

Retributive Criminal Justice and Recidivism

Mahsa. Ardalani^{1*}, Seyed Aliasghar. Mirshojaei², Mahmoud. Habibitabar¹

¹ Department of Law, Central Tehran Branch, Islamic Azad University, Tehran, Iran

² Department of Law, Pardis Branch, Islamic Azad University, Tehran, Iran

* Corresponding author email address: 3255464455@iau.ir

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The present study aims to investigate the role of deterrence through punishment and the implementation of retributive criminal justice in recidivism, with particular emphasis on the role of restorative justice in the repetition of criminal behavior. It further examines the improper implementation of rehabilitative and reformatory punishments and their effect on recidivism, and offers legislative strategies for reducing and preventing crime in society. The research method employed in this study is library-based in terms of data collection and is categorized under note-taking as the collection technique. Moreover, this study is considered both comparative and deductive in nature. The findings of this research indicate that retributive criminal justice is crime-centered, and that the offender must face a punitive reaction equivalent to the moral harm they have caused. In contrast, in restorative justice, the legislator seeks to improve the treatment of the offender and aims to reduce the likelihood of recidivism through proper rehabilitation and supportive measures. Nonetheless, it is undeniable that neither approach can be deemed entirely correct or entirely flawed. Each approach yields different results depending on varying cultural, social, political, economic, and behavioral conditions. Therefore, the impact of these approaches on recidivism is contingent upon multiple factors.

Keywords: *Crime, Offender, Recidivism, Punishment, Retributive, Punishment Aggravation, Restorative Justice.*

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1. Introduction

Throughout the fluctuations of history, human beings have consistently suffered from numerous social harms and afflictions and have continuously sought to identify their causes and motivations to discover methods of prevention and remediation. Crime, in addition to imposing significant costs on society in various dimensions—social, cultural, economic, familial, and even political—also inflicts physical, financial, and emotional damages upon its victims. Although the offender must be punished, if the underlying causes of the crime are not addressed, the imposed punishment

will be ineffective, and the likelihood of recidivism by the offender will increase (Vorouaei & Vorouaei, 2016). It is evident that one of the principal concerns of society is the rise in crimes and criminal behavior, which threaten the security and tranquility of the public (Malekzadeh, 2009). Crime prevention is recognized as the most recent criminological approach and the most effective strategy for combating crime, currently occupying a prominent place in national criminal policy (Najafi Abrandabadi, 2008). Penal prevention is primarily criminal in nature and falls under the jurisdiction of the judiciary. The primary targets of this type of prevention are offenders. Preventive actions in this context are conducted through



criminalization and punishment of unlawful behaviors and are often implemented to prevent recidivism (Ne'mati, 2015). In other words, this type of prevention can be reduced to "recidivism prevention," as the offender, whether inadvertently or intentionally, commits an offense, and the critical question is how the legal system and society should respond to such individuals.

"A safe and healthy society is one in which individuals feel secure. Security has been interpreted as protection from threats and dangers such as death, disease, poverty, unforeseen incidents, and, more broadly, any factor that disrupts human peace" (Sedigh Sarvestani, 2011). Accordingly, one of the elements that erodes the sense of security and harms a safe society is the existence of crime and its underlying conditions. In fact, under current circumstances, identifying the causes of crime and the tensions and crises arising from social issues is of particular necessity. Notably, there is no unified approach to identifying and preventing crime, and scholars have examined it from various perspectives (Hezarjaribi & Safari Shali, 2010). The aim of criminal law is to ensure security, justice, and societal and individual interests by preventing the occurrence or recurrence of crime and rehabilitating and treating offenders. Today, criminal law achieves this goal by extensively utilizing auxiliary disciplines such as forensic medicine, scientific policing, forensic laboratories, criminal sociology, criminal psychology, and criminal biology. In particular, the advancements of criminological science have led to numerous transformations in criminal law (Pradel, 2021).

