

Obstacles to Criminal Liability Arising from Discipline and Punishment: A Comparative Study of Iranian and Egyptian Criminal Law

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Abstract

This article examines the obstacles to criminal liability arising from disciplinary and punitive actions in Iran and Egypt. Despite the existence of child protection laws in both countries—such as the Law on the Protection of Children and Adolescents in Iran and Law No. 126 of 2008 in Egypt—significant barriers remain to holding individuals criminally liable for acts of discipline and punishment. Corporal punishment is still widely accepted as an educational tool, and parents' right to discipline their children is broadly interpreted. As a result, such interpretations form a major obstacle to establishing meaningful criminal liability for corporal punishment, ultimately affecting the health and rights of children. A comparative analysis shows that, in practice, both legal systems recognize the parents' right to punish without criminal responsibility, although this right has been severely restricted in educational settings. The article recommends a structural revision of existing laws, the gradual elimination of the parental right to corporal punishment, and the mandatory implementation of legal controls and public awareness initiatives to ensure genuine protection of children.

Keywords: Criminal liability, discipline, punishment, obstacles to criminal liability, parents.

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1. Introduction

The concepts of *ta'dīb* (discipline) and *ta'zīr* (discretionary punishment) occupy a significant position in both Iranian and Egyptian jurisprudence, particularly in matters concerning children, disobedient wives, and individuals of unsound mind. The former denotes the process of moral and educational correction (Hadi Goshayesh, 2016), whereas the latter refers to punishment and retribution (Najafi, 1988). The establishment and scope of criminal liability for those who engage in acts of discipline and punishment have long been subjects of doctrinal divergence within both Islamic jurisprudence and contemporary criminal law. Certain scholars emphasize the *intent* of the disciplining actor as the decisive criterion (Khomeini, 2020), others

focus on the *consequences* of the act (Khomeini, 2020), while some regard compliance—or lack thereof—with prescribed limits as the determining factor (Najafi, 1988; Sabzevari, 1990).

Nevertheless, the prevailing principle in both systems is that the actor who administers discipline or punishment is, in principle, criminally responsible for their actions. In Islamic jurisprudence, criminal liability arising from *ta'dīb* and *ta'zīr* rests upon foundational doctrines such as the prohibition of oppression, the sanctity of life, and the rule of liability (*damān*). Discipline, when exercised within customary bounds and without inflicting harm, is deemed permissible; however, any excess constitutes both criminal and civil liability. Even in minor offenses, corporal punishment must observe strict limitations, as transgression upon bodily integrity is explicitly prohibited. The implementation of *ta'zīr* must also conform to *sharī'a*-based standards, and deviation from such norms results in culpability. In essence, responsibility in the exercise of discipline and punishment is fundamentally rooted in the protection of rights and the prevention of injustice (Al-Fayad al-Kabir, 2005; Ansari, 2013).

In the Iranian legal system, both constitutional and statutory frameworks interpret criminal liability in disciplinary contexts through the lens of human rights and individual protections. The *Islamic Penal Code* and the *Law on the Protection of Children and Adolescents* criminalize acts that inflict harm and mandate humane considerations in determining the scope of disciplinary measures (Noorbaha, 2022). In Egypt, the *Constitution*, the *Penal Code*, and *Law No. 126 of 2008 on the Protection of Children's Rights* explicitly prohibit violent or harmful behavior, affirming criminal liability for those who exercise such disciplinary authority (Abu al-Futouh, 2024; Fawziyah, 2022).

From a jurisprudential and legal standpoint, the general rule is that the individual administering *ta'dīb* or *ta'zīr* is criminally responsible for their conduct. This responsibility, as a rule, is imposed on those who intentionally engage in disciplinary or punitive acts. However, certain exceptional conditions may exempt such individuals from liability or, at minimum, mitigate it. Within both the Iranian and Egyptian legal systems, there exist specific circumstances where disciplinary actions are not considered criminally liable. This issue is particularly important in cases where disciplinary measures are performed in good faith as preventive or corrective actions aimed at deterring future misconduct. Therefore, it becomes essential to delineate the conditions under which such acts may constitute obstacles to criminal liability.

A crucial dimension of this discourse involves identifying the circumstances under which the disciplining agent may be exempt from criminal liability. These conditions may encompass the intent and purpose behind the act, the observance of legal, customary, and religious boundaries of discipline, or broader social and ethical considerations (Mirmohammad Sadeghi, 2024b). The examination of such issues contributes to clarifying the boundaries of criminal responsibility and to advancing the interpretative framework governing disciplinary conduct. Moreover, the study of obstacles to criminal liability arising from *ta'dīb* and *ta'zīr* is not merely of theoretical importance—it carries significant practical implications for judicial decision-making and the procedural outcomes of criminal trials. The analysis of judicial practice in both jurisdictions reveals critical differences in interpretation and enforcement. Accordingly, this research undertakes a descriptive–analytical investigation of these obstacles, categorizing them into two main groups: (1) those that result in a complete exemption from criminal responsibility and (2) those that lead only to a reduction in liability.

2. Complete Obstacles to Criminal Liability

In contemporary law, the legal responsibilities of parents, teachers, and guardians—individuals entrusted with the care and upbringing of minors and dependent persons—constitute a highly intricate and sensitive subject. In certain circumstances, such individuals may be exempted from criminal responsibility for acts performed within their disciplinary roles. The total elimination of criminal liability in the context of discipline and punishment has been explicitly recognized, in varying forms, in both Iranian and Egyptian legislation. The following section addresses the legal conditions governing this exemption.

2.1. Exemption from Criminal Liability in Iran

Article 158 of the Iranian *Islamic Penal Code* explicitly exempts from punishment those actions undertaken by parents, legal guardians, or custodians of minors and the insane, provided such actions are performed for the purposes of discipline or

protection and within reasonable limits (Mirmohammad Sadeghi, 2024a; Yadegari, 2020). This provision reflects the legislator's acknowledgment of the essential role that parents play in the upbringing and protection of their children. Yet, the fundamental flaw in this article lies in the absence of a precise definition of the "reasonable limits of discipline and protection." Such vagueness may produce significant and irreparable consequences. Given the cultural and customary diversity across different regions of Iran, the determination of what constitutes "reasonable discipline" is often influenced by local traditions.

For instance, in some communities, corporal punishment is still viewed as an acceptable educational method, whereas in others it is strongly condemned. Consequently, the child's fate and conditions may vary drastically based on geographic and cultural context, giving rise to profound challenges in safeguarding children's rights and in delineating parental responsibility (Forqani, 2018). The principle of the child's *best interest*—a cornerstone of children's rights—becomes jeopardized, as certain disciplinary acts, though ostensibly motivated by concern for the child's moral development, may in fact cause harm to their physical and psychological health. Thus, it is imperative that legislators adopt a more precise and culturally sensitive framework defining the permissible scope of parental discipline. Such a framework would simultaneously protect children's rights and enable parents to fulfill their educational roles within lawful parameters. This approach not only advances child protection but also helps prevent potential conflicts between families and judicial authorities (Hadi Goshayesh, 2016).

