



Contraception from the Perspective of Jurisprudence and Criminal Law

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Abstract

Contraception is one of the most important issues in the field of reproductive health and population policymaking, which has extensive jurisprudential, legal, ethical, and social dimensions. The present study aims to examine the position of contraception in Imami jurisprudence and Iranian criminal law and attempts to provide a comprehensive framework for understanding existing responsibilities and limitations by analyzing the religious, legal, and procedural foundations. The research method is descriptive-analytical and based on the study of jurisprudential sources, applicable laws, general population policies, and medical documents. The findings show that Imami jurisprudence allows the principle of temporary contraception and is strict only in permanent sterilization. Temporary contraception is not criminalized in Iranian law, but the manner in which it is performed—especially in the absence of informed consent or in violation of technical standards—can result in criminal liability. The Family and Youth Protection Law (1400) has created new restrictions on the provision of contraceptive services and has prohibited certain behaviors, such as advertising contraceptive methods. A comparative analysis shows that there is harmony between Iranian jurisprudence and law in principle regarding the permissibility of temporary contraception, but new population policies sometimes deviate from jurisprudential principles. Finally, suggestions are presented for clarifying laws, strengthening education, and respecting the principles of bioethics.

Keywords: Contraception, Imami jurisprudence, criminal law, informed consent, population policies, sterilization.

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.1Introduction

The issue of birth control and contraception is one of the most important topics in the fields of bioethics, Islamic jurisprudence, and contemporary criminal law. Extensive developments in family structure, changing demographic patterns, medical advances, and increased social awareness have led to the issue of contraception being considered not only an individual or family issue, but also a social, legal, and even political challenge. In Islamic societies, this issue is more sensitive because decision-making about fertility and family planning is at the intersection of religious teachings, moral considerations, individual rights, and social obligations. Therefore, examining this issue from the perspective of jurisprudence and criminal law is a scientific and practical necessity.

In recent decades, population policies in Iran have undergone fundamental changes. In the 1990s, population control policies and encouragement to reduce fertility were officially supported, but since the

early 2011s, new policies aimed at increasing the population and combating the aging process have been approved. These changes have had significant legal and criminal consequences; These include restrictions on the provision of contraceptive services, criminalization of some sterilization-related practices, and the creation of new frameworks for the liability of physicians and health care providers (Parliamentary Research Center, 2015.)

From the perspective of Islamic jurisprudence, the issue of contraception has a long history, and jurists have discussed “dismissal” and similar methods since the early centuries. Many Imami and Sunni jurists have considered temporary contraception to be permissible in principle, provided that it does not harm the woman and that the rights of the couple are respected (Mousavi Khomeini, 1408; Qurtubi, 1999). However, views on permanent sterilization are more strict, and most jurists consider it permissible only in cases of medical necessity. This distinction between temporary and permanent contraception is one of the main focuses of the jurisprudential analysis in this study.

In the Iranian criminal law, contraception is not directly criminalized, but some related actions can be subject to criminal charges. For example, performing sterilization without consent, or causing bodily harm due to unsafe methods, can be subject to articles related to assault or mutilation. Also, new population policies in recent years have created restrictions on the provision of contraceptive services, and in some cases, providing these services without legal authorization can lead to criminal liability (Family and Youth Protection Law, 1400). Therefore, a legal analysis of this issue requires a careful examination of existing laws and related practices.

From a bioethical perspective, contraception is at the intersection of the right to health, the right to reproduction, the freedom of individual decision-making, and social responsibility. Some theorists consider birth control to be a fundamental right of both women and men, and believe that each individual should have the power to decide the number and timing of children they have (Beauchamp & Childress, 2019). In contrast, some perspectives emphasize the role of the family in maintaining the social structure and the need to pay attention to the public interest. This tension between individual rights and collective interests can also be seen in Iranian population policies.

Given these contexts, the main issue of the present study is what is the status of contraception from the perspective of Islamic jurisprudence and Iranian criminal law, and how can one strike a balance between jurisprudential principles, legal requirements, and social needs? This question has several dimensions:

- .1What are the jurisprudential principles of permissibility or non-permissibility of contraception?
- .2How is the difference between temporary and permanent contraception explained in jurisprudence?
- .3What is the approach of Iranian criminal laws towards contraception?
- .4Have new population policies led to criminalization or new restrictions?
- .5How can we create harmony between reproductive rights, public health, and Islamic standards?

