

The Role of Instinct in Criminal Responsibility and the Determination of Punishment under Iranian Criminal Law

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Abstract

The present study examines the position of instinct in criminal responsibility and the determination of punishment under Iranian criminal law, with particular emphasis on the relationship between instinctive impulses, free will, culpability, and individualized sentencing. Although instinct is not expressly recognized as an independent ground for excluding criminal responsibility in the Islamic Penal Code, it may indirectly influence legal assessment through established doctrines such as coercion, necessity, legitimate defence, mental incapacity, mitigating circumstances, and judicial evaluation of the offender's psychological condition. The study adopts a descriptive-analytical legal method and examines instinct as a factor situated between ordinary motivation and legally significant impairment of volition. Particular attention is paid to the instincts of self-preservation, defence, sexual desire, anger, and aggression, as well as their relevance to offences against persons, property, sexual morality, and religious or moral dignity. The analysis shows that Iranian criminal law does not treat instinct uniformly. In some contexts, instinctive pressure may contribute to the exclusion or reduction of responsibility when it substantially affects discernment or freedom of choice, whereas in other contexts it merely explains motive without altering liability. In cases involving sexual violence, uncontrolled instinct cannot constitute a legitimate mitigating factor and may instead indicate greater dangerousness. The study further emphasizes the importance of distinguishing motive, diminished self-control, and complete absence of responsibility, as well as the role of psychiatric and psychological expertise in assessing the actual effect of instinctive pressure on the offender's cognitive and volitional capacities. It is concluded that Iranian criminal law has implicitly recognized the relevance of instinct, but in a fragmented and case-specific manner. A more coherent framework based on individualized culpability, proportionality, and objective criteria for impaired self-control would improve consistency in both criminal responsibility and sentencing.

Keywords: Instinct; Criminal Responsibility; Punishment; Free Will; Culpability; Mitigating Circumstances; Iranian Criminal Law; Islamic Penal Code

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1. Introduction

Criminal responsibility is founded on the proposition that punishment is legitimate only when a prohibited act can be attributed to an actor who possessed a legally meaningful degree of understanding and freedom at the time of conduct. The material occurrence of an offence is therefore not sufficient, by itself, to justify penal liability. Criminal law must also determine whether the person who performed the prohibited act was capable of understanding its nature, directing his or her conduct, and resisting the forces that encouraged its commission. This problem becomes particularly complex when human behaviour is strongly influenced by instinct. Instinct occupies an ambiguous position between voluntariness and compulsion: it does not ordinarily eliminate consciousness or choice, yet in exceptional circumstances it may exercise such intense pressure that the practical capacity for rational self-control is substantially weakened. Iranian criminal law does not formulate a general doctrine of “instinctive conduct,” but a close examination of its rules on criminal responsibility, coercion, necessity, legitimate defence, mental incapacity, mitigating circumstances, sexual offences, offences committed in states of anger, and individualized sentencing demonstrates that instinct is not entirely foreign to the structure of penal attribution. Rather, its effects are distributed among several legal concepts through which the legislature and judiciary assess the quality of the offender’s will.

The theoretical significance of this issue is connected to a more general legal concern with the quality of human volition. Iranian legal doctrine has long distinguished between the outward manifestation of conduct and the legally relevant intention underlying it, even though this distinction has developed most elaborately in private law. The validity and consequences of human conduct cannot always be evaluated without examining the actor’s capacity, intention, and freedom of choice (Emami, 1996). The importance attributed to genuine intention and legally effective volition is also apparent in doctrinal accounts of obligations, in which the legal system differentiates conduct expressing free determination from conduct produced under defects affecting consent or decision-making (Shahidi, 2012). Although criminal responsibility operates according to principles different from contractual responsibility, the underlying jurisprudential concern is comparable: the attribution of serious legal consequences to an individual presupposes that the conduct is sufficiently connected to that individual’s conscious and voluntary agency. In criminal law, however, this requirement assumes greater importance because the legal consequence is not merely the alteration of a private relationship but the imposition of public condemnation, deprivation of liberty, corporal punishment, retaliation, or other forms of penal sanction.

Instinct may be described as a relatively deep and internally rooted tendency that directs a human being toward responses associated with survival, reproduction, self-defence, protection of offspring, avoidance of danger, acquisition of necessities, anger, attachment, and other fundamental dimensions of human existence. The thesis on which the present article is based approaches instinct as a phenomenon that must be examined simultaneously from biological, psychological, criminological, jurisprudential, and legal perspectives. From a biological perspective, instinct is connected with behavioural tendencies that do not require elaborate learning before they become operative. From a psychological perspective, instinctive forces are mediated by cognition, emotion, personality, experience, and environmental stimulation, meaning that human instinct cannot simply be equated with automatic animal behaviour. From a criminological perspective, instinct is one element among numerous internal and external determinants that may contribute to criminal behaviour. From a legal perspective, the central question is narrower: when does the influence of instinct become sufficiently significant to affect the attribution of criminal responsibility or the determination of punishment?

The distinction between human and purely automatic behaviour is therefore essential. Human beings possess instinctive tendencies, but they also possess the capacity for deliberation, restraint, planning, and moral judgment. The existence of hunger does not invariably lead to theft; fear does not necessarily lead to unlawful violence; sexual desire does not inevitably result in a sexual offence; and anger does not automatically produce assault or homicide. Criminal responsibility would lose much of its normative meaning if the mere existence of an instinct were sufficient to excuse the conduct motivated by it. The legally relevant question is instead whether a specific instinct, under the specific circumstances of the offence and in interaction with the psychological condition of the accused, affected understanding or freedom to such an extent that ordinary attribution became unjustified or that the degree of blameworthiness was reduced. In this respect, Islamic jurisprudential analysis of legally relevant intention has historically attached significance to meaningful choice and has distinguished conduct attributable to an autonomous actor from conduct produced under legally recognized forms of constraint (Najafi, 1975). The jurisprudential

treatment of coercion likewise illustrates the importance attributed to the authenticity of human choice rather than merely to the physical occurrence of an act (Ansari, 1995).

