

Constitutional Criminal Law in Iran: A Contradictory Approach, from Challenges to a Gradual Shift

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Abstract

Constitutional criminal law is formed two main disciplines of law, i.e. constitutional law and criminal law that their common point is state power and public order or security. At the same time, fundamental rights and freedoms of citizens are also the common feature of this interdisciplinary field of study that overlaps with human rights, esp. in a global scale named international human rights law. It consists of a body of principles and rules, which are defined and guaranteed in the domestic constitution of countries based on the rule of law and democracy. Meanwhile, the Constitution of Islamic Republic of Iran encompasses several criminal law principles among which the non-discrimination and equality, the legality of crime and punishment and criminal procedure, and the non-torture face challenges from the perspective of human rights. These challenges mainly relate to a reluctant attitude of Iran to some of the international norms of human rights that are in conflict with the superiority of Islamic rules (*Shari'a*) within the Iranian post-revolutionary legal system. The present paper focuses on these three constitutional principles and challenges that they face in the contradiction of domestic statutory law and international human rights law. The author concludes that despite the current challenges, a gradual shift towards balancing the superiority principle and international norms has been emerging.

Keywords: Constitutional Criminal Law; the Constitution; Criminal Law; Principles; Government.

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1. Introduction

Considering a constitutional basis for criminal law is inevitable because criminal law in its own sense overlaps with political and governmental issues and matters that require constitutional basis. This basis encompasses all rules and principles which crystallize at the highest level in the Constitution of a country based on the modern liberal principles like the rule of law. It embraces all laws and provisions which are contained in statutes, particularly in the domestic criminal codes and procedural acts, and are subordinated to the principles of the Constitution. For instance, while definition of non-torture principle should be guaranteed by the Constitution, the provision of defining it as a criminal norm must be stated in the criminal code through a process namely criminalization. The criminalization of torture is carried out based on the legality principle in criminal law that is subordinated to the constitutional principle of the rule of law.

Therefore, the interaction between constitutional law and criminal law requires an interdisciplinary field of study that is defined as ‘constitutional criminal law’. What makes necessary such a field of study is two traditional perspectives to address the tension between two contradictory goals of protecting individual liberty and preserving the public order.¹ While the function of criminal law is to achieve the latter goal, the constitution draws limits for this purpose by laying down criminal principles to guarantee individual fundamental rights and freedoms. These are also a significant part of internationally recognized norms of human rights.

At a domestic scale focusing on Iran, the first constitution in Iranian history was adopted in 1906 as a set of fundamental principles and rules which defined the reciprocal duties and rights of the government and the society. This constitution is also known as ‘conditioned’ (*mashrut*) because it defined the limits of executive power of the government.² When the concept of ‘law’ (*qanun*) was recognized by Iranian elites in the nineteenth century, the concept of *mashrut* was referred to as the rule of law and the constitution, and when

1. Aparna Chandra and Mrinal Satish, “Criminal Law and the Constitution,” in *The Oxford Handbook of the Indian Constitution*, ed. Pratap Bhanu Mehta, Sujit Choudhury, and Madhav Khosla (Oxford University Press, 2015), 794.

2. Homa Katouzian, “The Revolution for Law: A Chronographic Analysis of the Constitutional Revolution of Iran,” *International Journal of Economics and Politics* 2, no. 1 (January 2021): 63.

the constitutional movement accomplished its goal in 1906³, the terms 'constitutionalism' and *mashrutiyyat* were synonymous.⁴ The Iranian Constitution 1906 then was supplemented in 1907 as the supplementary fundamental laws which established a set of rights and overall system of governance, mainly modelled on the European constitutional law (esp. Belgium constitution).⁵ Among articles of the Supplementary Constitutional Law of 1907, which were entitled as 'Principles', some could be construed as constitutional criminal law, including Art. 9 (the Principle of individual protection), Art. 10 (Freedom from false or unlawful detention or arrest), and Art. 12 (the Principle of legality of punishment).⁶

About 73 years since the first constitution in Iran, *the 1979 Islamic Revolution* gave rise to a fundamental change in structure of the government in Iran and resulted in adoption of a new constitution replacing *the 1906-7 Constitution*. While the first constitution was seen as the transformation of an autocratic monarchy into a constitutional one⁷, the new constitution is regarded as the transformation towards a theocratic-republican political regime. The latter characteristic is evident in Arts. 1, 2 and 6 of the Constitution of the Islamic Republic of Iran (*the 1979 Constitution*) upon which sovereignty is vested in God, and at the same time, popular elections for the presidency and the Parliament are recognized. *The 1979 Constitution* was amended a decade later according which a new assembly (Expediency Discernment Council) was established. Its function is to work out disagreements between the Parliament and Council of Guardians.

Considering the background of the 1979 and 1989 constitutions (called 'Islamic Republic of Iran's Constitution: hereinafter, *IRI's Constitution*'), Art. 4, as an immutable principle, stipulates the superiority of *Shari'a* (Islamic principles) over all laws and regulations including civil, criminal, financial,

3. Ali Ansari, "Introduction: Developing Iranian Intellectual History," in *Iran's Constitutional Revolution of 1906 and Narratives of the Enlightenment*, ed. Ali Ansari (London: Gingko, 2016), 1-14.

4. In the contemporary Persian language and literature, the term 'constitutionalism' is primarily used as *Mashrutiyyat* that is the law-abidingness or obedience to the law. See, e.g. Daryoush Ashouri, *A Dictionary for Human Sciences – English-Persian* (Tehran: Nashr-e-Markaz, 2014), 88.

5. "Iran's 1906 Constitution," Foundation for Iranian Studies, accessed November 14, 2023. <http://fisiran.org/en/resources/legaldoc/iranconstitution>.

6. A. P. Saleh, trans., *The Iranian Constitution with Amendments* (Tehran: Legal Department of Ministry of Foreign Affairs, supplied by Ministry of Foreign Affairs February, 1965), 452. <https://irandataportal.syr.edu/wp-content/uploads/iran1957.pdf>.

