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The Role of Criminalization in Safeguarding Fundamental Human Rights and Freedoms in the Iranian Legal System and International Instruments

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ABSTRACT

Criminalization, as one of the fundamental instruments of states within the framework of the criminal justice system, plays a dual role: on the one hand, it serves as a means of ensuring and protecting individuals' fundamental rights and freedoms; on the other hand, in the absence of clear legal and ethical standards, it may itself become a tool for violating those very rights. In both Iranian domestic law and international legal systems, the general principle is that criminalization should only occur in cases where the behavior in question constitutes a real and serious threat to public order, social security, human dignity, or the essential interests of society. This study, adopting an analytical-comparative approach, examines the theoretical foundations of criminalization and investigates how a balance can be achieved between the preservation of public order and the protection of individual freedoms within Iranian legislation and international human rights instruments. The findings indicate that although the theological and philosophical foundations of the Iranian legal system emphasize the protection of human dignity and worth, in practice, the process of criminalization has, in some instances, become a means of restricting civil liberties. In contrast, international legal systems, by emphasizing the principle of proportionality, accept criminalization only within the boundaries of legitimate necessity.

Keywords: Criminalization, Fundamental Freedoms, Principle of Proportionality, Human Dignity, Iranian Criminal Justice System.

Introduction

Criminalization is one of the most fundamental instruments of criminal law for governing society and regulating the relationships among individuals and between individuals and the state. No society can maintain social order and public security without resorting to penal mechanisms; however, historical experience has demonstrated that the excessive expansion of criminalization, instead of preserving order, may undermine legitimate freedoms and



human dignity (1). Consequently, the issue of the “legitimate limits of criminalization” and its relationship with fundamental human rights and freedoms has become one of the most significant debates in modern philosophy of law and public law (2).

Throughout the evolution of modern states, legal scholars have constantly emphasized the necessity of finding a balance between “state authority for maintaining order” and “human freedom in choosing one’s way of life” (3). The experience of totalitarian and authoritarian regimes in the twentieth century illustrated how the absence of such a balance could result in systematic violations of human rights, torture, arbitrary detentions, and the suppression of political freedoms (4). Therefore, following World War II and the adoption of foundational instruments such as the *Universal Declaration of Human Rights* (1948) and the *International Covenant on Civil and Political Rights* (1966), it was established that the legislature may only criminalize conduct that poses a serious threat to public interests or to the rights of others (5).

Nevertheless, in practice, many governments—including transitional systems—continue to employ criminal law as a tool of social control and as a means to restrict legitimate freedoms (6). In this situation, “unregulated criminalization” not only erodes public trust in law but also becomes one of the main threats to fundamental freedoms. The central question is: what criteria can distinguish between behaviors deserving criminalization and those that should remain outside its scope?

Two principal perspectives have developed in criminal philosophy in response to this question. The first, the *maximalist* view, argues that any behavior inconsistent with public order, morality, or social traditions must be subject to punishment. The second, the *minimalist* perspective, maintains that the state should intervene only when conduct causes real harm to others and non-criminal measures have proven ineffective (7). John Stuart Mill’s “harm principle” asserts that “the only legitimate purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others” (7). This principle was later expanded by scholars such as H.L.A. Hart and Joel Feinberg and became one of the central standards of criminal policy in liberal societies (1).

In the Iranian legal system, the issue of criminalization has always been intertwined with religious, moral, and ethical concepts (8). On the one hand, Islamic teachings emphasize the inherent dignity of human beings and the freedom of will—“there is no compulsion in religion.” On the other hand, Islamic criminal jurisprudence stresses the necessity of preserving public interests and preventing social corruption (2). Therefore, the Iranian legislator, in the process of criminalization, must simultaneously balance two standards: “protection of religious values” and “preservation of legitimate freedoms.” However, in certain cases, a security-oriented approach has transferred extensive discretion in criminal decision-making to governmental authorities, thereby blurring the boundary between “criminal acts” and the “legitimate exercise of civil rights” (9).