The problem becomes particularly significant because the Iranian Islamic Penal Code does not consistently address instinct through a single conceptual mechanism. Instead, different instinct-related situations receive different legal responses. The instinct of self-preservation may indirectly appear in the law of coercion, necessity, and legitimate defence. Hunger and the biological need for survival become relevant where conduct takes place under extreme material deprivation. Fear may weaken voluntariness in situations of intolerable coercion. Defensive instinct is reflected in the law's willingness to authorize proportionate responses against imminent aggression. Sexual instinct appears in the differentiated structure of certain offences relating to sexual conduct and in judicial evaluation of motive, although sexual desire does not by itself constitute an excuse for violating another person's autonomy. Anger and emotional excitation are relevant in exceptional provisions concerning conduct committed in highly provocative circumstances, including some offences affecting religious or moral interests. The criminal law therefore contains multiple points at which natural human impulses become legally visible even though "instinct" is not generally recognized as an autonomous ground for excluding responsibility.

This fragmented structure creates both doctrinal and practical difficulties. The same underlying psychological phenomenon may be categorized as coercion in one case, necessity in another, extreme emotional excitation in a third, diminished mental control in a fourth, and merely a motive in a fifth. The legal consequence also varies dramatically. In some circumstances, the relevant condition may eliminate responsibility altogether; in others, it may affect the characterization of the offence; in still others, it may justify mitigation without altering criminal liability. At the opposite end of the spectrum, uncontrolled instinct may even be interpreted as an aggravating consideration where the offender's inability or unwillingness to restrain dangerous impulses indicates a heightened risk to others. The need for conceptual clarification is therefore not merely theoretical. Classification determines whether an offender is acquitted, held responsible for a lesser offence, granted mitigation, subjected to ordinary punishment, or treated as particularly dangerous.

The central objective of the present study is to determine the extent to which instinct has been recognized, directly or indirectly, in Iranian criminal responsibility and sentencing, and to identify the criteria that should distinguish legally relevant instinctive pressure from ordinary motives and desires. It seeks to clarify whether instinct should be conceptualized as a factor affecting mens rea, a factor affecting voluntariness, a circumstance relevant to excuses or justifications, a sentencing consideration, or some combination of these categories depending on the circumstances. Particular attention is paid to offences against persons, property, sexual morality, and moral or religious dignity, because the underlying thesis demonstrates that Iranian legislation does not respond identically to instinct across these domains. The study additionally examines the relationship between instinct and free will, the role of expert psychological and psychiatric evidence, the relevance of judicial knowledge, and the contribution of Imami jurisprudential concepts concerning coercion, necessity, anger, and control over the self.

The study adopts a descriptive-analytical legal method and draws primarily on the doctrinal architecture presented in the underlying thesis. The analysis focuses on the Islamic Penal Code of 2013, related principles of criminal procedure, jurisprudential foundations, and the manner in which courts may interpret instinctive motivation through established legal categories. The point is not to argue that instinct should become an independent and unlimited defence. Such a position would conflict with the basic premise of criminal responsibility that competent adults are ordinarily expected to regulate their impulses. The study instead proceeds from the more limited proposition that the fairness of criminal attribution requires attention to the actual quality of an offender's capacity for control. The fundamental challenge is therefore to preserve the principle of personal responsibility while recognizing that human freedom exists within biological, psychological, emotional, and social conditions that may vary greatly from one case to another.

2. Conceptual and Theoretical Foundations of Instinct and Criminal Responsibility

Criminal responsibility is the legal capacity to be held answerable for criminal conduct and to bear the penal consequences attached to that conduct. It functions as the normative bridge connecting the criminal act to the offender. The commission of an act prohibited by criminal law establishes only part of this relationship. The law must additionally be able to attribute the act to the accused as the conduct of a person capable of understanding the prohibition and exercising a meaningful degree of

control over behaviour. Iranian criminal law accordingly places particular importance on maturity, reason, and choice, while intentional offences additionally require the mental components associated with knowledge and intention. Responsibility is therefore different from the mere causal production of harm. A person may physically cause a prohibited result without being fully punishable if one of the legally required conditions of attribution is absent. The importance attached to intentional human agency corresponds to a broader characteristic of Iranian legal thought in which the legal effect of conduct depends not merely on its material form but also on legally significant attributes of capacity and volition (Emami, 1996). In doctrinal analysis, intention is consequently treated as a central element in the transformation of physical behaviour into legally attributable conduct (Shahidi, 2012).

This approach is particularly important when instinct is introduced into the analysis. Instinct cannot be understood as a synonym for absence of will. A person experiencing an instinctive impulse normally continues to possess consciousness and the capacity to choose among different responses. Hunger creates a powerful desire to obtain food but does not necessarily determine the method by which food is obtained. Fear motivates escape or defensive behaviour but may still permit rational selection among alternative courses of action. Sexual desire creates motivation but does not abolish the legal obligation to respect the physical and sexual autonomy of others. Anger may accelerate decision-making, narrow attention, and diminish restraint, but it does not invariably eliminate the ability to distinguish permissible from prohibited conduct. Consequently, the existence of an instinct explains why an act may have become attractive to an offender but does not automatically determine whether that person should be legally excused.