The research method in this article is descriptive-analytical, and the data was collected through the study of jurisprudential sources, statutory laws, policy documents, and scientific research. An attempt has been made to present the analyses by citing reliable jurisprudential and legal sources, and in the comparative section, the points of commonality and difference between Iranian jurisprudence and criminal law are systematically examined.

Importance of the Research

The importance of this research is that the issue of contraception is not only an individual issue, but also a macro-social issue that affects public health, family structure, gender justice, and population policies. On the other hand, in the current climate of Iran where population policies are changing, a detailed analysis of the jurisprudential and legal foundations can help policymakers, physicians, lawyers, and researchers make more informed decisions. Also, this research can help clarify the limits and boundaries of criminal liability in the field of reproductive services and prevent incorrect or extreme interpretations.

In summary, the present introduction provides the necessary background for entering into detailed discussions. In the following sections, first, the concepts and generalities related to contraception will be examined, then the perspective of Islamic jurisprudence and Iranian criminal laws will be analyzed in detail, and finally, a comparative analysis will be presented to obtain a comprehensive picture of the issue.2 .Concepts and Generalities

2 .1–Definition of Contraception

Contraception refers to a set of methods, tools, and medical or behavioral interventions that are used to prevent pregnancy. This concept is also known in the scientific literature with terms such as family planning, birth control, and contraception. The World Health Organization considers contraception to be part of individuals’ reproductive rights and sexual health and introduces it as one of the most effective tools for promoting women’s health, reducing maternal mortality, and managing population (World Health Organization, 2020.(

In Iran, the concept of contraception has been raised in recent decades within the framework of population and public health policies. In some periods, this concept has been supported with the aim of reducing fertility rates and controlling population growth, and in other periods, especially after the adoption of the “Law on Family Protection and Youth Population” (1400), restrictions have been placed on it. However, at the individual and family level, contraception is still considered one of the most important tools for life planning and sexual health.

2 .2–Types of Contraceptive Methods

Contraceptive methods can be divided into four main categories: natural, pharmacological, mechanical, and surgical. Each of these methods has different consequences from a jurisprudential and legal perspective and plays an important role in the analyses of this article.

A) Natural Methods

Natural methods include actions that are performed without the use of tools or drugs. The most important of these methods are:

-Withdrawal: Withdrawal of the penis before ejaculation. This method has a long history in Islamic jurisprudence, and many jurisprudential discussions about contraception have been based on the ruling of withdrawal (Mousavi Khomeini, 1408.(

-Methods based on the calendar and understanding the fertile period: such as the basal body temperature peak method or the cervical mucus method.

-Exclusive breastfeeding (LAM): which can reduce the chance of pregnancy in the first six months after childbirth.

Natural methods are usually inexpensive and have no medical complications, but their effectiveness is lower than that of pharmacological and mechanical methods (Trussell, 2011.(

b) Pharmaceutical methods

Pharmaceutical methods involve the use of hormones or drugs that prevent ovulation or fertilization. The most important of them are:

-Combined oral contraceptive pills

-Progesterone pills

-Contraceptive ampoules

Mechanical methods prevent sperm from reaching the egg by creating a physical barrier. The most important of them are:

-Male and female condoms

-Diaphragm

-IUD

The IUD is one of the most common methods of contraception in Iran. Some jurists have discussed the possibility of miscarriage in the early stages of fertilization when using an IUD, but most Imami jurists consider it permissible if it prevents the implantation of the sperm (Makarem Shirazi, 2013.)

d) Surgical methods

Surgical methods involve making permanent or long-term changes in the reproductive system:

-Vasectomy (for men)

-Tubectomy (for women)

These methods are usually irreversible and are more sensitive from a jurisprudential perspective. Many jurists consider permanent sterilization permissible only in cases of medical necessity or important expediency (Khamenei, 2016). From a criminal law perspective, performing these methods without consent or legal authorization can also result in criminal liability.

2.3–Historical Background of Birth Control in Iran and the World

Birth control has a long history in human history. Archaeological evidence shows that in the civilizations of Egypt, Greece, and ancient Iran, primitive methods such as the use of herbal substances or mechanical devices were used to prevent pregnancy (Riddle, 1997). The discussion of “abortion” has also been raised in Islamic texts since the first century AH, and jurists have debated its legitimacy.

In contemporary Iran, population control policies officially began in the 1360s. The family planning program, which was implemented since 1368, was recognized as one of the most successful population control programs in the world and reduced the total fertility rate from more than 6 children to about 2 children (Abbasi-Shavazi, 2009). However, since 1390, with the change in macro policies, a new approach was adopted with the aim of increasing the population. These changes have had a direct impact on access to contraceptive services and the legal responsibilities associated with it.

