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Feasibility Analysis of the Acceptance of Punitive Damages in the Iranian Civil Liability System with Emphasis on the Deterrent Function

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ABSTRACT

Civil liability in traditional Iranian law has predominantly been grounded in a compensatory function, and its primary objective has been regarded as restoring the injured party to the status quo ante. However, contemporary social and economic developments indicate that mere compensation for damage—particularly in cases involving intentional harmful conduct, profit-driven wrongdoing, or gross negligence—does not possess sufficient effectiveness in preventing and correcting harmful behaviors. Under such circumstances, the fundamental question arises as to whether the institution of “punitive damages” may be employed as a complementary instrument within the Iranian civil liability system and whether such an institution is compatible with the legal foundations and jurisprudential principles governing Iranian law. The present article, adopting a descriptive–analytical methodology and employing a comparative jurisprudential–legal approach, examines the nature of punitive damages and their deterrent function, and analyzes the feasibility of recognizing this institution within the framework of the Iranian civil liability system. The findings of the research demonstrate that although punitive damages appear, at first glance, to extend beyond the scope of compensatory reparation, reliance on their deterrent and preventive functions allows for their justification in light of certain jurisprudential principles, including the rule of no harm (*lā ḍarar*), the prohibition of abuse of rights, and the doctrinal foundations of financial *taʿzīr* (discretionary monetary sanctions). The study concludes that the acceptance of punitive damages in Iranian law—provided that their application is limited, regulated, and confined to specific instances such as intentional or gross fault and harm to public interests—not only does not conflict with jurisprudential principles and the foundations of civil liability, but may also contribute to strengthening the deterrent function and enhancing the overall efficiency of the legal system.

Keywords: *Civil Liability; Punitive Damages; Deterrence; Rule of No Harm (lā ḍarar); Imāmī Jurisprudence.*

Introduction

The institution of civil liability constitutes one of the fundamental pillars of any legal system, the primary function of which is to protect injured parties and safeguard social order by obligating the tortfeasor to compensate for the damage caused. In classical legal thought, civil liability has predominantly been grounded in the principle of compensation, and its objective has been understood as restoring the injured party to the status quo ante (1, 2).



However, profound social, economic, and technological transformations in contemporary societies have raised serious doubts regarding the effectiveness of this traditional approach, particularly in situations where harmful conduct is carried out deliberately, in an organized manner, or with the motive of profit-seeking. In such cases, mere compensation not only lacks sufficient deterrent capacity, but may even be treated as a predictable operational cost of hazardous or profit-oriented activities (3). This condition has underscored the necessity of reconsidering the objectives and functions of civil liability and has brought renewed attention to its preventive and deterrent roles. One of the institutions developed in advanced legal systems, especially within the common law tradition, to strengthen the deterrent function of civil liability is “punitive damages,” an institution that, beyond compensating harm, seeks to punish particularly reprehensible conduct and prevent its recurrence (4, 5). Nevertheless, the recognition of punitive damages within the Iranian legal system faces significant theoretical and jurisprudential challenges. On the one hand, the traditional foundations of civil liability in Iran emphasize compensation; on the other hand, the seemingly penal nature of punitive damages raises serious concerns regarding their compatibility with Islamic jurisprudential principles and the distinction between civil and criminal law domains (6). Accordingly, examining the feasibility of accepting punitive damages in Iranian law, with emphasis on their deterrent function and jurisprudential foundations, becomes an undeniable necessity.

Civil liability in Iranian law, influenced by classical legal traditions and the doctrines of *Imāmī* jurisprudence, has predominantly been constructed upon a compensatory function, with its principal aim being the reparation of harm suffered by the injured party and the restoration of the prior situation (1, 2). This approach, clearly reflected in prominent Iranian legal scholarship, regards civil liability as a remedial institution and refrains from attributing any punitive or penal function to it (1). However, the complexity of contemporary socio-economic developments—particularly the expansion of profit-driven, organized, and high-risk activities—has cast serious doubt on the sufficiency of mere compensation in achieving justice and maintaining social order.

In many instances, damages are not the result of simple or accidental fault but stem from deliberate and calculated conduct in which the tortfeasor incorporates the anticipated costs of civil liability into economic decision-making. In such circumstances, compensation not only fails to prevent harmful conduct but may effectively function as part of the cost structure of the activity, thereby weakening the deterrent function of civil liability (3). This issue is especially pronounced in areas such as professional liability, environmental damage, medical responsibility, and consumer protection, highlighting the necessity of re-evaluating the objectives of civil liability.