Article 9 of the *Constitution of the Islamic Republic of Iran* explicitly states: “No authority has the right, even by enacting a law, to deprive individuals of legitimate freedoms under the pretext of safeguarding the independence and territorial integrity of the country.” This principle represents the state’s fundamental commitment to protect the essential rights of its citizens; nevertheless, criminal statutes are sometimes interpreted expansively, circumventing this commitment (8). For example, legal categories such as “actions against national security,” “spreading falsehoods,” or “insulting the sacred” lack precise boundaries and may be applied to acts that essentially constitute civil activism or expression of opinion (6).

From a philosophical standpoint, every legal system constructs a particular model of the relationship between crime and liberty based on its underlying value orientation. In liberal-democratic systems, the core value is individual autonomy, and thus, penal intervention is justified only when an individual's capacity to coexist with others is threatened (7). In contrast, ideological regimes may prioritize public order and collective interests over individual freedom, thereby expanding the scope of criminalization (1). Iran, inspired by religious doctrines and a distinct jurisprudential framework, seeks to synthesize these two models through an "Islamic justice-oriented model," in which criminalization must serve both public welfare and human dignity (2).

Recent comparative studies in criminal policy demonstrate that states successful in ensuring fundamental freedoms rely on the *principle of proportionality*, *necessity*, and *public legitimacy* as benchmarks for regulating criminalization (10). Based on these principles, the legislator must answer three essential questions before criminalizing any act:

1. Does criminal intervention fulfill a genuine social necessity?
2. Are non-criminal mechanisms (such as civil or administrative sanctions) insufficient?
3. Does criminalization risk undermining legitimate freedoms?
4. If any of these questions receive a negative answer, criminalization would be deemed unjustified and inconsistent with human rights standards (5).

Within the framework of international instruments as well, criminalization is permissible only when it protects legitimate public interests. The *International Covenant on Civil and Political Rights* explicitly recognizes, in Articles 19 and 21, freedom of expression and the right to peaceful assembly as fundamental rights, stipulating that any restriction must be "prescribed by law and necessary to achieve a legitimate aim such as national security or public order, and proportionate to that aim" (5). The United Nations Human Rights Committee has also emphasized that states should not invoke concepts such as "public morality" or "security" to suppress criticism or dissent unless a real and demonstrable threat to society exists (4).

Despite these clear standards, the process of criminalization in Iran and similar systems still lacks sufficient transparency and predictability. In many cases, criminalization appears to follow political expediencies or moral preferences of officials rather than objective and scientific criteria. This has produced the phenomenon of the "penal net," in which the scope of criminal acts expands to include even minor or neutral behaviors, thereby violating the principle of proportionality, overburdening judicial and penal institutions, and eroding public trust in justice.

Conversely, merely reducing criminalization does not guarantee freedom. A society in which fundamental rights are weakened cannot experience true liberty even with the removal of harsh penal codes. What truly matters is a prudent balance between criminalization and freedom—a legal system that effectively confronts real threats while safeguarding civil liberties, freedom of expression, freedom of assembly, and personal dignity.

Therefore, the central question of the present study is: how and to what extent can criminalization serve the protection of fundamental human rights and freedoms? Moreover, within the Iranian legal framework—considering its Islamic foundations and international commitments—what criteria should guide criminal policy to maintain equilibrium between public order and human freedom? This inquiry carries not only theoretical significance but also practical implications for criminal policymaking and legislative reform, playing a decisive role in advancing social justice.

Accordingly, this study seeks, through an analytical and comparative approach, to explore the theoretical foundations of criminalization and the philosophy of limiting liberty, proposing a framework for legitimate and freedom-oriented criminalization in Iranian law. This framework is founded upon the principles of legality, necessity,

proportionality, and respect for human dignity, with the ultimate aim of transforming the national criminal legislation system from a “crime-centered” orientation toward a “rights-centered” one.

