

# MEASURING RATIO AND CONVERGENCE OF JURISPRUDENTIAL DOCUMENTATION IN LIGHT OF LOSSES CAUSED BY CORONA TRANSFER

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## Abstract

The aim of this study was to assess the civil liability of coronavirus epidemic transmission. The research method is descriptive - analytical and library type. In the realization of the triple elements of the verb or to transmit the coronavirus, the causality and causality relation between them (verbs and harm), the civil liability resulting from the transmission of the coronavirus epidemic is any condition, reason or reason to which the coronavirus epidemic can be attributed. Other laws that can be cited in the area of infection include the Civil Liability Act, "Whoever, as a matter of recklessness, pays compensation to the life or health of the person for any harm, whether moral or physical, is responsible for compensation for his act". In Iranian law, the legal basis of the civil liability of coronavirus epidemic transmission factors is based on negligence theory. But the assumption that the transmission of the coronavirus is carried out by hospitals and health care centers or centers that provide treatment and medical care is a form of responsibility, as they are bound by the rules. The basis of Islamic jurisprudence responsibility is that a dangerous disease transmission is based on the principle of No harm. The research findings indicate that the civil liability territory of coronavirus epidemics is where damage can be assigned. In Iranian law, the agents of the epidemic coronavirus have an obligation to compensate the material damages and any possible loss of benefits. However, there is no doubt that moral damages can be claimed, but there is no doubt that such compensations are due to impact of loss and loss.

**Keywords:** Civil Liability, Coronavirus Epidemic, Compensation of damages, Moral damage, Transmission of disease, Theory of Negligence, No Loss

## INTRODUCTION

Civil liability acts as a guarantor of civil rights. It plays a vital role in demanding and enforcing the rights of individuals and as a result of social and legal relations. Without assuming any civil responsibility, it loses its real and objective meaning and takes on its intellectual and mental aspect. It also turns out that the right has actually been de-facto and makes it tangible for the right holders. The rules and regulations are included in the legal system of countries, including our country that have been included in the framework of various laws. Due to compensation by personal insurance and social protection of rights, liability has an important and main part in prevention and need of caution. There is no legal basis for any responsibility according to the rule of law (whoever does damage to another, and compensates for it), and practice arbitration has an important role. In this type of social responsibility, the fault finds its social and legal shape and loses its moral sense. The criterion of fault diagnosis and distinction is normal human behavior. In view of the massive loss of life and the huge financial losses which have caused the human economy to stagnate and poverty, this necessitates the investigation of this matter in legal and jurisprudential terms; This issue should be investigated from different angles and should clarify the responsibilities of criminal and profiteers who consider their economic interests to be involved in the development and spread of this inhuman monster. The criminal and civil liability of individuals who intentionally, under any name or by name, endanger public health or by negligence or

negligence, and implace physical and financial costs on society, shall make their judgment clear and it shall be open to the hands of judges.

The main question in this study is that, what responsibility do people who are causing coronavirus to spread to other people, and what about their lives and the financial costs imposed on others? In this paper briefly refers to the legal and judicial dimensions of civil responsibility of Corona Virus. However, the main focus of this research is the relation of causality and feasibility of causality and citation potential in this problem. According to the law, a person or persons will be considered to be responsible for harm, if done from the harmful effects of a personal verb; and most importantly, if there is relationship between this result and the harmful act or the person involved. Proving the relation between causality and the origin of citations is important between harmful verbs and the subject's result.

Civil liability is established if the act of harm or crime to the subject and the person who performs the harmful act is proved by evidence and evidence and provides a reasonable and customary justification.

## **1. THE CONCEPT OF LOSS IN LIABILITY CAUSED BY CORONAVIRUS TRANSMISSION**

One of the important issues in civic responsibility is discussion of the elements of civil responsibility. The elements in the legal term are the basic elements and foundations on which the main issue is based, holding the framework. There are elements of civil responsibility as well. The term "civic responsibility" is not defined in the law. However, Article 1 of the Civil Liability Act 1339 states that "Whoever, without the authorization of the law, intentionally or as a result of the ignorance of the law, does harm to the life, health, or property, or freedom, or reputation, or any other right, which is created by law for persons resulting from a person's physical or spiritual injury, is responsible for the restitution arising from his act."

Jurists in compulsory civil liability consider three basic pillars of loss, bad verb, causality relation, which in the absence of one of these pillars is essential; JafariLangeroudi, 2008, 642; In other words, Bahrami, 2011, p. 175), in fulfillment of civic responsibility functions, there are elements that would not be achieved without them (Barichol, 2006, p60). These three elements are regarded as three conditions of civil liability; In any case, they are necessary for the realization of civil responsibility (Kasemzadeh, 2008, p. 72).

