husbands in a manner that establishes a fair balance between them. The principal rationale for this position is linked to constitutional requirements. In its constitutional framework adopted in 2005, Iraq provided in Article 2(a) that “the enactment of laws that conflict with the established provisions of Islam is not permissible” (8).

Iraq also entered reservations to paragraphs 6 and 7 of the Convention without offering any explanation or justification. Paragraph 6 obliges states to repeal all national penal provisions that result in discrimination against women. The initial state report indicates that the issue of discrimination against women cannot be resolved independently of broader societal transformations in Iraq, and that any legal change must be coordinated with and proportionate to the characteristics of those social transformations; because introducing any new legislation regarding women’s status requires the annulment or amendment of existing practices and rules accepted within society. Accordingly, the Iraqi government concluded that reservations to Article 2(f) and 2(g) were necessary (8). It is evident that such a position explicitly limits the obligations a state assumes upon acceding to the Convention.

Nevertheless, Iraq recently—specifically in 2018—approved a draft bill entitled “Prohibition of Committing Violent Conduct against Women, Children, and the Elderly” and submitted it to the Iraqi Parliament for final enactment. Yet, as of the time referenced by the author, for reasons that remain unclear, this bill had not been finally adopted and, as a result, no law providing differential criminal protection for women against domestic violence had entered Iraq’s legislative framework. This is despite the fact that a significant part of Iraq’s legislative evolution concerning protection of women victims of violence, including domestic violence, could be operationalized on the basis of this bill—assuming its final adoption and conversion into law. In particular, three provisions of the bill relate to the prevention, deterrence, and penal response to violence against women, including violence perpetrated by husbands, fathers, and unrelated male individuals. Articles 4, 5, and 7 are especially noteworthy:

Article 4: “Any form of violence (verbal, physical, psychological, emotional, reputational, financial, sexual, and gender-based), whether domestic or otherwise, against women and children is prohibited and subject to criminal penalties. Where violent conduct also causes harm to the victim’s property, assets, or capital, it shall additionally give rise to liability for compensation.”

Article 5: “Where violent conduct (whether verbal or behavioral) bears one of the following characteristics, the punishment shall be aggravated by two to four degrees for the offender: (a) the offender is the father, permanent or temporary husband, brother, son, or a male person from outside the family; (b) the offender perpetrates violence through acts such as seizing a car or other means of transport, detaining the victim in a specific place, or through threats or intimidation in any form against a woman victim, or a child, adolescent, or elderly person; and (c) the offender, before, during, or after committing the violent conduct, commits another offense or offenses against the woman victim, child, adolescent, or elderly person, such as insult, fraud, theft of property, and the like.”

Article 7: “Where the offender has committed violent conduct against multiple persons, each victim shall have an independent right to file a complaint. If other victims do not wish to complain or pursue criminal proceedings, the complainant may, with their permission, file a complaint on their behalf and pursue the matter accordingly” (3, 7, 15).

Presentation and Analysis of the Findings from the Field Study

In this research, in order to gain a deeper understanding of the subject and to enhance the credibility of the data obtained from library-based studies, emphasis was also placed on conducting a field study. This section presents the details of the field research, the findings derived from it, and the analysis of the collected data.

Description of the Field Study

Statistical Population

In the field section, this study was conducted using a survey method with a statistical population consisting of 10 Iranian women (in the cities of Tehran, Isfahan, and Ahvaz) and 10 Iraqi women (in the cities of Najaf and Karbala). Data were collected through a researcher-developed questionnaire and, after extraction, were analyzed.

Table 2. Statistics of Respondents

Dependency Status	Frequency	Percentage
Head of household	13	65%
Dependent on father	4	20%
Dependent on mother	1	5%
Dependent on spouse	2	10%
Total	20	100%

According to the above table, among the study sample, 13 individuals (65%) were heads of household and 7 individuals (35%) were dependents.

Extracted Data

Test of Hypothesis 1:

“Individual, psychological, and social factors play a role in creating conditions for the commission of domestic violence against women.”

