

# Civil liability in law of Iran and France

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**ABSTRACT:** This study attempts to evaluation the civil liability and its applied scope in law of Iran and France. It surveyed Napoleonic law and investigates that the basis of civil liability is Fault theory in law France. Also it noted to articles of civil liability in law of Iran. Civil law of Iran definitions Fault in Articles 921, 952 and 953. Fault is extravagance or wastage in various relationships. In other words interperance means violating to rights of others and wastage is failure from material of contract. French civil law, civil liability arising from crime altogether five females and guilt dedicated base unit provides topic. It is essential to the general principle of civil liability in Articles 1382 and 1383 of the 1384, 1385 and 1386, due to the damage caused by certain classes of persons, animals or buildings have been announced. Material 1384 onwards, both in terms of its proceedings and after the appearance of this Act are exceptions to the principle of liability for fault, but rather the specific applications that are justified by certain circumstances.

**Key words:** civil liability, France law, law of Iran

## INTRODUCTION

Civil liability is a civil claim that occurred against people (Natural or legal persons such as companies). It don't brought usually against government. It is right and interest of people to protect by law. Maybe people interest was protected by court to compensation. For example, compensation is recognized due to abuse to other people unless court can issue a temporary order .it be issued by the court because damaged must usually claim to compensation (Darabpoor, 2008: 69). The rule of civil liability has two purposes: first, compensation and prevention and deterrence. Public opinion believes that civil liability has not the role of punitive because this aim follows by criminal law. (Darabpoor,2008:85). Today lawyer accepted that prevention and deterrence of individual have a small effect on the civil liability (Darabpoor, 2008: 86). In the case of foreign legal systems of civil liability of judges raised and more or less recognized, but since it is in passing on this responsibility and scope to vary the French legal system is one of the countries with a written human rights discussed And then Lou common law and civil liability on its territory the rights of British America, and we studied was the basis for civil liability and jurisdiction of French law Basically the function of civil law countries, judges have absolute immunity, but the verb Fault and even refusing to address his due process claim in lawsuits that resulted in the loss of civic responsibility and the parties effectively under certain conditions, the right to losses arising from judicial misconduct charges are claim. The specific procedures for each of these countries claim damages suffered by judges, have chosen which case the losses can be raised against a judge or government, in the latter case the government to turn they can be counterclaim filed against the judge.

French law judge on the complaint of one of the wonderful ways of the commandments is a complaint against the judge allows the injured party to damage is the job of the implementation of the complaint against the neither judge litigation nor Votes issued by him. In other words appealed against the judge and demand compensation requires the invalidation of the sentence a judge, but the judge did not sentence simply a case by him. The trial judge allowed the claim for a special hearing to prove civil liability.

The same point in the third chapter of the fourth book of the French Code of Civil Procedure Articles 505 to 516 were expected later in 1933 and in 1956 amendments were made to some of its provisions. Article 136 of the Criminal Procedure Code, in addition to the specific circumstances of the claim for damages against the judge due to lack of compliance is expected.

### **Civil liability law in Iran**

Some cases of civil liability are discussion in this section so law of work. Article 12 of civil liability determined scope of employer's liability to their worker. It states that "Employers who are covered by labor law are responsible for compensation that occurred from worker or employers in work. If all safe conditions are

compliance then management has not any responsibility to compensation. Note that Article 12 has two main aspects: First, more governmental sector with specialist employment regulations are out of work law but in they are required to observe in some situations. Second, law of work is state in Article 11 therefore it is false in Article 12. It stated in Article 11. This Article is about basis of Fault theory in civil liability. Based on this Article, worker of factory, Services Company are under civil liability. In the law of civil liability issue entitled "Waste and Tasbib" Articles 328 to 335 are presented. In Article 328 is at a loss: "Whoever does not waste other people's money is guaranteed, and should pay the price like or whether the waste is deliberately or non-intentional or whether it is or if benefits incomplete or defective property prices are a guarantee of failure." Article 331 of Tasbib states: "Everyone would be such a waste of funding or the price, and if it is caused by a defect or defects must deal with the perfect price."

### ***Civil liability in law of France***

Napoleonic law doesn't define based on Fault. But it is followed by Potpie in law text. Fault is an intentional action in French courts. Courts don't deference between fault and negligence. Articles 1382 and 1383 of civil law state that everybody damage to other then he must compensation of person. Therefore law of France speaks about fault very general. Civil liability of Iran is defined fault in Article 951,952 and 953. It state fault is Violate to rights of others (Azizy, 1942: 172).

### ***Scattered instances of civil liability arising from the action of the French Law***

Article 1384 is about Liability arising from the act of other. It states "every person is responsible of his behavior. Moreover he is responsible of damages and losses that created for other people." Articles 1733 and 1734 of civil law state "father and mother are responsible of child's compensation while they are guardian. Also, management is responsible of worker compensation. Teachers and artisans are responsible of compensation of student and residents. It is definite unless fathers and mothers proved that they can not to control of child's action. Also, others articles of civil law state about civil liability (Bacache, 2007: 250) so Article 1953 that state "Hotel owners are responsible for the behavior of their workers while they made a loss to customers. Also, doctor has responsibility of other people. Government has responsibility of loss and damage of transportation (Yazdanian, 2012: 252).

### ***Argument on the doctrine of the responsibility to act as a rule***

Doctrinal of civil liability is changing with passage of time. In past decades it disagreed with civil liability but today it attempts to improvement of this rule. Because contract civil liability state that if undertake the obligations to be transferred to another then this person is responsible of compensation (Esmaily, 2008: 190). Moreover today law follows unity contractual civil liability and enforcement. Another argument of doctrine is that general rules of civil liability arising from act, was in French administrative law. State Council of France State responsibility has been proposed action arising from liability without fault. Hence a rule of civil liability arising from the action in administrative law in France is incentive for lawyers to protecting civil liability in law France. Civil liability rule raised from other related to Philosophical attitude. There is disagreement with responsibility of other in an individualism society because everybody is responsible of own mistake but today civil liability follow from Philosophy of collectivism to easy compensation (Badini, 2005: 351). Moreover spreading of insurance is another factor to acceptance civil liability (Yazdanian, 2012: 257).

## **CONCLUSION**

Law of Iran limited liability to special subjects therefore there is not any person to compensation in some cases. Article 921,952 and 953 defined fault. It state that fault is Infringe or waste reduction in the rights of others. These articles accepted Fault theory as critical basis for civil liability. French law don accepted civil liability indirectly in past and its doctrinal accepted it after years. It used civil liability in insurance system. It proves that civil liability is necessary in a society. Civil liability, up to the late nineteenth century, has experienced a period of stability of 1880, to challenge the military in 1804, and also a responsibility towards the right direction (apart from the fault), respectively. Beginning of the transformation is based on two elements: first, significant problems need to prove fault, and secondly, the willingness to take on responsibilities that insurance companies offer.

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