In response to this challenge, certain legal systems have developed the institution of punitive damages to impose financial liability exceeding the actual loss, thereby restraining particularly reprehensible, intentional, or grossly negligent behavior and preventing its repetition (4, 5). However, the acceptance of punitive damages within Iranian law is confronted with a significant theoretical and legislative vacuum; the legislator has not expressly addressed this institution, and legal doctrine has either remained silent or approached it with skepticism (7, 8).

Moreover, the most substantial challenge to the recognition of punitive damages lies in their apparent tension with Islamic jurisprudential foundations. From a jurisprudential perspective, civil liability is typically analyzed within the framework of non-contractual guarantee (*ḍamān*) and compensation for harm, and imposing damages exceeding the actual loss may appear inconsistent with principles such as the prohibition of punishment without textual authority and the distinction between discretionary sanctions (*taʿzīr*) and financial guarantees. Nevertheless, a careful examination of jurisprudential principles such as the rule of no harm (*lā ḍarar*), the prohibition of abuse of rights, and the doctrinal foundations of financial *taʿzīr* demonstrates that *Imāmī* jurisprudence is not confined to the

compensation of individual harm but also contains mechanisms for preventing injury and preserving public order (9, 10). Accordingly, the principal research question is whether, by relying on the deterrent function of civil liability and utilizing existing jurisprudential foundations, punitive damages may be justified and accepted in a limited and regulated manner within the Iranian legal system—a question whose resolution may significantly enhance the effectiveness of the civil liability regime and align it with the needs of contemporary society.

Clarifying the Nature of Punitive Damages

Concept and Origins of Punitive Damages

Punitive damages constitute an institution recognized in certain legal systems—particularly within the common law tradition—that allows the injured party, in addition to receiving compensatory damages, to claim an amount exceeding the actual loss from the tortfeasor. The primary objective of such damages is not compensation but rather the punishment of particularly reprehensible conduct and the deterrence of both the wrongdoer and others from engaging in similar behavior in the future (4, 5). In this sense, punitive damages focus on the qualitative dimension of the defendant's conduct rather than merely the quantitative extent of harm and are typically awarded where the harmful act is accompanied by malice, intent, gross negligence, or a manifest disregard for the rights of others (4).

Distinguishing punitive damages from compensatory damages is essential for understanding their nature. Compensatory damages are grounded in the principle of restoration and aim to place the injured party in the position he or she would have occupied had the harm not occurred (1). By contrast, punitive damages are not strictly dependent upon the amount of actual harm, nor are they primarily concerned with compensating personal loss; rather, they seek to impose financial pressure on the wrongdoer and influence social behavior (3). For this reason, punitive damages may be determined at multiples of compensatory damages—an outcome that would be difficult to justify under a purely traditional compensatory logic.

At the same time, punitive damages should not be conflated with criminal fines. A criminal fine constitutes a penal sanction imposed in the framework of criminal law, in favor of the state, and subject to principles such as legality of crimes and punishments and the personal nature of criminal responsibility. Punitive damages, however, are awarded within civil proceedings in favor of a private injured party and are governed by civil procedural rules (8, 11). For this reason, some scholars have characterized punitive damages as a “borderline” institution situated between civil and criminal law.

Historically, the origins of punitive damages trace back to English common law, where courts in the eighteenth and nineteenth centuries, in response to egregious conduct and manifest abuses of power, permitted plaintiffs to recover sums exceeding actual harm (12). The institution subsequently developed extensively in the United States and became a significant mechanism for curbing hazardous conduct by corporations and powerful actors. The philosophical justification for punitive damages in these systems has largely been rooted in addressing deficiencies in the criminal justice system and reinforcing the deterrent function of civil liability (3, 4).

The Legal Nature of Punitive Damages

Regarding the legal nature of punitive damages, three principal approaches can be identified in legal doctrine. The first is the expansive compensatory theory, which seeks to justify punitive damages within the logic of

compensation. Proponents argue that non-pecuniary losses, social harms, and damage to public interests are not always fully calculable, and punitive damages may serve as a mechanism to address these concealed injuries (4). Under this analysis, punitive damages represent an extended form of compensation rather than an independent punitive institution.