A useful conceptual distinction must therefore be drawn between instinct, desire, emotion, habit, passion, and compulsion. Instinct refers to a deep tendency associated with fundamental aspects of biological or psychological functioning. Desire is a conscious attraction toward a particular object or outcome and may arise from instinct but is not identical to it. Emotion is a psychological state such as fear, anger, jealousy, grief, or excitement that may activate or intensify instinctive tendencies. Habit is a learned behavioural pattern formed through repetition and differs from instinct because its immediate source is acquired practice rather than an innate disposition. Passion or lust may represent an especially intense form of desire but ordinarily remains within the field of conscious conduct. Compulsion, by contrast, denotes a level of pressure that may be legally significant precisely because the actor's capacity to resist has become substantially impaired. Criminal law is concerned not with terminology alone but with the point at which intensity and circumstances transform a normal motive into a legally relevant restriction of freedom.

This distinction becomes clearer when instinct is placed on a spectrum of behavioural influence. At one end lies ordinary motivation. A person steals because of greed, assaults another person because of anger, or commits a sexual offence because of sexual desire. In such cases the instinctive or emotional motive may explain the conduct but does not reduce responsibility. At the next level, the instinct becomes unusually intense and may affect the degree of blameworthiness without destroying responsibility. Extreme fear, prolonged deprivation, sudden emotional shock, or intense provocation may fall into this category when the offender retains choice but exercises it under exceptional pressure. At a still more serious level, instinct interacts with psychological or situational conditions in such a way that the person's practical capacity for rational self-control is severely compromised. At the highest level, the pressure may become legally equivalent to a recognized state that excludes responsibility, such as insanity, intolerable coercion, or necessity. This graduated model is preferable to treating instinct either as wholly irrelevant or as an automatic excuse.

The relationship between instinct and free will is therefore central. The law presumes that ordinary adult human beings can resist impulses because responsibility would otherwise become impossible to justify. Yet legal systems simultaneously recognize circumstances in which the ability to choose is impaired. This dual structure also exists in jurisprudential reasoning. Imami legal thought has traditionally attached consequences to whether conduct proceeds from meaningful intention and choice, particularly when coercion or incapacity affects the legal quality of the act (Najafi, 1975). Classical jurisprudential discussions of compulsion illustrate that the material performance of conduct does not necessarily reveal the true condition of the will behind it (Ansari, 1995). Although those principles cannot simply be transferred from private transactions to criminal liability, they illustrate an underlying normative commitment to distinguishing authentic voluntary conduct from acts produced under legally significant pressure.

Criminal law should accordingly avoid confusing causal explanation with legal excuse. Biological, psychological, or social explanation can identify factors contributing to criminal conduct without demonstrating that the offender lacked responsibility. The fact that aggression may have instinctive roots does not mean that violent conduct is involuntary. The fact that preservation of life is a basic human tendency does not mean that every offence committed for personal survival is justified. The fact that sexual desire is natural does not reduce the obligation to control it. A legal system would undermine protection of victims if every powerful human urge were accepted as a defence. Responsibility depends on the offender's capacity to regulate instinct, not on the absence of instinct itself. This is one of the most important conceptual conclusions emerging from the thesis: the law indirectly evaluates the strength of an instinct by asking whether the actor could understand the situation and control the response.

The concept of diminished responsibility becomes relevant at this point. Iranian criminal law clearly recognizes complete absence of responsibility in particular conditions, but its treatment of partial impairment is less systematic. Earlier legislative approaches had more explicit space for distinctions between complete and partial disturbance of consciousness or volition, whereas the contemporary framework generally reserves complete exclusion of responsibility for conditions that eliminate discernment or will to the legally required extent. This leaves a difficult intermediate category composed of defendants who are neither fully incapable nor psychologically unaffected. Instinctive pressure is especially likely to operate in this intermediate domain. An individual overwhelmed by extreme fear, anger, hunger, or emotional shock may remain technically conscious while possessing a substantially reduced capacity for calm deliberation. If the legal system recognizes only the alternatives of full responsibility and complete incapacity, important differences in culpability may disappear.

The distinction between motive and *mens rea* is also critical. Motive explains why the offender wanted to act; *mens rea* concerns the mental relationship between the offender and the prohibited conduct or result. A person may commit intentional homicide because of jealousy, revenge, fear, financial interest, or perceived honour. These motives differ psychologically but ordinarily do not alter the existence of intention if the person knowingly and deliberately causes death. Instinct becomes relevant to *mens rea* only when it prevents formation of the required intention, produces a serious mistake concerning circumstances, or interacts with a condition that negates the required awareness or volitional component. Otherwise, the instinctive motive remains separate from the mental element of the offence. This analytical separation protects the principle of legality because it prevents courts from replacing statutory mental elements with subjective psychological impressions.

The main instincts considered in relation to criminal behaviour can be grouped around preservation, defence, reproduction, attachment, and aggression. The instinct of self-preservation is legally significant because it can be activated by threats to life, bodily integrity, food, shelter, or physical safety. It has an obvious relationship with coercion, necessity, and legitimate defence. Defensive instinct concerns the immediate response to aggression and may influence the speed and intensity of conduct during confrontations. Sexual instinct may explain consensual conduct prohibited under particular moral or religious rules, but it becomes fundamentally different in offences involving coercion because the law protects the victim's autonomy against the offender's impulse. Anger and aggressive instinct may be triggered by provocation or perceived humiliation, yet their legal effect must depend on intensity, suddenness, and the extent of actual impairment. Attachment and protective impulses may similarly become relevant in circumstances involving family members, children, or intimate relationships.

The philosophy of punishment further supports a differentiated assessment. Retributive punishment presupposes blameworthiness, and blameworthiness is reduced when the offender's capacity for rational control is substantially weakened. Preventive theories, by contrast, may support punishment even where blame is reduced if the offender remains dangerous. Rehabilitative theories require understanding the causes of offending because an intervention designed for an impulsive offender may differ from one appropriate for a calculating offender. Proportionality demands that punishment reflect not only the external harm but also the internal quality of culpability. The role of instinct is therefore not confined to determining guilt. It may continue to matter after responsibility has been established because two offenders who cause similar harms can differ significantly in motivation, self-control, psychological condition, and prospects for rehabilitation.