Despite the improvements introduced by the *Islamic Penal Code*, it still fails to adequately safeguard children—particularly minors—from physical harm. To remedy this deficiency, the legislator enacted the *Law on the Protection of Children and Adolescents* in 2002, aiming to create a safer and healthier environment for minors. Yet, this law fell short of resolving the long-standing issue of parental corporal punishment. The recognition of a "parental right to discipline" in Article 59 of the former Penal Code perpetuated the problem, enabling potential abuse and unjustified violence within families and restricting opportunities to enhance children's rights (Samavati Firouz et al., 2009). Even the 2020 revision of the *Law on the Protection of Children and Adolescents* failed to abolish the parental right to corporal punishment. Accordingly, the right to discipline remains an established ground for excluding criminal responsibility under Article 158 of the current Penal Code. This situation underscores the urgent need for a comprehensive reevaluation of existing laws to align them with evolving social and cultural realities and to eliminate outdated and inequitable doctrines in the sphere of child discipline and protection.

Islamic jurisprudence, from which much of the parental immunity doctrine in Iranian law is derived, recognizes the principle that minors themselves are not criminally responsible. However, it treats corporal punishment only as a *last resort* in child-rearing. Classical jurists and modern Islamic legal scholars alike accept corporal punishment for educational purposes only when absolutely necessary and only within defined limits of proportionality and welfare (Teymouri, 2017). Yet, this notion of necessity and welfare is highly subjective and influenced by diverse social, cultural, and individual factors. Ambiguities in determining the degree and scope of permissible punishment, as well as parents' possible overreaction, may seriously endanger children's physical and mental well-being (Forqani, 2018).

As such, physical punishment continues to exist in Iran as a disciplinary instrument justified under Article 158 of the Penal Code, which implicitly allows parents to inflict harm on their children even absent a criminal act on the child's part (Miftah al-Molk Mazandarani, 2017). To promote a more humane legal culture, it is essential that positive and non-violent disciplinary approaches be encouraged through education and institutional initiatives. State authorities and social organizations must provide training programs to help parents adopt effective, non-harmful educational methods (Salehi et al., 2019). Such measures would represent a vital step toward ensuring children's rights and improving the quality of upbringing and protection in society.

Paradoxically, while even minor physical assaults against adults are criminalized, corporal punishment of children remains legally tolerated (Heidarkhah, 2019). This contradiction reveals a deep-seated imbalance in the Iranian legal system's treatment of vulnerable populations and its insufficient attention to children's rights (Mohammadi Faroud, 2001). Despite these inconsistencies, paragraph (t) of Article 158 still provides that acts carried out by parents, legal guardians, or custodians of minors and the insane for the purpose of discipline or protection are not punishable—provided that certain conditions are met.

2.1.1. Exercise of Discipline by Authorized Persons

The first condition for the exclusion of criminal liability under paragraph (t) of Article 158 of the *Islamic Penal Code* is that the person performing the act of discipline must be one who possesses the legal right to do so. The article explicitly refers to three groups: parents, legal guardians, and custodians of minors or persons of unsound mind. Only these persons are recognized as having a lawful disciplinary authority; consequently, disciplinary acts by individuals outside these categories—such as teachers or caregivers lacking formal authorization—cannot benefit from this exemption and remain subject to criminal responsibility (Mirmohammad Sadeghi, 2024b; Yadegari, 2020).

2.1.2. Existence of Intent to Discipline or Protect

A major difficulty arises in determining how the intent (*qaṣd*) to discipline or to protect can be established. Undoubtedly, once this intent is absent and replaced by any other motive—such as anger, revenge, or cruelty—criminal liability remains intact. Based on Islamic jurisprudential foundations, the legislator has made the intent to discipline a condition for the permissibility (*ibāḥa*) of inflicting harm upon a child or dependent person. The law therefore views the intent to discipline as a prerequisite for the exemption of parents or guardians from punishment (Al-Fayad al-Kabir, 2005; Khomeini, 2020).

From a criminal-law perspective, which is closely tied to public order, every act that causes bodily harm is presumed criminal unless a specific legal justification applies. Family relationship or guardianship does not in itself nullify this presumption. Hence, whenever the law grants an exception to certain individuals on the basis of kinship or similar considerations, that exception must be narrowly construed and confined to the most certain cases (*al-qadr al-muta yaqqan*) (Sabzevari, 1990).

The central controversy concerns whether the intent to discipline should be presumed in these cases, or whether parents and other actors must affirmatively prove it. The law is silent on this matter. It may be argued that for parents, the intent to discipline is presumed, while for other persons such as legal guardians or institutional custodians, this presumption must be supported by evidence (Najafi Tavana, 2021).

Regarding actions undertaken for purposes of protection—most notably confinement or restriction of a child or an insane person—the same requirement applies: it must be proven that parents or custodians acted out of a genuine intention to safeguard the individual. In the legal discussions on criminal responsibility and the rights of parents and guardians, the protection of dependents—especially children and persons of unsound mind—holds particular importance. Typical protective measures may include restricting a child's movement or isolating a mentally ill person from dangerous environments.

Legally, for such measures to be recognized as necessary and reasonable protective actions, it must be demonstrated that the parents or guardians genuinely acted with the goal of ensuring the individual's safety and improving their living conditions (Forqani, 2018). This demonstration requires credible evidence showing benevolent and protective motives. In other words, the purpose of these actions must be purely preventive and humanitarian.

In instances such as the confinement of mentally ill individuals, the act must reflect consideration of the person's mental and physical state and their capacity for sound judgment. Accordingly, assessing the prudence and transparency of the parent's or guardian's intention becomes essential. The measure must be proportionate to the existing danger; it must be shown that confinement was the only feasible means of protection. If alternative approaches—such as therapy, counseling, or supervision—were available, restrictive action may be unjustified.

Protective measures must also adhere to human-rights principles and the inherent dignity of the individual. Unnecessary or excessive intervention is therefore impermissible (Noorbaha, 2022). Ultimately, the proof of a genuinely protective intent is indispensable to establishing the lawfulness of such acts. Demonstrating this intent not only serves to secure the physical and psychological safety of dependents but also, in the event of a legal dispute, assists in determining parental or custodial liability and in preventing undue penal consequences. Thus, the balance between the *right to protect* and the *right to personal liberty* emerges as a foundational principle in this area of criminal law (Mirmohammad Sadeghi, 2021).