Research Background

Research on the relationship between criminal law and the fundamental rights and freedoms of human beings has a multifaceted history in Iranian legal scholarship. However, most previous studies have primarily focused on “describing the rights of the nation in the Constitution,” rather than exploring “the role of criminalization in the realization and protection of these rights.” In other words, the gap in the existing literature lies in the fact that most studies have been limited to explaining the content of constitutional principles and provisions, without examining the *criminal mechanisms* that safeguard these rights from a comparative and functional perspective (8).

Mousavi Bojnourdi and Soleimani (2006), in their article titled *A Jurisprudential–Legal Study of the Rights of the Nation in Chapter Three of the Constitution of the Islamic Republic of Iran*, argue that Articles 19 to 42 of the Constitution provide a fundamental framework for ensuring the rights of the nation. They conclude that the spirit of the Constitution is based on “Islamic right-centeredness” and on balancing state duties with individual freedoms. Nevertheless, they did not analyze the criminal dimensions or enforcement guarantees of these principles (8).

Similarly, Seraji (2009), in his study *The Rights of the Nation in the Constitution of the Islamic Republic of Iran*, emphasizes that Iran, inspired by divine revelation, guarantees a set of civil liberties in Chapter Three of the Constitution. He maintains that while the Iranian Constitution preserves the sovereignty of God, it does not disregard human rights teachings. However, his research remains a purely jurisprudential–legal inquiry that, without examining the role of criminalization or penal laws in protecting these rights, does not extend beyond the theoretical level (3).

In the same vein, Talebzadeh (2018), in his article *Public Freedoms and the Rights of the Nation*, presents a philosophical analysis of the concept of freedom, asserting that natural freedom is an inalienable human right and that states may restrict it only in exceptional circumstances. He refers to the principle of human dignity and argues that lawmakers cannot limit freedom solely based on political or moral criteria. Although his findings provide a sound philosophical foundation for the present discussion, they do not address the issue from the standpoint of criminal policy or the criteria of legitimate criminalization (1).

Shayanfar and Salarzayi (2014), in a comparative study between the constitutions of Iran and Pakistan, argued that both political systems seek to preserve human dignity according to Islamic law; however, Iran’s Constitution has been more comprehensive in articulating citizens’ rights. Yet, like earlier works, this study remained focused on the constitutional level and overlooked the interaction between criminal law and human rights (8).

At the international level, Joseph, Schultz, and Castan (2000), in *The International Covenant on Civil and Political Rights*, explained the interpretative foundations of the Covenant and emphasized the necessity of observing proportionality in restricting freedoms through criminalization. They argue that freedom of expression, assembly, or belief may be limited only when there is a serious and demonstrable threat to national security or to the rights of others—a view later reaffirmed in General Comment No. 34 of the United Nations Human Rights Committee (2011) (5).

Domestic Iranian legal research on criminalization has typically focused on “general theories of crime and punishment” or “Islamic criminal policy.” For example, Roshan Del (2015), in his study on the concept of penal inflation in Iran, demonstrated that the disproportionate expansion of criminal statutes undermines public freedoms

and reduces the efficiency of the criminal justice system. He concluded that a state-centered approach to criminalization, if pursued without the principles of proportionality and necessity, ultimately weakens the legitimacy of criminal policy (4).

From the perspective of legal philosophy, Katouzian (2019) emphasized the intrinsic connection between justice and human dignity, arguing that criminal law is just only when citizens can rationally comprehend its necessity. He further stated that every criminalization must have moral, social, and logical justification; otherwise, it becomes an instrument of suppressing freedoms (1).

Among more recent studies, Ghari Sayyed Fatemi (2022) examined the concept of *human rights in the contemporary world* from an Islamic perspective and argued that Islamic jurisprudence inherently possesses the capacity to conform to universal principles of human rights, provided that criminalization is based on justice, social necessity, and respect for individual freedoms. He proposed that Iranian criminal policy could, through the integration of Sharia teachings and modern humanitarian standards, offer an indigenous model for harmonizing freedom and penal control (2).