The most defensible theoretical position is consequently one of qualified relevance. Instinct should not be transformed into an independent defence because such a doctrine would be conceptually vague and vulnerable to abuse. At the same time, criminal law should not treat instinct as categorically irrelevant because established doctrines already depend upon assessments of fear, pressure, necessity, rational control, emotional condition, and personal capacity. The proper question is not whether the

offender acted “because of instinct,” but what effect the particular instinctive pressure had on legally recognized components of responsibility. This approach preserves personal accountability while permitting individualized justice.

3. The Position of Instinct in Criminal Responsibility under Iranian Criminal Law

The Islamic Penal Code of 2013 does not identify instinct as an independent condition, excuse, or defence. Nevertheless, the structure of criminal responsibility established by the Code provides several pathways through which instinctive pressure may acquire legal relevance. The most important of these pathways concern choice, coercion, necessity, legitimate defence, insanity or mental incapacity, and the specific regulation of offences in which human impulses form part of the factual context. The significance of this indirect structure is that instinct is not evaluated in the abstract. A defendant cannot ordinarily avoid responsibility merely by alleging that hunger, fear, anger, jealousy, sexual desire, or the desire for survival motivated the conduct. Instead, the instinct must be translated into an established legal category and satisfy the conditions applicable to that category. Iranian criminal law thus adopts, in effect, a functional rather than terminological approach.

The general conditions of criminal responsibility reveal why this is so. The Code bases penal attribution on characteristics such as maturity, reason, and choice, while intentional offences additionally depend on the mental requirements attached to knowledge and intention. The decisive question is therefore whether instinct undermined one of these elements. This approach can be conceptually linked to the broader legal importance attributed to genuine volition in Iranian jurisprudence. Legal effects are ordinarily connected to acts that can meaningfully be attributed to a competent person (Shahidi, 2012), and defects in volition are treated differently from ordinary motives that merely influence a decision (Emami, 1996). In criminal law, the distinction assumes heightened importance because an excuse must be justified by a legally significant impairment rather than by the ordinary psychological pressures encountered in human life.

Coercion provides one of the clearest examples. Article 151 of the Islamic Penal Code, as discussed in the thesis, recognizes the effect of intolerable coercion on criminal responsibility. Coercion is external in its immediate source, but its effectiveness often depends on the instinct of self-preservation. A threat becomes coercive because the person threatened fears death, bodily injury, harm to family members, or another intolerable consequence. The legal system is therefore not directly excusing the instinct of fear; rather, it recognizes that fear produced by a sufficiently serious threat may destroy or severely restrict meaningful freedom of choice. This distinction is important because fear alone cannot excuse an offence. The legal conditions of coercion must be established, including the seriousness of the threat and its capacity to overcome resistance in the circumstances.

The special treatment of intentional killing demonstrates the limits of this principle. The thesis emphasizes that Iranian law does not generally permit a person to save his or her own life by intentionally killing an innocent person merely because a coercer has threatened the offender. The instinct of survival is therefore not given absolute priority over the life of another. This rule reflects a normative judgment concerning the equal value of human life: the threatened actor’s natural desire for self-preservation cannot automatically justify transferring mortal harm to an innocent victim. The example illustrates a central characteristic of the Iranian approach. Instinct may explain why conduct occurred and may even justify exemption in some categories of offences, but its effect is limited where the legal system determines that the protected interest cannot be sacrificed.

Necessity presents a related but distinct framework. Necessity concerns situations in which a person confronts a serious danger and violates a penal norm to avert that danger. The instinct of survival is particularly visible here because hunger, thirst, exposure, physical danger, or other severe conditions may produce overwhelming pressure to act. Theft committed in circumstances of extreme starvation is a paradigmatic example considered in the thesis. Iranian law’s treatment of theft committed during famine illustrates the legal recognition that property offences arising from desperate survival conditions cannot always be equated with theft motivated by greed. The underlying act remains an intentional taking, but the social and psychological context alters the law’s assessment. The distinction is not that hunger automatically legalizes appropriation; it is that extreme necessity may affect the applicability of the most severe penal consequences and, where statutory conditions are met, may exclude or reduce liability.

The relationship between instinct and legitimate defence is even more direct. Defensive behaviour is deeply connected with the instinct of self-preservation, yet the law does not merely endorse instinctive retaliation. Legitimate defence is structured through legal conditions concerning unlawful aggression, necessity of the defensive response, the immediacy of danger, and

the relationship between the response and the threat. Article 156, as analyzed in the thesis, therefore transforms an instinctive human reaction into a legally regulated justification. A person attacked unexpectedly cannot always be expected to engage in detached calculation, and the law must assess behaviour in the context of imminent danger. At the same time, defensive instinct cannot legitimize revenge after the danger has passed. The legal institution of defence consequently recognizes the natural force of self-preservation while subjecting it to normative limits.

The treatment of mental disorder provides another route through which unusually powerful instinctive states may become relevant. Instinct itself is not insanity. Anger, sexual excitement, fear, and jealousy are not mental disorders merely because they are intense. However, an extreme emotional state may interact with a psychiatric condition or reach such a level that the person temporarily lacks legally required discernment or volitional control. In such cases the relevant legal category is mental incapacity rather than instinct. This distinction protects against the dangerous expansion of excuse doctrines. Without it, almost any violent offender could argue that intense emotion or desire eliminated responsibility. The thesis accordingly stresses the importance of expert psychological and psychiatric evaluation where the defendant claims that an apparently instinctive state was actually associated with a serious impairment of cognition or control.