2.1.3. Observance of Reasonable Limits

The exclusion of criminal liability for the person administering discipline or discretionary punishment (*ta'zīr*) is entirely dependent on adherence to reasonable limits in the exercise of discipline or protection. This principle has always attracted considerable attention in both legislation and judicial practice, particularly in matters relating to criminal responsibility, where it represents a highly sensitive legal boundary. The *Islamic Penal Code* refers to these limits as being defined by social custom (*'urf*). However, the wide cultural and social diversity across different regions of Iran profoundly influences how these limits are interpreted and applied (Noorbaha, 2022).

It appears that the legislator, in apparent contradiction with the spirit of paragraph (t) of Article 158 of the *Islamic Penal Code*—which regards children as merely subjects of moral upbringing by parents and legal guardians in cases of wrongdoing—has nonetheless legitimized corporal punishment as a permissible pedagogical instrument. This inconsistency reveals a lack of coherence in the legal approach toward children's rights. The endorsement of corporal punishment as an educational tool stands at odds with modern rehabilitative educational philosophies that emphasize restorative, nonviolent correction (Najafi Tavana, 2005).

In practice, the assessment of proportionality and necessity (*maṣlaḥa*) is left to the discretion of the courts. The punishment should be so mild as to leave no trace such as bruising, bleeding, or lasting marks (Samavati Firouz et al., 2009). Yet, the crucial question remains: how can an objective legislative and equitable criterion for determining “extent” and “appropriateness” be established, given that such judgments depend heavily on the subjective interpretations of individual judges? This judicial discretion can lead to divergent outcomes for children across different courts, undermining consistency and legal certainty.

Regardless of moral or traditional justifications, modern psychological research has confirmed that corporal punishment does not contribute positively to the child's development or behavior. The law provides no clear standard for measuring “extent” or “necessity,” resulting in inconsistency and legal instability. Hence, there is an urgent need for legislative reform and for establishing transparent, evidence-based criteria for child discipline. With advances in developmental psychology and educational sciences, reliance on corporal punishment is not only ineffective but also potentially harmful to children's mental health and social growth. Lawmakers should thus replace corporal punishment under Article 158 with positive, supportive, and educational disciplinary systems that respect children's rights and foster their healthy development (Mirmohammad Sadeghi, 2024b).

If social custom (*'urf*) were to be interpreted purely through the lens of reason (*'aql*), then hundreds of rational conditions would exist that have not been codified in the *Islamic Penal Code*. Implementing all such rational conditions would render the penal code excessively complex and impractical, leaving no room for ordinary lawful conduct and making legal comprehension nearly impossible for the public (Noorbaha, 2022). Therefore, relying on local customs and moral perceptions as the basis for defining criminal boundaries exposes the system to inconsistencies and unequal treatment before the law.

Many scholars rightly argue that the legislator, while recognizing parental disciplinary authority, attempted to regulate such conduct by imposing a key limitation—namely, that punishment must be for educational purposes and within reasonable bounds. However, in attempting to provide structure, the law inadvertently exacerbated confusion rather than resolving it (Yadegari, 2020). The term “reasonable limit” remains vague and subject to interpretation, allowing judges wide discretion in determining what constitutes reasonable discipline. This ambiguity underscores the need for explicit, objective criteria to assess disciplinary actions (Mirmohammad Sadeghi, 2024b).

This lack of clarity can have serious consequences for children, sometimes leading to excessive or harmful practices far beyond what the law intended. While the primary goal of discipline is correction and moral development, ambiguous definitions risk perpetuating cycles of violence and vulnerability rather than promoting improvement. The diversity of customs across Iranian regions further compounds the problem—since local traditions and norms vary, the same disciplinary act may be deemed lawful in one area and criminal in another (Alizadeh, 1999).

Article 158 of the *Islamic Penal Code* fails to specify who determines the “extent” and “necessity” of punishment. The now-repealed Note 3 of Article 26 of the 1982 law once stipulated that “in serious offenses, where corporal punishment of delinquent children becomes necessary for their reform, such punishment shall be administered in a manner that does not entail *diyyah*

(blood money).” Due to significant legal ambiguities, this provision was repealed in the 1990 amendment, and the 2013 Penal Code did not reintroduce it (Noorbaha, 2022). The defects of the earlier provision were manifold: first, the legislator had failed to define “serious crimes,” leaving judges to interpret it based on personal judgment; second, the law did not specify who was authorized to impose or execute the punishment (Nourinejad, 2024).

These shortcomings make it difficult to achieve uniform judicial practice in determining proportionality and necessity, especially given that contemporary child psychology and pedagogy have largely rejected corporal punishment as an effective corrective method. With the advancement of behavioral and educational sciences, corporal punishment is no longer regarded as pedagogically justified; rather, supportive and educational approaches have proven far more effective. Successful child-rearing now depends on nonviolent, empathetic, and understanding-based strategies that promote healthy personality development and emotional well-being (Forqani, 2018).

Given the disadvantages of relying on custom as a standard, the most appropriate legal criterion at present appears to be the “non-entitlement to *diyah*.” In other words, disciplinary acts by parents should be permitted only to the extent that they do not give rise to compensation for injury. However, this principle, in accordance with the rule of legality of crimes and punishments, cannot be applied unless formally codified. Therefore, it is necessary for the legislature to amend paragraph (t) of Article 158 of the *Islamic Penal Code* to introduce this—or another clear and measurable—standard as a statutory provision.

2.1.4. Observance of Religious Limits

The dual reference to “reasonable limits” and “religious limits” in paragraph (t) of Article 158 of the *Islamic Penal Code* indicates that these are distinct criteria. The *reasonable limit* derives from social custom, whereas the *religious limit* is determined by *sharī‘a*. Although these two may overlap in certain instances, they often diverge. Reasonable limits are defined by collective behaviors, social norms, and cultural practices shaped by the specific cultural, economic, and moral context of a society. These limits evolve through social experience, cultural values, and public sentiment (Al-Amidi, 2018).

In contrast, *religious limits* are established through jurisprudential interpretation of *sharī‘a*, yet they are neither fixed nor universally agreed upon. It is unrealistic to assume that all parents or guardians possess the necessary theological and legal knowledge to discern the *sharī‘a* boundaries of discipline and punishment. Indeed, there are significant scholarly disagreements regarding the nature, degree, and intensity of permissible discipline (*ta’dīb*) and punishment (*ta’zīr*), as well as their gradations and methods. These divergences are particularly visible in relation to the discipline of children, wives, and persons of unsound mind (Al-Fayad al-Kabir, 2005; Ansari & et al., 2006).