In contrast, the penal theory asserts that the primary purpose of punitive damages is punishment and deterrence, and that their similarities to criminal sanctions outweigh their resemblance to civil remedies. The assessment of damages based on the severity of fault, attention to the defendant's malicious intent, and the lack of strict proportionality to actual harm are cited as indicators of their penal character (5, 6). Critics of this theory warn of the potential violation of fundamental criminal law principles, particularly the principle of legality.

The third and increasingly accepted approach is the mixed or dual-nature theory. According to this view, punitive damages simultaneously perform compensatory and punitive functions and cannot be confined exclusively to either civil or criminal law. This theory regards punitive damages as an independent institution with its own rationale, designed to supplement the incomplete functions of traditional civil liability (3, 13).

Considering the structure of the Iranian legal system, acceptance of the mixed-nature theory appears more realistic than the alternatives. On the one hand, Iranian law traditionally approaches financial punishment outside the criminal framework with caution; on the other hand, contemporary socio-economic needs render the reinforcement of the deterrent function of civil liability unavoidable. From this perspective, analyzing punitive damages as an institution with a predominantly deterrent function—yet operating within the framework of civil liability—may provide a basis for their limited and regulated recognition in Iranian law (6, 14).

The Possibility of Recognizing Punitive Damages within the Iranian Civil Liability System

The Iranian Civil Code does not expressly recognize an institution under the title of punitive damages, nor has judicial practice formally addressed this concept. At first glance, this legislative silence might be interpreted as negating the possibility of accepting punitive damages; however, a careful examination of the structure of civil liability in Iranian law reveals implicit capacities for the imposition of financial sanctions exceeding mere compensation (1).

One such capacity can be observed in the institution of stipulated damages (liquidated damages), particularly where the agreed amount is determined in a manner that clearly exceeds foreseeable loss. Although liquidated damages have contractual origins, their deterrent function bears notable similarities to punitive damages (2). Likewise, damages for delay in payment—especially under expansive judicial interpretations—sometimes perform a role beyond compensating for currency devaluation and operate as a mechanism to compel performance.

Furthermore, in Imāmī jurisprudence, examples of financial guarantees with a punitive function can be identified, including financial ta'zīr imposed in specific circumstances to prevent corruption and preserve public order (10). These instances demonstrate that the Iranian legal and jurisprudential system is not entirely unfamiliar with the idea of imposing deterrent financial sanctions; rather, the principal issue lies in the absence of a clear theoretical and legislative framework for applying such measures within the field of civil liability. Accordingly, although punitive damages in their common law sense are not formally recognized in Iranian law, the conceptual and institutional foundations necessary for their limited and purposive acceptance—through a renewed interpretation of civil liability and reliance upon existing jurisprudential principles—can be identified. Such an approach may serve as a preliminary step toward strengthening the deterrent function of civil liability in Iran.

Examining the Deterrent Function in Civil Liability

The Concept of Deterrence in Theories of Civil Liability

Deterrence, as one of the fundamental objectives of civil liability, concerns the prevention of harmful conduct through the imposition of financial costs upon the wrongdoer. Contrary to the traditional view that regarded civil liability as purely compensatory, contemporary theories maintain that obligating the tortfeasor to bear the financial consequences of his conduct can play an effective role in shaping both individual and social behavior (1). Within this framework, deterrence is commonly divided into specific and general deterrence. Specific deterrence targets the individual wrongdoer and seeks to prevent the repetition of harmful conduct by that person, whereas general deterrence relates to the warning effect of civil liability upon other members of society and aims to prevent similar misconduct by them (13).

In the economic analysis of law, deterrence occupies a central position, and civil liability is viewed as a mechanism for regulating social behavior through cost–benefit analysis. According to this theory, individuals weigh the expected benefits of potentially harmful conduct against the anticipated legal costs of liability; if the imposed costs are lower than the expected gains, the incentive to engage in the conduct remains (3). From this perspective, civil liability is considered efficient when the costs associated with harmful behavior are calibrated so as to render such conduct economically irrational.

Nevertheless, an exclusive emphasis on economic deterrence has been criticized, particularly by proponents of corrective justice who regard civil liability as a moral and relational institution centered on repairing harm and restoring social relationships (11). From this viewpoint, deterrence should not be pursued in a manner that disregards the dignity of the wrongdoer or transforms civil liability into a purely punitive instrument. Yet many scholars contend that deterrence and corrective justice are not inherently incompatible and that both objectives may be pursued simultaneously through balanced institutional design (4).

