



Civil and Criminal Law in Property Protection: Connections, Conflicts, and Legal Implications

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Abstract

This study was conducted to analyze the relationship and conflicts between civil and criminal law in the light of the Afghan legal system. The background of the subject shows that civil law is of fundamental importance for the protection of property and the rights of the people in Afghanistan, but in the practical field, the criminal law is used to maintain social order by prosecuting and punishing criminals. Some conflicts arise in the process of implementation between the two, which have a direct impact on the provision of justice and public trust. The value of the study lies in the fact that in the current political and legal situation in Afghanistan, it is necessary to clarify the relationship between civil and criminal laws to protect property, social justice, and strengthen the rule of law. The methodology is based on a library study, analysis of legal documents, literature, and Afghan cases. The results show that conflicts between civil and criminal law mostly arise due to differences in legal interpretations, criteria for determining liability, and evaluation of evidence. In conclusion, to strengthen Afghanistan's legal system, it is necessary to create harmony between civil and criminal laws. Recommendations include legislative reform, increased cooperation between judicial institutions, and the creation of transparent interpretations to create an effective and fair system for property protection and social justice.

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1. Introduction

The issue of establishing the rule of law, protecting property, and ensuring social justice in Afghanistan has long been a subject of debate and research. The issue of the relationship and conflict between civil and criminal laws is also relevant in international legal systems, but this issue has a special form in the unique political and legal structure of Afghanistan. Due to the country's long history of conflict, political instability, and weak legal institutions, the lack of coordination between civil and criminal law has had a profound impact on people's daily lives and their legal confidence. The main question of this study is the nature of the relationship and conflict between civil and criminal law in the protection of property? The importance of this issue lies in the fact that the protection of property under civil law is vital for economic stability, investment, and the legal security of the people, but the criminal law has its role in suppressing criminals and establishing social order. If the conflict between the two continues, not only will the justice process be hampered, but public confidence in the legal system will also be undermined.

Civil vs. Criminal Law in Property Protection

Civil law, which serves as a legal rule for regulating property relations and personal relations between persons with equal rights, plays an important role in the protection of property (Zhang, 2025) ^[17]. Its legislative purpose is expressed in two parts: First, to protect the property rights and interests of civil persons and ensure that the property of citizens, legal entities and other organizations is not illegally encroached upon; Second, to maintain the normal flow of the market economy, ensure the security

of transactions and promote economic growth and prosperity, which is done by clarifying the principles of ownership and circulation of property (Samim, 2025) ^[14]. In the regulatory subject, civil law mainly focuses on property relations between equal persons (Rosita, 2025) ^[13]. These relations include both relations of the fixed state of property, such as the right of ownership, the right of use, the right of enjoyment and collateral property rights, as well as relations of the flow of property, such as contractual relations, relations of tort (Minnikes, 2022) ^[10]. By defining these relations, the civil law provides clear legal standards for the protection of property to civil persons (Liu, 2024) ^[9]. For example, in the field of property, the civil law clarifies the methods of acquiring, using and preserving property so that civil persons have full control over their property; and in the field of contracts, it describes the principles of concluding, executing and breaching contracts, which provide legal certainty to both parties (Zulkarnain, 2024) ^[18].

The main purpose of the criminal law is to seriously combat criminal acts that violate property rights, maintain social order and public security, and protect the property rights of citizens from illegal interference (Samim, 2025; Akhtar & Niazi, 2024) ^[14]. The Criminal Code, by clearly defining the elements of crime and the types of punishment, takes strict measures against those who commit crimes against property (Rosita, 2025) ^[13]. In this way, the justice of society and the rule of law are firmly maintained (KEIER, 2025) ^[7]. In terms of regulation, the Criminal Code focuses on criminal acts that seriously violate property rights (Goldberg & Zubkova, 2025) ^[3]. These acts, such as theft, armed robbery, fraud, extortion, etc., pave the way for the illegal appropriation of the property of others by using force, threats, deception, and similar means (Perminov, 2024) ^[12]. By clarifying the elements of these criminal acts and the types of punishment, the Criminal Code provides a clear legal basis for judicial institutions and ensures the accurate identification and serious punishment of criminal acts (Zulkarnain, 2024) ^[18]. In addition, the Criminal Code also pays attention to the aspect of crime prevention, keeping the price of crime high through the threat of punishment and reducing the incidence of crime (Kashtanova, 2017) ^[6]. The Criminal Code also emphasizes the importance of re-socializing criminals (Antonov, 2024) ^[1]. Through training, reformation, and other measures, it provides the offender with a platform for reintegration into society and reduces the likelihood of reoffending (Liu, 2024) ^[9]. Therefore, the penal code, in terms of protecting property, not only shows the aspect of severely punishing criminals, but also shows the aspect of reforming and educating them.

