

## Diminished Criminal Responsibility Due to Mental Disorders Short of Insanity: An Imami-Ḥanafī Jurisprudential Study with Reference to Positive Law

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### ABSTRACT

“Diminished criminal responsibility,” a doctrine rooted principally in Western and common-law systems, refers to a reduction in criminal responsibility where one of the constitutive elements of criminal capacity, namely cognition or volition, is impaired but not entirely extinguished. The doctrine is not confined to a particular offense. Yet because fixed ḥadd punishments, qisās, and textually prescribed discretionary punishments are generally resistant to modification or suspension, the most difficult questions arise in relation to those categories. The factors capable of impairing criminal capacity are numerous; this study focuses specifically on mental disorders that fall short of insanity. Using a descriptive-analytical and comparative method and drawing on library sources, the article examines diminished responsibility from the perspectives of Imami and Ḥanafī jurisprudence while also considering criminological research and positive law. The findings indicate that, despite the absence of a comprehensive and explicit doctrine in Islamic jurisprudence and in the legislation of many jurisdictions, strong and reassuring support for diminished responsibility can be derived from the principal sources of Islamic law, namely the Qurʾān, the Sunnah, and reason.

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## **Introduction**

Human responsibility for conduct and its consequences presupposes both cognition and freedom of choice. When either condition is absent or impaired, the foundation of responsibility is correspondingly affected. The traditional binary model common to classical Islamic jurisprudence and criminal law treats a person as either fully responsible, where all elements of criminal capacity are present, or entirely exempt, where one of those elements has wholly disappeared. Modern criminal-law theory has increasingly questioned this all-or-nothing approach and has recognized intermediate conditions in which an offender's capacity is substantially impaired without being eliminated.

The principal challenge in Islamic legal systems is whether such an intermediate category can be reconciled with the rules of the Shari'a, particularly in legal systems grounded in Imamī or Ḥanafī jurisprudence and in offenses carrying ḥudūd, qiṣās, or textually prescribed ta'zīr. The central question is therefore whether an offender suffering from a demonstrable mental disorder that does not meet the legal definition of insanity may receive reduced criminal responsibility, comparable in structure to the differentiated treatment contemplated for some mature but insufficiently discerning juveniles under Article 91 of Iran's 2013 Islamic Penal Code.

## **Methodology**

The research employs a descriptive-analytical and comparative method. It undertakes linguistic, jurisprudential, and rational analysis of concepts central to criminal responsibility, including will, choice, cognition, fault, insanity, and mental disorder. Primary Islamic texts, authoritative juristic writings, relevant legislation, criminological research, and empirical scholarship were examined through library-based research. The analysis compares Imamī and Ḥanafī positions and evaluates them in light of contemporary understandings of mental impairment.

## **Literature Review**

Diminished criminal responsibility arising from mental disorders short of insanity is a comparatively new and underdeveloped subject when treated independently from the recognized grounds excluding criminal responsibility. It has not acquired a clear and autonomous position in the criminal law of many jurisdictions, including several Muslim-majority states. Existing scholarship has generally addressed adjacent subjects such as minority, incomplete maturity, intellectual disability, or the psychology of criminal responsibility. The present study draws in particular on research concerning maturity and criminal responsibility, comparative studies of intellectual disability, and Stephen J. Morse's work on diminished rationality and

responsibility, but differs by reconstructing a jurisprudential basis for the doctrine within Imamī and Ḥanafī law.

### **Findings**

The dominant position among Imamī and Ḥanafī jurists remains binary: mental disturbance either reaches the threshold of insanity and removes responsibility, or falls below that threshold and leaves full responsibility intact. Nevertheless, less prominent opinions and a number of juristic doctrines support differentiated responsibility where cognition or volition has been significantly weakened.

The study further finds that mental disorder is not the only possible source of diminished responsibility. Incomplete coercion or necessity, excessive self-defense, provocation, and comparable circumstances may also impair perception or freedom of choice without eliminating them. The analysis therefore supports recognizing a broader category of “factors diminishing criminal responsibility,” distinct from factors that completely exclude it. Such a category should be legislatively defined, with precise conditions and evidentiary safeguards.

### **Discussion**

The legal inquiry must focus on functional impairment rather than diagnostic labels alone. A disorder should affect responsibility only where it is medically ascertainable, substantially impairs the accused’s ability to understand the nature or wrongfulness of the conduct or to control behavior, and has a meaningful causal connection with the offense. This approach protects the authority of revealed rules while avoiding the injustice of treating materially unequal mental conditions as legally identical.

The Qur’ānic emphasis on capacity, the Prophetic treatment of persons lacking discernment, and rational principles linking liability to meaningful choice collectively support proportionality between culpability and punishment. The doctrine does not require treating every psychiatric diagnosis as mitigating; rather, it requires a carefully supervised intermediate response when the conditions of responsibility remain present only in a materially reduced form.

### **Conclusion**

The principal research question should be answered affirmatively. Islamic legal sources provide adequate grounds for acknowledging diminished criminal responsibility in cases of mental disorder short of insanity. The doctrine should apply where the disorder is reliably established, substantially impairs the offender’s understanding of the act or its wrongfulness, or significantly weakens behavioral control, and materially contributes to the commission of the offense. A statutory chapter on factors diminishing

criminal responsibility would permit courts to distinguish full capacity, diminished capacity, and complete incapacity in a principled manner while preserving the special requirements governing ḥudūd, qiṣās, and ta'zīr.

### **Declarations**

**Author Contributions:** Data collection, analysis, and drafting were carried out by Sayyed Abdulbasir Hosseini. Abbas Sheikholeslami evaluated the manuscript, addressed scholarly deficiencies, and contributed to the research design.

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