Within Iranian law, although traditional emphasis has been placed on compensation, indications of an implicit acceptance of the deterrent function of civil liability can be observed. The imposition of liability in cases of fault, the recognition of strict liability in certain domains, and the expansion of professional liability all suggest that the Iranian legislator has, albeit implicitly, acknowledged the preventive role of civil liability. Nonetheless, the existing mechanisms for effectively achieving this objective remain limited and, in some contexts, insufficient.

The Inefficiency of Pure Compensation in Achieving Deterrence

One of the fundamental challenges facing civil liability systems grounded exclusively in compensation is their inefficiency when confronting profit-driven and calculated misconduct. In such cases, the wrongdoer anticipates the probability of liability and the potential amount of damages and incorporates these factors into the cost structure of the activity. Consequently, if the expected benefits of the harmful conduct exceed the anticipated costs of compensation, civil liability not only fails to deter but may implicitly encourage the behavior (13).

This problem is exacerbated where compensatory damages cannot be fully proven or precisely quantified. Many harms—particularly in environmental law and consumer protection—are diffuse, gradual, and indirect in nature, rendering complete compensation practically unattainable. Under such circumstances, limiting liability to proven loss results in a disparity between the costs imposed and the actual benefits derived from the wrongful conduct.

Concrete examples of this inefficiency can be found in the field of professional liability, where certain practitioners or medical institutions, aware of customary ceilings of compensation, continue risky practices because their economic gains exceed potential liability costs (4). In environmental contexts, large industrial corporations may prefer to pay fines and compensatory damages rather than reform polluting practices, as structural changes in production entail greater expense than legal liability.

A similar situation arises in consumer law. Widespread but minor violations—where each consumer suffers only minimal loss—often eliminate incentives to bring individual claims, and consequently, mere compensation fails to generate effective deterrence (3). These examples demonstrate that a civil liability system confined to compensation may lose efficiency when confronted with modern patterns of harm and therefore requires complementary instruments.

The Role of Punitive Damages in Strengthening Deterrence

Punitive damages represent one of the most significant complementary mechanisms of civil liability, designed to increase the cost of breaching obligations or engaging in harmful conduct. By imposing damages exceeding actual loss, this institution seeks to disrupt the economic calculations of the wrongdoer and render hazardous conduct economically irrational. From this perspective, punitive damages directly serve the function of specific deterrence by preventing the repetition of harmful conduct by the same actor (15).

In addition, the issuance of punitive damages awards conveys a clear message to society and thereby reinforces general deterrence. Public dissemination of such judgments—particularly when directed at corporations or powerful entities—may influence behavioral standards and impose higher levels of care and responsibility (4). In this sense, punitive damages are not merely reactive but future-oriented, aimed at preventing subsequent harm.

From a social standpoint, punitive damages may play a significant role in correcting hazardous conduct whose effects extend beyond the individual victim and threaten public interests. In such cases, individual compensation cannot adequately reflect the gravity of societal disapproval, whereas punitive damages may communicate the normative message that such behavior will not be tolerated. Ultimately, the preventive role of punitive damages renders them an effective instrument for supplementing the civil liability system. This function, however, can only be realized where punitive damages are applied in a limited, regulated, and exceptional manner; otherwise, the risk of excess and instability within the legal system arises. Nonetheless, theoretical and empirical analyses indicate that in cases of intentional, gross, or profit-driven misconduct, punitive damages may play a decisive role in strengthening deterrence and enhancing the effectiveness of civil liability.

Reconciling Punitive Damages with Jurisprudential Principles

Punitive Damages in Light of the Rule of No Harm (Lā Ḍarar)

The principle of “lā Ḍarar wa lā Ḍirār fī al-Islām” (no harm and no reciprocating harm in Islam) constitutes one of the most fundamental jurisprudential rules, playing a crucial role in regulating legal relationships and preventing unjustified injury. Derived from a well-known Prophetic tradition, this rule is recognized in Imāmī jurisprudence as governing other legal rulings and signifies the negation of any rule or situation entailing illegitimate and non-ordinary harm (10). Jurists have interpreted the function of this rule not merely as addressing harm after its occurrence but as an instrument for preventing the realization and continuation of harmful conduct.