A particularly difficult area concerns intentional violence arising from sudden emotional excitation. Anger is a common human emotion and frequently accompanies assault or homicide. If anger alone reduced responsibility, the principle of personal accountability would be severely weakened. Iranian law therefore ordinarily expects individuals to control anger. Yet exceptional situations may be treated differently where extreme provocation, sudden discovery, psychological shock, or another extraordinary circumstance dramatically alters the offender's mental condition. The thesis discusses homicide associated with perceived violation of family honour and the rules surrounding killing in *flagrante delicto*. In such situations the legislature has historically recognized a narrowly defined factual context rather than establishing a general "anger defence." The legal effect depends on strict circumstances, including the relationship between the persons involved, direct observation, timing, and other statutory requirements. The narrowness of the rule demonstrates that the law does not treat jealousy or anger as sufficient by themselves.

This point is important because instinctive explanations can easily reproduce social prejudices if courts do not maintain strict legal boundaries. A claim of "honour," possessiveness, or jealousy cannot be allowed to reduce the legal protection of victims merely because the offender experienced powerful emotions. The thesis's broader analysis indicates that instinct must be connected to legally recognized conditions rather than cultural assumptions concerning what emotions are supposedly natural or excusable. The same principle should govern other offences against persons. A defendant who assaults another in sudden fear may raise issues fundamentally different from a defendant who engages in calculated retaliatory violence after the threat has ended. Both may describe their conduct as instinctive, but only the first situation potentially implicates the doctrinal logic of defence or necessity.

Sexual instinct requires an especially careful distinction. The thesis considers differences in the treatment of sexual conduct in Iranian criminal law, including the distinction between situations in which the offender has access to a lawful sexual relationship and those in which such access is absent. This legislative structure reflects, at least indirectly, an assumption that the capacity and opportunity to satisfy sexual desire through lawful means can affect the degree of condemnation attached to prohibited consensual sexual conduct. Yet the logic cannot be extended to coercive sexual offences. Sexual desire never creates a legal entitlement to another person's body. Where force, threat, or coercion is used against a victim, the offender's instinctive motivation does not constitute mitigation in itself. Indeed, the inability or unwillingness to control sexual impulses may support a more severe assessment of dangerousness where it results in violation of another person's autonomy.

The distinction between consensual prohibited sexual behaviour and sexual violence is therefore fundamental. In the former category, the law may incorporate moral, religious, or personal-status considerations concerning the circumstances in which sexual desire was acted upon. In the latter, the protected interest includes the victim's bodily and sexual integrity, and the offender's desire cannot displace that interest. This is consistent with the broader principle that a natural impulse may be relevant to assessing the offender's situation without creating a justification for harm to another. The same distinction is visible in the law of self-preservation: the instinct to survive can be recognized through necessity or coercion, but it does not authorize every harm that might make survival easier.

Anger is also visible in the regulation of offences affecting religious dignity. The thesis discusses the distinction made in connection with *sabb al-nabi*, where conduct occurring in a state of anger may receive different treatment from deliberate and

fully controlled conduct when the statutory requirements are satisfied. The significance of this example lies less in the particular offence than in the broader principle it illustrates. Iranian criminal law sometimes distinguishes between speech or conduct expressing stable and deliberate hostility and conduct produced in an exceptional emotional state. The legal system thereby acknowledges that the degree of intentionality and self-control accompanying an offence may affect its classification or punishment.

Imami jurisprudence provides an important conceptual background to these distinctions. Classical jurisprudence does not recognize an unlimited concept of instinctive excuse, but it attaches substantial importance to reason, intention, coercion, and capacity. The legal quality of acts performed without effective choice has been treated differently from acts arising from ordinary desire or voluntary preference (Najafi, 1975). Juristic treatment of coercion further demonstrates that the law examines the relationship between external pressure and internal volition rather than focusing solely on the physical act (Ansari, 1995). These ideas help explain why contemporary criminal law can acknowledge fear, necessity, or severe mental impairment without treating normal instincts as excuses.

The overall legislative pattern is consequently one of conditional and indirect recognition. Instinct does not independently exclude criminal responsibility. Its relevance depends on whether it operates through coercion, necessity, defence, lack of discernment, lack of effective choice, or another recognized category. This structure is defensible because it protects legal certainty, but it also creates gaps. The absence of a developed doctrine of diminished responsibility means that cases involving severe but incomplete impairment may be dealt with primarily at the sentencing stage rather than through a precise theory of culpability. Iranian criminal law therefore contains the elements of a nuanced approach to instinct but has not yet organized them into a unified doctrinal framework.

4. The Role of Instinct in Sentencing and Judicial Assessment

The importance of instinct does not end once criminal responsibility has been established. Sentencing requires a more individualized assessment than the binary question of guilt, and it is at this stage that the offender's motives, psychological condition, emotional state, circumstances, degree of self-control, post-offence behaviour, and dangerousness may acquire greater significance. A court may conclude that an offender possessed sufficient reason, intention, and choice to incur responsibility while simultaneously recognizing that the offence was committed under pressures that reduce blameworthiness. This distinction between liability and degree of punishment is essential to a proportionate penal system. It avoids the extremes of excusing conduct merely because it was psychologically understandable and punishing all legally responsible offenders as though their internal circumstances were identical.

The thesis identifies mitigating circumstances as one of the principal channels through which instinct may enter sentencing. Article 38 of the Islamic Penal Code permits consideration of circumstances that can justify mitigation in appropriate cases. Instinct is not listed as a self-standing mitigating factor, but the conditions associated with instinct may become relevant through provocation, unusual circumstances surrounding the offence, the offender's motive, repentance, cooperation, or other statutory considerations. A court dealing with an assault committed immediately after an unexpected and traumatic event may therefore distinguish that offender from another who planned comparable violence over an extended period. The external harm may be similar, yet the degree of deliberation and self-control differs. Proportional punishment requires sensitivity to this difference.