Consequently, referring criminal responsibility to such religious limits without clear codification inevitably produces inconsistency in adjudication and judicial decisions. The absence of uniform *sharī‘a* standards leaves excessive room for interpretive variation, thereby undermining the predictability and coherence that modern legal systems require (Mirmohammad Sadeghi, 2021).

A. Type of Discipline (*Ta’dīb*) and Discretionary Punishment (*Ta’zīr*) in *Sharī‘a*

There is a well-known juristic disagreement over the very form that *ta’zīr* may take. Some authorities confine *ta’zīr* exclusively to striking, whereas others recognize additional modalities such as reprimand, confinement, or monetary penalty (Ansari, 2013). With respect to *ta’zīr* of children, however, the dispute appears far narrower. Classical formulations such as “*yujladu al-ghulāmu dūna al-ḥadd*,” “*yuḍrabu al-ghulāmu dūna al-ḥadd*,” and similar reports emphasize that a child’s punishment is below the level of a legal *ḥadd* and, in this context, is framed as striking rather than other modalities (Hurr Amili, 1988; Nouri, 1987). Because these indicia clearly anchor child *ta’zīr* in striking, the otherwise general term *ta’zīr*—when used without qualification in some reports and juristic opinions—should be read in light of these limiting evidences. Put differently, if *ta’zīr* were construed as an unqualified, open-textured term, such generality would hold only absent contrary indications; here, given the existence of those indications, the operative rule is to confine interpretation to the *most certain core*—namely, striking (Ansari, 2013; Hurr Amili, 1988; Nouri, 1987).

B. Severity of Discipline and *Ta’zīr*

In matters of discipline and *ta’zīr*, the age and physical capacity of the person to be disciplined must be taken into account; consequently, one cannot apply a single, uniform severity to all children. A report attributed to Ḥalabī relates that the Imam

would grasp the whip at its middle or one-third and strike proportionate to their age, never suspending a divine limit (Halabi, 1996). This indicates that, unlike adults, children must not be punished with comparable intensity; the sanction for minors must be lighter and tailored to their capacity.

Regarding the “religious limits” contemplated by paragraph (t) of Article 158 of the *Islamic Penal Code*, the defensible baseline is that discipline may extend only below the principal threshold: to the degree—and only to the degree—needed to produce clear or prevalently probable awareness and correction. If severity exceeds that degree, the act becomes prohibited and triggers criminal responsibility for the disciplinarian (Al-Fayad al-Kabir, 2005; Mirmohammad Sadeghi, 2021).

C. The Rank (Order) of Discipline in *Sharʿa*

Because the aim of discipline is moral education, and because that aim may be achieved through non-corporal means, *taʿdīb* should function as a last resort. In normative terms, the primary rule (*aṣl awwalī*) toward corporal discipline trends toward prohibition, with permissibility arising only upon satisfaction of strict justificatory conditions—most notably, the unavailability or failure of less harmful corrective methods (Al-Amidi, 2018; Mirmohammad Sadeghi, 2021).

Scripture sets out explicit ranks of corrective response for a spousal context; by analogy, similar gradation can be articulated for children: corporal punishment should never be the first rank of discipline. Nonviolent educational interventions must precede any physical measure, and any resort to striking must remain minimal, proportionate, and exceptional (Ansari, 2013; Khomeini, 2013).

D. The Disciplinarian’s Intention

Islamic sources place substantial weight on intention. Accordingly, in the disciplinary context, a disciplinarian’s intent enhances or vitiates the act’s lawfulness: the purpose must be correction, education, and prevention, not anger, retaliation, or mere infliction of pain (Al-Fayad al-Kabir, 2005; Khomeini, 2020). A transmitted report prohibits disciplining during anger, underscoring that absence of vindictiveness and presence of corrective purpose are essential conditions for legitimacy; where credible doubt exists about such purpose, one reverts to the primary presumption against corporal discipline (Hurr Amili, 1988). In short, to be an acceptable educational act, discipline must be goal-directed, temperate, and non-vindictive—conditions that are especially salient when emotions run high.

E. Reasonable Prospect of Effectiveness

From a *sharʿī* standpoint, discipline is only permissible when the disciplinarian can reasonably judge that it is likely to be effective in correcting behavior. If that prospect is absent, the foundational purpose of discipline collapses, and doubts about lawfulness activate the primary presumption against corporal measures (Shāmeli, 2011). This anticipated effectiveness must rest on a sensible, community-recognized probability, not a subjective hunch; the touchstone remains an authentic intent to reform and educate (Mirmohammad Sadeghi, 2021; Shāmeli, 2011).

2.2. Complete Preclusion of Criminal Responsibility in Egypt

In Egyptian criminal law, disciplinary and *taʿzīr* acts are analyzed under the rubric of “grounds of justification” (*asbāb al-ibāḥa*). These are objective conditions tied to the material elements of the offense and do not turn on the offender’s personal traits or psychology. They function as legislatively recognized limits that remove the illegality element and thereby dissolve the statutory definition of the crime (Ahmad Taha, 2021).

The legality element of an offense in Egypt rests on two pillars: (1) the impugned conduct must be expressly criminalized by a statutory text; and (2) the same conduct must not be justified by another text or recognized ground, because a valid justification neutralizes the unlawfulness and restores the act to its *prima facie* lawful status in the actual circumstances of commission (Najeeb Hosni, 1982). In classic doctrinal terms, a reason for justification removes the attached attribute of unlawfulness and returns the act to its initial legitimacy—i.e., it renders lawful what would otherwise be unlawful under the specific conditions present (Al-Saʿid, 1952; Ramsis, 1995).

In Egyptian doctrine, then, grounds of justification are legal or *sharʿī* rationales that authorize an act to be treated as lawful despite its ordinarily illegal or prohibited character. Where such a ground exists, it can extinguish the act’s criminal quality and eliminate its characterization as an offense. Thus, conduct generally deemed illegal may become permissible under

circumstances of necessity, emergency, or overriding public interest. The law (or *sharʿa*) thereby allows a deviation from the general rule. Practically, *asbāb al-ibāḥa* can substantially influence adjudication at all stages of the criminal process; if a valid justification is established, it may result in acquittal or, at minimum, avoidance of punishment (Abu al-Futouh, 2024; Ahmad Taha, 2021).

Conceptually, an act may be simultaneously wrongful in the abstract yet justified in concreto when conditions such as necessity or public interest are present. For instance, emergency-driven conduct to avert a greater harm, or actions taken to preserve the security or rights of others, may be treated as morally and socially acceptable, and therefore legally justified, notwithstanding their general illegality. In disciplinary settings, the central evaluative lens remains correction, education, and protection of the individual concerned—aims that, if credibly present, can place the conduct within the ambit of recognized justificatory grounds (Abu al-Futouh, 2024).