Perspectives on dealing with crime and offenders are typically divided into two categories: the first emphasizes compassion and efforts toward rehabilitation, while the second focuses on punishment severity and instilling fear in the offender to deter reoffending. The moral function of punishment is not limited to compensating for the offender's act or societal harm. Criminologists emphasize that violence against convicts, even when accompanied by punishment, prevents their rehabilitation and thus undermines the preventive purpose of punishment. Nevertheless, in order to prevent recidivism and monitor the dangerous state of offenders, measures referred to as "security and correctional actions" have been devised. These include

actions aimed at addressing the dangerous state of certain individuals in society (Salimi & Rahmati, 2018). Recidivism is one of the major social deviations, and it is essential that punitive tools and methods are designed to provide deterrence and prevent repeated offenses while guaranteeing societal security. Despite the implementation of punishments, society continues to witness reoffending by individuals who have already been punished. Additionally, in some cases, attempts at rehabilitation and reintegration, rather than reducing the likelihood of reoffending, unfortunately lead to repeated criminal acts. Hence, conducting studies such as this—focused on the deterrent role of punishment in Iran's legal system in relation to recidivism—can yield valuable outcomes for improving Iran's legislative criminal policy. Therefore, the main issue of this research is to investigate the deterrent role of punishments in preventing recidivism. This study aims to answer the question: Do Iran's criminal laws possess a deterrent function that can prevent the recurrence of crime?

2. Recidivism

While many legal and criminological concepts can be defined with precision and consensus among jurists and criminologists, such a definition is not possible for recidivism. Recidivism can be described as follows: when a person commits a crime and is sentenced by a court, and after serving the punishment commits another crime, they are considered a recidivist. Similarly, if an individual receives a pardon for a previous crime but reoffends thereafter, recidivism has occurred. The term "recidivism" ultimately hinges on the concept of "repetition." However, due to variations in criminal legislative frameworks and the diversity of criminological research methodologies—each employing different criteria—numerous definitions of recidivism have emerged.

Defining the shared elements of recidivism is the only reliable basis for determining its actual rate and comparing it to other presented rates. However, given the different legislative systems and research approaches in criminology, this has not been realized, and some authors argue that it is unnecessary. According to them, our current understanding of the causes of crime is limited, making it difficult to establish common definitions. Recidivism refers to a situation in which an individual, after receiving a final conviction in a

competent court, commits another offense. This phenomenon is among the most complex and challenging issues in criminal law, as it relates not only to legal matters but also to social justice and enforcement. It is considered a shared problem among all criminal justice systems globally.

Recidivism is not only indicative of the offender's failure to reintegrate into society and lead a crime-free life, but also reflects the inadequacy and inefficiency of criminal justice institutions in rehabilitating and preventing further offenses. Recidivists, through their continued criminal activity, endanger public order and safety while imposing significant financial burdens on the economy and the criminal justice system. Indeed, repeat offenders constitute more than half of the regular clients of the criminal justice apparatus (Gholami, 2011). "One of the general aggravating factors in all crimes is the concept of recidivism. Previously, the legislator had not expressly addressed the issue of recidivism in hudud crimes, either in pre-revolution laws or afterward. For the first time, Article 136 of the Islamic Penal Code, enacted on April 21, 2013, set forth a provision regarding recidivism in hudud crimes" (Nouraei, 2015). According to this article: "If a person commits a hudud crime three times and receives its hud punishment each time, they shall be sentenced to death upon the fourth offense." Undoubtedly, this provision has not received unanimous support among jurists.

According to Article 48 of the Islamic Penal Code, "Any person who is sentenced by a court to ta'zir or deterrent punishment, and after serving the sentence commits a ta'zir-punishable crime again, may be subject to increased ta'zir or deterrent punishment by the court, if deemed necessary." Under this provision, recidivism is defined as committing a ta'zir crime after previously undergoing ta'zir or deterrent punishment.

3. Aggravation of Punishment and Deterrence

Wherever there is law, there is also crime, as the simplest definition of crime is behavior that violates the law. One of the principles held in high regard in criminal law is the principle of criminal justice and punishment aggravation, from which numerous legal provisions are derived. Many criminal principles and rules are closely linked to this principle. It is also stated that proper aggravation of punishment is one of the manifestations of implementing criminal justice. The causes of

punishment aggravation hold particular significance in the Islamic criminal system, as assigning punishment proportionate to the offense ensures compliance with human and Islamic principles, such as the principle of criminal justice and proportionality between crime and punishment. This alignment contributes significantly to the psychological health of society. One of the general causes of punishment aggravation is **recidivism**, which has a substantial impact on achieving the goals of punishment by deterring the offender from repeating the crime. In this context, punishment aggravation is examined as a criminal legal strategy against recidivism, because if the punishment imposed is less than the severity of the offense, the principle of criminal justice is called into question (Nikfar, 2016).