To analyze this hypothesis, the chi-square test was used. Table 3 shows the role of individual, psychological, and social factors in the commission of domestic violence against the women studied.

Table 3. The Role of Individual, Psychological, and Social Factors in Domestic Violence against Women

Variable	Category	Observed Frequency	Expected Frequency	Residual
Psychological Pressure	Yes	18	10	8
	No	2	10	-8
Revenge	Yes	0	0	0
	No	20	20	0
Financial Independence	Moderate	1	10	-9
	High	19	10	9
Gender Discrimination	Very Low	5	5	0
	Low	6	5	1
	Moderate	4	5	-1
	Very High	5	5	0
Role Balance	Yes	9	10	-1
	No	11	10	1
Individual Lifestyle	Very Low	2	4	-2
	Low	4	4	0
	Moderate	5	4	1
	High	8	4	4
Education Level	Very High	1	4	-3
	Primary	1	3.3	-2.3
	Middle School	3	3.3	-0.3
	Diploma	9	3.3	5.7

Sense of Inferiority	Associate Degree	3	3.3	-0.3
	Bachelor's	2	3.3	-1.3
	Master's	2	3.3	-1.3
	Very Low	10	4	6
	Low	2	4	-2
	Moderate	3	4	-1
	High	1	4	-3
	Very High	4	4	0

The above data indicate that most participants identified high psychological pressure (18 individuals) and high financial independence (19 individuals) as influential factors in domestic violence. Additionally, all 20 respondents did not consider revenge to be an influential factor in the occurrence of violence. Regarding gender discrimination, role balance, and lifestyle, responses were generally distributed at moderate or lower levels. These patterns suggest the significant role of psychological and economic factors in the occurrence of domestic violence.

Table 4 presents the chi-square test results for assessing the statistical significance of these relationships.

Table 4. Chi-Square Test Results

Component	Psychological Pressure	Financial Independence	Gender Discrimination	Role Balance	Lifestyle	Education	Sense of Inferiority
Chi-Square Value	12.800	16.200	0.400	0.200	7.500	12.400	12.500
Degrees of Freedom	1	1	3	1	4	5	4
Significance Level	0.000	0.000	0.940	0.655	0.112	0.030	0.014

To determine the level of significance of each component's effect, the chi-square test was applied. The results indicate that factors such as psychological pressure, financial independence, education, and sense of inferiority have a statistically significant role in the perpetration of domestic violence. In contrast, the impact of variables such as gender discrimination and lifestyle is less evident. The chi-square statistic and significance levels show that certain individual and psychological variables have a statistically meaningful relationship with the level of domestic violence. These findings confirm that individual characteristics and psychological conditions directly influence the occurrence of violence within the family environment and should therefore be considered in supportive policymaking and preventive interventions.

Test of Hypothesis 2:

"Environmental and sociological factors play a role in creating conditions for the commission of domestic violence against women."

The chi-square test was also used to analyze this hypothesis.

Table 5. The Role of Environmental and Sociological Factors in Domestic Violence against Women

Variable	Category	Observed Frequency	Expected Frequency	Residual
Environmental & Sociological Factors (General Impact)	Completely Ineffective	1	3.3	-2.3
	Very Low	1	3.3	-2.3
	Low	1	3.3	-2.3
	Moderate	2	3.3	-1.3
	High	2	3.3	-1.3
	Very High	13	3.3	9.7
External Problems	No	2	10	-8
	Yes	18	10	8
Parental Behavior	None	2	3.3	-1.3

	Very Low	11	3.3	7.7
	Low	2	3.3	-1.3
	Moderate	3	3.3	-0.3
	High	1	3.3	-2.3
	Very High	1	3.3	-2.3
Spousal Behavior	Single	8	3.3	4.7
	Very Low	3	3.3	-0.3
	Low	1	3.3	-2.3
	Moderate	2	3.3	-1.3
	High	1	3.3	-2.3
	Very High	5	3.3	1.7
Relatives' Behavior	Very Low	13	5	8
	Low	2	5	-3
	Moderate	1	5	-4
	Very High	4	5	-1
Role of Family and Society	Completely	1	3.3	-2.3
	Ineffective			
	Very Low	1	3.3	-2.3
	Low	1	3.3	-2.3
	Moderate	4	3.3	0.7
	High	9	3.3	5.7
	Very High	4	3.3	0.7
Criminal Record of Family Members	Very Low	7	4	3
	Low	5	4	1
	Moderate	1	4	-3
	High	5	4	1
	Very High	2	4	-2

The above table shows that the impact of economic issues and external problems is more prominent in increasing domestic violence compared to other factors. Respondents attributed less influence to parental behavior, spousal behavior, relatives, and society in comparison with these variables.