2.4–Bioethical Principles Related to Birth Control

Prevention of pregnancy in the field of bioethics is related to several fundamental principles: 1. Autonomy Principle

This principle emphasizes the right of individuals to make decisions about their bodies and fertility. From an ethical perspective, each individual should be able to freely decide on the number of children, the spacing of pregnancies, and methods of contraception (Beauchamp & Childress, 2019.)

2 .Beneficence Principle

This principle emphasizes taking actions that benefit the health of the individual or society. Contraception can prevent unwanted pregnancies, medical risks, and economic hardship.

3 .Non-maleficence Principle

This principle emphasizes avoiding harm. From this perspective, the use of contraceptive methods should not cause physical or psychological harm. This principle is also consistent with the principle of “do no harm” in Islamic jurisprudence.

4 .Justice Principle

Fairness in access to reproductive services is one of the most important ethical issues. Legal or economic restrictions can lead to inequality in access to contraception, especially for low-income women or those living in deprived areas.

5 .Conflict between individual rights and collective interests

In population policymaking, there is sometimes a conflict between the individual's right to control fertility and the government's goals of increasing or decreasing the population. This conflict is clearly seen in contemporary Iran and is one of the main focuses of the legal analysis of this article.

2 .Shafi'i school

Shafi'is also consider abortion permissible, but some of them consider it makruh. Regarding new methods, the main criterion is the absence of harm (Novi, 1996.)

3 .Maliki school

Malikis are more strict about abortion, and some consider it makruh or even forbidden, except with the woman's consent (Qurtubi, 1999.)

4 .Hanbali School

Hanbalis consider divorce permissible, but emphasize that it should not cause harm to the woman (Ibn Qudama, 1985.)

3 .3–Difference between temporary and permanent contraception

Islamic jurisprudence makes a fundamental difference between temporary and permanent contraception:

Type of contraception	Jurisprudential ruling	Reason
Temporary:	Often permissible,	not permanently violating the power of reproduction
Permanent:	Often prohibited,	except in cases of necessity, change of creation, harm, violation of the right of the spouse

This difference is also reflected in criminal law.

3 .4–The role of the couple's consent in the legitimacy of contraception

One of the most important jurisprudential issues is the role of the couple's consent.

1 .The woman's consent

Many jurists believe that a woman has the right to have children and that a man cannot use methods such as divorce without her consent (Sarkhasi, 1993). In Imami jurisprudence, some jurists also consider the woman's consent a condition.

2 .Male consent

In methods that directly concern the woman's body, such as using medication or IUD, male consent is not a requirement, unless it violates her sexual right (Makarem Shirazi, 2013.)

3 .Consent in sterilization

In permanent sterilization, the individual's consent is the main condition and the spouse's consent is the secondary condition.

3 .5–Jurisprudential perspective on population policies

Islamic jurisprudence allows the state to implement population policies within the framework of public interests, but:

- It cannot force individuals to become pregnant or prevent pregnancy
- It cannot deny reproductive rights
- It cannot prescribe sterilization unnecessarily

Some contemporary jurists, such as Ayatollah Makarem, consider population policies to be subject to the “interests of time” (Makarem Shirazi, 2013.)

Summary of Section 3

In this section, it was shown that Islamic jurisprudence, in principle, allows temporary prevention of pregnancy and is strict only in permanent sterilization. Also, the consent of the spouses, the absence of harm, and the observance of reproductive rights are among the most important criteria of legitimacy. These principles also have a direct impact on Iranian criminal law.

3 .The perspective of Islamic jurisprudence on contraception

3 .1–Jurisprudential principles related to contraception

To analyze the legitimacy or illegitimacy of contraception, Islamic jurisprudence relies on a set of inferential rules and principles. These principles provide a framework within which the jurist can issue rulings on various methods of contraception. The most important of these principles are: the principle of permissibility, the principle of harmlessness, the principle of sovereignty, the principle of benevolence, and the public interest.