Overall, the review of the literature reveals that although discussions of fundamental freedoms and citizens' rights have been sufficiently addressed in Iranian research, systematic analyses of the relationship between criminalization and human rights remain limited. Most domestic studies have regarded criminalization as a sovereign or jurisprudential phenomenon rather than as a mechanism for achieving justice and freedom. Moreover, comparative studies between Iran and international systems have largely remained at a theoretical or declarative level, lacking policy analysis and empirical criteria (3).

Therefore, the distinguishing feature of the present study lies in its conceptualization of criminalization not merely as a tool of repression or political order but as a *legal mechanism for safeguarding human dignity and legitimate freedoms*. The article adopts a comparative analytical approach between the Iranian legal system and international standards to demonstrate how "legitimate criminalization" can serve as an instrument for achieving social justice and protecting human rights (2).

Theoretical Foundations of Criminalization and Its Relationship with Fundamental Freedoms

From the standpoint of legal philosophy, criminalization is an act through which the legislator, by assigning penal consequences to a certain behavior, deems its commission punishable. However, not every criminalization is legitimate; it must be compatible with moral principles, social necessity, and constitutional norms. In other words, criminalization is justified only when:

1. Public interests and values are seriously threatened;
2. Non-criminal instruments for protecting those values are ineffective; and
3. Criminalization does not result in unjustified restrictions on individual freedoms (8).

In the literature of criminal law, two overarching perspectives on the scope of penal intervention exist:

- **Penal maximalism**, which emphasizes the preventive and deterrent role of punishment; and
- **Penal minimalism**, which regards criminalization as a last resort in addressing social harms (5).

The Islamic approach seeks to strike a balance between these two positions. Based on jurisprudential principles, whenever human behavior infringes upon *God's rights (huquq Allah)* or *people's rights (huquq al-nas)*, the legislator may resort to criminalization—provided that it adheres to the principles of justice and public interest (6).

The Conceptual Scope of Fundamental Rights and Freedoms

Fundamental human rights, as articulated in international instruments such as the *Universal Declaration of Human Rights* (1948) and the *International Covenants of 1966*, are inherent in human nature and inalienable from birth to death. These rights include the right to life, freedom of thought, freedom of expression, the right to political participation, and freedom from torture (5).

In the Iranian legal system, these concepts are defined with reference to Islamic teachings and the Constitution. Article 9 of the *Constitution of the Islamic Republic of Iran* stipulates that liberty, independence, and national unity are inseparable, and that no authority has the right, even by law, to deprive people of legitimate freedoms under the pretext of protecting the country's independence (8).

Accordingly, from the standpoint of Iranian public law, fundamental freedoms have two key characteristics:

- a) Religious and legal legitimacy, and
- b) The political and moral commitment of the state to protect them.

However, the contentious issue arises whenever “public security” is invoked as a justification for limiting freedoms, which opens the door to misinterpretation. The principle of proportionality requires that any restriction of freedom must pursue a legitimate, necessary, and proportionate aim (9).

The Philosophy of Criminalization in the Light of Criminal Justice

Criminalization, in essence, is a restrictive act that limits individual liberty; therefore, its legitimacy requires moral justification and a foundation in justice. The philosophy of law seeks to define the boundary between “immoral conduct” and “legally punishable behavior.” Hawkins argues that only behaviors causing real harm to others should be criminalized, whereas acts such as insult or violation of social decorum may merely preserve symbolic order without causing tangible injury to individual rights. Thus, the *harm principle* introduced by John Stuart Mill constitutes the cornerstone of modern criminalization theory (7).

In Iranian law, the concept of “social necessity” in criminal jurisprudence plays a similar role. Behaviors such as theft, murder, or defamation directly conflict with the rights and freedoms of others, making their criminalization justified. However, in some instances—such as the excessive restriction of freedom of expression—the ethical and social justification for criminalization becomes questionable (1).

Criminalization and the Restriction of Liberty: The Iranian Approach

In Iran, the primary sources of criminalization are either Islamic jurisprudence (fiqh and Shari'a) or the exigencies of public order. Whenever the legislature deems certain behaviors detrimental to the public interest, it classifies them as crimes. The challenge, however, is that the boundary between public interest and legitimate freedoms has not been clearly delineated.