The distinction between motive and excuse must nevertheless continue to govern sentencing. A motive may explain an offence without deserving sympathy. Greed, domination, sexual entitlement, revenge, and possessive jealousy are powerful motivations, but their intensity does not automatically reduce culpability. In fact, some motives may justify a more severe response because they reveal hostility toward protected legal interests. The judicial task is therefore to determine whether the instinctive factor reduced the offender's practical capacity for lawful choice or instead demonstrates a dangerous disposition that the offender was fully capable of controlling. This assessment cannot be made through labels alone. Calling conduct "instinctive," "emotional," or "passionate" says little about the actual degree of control available to the accused.

Judicial evaluation of homicide provides an important example. Sudden homicide committed immediately after an extraordinary emotional shock differs psychologically from premeditated killing, although both may satisfy the formal requirements of intentional homicide in many circumstances. The thesis discusses cases involving alleged violations of family honour and situations resembling killing in *flagrante delicto*. The crucial legal issue is not whether jealousy or anger is socially

understandable but whether the facts satisfy the narrowly defined statutory rule or otherwise provide lawful grounds for mitigation. Courts must therefore examine timing, the immediacy of observation, the existence of prior planning, the offender's actions before and after the event, and the availability of alternative responses. If the offender acquired a weapon in advance, waited for the victim, or acted after a significant cooling-off period, the claim of irresistible instinct becomes substantially less persuasive.

The same evidentiary discipline is necessary in cases of extreme anger. A defendant may sincerely report having "lost control," but subjective description cannot determine legal responsibility or punishment. Courts should distinguish metaphorical loss of control from clinically or legally meaningful impairment. Most persons who say they "could not control themselves" retained some capacity for purposive conduct. Evidence of selecting a weapon, pursuing the victim, avoiding witnesses, concealing evidence, escaping, or constructing a false account may demonstrate organized cognition inconsistent with complete incapacity. Conversely, confused behaviour, immediate remorse, spontaneous efforts to assist the victim, and psychiatric evidence of an acute mental state may support a different interpretation. The relevant question is not whether the offender experienced anger but how that state affected cognition and volition.

Expert evidence is therefore central to the fair assessment of instinct-related claims. Psychologists and psychiatrists can assist the court in distinguishing ordinary emotion from pathological or exceptionally severe states. An expert may evaluate whether the accused suffered from a recognized mental disorder, whether the alleged emotional state is consistent with the individual's psychiatric history, whether impulse-control capacities were impaired, and whether the defendant's account corresponds with observable behaviour. Such expertise does not replace judicial decision-making. Criminal responsibility remains a legal conclusion, but expert evidence can provide the scientific information necessary for a court to evaluate mental capacity. The thesis correctly identifies this as one of the most important mechanisms through which instinct may indirectly become relevant in criminal proceedings.

The relationship between expertise and judicial knowledge requires careful regulation. The judge may consider expert reports, witness statements, local investigation, forensic evidence, the defendant's statements, and other evidentiary material when forming judicial knowledge. Instinct cannot itself constitute proof of guilt. A person cannot be convicted merely because a judge considers him aggressive, sexually impulsive, fearful, or possessive. Such reasoning would substitute character judgment for evidence concerning the charged act. The legally relevant use of instinct is interpretive rather than independently probative: it may help explain conduct already established through admissible evidence. This limitation is necessary to protect the presumption of innocence and to prevent psychological stereotyping.

For the same reason, post-offence behaviour must be interpreted cautiously. Flight following an offence may reflect the instinct of self-preservation and awareness of possible punishment, but flight is not equivalent to guilt. Innocent persons may flee from fear, confusion, distrust of authorities, or perceived danger. Nevertheless, when combined with other evidence, organized concealment or deliberate efforts to avoid detection may inform the court's assessment of awareness and planning. Immediate remorse presents the opposite possibility. An offender who spontaneously assists the victim, reports the incident, cooperates with authorities, or demonstrates genuine regret may be treated differently at sentencing from one who remains indifferent or attempts to repeat the conduct. These behaviours do not retroactively alter the elements of the completed offence, but they may reveal the offender's psychological relationship to the act and prospects for rehabilitation.

The instinct of self-preservation also affects the investigative stage. Suspects may deny, minimize, or distort facts because they fear punishment. This is a predictable human response and illustrates why confessions must be obtained in conditions free from coercion. Investigators who understand psychological motivation may conduct more effective interviews, but they must not manipulate instinct through threats, humiliation, fear, or deprivation. The purpose of psychological insight should be to improve the accuracy of fact-finding rather than to overcome the suspect's will. This principle is closely related to the broader legal insistence that valid human conduct must be the product of meaningful choice, a concern that has deep doctrinal roots in Iranian legal thought (Shahidi, 2012). Jurisprudential treatments of coercion similarly underscore the difficulty of assigning ordinary legal consequences to conduct produced by overwhelming pressure (Ansari, 1995).

The assessment of sexual offences requires especially strict limits on instinct-based mitigation. Sexual desire is a normal human tendency, and precisely for that reason the legal system expects competent adults to regulate it. A person who violates another's sexual autonomy cannot reduce culpability merely by asserting intense desire. In coercive sexual offending, the claimed inability to control sexual instinct may instead indicate an elevated risk of repetition. A court may therefore interpret

persistent or compulsive sexual aggression as relevant to dangerousness and the need for treatment, supervision, or severe penal consequences. The thesis's discussion of judicial practice reflects this cautious position: Iranian courts are substantially less willing to treat sexual impulse as mitigating where conduct involves coercion or violence.