2.2.1. The Concept of *Ibāḥa* (Justification or Permissibility)

The term *ibāḥa* carries several meanings in Arabic. Linguistically, it derives from *baha*—to make apparent or to disclose—and is used to signify *revelation* or *making lawful*. Thus, when something is said to be *mubāḥ*, it means that it has been declared permissible or lawful (Ibn Manzur, 2019). This linguistic sense aligns closely with its juridical meaning in Islamic law. In *sharīʿa*, *ibāḥa* denotes a state of choice between performing or refraining from an act, a definition consistent with that of Imām al-Ghazālī, who identified *ibāḥa* with *jawāz* (authorization or permissibility). He stated that “the essence of *ibāḥa* is equivalent to *jawāz*, such that the actor is given discretion either to perform or abstain from the act without incurring sin in either case” (Ibn al-Ghazali, 2019). Similarly, al-Jurjānī defines *ibāḥa* as “granting permission to act according to one’s will” (Jurjani, 1998). In essence, the proofs (*adilla*) of *ibāḥa* in *sharīʿa* are those which leave the actor free to choose either course of conduct, rendering the act neither obligatory nor forbidden.

2.2.2. Grounds of *Ibāḥa* in Egyptian Criminal Law

The Egyptian legislator has not explicitly defined the concept of *asbāb al-ibāḥa* (grounds of justification), though their forms are recognized in the penal texts and judicial interpretation. Jurists define these as the set of **legal or *sharīʿi* reasons and conditions** that transform an act—otherwise unlawful or prohibited—into a lawful and permissible one (Al-Gharnati, 2010). Egyptian doctrine generally classifies these grounds into two principal categories:

1. **Conformity with Penal Provisions:** This refers to situations in which the act performed aligns with the letter or intent of statutory law, thereby negating criminality. In other words, when a person acts within the scope of a lawful authorization or official duty, the act retains its initial legitimacy. Thus, an act performed under express legal authority or administrative regulation cannot be treated as a crime, as it conforms to the objectives and principles of the legal system (Al-Amidi, 2018).
2. **Existence of a Justifying Reason:** This includes the presence of recognized legal or *sharīʿi* grounds such as necessity, coercion, or public interest, which can negate the unlawful character of an act. Some actions that are ordinarily criminal may, under specific circumstances, be considered legitimate when guided by necessity or overriding benefit (*maṣlaḥa*). Such justifications are particularly significant in balancing individual liability against broader societal welfare (Al-Amidi, 2018).

2.2.3. Foundations of *Ibāḥa* and Its Connection with Discipline and Punishment

In Egyptian jurisprudence, parental punishment is regarded as a means of discipline and moral refinement intended to serve the welfare of the child and the family as a unit. The *maṣlaḥa* (benefit) of the family is viewed as outweighing the child’s individual autonomy, and the law tolerates such acts in order to preserve social order and promote proper upbringing of future generations (Al-Fayad al-Kabir, 2005). Nevertheless, this disciplinary conduct must never degenerate into violence or physical harm; it must remain grounded in affection and genuine parental concern. The ultimate goal of discipline is the moral development and social preparation of the child.

Thus, by recognizing the complexity of social realities and the positive intent underlying certain acts, the law provides exceptions to criminalization and formulates principles of *ibāḥa* that balance public interest, social goals, and individual motives. This interaction among individual rights, collective welfare, and moral purpose forms the philosophical core of modern judicial reasoning. As classical jurists have noted, the general presumption in Islamic law is that prohibitions apply universally; however, divine legislation allows for specific exemptions where necessity or compelling circumstance justifies departure from the general rule (Ramsis, 1995). These exemptions arise from the situational conditions of persons or groups in which necessity (*ḍarūra*) or overriding benefit renders certain otherwise prohibited acts permissible.

2.2.4. Sources of *Ibāḥa*

The sources of *ibāḥa* are found in both *sharīʿa* and Egyptian penal legislation. They serve as legal authorizations permitting acts that might otherwise be deemed forbidden (Oudeh, 2016). Islamic law, while delineating explicit prohibitions, also incorporates mechanisms of flexibility and accommodation to sustain social justice and moral reform. The penal system of Islam accordingly derives both *criminalizing* and *justificatory* texts from the sacred sources, ensuring a balanced approach between public order and individual freedom. This synthesis integrates *sharʿī* injunctions and customary realities to form a coherent and functional legal order.

2.2.5. Objective Nature of the Grounds of *Ibāḥa*

The grounds of *ibāḥa* possess an objective nature—they relate to the act itself and are thus associated with the *legal element* of the offense, not with the offender's personal characteristics. In Egyptian law, *ibāḥa* operates as an exception within the classification of criminal conduct, legitimizing acts that, under ordinary circumstances, would be punishable.

Within Egyptian culture and legal thought, it is widely recognized that parents may sometimes resort to corporal measures for disciplinary purposes. Although such actions may appear reprehensible or even criminal in general terms, they can be justified under specific circumstances—such as protecting a child from danger or maintaining family order—if performed with a benevolent intent (Ihab, 2004). For instance, a parent preventing a child from going out at night or restricting access to harmful media may, in principle, be limiting individual freedom; yet, when the motivation is protective and educational, these acts fall under the principle of *ibāḥa*. The justification rests upon the balance between the right to protection and the right to liberty, both recognized in law and morality (Harjah, 2021).

- **Types of Grounds of *Ibāḥa***

The grounds of *ibāḥa* may be classified along two dimensions:

- **Absolute and Relative Grounds:**

- *Absolute* grounds apply universally—for example, legitimate self-defense, which can be invoked by anyone.
- *Relative* grounds apply only to particular persons, such as a parent disciplining a child or a physician performing a medical procedure. When such acts are committed by others lacking these statuses, they constitute crimes.

- **General and Specific Grounds:**

- *General* grounds may be invoked across all offenses.
- *Specific* grounds apply to particular crimes or contexts, such as correctional or educational settings (Oudeh, 2016).

2.2.6. Effects of *Ibāḥa*

Where a valid justification exists, the unlawful character of the act is extinguished, and the act is deemed lawful and legitimate. Because *ibāḥa* is objective in nature, its effects are likewise objective—extending not to personal attributes but to the act itself. Consequently, accomplices and accessories to the justified act also benefit from its exculpatory effect (Sarour, 1981).

In other words, if an act is lawfully justified under the principle of *ibāḥa*, all individuals participating in that act are shielded from criminal liability. The exoneration attaches to the circumstances of the act, not to the actor's identity. This objectivity underscores the systemic function of *ibāḥa* as a legal doctrine that aligns culpability with the material reality of the offense rather than with subjective considerations.