A) The principle of permissibility

The principle of permissibility is one of the fundamental principles of Islamic jurisprudence, according to which, “everything is permissible in principle unless there is a religious reason for its prohibition” (Tabatabai, 1995). Since there is no explicit text in the Quran or Sunnah regarding the prohibition of contraception, many Imami and Sunni jurists have placed the principle of permissibility. This principle plays an important role in deducing the ruling, especially in the case of temporary methods such as divorce.

b) The rule of no harm

The rule of “no harm and no harm in Islam” is one of the most important jurisprudential rules that is used in many medical and bioethical issues. According to this rule, any action that causes significant harm to an individual is prohibited by Sharia law (Musawi Khomeini, 1408). Therefore, if a contraceptive method causes serious harm to a woman or a man, its use is not permissible. This rule plays an important role in the jurisprudential analysis of methods such as IUDs or hormonal drugs.

c) The rule of sovereignty

The rule of “people have dominion over their bodies and property and can decide about them, unless there is a Sharia prohibition (Najafi, 1981). Many jurists have used this rule to prove the permissibility of contraception, because making decisions about fertility is part of a person’s dominion over their own bodies.

d) The rule of benevolence

The rule of benevolence states that any action done with good intentions and to prevent harm is approved by the Sharia. Preventing pregnancy in cases where pregnancy is dangerous for the woman or causes severe family problems can be an example of benevolence (Makarem Shirazi, 2013.)

e) Public interest

In some cases, jurists also pay attention to the public interest of society. For example, in periods when population growth or decline is important for society, some jurists have pointed to the role of the government in population policy-making. Of course, this interest cannot completely ignore individual rights.

3 .2–The views of jurisprudential schools on contraception

a) Imamiyya jurisprudence

Imamiyya jurisprudence has presented one of the most extensive and detailed discussions on contraception. Its most important themes are:

1 .The ruling on expulsion

Il, meaning the withdrawal of the male penis before ejaculation, is one of the oldest methods of contraception. This issue has been mentioned in numerous narrations from the Shiite Imams. The famous Imamiyyah jurists consider divorce permissible, but there is a difference of opinion regarding the necessity of the woman's consent.

-Some, like Allama Helli, do not consider the woman's consent a condition (Helli, 1410.(

-Others, like Shahid Thani, consider the woman's consent a requirement for permanent marriage (Shahid Thani, 1413.(

Imam Khomeini also considers divorce permissible, unless it causes harm or violates the terms of the contract (Mousavi Khomeini, 1408.(

2 .Ruling on using contraceptives

Imamiyyah jurists consider the use of contraceptives such as condoms, hormonal drugs, or IUDs permissible, provided that:

-It does not harm the woman

-It does not require forbidden looking or touching

-It does not cause abortion after fertilization

Ayatollah Sistani considers the use of IUDs permissible if it prevents the implantation of the sperm (Sistani, 1424.(

3 .The ruling on permanent sterilization

Permanent sterilization (vasectomy or tubectomy) is more sensitive in Imami jurisprudence. Renowned jurists do not consider it permissible except in the following cases:

-Medical necessity

-Existence of an important expedient

-Lack of an alternative

Ayatollah Khamenei does not consider permanent sterilization permissible without necessity, but in the case of medical necessity or the consent of the individual, he considers it permissible (Khamenei, 2016.(

B) Sunni jurisprudence

Like Imami jurisprudence, Sunni jurisprudence also considers divorce and contraception permissible in principle, but there are differences in details.

1 .Hanafi school

Hanafis consider divorce permissible, but consider the woman's consent a condition, because a woman has the right to have children (Sarkhasi, 1993). Regarding new methods, the principle is also permissive.

4 .Contraception in Iranian Law

4 .1–Legal Principles Related to Contraception

Investigating the position of contraception in Iranian law requires analyzing a set of laws and higher-level documents that directly or indirectly affect this issue. The most important of these sources are: the Constitution, the Islamic Penal Code, the Family Protection Law, General Population Policies, and the Law on the Protection of the Family and Youth of the Population (1400.(

A) The Constitution

The Iranian Constitution does not directly refer to the issue of contraception, but several of its principles can be effective in the legal analysis of this issue:

-Principle 21: The state is obliged to guarantee women's rights in various ways. This principle can be a basis for protecting women's reproductive health.

-Principle 29: The right to health and medical services. Contraception is considered part of sexual and reproductive health services.

-Principle 40: No one can use the exercise of their right as a means of harming others. This principle applies in cases such as sterilization without consent.

-Article 43 and 44: Regarding population and economic policies, which can be the basis for macro-population policies.

Therefore, the Constitution not only does not create an obstacle to the provision of contraceptive services, but in some cases, it considers the government obligated to provide these services (Hashemi, 2019.)

B) Islamic Penal Code

The Islamic Penal Code has not directly criminalized contraception, but some acts related to it can be subject to criminal charges. The most important relevant articles are: - Articles 614 and 615: About assault and bodily harm. If contraception causes physical harm, it can be covered by these articles.