To assess the statistical significance of these relationships, the chi-square test results are presented below.

Table 6. Chi-Square Test Results

Component	Economic Issues	External Problems	Parental Behavior	Spousal Behavior	Relatives' Behavior	Role of Family & Society	Criminal Record of Family Members
Chi-Square Value	34	12.800	22	11.200	18	14.800	6
Degrees of Freedom	5	1	5	5	3	5	4
Significance Level	0.000	0.000	0.001	0.048	0.000	0.011	0.199

The chi-square test results indicate that variables such as economic issues and external problems have a statistically significant relationship with the level of domestic violence. A significance level below 0.05 for these variables reflects their substantial role in the occurrence of violence. In contrast, certain environmental and sociological factors, such as parental and relatives' behavior, show less influence and do not demonstrate a statistically significant relationship with domestic violence.

Test of Hypothesis 3:

"Psychological interventions, parenting styles, quality of socialization, enhancement of social capital, and improvement of social, economic, and cultural status are among the most important strategies for preventing and addressing domestic violence against women."

The chi-square test was also used to analyze this hypothesis. The following table presents the role of individual and psychological factors in the perpetration of domestic violence against women.

Table 7. The Role of Individual and Psychological Factors in Domestic Violence against Women

Variable	Category	Observed Frequency	Expected Frequency	Residual
Financial and Insurance Support	High	2	10	-8
	Very High	18	10	8
Access to Suitable Employment after Prison	Moderate	1	10	-9
	Very High	19	10	9
Legal and Judicial Support	No	19	10	9
	Yes	1	10	-9
Financial Support from Organizations	No	19	10	9
	Yes	1	10	-9

The above table shows that most respondents identified financial and insurance support, access to suitable employment after imprisonment, legal and judicial support, and financial support from organizations as among the most important strategies for reducing domestic violence. These findings indicate that, in addition to individual and psychological factors, supportive and economic policies can play an effective role in reducing this phenomenon.

The chi-square test results for examining the statistical significance of these relationships are presented below.

Table 8. Chi-Square Test Results

Component	Financial & Insurance Support	Access to Suitable Employment	Legal & Judicial Support	Organizational Financial Support
Chi-Square Value	12.800	16.200	16.200	16.200
Degrees of Freedom	1	1	1	1
Significance Level	0.000	0.000	0.000	0.000

The chi-square test results indicate that all variables examined in this hypothesis have a statistically significant effect on reducing domestic violence. A significance level below 0.05 demonstrates that economic, occupational, and judicial support for women can play a key role in preventing domestic violence. These findings emphasize the necessity of formulating and implementing supportive policies aimed at empowering women victims.

Test of Hypothesis 4:

“Neither the Iranian legal system nor the Iraqi legal system has provided adequate and necessary protection for women against violence; in both systems, a clear legal gap exists.”

Both groups of women participating in this study (Iranian and Iraqi) agreed that the legal systems of the two countries have failed to enact coherent and effective laws for addressing violence—particularly domestic violence—against women. Accordingly, another hypothesis confirmed through the field study was that in both legal systems, one of the most significant obstacles to establishing and consolidating standards and models for combating violence against women—especially in its domestic form—is the absence of differential and specific legislation for criminalization and sentencing related to this type of violence.

Test of Hypothesis 5:

“Existing laws in Iran and Iraq are not capable of providing effective protection for women victims of violence—especially domestic violence—or for women at high risk of such violence.”