2.2.7. *Exceeding the Bounds of Ibāḥa (Justification)*

Egyptian criminal law pays special attention to excess beyond the limits of justification, a matter that directly mirrors the obstacles to criminal liability arising from discipline and discretionary punishment. Excess occurs when the actor surpasses the lawful scope of the justificatory ground, thereby rendering the act unlawful and punishable. If the excess is intentional, the actor bears liability for an intentional offense. Thus, if a person entitled to discipline a child intentionally exceeds the permissible bounds—severely beating the child beyond what is allowed—and the child dies, criminal responsibility attaches for intentional homicide (Mahmoud, 2007).

If the excess beyond authorization is non-intentional, the actor is liable only where the law criminalizes the conduct as a negligent offense; in that event, punishment follows the rules of negligence (Mahmoud, 2007). Egyptian legislation generally does not set out special provisions on exceeding authorization, except Article 251 of the Penal Code concerning good-faith excess in self-defense, under which the judge may substitute imprisonment for the statutory penalty when limits were transgressed in good faith. Conversely, where the excess is due neither to intent nor fault—e.g., where force majeure or coercion (*ikrāh*) intervenes—no liability arises for the excess itself (Ahmad Taha, 2021; Mahmoud, 2007).

Accordingly, criminal liability in Egypt for discipline and *ta'zīr* can be sketched in two broad scenarios:

First scenario: Discipline/*ta'zīr* by persons lacking the right to discipline

1. **In good faith.** Individuals without legal authority may act with a corrective purpose, yet their lack of entitlement can still generate negative legal consequences.
2. **Without good faith.** Where an unauthorized person acts with malice or abusively, the conduct is both unlawful and morally unacceptable, and liability follows.

Second scenario: Discipline/*ta'zīr* by persons who are legally entitled to discipline

1. **No excess of legal/customary limits.** Acts remain within the legal framework and may benefit the individual's reform and social order.
2. **Excess of legal/customary limits.**
 - **2-1. Intentional excess:** Deliberate transgression eliminates justification; the act is criminal.
 - **2-2. Non-intentional excess:** Absence of bad intent may still attract liability where negligence is criminalized; corrective measures are needed to prevent recurrence.
 - **2-3. Excess caused by force majeure or coercion:** Compulsion may supply a legal defense, preserving justification (Ahmad Taha, 2021; Ramsis, 1995).

2.2.8. *Discipline as a Right of Guardians (Isti'māl al-Haqq)*

In Egyptian law, the first ground of justification is the exercise of a right. To analyze this ground across offenses, one must define the concept and its conditions, then consider its main applications.

Definition. The exercise of a right is the authority granted by law to a specific person to utilize the object of the right and thereby avoid criminal consequences for conduct within its scope. Permission to exercise a right denotes those situations in which the unlawfulness of an act is negated because the actor exercised a right conferred by law—whether to secure a private or public interest (Ahmad Taha, 2021).

Legal basis. Article 60 of the Egyptian Penal Code provides: “*The provisions of the Penal Code shall not apply to acts committed in good faith pursuant to rights established by the rules of the sharī‘a.*” This text highlights the importance of good faith and conformity with *sharī‘a* principles in assessing criminal responsibility. It reflects a legislative policy to encourage socially responsible conduct while avoiding harm to those who act with benevolent intent under recognized rights (Abu al-Futouh, 2024; Al-Jowhari, 2015).

Application to parental discipline. Consider a parent who disciplines a child for misconduct. If the parent, in good faith and out of genuine concern for proper upbringing, imposes measured correction within *sharʿ* and ethical limits, Article 60 can shield the act from penal consequences. Many legal traditions—including *sharʿ*-based rules—acknowledge a parental right to discipline within reasonable and fair bounds, oriented toward education and reform, not harm. Where these conditions are met—good faith, educational aim, and conformity with *sharʿ*—the act falls under the justification of exercising a right and is not punishable (Ahmad Taha, 2021; Al-Jowhari, 2015).

In this way, Article 60 embodies a balance: it promotes responsible, welfare-oriented behavior while maintaining legal protection against abusive practices. Properly construed, it strengthens social and moral responsibility by assuring that those who act benevolently and within *sharʿ* limits may rely on a lawful justification, whereas those who exceed those limits forfeit the protection of *ibāḥa* (Abu al-Futouh, 2024).

2.2.9. Observance of the Limits of the Right by Its Holder

The exercise of a right constitutes a valid justification only when the holder of that right acts within the limits defined by the law that created it, and observes the restrictions that accompany it. The statute that establishes a right also defines its scope and conditions of exercise; exceeding these limits renders the act unlawful (Al-Rashidi, 2020).

If the law grants a right to a particular individual, that right cannot be exercised by others nor transferred unless the constitutive law expressly allows delegation. For example, the husband's right to discipline his wife and the guardian's right to discipline a child are strictly personal. In Egyptian family law, these rights are designed to preserve family order and moral integrity, not to authorize interference by third parties. Thus, if a husband is traveling and his wife commits an act that he considers warrants discipline, relatives such as his brother have no legal right to act in his stead. This restriction prevents abuse and safeguards individual rights and dignity (Al-Rashidi, 2020).

In family relations, therefore, only the spouse or legal guardian may exercise disciplinary authority, and no other family member may invoke it. Any act of corporal discipline by an unauthorized person—however motivated—has no legal legitimacy. Such conduct constitutes a criminal offense (e.g., assault, abuse, or bodily harm), and claims of affection, zeal, or family honor cannot nullify liability. The law thereby upholds personal integrity and criminal accountability for any unauthorized punishment (Al-Rashidi, 2020).

A crucial question arises: can the right to discipline (*ḥaqq al-taʿdīb wa al-taʿzīr*) be delegated? A right may only be exercised by another if the constitutive law explicitly permits such transfer. Certain rights, by their personal nature, are non-transferable—for instance, a husband cannot delegate the right to discipline his wife to his brother or son; if they act on his behalf, their acts are unlawful even with his consent. However, some disciplinary rights can legitimately be delegated where their purpose and nature allow—for example, a guardian's right to discipline a minor may extend to a teacher or professional trainer, provided the guardian's authorization and legal limits are respected (Al-Shādhli, 1998).

2.2.10. Necessity and Appropriateness in Exercising the Right

The process of education and discipline is governed by ethical and legal principles intended to maintain a positive and secure environment for growth and prevent abuse. Discipline must always be rooted in affection and respect, not violence. Physical aggression such as striking may destabilize family foundations, engender fear, and harm psychological health. The law clearly prohibits such conduct, identifying it as criminal behavior (Al-Shādhli, 1998).