-Articles 706 to 709: About organ damage. Sterilization without consent can be an example of organ damage.

-Articles 495 and 496: The responsibility of the doctor and medical staff if actions are taken without consent or against medical standards.

Therefore, in Iranian criminal law, the principle is that contraception is not criminalized, but the way it is done can lead to criminal liability.

c) Family Protection Law

The Family Protection Law (2012) does not directly address the issue of contraception, but in cases such as:

-Rights and duties of couples

-Responsibilities of parents

-Health of the mother and child

It can play a role in legal analysis. For example, if pregnancy is dangerous for the woman, contraception can be justified within the framework of protecting the mother's health.

d) General Population Policies

In 2014, the General Population Policies were announced by the Supreme Leader. These policies emphasize:

-Increasing the fertility rate

-Supporting the family

-Restricting some contraceptive services

(General Population Policies, 2014). These policies paved the way for the passage of the "Family and Youth Protection" law.

e) Family and Youth Protection Law (1400)

This law is the most important legal document related to contraception in recent years. Its most important provisions include:

- Restricting the provision of free contraceptives
- Prohibiting the advertising of contraceptive methods
- Restricting sterilization except in medical cases
- Requiring doctors to record medical reasons for sterilization

This law indirectly limits access to contraceptive services and, in some cases, makes the provision of these services without a license a criminal offense (Family and Youth Protection Law, 1400.)

4.2–Criminalization or non-criminalization of contraception

1 .Principle of non-criminalization

In Iranian law, contraception is not a crime in itself. There is no article in the Islamic Penal Code that prohibits or criminalizes the use of contraceptive methods. This is also consistent with jurisprudential principles, because Islamic jurisprudence also allows temporary contraception.

2 .Criminalization of related acts

However, some acts related to contraception can be considered crimes:

- Performing sterilization without consent → subject to blood money or retribution
- Causing harm from unsafe methods → subject to articles related to assault
- Performing medical procedures without a license → subject to Article 495 of the Penal Code
- Violating the provisions of the Youth Law → administrative and criminal penalties

Therefore, criminalization is not focused on “prevention of pregnancy”, but on the manner in which it is carried out.

4.3–Criminal liability of physicians, midwives, and service providers

A) Physician liability

Physicians must comply with three conditions in providing contraceptive services:

- 1 .Informed consent of the patient
- 2 .Compliance with technical and scientific standards
- 3 .Compliance with current laws and regulations

In case of violation of any of these conditions, the physician may be held criminally or civilly liable (Shariat-e-Baqeri, 2018.)

B) Liability of midwives and medical center staff

Midwives and medical center staff will be held criminally and administratively liable if they perform actions without legal authorization or without observing professional principles. This liability is determined based on the general principles of the Islamic Penal Code and the medical professional regulations (Islamic Penal Code, 2013).

For example, installing an IUD without a specialized license, performing a vasectomy or tubectomy by unqualified individuals, or providing hormonal drugs without a valid prescription can all be examples of “unauthorized intervention in medical affairs.” In addition to criminal liability, such actions can result in civil liability and even disqualification from employment in the medical field. Case law has also shown that courts are taking a stricter approach to dealing with violations by medical staff, especially in the field of reproductive health (Ashworth, 2011.)

c) Liability under the Youth Population Law

The “Family Protection and Youth Population Law” has created new restrictions on the provision of contraceptive services. According to this law, the doctor is obliged to accurately record and document the medical necessity of sterilization, and any provision of contraceptives without a license can be considered a violation (Youth Population Law, 1400). Also, advertising contraceptive methods is prohibited, and violation of these regulations can lead to criminal or administrative liability. This law was designed to increase fertility rates, but in practice it has caused significant restrictions for doctors and medical centers, and courts have also taken a restrictive approach in interpreting these regulations (Levy, 2015.)

4-4 .Review of rulings related to sterilization

a) Consented sterilization

Sterilization is legally and jurisprudentially permissible if it is performed with the informed consent of the individual and based on medical necessity (Makarem Shirazi, 1425). However, if there is no medical necessity, the physician is required to obtain the patient’s written consent, inform him/her of possible complications, and comply with the provisions of the Youth Law. Failure to comply with these requirements can result in criminal or disciplinary liability. Imami jurisprudence also includes the principle of “non-permissibility of harm to oneself” and “the need to preserve the generation,” and sterilization without medical necessity is considered an abominable or even forbidden act (Tabatabai, 1417.)