7. Dariush Borbor, "A Comparative Overview of the Iranian Constitutions of 1906-07 and 1979," *Iran and the Caucasus* 10, no. 2 (2006): 263.

economic, administrative, cultural, military, political or otherwise. Applying this principle extends to all Articles of the *IRI's Constitution* and other laws and provisions of the IRI. It is evident that such an absolute principle has a significant effect on the field of constitutional criminal law because of its dependency and reliance on the sovereignty and state power. Therefore, the criminal law principles of the *IRI's Constitution* must be considered in this context as all primary elements of criminal law including criminalization, penalization, sentencing, and their implementation are principally defined in the parameters of public law and international human rights law.

Among the principles relating to constitutional criminal law which are provided in Arts. 19, 20, 22, 32, 33, 37, 38, 39, 166, 167, and 169 of the *IRI's Constitution*, certain of these provisions face serious challenges. They are the provisions concerning non-discrimination and equality principles, legality principle, and non-torture principle.

The present paper explores challenges of constitutional criminal law in Iran with reference to debatable instances from a human rights-oriented viewpoint. To discuss about this focal point, contents of paper are organized in two main parts. Part one examines a brief history of constitutionalism in Iran during two major historical periods, known as pre-revolutionary and post-revolutionary. Part two focuses on core subject of this study by addressing at criminal principles of the post-revolutionary Constitution. These principles are entitled the non-discrimination and equality, the principle of individual protection, the principle of legality, the presumption of innocence, the non-torture principle, and the non-violation against individual honor and dignity. The author analyses these topics from a human rights perspective in the light of the paradigm of constitutional criminal law, and consequently, makes suggestions to overcome the challenges in question.

2. Challenges of the Constitutional Criminal Law Principles in the IRI's Constitution

Notwithstanding the provisions relating to constitutional criminal law in the *IRI's Constitution*, some of these provisions have serious obstacles and difficulties where they incorporate into statutory laws. Instances of these challenges are as follows, respectively:

2.1. Challenges of the Non-discrimination and Equality Principles

The provisions of non-discrimination and equality principles are defined under Chapter three of the *IRI's Constitution* entitled 'Rights of the Nations'. The language of Arts. 19 and 20,⁸ as regards expressions, e.g. 'the people of Iran' and 'equal', primarily denotes the principle of equality, but at the same time, implies the non-discrimination with regard to phrases including 'shall not a privilege' and 'both men and women'. While these provisions seek to guarantee the rights of the nation to equality and non-discrimination, yet the phrase 'with due observance of the principle of Islam' provides certain exclusions and limitations in both theory and practice.

2.1.1. Gender-oriented System of Criminal Sanctions

Such kind of exclusions and limitations could be found in wergild (*diya*: blood money)⁹ of men and women, and of the recognized religious minorities, as well.¹⁰ With respect to the wergild of men and women, Art. 550 of the Islamic Penal Code 2013 (*IPC 2013*), based upon Islamic law¹¹, states that "A woman would receive half the *diya* that a male would receive in identical circumstances". From an international viewpoint, the differentiation between females and males could be described as a reluctant attitude to implement of international human rights law, particularly those that are recognized within the United Nations' (UN) system.¹² The IRI's attitude and policy concerning women's issue have been controversial and may be interpreted discriminatory. Despite the Iranian Cabinet's approval of accession of IRI to the UN Convention on the Elimination of All Forms of Discrimination against Women

8. Art. 19: "The people of Iran, of whether tribe and, shall enjoy rights, and color, race, language and the like shall not be a privilege". Art. 20: "All members of the nation, both men and women, shall receive equal protection of law and enjoy all human, political, economic, social and cultural rights, with due to observance of the principle of Islam." The Constitution of the Islamic Republic of Iran 1979, last amended in 1989," <https://www.shora-gc.ir/en/news/87/constitution-of-the-islamic-republic-of-iran-full>.

9. In Islamic law, *diya* (also, known *diyah*) is "the traditional compensation due for the shedding of blood". In case of homicide (intentional or unintentional murder) and some of the other bodily injuries, the perpetrator or his heirs are responsible for paying the compensation. *Encyclopedia Britannica*, s.v. "Diyah," accessed January 28, 2024, <https://www.britannica.com/topic/diyah>.

10. According to Art. 13: "Iranian Zoroastrians, Jews and Christians shall be the only recognized religious minorities who, within the limits of law, shall be free to carry out their religious rites and practice their religion in personal status and religious education." The Constitution of the Islamic Republic of Iran 1979, last amended in 1989.

11. *Encyclopedia Britannica*, s.v. "Diyah."

12. Mehrdad Rayejian Asli, "Incorporating the United Nations Norms into Iranian Post-Revolution Criminal Policy: A Criminological-Victimological Approach", in *Crime Prevention and Justice in 2030*, ed. Helmut Kury and Slawomir Redo (Springer Nature Switzerland AG, 2021), 76.

(*the 1979 Convention*), it stipulates some conditions or reservations. One condition requires the applicability of provisions of *the 1979 Convention* provided non-conflict with the sacred '*Shari'a*'. Such a condition is rooted in *the IRI's Constitution* that notwithstanding the recognition of non-discrimination and equality principles (Arts. 19 and 20), ties it to observance of the principle of Islam. Moreover, adopting the reservation measure in accession to the international instruments containing the non-discrimination principle may fail its function to protect a particular group of persons like women who are vulnerable to certain forms of victimization and violence. Therefore, the gender-oriented aspect of equality and non-discrimination principles in the Iranian legal system could be questioned from a human rights perspective.

2.1.2. The Issue of Religious Minorities as a Challenge to the Right to Freedom of Religion

Another exclusion or limitation regarding the equality and non-discrimination principles is wergild of the recognized religious minorities in Iran. Irrespective of recognizing certain groups of religious minorities (definitely three groups) in the *IRI's Constitution*, the statutory provisions which are laid down thereto are marked with protection of these groups of persons. Art. 471 of *IPC 2013* states that "whenever an Iranian person from a religious minority recognized in the constitution living in Iran commits a crime of accidental homicide, he/she is personally responsible for paying wergild, but if he/she is unable to pay the wergild, he/she shall give him/her an appropriate deadline. And if he/she is not able to pay with the appropriate deadline, a compensation that is equivalent of the wergild will be paid by the State". This is similar to provisions for the Iranian Muslim citizens (Art. 470 of *IPC 2013*). Additionally, on the authority of the Supreme Leader of IRI, the wergild for crimes against the religious minorities recognized in the *IRI's Constitution* shall be determined as much as the Muslim's wergild (Art. 554 of *IPC 2013*). While such provisions could be interpreted towards eliminating discrimination against the religious minorities, yet they may be criticized for certain reasons. Several instances arise.