Islamic jurisprudence also emphasizes that any act of physical discipline must avoid injury to body or soul; if it causes fractures or bleeding, it exceeds both moral and legal limits. Hence, where a disciplinarian's act results in bodily harm, criminal responsibility remains intact. The law exists to protect personal rights and social welfare, ensuring that every individual retains dignity and bodily integrity (Al-Shādhli, 1998).

Furthermore, the law may prohibit specific means of exercising a right; if a right-holder employs a forbidden method, the act becomes illegitimate. For example, a father cannot expose his child to freezing weather as punishment—such behavior

constitutes torture and is legally proscribed (Al-Shādhli, 1998). The guiding principle is that lawful correction must remain proportionate, humane, and morally sound, aligning with both statutory and ethical norms.

2.2.11. Good Faith (*Husn al-Niyya*)

Article 60 of the Egyptian Penal Code stipulates that lawful justification applies only to acts committed in good faith. Good faith means that the holder of the right acts with the lawful purpose for which that right was granted. Rights are created to achieve defined social and moral objectives, and adherence to those objectives establishes the ethical boundary of the right's use (Ibrahim et al., 2022).

If the holder remains faithful to this boundary, the act is deemed executed in good faith and thus justified. However, if the right is exercised to pursue aims contrary to the law's intent, the act becomes malicious (*sū' al-niyya*) and loses justification—even if it falls within the physical limits of the right. For instance, if a husband's intent in striking his wife is revenge or humiliation rather than correction, he cannot claim lawful justification under *sharī'a* or civil law (Parsamehr et al., 2017).

Egyptian Civil Code Article 5 articulates the general limits on lawful exercise of rights:

- (a) acts performed solely to harm others;
- (b) acts seeking trivial benefit disproportionate to the harm inflicted;
- (c) acts pursuing an unlawful objective—all are prohibited (Ibrahim et al., 2022).

Therefore, if the right of discipline is employed for an illegitimate or harmful purpose, it cannot preclude criminal liability. The protection of *ibāḥa* collapses once the moral and legal integrity of good faith is violated.

2.2.12. The Right of Discipline within the Domain of Justificatory Grounds (*Asbāb al-Ibāḥa*)

In Egyptian criminal law, three categories of rights fall under the doctrine of *asbāb al-ibāḥa* (grounds of justification):

- (1) the right of discipline (*ḥaqq al-ta'dīb*),
- (2) the physician's right to perform medical procedures, and
- (3) the athlete's right to engage in sports activities.

Each of these rights operates within strict legal, religious, and jurisprudential limitations. Among them, the *right of discipline* is the central concern of this study (Heekes et al., 2022).

Although no explicit statutory text in Egyptian law grants a person the authority to discipline another, this right is recognized by Islamic jurisprudence—for husbands toward their wives, for fathers, guardians, and teachers toward children and minors, and in certain cases, by customary law extending to employers over subordinates. The *right of discipline* thus provides limited legal tolerance for minor acts of physical correction, even though such acts may technically fall under general penal provisions such as Article 242 and Article 377(9) of the Egyptian Penal Code.

Article 242 states:

“If the assault does not reach the degree described in the preceding two articles, the offender shall be punished by imprisonment for up to one year or a fine between ten and two hundred Egyptian pounds. If the assault is committed intentionally or maliciously, the penalty shall be imprisonment for up to two years or a fine between ten and three hundred pounds. If the assault is committed using any weapon, stick, machine, or other instrument, the punishment shall be imprisonment. In the case of a terrorist purpose, imprisonment may extend beyond five years.”

Article 241 provides:

“Anyone who inflicts injury or blows upon another that result in the amputation or permanent loss of an organ, blindness of an eye, or permanent disability shall be punished by imprisonment from three to five years. If the act was premeditated or carried out in ambush, the punishment shall be imprisonment from three to ten years. If the act was committed for a terrorist purpose, the maximum penalty shall be doubled.”

Article 240 similarly defines severe bodily injury, while Article 377(9) classifies *minor quarrels or slight injuries*—where no lasting harm occurs—as petty offenses punishable by a fine not exceeding one hundred Egyptian pounds.

Hence, the *right of discipline* applies only to minor acts that fall short of serious harm as described in Articles 240–241; once the injury surpasses those thresholds, the justification collapses, and criminal liability ensues (Mahmoud, 2007).

The underlying rationale for granting this right—particularly the right to administer limited corporal discipline—is the social aim of achieving moral correction and public order through controlled disciplinary authority. However, modern criminological and educational research underscores that abolishing disciplinary immunity in contexts such as schools is one of the most effective ways to end corporal punishment. Studies demonstrate that retaining legal immunities for teachers or guardians perpetuates physical violence and psychological harm among children (Heekes et al., 2022).

Abolishing such immunities ensures that teachers and school staff who inflict corporal punishment can be legally accountable, reinforcing the message that violence in education is unacceptable and contrary to both human rights and pedagogical ethics. Reforming legal frameworks to eliminate these justifications signals to educators and society that disciplinary violence has no legitimate role in modern educational systems.

3. Partial or Incomplete Exemption from Criminal Liability

In some cases, disciplinary actions do not entirely remove criminal responsibility but may mitigate it under specific conditions.

3.1. Mitigation of Criminal Liability Arising from Discipline and Punishment in Iran

Article 301 of the Iranian Islamic Penal Code establishes a controversial example: it exempts fathers and paternal grandfathers from *qiṣāṣ* (retaliatory retribution) for the intentional killing of their children. This provision, grounded in narrative jurisprudence rather than rational legal principles, undermines the protection of children and can be exploited as a shield for domestic violence. It creates a moral and legal paradox—granting leniency to perpetrators under the guise of paternal correction—while exposing children to significant risks of harm.

The absence of *qiṣāṣ* in such cases not only weakens deterrence but also blurs the distinction between lawful discipline and criminal violence. This ambiguity jeopardizes the ability of judges and institutions to ensure justice and child protection. Moreover, the lack of clear legislative boundaries allows cultural and regional norms to shape judicial outcomes inconsistently, eroding the uniform application of justice.

Therefore, Article 301 reveals the necessity for urgent legal reform to establish precise criteria distinguishing *educational correction* from *abuse or homicide*. The law must strike a balance between parental authority and child security, ensuring that parental disciplinary rights never extend to acts that violate the sanctity of life or human dignity (Mahdavi et al., 2013; Roghani Araghi, 2024).

Under the current Iranian Penal Code, mitigation of criminal liability applies only in limited instances—such as when a father intentionally kills his child, in which case *qiṣāṣ* is lifted, but the father remains subject to payment of *diyya* (blood money) and discretionary punishment (*ta'zīr*). This arrangement, though framed as an act of compassion, ultimately fails to uphold the rights of the child and perpetuates an outdated conception of paternal dominance incompatible with modern human rights norms (Haji-Es-haq et al., 2024; Narangi Fard & Heshmati, 2020).