In its literal sense, *aggravation* means to intensify or worsen. Its technical meaning does not deviate significantly from its literal sense and refers to worsening the legal position of the defendant during the appeal stage compared to the trial stage. This aggravation may manifest in various forms, such as increasing the severity of the punishment, changing the type of punishment to one more inappropriate or harsher considering the accused's condition, or reverting a previously mitigated punishment back to its original form—for instance, converting a monetary fine back into imprisonment during appeal. The basis for punishment aggravation in cases of recidivism is the *dangerous state* of the individual. In essence, repeating an offense indicates the ineffectiveness of the previous punishment and reflects that the offender is not reformable through ordinary punishment and therefore requires harsher measures. Moreover, the dangerous state of such an offender results from a diminished sense of moral repugnance toward criminal behavior, which makes them more emboldened than first-time offenders and more in need of strict legal sanctions. Generally, any action that worsens the defendant's condition compared to the initial stage is considered *aggravation*. For example, changing a misdemeanor punishment to a felony or replacing simple imprisonment with imprisonment involving hard labor could qualify as forms of aggravation (currently, the classification of crimes into felonies, misdemeanors, and petty offenses no longer exists) (Nikfar, 2016).

The commission of multiple crimes signifies the incompatibility and dangerous state of the offender,

which is similarly the case in recidivism. Recidivism after the final execution of a sentence indicates the offender's dangerousness and failure to reintegrate into society post-punishment. An offender who commits another crime after serving a sentence, or one who commits multiple offenses, is considered to be in a dangerous state and requires a distinct criminal policy. In Articles 46 to 48 of the Islamic Penal Code, the Iranian legislator considers the most severe punishment for multiple *ta'zir* and deterrent crimes and applies cumulative punishments and punishment aggravation for those who commit several offenses. According to the latter part of Article 48, the court may aggravate the punishment for repeat offenders. The phrase "if necessary" in Article 48 grants the court discretion in this regard, and it appears that the court's decision must be reasoned. However, a significant ambiguity remains unresolved—namely, how to apply punishment aggravation and to what extent—which continues to confuse judges and generate divergent rulings.

Punishment aggravation for repeat offenders is not grounded in justice but in *social utility*. It is argued that society defends itself vigorously against recidivists because it perceives a heightened threat. Recidivism refers to a pattern of criminal behavior by someone who has been definitively convicted by a criminal court and subsequently commits another offense. One distinction between *recidivism* and *multiple offenses* lies in the existence of a prior criminal conviction, which is a crucial condition for establishing recidivism (Nikfar, 2016).

If punishment aggravation is interpreted as imposing a sentence exceeding the statutory maximum, then it should be understood as a prohibition on sentence mitigation. Aggravation of punishment, in whatever form, may influence the prevention of recidivism. For example, Article 136 of the Islamic Penal Code (2013) states: "If a person commits a *hudud* crime three times and each time receives the prescribed punishment, the punishment upon the fourth commission shall be execution." Additionally, Article 48 states: "... the court may aggravate the *ta'zir* or deterrent punishment if necessary." Yet the lack of clearly defined limits for aggravation remains a debated and emphasized issue. This shortcoming also existed in Article 25 of the 1973 amended General Penal Code, which prompted the Supreme Judicial Council to issue directive no. 63/26/B/SH dated July 7, 1984, which provided: "... in

cases of recidivism in *ta'zir*-punishable offenses, the court may aggravate the punishment up to 1.5 times the prescribed sentence." This measure, although administrative, was aimed at preventing recidivism.