Narrowing the recognized groups of religious minorities by the *IRI's Constitution* may bring about a critique and challenge in terms of the right to freedom of religion. It is defined as a fundamental human right to manifest religion or belief in teaching, practice, worship, and observance for any person,

natural or legal, in public or private.¹³ According to the decision of European Court of Human Rights (ECHR) in *Buscarini & Others v. San Marino*¹⁴, this basic right also extends to the freedom to change one's religion or beliefs, and freedom from profession of any religion or belief or from practice to a religion. It is obvious that the international norm of freedom of religion has a serious conflict with IRI's law, both at the constitutional and statutory levels. One aspect of this conflict relates to the immutable principle contained in Art. 4 of the *IRI's Constitution* (the superiority of *Shari'a*: Islamic principles over all domestic legal system). This rigid norm does permit no flexibility in legislation and at other levels of policy-making out of the domains of political power and sovereignty. At the constitutional level, the manifestation of the immutable principle could be found in the upper of Preamble of the *IRI's Constitution* stipulating the constitution "is based on Islamic principles and precepts and reflects the true aspirations of the Islamic nation".¹⁵ Therefore, the officially citizens of IRI are Muslims and three recognized groups of minorities in the constitution, and other citizens or groups are considered as irreligious, like the agnostics and atheists, who are deprived the rights of citizenship. One major example of such irreligion is apostasy. The term, also called '*irtidad*' or '*ridda*' in Islamic terminology, overlaps with the immutable principle contained in the *IRI's Constitution*. It means to cause to revert, reject, repel, avert, or return¹⁶, as abandonment of Islam by a Muslim, in word or through deed.¹⁷ According to some references that distinguish several phenomena of apostasy¹⁸, the attitude of

13. UN Human Rights Committee (HRC), CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion), CCPR/C/21/Rev.1/Add.4, 30 July 1993. <https://www.refworld.org/docid/453883fb22.html>.

14. *Saint-Marín Case of Buscarini and Others (Affaire Buscarini et Autres c. v. San Marino)*, Requête n°/application no. 24645/94, <https://www.eods.eu/elex/uploads/files/57c43b4771828-BUSCARINI%20AND%20OTHERS%20v.%20SAN%20MARINO.pdf>.

15. The Constitution of the Islamic Republic of Iran, 1979, Last amended in 1989. Incidentally, some authors assert that the conflict in question is traced back into the *1906-7 Constitution*, arguing the recognition of official rights for the recognized religious minorities and the institutionalized discrimination against them has been a matter of a long conflict between customary thinking and Islamic doctrine since the *1906-7 Constitution*. Alireza Najafinejad and Masoumeh Rad Goudarzi, "Religious Minorities' Rights in the Iranian Constitution of 1906 and the Constitution of the Islamic Republic of Iran," *Asia-Pacific Journal on Human Rights and the Law* 21, no. 2 (December 2020): 298.

16. *Oxford Reference*, s.v. "Irtidad," accessed November 15, 2023, <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803100011599>.

17. Frank Griffel, "Apostasy," in *The Princeton Encyclopedia of Islamic Political Thought*, ed. Gerhard Bowering et al. (Princeton University Press, 2012), 131.

18. Kamran Hashemi, *Religious Legal Traditions, International Human Rights Law and Muslim States* (Brill/Nijhoff, 2008), 27. <https://doi.org/10.1163/ej.9789004165557.vii-286.10>; Kamran Hashemi, "Limitations on Freedom of Religion and Expression under Muslim Legal Traditions

IRI's criminal law to this issue is different.

2.1.2.1. The Crime of Apostasy as Conversion

Firstly, apostasy as conversion has not been criminalized in *IPC 2013* in spite of the severe punishment of apostasy in Islamic law (*fiqh*) that is execution of male apostates and solitary confinement till repenting and returning to Islam for female apostates.¹⁹ *IPC 2013* has not determined a direct criminal sanction for the apostasy as '*irtidad*'. Such a policy may be described as obscure. However, some Iranian scholars regard it a purposeful silence because the legislator has not inclined toward criminalizing this significant kind of apostasy.²⁰ While '*irtidad*' is a capital crime in Islam, they interpret the silent attitude of *IPC 2013* in accordance with the recognized Islamic jurisprudence in IRI (*shi'a*) that tolerates the apostates as it happens by forgiving them. Notwithstanding the argument, there is a way out in *IPC 2013* that will be discussed in next part of the paper.

2.1.2.2. The Crime of Apostasy as Heresy

Secondly, apostasy as heresy has not been criminalized in *IPC 2013*, but yet several provisions of the code based upon the Islamic jurisprudence (*fiqh*) have clauses or stipulations that may be construed as this form of apostasy. While the old Islamic Penal Code (*IPC 1991*) used the expression of 'heretic' or 'infidel' for the non-Muslim, *IPC 2013* has substituted the former expression by the latter phrase. Books Two to Four of *IPC 2013* are the main parts that include Islamic criminal offences.²¹ The regulations of these parts relating to the heretic who are described as non-Muslims may be interpreted against the equality and non-discrimination principles. In *hudud* crimes, for example, the

of Apostasy and under International Human Rights Law," *The Journal of Human Rights Semi-Annual* 12, no. 2 (March 2018): 39. <https://doi.org/10.22096/hr.2018.92717.1063>.

19. Peters Rudolph, *Crime and Punishment in Islamic Law* (Cambridge: Cambridge University Press, 2005), 64.

20. Seyyed Mustafa Muhaqqiq Damad and Sayyed Muhsen Musavifar, "The Crime of Apostasy (*Irtidad*) in the Islamic Traditions (Ahadith)," *Criminal Law Doctrines* 11, no. 8 (January 2014): 3.