Both groups of women participating in this study, Iranian and Iraqi alike, unanimously believed that the operative laws in the two countries lack the necessary capacity to provide differential criminal protection for women against domestic violence. In their view, the existing laws in both legal systems adopt a general and non-differential

approach that not only lacks sufficient enforcement mechanisms in many cases but may also remain unimplemented in practice. As a result, no specific and proportionate protection has been provided for women victims of domestic violence within these legal systems. Accordingly, fundamental legislative reforms in both countries appear necessary to ensure effective criminal protection for women.

Conclusion

Today, domestic violence—manifested in physical, psychological, sexual, emotional, and verbal forms—has emerged as one of the most fundamental social and human rights challenges and has become a priority issue for legal systems. A comparative examination of criminal protection for women against domestic violence in the legal systems of Iran and Iraq demonstrates that this phenomenon remains situated within a legislative and enforcement gap. Despite the expansion of international discourse emphasizing the necessity of criminalizing domestic violence and establishing differential protections for women, the laws of these two countries have failed to adequately address the complex and multidimensional nature of this issue. In both legal systems, criminal protection for women against domestic violence is provided within the framework of general provisions, without due attention to the specific characteristics of this type of violence. This situation has resulted in ineffective judicial mechanisms, difficulties in proving victimization, and consequently, the perpetuation of violence.

The findings of this study indicate that the absence of a differential criminal protection framework regarding domestic violence against women has not only deprived judicial and executive institutions of the possibility of effective intervention but has, in some cases, led to the implicit legitimization of such violence. In reality, existing laws not only fail to adequately protect women victims of domestic violence, but due to legislative and judicial gaps, they tend to shape criminal proceedings in favor of perpetrators and restrict women's access to justice.

Analysis of the research data reveals that domestic violence in Iran and Iraq should not be viewed merely as criminal conduct committed by certain individuals; rather, it represents a structural issue influenced by legal, social, and cultural traditions. This structural dimension has caused even legislative initiatives aimed at supporting women—such as draft bills—to encounter numerous obstacles in the process of enactment and implementation. As a result, women continue to face persistent harms arising from domestic violence. What is observed in the legal systems of Iran and Iraq, therefore, cannot be characterized as effective criminal protection for women against domestic violence; instead, it reflects a form of legislative indifference toward this social problem—an indifference that requires fundamental reconsideration of prevailing legal and penal approaches.

It should be emphasized that providing special protection for female victims within criminal law constitutes a positive departure from the principle of formal equality before the criminal law. In other words, when the legislature establishes differential criminal protection for women—through specific criminalization of certain behaviors and intensification of penalties where women are the victims—it adopts a particular criminal policy aimed at increasing the cost of certain offenses committed against vulnerable victims and reducing the likelihood of their victimization. Nevertheless, there exists a wide range of violence against women that, despite social transformations since the Islamic Revolution, has not yet been recognized as possessing an independent criminal character under Iranian law, including various forms of domestic violence and abusive conduct by men against women.

In evaluating the steps taken by the Iranian legislature to prohibit psychological violence against women's spiritual integrity within the family, it must be acknowledged that these steps remain weak and insufficient. On the one hand, there has been inadequate attention to abusive behavior within the family environment that restricts

women's social rights—such as the right to employment, education, social participation, and other fundamental human rights. On the other hand, the general and abstract formulation of mutual rights and obligations of spouses has created misconceptions in public understanding. For example, the provision granting the husband headship of the family has fostered the mistaken belief that all of a woman's activities—even visiting her parents—require the husband's permission. Similarly, the provision allowing the husband to prevent his wife from engaging in a profession deemed contrary to family interests or honor has often been interpreted broadly to mean that a woman's right to work is conditional upon male approval. Such interpretations stem from entrenched social attitudes that exaggerate the husband's authority while neglecting his corresponding obligations. Moreover, spousal abuse has not been independently criminalized under Iranian penal laws. Although proposals have been introduced to establish such an independent offense, acts constituting spousal abuse are currently adjudicated under general criminal provisions.