In realization of civic responsibility caused by the Coronavirus, three elements are needed. But through a study of the situation of units it is understood that in the civil liability resulting from the transmission of the coronavirus, realization of some elements of civil responsibility (causality relation) is faced with difficulties and ambiguities. Because the decree on Citizenry Liability of the Coronavirus Transmissions is a little difficult, therefore the discussion of this research is focused on proving causality and citation potential. So there must be a difference in the sense of the pillars of civil responsibility.

### **1-1.EXISTENCE OF LOSS**

The main element of civil responsibility is the existence of loss; in other words, loss must be incurred in order to atone for that responsibility (Katouzian, 240:2011) or the first condition for the realization of responsibility, contractual responsibility and coercive responsibility, existence of loss and loss. In the sense of the word, jurisprudence and law have different meanings, which refers to a few of its main and practical meanings:

#### **1-1-1. LOSS LEXICON**

Regarding the meaning and concept of "loss", the lexicographer has different meanings. Khalil Farahidi, who is one of the first authors of the dictionary, believes that loss has no more meaning and that is lack of defects. "The Supreme Loss of Income in Al-Maxi" (Al-Zubaidi, 1414, 122); al-Farahidi, 1410, 7; al-Turaihi, 1362, 372); Loss means failure in one thing.

Article II. "In cases where the act of causing harm has caused material or spiritual damage, the court, having examined the incident and ensured the damage, will convict him for it...", M.M. says.

#### **2-1-1. LOSS JURISPRUDENCE CONCEPT**

a. Mr. Zia wrote in his definition of loss: "Fahu al-Khaly (I.R.) in return for the good and the students and their belongings are Yakun al-Nafas, Al-Mal, and Al-Width (I.E. Zia, 1418, 129); He said: "Loss is a defect in something against the profit, and it can be self, wealth, and width."

B: The author wrote in the definition of loss: "The Valerian and Mayakumayal are the most important of all..." It seems to me that the loss is the opposite of the profit. It is a defect in the self or members of humans or eyebrows or property.

c. Makarem Shirazi writes: "Our Whole Body Has Not Offended Me My Gifts My Life My Soul His Own Unspoiled Him" (Makarem Shirazi, 1411, 55); In their opinion, the loss of what we derive from the blessings of life that we derive from and benefit from is called loss, that is, life, property, and the like. In various Islamic texts, addition to harm is important to adding harms and Faqihs have had a comprehensive discussion about the meaning of "harmful." It may be said that in such rights, the basis of non-responsibility is the reason of such, unless it is harmful. Of course, it must not be far from being proved by its claimant. Some social benefits encompass those rights, and no right person in exercising them needs to justify his or her actions and behavior. (Bahrami Ahmadi, 2003, p. 37)

### 3-1-1. ACCRUABLE LOSS CONDITIONS

The terms of the penalty can be applied in the following sense:

- 1- The loss must be inalienable: the necessity of the indispensability of loss means that no one can be convicted of compensation unless the possibility of harm is entered.
- 2- The loss must be direct: the loss must be immediate, i.e. between the harmful act and the harm of another, so that the loss in the opinion of the customs is caused by the same act
- 3- The loss shall not be compensated: in other words, no compensation may be claimed twice. This means that the damaged person may not be able to collect two or more compensation instruments together. Thus in cases where the legislators consider a number of persons to be mutually responsible for compensation, in which case the legislature would absolve one another from damaging. One of the lawyers states: "A scheme or a defect in property is caused, a loss of profits or a detrimental to the integrity of one's self-esteem, which has been inflicted with a loss of time. (Katouzian, 2011, 242 and 243) Summary: In the opinion of the experts, loss of property or loss of profit or loss of consciousness and feeling of man. Thus, loss is a conventional concept that what is considered loss by ordinary people is not the same blow and loss in the form of a word.

### 4-1-1. CORONA LOSS RULE

The rules of waste are one of the rules of absolute and common misconduct among all Muslims. Desolation, destruction, corruption, destruction, and the waste of something. The content and meaning of this rule is unanimous against this: If a person destroys or kills another's property without his consent, then it shall be on his credit and on his behalf, and he shall be able to do so, that in parables the price is required. For this reason, the following verse has been used: "...As for the Lord of the Heavens, the Lord of the Heavens..." "So if any one who transgresses your limits, transgress him above all that he has done to you," (Baqerah/Sura 2, 194): for waste of wealth is by no means other than his own will and consent. One of the topics of responsibility in Fiqh is "waste" without transgression. The phrase "I ataf mal al-fahifwatozman" consists of both shame and negligence. The act of an author is not a requirement for the realization of the waste and what is important in the case of waste is that the assignment of verb to the accused person is harmful, which can be proved. It is sometimes directly or bailiff, sometimes indirectly or mercilessly. Direct waste, or steward in general, is the use or destruction of another property. In all cases of coronavirus disease, whether it's people who have been infected, who have recovered, or who have died, we see if we notice the types of damage, but with a little difference. If someone dies as a result of the coronavirus, it is normal that a heavy financial and psychological damage is caused to a family. If someone has not died, the cost of the drug and treatment he has paid is a financial loss. the lack of interest in the patient's family. As such, the definitions would apply to the number of persons infected with coronavirus or hospitalized with financial costs, to the families being sick and infected with the coronavirus.