According to the prevailing analysis in Imāmī jurisprudence, the rule of no harm primarily operates as a rule negating harmful rulings, meaning that the Lawgiver has not legislated any rule whose execution would impose substantial and illegitimate harm upon individuals. However, the conceptual development of this principle in later jurisprudential works suggests that *lā ɗarar* may also serve as a basis for establishing enforcement mechanisms to prevent the occurrence or continuation of harm (9). Within this framework, civil liability is not merely a remedial response to realized harm but a preventive mechanism for restraining injurious behavior.

Where harmful conduct is continuous, deliberate, or profit-driven, post hoc compensation may fail to prevent its persistence and may even contribute to its implicit legitimization. In such circumstances, it may be argued that the rule of no harm requires the adoption of measures beyond mere compensation in order to prevent ongoing injury (1). Punitive damages, understood not as an independent criminal sanction but as a financial enforcement mechanism aimed at realizing the preventive objective of *lā ɗarar*, may thus find justification within this jurisprudential framework.

From this perspective, punitive damages may be regarded as a jurisprudential–legal response to situations in which harm results not from accidental conduct but from conscious decisions grounded in calculated assessments of benefit and cost. The imposition of damages exceeding actual loss may deter the continuation of such conduct and prevent future harm, an outcome consistent with the spirit and objective of the rule of no harm in safeguarding both individual and societal interests (9).

Prohibition of Abuse of Rights and Punitive Damages

The principle prohibiting abuse of rights constitutes another significant jurisprudential and legal foundation that can play an effective role in justifying punitive damages. In Imāmī jurisprudence, even where the exercise of a right is, in itself, lawful, it loses its legitimacy if it is carried out with the intention of harming others or in a manner contrary to rational custom (10). This approach indicates that, in Islamic jurisprudence, a right is not an absolute and unrestricted institution; rather, it must always be exercised within the framework of public interest and the avoidance of harm to others. Iranian civil law has also implicitly accepted the prohibition of abuse of rights, and the concept has acquired a significant position in legal doctrine. Exercising a right in a manner that results in unjustified harm to others may give rise to civil liability, even if the right itself is legally recognized for the person (1). In such cases, liability arising from abuse of rights is not confined to compensating the harm inflicted, but is also directed toward restraining abusive conduct.

Nevertheless, in many instances of abuse of rights, compensation alone cannot prevent the repetition of harmful conduct. A person who knowingly and profit-motivatedly abuses a right may continue to have incentives to persist in the behavior even after paying compensatory damages. In this context, punitive damages may operate as an effective enforcement mechanism for the prohibition of abuse of rights by increasing the cost of such conduct in a way that renders it rationally unjustifiable (6). From this perspective, punitive damages are not in conflict with the concept of rights; rather, they serve to protect the authentic meaning of rights in both jurisprudence and law. This institution can prevent individual rights from being transformed into instruments of harming others or securing illegitimate benefits and, in so doing, aligns with the jurisprudential foundations of justice and equity.

Other Supporting Jurisprudential Grounds and Responses to Jurisprudential Objections

In addition to the rule of no harm (*lā ḍarar*) and the prohibition of abuse of rights, other jurisprudential grounds may also be invoked as supporting bases for the acceptance of punitive damages. One such ground concerns financial *ta'zīr*. Although the general assumption regarding *ta'zīr* is that it is corporeal or non-financial, many Imāmī jurists have considered the imposition of monetary *ta'zīr* permissible in specific circumstances, particularly where the objective is the prevention of corruption and the preservation of public order. This demonstrates that imposing financial sanctions for deterrent purposes is not foreign to Islamic jurisprudence. The principle of expediency (*maṣlaḥa*) and the preservation of public order likewise constitute additional grounds upon which reliance may be placed. Imāmī jurisprudence, particularly in the domain of governance and public administration, accords special attention to the public interest and recognizes the authority of the lawful ruler to adopt deterrent measures to prevent disruption of societal order and security (9).

Punitive damages, in cases where harmful conduct threatens public interests, may be analyzed within this same framework. Nonetheless, important jurisprudential objections have been raised against punitive damages. The first objection concerns the alleged combination of civil liability and punishment; that is, punitive damages, due to their punitive character, are treated as a form of punishment, and their introduction into civil liability purportedly results in the conflation of two distinct legal regimes. In response, it may be argued that punitive damages, although possessing a punitive function, are imposed within the framework of a civil claim and for deterrent purposes, and do not necessarily follow the logic of criminal punishments (3).