21. They are divided into three categories: (1) Offenses and punishments which are fixed based on the fundamental sources of Islamic jurisprudence, i.e. *Qur'an* and/or *Sunna*. These are called '*hudud*' as fixed corporal punishments. (2) Offenses against the physical integrity of persons, including intentional injury and homicide, which are considered matters to be settled between the offender and the victim. They include retaliation (*qisas*) and wergild or financial compensation (*diya*), and (3) Offenses which are not fixed based on the fundamental sources of Islamic jurisprudence, and their criminal sanction or penalty are discretionary (*ta'zir*). See: Christie S. Warren, "Islamic Criminal Law," Oxford Bibliographies, Last modified January 15, 2019, <https://doi.org/10.1093/OBO/9780195390155-0035>.

fix punishment of a non-Muslim man with a Muslim woman is death (Art. 224-c). Sodomy, interfemoral sex, and tribadism have also the same punishment if the active partner is non-Muslim (Note 1 of Art. 234). Thus, while the Muslim fornicator receives one hundred whiplashes as his/her fixed punishment, the non-Muslim fornicator who could be one of the recognized religious minorities in the *IRI's Constitution*, is punishable by death penalty.

Such differentiating regulations are applied in *qisas* crimes where the sameness of perpetrator's and victim's religion is a main general requisite for retaliation. Accordingly, if a non-Muslim commits a murder or intentional bodily injury against a Muslim, he/she shall be punished provided having the *qisas* requirements (Art. 301 and its Note; also Art. 310). Conversely, if the victim is non-Muslim, being Muslim of the perpetrator will be an obstacle for *qisas* due to the lack of a main general requisite for retaliation. Moreover, if both perpetrator and victim are non-Muslim, converting the perpetrator to Islam before retaliation will result in dropping the punishment and changing it to a lesser penalty, i.e. *ta'zir* (Note 2 of Art. 310).

2.1.2.3. The Crime of Apostasy as Blasphemy

In the end, thirdly, apostasy as blasphemy is a serious crime according to *IPC 2013*. This crime that is also called *sabb* or *sabb-ul-nabi* in Islamic jurisprudence has a long history. Overall, it is defined as "the act of expressing contempt or a lack of reverence for God or sacred things."²² But in Islam, it is principally designated to the swearing at the Prophet (*nabi*). Accordingly, "Anyone who swears at or commits *qazf* [false accusation of adultery (*zina*)] against the Great Prophet [of Islam] (PBUH) or any of the Great Prophets, shall be considered as *Sāb ul-nabi* [a person who swears at the Prophet], and shall be sentenced to the death penalty" (Art. 262 of *IPC 2013*). The latest change relating to minorities groups and religious issues in Iran is a contradictory legislation according which the Act of Supplementing Two Articles to the Fifth Book of Islamic Penal Code (Discretionary and Preventive Penalties) was enacted in Feb 2021. Art. 499 (Repeated) of the amended IPC provides a penal protection measure upon which anyone who insults Iranian ethnicities or divine religions or Islamic schools of thought recognized under the *IRI's Constitution* with the intent to cause violence or tensions in the society or with

22. Jiou Park, "Apostasy and Blasphemy in Islamic Law," Islamic Law Blog, Last modified December 11, 2015, <https://islamiclaw.blog/2015/11/17/apostasy-and-blasphemy-in-islamic-law>.

the knowledge that such [consequences] will follow, shall be guilty of an offence. Art. 500-2 (Repeated), conversely, establishes a conflicting provision on which any deviant educational or proselytizing activity that contradicts or interferes with the sacred law of Islam whether as part of a sect or through the use of mind control methods and psychological indoctrination, including making false claims or lying in religious and Islamic spheres such as claiming divinity, shall be an offence with a punishment of two to five years in prison, and/or a fine.

Such laws and provisions, discussed in this part, could be seen as a serious challenge due to the definition of a part of citizens, particularly religious or minority groups as criminal, and even to be victimized by the violation of their human rights.

2.2. Challenges of the Principle of Legality in Criminal Law

The provisions of the principle of legality are severally addressed in the *IRI's Constitution*, including in Arts. 32 (non-unlawful arrest), 36 (lawful sentencing and executing by a competent court), 37 (presumption of innocence), 166 (legality of courts' verdicts), and 169 (retrospective criminal laws). The principle is defined as one of the bases in criminal law, but at the same time is subordinated to a fundamental legal principle namely the rule of law. Thus, some scholars define it as a fundamental principle of a state governed by the rule of law.²³ One of the requirements of the legality principle is that legislation must be clear and unequivocal as well as prospective instead respectively based on the rule of law.²⁴

Art. 32 of the *IRI's Constitution* denotes the procedural aspect of the legality principle in criminal law, which has been redefined in Chapter Four of Part One/Book One of *IPC 2013* entitled 'Legality of Crimes, Punishments and Criminal Procedure' (Arts. 12 and 13). Art. 36 of *IRI's Constitution* implies the substantive aspect of the legality principle in criminal law, which governs on laying down the definition of crime and punishment in the law. Taking into account the principles governing criminalization, there is a relationship between criminalization and human rights and constitutional law. It means that the fundamental principles of criminalization, including the harm principle and

23. Silvia Tellenbach, "The Principle of Legality in Iranian Constitutional and Criminal Law," in *The Rule of Law, Islam and Constitutional Politics in Egypt and Iran*, ed. Said Amir Arjomand and Nathan J. Brown (New York: Suny Press, 2013), 101.

24. Daniel Grădinaru, "The Principle of Legality." *RAIS Conference Proceedings* (November 2018): 290. <https://doi.org/10.5281/zenodo.1572191>.

protection of the rights of others, are primarily laid down in the constitution.²⁵ *The IRI's Constitution*, accordingly, states that "No one can claim the exercise of his right as a pretext to harm others or to infringe on the public interest." (Art. 40). It is obvious that a part of harms or losses may fall into the boundaries of criminalization. However, criminalizing behaviors or conducts of citizens are confined based upon one of the most significant legal principles namely 'the presumption of innocence'. It is regarded as a component of procedural aspect of legality principle in criminal law, and is recognized by international human rights law. Thus, Art. 37 of the *IRI's Constitution* stipulates this principle as follows: "Innocence is presumed. The law does not consider anyone guilty unless the person's guilt is proven at a competent court." Some authors describe the presumption of innocence in a close connection to the legality principle due to the sense of the positive law.²⁶

Two other Arts. of the *IRI's Constitution* relating to the legality principle are Arts. 166 and 169 according which "[t]he verdicts of courts must be well reasoned out and documented with reference to the articles and principles of the law in accordance with which they were delivered" (Art. 166), and "[n]o act or omission may be regarded as a crime with retrospective effect on the basis of a law framed subsequently" (Art. 169).