Regarding *mental recidivism*, although the legislator has not explicitly addressed it in *qisas* and *diyyat* offenses, references in Islamic texts and relevant legal provisions suggest a focus on assigning a single punishment. Article 4 of the Islamic Penal Code (1991) effectively rephrased Article 31 of the General Penal Code (1973), allowing for the imposition of the most severe punishment in cases of a single act carrying multiple legal labels. This approach aligns with the legal doctrine and judicial practice in French law. However, differences remain in application, including the handling of victim compensation in mental recidivism cases. Regarding jurisdiction, Iran's legislator has shifted away from assigning the most severe punishment toward cumulative sentencing, influencing additional jurisdictional rules. For example, Article 54 of the Code of Criminal Procedure recognizes the jurisdiction of the court handling the most serious offense, though the application of this rule has led to specialization conflicts with Article 55's provisions (Karimi & Kazemi, 2020).

The Islamic Penal Code enacted in May 2013 introduced revisions compared to prior legislation. Under the former code, *recidivism* was defined by two elements: a prior conviction and a subsequent conviction, with specific conditions outlined for each. Article 48 of the former Penal Code stated: "Anyone who is sentenced by a court to *ta'zir* or deterrent punishment, and, after execution of the sentence, commits another *ta'zir*-punishable offense, may be subject to aggravated punishment, if necessary."

In Iranian law, although recidivism is a ground for punishment aggravation, the explicit language of Note 1 of Article 22 of the Islamic Penal Code permits its application in such cases, allowing for sentence reduction even in recidivism. In French law, mitigating circumstances can apply to all crimes, but in English law, recidivism is not addressed as explicitly. Only some statutes implicitly consider it, relying more on the reasoning of prior court decisions (Karimi & Kazemi, 2020). Appropriate treatment of an offender post-sentence facilitates rehabilitation; however, if society fails to support this process, the offender's criminal motivations may persist, leading to reoffending.

Recidivism signals that the offender remains dangerous and that rehabilitation has not been effectively implemented. Reoffending after an initial conviction leads to increased punitive severity.

When an offender reoffends despite society's leniency, justifying the behavior becomes difficult. Consequently, society responds more harshly to such individuals—this is *recidivism*. It indicates the offender's dangerous state, and for this reason, some legal systems recommend aggravating punishment for dangerous offenders. This policy is based on the assumption that repeat offenders should feel revulsion toward their actions after serving their sentence. Punishment is expected to foster reform and reintegration into society; therefore, their failure to heed such warnings makes them more culpable than first-time offenders.

The essence of law and its historical philosophy emphasizes that every wrongdoing deserves a proportionate response. The principle of cumulative sentencing in cases of recidivism has received significant attention. "Under current French law, in cases of material recidivism—excluding petty offenses and some specific crimes—the principle of imposing the most severe punishment prevails. Iranian law before the Revolution, influenced by French law, adopted this approach in the 1925 Penal Code and the 1973 hybrid model. Post-Revolution, influenced by Islamic criminal law, Iran's legal system abandoned the maximum sentencing rule and adopted cumulative sentencing for dissimilar offenses, while allowing courts discretion to impose sentences exceeding the statutory maximum for repeat offenses" (Karimi & Kazemi, 2020).

"The causes of punishment aggravation in the Islamic criminal system are of particular importance, as assigning proportionate punishments ensures adherence to human and Islamic principles—such as the principle of criminal justice and proportionality—which in turn ensures the mental health of society. One general cause of punishment aggravation is *recidivism*, which significantly contributes to achieving the objectives of punishment by deterring reoffending. In this context, punishment aggravation is discussed as a legal strategy to address recidivism. If the punishment is less than the gravity of the offense, the principle of criminal justice is compromised" (Nikfar, 2016).

In cases of recidivism involving *ta'zir* crimes, specific conditions must be met for sentence reduction to apply.

These conditions are: if the statutory punishment has a minimum and maximum, the court may reduce the sentence to the average between them; if the punishment is fixed or lacks a minimum, the court may reduce it to half; however, if the offender has three or more final convictions subject to recidivism rules, sentence reduction is not applicable. Additionally, if general amnesty or legal repeal eliminates or nullifies the effects of the initial conviction, the rules of recidivism do not apply. This is supported by Article 97 of the current Islamic Penal Code, which states: "General amnesty granted by law in *ta'zir*-punishable offenses halts prosecution and trial. If a conviction has been issued, execution of the sentence is suspended, and its legal consequences are nullified."