For example, in the field of the press and mass media, statutes governing press offenses are at times structured in such a way that a broad interpretation of the category “insult to the sacred” becomes possible, leading to restrictions on freedom of expression. Consequently, many jurists have proposed constraining criminalization by strengthening the principle of legality (*nullum crimen, nulla poena sine lege*) and by removing vague offense labels (2).

Practically speaking, one manifestation of the contradiction between protection and restriction is evident in the criminalization of political or social behaviors that have been expansively interpreted under the rubric of “disturbance of public order.” In many criminal cases, this has resulted in penal responses to acts that were merely expressions of protest or opinion (3).

Jurisprudential Foundations for Protecting Freedom

In Imami (Twelver Shi'i) jurisprudence, freedom is regarded as a divine endowment and recognized as a natural right of the human being. The principle of “the absence of one person’s guardianship over another” (*‘adam al-wilāya li-l-insān ‘alā al-insān*) is a significant jurisprudential foundation that guards against illegitimate domination over individual will. Moreover, the Qur’an repeatedly considers the human being to be “free to choose”:

“There is no compulsion in religion” (Q 2:256).

That is, even religion and faith are grounded in the freedom of the will.

From a jurisprudential perspective, freedom may be limited only where either God’s rights (*ḥaqq Allāh*) are directly infringed or where public order and communal interests are seriously threatened. Thus, within fiqh, criminalization is understood not as an instrument of repression but as a mechanism for safeguarding legitimate freedoms (11).

Comparative Analysis: Iran and International Instruments

In the international human rights system, the criteria for criminalization are defined by principles such as necessity, proportionality, and legitimacy. For example, the United Nations Human Rights Committee, in General Comment No. 34, emphasizes that restrictions on freedom of expression are permissible only when prescribed by law, pursue a legitimate aim, and are applied proportionately.

In Iranian law, Articles 20, 23, 24, and 27 of the Constitution explicitly affirm freedom of belief, the press, political parties, and assemblies; however, the practical enforcement of these provisions depends on a precise differentiation between “crime” and the “right to dissent.”

In European jurisdictions, the European Court of Human Rights has repeatedly stated that even offensive statements, if situated within public debate, fall under the protection of freedom of expression; by analogy, and for international interpretive standards concerning freedom of expression, see (5). By contrast, in Iran, the operative criteria of distinction remain largely interpretive and dependent on officials’ political outlook.

A comparison between Iran and international instruments shows that both systems, at the level of principle, emphasize liberty, dignity, and justice; yet in practice, divergent thresholds of necessity and proportionality produce different outcomes. Put differently, in the international system the burden of justifying restrictions lies with the state, whereas in Iran the citizen often bears the burden of disproving allegations such as “actions against national security.”

The Role of Criminalization in Ensuring Security and Dignity

From the perspective of the sociology of punishment, criminalization has two principal functions:

1. ensuring public order and security; and
2. safeguarding human dignity and worth.

Accordingly, one pathology of penal systems is the phenomenon known as “penal net-widening,” namely, the unregulated expansion of criminalization to the point that even low-harm behaviors are drawn into the criminal process. The result is docket congestion, diminished real deterrence, and public distrust (10).

By contrast, targeted criminalization—as contemplated in modern criminal policy—seeks to deploy penal instruments only when foundational values such as liberty, dignity, or justice are at risk. In the Islamic tradition as well, numerous reports present the Qur’an and the Sunna as sources of human dignity; among them is the noble dictum “We have certainly honored the children of Adam.” Thus, the ultimate aim of punishment is to restore social equilibrium and protect human dignity, not to exact revenge or suppress dissent.