While all the mentioned-above provisions guarantee the principle of legality, there are certain challenges which are derived from Art. 167 of the *IRI's Constitution*. This article has become one of the most controversial debates among Iranian jurists since the *1979 Islamic Revolution*. As stated by Art. 167: "The judge must try to base the verdict of each dispute on the codified laws. If his attempt fails, he should issue the verdict on the case by referring to reputable Islamic sources or religious rulings ('*fatwas*'). He cannot refrain from issuing a verdict under the pretext of silence, deficiency, brevity, or inconsistency in the laws."

The predominant doctrine interprets the provision in contrary to the principle of legality in criminal law.²⁷ Some authors argue that as Arts. 32, 36, 37, 166, and 169 recognize the principle of legality, Art. 167 could not include criminal matters. In other words, criminal matters are excluded from this

25. Tatjana Hörmle, "Theories of Criminalization," in *The Oxford Handbook of Criminal Law*, ed. Markus D. Dubber and Tatjana Hörmle (Oxford: Oxford University Press, 2014), 679-701. <https://doi.org/10.1093/oxfordhb/9780199673599.001.0001>.

26. Tellenbach, "The Principle of Legality," 104.

27. Amir Khan Sepahvand, *Offences against the Person* (Tehran: Majd Publications, 2006), 23.

article.²⁸ However, other laws and provisions in the Iranian legal system have been demonstrating the inclusion of Art. 167 to criminal matters either in their substantive or procedural aspects. In other words, considering the immutable principle contained in Art. 4 of the *IRI's Constitution* that stipulates the superiority of *Shari'a* over all laws and provisions, sources of criminal norm (criminalization) are defined as a hybrid system. Though it is recognized by the law as a statutory system, but the system is subordinated to the immutable principle of the superiority of Islamic principles. Thus, while the definition of crimes and punishments, as well as their procedures are based upon the principle of legality, their validity depends on the *Shari'a* as the supra-principle in this legal system. It requires a *Shari'a*-centered authority beyond the boundaries of statutory law who has the power to lay down criminal norms according to the Islamic principles and jurisprudence. Although such an interpretation may seem pessimistic, the history and background of legislations based on Art. 167 confirm it.

Arts 289 of Act for Amendment of Criminal Procedural Code 1982, 29 of Establishment of Criminal Courts 1 and 2 Act 1989, 214 of Criminal Procedure Code 1999 were certain provisions acknowledging the content of Art. 167. Despite the silence of the new Criminal Procedure Code 2013 in this regard, Art. 220 of IPC 2013 resolves ambiguity about the inclusion of the contested article to criminal matters, and as some authors have written, brings all debates to an end (Tellenbach, 2013, 26). It states that: "In the case of *hodud* crimes which are not mentioned in this code, it will be acted according to Art. 167 of the *IRI's Constitution*."

This provision necessitates that certain crimes which are defined as *hodud* in Islamic jurisprudence (*figh*), but at the same time, they are not criminalized in *IPC 2013* (e.g. several forms of apostasy) still remain punishable by referring to reputable Islamic sources or religious rulings ('*fatwas*'). While Art. 220 of *IPC 2013* may be seriously criticized by the adherents of absolute application of the legality principle in criminal law,²⁹ however, it still seems to be interpreted in favor of this basic principle.³⁰

28. Seyyed Mostafa Mohaqqueq Damad, *The Rules of Islamic Jurisprudence: Penal Section* (Tehran: Nashr-e-Olume Eslami, 2000), 38.

29. Rasool Ahmad Zadeh and Gholamhosseyn Elham, "A Commentary to the Article (167) of the Constitution (of the Islamic Republic of Iran) from the Perspective of the Islamic Criminal Law," *Majlis and Rahbord Scientific Quarterly* 25, no. 95 (December 2018): 260.

30. See, e.g. Mehrdad Rayejian Asli, "The Principle of Legality in Criminal Law, with an approach to Recent Developments in the Iran Law," in *Comparative Criminal Sciences in the Light of International Cooperation*, ed. Hossein Gholami (Mizan Legal Foundation, 2017), 34.

2.3. Challenges of the Non-torture Principle

Art. 38 of *IRI's Constitution* provides one of the most important fundamental principles namely non-torture: "It shall be prohibited to apply any form of torture to obtain a confession or information. It shall not be allowed to force a person to give testimony, make a confession or take an oath; such testimony, confession or oath shall have no validity whatsoever. The violator of this article shall be punished according to the law".

This constitutional provision acknowledges the international principle of the prohibition against torture as an absolute norm named '*jus cogens*' (compelling law). The non-torture principle is now a fundamental principle of customary international law that is so strong and universally accepted along with international human rights law. Its universality feature requires that even States which have not approved the internationally recognized norm are still under its binding authority.³¹ While state's power over individual is determined and defined in public law, it is limited by the concrete standards and norms of international human rights law. Accordingly, under international law and international criminal law, the scope of non-torture principle not only includes all specific acts and behaviors as torture in itself, but also extends to all cruel, inhuman or degrading treatment or punishment that are defined as similar forms of torture, also known 'other prohibited ill-treatment'.³² Such an extended definition has brought about a reluctant attitude of some of states that do not approve the *1984 Convention* in despite of its binding characteristic. IRI is one of most known countries that has not ratified the *1984 Convention* notwithstanding the recognition of the non-torture principle in its domestic constitution.

The international standard definition of torture (Art. 1 of the *1984 Convention*) is broader than the definition contained in the *IRI's Constitution*; even though the constitution does not define the components of acts or behaviors including torture, but provides the context for criminalization of torture in statutory law. In Iranian criminal laws, there are two main challenges regarding the non-torture principle. The first challenge relates to the reluctant attitude of IRI to the concrete

31. *Torture in International Law, a guide to jurisprudence* (Geneva and Washington DC: APT and CEJIL, 2008), 2.

32. *Torture in International Law*, 7. See, for example: Universal Declaration of Human Rights 1948 (G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948)), Art. 5; United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment/1984 Convention (G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984)).

international norm prohibiting torture. The second challenge connects with the definition of *actus reus* of torture in *IPC*.