4. Restorative Justice and Deterrence

Critics of retributive criminal justice argue that punitive criminal justice neglects victims, offenders, and the local community in favor of exercising state authority through penal law, or at the very least, does not grant them a meaningful role in the criminal process. Retributive justice operates in a closed framework, where justice is defined as the establishment of guilt and the assignment of punishment to the offender. In this system, the offender is not given the opportunity to discuss pre-offense circumstances or what led them from criminal thought to action, nor are they allowed to actively participate in determining the type and extent of the punishment (Samavati Pirooz, 2006). The unanswered question remains: justice for whom and in favor of whom is it applied? Critics maintain that this approach to justice fails to serve victims, society, and even offenders (Najafi Abrandabadi, 2020). In other words, the victim gains the least from retributive criminal justice, despite suffering harm and trauma due to the crime (Abbasi, 2003).

The instrumental use of victims merely as evidence to establish the guilt of the offender and thereby determine and implement punishment has led to victims feeling that they are only seen as tools in the process and that the harms and losses they have suffered are ignored (Abbasi, 2003, p. 87). In this system, the state and official institutions, by expanding the principle of the legality of prosecution and publicizing criminal acts, have effectively appropriated the position of the victim and excluded them from the process. This practice, rather than a delegation of authority, represents a widespread

form of encroachment—occupying the roles, rights, and duties of individuals within society. Thus, the state acts as a proxy who has dismissed its principal, replaced them, and marginalized their presence (Abbasi, 2003).

Following widespread criticism of retributive and rehabilitative justice, a new approach has emerged—one that offers a comprehensive view of the victim, the offender, and the community. A historical overview of criminal justice reveals that it began as a state-centered retributive model, where the offender was largely disregarded. Retributive criminal justice is crime-centered and morally condemnatory; thus, the offender is to face punishment equivalent to the moral wrongdoing they committed. Subsequently, a shift occurred toward a clinical-medical perspective, focusing on the individual offender. Over time, attention also turned to the victim, leading to a transformation in justice systems aimed at restoring the rights of victims. In the clinical view, the victim is seen as someone who has suffered both material and psychological harm and, like the offender—whose actions reveal an underlying issue—requires healing and support. This victim-centered approach laid the foundation for the emergence of restorative justice (Najafi Abrandabadi, 2020).

Restorative justice emerged as a novel perspective within criminal justice. This approach views conflict not merely as a platform for state power but as an issue fundamentally involving both the victim and the offender. It treats conflict as a form of social capital that has been taken from its rightful owners and should now be returned. In this sense, restorative justice has been recognized as either an alternative or a complementary model to traditional criminal justice. The shortcomings of conventional criminal justice—particularly the marginalization of victims and the monopolization of justice by the state—have paved the way for restorative programs across many countries. Whereas retributive justice seeks to uphold the law through punishment, restorative justice aims to defend the victim by understanding their suffering and assigning obligations to those responsible for restoring the situation to a desirable state.

Retributive justice engages the state and the offender in formal legal proceedings, while restorative justice invites the victim, the offender, and the local community to collaborate in resolving the conflict caused by the crime. One can either respond to unlawful behavior by

focusing strictly on the law that was broken, or begin by considering the harm caused to people and their relationships. The lens through which we view crime determines the kind of response that seems fair and reasonable (Morris & Maxwell, 2003).

Proponents of the restorative approach, in their effort to position restorative justice as a third model capable of transforming or replacing classical criminal justice, have drawn extensively from local and quasi-judicial experiences to develop a comprehensive theory of restoration. Accordingly, they have emphasized the interests and rights of secondary victims and even the broader community, particularly in serious crimes, across various stages of legal proceedings—including sentencing and enforcement. A restorative, reconciliatory, and responsibility-focused response should be available to all parties with a stake in the crime—referred to as the "shareholders of crime." These include the victim (complainant), the offender (accused), the local community (family, relatives, neighbors, friends, or any neighborhood impacted directly or indirectly by the crime), and in serious offenses, the society at large (Samavati Pirooz, 2006).

The emergence of this innovation—restorative justice—was largely a response to the shortcomings acknowledged by justice officials and social control agents in traditional criminal systems. As a result, new experimental methods were introduced to address the problems caused by crime. The effectiveness of restorative practices in promoting offender accountability and victim satisfaction has led to their widespread acceptance in society (Najafi Abrandabadi, 2020).

