

# The Family Order Under The Regulation Of The Criminal Law

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## Abstract

The family morals are of vital importance in social order maintenance in the traditional society. Strict ethics and moral requests, regardless of in the parents and children, the husbands and wives, or between other relatives, in fact have formidable binding force.

This paper discovers that the traditional family morals have been reflected in the Criminal Law. Chapter 17 of the Penal Code stipulates the penalty of hindrance to marriage and family, including crimes related to the violation of monogyny, the chaste duty, and the family supervisory authority. The Criminal Law has other articles approving the ethical relationship between the family members, such as section 272—the crime of killing elder linear relatives by blood.

This paper analyses the regulation under the Criminal Law in terms of its underlying assumptions and possible effectiveness. The Criminal Law has a tolerant manner regarding the property crime among the family, taking family harmony as central to consider; to the contrary, crime of violence to the elder linear relatives by blood always leads to severe penalty. When regarding the marital relations maintenance, it appears to place a disproportionate emphasis on sexual relations, although punishment used to be counterproductive to marriage. To sum up, the system established by the Criminal Law shows inconsistency in these three aspects, and is against the value of individual dignity and equality in modern society.

This paper suggests that the Criminal Law should change its role from maintaining traditional morals to protecting weak persons in domestic relationships. Besides, we also suggest developing alternative dispute resolution (such as the intimate Abuse Circles) as a way of repairing familiar relationship, at the same time avoiding excessively relying on punishment.

**Keywords:** punishment, family, property crime among the family, crime of violence to the elder linear relatives by blood, Domestic Violence Act, bigamy, adultery, the law does not have a role in domestic affairs, Restorative Justice

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