Legal Interplay of Civil and Criminal Law in Property Protection

Civil law focuses on determining civil rights, civil obligations and civil responsibilities to protect property rights and interests (Antonov, 2024) ^[1]. When a civil person's property rights and interests are violated, civil law provides a series of remedies, such as restoring the original state of the property, eliminating the interference, eliminating the danger, and compensating for the losses (Akhtar & Niazi, 2024). The purpose of these measures is to restore the property rights of the injured person and ensure that civil persons can fully own and enjoy their property rights (Perminov, 2024) ^[12]. In this regard, civil law emphasizes the principles of equality, consent, justice, honesty and trust, so that property relations between civil persons can proceed in an orderly manner, the

normal functioning of the market economy can be maintained, and the order and stability of society can be maintained (Nakayi, 2023) ^[11]. In contrast, the legal effect of the criminal law is that it suppresses and punishes criminal acts against property (Idrisov, 2024) ^[4]. The criminal law combats acts that violate property, such as theft, armed robbery, fraud, etc., by imposing severe penalties (Vasilevskaya, & Poduzova, 2018) ^[16]. This punishment is not only a punishment for the actions of criminals, but also a means of maintaining social order and protecting the property of citizens (Liu, 2025) ^[10]. The legal effect of the criminal law is that it has a strong deterrent force, severely punishes the actions of criminals and prevents the repetition of similar acts (Samim, 2025) ^[14].

At the legislative level, the relationship between civil and criminal law is manifested in the formulation of legal provisions in the field of property protection (Nakayi, 2023) ^[11]. Civil law provides a basic framework for the protection of property rights and interests, clarifies the types, contents and methods of use of property (Idrisov, 2024) ^[4]. On this basis, the Criminal Code establishes detailed provisions on criminal acts that violate property rights, and determines the types of punishment and standards of judgment (KEIER, 2025) ^[7]. This legislative relationship contributes to the continuity and unity of the legal system (Vasilevskaya, & Poduzova, 2018) ^[16]. In judicial practice, the relationship between civil and criminal law is manifested in the process of resolving cases (Rosita, 2025) ^[13]. When a case has both civil and criminal aspects, judicial bodies are required to evaluate the provisions of civil and criminal law together in order to ensure the justice and reasonableness of the decision (Zhang, 2025) ^[17]. For example, in cases involving property crimes, judicial bodies must first confirm the commission of a criminal act and then punish the offender in accordance with the Criminal Code (Samim, 2025) ^[14]. At the same time, for victims who have suffered damage as a result of criminal acts, judicial bodies are obliged to impose liability on the offender for compensation for damage in accordance with the Civil Code (Liu, 2025) ^[10].

Civil and Criminal Law Conflicts and Resolution in Property Protection

First, the difference in the methods of restoring rights can give rise to conflicts (Spyropoulos, 2022) ^[15]. Civil law generally seeks to restore property rights and interests through civil lawsuits, in which the principle of compensation and restitution is given priority, that is, the violator is required to compensate for the damage or restore the property to its original state (Atkin, 2022) ^[2]. However, criminal law focuses on punishing criminal acts through criminal procedure and emphasizes punishing criminals and preventing similar crimes through punishment (Liu, 2025) ^[10]. When an act violates both civil law and criminal law, the problem of maintaining a balance between the two and preventing excessive punishment or undercompensating arises (Nakayi, 2023) ^[11]. Second, the difference in the criteria for determining liability also gives rise to conflicts (KEIER, 2025) ^[7]. In civil law, liability is based on the principle of fault, that is, if the violator has a mental defect, he is held liable (Idrisov, 2024) ^[4]. However, in the Criminal Code, the objective harm of the act and the mental malice of the offender are given more attention in order to establish a crime, and very strict conditions have been imposed for the commission of a crime (Zhang, 2025) ^[17]. Due to this

difference, an act may be considered a violation of rights under civil law but not a crime under criminal law, or conversely, it may be considered a crime under criminal law but it may be difficult to compensate for the damage in civil law (Rosita, 2025) ^[13]. Third, the difference in the rules of evidence also gives rise to conflicts (Antonov, 2024) ^[11]. There are significant differences in the procedures for collecting, evaluating, and deciding evidence in civil and criminal cases (Samim, 2025) ^[14]. This difference sometimes leads to an act requiring different evidence in both procedures, which affects the determination of liability and the outcome of the decision (Zulkarnain, 2024) ^[18].