In sum, the absence of differential legislation specifically aimed at preventing and combating various forms of violence against women—particularly domestic violence—constitutes the most significant weakness currently facing the Iranian legal system in its effort to provide criminal protection for women. Women's rights represent one of the most important branches of human rights, and the legal status of women within any society serves as the most reliable indicator of that society's commitment to human rights principles. If women enjoy a satisfactory legal position within a country, it is indicative of the government's adherence to human rights standards.

Although this study focused on the inefficiency of existing laws in protecting women against violence, especially domestic violence, in the current situation, maximum utilization of existing legal capacities, adoption of a protective judicial interpretation, enhancement of women's awareness of their legal rights, strengthening of economic support mechanisms, and application of restorative justice approaches may serve as interim solutions until differential legislation is enacted. Until a comprehensive law on the prohibition of violence against women is finally adopted and enforceable differential provisions are established, the use of restorative justice mechanisms may partially compensate for existing gaps. Restorative justice, with its emphasis on peaceful conflict resolution and problem-oriented approach, can contribute to reducing domestic violence and preventing family breakdown in circumstances where adequate protective laws are lacking. However, the success of this approach depends on its application as a complementary instrument alongside fundamental legal reforms, rather than as a substitute for them.

Acknowledgments

We would like to express our appreciation and gratitude to all those who helped us carrying out this study.

Authors' Contributions

All authors equally contributed to this study.

Declaration of Interest

The authors of this article declared no conflict of interest.

Ethical Considerations

All ethical principles were adhered in conducting and writing this article.

Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

Funding

This research was carried out independently with personal funding and without the financial support of any governmental or private institution or organization.

References

1. Qari Seyed Fatemi SM. Human Rights in the Contemporary World (Book 1). Tehran: Shahid Beheshti University Press; 2003.
2. Donnelly J. Theories of Human Rights. In: Sharifi Tarazkouhi H, editor. Human Rights: Theories and Practices. Tehran: University of Tehran, Faculty of Law and Political Science Press; 2001.
3. Abiad N. Sharia, Muslim States and International Human Rights Treaty Obligations: British Institute of International and Comparative Law (BIICL); 2008.
4. Taziki A. Criminal protection of female victims of violence in Iranian law with a look at the bill for ensuring women's security against violence and its comparison with the 2011 Council of Europe Convention (Istanbul Convention): Islamic Azad University, Shahroud Branch; 2016.
5. Nemati Z, Farajiha M, Nobahar R, Omidi J. Legislative criminal intervention models in the realm of marital rape: A comparative study. Comparative Law Research. 2021;25(1):143-71.
6. Nemati Z, Farajiha M. Rules of evidence in marital sexual violence. Criminal Law and Criminology Studies. 2021(1):51-77.
7. Mohammad Mohi A. Victim rights in Iranian and Iraqi law with a look at international documents: Ferdowsi University of Mashhad; 2017.
8. The United Nations. Initial Report of Iraq, Submitted on 16 August 1990. 1990.
9. Rayejian Asli M. The evolution of global victim rights based on the principle of parity between victim and accused rights in the context of fair trial. Judiciary Law Journal. 2006(56 & 57):137-84.
10. Roostaei M. A comparative study of the Harm Principle and the 'No Harm' (La-Darar) Rule in justifying criminal intervention. Comparative Law Research. 2015;19(2):51-73.
11. Mir Mohammad Sadeghi H. Crimes Against the Spiritual Integrity of Persons. 36th ed. Tehran: Dadgostar Publishing; 2018.
12. Azari H, Babazadeh Z. Support for female victims of domestic sexual violence in the Iranian criminal justice system. Journal of Criminal Law and Criminology Studies. 2019;49(2):259-80.
13. Kalantari K, Espanloo M. Compensation for victims claiming sexual assault after the acquittal of the accused in Iranian law. Judiciary Law Journal. 2020;84(110):185-212.
14. Mohammadi-Fard B. An approach to the requirements of Iranian police actions in the field of differential protection of female victims of physical violence. Women's Research Journal. 2019;10(29):73-98.
15. Bagherzadeh MR. A look at women's rights in Islam: A critique of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Ma'rifat Journal. 2003(70):8-28.