b) Non-consented sterilization

Sterilization without the individual’s consent is a crime from a legal perspective and can be subject to blood money, retribution, civil liability, and even deprivation of medical practice (Islamic Penal Code, 1392). This practice is also considered an example of “waste of organs” and “self-inflicted injury” from a jurisprudential perspective and carries the most severe enforcement guarantees. Courts take a very strict approach in these cases and usually hold the physician or the intervener directly liable for the harm (Ashworth, 2011). Even if there is a therapeutic intention, the lack of valid consent does not eliminate criminal liability.

c) Sterilization in medical cases

In some cases, sterilization is permitted due to medical necessity. These cases include life-threatening risks to the mother, severe genetic diseases, or severe physical or mental disabilities that make continuing the pregnancy dangerous or impossible (APA, 2013). In such cases, the decision must be made by a medical commission and detailed medical documentation must be prepared. This approach is also consistent with jurisprudential principles such as the “rule of harmlessness” and the “rule of the most important” and Imami jurisprudence allows therapeutic intervention in these cases (Mousavi Khomeini, 1421.)

4 .5–Case law analysis

Iranian case law in the area of contraception is not extensive, but a review of the available cases reveals several important points. First, courts generally consider patient consent as the main criterion for the legitimacy of medical procedures and consider the lack of valid consent to give rise to criminal and civil liability (Ashworth, 2011). Second, in cases where harm is caused by unsafe procedures or intervention by unqualified persons, courts hold the physician or intervener directly liable. Third, in cases of sterilization without medical necessity, courts have adopted a strict approach and usually rule in favor of the patient. Fourth, in cases related to violations of the Youth Population Law, courts have moved towards a restrictive interpretation, considering any action outside the legal framework as a violation or crime (Levy, 2015). This trend indicates that Iran’s judicial policy in the area of reproductive health, especially after the enactment of the Population Youth Law, has become significantly more restrictive.

In Iranian law, contraception is in principle permissible and criminalization is directed at the manner of its implementation, not the act itself. New population laws have imposed some restrictions, but the principle of individual freedom to control fertility remains.

The responsibility of doctors and service providers plays an important role in this area, and compliance with informed consent and professional principles is essential.

5 .Comparative Analysis of Jurisprudence and Criminal Law

A comparative analysis between Islamic jurisprudence and Iranian criminal law on contraception allows for a deeper understanding of the commonalities, differences, and challenges. Since Iranian law is rooted in Imami jurisprudence, it is expected that many jurisprudential rulings are reflected in the substantive laws; however, social, medical, and population policy developments have led criminal law to adopt a different or complementary approach in some cases. In this section, these two epistemological systems are compared on several main axes.

5 .1–Commonalities between Iranian jurisprudence and criminal law

1 .The principle of permissibility of temporary contraception

Both systems—Imamiyah jurisprudence and Iranian criminal law—in principle, consider temporary contraception permissible.

In jurisprudence, the principle of permissibility and the absence of a religious text on prohibition are the basis for permissibility (Tabatabai, 1995). In law, no article has criminalized contraception. This harmony shows that the Iranian legislator has not deviated from the jurisprudential principles in this area.

2 .Prohibition or restriction of permanent sterilization

5 .1–Commonalities between Iranian jurisprudence and criminal law in contraception

1 .Permissibility of sterilization in case of medical necessity

In Imamiyah jurisprudence, permanent sterilization is permissible only if there is a medical necessity or important expediency; such that continued fertility poses a serious risk to the individual (Khamenei, 1395). This approach is based on rules such as “no harm” and “important and important”. In Iranian criminal law, performing sterilization without medical necessity or without a valid medical reason can also lead to criminal liability and be prosecuted under the heading of “causing bodily harm” or “unauthorized medical intervention” (Islamic Penal Code, 2013). This coordination shows that the legislator in this area has been directly influenced by the principles of Imami jurisprudence and has tried to strike a balance between individual health and religious considerations.

2 .The importance of consent in the legitimacy of the act

In Imami jurisprudence, the woman’s consent is considered a condition for some methods of contraception—such as abortion—and without her consent, the act is not legitimate (Shahid Sani, 1413). This emphasis on consent indicates the jurisprudence’s attention to the woman’s right to decide on fertility. In Iranian law, the patient’s informed consent is also a basic condition for the legitimacy of any medical procedure, and the lack of consent can lead to criminal, civil, and disciplinary liability (Shariat-e-Baqeri, 2018). Therefore, both systems—jurisprudence and law—emphasize the principle of “individual decision-making” and consider consent to be the cornerstone of the legitimacy of reproductive actions. 3. Prohibition of harm and injury

The rule of “do no harm” in Islamic jurisprudence emphasizes that no one has the right to harm themselves or others, even if there is consent (Tabatabai, 1417). In Iranian criminal law, articles related to assault and bodily harm also consider any harmful medical procedure—even with consent—illegal if professional principles are not observed (Islamic Penal Code, 1392). Therefore, if a method of contraception causes physical or psychological harm, it is illegitimate both from a jurisprudential and legal perspective. This similarity shows that both systems emphasize the principle of “preserving health”.