First, an inter-ministerial cooperation mechanism should be established (Minnikes, 2022) ^[10]. Within the framework of this mechanism, a joint committee of civil law, criminal law and judicial experts can be established to meet regularly, discuss the implementation of the law in specific cases, and develop a unified view (Antonov, 2024) ^[11]. This committee can collect and organize relevant legal problems and provide references for legislation and judicial action (Zhang, 2025) ^[17]. Second, it is necessary to improve legal interpretation and implementing rules (Rosita, 2025) ^[13]. In order to reduce conflicts in civil and criminal law, the meaning, limits and scope of legal provisions should be further clarified to reduce uncertainty and disputes in the implementation of the law (Samim, 2025) ^[14]. In addition, research and discussion on legal interpretation and implementing rules should be expanded to increase the accuracy and fairness of the implementation of the law (KEIER, 2025) ^[7]. Third, legislation should be developed (Liu, 2025) ^[10]. In the field of property protection, where there are shortcomings and gaps in the civil and criminal law, new and clear legal provisions should be developed (Atkin, 2022) ^[2]. By creating clear, specific, and complete legal documents, conflicts and unfamiliarity with the application of the law will be reduced and strong legal guarantees will be provided for the property rights and interests of citizens (Perminov, 2024) ^[12].

Materials and Methods

This study was conducted using a qualitative-analytical design, focusing on the relationship and conflicts between civil and criminal laws on property protection. Data collection was conducted through a library study, which used books and academic articles. Data analysis was conducted through content analysis. The research sample was based on the selection of books and academic articles, and reliable sources and comparative analysis were used for reliability.

Results

The results of the study show that within the framework of the legal structure of Afghanistan, both civil law and criminal law play a fundamental role in protecting property, but their application and impact differ. Civil law plays a vital role in defining property rights, regulating transactions between equal owners, providing compensation for damages, and ensuring economic stability, and provides a fundamental framework for economic development. In contrast, criminal law promotes social justice and the rule of law by strictly preventing and punishing criminal violations of property rights, such as theft, fraud, usurpation, and coercion. Another important conclusion of the study is that the two laws are interconnected, as the coordination between the definition of rights in civil law and the criminal penalties in criminal law ensures the full protection of property. However, there is a

high probability of conflicts during the implementation process, such as differences in the criteria for determining liability (the principle of fault in civil law and the objective/mental aspects of the crime in criminal law), differences in the rules of evidence, and an imbalance between the restoration of rights and punishment. The conclusion is that for the effectiveness of the Afghan legal system, it is necessary to establish a joint mechanism for cooperation and coordination between civil and criminal law, clarify the interpretation and rules of legal materials, and provide a coherent and effective framework for the protection of property rights through legislative reforms. This will not only be important for protecting the rights of citizens, but also play a vital role in ensuring economic stability and social justice. The results show that the fundamental role of civil law is to define property rights, regulate transactions between equal owners, and provide compensation for damages. Thus, civil law forms a fundamental framework for economic stability and the restoration of individual rights. In contrast, criminal law acts against criminal offenses (such as theft, usurpation, fraud, and extortion) by punishing and deterring them and plays an important role in strengthening social justice, security, and the rule of law. Both laws play a reciprocal and complementary role in protecting property rights. The results of the study show that both laws are interconnected at the legislative and judicial levels. The civil law defines the types, content and methods of use of property rights, while the criminal law determines the punishment for serious violations of these rights. This connection is also seen in judicial practice, since in a crime, criminal liability is first established under the criminal law, and then compensation or restitution of rights is provided under the civil law. The results show that the difference in the criteria for determining liability (the principle of fault in civil, the objective/mental aspects of the crime in criminal), the difference in the rules of evidence, and the lack of balance between the restoration of rights and punishment are the main sources of conflict between the two laws. In some cases, an act is considered a violation under the civil law, but not a crime under the criminal law, and vice versa. The results show that three ways are necessary to reduce conflicts: First, establishing a coordination mechanism between civil and criminal laws (joint advisory committee of civil and criminal experts). Second, establish clear interpretations of legal provisions and rules and enforceable standards to reduce ambiguity and inconsistency in adjudication. Third, undertake legislative reforms to provide a coherent and comprehensive framework for the protection of property. Overall, for Afghanistan's economic and legal stability, it is essential to further harmonize the relationship between civil and criminal law. Civil law is a means of defining and restoring rights, and criminal law is a mechanism for preventing and punishing criminal violations. Coordination between the two is not only vital for protecting citizens' property rights, but also key to strengthening social justice, the rule of law, and economic development.