Thus, restorative justice is not merely an academic theory about crime and justice actors; it reflects a relatively successful real-world experience in dealing with the harmful consequences of crime and its future implications. The term *relational justice* is sometimes used to describe restorative justice to highlight its aim of building positive relationships among the victim, the offender, and the affected local community, rather than simply executing traditional justice processes (Najafi Abrandabadi, 2020). The rise of restorative justice represents one of the most significant shifts in criminal justice thinking and criminological approaches over the past two decades. Furthermore, it has emerged as a

philosophical and theoretical foundation for resolving conflicts and providing justice in criminal matters.

5. Secondary Analysis: Existing Research on Recidivism and Field Findings

Fadaei et al. (2019) concluded in a field study that rehabilitative and security measures at Rajaei Shahr Prison in Karaj—when legally mandated, imposed by a judge, and tailored to the individual's disposition, background, and dangerousness—can be a crucial factor in preventing recidivism among high-risk, repeat offenders (Fadaei et al., 2019). Similarly, Vorouaei et al. (2016) found that offender-centered non-penal (social) prevention had the most significant impact on preventing armed robbery recidivism, outperforming law enforcement-based preventive management, which was nonetheless rated as satisfactory (Vorouaei & Vorouaei, 2016). Bayati et al. (2020) argued that realizing a restorative approach to prevent recidivism and victimization requires a fundamental restructuring of the organizational framework, goals, and missions of justice institutions such as the police, prosecutor's office, courts, and prisons (Bayati et al., 2020).

Hadadi et al. (2021), through a study of 50 inmates from the Greater Tehran Prison, observed that personal life skills have a more substantial effect on preventing recidivism than situational prevention strategies. They identified several legislative challenges, including the need to define the minimum sentencing scope across various crime categories, extend the applicability of multiple-offense provisions to lower-level *ta'zir* crimes (seventh and eighth degrees), and resolve the lack of clear criteria for differentiating between similar and dissimilar crimes in terms of their nature, method of commission, and other relevant factors (Hadadi & Salehi Tayeblou, 2021). In another study, Amini Khaneh Barq et al. (2022) emphasized that proper guidance of interrogation processes and timely acquisition of relevant information are essential for early crime detection and prevention of recurrence. They highlighted the importance of personality files and methods that support both offender reintegration and enhancement of life skills.

Babaei (2004) argued that recidivism, as an indicator of dangerousness, has compelled diverse policy responses across societies. Despite intensified penalties and, in some cases, outright exclusion of repeat offenders,

recidivism has increased. This has led to the revival of rehabilitative ideals aimed at countering persistent antisocial tendencies (Babaei, 2004). Pourbafrani (2005) discovered that Iranian law lacks a clear standard for aggravating punishment in recidivism cases. This legal gap led the Supreme Court to assert, particularly in cases involving multiple similar offenses, that exceeding the statutory maximum punishment contradicts the principle of legality and judicial discretion (Pourbafrani, 2005).

Dadban and Aghaei (2009) found that criminal prevention can manifest in various strategies, one of which involves imposing punishment. This punitive approach is rooted in deterrence theory and is considered the earliest preventive method—its foundational goal is to instill fear in potential offenders (Dadban & Aghaei, 2009).

Asghari (2014) noted that Iranian criminal policymakers have pursued prison reduction and restraint from excessive incarceration, implementing these reforms through the Islamic Penal Code passed in 2013 (Asghari, 2014). Elsewhere, Mousavi et al. (2014) emphasized that to reduce recidivism and prevent released individuals from returning to prison, it is essential to provide effective support services, eliminate formal and informal stigmas, offer post-release supervision via reintegration centers, and facilitate family and community acceptance, including self-employment loans for ex-offenders (Mousavi et al., 2014).

In another study, Khalili Omran (2013) advocated for the inclusion of a "post-penal" stage—referring to post-sentence care and monitoring—as a formal part of the criminal process (Khalili Omran, 2013). Moazami et al. (2015) observed that the lower the level of familial and social acceptance post-release, the higher the likelihood of recidivism (Moazzami et al., 2015).