A Diagnostic of Criminalization in Iran

a) Conceptual vagueness in statutes: Labels such as “actions against security,” “spreading obscenity,” “insult to the sacred,” and “disturbing public opinion” have indeterminate semantic boundaries that permit broad interpretation and selective enforcement. This situation conflicts with the principle of legality (Article 2 of the Islamic Penal Code).

b) Proliferation of criminal offenses: In many social domains, the legislature has resorted to criminalization instead of cultural or economic policy measures. For instance, in the media and cyberspace domains, criminal titles have been envisaged for nearly every potentially undesirable behavior; whereas in advanced legal systems, the presumption is an “open space” except in specific cases.

c) Diminished real deterrence: The quantitative increase in crimes and punishments has not reduced criminality; instead, it has weakened public confidence in criminal justice (4).

d) Neglect of alternative mechanisms: One widely accepted principle of modern criminal policy is the use of non-penal responses such as mediation, community-based arbitration, and administrative measures. In Iran, these mechanisms have not yet been systematically adopted as substitutes for criminalization.

Recommendations for Reforming Criminalization Policy

1. **Redefine public order:** A clear distinction must be drawn between social order and legitimate liberty so that the state cannot restrict civil freedoms under the pretext of “public order.”
2. **Legislated criteria for assessing the necessity of criminalization:** Every new penal statute should be accompanied by a freedom-impact assessment report.
3. **Reduce penal intervention and expand alternatives:** The legislature should prioritize non-penal tools such as educational, social, and economic measures.
4. **Harmonize with international instruments:** The criteria set out in the International Covenant on Civil and Political Rights should inform the interpretation of domestic laws.
5. **Human-rights training for judges and law-enforcement officers:** Strengthening human-rights and ethical competence within the judiciary is essential to ensuring the proper enforcement of criminal laws.

Conclusion

The analysis conducted in this study demonstrates that “criminalization” is not merely a technical act of prescribing punishment for harmful behavior; rather, it is a profoundly philosophical, political, and social process that reflects a society’s value system and its conception of justice. Accordingly, criminalization cannot be treated as a purely legal act; it should be understood as an “art of calibrating the relationship between liberty and order.” When

criminalization serves to guarantee fundamental human rights and freedoms, it becomes a tool for protecting human dignity; but when it exceeds its bounds, it becomes a threat to those very freedoms.

In the Iranian legal system, the principal foundations of criminalization derive from the jurisprudential and Islamic tradition, whose core is the protection of public interests, the maintenance of order, and the safeguarding of people's rights. Qur'anic teachings—such as “There is no compulsion in religion” and “We have honored the children of Adam”—show that human dignity and freedom of will are pillars of human creation and a basis of governmental legitimacy in Islamic thought. Thus, criminalization in such a system should be undertaken not to restrict liberty but to protect legitimate freedoms and preserve human sanctity. Nevertheless, a review of statutes and legislative practice over the past four decades reveals that, in many areas, political and security considerations have prevailed over rational and legal criteria.

One of the most important findings is the ambiguity in the boundary between public order and legitimate liberty. Although Article 9 of the Constitution declares that no authority—even through legislation—may restrict legitimate freedoms, ordinary statutes, particularly in the domains of media, security, and cyberspace, have introduced a wide array of prohibitions into the sphere of citizens' rights. This has, at times, transformed criminalization into an instrument of political and cultural control. While the spirit of the Constitution emphasizes the free and informed participation of the people in political and social life, portions of the existing penal framework are overly restrictive and inhibitive (8).

A comparative assessment with international instruments indicates that, in progressive legal systems, criminalization is legitimate only when it rests upon the triad of proportionality, necessity, and public legitimacy. The United Nations Human Rights Committee has made clear that states must consistently demonstrate that the restrictions resulting from criminalization pursue a legitimate aim and are proportionate to that aim—a requirement that is not merely ethical but legal for parties to the Covenant (5).

In Iran, although many constitutional provisions are aligned with these criteria, their implementation faces challenges. For example, numerous provisions of criminal statutes concerning concepts such as “insult to the sacred,” “spreading falsehoods,” “propaganda against the system,” or “actions against national security” lack sufficient clarity and foreseeability for citizens. This ambiguity prevents individuals from discerning the line between permissible behavior and criminal conduct, thereby undermining the principle of definiteness and clarity in criminal law (*nullum crimen sine lege certa*) (1).