4 .Attention to public interests

In some cases, Islamic jurisprudence pays attention to the public interests of society, especially in matters such as population, family health, and social stability (Makarem Shirazi, 1392). In Iranian law, the General Population Policies (2014) and the Population Youth Law (2011) reflect this view and attempt to guide reproductive behavior in line with macro-demographic goals. This alignment shows that jurisprudence and law at the macro level both pay attention to the role of fertility in the social structure.

5 .2–Points of Difference between Iranian Jurisprudence and Criminal Law

1 .The Extent of State Intervention

In Imami jurisprudence, decision-making about fertility is primarily an individual right, and state intervention is permitted only in cases where public interests are seriously threatened (Khamenei, 2016). However, in Iranian law, especially after the enactment of the Population Youth Law, the state plays a broader role in limiting access to contraceptive services. This level of intervention is not explicitly approved in jurisprudence, and some jurists consider it permissible only in specific circumstances. This difference shows that criminal law sometimes deviates from jurisprudential principles under the influence of population policies.

2 .New criminalizations

Islamic jurisprudence does not have a ruling on the promotion of contraceptive methods or the provision of contraceptives, and these issues have not been raised in traditional jurisprudential sources. However, the Youth Population Law has prohibited the promotion of contraceptive methods, limited the provision of some services, and has determined penalties for violations (Youth Population Law, 1401). These cases are legal innovations and do not have a direct jurisprudential origin, but rather result from the government's population policies.

3 .A different view of women's reproductive rights

In some cases, Imami jurisprudence pays attention to women's reproductive rights, such as the condition of a woman's consent in dismissal (Shahid Sani, 1413). However, in Iranian law, some new regulations may limit women's access to reproductive services, especially in deprived areas. This difference shows that criminal law sometimes deviates from jurisprudential principles under the influence of population policies and may interpret women's reproductive rights more restrictively than what jurisprudence has prescribed.

4 .Differences in medical-jurisprudential analysis

Islamic jurisprudence does not explicitly rule on new methods such as IUD, skin patch, or vaginal ring, and jurists rule by analogy with dismissal or general rules (Makarem Shirazi, 2013). However, Iranian criminal law is directly confronted with these methods and must determine the responsibility of the physician, medical standards, and informed consent. Therefore, criminal law is forced to act in a more detailed and precise manner than jurisprudence, and this leads to differences in the approaches of the two systems.

5-3 .Challenges in harmonizing jurisprudence and criminal law

1 .Conflict between population policies and individual rights

Islamic jurisprudence emphasizes the right of the individual to make decisions about fertility, but new population policies may limit this right. This conflict can lead to a decrease in public trust, an increase in unsafe practices, and an increase in the criminal liability of doctors (WHO, 2020). This gap between jurisprudence and law is one of the major challenges of Iranian criminal policy.

2 .Ambiguity in the new laws

The Youth Population Law is ambiguous in some cases, such as the definition of "medical necessity," the permissible limits of advertising, or the doctor's responsibility to record reasons. These ambiguities can lead to different judicial interpretations and reduce the legal security of doctors and patients (Levy, 2015.)

3 .Lack of sufficient case law

Despite the importance of the issue, Iranian case law in this area is limited. This leads to different interpretations by judges, doctors being insufficiently aware of their responsibilities, and patients' rights not being fully guaranteed (Ashworth, 2011). The lack of coherent case law is one of the main obstacles to the proper implementation of the new laws.

4 .Bioethical Challenges

Issues such as the right to reproduction, the right to health, the right to individual decision-making, and equity in access to services are interpreted differently in jurisprudence and law. These differences can lead to conflicts between bioethics, jurisprudence, and criminal law, requiring interdisciplinary review and dialogue (APA, 2013). 5-4. Social and legal consequences

1 .Impact on public health

Legal restrictions may increase unintended pregnancies, unsafe abortions, and physical and psychological harm (WHO, 2020). These consequences can threaten public health and increase medical and social costs.