The second objection asserts that punitive damages conflict with the principle of legality of punishments. This critique is persuasive only if punitive damages are treated as a “criminal punishment”; however, by recognizing them as a specific and constrained civil enforcement mechanism, they may be placed outside the scope of that principle. Finally, the risk of excess and arbitrariness in assessing punitive damages is a serious concern that can be controlled only through limited and regulated application based on clear standards. Accordingly, despite these objections, Imāmī jurisprudence does not constitute an absolute barrier to punitive damages; rather, through a dynamic interpretation of jurisprudential rules and attention to the preventive purposes of the Sharī'a, credible foundations can be articulated to justify a limited and purposive acceptance of this institution within the Iranian civil liability system.

A Jurisprudential–Legal Assessment of the Rule of Iqdām as a Basis for the Legitimacy of Punitive Damages

In modern legal systems, punitive damages have been introduced as a mechanism exceeding mere compensation, aimed at sanctioning intentional wrongdoing and deterring serious violations. In Islamic jurisprudence, justifying such financial liabilities requires identifying Sharī'a-based grounds and general jurisprudential rules. In this context, the rule of *iqdām* (voluntary undertaking), as one of the maxims concerned with the role of the actor's will and knowledge, may be examined in assessing the legitimacy or illegitimacy of punitive damages. Thus, the question arises as to whether the rule of *iqdām* can provide a jurisprudential–legal basis for the permissibility or legitimacy of punitive damages. The analysis may be presented from two perspectives:

(a) The View Supporting a Connection

Some jurists and legal scholars argue that the spirit of the rule of *iqdām* may be extended to encompass a person who knowingly commits a blameworthy act that entails liability. Put differently, if someone, with awareness of the

unlawfulness and harmfulness of the act, engages in conduct that causes severe harm to another person or to public order, this intentional and knowing undertaking may warrant a monetary sanction exceeding mere compensation for direct harm.

Under this reading, *iqdām* is not treated as a basis for negating rights, but rather as a foundation for aggravating liability due to the mental element (knowledge and intent). This approach bears proximity to the underlying rationale of punitive damages, which focuses on punishing intentional, reckless, or egregious conduct. Accordingly, the rule of *iqdām* may be proposed as one of the jurisprudential grounds that can legitimize punitive damages within an Islamic legal framework, provided that its conditions and limits are defined with precision.

(b) The View of Opponents or Cautious Scholars

Many jurists and legal scholars limit the rule of *iqdām* to the negation of liability (rather than the creation of additional liability). That is, the rule is viewed as relating primarily to defenses and impediments to responsibility, not to foundations for aggravating responsibility.

According to this group, punitive damages require an independent and direct basis from the Qur'ān, the Sunna, consensus, or reason, because:

1. **Conflict with the presumption of non-liability (*barā' at al-dhimma*):** In jurisprudence, the presumption is that no financial liability exists absent proof. Liability exceeding compensation therefore requires specific evidence.
2. **Potential tension with the rule of dominion (*taslīṭ*):** If punitive damages impose a financial burden upon a person's property, this may appear to conflict with the maxim that "people have dominion over their property."
3. **Limited scope of *iqdām*:** The rule is typically applied where a person undertakes risk to himself, rather than where his conduct exposes others to severe harm. In the latter case, other maxims such as *lā ḍarar*, destruction (*itlāf*), causation (*tasbīb*), or deception (*ghurūr*) may be more directly relevant.

From this perspective, the rule of *iqdām* alone is not sufficient as a direct foundation for punitive damages, though it may function as a supporting consideration alongside other grounds (such as financial *ta'zīr*, public expediency, and related principles).

For this reason, it appears that the rule of *iqdām* cannot, by itself, constitute a complete and independent foundation for punitive damages in their precise legal sense. Punitive damages pursue punishment and deterrence, whereas the rule of *iqdām* is generally concerned with the allocation of loss and rules of liability.

Nevertheless, the mental element (intent and knowledge) embedded in the notion of *iqdām* may be utilized as an important component in shaping jurisprudential grounds for punitive damages within the broader Islamic normative framework. In other words, the rule of *iqdām* may support differentiating between non-intentional error and intentional or grossly reckless conduct—an element that lies at the core of punitive damages.

Within the Iranian jurisprudential–legal system, other grounds such as *ta'zīr*, public expediency, the rule of no harm, and secondary rulings have played a more prominent role in discussions of monetary sanctions akin to punitive damages. Yet, in deeper analysis, *iqdām* may still be viewed as one piece within the overall mosaic of foundations.