In respect of the first challenge, alongside some international norms relating to non-discrimination and women's issues, IRI have demonstrates a reluctant attitude to the *1984 Convention* due to serious conflict with its domestic law. While this reluctance in non-discrimination and women's issues is justified based on Islamic principles and jurisprudence (*Shari'a*),³³ the international norm concerning the prohibition of torture faces with an obstacle at the legislative level beside the immutable principle of superiority of *Shari'a*. Since the international concrete standard includes various types of acts or behaviors from torture to other cruel, inhuman or degrading treatment or punishment, such a wide-ranging definition has a momentous dispute with Iranian criminal laws, particularly provisions of Islamic crimes and punishments in *IPC 2013*. These provisions mainly encompass serious crimes with corporal punishments, consisting of *hudud* and *qisas*.³⁴ Although these harsh punishments could not be considered as torture in essence, they may be interpreted as cruel, inhuman, or degrading punishments in accordance with the second part of internationally recognized norm contained in the *1984 Convention*. All in all though, there is a significant exception as lawful sanctions relating to the international norm of prohibiting torture. While international instruments which were adopted before the *1984 Convention* did not provide any exception to the non-torture principle,³⁵ the latter part of the convention stipulates that the definition of torture "... does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions". However, such an exception seems to be described as a tool to draw states to join the *1984 Convention* because of the change in language compared with the previous instrument, including the earlier Declaration on the Protection of All Persons from Being Subjected Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (*1975 Declaration*).³⁶ Nevertheless, even such an exception has not induced IRI to join the *1984 Convention* due to serious human rights-based considerations and other political reasons in international relations.³⁷ It should

33. Rayejian Asli, "Incorporating the United Nations Norms", 76.

34. For other types of Islamic crimes and punishments, see footnote 21.

35. *Torture in International Law*, 31.

36. UN, Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 34/52, U.N. Doc. A/39/51A/RES/3452(XXX), 9 December 1975.

37. This means that it might be possible to pressure IRI by other states, esp. western countries, due to its domestic laws relating to corporal punishments (e.g. contained in *IPC 2013*) as violation of human rights, whether *de jure* or *de facto*.

be pointed out that the Bill of Accession of IRI to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was proposed by a group of Iranian Parliament members in 2000s but did not reach a conclusion.³⁸

Another challenge derived from the reluctant attitude of IRI to the concrete international norm prohibiting torture is the definition of *actus reus* of torture in *IPC*. Notwithstanding the enactment of new *IPC 2013*, the provisions of Book V entitled '*Ta'zri/Ta'ziraat*' (enacted in 1996: *BV 1996*) are still in force. Arts. 578 and 579 of *BV 1996* provide the provisions of torture and other prohibited ill-treatment. These provisions are contained in Chapter 10 of *BV 1996* entitled 'Faults of Governments Authorities and Officials', and they could be interpreted based on the non-torture principle in *IRI's Constitution*. According to Art. 578: "Any judicial or non-judicial government official physically abuses or assaults an accused in order to force him/her to confess, shall be sentenced to imprisonment from six months to three years, in addition to *qisas* or *diya*, according to the circumstance, and if anyone orders to do so, he/she shall solely be sentenced to the above-mentioned imprisonment, and if the accused dies due to the physical abuse or assault, the principal shall be guilty of a murder, and someone who gives the order shall be liable for his/her own legal punishment".

In comparison with the international standard definition contained in *1984 Convention*, the *actus reus* of crime of torture in *BV 1996* is confined to any act by which severe pain or suffering, only physical, is intentionally inflicted on a person. Thus, severe mental pain or suffering is subtracted from the definition of torture. Therefore, from an *actus reus*-related analysis, the act of torture is restricted to conducts or behaviors including abuse and assault. Such a definition may exclude many other types or forms of torture containing, *inter alia*, non-physical ill-treatment. The definition is also restricted in terms of the victim of torture. While Art. 1 of *1984 Convention* accepts a broad concept of victim, Art. 578 of *BV 1996* takes a strict concept in reference to term 'the accused'.³⁹

38. Islamic Parliament Research Center (IPRC), Report on The Bill of Accession of IRI to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, no. 6654, 2003. <https://rc.majlis.ir/fa/report/show/730925>.

39. There are other limitations and deficiencies in Art. 578 among them confining the definition of torture to any act in order to force the accused to confess, and the vagueness of amount of seriousness in the conduct involving abuse or assault are deserved to refer. For further study, see: Ahmad Haji-Dehabadi, Ebrahim Ahmadi, and Jalaledin Samsami, "Article 38 of

With respect to other cruel, inhuman or degrading treatment or punishment as 'other prohibited ill-treatment', Art. 579 of *BV 1996* merely confines itself to criminalization of sentencing to a more severe punishment. According to Art. 579: "If any of the government officials punishes a convicted person more severely than the sentence that is imposed, or imposes a punishment that has not been sentenced, he/she will be sentenced to imprisonment from six months to three years, and if this act is committed under the order of another person, the person who gives the order shall be sentenced to the above-mentioned punishment, and if this act incurs *qisas* or *diya*, the principal shall also be sentenced to its punishment, and if this act involves another crime, the punishment of that crime will be imposed to the principal or the person who orders, according to the circumstance".

Regarding Arts. 578 and 579 of *BV 1996*, some Iranian scholars⁴⁰ do not believe that these provisions are sufficient and adequate to prevent the torture and to protect its victims, and thus, they specifically suggest amending Art. 578 in accordance with the constitutional non-torture principle.

3. Conclusion and Suggestions

The paper introduced the Iranian constitutional criminal law and examined their challenges from a human rights viewpoint by focusing on the post-revolutionary constitutional system. The three principles of non-discrimination and equality, legality, and non-torture are among the constitutional criminal law instances that face serious challenges, particularly where they are incorporated into Iranian statutory laws. Regarding challenges of non-discrimination and equality principles in terms of the gender-oriented system of criminal sanctions, one step to overcome the challenges is to join the *1979 Convention* which has been the subject to the Iranian Cabinet's approval of accession of IRI to this convention notwithstanding some conditions or reservations contained in this approval. This approach could result in a non-discriminatory system of criminal sanctions that one of its major samples already occurred in respect of the wergild for crimes against the religious minorities according to Art. 554 of IPC 2013. Therefore, such an equivalence

Constitution of Islamic Republic of Iran (Prohibition of Torture): Explaining its Principles and Reviewing the Existing Criminal Policy Thereof," *The Judiciary Law Journal* 79, no. 90 (June 2015): 7 and 30.