The need for legislative revision is thus paramount—one that affirms accountability for all acts of violence, even when cloaked in the name of *discipline*, and harmonizes Iranian criminal law with contemporary child protection standards.

3.1.1. Absence of Disciplinary or Corrective Intent

Unlike Paragraph (t) of Article 158 of the Iranian Islamic Penal Code—which requires intent to discipline or protect in order to exclude criminal liability—the mitigation of liability under Article 301 concerning a father's intentional killing of his child does not depend on disciplinary intent. In other words, even without intent to discipline, any intentional killing of a child by the father qualifies for mitigation. This absence of a mental requirement (intent to correct) reveals a structural gap in the law, as it effectively shields all paternal acts, even those driven by anger, revenge, or cruelty, from *qiṣāṣ* (retaliation).

3.1.2. Existence of Paternal Relationship

This mitigation applies exclusively to the father. According to the advisory opinion of the Legal Department of Iran's Judiciary, Article 884 of the Civil Code uses the word *father* even regarding a child born out of wedlock; thus, the term *father* in Article 301 of the Penal Code also includes the biological father. The Supreme Court's Unifying Decision No. 617 (1997) confirms that Article 301 encompasses all paternal relationships, regardless of legitimacy.

A further procedural question arises: what is the effect of the guardian's consent in such cases? When a father kills his child, he is not subject to *qiṣāṣ*; but if the deceased child has minor heirs represented by their mother as temporary guardian, can she lawfully express consent toward the offender (the father)? The judiciary's advisory opinion clarifies that Article 356 of the Penal Code—requiring the authorization of the head of the judiciary for consent in homicide cases—applies universally, including to paternal killings. Furthermore, under Article 358, the paternal grandfather's guardianship ceases when he is the offender, and the guardianship passes to the Supreme Leader, who must approve the disposition under Article 356. The temporary guardian (e.g., the mother) has no authority to forgive the father independently.

3.1.3. Effect on Criminal Liability

Islamic jurists have long held that when a father intentionally kills his child, *qiṣāṣ* is excluded, but payment of *diyya* and discretionary punishment (*ta'zīr*) remain obligatory (Aghili et al., 2023; Al-Najafi, 1988). The rationale derives from narrations such as those in *Wasā'il al-Shī'a*, which explicitly exempt the father from *qiṣāṣ* but not from *ta'zīr* or compensation. The form and severity of *ta'zīr* are left to the judge's discretion, taking into account the offender's character, the nature of the act, and social circumstances. Some reports suggest severe flogging or banishment, but most jurists leave the punishment to judicial interpretation.

However, this judicial latitude produces inconsistency: one judge might impose a light reprimand, while another may sentence to years of imprisonment. To standardize responses, Article 612 of the Penal Code was enacted, stipulating that anyone who commits intentional murder but is not subject to *qiṣāṣ* for any reason may be punished by three to ten years of imprisonment if the act disrupts public order or emboldens others to commit similar crimes. The same provision applies to paternal homicide. The father, therefore, remains liable to *diyya* and a custodial *ta'zīr* term {Seyfipour, 2013 #302971}.

Furthermore, a father who kills his child does not inherit the *diyya* of the deceased. When a father commits the homicide in collaboration with another, the accomplice is subject to *qiṣāṣ*, while the father pays half the *diyya* to the heirs of the executed accomplice, because his impunity from *qiṣāṣ* does not render his act permissible; the sanctity of life must not be voided (Khoei, 2014).

Thus, Article 301 provides that for *qiṣāṣ* to apply, the offender must not be the father or paternal ancestor of the victim. The exemption of the father from *qiṣāṣ* limits his liability to *diyya* and *ta'zīr*, resulting in significant mitigation for crimes against his own child. In contrast, mothers remain fully subject to *qiṣāṣ*, producing a profound gender disparity in criminal accountability. This imbalance, apart from being unjust, enables potential abuse under the pretext of paternal authority and poses a grave challenge to human rights and child protection standards (Haji-Es-haq et al., 2024; Roghani Araghi, 2024).

3.2. Mitigation of Criminal Liability in Egypt

Certain scholarly perspectives in Egypt have recognized limited mitigation of parental responsibility in disciplinary contexts (Asfour, 1970). However, because Egyptian law lacks the doctrine of *qiṣāṣ*, there is no equivalent to Article 301 of the Iranian Penal Code. Hence, intentional filicide cannot benefit from statutory mitigation. Nevertheless, Egyptian courts may consider good faith (*husn al-niyya*) and benevolent motives in discipline as mitigating circumstances under general sentencing discretion or through lenient legal mechanisms such as judicial clemency, suspension, or conditional release.

This approach does not remove criminal liability but allows for individualized sentencing that distinguishes abusive violence from corrective parental acts. In doing so, Egyptian jurisprudence seeks a balance between protecting the child's bodily integrity and acknowledging parental responsibility, guided by the principles of moderation, good faith, and conformity with *sharī'a* norms (Abu al-Futouh, 2024; Al-Jowhari, 2015).

4. Conclusion

In both Iran and Egypt, corporal punishment within the home remains a legally accepted practice. Despite legislative efforts to protect children's rights, the parental right to discipline persists in both legal systems and continues to be regarded as a legitimate educational tool. The *Law on the Protection of Children and Adolescents* in Iran and Egypt's *Law No. 126 of 2008* were enacted to strengthen legal safeguards for children, particularly in protecting them from harm and violence. These laws aim to improve children's conditions across various aspects of life.

However, when it comes to corporal punishment, efforts to establish a complete ban have largely failed. In practice, the parental right to discipline remains recognized, and the provisions of child protection laws are often interpreted in a way that makes restricting this right appear unjustified. Consequently, existing legal frameworks do not impose serious criminal responsibility for corporal punishment as a harmful act, creating a significant obstacle to accountability for offenders in both countries.

Judicial and administrative interpretations of these laws often reflect a tendency to view parental discipline as an essential and natural component of upbringing. Yet extensive scientific and empirical evidence demonstrates that corporal punishment not only has adverse psychological and behavioral effects on children but also contributes to long-term problems such as parent-child relationship conflicts, aggression, and future violent tendencies.

Although new laws were enacted to protect all rights and aspects of children's well-being, the persistence of parental disciplinary rights has prevented these statutes from effectively safeguarding children's natural and human right to safety from anger and violence within the family. This situation underscores the urgent need for a fundamental reassessment of both the legislation and societal perceptions of discipline and upbringing within families.

To achieve genuine protection of children's rights, lawmakers in Iran and Egypt must undertake serious revisions of existing laws, ensuring that corporal punishment is fully prohibited and explicitly recognized as an unlawful act.

Ethical Considerations

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Conflict of Interest

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