Accordingly, the conclusion is that the jurisprudential rule of *iqdām* can indeed be incorporated as a "foundational component" in theorizing punitive damages within Islamic jurisprudence and may be added to the discussion developed in the article, with the clarification that reliance upon it as a standalone maxim is insufficient and must

be supplemented by other maxims, evidences, and Shari‘a objectives (such as ta‘zīr, preservation of order, and prevention of corruption). This issue remains open to further debate and refinement in jurisprudential and legal scholarship, and viewpoints may vary depending on the jurisprudential school and legal orientation.

A Proposed Model for the Acceptance of Punitive Damages in Iranian Law

Conditions for the Application of Punitive Damages

The acceptance of punitive damages within the Iranian legal system requires the establishment of clear and restrictive conditions in order to prevent their transformation into an unregulated institution incompatible with legal and jurisprudential foundations. The first and most essential condition is the existence of intentional fault or gross negligence on the part of the wrongdoer. In traditional civil liability, responsibility may arise upon proof of ordinary negligence; however, due to the exceptional nature of punitive damages, they should be applied only where the harmful conduct exceeds ordinary carelessness and embodies a high degree of blameworthiness (4). Intentional or gross fault reflects a manifest disregard for the rights of others and social norms and thus justifies a response more severe than mere compensation.

The second condition is the acquisition of illegitimate benefit through the harmful conduct. In many cases warranting punitive damages, the wrongdoer not only inflicts harm upon another but also derives profit from such behavior. In these circumstances, limiting liability to compensation would allow part of the unlawful gain to remain with the wrongdoer, a result inconsistent with principles of justice and fairness. Punitive damages may eliminate this unjust enrichment and restore the disturbed balance by imposing costs exceeding the amount of actual harm.

The third condition concerns harm to public or collective interests. Although punitive damages may be raised in private claims, their strongest justification arises where harmful conduct produces effects beyond the individual victim and undermines public interests, social order, or public trust—such as in environmental, professional, or consumer-related violations (5). In such cases, punitive damages may serve as a complement to regulatory and criminal enforcement mechanisms.

The Competent Authority for Determining Punitive Damages

Determining the competent authority for imposing and assessing punitive damages plays a decisive role in the legitimacy and effectiveness of this institution. Under the proposed model, civil courts should serve as the primary authority for adjudicating and determining punitive damages, since the institution operates within the framework of a civil claim and is intended to supplement the functions of civil liability. Assigning this matter to criminal courts would intensify the conceptual conflation of punishment and civil responsibility.

Nevertheless, the role of the judge must be active yet constrained. After establishing the specific conditions for awarding punitive damages—such as the severity of fault and the social consequences of the conduct—the judge may proceed to determine the appropriate amount. In this regard, reliance upon expert opinions, examination of the particular circumstances of the case, and consideration of the economic status of the wrongdoer are necessary (3).

From a jurisprudential standpoint, entrusting the determination of financial sanctions to the judicial authority is compatible with the powers of the lawful ruler in matters of ta‘zīr and preservation of public order, provided that such discretion is exercised within defined limits (10). Accordingly, the competent authority for punitive damages must be an institution enjoying judicial independence and subject to effective oversight.

Criteria for Limitation and Regulation of Punitive Damages

The most serious concern regarding punitive damages is the risk of excess and instability within the civil liability system. Therefore, establishing limiting and regulatory criteria is an essential prerequisite for their acceptance in Iranian law.

The first criterion is proportionality between punitive damages and the severity of the harmful conduct. Although punitive damages are not necessarily proportionate to the amount of actual harm, they must correspond to the degree of fault and the blameworthiness of the behavior (4).

The second criterion is economic proportionality. Punitive damages should not be assessed in a manner that results in the economic destruction of the wrongdoer, except in exceptional cases where the conduct poses a serious threat to public interests. Consideration of the financial condition of the wrongdoer—particularly in the case of large legal entities—may contribute to achieving effective deterrence (11).

The third criterion is the exceptional character of punitive damages. This institution must not become a general rule in civil liability but should be applied only in specific cases and upon fulfillment of strict conditions. Such an approach accords with jurisprudential caution concerning life and property and preserves legal predictability (9).