40. Haji-Dehabadi, Ahmadi and Samsami, "Article 38 of Constitution of Islamic Republic of Iran," 7.

in the wergild of both men and women seems ideal whenever IPC amends or changes.

Regarding the issue of religious minorities as a challenge to the right to freedom of religion, the silence strategy that has been adopted in apostasy as conversion and heresy requires that these crimes are not explicitly criminalized in IPC 2013 even though they may implicitly be so according to what follows in relation to the legality principle.

Despite several provisions relating to the principle of legality in the *IRI's Constitution*, the Achilles' heel of this principle is the controversial Art. 167 that has been re-established in Art. 220 of *IPC 2013*. According to a descriptive approach, just as Iranian judges have no longer unlimited powers to refer to the content of Art. 167 in criminal matters, it is an effective step-by-step process towards the reinforcement of the principle of legality. In other words, considering the categorization of crimes and punishments in Islamic jurisprudence or *Shari'a*, implementing Art. 167 in all *Shari'a* prohibitions in criminal matters would be restricted. Thus, in those criminal matters entitled '*had/hodud*', powers of judge in referring to Art. 167 would be confined to the scope of Art. 220 of *IPC 2013* upon which conventional *hodud* crimes (like apostasy as *irtidad/ridda*, conversion, heresy, or blasphemy, and sorcery or witchcraft) may be punishable according to Islamic jurisprudence or *Shari'a*. Thus, based on the descriptive approach, the judiciary could expect judges to restrict their powers to refer to the content of Art. 167 in terms of expediency of IRI.⁴¹

Despite the virtue of descriptive approach in confirming the principle of legality, a converse attitude which is called as normative approach may arise. This normative perspective draws an idealistic paradigm that emphasizes the absolute applicability of the legality principle in criminal law. It is obvious that such an approach requires the accomplishment of a process through which an absolute form of legality principle is established in the criminal legal system that would not be achievable while the immutable principle of superiority of *Shari'a* remains in the domestic constitutional criminal law.

Finally, regarding challenges of the non-torture principle, accession of IRI to the *1984 Convention* can be proposed. The bill of Iranian Parliament that

41. Such an expediency approach was adopted in stoning (*rajm*) cases in the time of administration of Ayatollah Heshemi Shahroodi on the judiciary according which sentencing to this punishment ceased. "Jamshidi: The stoning is suspended," *Asr Iran*, August 5, 2008, <https://www.asriran.com/fa/news/49213>.

mentioned before⁴² has provided a background for this purpose. It was supported by a report from the Legal Studies Office of Islamic Parliament Research Center that suggests a systematic and principled approach to accession of IRI to the *1984 Convention*.

From an internationally point of view, the conflict between *Shari'a* and the recognized legal principles and rules has resulted in a diverse attitude of IRI to the international concrete norms and standards that were discussed elsewhere.⁴³ This diverse attitude can be analyzed into two reluctant and positive forms, and in the framework of the present paper indicates a gradual shift towards international human rights law notwithstanding a strict obedience and adherence to the Islamic law (*shari'a*). The reluctant form, which is the hard core of diverse attitude is evident in respect of certain groups like women and religious minorities,⁴⁴ but the positive form, which is the soft core of diverse attitude is restricted to certain groups of persons esp. children and disabled persons.⁴⁵ Taking into account the reluctant attitude, for example, in relation to the non-torture principle, it seems that until the conflict of international definition of torture with corporal punishments persists, the reluctant attitude of IRI to the concrete international norm prohibiting torture will not be changed. In this regard, amending the provisions of Islamic Penal Code relating to criminalization of torture might as well be a green light in accordance with the international and constitutional aspects of the non-torture principle. Parallel with conformity to internationally recognized norms, another solution to promote the relevant gradual shift is to utilize the capacities of Islamic jurisprudence (*fiqh*) in amending the statutory laws and or reforming the legal system. Such a strategy was adopted, for instance, in the field of the wergild for crimes against the religious minorities recognized in the *IRI's Constitution* on the authority of the Supreme Leader of IRI, which is determined as much as the Muslim's wergild.

42. See footnote 38.

43. Rayejian Asli, "Incorporating the United Nations Norms," 76.

44. Not joining the UN Conventions on the Elimination of All Forms of Discrimination against Women (1979) and the UN Declaration on the Elimination of Violence against Women (1993) by IRI are two major examples of the reluctant attitude of Iran. Rayejian Asli, "Incorporating the United Nations Norms," 76 -77.

45. Ratifying the UN Convention on the Rights of the Child (1989) and the Rights of Persons with Disabilities (2006) by IRI, respectively in 1994 and 2004 are two significant examples of the positive attitude of Iran. Rayejian Asli, "Incorporating the United Nations Norms," 73, 75.

