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ORIGINAL ARTICLE

An Analysis of Iran's Advertising Legal System Islamic Jurisprudential Foundations, Principles of Domestic Law, and International Standards

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EXTENDED ABSTRACT

Introduction:

Advertising constitutes a cornerstone of contemporary communication systems, significantly shaping consumer behavior while directing cultural and economic capital. In Iran, the rapid expansion of this industry - compounded by the emergence of digital platforms - necessitates a rigorous re-examination of its regulatory frameworks. Historically, the Iranian regulatory system has faced a dual challenge: maintaining alignment with Islamic values and domestic constitutional principles while adapting to the swift evolution of the digital media ecosystem. Previous literature has often adopted fragmented approaches, evaluating either the jurisprudential aspects or the administrative formalities in isolation, thereby neglecting the systemic interconnections within the normative hierarchy. This study addresses this gap by introducing a cohesive, three-layered normative-critical framework to evaluate the two foundational pillars of

Iran's advertising law, examining how structural ambiguities and legislative vacuums impede the system's capacity to protect audience rights and ensure legal predictability.

Method:

This study employs a qualitative content analysis with a distinct normative–critical orientation. The research corpus comprises the two primary regulatory instruments governing the advertising sector in post-revolutionary Iran: the ‘Regulations for the Establishment and Supervision of Advertising Agencies’ (1979) and the ‘Policies and Regulations Governing Environmental Advertising’ (2009). The systematic analysis proceeded in three phases. First, the legal texts, clauses, and mandates were subjected to exhaustive line-by-line coding. Second, the extracted codes were classified based on conceptual affinity into three primary normative levels: Islamic jurisprudence (‘Fiqh’), core principles of domestic public law, and contemporary international regulatory standards. Third, utilizing a gap analysis technique, the tension and decoupling between the statutory texts and the overarching principles were critically evaluated.

Findings:

The structural text analysis reveals that while the regulatory documents demonstrate nominal alignment with value-laden principles, they manifest a profound "structural gridlock" at the operational level.

Jurisprudential Layer: Fundamental Islamic maxims such as ‘La-Zarar’ (the prohibition of inflicting harm) and ‘Gharar’ (the prohibition of deceptive risk or ambiguity) are treated as abstract, normative slogans rather than actionable legal indicators. Owing to the absence of precise operational definitions for concepts such as "public modesty," "extravagance," or "deception," these maxims are reduced to vague administrative codes, vastly expanding bureaucratic discretion and eroding the legal certainty required by industry actors.

Domestic Public Law Layer: The findings indicate a critical departure from the "rule of law" doctrine toward expansive administrative arbitrariness. The regulations lack clear, measurable thresholds for defining violations, thereby compromising the principle of proportionality and the right to due process. The absence of independent oversight bodies and effective appellate mechanisms leaves the advertising sector governed by reactive administrative circulars rather than stable statutory laws.

International Standards Layer: The current framework exhibits a complete and absolute legislative vacuum with respect to post-platform market realities. Anchored entirely in the paradigm of classical, static media, the regulations fail to address algorithmic decision-making, automated commercial targeting, data-driven profiling, and the use of behavioral psychology in deceptive design architectures - internationally recognized as "dark patterns." This technological obsolescence exposes consumers to asymmetric information and hidden psychological persuasion without any statutory safeguard.

The critical synthesis of the three layers demonstrates that the core crisis of Iran's advertising regulatory regime is not an ideological clash between Islamic values and modernity, but rather a functional failure in normative translation. Islamic jurisprudence, domestic public law, and transnational frameworks - such as the EU's Digital Services Act - actually converge on a shared normative imperative: the necessity of conceptual clarity, predictability, and measurable standards to prevent exploitation. However, the existing legal texts suffer from "normative reductionism," whereby systemic principles are downgraded into ambiguous executive guidelines. This structural decoupling leads to a reactive and fragmented regulatory posture that is entirely inadequate for the era of surveillance capitalism and algorithmic market governance.

Conclusion:

In conclusion, the Iranian advertising regulatory regime requires a fundamental structural overhaul, shifting from traditional post-hoc censorship to a proactive, co-regulatory framework. To translate these findings into policy-oriented solutions, this study proposes a strategic roadmap categorized by implementation urgency.

Immediate Term (1 Year): The Ministry of Culture and Islamic Guidance, in coordination with the legislature, must enact targeted directives providing explicit statutory definitions for digital, platform-based, and AI-driven advertising. Concurrently, the Ministry of Industry, Mine, and Trade must implement mandatory identity-disclosure and transparency protocols for online commercial content to eliminate dark patterns.

Medium Term (1–3 Years): The parliament must consolidate scattered, contradictory administrative regulations into a singular, cohesive "Comprehensive Advertising Act," aligning lower-level rules with constitutional principles of proportionality. Furthermore, dedicated protocols safeguarding children's data and psychological well-being from targeted digital profiling must be institutionalized.

Long Term (3–5 Years): The state should establish an independent "National Advertising Regulatory Center" operating under a multi-stakeholder governance model - including state representatives, trade associations, and consumer protection NGOs - to foster a self-regulatory and collaborative ecosystem capable of annual algorithmic auditing.

While this study is limited by its strict focus on formal statutory texts rather than dynamic judicial practices, it provides a rigorous, scalable conceptual matrix for future empirical and comparative research across Islamic legal systems.

Data Availability Statement

Data available on request from the authors.

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Conflict of interest

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