Nikfar (2016) found that punishment aggravation should be studied as a legal strategy against recidivism because, if the punishment is less severe than the crime, the principle of criminal justice is undermined (Nikfar, 2016). In contrast, Yaghoubi and Elmi (2017) found that released prisoners are less likely to reoffend when they receive family support, are socially accepted, lack stigmatizing labels, and possess adequate occupational skills (Yaghoubi & Elmi, 2017). Soltani (2018) concluded that in order to prevent crime—particularly offenses that disrupt public order—there must be binding legal

norms governing conduct, especially among women, and violations should be met with specific legal and security sanctions (Soltani, 2018). Understanding the status of women who commit crimes due to social norm violations is therefore essential.

6. Requirements for Punitive Deterrence

The way societies view offenders—and, consequently, the purposes of punishment—has undergone significant transformation throughout history. Depending on the prevailing image of the individual, various goals have been envisioned for punishment, ranging from retribution and revenge to deterrence, rehabilitation, incapacitation, and even elimination. Deterrence has always been one of the key aims of punishment, grounded in utilitarianism and embedded within punitive models as a rational, forward-looking strategy. Unlike retribution, which is concerned with avenging past wrongs, deterrence looks toward building a better future. Its core idea is to reduce the motivation to commit crimes by threatening or implementing punishments. Punishment serves as a deterrent when it prevents the same offender from reoffending and discourages others from committing similar crimes (Dadban & Aghaei, 2009).

Deterrence is defined as the psychological threat that may reduce criminal motivation by prompting the offender to internally visualize and fear the adverse consequences of their actions. Mahmoudi Janki and Aghaei (2008) emphasized that many individuals, when tempted to commit crimes, abstain because the pleasure of the act is outweighed by fear of the legal consequences (Mahmoudi Janki & Aghaei, 2008).

The following are condensed descriptions of theories related to penal utilitarianism:

General Deterrence: This form of deterrence holds that punishing an offender instills fear in potential criminals. In other words, general deterrence aims to discourage would-be offenders by sending a message through the punishment of others. Its effectiveness depends on carefully evaluating and selecting the most effective legal sanctions to dissuade criminal behavior. As such, "general deterrence requires the assessment of punishments" (Mehra, 2007).

Specific Deterrence: Specific, or individual, deterrence refers to the pain experienced by the punished offender. The expectation is that this personal experience—or

even the threat of punishment—will prevent future offending. Collective deterrence extends the threat beyond the individual to society at large, particularly those at risk of offending (Qomashi & Motaghi Ardekani, 2020). This theory focuses on the individual offender and assumes that suffering punishment will discourage them from reoffending. Thus, the deterrent power of punishment depends on prior criminal experience, and the recidivism rate becomes a key metric for evaluating its effectiveness.

Partial Deterrence: In this form of deterrence, the offender compares the severity of sanctions for various versions of the same crime and opts for the one with the lighter penalty. This indicates that "the threat of sanction has a deterrent value." Its effects are often seen in crimes committed at varying levels of severity.

Ultimate Deterrence: Ultimate deterrence involves evaluating various criminal sanctions for a specific offense to determine which has the greatest deterrent effect. This concept assesses "the deterrent impact of one specific legal sanction over others." Accordingly, the more severe the penalty, the more effective it is in reducing recidivism. For example, a judge who has the discretion to impose a prison sentence ranging from six months to two years may enhance deterrence by opting for the harsher penalty. This discretionary range is a hallmark of ultimate deterrence.

Absolute Deterrence: This is the counterpart to ultimate deterrence. Here, crime prevention occurs either due to fear of legal punishment or deep-seated moral condemnation of crime. The fear of punishment is well understood, but moral deterrents require further explanation. In some individuals, moral imperatives are so deeply rooted that they view criminal acts as ethical failures or sins. Absolute deterrence refers to situations where a single, specific legal sanction prevents criminal behavior. In contrast, ultimate deterrence compares multiple sanctions to determine the most effective one.