Bibliography

- Ahmad Zadeh, Rasool, and Gholamhosseyn Elham. "A Commentary to the Article (167) of the Constitution (of the Islamic Republic of Iran) from the Perspective of the Islamic Criminal Law." *Majlis and Rahbord Scientific Quarterly* 25, no. 95 (2018): 247-272. [in Persian]
- Ansari, Ali. "Introduction: Developing Iranian Intellectual History." In *Iran's Constitutional Revolution of 1906 and Narratives of the Enlightenment*, edited by Ali Ansari, 1-14. London: Gingko, 2016.
- Ashouri, Daryoush. *A Dictionary for Human Sciences: English-Persian*. Tehran: Nashr-e-Markaz, 2014. [in Persian]
- Borbor, Dariush. "A Comparative Overview of the Iranian Constitutions of 1906-07 and 1979." *Iran & the Caucasus* 10, no. 2 (2006): 263-286.
- Chandra, Aparna, and Mrinal Satish. "Criminal Law and the Constitution." In *The Oxford Handbook of the Indian Constitution*, edited by Pratap Bhanu Mehta, Sujit Choudhury, and Madhav Khosla, 794-813. Oxford: Oxford University Press, 2015.
- Encyclopedia Britannica*. Accessed January 28, 2024. <https://www.britannica.com>.
- Foundation for Iranian Studies. "Iran's 1906 Constitution." Accessed November 14, 2023. <http://fisiran.org/en/resources/legaldoc/iranconstitution>.
- Grădinaru, Daniel. "The Principle of Legality." *RAIS Conference Proceedings* (2018): 289-294. <https://doi.org/10.5281/zenodo.1572191>.
- Griffel, Frank. "Apostasy." In *The Princeton Encyclopedia of Islamic Political Thought*, edited by Gerhard Bowering, Patricia Crone, Wadad Kadi, Devin J. Stewart, Muhammad Qasim Zaman, and Mahan Mirza, 131-134. Princeton: Princeton University Press, 2012.
- Haji-Dehabadi, Ahmad, Ebrahim Ahmadi, and Jalaedin Samsami. "Article 38 of Constitution of Islamic Republic of Iran (Prohibition of Torture): Explaining its Principles and Reviewing the Existing Criminal Policy Thereof." *The Judiciary Law Journal* 79, no. 90 (2015): 7-36. [in Persian]
- Hashemi, Kamran. "Limitations on Freedom of Religion and Expression under Muslim Legal Traditions of Apostasy and under International Human Rights Law." *The Journal of Human Rights Semi-Annual* 12, no. 2 (2018): 39, 72. <https://doi.org/10.22096/hr.2018.92717.1063>.
- . *Religious Legal Traditions, International Human Rights Law and Muslim States*. Leiden: Brill/Nijhoff, 2008. <https://doi.org/10.1163/ej.9789004165557.vii-286.10>.
- Hörnle, Tatjana. "Theories of Criminalization." In *The Oxford Handbook of Criminal Law*, edited by Markus D. Dubber and Tatjana Hörnle, 679-701. Oxford: Oxford University Press, 2014. <https://doi.org/10.1093/>

- oxfordhb/9780199673599.013.0030.
- Islamic Parliament Research Center (IPRC). Report on The Bill of Accession of IRI to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. no. 6654, 2003. <https://rc.majlis.ir/fa/report/show/730925>.
- Islamic Republic of Iran. The Constitution of the Islamic Republic of Iran 1979, last amended in 1989.
- “Jamshidi: The stoning is suspended.” *Asr Iran*, August 5, 2008, <https://www.asriran.com/fa/news/49213>.
- Katouzian, Homa. “The Revolution for Law: A Chronographic Analysis of the Constitutional Revolution of Iran.” *International Journal of Economics and Politics* 2, no. 1 (2021): 63-96.
- Mohaqqeq Damad, Seyyed Mostafa. *The Rules of Islamic Jurisprudence: Penal Section*. Tehran: Nashr-e-Olume Eslami, 2000. [in Persian]
- Muhaqqiq Damad, Seyyed Mustafa, and Sayyed Muhsen Musavifar. “The Crime of Apostasy (*Irtidad*) in the Islamic Traditions (*Ahadith*).” *Criminal Law Doctrines* 11, no. 8 (2014): 3-24. [in Persian]
- Najafinejad, Alireza, and Masoumeh Rad Goudarzi. “Religious Minorities’ Rights in the Iranian Constitution of 1906 and the Constitution of the Islamic Republic of Iran.” *Asia-Pacific Journal on Human Rights and the Law* 21, no. 2 (2020): 298-325.
- Oxford Reference*, Accessed November 15, 2023, <https://www.oxfordreference.com>.
- Park, Jiou. “Apostasy and Blasphemy in Islamic Law.” Islamic Law Blog, December 11, 2015, <https://islamiclaw.blog/2015/11/17/apostasy-and-blasphemy-in-islamic-law>.
- Rayejian Asli, Mehrdad. “Incorporating the United Nations Norms into Iranian Post-Revolution Criminal Policy: A Criminological-Victimological Approach.” In *Crime Prevention and Justice in 2030*, edited by Helmut Kury and Slawomir Redo, 69-82. Springer Nature Switzerland AG, 2021.
- . “The Principle of Legality in Criminal Law, with an approach to Recent Developments in the Iran Law.” In *Comparative Criminal Sciences in the Light of International Cooperation*, edited by Hossein Gholami, 34-56. Mizan Legal Foundation, 2017. [in Persian]
- Rudolph, Peters. *Crime and Punishment in Islamic Law*. Cambridge: Cambridge University Press, 2005.
- Saleh, A. P. trans. *The Iranian Constitution with Amendments*. Tehran: Legal Department of Ministry of Foreign Affairs, supplied by Ministry of Foreign Affairs February, 1965. <https://irandataportal.syr.edu/wp-content/uploads/iran1957.pdf>
- Saint-Marin Case of Buscarini and Others (Affaire Buscarini et Autres c. v.

- San Marino). Requête n°/application no. 24645/94. <https://www.eods.eu/elex/uploads/files/57c43b4771828-BUSCARINI%20AND%20OTHERS%20v.%20SAN%20MARINO.pdf>.
- Sepahvand, Amirkhan. *Offences against the Person*, Tehran: Majd Publications, 2006. [in Persian]
- Tellenbach, Silvia. "The Principle of Legality in Iranian Constitutional and Criminal Law." In *The Rule of Law, Islam and Constitutional Politics in Egypt and Iran*, edited by Said Amir Arjomand and Nathan J. Brown, 100-122. New York: Suny Press, 2013.
- Torture in International Law, a guide to jurisprudence. Geneva and Washington DC: APT and CEJIL, 2008.
- UN Human Rights Committee (HRC). CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion). 30 July 1993, CCPR/C/21/Rev.1/Add.4. Accessed November 15, 2023. <https://www.refworld.org/docid/453883fb22.html>.
- United Nations. Convention against Torture and Other Cruel, Inhuman or Degrading Punishment. G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984). <https://digitallibrary.un.org/record/74216?ln=en>.
- . Declaration on the Protection of All Persons from Being Subjected Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. G.A. res. 34/52, U.N. Doc. A/39/51A/RES/3452 (XXX), 9 December 1975. <https://digitallibrary.un.org/record/189613?ln=en>.
- . Universal Declaration of Human Rights 1948. G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948). <https://digitallibrary.un.org/record/666853?ln=en>.
- USCIRF'S Mission. "Violating Rights Enforcing the World's Blasphemy Laws." Accessed November 16, 2023. <https://www.justice.gov/eoir/page/file/1345006/download>.
- Warren, Christie, S. "Islamic Criminal Law." Oxford Bibliographies. Last modified January 15, 2019, <https://doi.org/10.1093/OBO/9780195390155-0035>.



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