



Family-Based Responses to Juvenile Delinquency in Imāmī Jurisprudence and the Criminal Law of Iran and France

Ruhollah Ebrahimi¹ , Mohammad Ali Haji Deh Abadi² ,
and Sayyid Alireza Hosseini³ 

1. PhD Student in Jurisprudence and Foundations of Islamic Law, Islamic Azad University, Mahalat Branch, Mahalat, Iran. Email: rohollah1360ab@gmail.com
2. Corresponding Author, Associate Professor of Criminal Law and Criminology, University of Qom, Qom, Iran. Email: ma.hajidehabadi@qom.ac.ir
3. Assistant Professor, Department of Jurisprudence and Foundations of Islamic Law, Islamic Azad University, Mahalat Branch, Mahalat, Iran. Email: seyed150@gmail.com

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ABSTRACT

Juvenile delinquency and appropriate responses to it constitute one of the significant concerns of most social systems. Given that the family plays a pivotal role in the formation of personality and the socialization of children and adolescents, emphasis is placed on preserving this position when addressing juvenile delinquency. Examining this matter from the perspective of Imāmī fiqh and the criminal laws of Iran and France is the subject of the present article, which has been prepared using a descriptive-analytical method. Considering the responsibility that Islam places upon parents and the obligations it assigns to them in the vital matter of upbringing, the family holds a highly significant status in Islam—such that it occupies a central position in community-based responses, whether proactive or reactive, to juvenile delinquency. Islam prefers such responses over state-imposed criminal sanctions. Examples of these responses include the child's religious upbringing, the fulfillment of his essential needs, and his proper discipline (ta'dīb). This emphasis is reflected, to some extent, in the criminal laws of both Iran and France. The acceptance of guardianship by the biological family or a substitute family, along with the obtaining of necessary guarantees from them, are examples of attention to the family's role in responding to juvenile delinquency. Nevertheless, in light of Islamic teachings, it can be asserted that serious shortcomings remain in this regard.

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Introduction

The family is the first social environment into which a person enters and consists of a group of individuals connected through marriage and the resulting kinship ties. Its basic structure includes the husband and wife (as essential elements) and their children, and it may be either nuclear or extended. While the formation of society without the family is impossible, the family's influence extends far beyond this foundational role. It performs a variety of functions—emotional, economic, educational, and more. Just as society influences the formation and functioning of the family through laws and regulations, the family, in turn, contributes to the vitality and achievement of societal goals, including order and security, through its functioning.

By raising law-abiding children and appropriately responding to their deviance, the family helps the community achieve greater security. The formation of an individual's personality is closely tied to the upbringing received in childhood. A child learns behaviors, life habits, and environmental adaptability primarily within the family. Just as juvenile delinquency can result from deficiencies in the family's educational role, the response to such delinquency can also be family-centered. Such responses are not limited to reactive measures taken after delinquency occurs but also include proactive or preventive measures. Moreover, the concept of juvenile delinquency here is not confined to behaviors legally defined as crimes but extends to deviations and misconduct that seriously lead the child astray.

The central research question of this article is: What is the nature of family-based responses to juvenile delinquency from the perspectives of Imāmī fiqh, Iranian criminal law, and French criminal law? The corresponding hypothesis is that the nature of these responses, based on the educational and moral responsibilities of the family, is not punitive but corrective and educational. In other words, the family's role in responding to the delinquency of children is recognized by both the Islamic legislator (al-shāriʿ al-muqaddas) and criminal lawmakers, and accordingly, placing such children under the guardianship of their families serves as a mechanism of assurance.

This article aims to examine the nature of family-based responses to juvenile delinquency from three perspectives—Imāmī jurisprudence, Iranian criminal law, and French criminal law—in order to identify their similarities and differences, as well as their strengths and weaknesses. To this end, the nature of the family's responses will first be examined from the perspective of Imāmī fiqh, followed by an analysis of the French criminal justice system, and finally the approach of Iranian criminal law.

Methodology

This study employs a descriptive-analytical method and relies on library-based research. Foundational sources of Imāmī fiqh as well as primary Islamic texts, including the Qurʾān and authentic ḥadīths, have been examined.

Additionally, relevant materials on the characteristics of French criminal law were studied, collected, and compared with the Islamic legal framework.

Findings

According to the prevailing discourse in Imāmī fiqh, a child, prior to reaching the age of bulūgh (legal maturity), bears no legal obligation or responsibility. Nevertheless, the family is required to undertake the child's moral and educational upbringing. From this perspective, if a child's behavior constitutes delinquency, even though the child bears no criminal responsibility, corrective (ta'dībī) responses are envisaged due to the responsibilities of both the family and society. Primarily, the family may—and in some cases must—apply such responses, which are grounded in the parents' right and duty to educate the child. These responses may take various forms, ranging from advice and admonition to temporary avoidance, reprimand, and corporal discipline, subject to specific conditions and permissible only within certain limits.

Although these responses are fundamentally community-based, they may also involve governmental measures. The scope of such governmental intervention, especially in light of modern legal approaches, remains a point of discussion. In Iranian criminal law, following but slightly modifying the principles of Imāmī fiqh, the role of the family in addressing juvenile delinquency is recognized. Article 88 of the Islamic Penal Code (2013) addresses this role explicitly. The most important court-ordered measures requiring family involvement include the child's guardianship by his or her own family or a substitute family (in cases of moral corruption or inability to access the biological family), and the imposition of specific obligations on the guardian family determined by the court. These obligations may include corrective and therapeutic measures (e.g., involving social workers, psychologists, or addiction treatment), educational requirements, and supervisory or monitoring duties.

Similarly, in French criminal law, courts impose comparable obligations on families in response to juvenile delinquency. Article 122-8 of the French Penal Code specifies such family-based obligations in several provisions.

Conclusion

In Imāmī fiqh, Iranian criminal law, and French criminal law, the family plays a central role in responding to juvenile delinquency. While in Imāmī jurisprudence such responses are framed primarily as corrective and educational, both Iranian and French law incorporate them within the legal framework, often under court supervision. These responses share a common emphasis on the rehabilitative function of the family, yet differences exist in the scope of state intervention and the specific forms of obligations imposed. Comparative studies—particularly those bridging secular and religious legal systems—can open new perspectives for adopting more effective measures

against social deviance. The emphasis placed by revealed religions, especially Islam, on the family, and the specific regulations governing its formation, functions, and objectives, merit closer examination. This is particularly true in relation to the upbringing of children. On the other hand, human societies, drawing upon centuries of experience and human reason, have developed legal norms in which religious beliefs have often played a significant role. Revisiting and conducting interfaith comparative studies can further enrich this field and offer more comprehensive strategies for addressing juvenile delinquency.

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