7. Conclusion

Deterrence and deterrence-oriented perspectives encompass multiple strategies, some of which may appear contradictory. However, the ultimate goal of any deterrence approach must be the reduction of recidivism. In deterrence theory, the key objective is to influence individuals' decision-making capacities regarding criminal acts by demonstrating the punitive

power of the state. The approaches may range from specific, general, absolute, or ultimate deterrence. Nevertheless, the overarching concern remains the reduction of criminal behavior. Humanity is in dire need of reducing crime and the number of offenders, especially given population growth and the diversification of crimes, which arguably place law and law enforcement in one of the most complex and incapable positions in human history. Today, the expansion of living spaces, the diversity of living tools, and the presence of technology have made the commission of crime more accessible and intricate. If the legal system's response—whether through punishment aggravation or restorative justice—leads to the non-repetition of crime, then the costs borne by governance and legal systems will be significantly reduced, as each incarceration period imposes substantial financial burdens on the state.

Another view relevant to deterrence and the philosophy of punishment is the behavioral paradigm. According to this paradigm, criminal behavior is the result of irrational volition shaped by conditioning processes. In this view, individuals can become conditioned to their environment and thus commit crimes. Although this paradigm cannot be absolutely confirmed or rejected, many criminal behaviors (e.g., crimes of passion, crimes committed under duress or necessity, and spousal homicide) can be cited as examples of irrational will. There is a broad consensus across paradigms that maladaptive behavioral conditioning increases the likelihood of deviant behavior (including crime), thereby affecting the offender's volition. From this perspective, a penal response to crime is justified only if it reconditions criminal behavior—meaning, punishment should influence and alter the internal conditioning that led to the offense. According to behavioral theory, punishment should not be executed as a deserved consequence of wrongdoing. This view also cannot be dismissed entirely, as the recipient of punishment is a human being, with emotions, experiences, and social influences. Sometimes, one's entire will and intent do not fully manifest in their behavior.

Retributive criminal justice is offense-oriented and, from a moral standpoint, views the act as condemnable; thus, the offender must endure punishment equivalent to the moral harm caused. In the next stage, the system moves away from moral conceptions of justice toward a clinical-

medical perspective focused on the offender. Eventually, the victim emerges as the second focal point in the crime, prompting a transformation in justice systems aimed at securing victims' rights. In the clinical view, the victim is someone who has been harmed psychologically and materially by the crime and thus, like the offender—whose criminal act reveals an internal dysfunction—requires support and healing. This victim-centered approach gradually heralded the emergence of restorative justice. Hence, restorative justice is not merely a theoretical framework about crime and justice actors but rather a relatively successful experiential model for addressing the harmful consequences of crime and its future implications. To describe restorative justice, the term "relational justice" is sometimes used to emphasize its aim of fostering positive relationships among the victim, offender, and affected community, rather than merely implementing traditional legal processes.

However, since the ratification of the Law on the Reduction of Sentences for Ta'zir Imprisonment in 2020, while the strengths of this law in certain areas cannot be ignored, it also has notable shortcomings. One such issue is the ambiguous definition of "similar and dissimilar offenses," which remains unclear to judges and legal practitioners. Additionally, the aggregation of punishments for offenders who have committed multiple crimes introduces uncertainty in interpreting this legislative approach. Article 134 of the Islamic Penal Code distinguishes between two conditions: one where the individual commits up to three crimes, and another where the person commits more than three offenses. Compared to previous legislation, this differentiation is viewed favorably. Overall, the positive outcomes and constructive achievements of the law—particularly concerning the legal treatment of multiple offenses and recidivism—outweigh its challenges. In practice, it is the criminal courts and judicial bodies that, through sound legal interpretations and in line with the inherent philosophy of these institutions and the goals of the Law on Sentence Reduction, issue appropriate rulings that resolve ambiguities.

The key takeaway is that in some instances, a restorative justice approach, and in others, the application of harsher penalties, may be effective in preventing recidivism. Determining which approach suits which individual and under what circumstances is a complex

issue in legal science. Some offenders may become disinclined to reoffend when faced with severe punishment, as the fear of penalty deters them. However, the broader question involves mental and emotional rehabilitation—whether fear alone is a sufficient deterrent. This issue ties into the concept of human dignity. Many legal scholars around the world argue that human dignity should be the guiding principle in sentencing and believe that education and psychological restoration can lay the foundation for a better societal future. In sum, finding the right balance to determine the appropriate response to offenders remains an ongoing challenge in legal systems. At times, the proper implementation of the law proves more effective than the mere existence of legal statutes.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

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Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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