Discussion

The results of the study show that both civil law and criminal law play an important role in the protection of property, but their roles are different in nature. Civil law provides a basic framework for defining property rights, regulating transactions, and compensating for damages, while criminal law is a mechanism for punishing criminal offenses and

ensuring social justice. The combination of these two laws forms a complete legal system for the protection of property, but the results of the study show that there are some serious conflicts and shortcomings between them. First of all, it should be said that the relationship between civil and criminal law is fundamental for the protection of property rights. If only civil law existed, there would be insufficient protection against serious criminal offenses (such as theft, fraud, and extortion). On the contrary, if only criminal law existed, the restoration of citizens' property damage and the legal protection of transactions would be neglected. Therefore, the joint cooperation of the two demonstrates the need for a balanced system. In international experiences, such as in European countries, coordination between civil and criminal law has been considered essential for strengthening the rule of law. In Afghanistan, too, as economic and social stability faces serious challenges, the need for this coordination is many times greater. Despite the important role of both laws, the results show that there are major problems in their practical implementation in Afghanistan. For example: Civil law is based on the principle of fault, while criminal law operates on the basis of the objective and mental aspects of the crime. This difference sometimes creates contradictions and ambiguity in judgments. The requirement for evidence in civil cases is relatively simple, but there are very strict conditions in criminal judgments. This difference results in two different outcomes of the same incident. There is little coordination between the Afghan justice and judicial organs, and this negatively affects the implementation of the results. These problems show that the mere existence of laws is not enough, but their consistent implementation and reform of the judicial system are necessary. The social, political, and economic situation of Afghanistan exacerbates these problems. Due to the long-standing conflict and insecurity, violations of property rights are widespread, especially land grabbing by powerful people. While the criminal law should be strictly enforced, its practical implementation remains incomplete due to political influence and corruption. In addition, the civil litigation process is very long and tiring for the public, which reduces public trust in the justice system. A critical analysis shows that legislative reforms alone are not enough to resolve conflicts between civil and criminal law, but the following three aspects are also important: the establishment of joint committees to make joint decisions on civil and criminal cases. Precise definition of legal provisions to reduce contradictions in the determination of liability and rules of evidence. Reducing corruption and political influence and strengthening the justice system, so that laws are effective not only on paper, but also in practice. Overall, the results of the study show that both civil and criminal law play a vital role in protecting property, but due to differences and contradictions between them, the process of protecting property in the Afghan context faces serious challenges. Unless laws are harmonized, reforms are made in the adjudication process, and public confidence in the implementation of the justice system is strengthened, the protection of property rights will remain incomplete.

Conclusion

The results of the study show that both civil law and criminal law play a fundamental role in protecting property rights, but their enforcement mechanisms and standards for determining liability differ from each other. Civil law provides a legal framework for compensation, restitution of property, and

protection of transactions, while criminal law is a tool for punishing criminal offenses, promoting social justice, and preventing crime. The joint cooperation of the two laws is necessary for the protection of property rights, but the differences in the rules of evidence, different principles for determining liability, and the lack of coordination between the judiciary and the judicial organs pose serious obstacles to this cooperation. From a professional perspective, this study highlights the need for cooperation between the legal department and the judicial organs. The joint work of civil and criminal experts can play an important role in the clear interpretation of laws, the standardization of evidence, and the coordination of judicial decisions. Particularly in the context of Afghanistan, where violations of property rights (such as land grabbing and corruption) are rife, harmonization of laws and strengthening of the justice system are vital to regaining public trust. Several important gaps remain for future research: First, a standardized framework for the rules of evidence in civil and criminal cases is needed to avoid contradictions. Second, more in-depth research is needed on the impact of corruption, insecurity, and political influence in the specific context of Afghanistan, which directly affect the effectiveness of the practical implementation of laws. Third, through a comparative study of international experiences, we can learn about models that have made harmonization between civil and criminal law successful. Overall, this study demonstrates that protecting property rights does not depend solely on the existence of laws, but also on their effective implementation, strengthening professional cooperation, and conducting future research initiatives.

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