The Role of the Legislator and the Judge in Implementing the Proposed Model

The role of the legislator in recognizing punitive damages is fundamental and decisive. Without explicit recognition—or at least implicit provision—within statutory law, their application by courts would face serious challenges of legitimacy. The legislator may introduce an institution analogous to punitive damages under a title and framework compatible with the Iranian legal system, thereby providing a regulated basis for their application. By defining the conditions, limits, and objectives of this institution in legislation, conflicting judicial practices may be prevented.

Alongside the legislator, the judge plays a key role in the practical realization of this model. Through a purposive interpretation of civil liability provisions and attention to jurisprudential foundations, the judge must strike a balance between compensation, deterrence, and justice. Imposing punitive damages without regard to the social and economic circumstances of each case may produce adverse consequences; therefore, judicial discernment regarding the exceptional and case-specific nature of this institution is of particular importance (1).

In sum, the realization of the proposed model for accepting punitive damages in Iranian law requires a calibrated interaction between the legislator and the judiciary, grounded in a dynamic interpretation of jurisprudential and legal foundations—an interpretation capable of simultaneously responding to the needs of contemporary society and remaining faithful to the fundamental principles of the Iranian legal system.

Conclusion

Contemporary social, economic, and legal developments have demonstrated that confining civil liability to a purely compensatory function is no longer sufficient to address all forms of harm and harmful conduct. The expansion of intentional, organized, and profit-driven behavior—particularly in areas such as professional activities, environmental protection, medical practice, and consumer law—has rendered compensation alone, in many instances, incapable of producing an effective deterrent effect. This situation underscores the necessity of re-

evaluating the objectives and functions of civil liability and of giving greater attention to its preventive and deterrent dimensions.

Within this framework, punitive damages emerge as an instrument designed to supplement the traditional functions of civil liability. The analysis of their legal nature demonstrates that punitive damages cannot be understood solely as compensation nor as a criminal sanction; rather, they must be viewed as an institution of mixed character with a predominantly deterrent function operating within the domain of civil liability. Such an understanding allows for a conceptual distinction between punitive damages and criminal fines and removes them from the scope of certain principles specific to criminal law.

The examination of deterrence within civil liability further reveals that modern theories, particularly economic analysis, regard deterrence as one of the principal objectives of this institution. Mere compensation, when confronted with calculated and profit-oriented misconduct, fails to disrupt the economic calculations of the wrongdoer and therefore cannot effectively prevent repetition of the harmful act. By increasing the cost of wrongful conduct and eliminating illegitimate gains, punitive damages can fill this gap and strengthen both specific and general deterrence.

From a jurisprudential perspective, comparative analysis indicates that Imāmī jurisprudence does not necessarily preclude the acceptance of punitive damages. Principles such as the rule of no harm, the prohibition of abuse of rights, financial ta'zīr, and public interest provide the legal system with conceptual tools that may justify the imposition of deterrent financial sanctions. Within this framework, punitive damages may be understood not as an independent punishment, but as a mechanism for preventing ongoing harm and correcting socially hazardous conduct. Responses to the principal jurisprudential objections also suggest that, through a limited, regulated, and exceptional application of this institution, potential conflicts with principles such as legality of punishments and the prohibition of excess can be avoided.

Based on the findings of this research, a proposed model for recognizing punitive damages in Iranian law should rest upon strict conditions, including intentional or gross fault, the acquisition of illegitimate benefit, and harm to public interests. The determination of such damages should fall within the jurisdiction of civil courts and be subject to careful judicial oversight. Criteria such as proportionality, exceptional application, and consideration of the wrongdoer's economic situation must function as limiting principles. Ultimately, the limited and purposive acceptance of punitive damages within the Iranian civil liability system does not inherently conflict with jurisprudential foundations or legal principles; rather, it may serve as an effective tool for enhancing the efficiency of civil liability, strengthening deterrence, and better securing social justice. Achieving this objective requires coordinated legislative action to establish an appropriate statutory framework, alongside a measured and principled exercise of judicial discretion—an approach that may represent a significant step toward aligning the Iranian legal system with the complex demands of contemporary society.

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Authors' Contributions

All authors equally contributed to this study.

Declaration of Interest

The authors of this article declared no conflict of interest.

Ethical Considerations

All ethical principles were adhered in conducting and writing this article.

Transparency of Data

In accordance with the principles of transparency and open research, we declare that all data and materials used in this study are available upon request.

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