This contrasts with offences in which the conduct itself is consensual but prohibited by substantive criminal law. In such cases, the offender's personal situation and access to lawful alternatives may form part of the statutory structure. The distinction illustrates why it is misleading to speak generally of "sexual instinct" as having one legal effect. The legal significance of an instinct depends on the protected interest involved. Where the offence principally concerns enforcement of a moral or religious norm, the legislature may treat the offender's circumstances in one way; where the offence directly violates another person's bodily autonomy, the same instinctive motive may deserve no mitigation at all.

Aggression and anger are similarly ambiguous. An offender who reacts defensively to an immediate threat is different from one who repeatedly responds violently to ordinary frustration. In the first case, the instinctive reaction may support a claim of legitimate defence or mitigation. In the second, repeated failure to regulate aggression may indicate dangerousness. This distinction is particularly important in sentencing because punishment serves multiple purposes. Retribution concerns deserved blame; prevention concerns future risk; rehabilitation concerns the possibility of behavioural change; and incapacitation concerns protection of society. Instinctive conduct may reduce retributive blame in one case while increasing preventive concern in another.

A refined sentencing framework should therefore distinguish the intensity of the impulse, its origin, the immediacy of the triggering event, the availability of lawful alternatives, the defendant's psychological capacity, the proportionality of the response, and the degree of planning. The court should additionally distinguish between impulses rooted in basic survival needs and motives arising from domination or hostility. Severe hunger threatening physical survival is normatively different from greed. Immediate fear during an unlawful attack differs from retaliatory hatred. Sudden psychiatric decompensation differs from ordinary anger. Sexual compulsion associated with a clinically established disorder is different from an offender's self-serving assertion that desire was strong. These distinctions permit individualized justice without abandoning objective legal standards.

The jurisprudential dimension further supports a controlled approach. Islamic legal reasoning historically differentiates conduct performed under legally significant coercion from voluntary conduct motivated merely by personal inclination (Najafi, 1975). The distinction between compulsion and desire is particularly important because the presence of a strong motive does not necessarily negate responsibility. Juristic emphasis on intention and voluntary action therefore provides a conceptual basis for recognizing exceptional impairment without legitimizing ordinary surrender to impulse (Ansari, 1995). Contemporary criminal law can develop this insight by treating control over instinct as part of the factual assessment of culpability rather than creating a vague general defence.

Institutionally, psychiatric and psychological evaluation should be used most carefully in cases where the accused alleges that the instinctive state approached loss of discernment or control. Expert examination can also assist sentencing by evaluating risk, treatment needs, impulse-control disorders, trauma, and other factors relevant to rehabilitation. Yet courts must resist the tendency to medicalize every morally difficult act. Not every violent offender suffers from a disorder, and not every powerful instinct represents pathology. The legal system must preserve a distinction between psychiatric incapacity, diminished psychological control, and ordinary but blameworthy choice.

The role of instinct after the offence likewise deserves consideration. Remorse, confession, concealment, flight, attempts at reparation, and continued aggression may all contribute to assessment of the offender. Such conduct should never replace evidence of the offence itself, but it may become important for individualized sentencing. A person whose offence arose from a transient crisis and who immediately demonstrates responsibility may present a different rehabilitative profile from one who rationalizes the act and remains committed to the underlying aggression. Sentencing that ignores such distinctions risks becoming mechanically uniform.

The principal difficulty in the current Iranian framework is thus not the complete absence of legal mechanisms, but their fragmentation. Necessity, coercion, legitimate defence, mental incapacity, mitigating circumstances, judicial knowledge, and expert opinion provide multiple opportunities to consider the effect of instinct. What is missing is a coherent set of criteria governing the transition from ordinary impulse to reduced culpability. Without such criteria, similar cases may receive

inconsistent treatment depending on whether a judge conceptualizes the same psychological phenomenon as motive, provocation, necessity, diminished control, or dangerousness. A more explicit doctrine of individualized culpability would enhance consistency while preserving the principle that instinct alone does not excuse crime.

5. Conclusion

The analysis demonstrates that instinct occupies a real but predominantly indirect position in Iranian criminal law. The legal system does not recognize instinct as an independent ground for excluding criminal responsibility, nor would such a general rule be desirable. Human beings routinely experience fear, anger, hunger, sexual desire, jealousy, defensive impulses, and the desire for self-preservation while remaining capable of complying with law. Criminal responsibility is therefore properly founded not on the absence of instinct but on the capacity to control it. The decisive legal question is whether, in the circumstances of a particular offence, instinctive pressure remained an ordinary motive, substantially impaired the offender's practical freedom, or became part of a legally recognized condition such as coercion, necessity, legitimate defence, or mental incapacity.

Iranian criminal legislation already reflects this distinction in a fragmented manner. The instinct of self-preservation is indirectly acknowledged through coercion, necessity, and legitimate defence. These doctrines recognize that threats to life, bodily integrity, or essential needs can profoundly affect human decision-making, but they subject the resulting conduct to strict legal conditions. The law does not permit survival instinct to justify every harmful act, particularly where an innocent person's life is intentionally sacrificed. This confirms that instinct has no independent normative authority; it becomes legally significant only when the legislature has determined that the pressure on the offender's freedom is sufficiently serious and that the resulting conduct satisfies the conditions of a recognized defence or excuse.

The treatment of offences against property further confirms this pattern. Extreme hunger and deprivation differ fundamentally from greed, even though both may lead to intentional appropriation. The legal relevance of hunger is strongest where it forms part of genuine necessity or the exceptional circumstances recognized in the statutory regulation of theft. Such situations demonstrate why proportionality requires attention to the context of the offender's conduct. A person who acts under an immediate threat to physical survival does not possess the same degree of blameworthiness as a person who acts solely for enrichment, even where complete exemption from responsibility is unavailable.