Another finding is that Iranian criminal policy suffers from penal inflation in certain areas. The proliferation of criminal titles—especially in cultural and economic spheres—not only diminishes the efficiency of the criminal justice system but also produces case backlogs, prison overcrowding, and reduced penal effectiveness. Moreover, the tendency to deploy swift penal responses to every social problem entrenches a punishment-centered culture and impedes the development of non-penal solutions such as mediation, arbitration, or restorative justice (4).

The present study also revealed a structural duality between theoretical foundations and legislative practice in the field of criminalization and human rights. Theoretically, Iranian law, drawing on Islamic sources and constitutional principles, presents itself as a justice-oriented and freedom-respecting system. However, in practice, a security-driven and expedient approach at times replaces systematic legal principles. In reality, the current model of criminalization still requires a shift from a reactive to a proactive and preventive mode—that is, instead of expanding crimes and punishments, greater emphasis should be placed on social prevention, civic education, and reforming cultural structures.

From a comparative perspective, the findings showed that international instruments such as the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, and the *Siracusa Principles* permit restricting fundamental freedoms through criminalization only under circumstances involving a real and serious threat to collective security or to human dignity. In other words, criminalization can serve as a protector of liberty, but only if it is exercised in defense of the rights of others; otherwise, it turns against itself and becomes a means of oppression.

Accordingly, the role of criminalization in safeguarding fundamental freedoms must be redefined from three key perspectives:

1. **Criminalization as a tool of protection, not restriction:** It should be employed to safeguard essential rights such as the right to life, freedom from torture, and equality before the law—not as an instrument for silencing dissent or limiting freedom of expression.
2. **Fair and transparent criminalization:** The legislature must clearly define behavioral and penal standards, avoiding ambiguity and overgeneralization. Only under such conditions can the principles of legal certainty and foreseeability be realized.
3. **Socially proportionate criminalization:** Every act of criminalization must respond to a tangible social need, not reflect transient political or moral anxieties.

Furthermore, several reform strategies should be prioritized. First, a systematic review of existing penal laws should be undertaken to eliminate vague and unnecessary offenses. Second, adopting a *Criminalization Impact Assessment*—similar to models in Scandinavian countries—before enacting any new criminal statute could prevent impulsive or politically motivated criminalizations. Third, the convergence between Islamic jurisprudence and human rights should be pursued through a dialogical rather than adversarial approach, as both share the common aim of preserving human dignity. Fourth, establishing an independent body to monitor criminal policy and assess inconsistencies between legislation and fundamental freedoms could render Iran's legislative process more rational and accountable.

At a philosophical and ethical level, the findings suggest that “freedom” and “security” should not be seen as mutually exclusive but as two wings of the same bird—a just society cannot fly without either. Security without liberty leads to despotism, while liberty without security results in chaos; the art of criminal policy lies in striking a rational balance between the two. More precisely, freedom and criminalization are not opposites but complementary forces: freedom is the goal, and criminalization is the means to protect it. A state can claim to be just only when its acts of criminalization are confined to genuine necessities and remain consistent with human rights.

In summary, the Iranian legal system, to realize criminal justice and safeguard fundamental freedoms, requires a profound reconfiguration of the philosophy of criminalization. The principles of legality, proportionality, transparency, and respect for human dignity must become the core of legislative policy. Only then can criminalization transform from a weapon of the state against its citizens into the shield of citizens against state overreach.

Ultimately, this study rests on the premise that in the modern age, the legitimacy of any government depends not merely on its power to enforce the law but on the extent to which it respects fundamental freedoms. Any system that organizes criminalization within the framework of reason, justice, and human dignity takes a decisive step toward establishing a rule-of-law state and a free society. Redefining criminalization as an instrument of human rights protection can thus offer a renewed vision of the intersection among religion, ethics, and law in Iran's legal structure—a vision in which justice is freedom, and freedom represents the highest form of justice.

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Authors' Contributions

All authors equally contributed to this study.

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The authors of this article declared no conflict of interest.

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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.

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