2 .Impact on the family

Prevention of pregnancy plays an important role in economic planning, maternal health, and the quality of child rearing. Legal restrictions can disrupt this balance and cause economic and psychological pressure on families (Makarem Shirazi, 2013.)

3 .Impact on the criminal liability of physicians

Physicians in the new conditions face increased criminal risk, regulatory ambiguity, and administrative pressures. This may reduce the provision of essential services, fear of medical intervention, and increase legal complaints (Shariat-e-Bagheri, 2018.)

6 .Conclusion and Suggestions

The issue of contraception is at the intersection of Islamic jurisprudence, criminal law, bioethics, and population policy. The study conducted in this article shows that this issue is not only an individual and family issue, but also a macro-social and legal issue whose various dimensions must be analyzed carefully and comprehensively. In this section, a summary of the research findings is first presented, and then suggestions for improving policy and legislation will be put forward.

6 .1-Summary of Findings

1 .General Harmony between Islamic Jurisprudence and Iranian Law

The results of the study show that there is significant harmony between Imami jurisprudence and Iranian criminal law in the principle of permitting temporary contraception. Islamic jurisprudence, citing principles such as the principle of permissibility, the rule of harmlessness, the rule of sovereignty, and the rule of benevolence, allows temporary contraception and is strict only in the case of permanent sterilization. Iranian criminal law also does not criminalize temporary contraception and only imposes criminal liability in cases where the medical procedure is performed without consent or against professional principles.

2 .Shared sensitivity to permanent sterilization

Both jurisprudential and legal systems allow permanent sterilization only in cases of medical necessity or in the presence of an important interest. In jurisprudence, this restriction is due to permanent changes in the creation and the possibility of harm; in law, due to the possibility of organ damage and the criminal liability of the doctor. This coordination shows that the Iranian legislator in this area has been directly influenced by jurisprudential principles.

3 .The central role of consent in the legitimacy of the practice

In both systems, informed consent is a fundamental condition for the legitimacy of measures related to contraception. In some cases, jurisprudence considers the consent of the woman as a condition, and law considers the consent of the patient as a legal condition. This shows that reproductive rights and the right to individual decision-making have been taken into account in both systems.

4 .The impact of population policies on reproductive rights

One of the important findings of the research is that new population policies, especially after the enactment of the Law on Family Protection and Population Youth (1400), have led to restrictions on access to contraceptive services. These restrictions in some cases are far from jurisprudential foundations and are more influenced by macro-demographic goals. This can have significant social and health consequences.

5 .Bioethical and legal challenges

The bioethical analysis showed that contraception is at the intersection of the right to health, the right to reproduction, freedom of individual decision-making and the public interest. Legal restrictions may increase unwanted pregnancies, unsafe abortions and physical and psychological harm (WHO, 2020). Also, ambiguity in some new regulations can lead to different judicial interpretations and increased criminal liability of doctors.

6 .2–Recommendations

According to the research findings, the following recommendations are made to improve the legal and jurisprudential situation related to contraception:

1 .Clarifying the laws related to sterilization

The Youth Population Law is ambiguous in some cases, such as "medical necessity" or "prohibition of advertising". It is recommended:

- The criteria for medical necessity should be precisely defined
- Clear guidelines should be developed for doctors
- Specialized committees should be formed to review specific cases

This clarification can prevent unnecessary criminal liability.

2 .Strengthening reproductive rights education

Reproductive rights education is essential for:

- Doctors
- Midwives
- Family counselors
- and even the general public. Awareness of legal rights and obligations can prevent violations and physical and psychological harm.

3 .Reviewing restrictions on access to contraceptive services

Severe restrictions may increase the use of unsafe methods. It is recommended: - Maintain access to safe and standard methods

- Strengthen counseling services
- Harmonize population policies with bioethical principles

4 .Pay more attention to jurisprudential principles in policymaking

In principle, Islamic jurisprudence allows temporary contraception and is strict only on permanent sterilization. Population policies should be consistent with these principles so that:

- Individual rights are not violated
- Public trust is not diminished
- The health of women and families is not endangered

6-3 .Final conclusion

In general, contraception has a flexible, rational, and ethically based position in Islamic jurisprudence and Iranian criminal law. The overall harmony between these two systems shows that it is possible to adopt policies that are both compatible with the public interest and respect individual rights by utilizing jurisprudential and legal principles. However, new legal restrictions and bioethical challenges require that the laws related to this area be reviewed and clarified more carefully.

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Important note: In jurisprudential sources, the year of publication is given based on the authentic printed editions. If necessary, the years can be corrected according to the editions you use.

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