The role of sexual instinct is substantially more limited and must be approached with particular caution. Natural sexual desire cannot justify infringement of another person's bodily autonomy. In offences involving force, coercion, or sexual violence, instinctive motivation provides no legitimate excuse. Indeed, persistent inability or unwillingness to regulate sexual impulses may increase concern about dangerousness. By contrast, where criminal law regulates consensual sexual behaviour according to religious and moral classifications, the offender's personal circumstances may form part of the legislative assessment of culpability or punishment. The legal significance of sexual instinct therefore depends fundamentally on the protected interest and cannot be formulated through a single general proposition.

Anger, jealousy, honour-related emotions, and aggressive impulses create comparable difficulties. Ordinary anger must remain within the sphere of personal responsibility because social order depends on the expectation that adults will regulate aggressive impulses. Exceptional emotional conditions may nevertheless be legally relevant where suddenness, severity, psychiatric impairment, or narrowly defined statutory circumstances substantially affect the quality of the offender's decision. The law should continue to distinguish these exceptional cases from culturally normalized claims of jealousy, honour, or possessiveness. Otherwise, instinctive explanations may become mechanisms for reducing protection afforded to victims.

One of the principal findings of this study is that a clear distinction must be maintained among motive, reduced self-control, and absence of responsibility. Motive explains why a person acted but ordinarily leaves responsibility intact. Reduced self-control may justify mitigation where the offender remained legally responsible but experienced exceptional pressure affecting blameworthiness. Absence of responsibility is reserved for situations in which legally required capacities such as discernment or meaningful choice are eliminated to the extent recognized by law. Confusion among these levels can produce either excessive punishment or excessive excuse.

This distinction also clarifies the role of expert evidence. Psychiatric and psychological expertise is particularly important where the accused claims that an instinctive or emotional condition affected cognitive or volitional capacity. The expert should

not determine criminal responsibility directly, because that determination belongs to the court, but should provide scientifically grounded information concerning the accused's mental condition, impulse control, perception of reality, ability to understand consequences, and capacity to regulate behaviour at the relevant time. Expert evidence can thereby help distinguish genuine impairment from retrospective attempts to characterize ordinary anger or desire as irresistible.

Judicial knowledge must similarly remain anchored in objective evidence. Instinct may assist in interpreting behaviour, but it cannot independently establish guilt. Flight, concealment, confession, remorse, defensive conduct, and other behaviours may have instinctive explanations, yet none possesses a single inevitable meaning. The judge must evaluate such behaviour together with forensic findings, testimony, expert assessment, and other evidence. Psychological interpretation should improve factual understanding rather than replace evidentiary standards.

The study also indicates that post-offence behaviour can legitimately influence sentencing when responsibility has already been established. Immediate remorse, efforts to assist the victim, voluntary surrender, restitution, cooperation, and genuine acceptance of responsibility may indicate that the offence arose from a temporary crisis rather than a persistent antisocial orientation. Conversely, calculated concealment, continued threats, repeated offending, and persistent justification of harmful conduct may indicate greater dangerousness. These considerations should affect individualized sentencing but should not be confused with proof of the original offence.

The most significant structural weakness in Iranian law is the limited development of a general doctrine of diminished responsibility. The existing framework deals relatively well with complete incapacity and with defined circumstances such as coercion and legitimate defence, but it is less systematic when psychological control is seriously impaired without being completely eliminated. Many instinct-related cases fall precisely within this intermediate area. The result is that courts may be forced to address diminished culpability primarily through sentencing discretion, which can generate inconsistency.

A more coherent framework should therefore identify objective criteria for evaluating instinct-related impairment. Relevant considerations would include the nature and intensity of the triggering circumstance, the immediacy of the response, the existence of prior planning, the duration of the emotional state, the availability of lawful alternatives, the defendant's psychological condition, the proportionality of the response, the relationship between the instinct and the protected legal interest, and expert evidence concerning the actual capacity for self-control. Such criteria would not convert instinct into a defence. They would instead enable courts to determine more accurately where a particular case lies on the continuum between ordinary motivation and legally significant impairment.

Legislative reform should also distinguish clearly between circumstances affecting criminal responsibility and circumstances affecting only punishment. Where instinctive pressure entirely removes a legally required capacity, the consequence belongs to the law of responsibility. Where the capacity remains but is substantially weakened, the consequence should ordinarily concern the degree of culpability and punishment. Where the instinct merely supplies a motive and the offender retains ordinary control, no mitigation should follow unless some separate statutory circumstance applies. This tripartite distinction would significantly improve doctrinal coherence.

The broader implication is that criminal law should neither deny human nature nor surrender to it. A system that ignores the influence of fear, hunger, trauma, anger, and other profound human forces risks imposing punishment without sufficiently examining culpability. A system that treats those forces as automatic excuses would undermine personal responsibility and the protection of victims. The appropriate position lies between these extremes. Instinct should be legally relevant only through disciplined analysis of its effect on cognition, choice, proportionality, and blameworthiness.

Accordingly, the place of instinct in Iranian criminal responsibility should be understood as conditional, indirect, and individualized. The legislature has already recognized several circumstances in which natural human pressures affect legal responsibility or punishment, but these rules remain dispersed across different doctrines. Judicial practice similarly considers instinct through expert opinion, mitigating circumstances, legitimate defence, assessment of mental capacity, and evaluation of the offender's personality and behaviour. The future development of Iranian criminal law should therefore focus not on creating a broad defence of instinct, but on articulating a coherent doctrine of impaired control and individualized culpability. Such an approach would preserve legality and accountability while enabling punishment to reflect more accurately the actual moral and psychological circumstances in which criminal conduct occurs.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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