## 2. THE RULE OF TESBIB AND COMMITTING HARMFUL ACTS BY PEOPLE WHO TRANSMIT THE CORONAVIRUS

There are many differences between the rule of pride and tolerance, despite the numerous similarities. When there is an active will between the subject and the action, the rule of Tasbib is not allowed, and the base of pride is instances. For the rule of Tasbbib is such that he does not put a gap between reason and steward. When there is an active will between cause and action, it will not be lenient, and pride is the rule time.

He is said to be a man of the Word of God, and to be a God of Truth. The term Tesbib is used in jurisprudential and legal sources as a means of carrying out a direct act (which means carrying out



a task), both of which are associated with wastage and are associated with important tools. In some cases, this term is also used against waste, which means no waste, but rather is a waste of mobs. In Tasbib, waste of property or crime is done indirectly by the preparation of steps, such as digging wells in the road, igniting fire, and bringing it to another property, perjury against someone, opening animal cages that cause waste or damage. The second pillar of civil responsibility is to commit the harmful act that someone who is suffering from harmful effects. Whether the verb is material or not, direct or indirect, act or omission, cheating, cheating, threatening, or grudgingly all of these cases involved. (Bahrami Ahmadi, 2012, 234) expressed that the action of the verb is causing further harm. Harmful verbs may act as a positive act like the act of destroying another house wall is an existential and positive act, which is done by the agent, who regards his custom as a harmful act. The act of loss may be harmful in a negative action, i.e., the act of a person who is bound by the law to do something, but does not do it, and therefore failure to do so has resulted in harm to another; For example, if the train collides with another vehicle if it turns out that the signs had not been installed, the accident would have been, if the train had not been installed, the actual breach would have caused damage (Badini, 2005, 221).

Damages are sustained as a result of the carelessness of the authorities and this is an unforgivable error; a mistake a prudent person does not commit and reckless is someone who never thinks of the consequences of his action. Inaccuracies are also imprudent, but are deconstructed and mean to abstain from doing any action which is called a reservation. ARDEBILI, 2013, 182) The harmful act in the ordinary life of a public event is clear in that someone attack him, kill him, kill him, or strangle him with his hand, or kick him or break a place in the body, etc. This type of attack is totally immoral. According to the modern laws, all of these cases are acts which are harmful.

## 2-1 TYPES OF DAMAGE AND LOSS CONDITIONS CAUSING RESPONSIBILITY OF THE CORONAVIRUS TRANSMISSION

In the case of civil responsibility, the most important thing is to have financial responsibility. When a man takes away something else, such as or the price thereof, he is left up to the buyer. In environmental discourse, in the degradation of common properties, after the acceptance of the tax of these common shares, there is no doubt that these losses will be required.

For example, when the beauty of a natural waterfall is eroded by the intervention of invasive persons, is such spiritual damages compensated to property? It may be said that such losses cannot be compensated by money (Katouzian, 2003:227) and if money is paid for compensation, this payment will be considered a private penalty, not compensation (229).

In Shi'a jurisprudence, the rule of equal responsibility is given to the interference of several factors in causing loss. The benefits of equal division of responsibility is that the courts will be exempted from examination of the degree of fault of any that is difficult and causes lawsuit, and justice is somehow respected. The damage division among different authorities is transmission of viral diseases according to the degree of impact and the manner of intervention of each cause. Each cause is responsible for compensation (Kasimzadeh, 43:2008) as well as its causality. According to the explicitly the method of distribution of responsibilities in the form of equality and according to Article 14(2) of the Civil Liability Act, "the mode of operation" of each tool is the criterion of division of responsibility. Also with regards to Article 526 of Fourth Book of Islamic Penal Code, which states that the degree of influence of individuals' behavior in the level of their responsibility, it seems that the way of division of responsibility is a matter that is done by the magistrate. It is worth mentioning that despite the existence of the Law of Civil Liability of Iran, however, it is not found that true expression in moral damages is obtained.

An epidemic of the coronavirus will certainly create damage and damage to these people. In this sense, by realization of the triple elements of the act or causing damage (causing the epidemic and transmission of the coronavirus), the occurrence of damage and loss and the relation of cause and effect between the behavior and damage of civil responsibility caused by the coronavirus outbreak, any condition is the cause or cause that can be attributed to the transmission of the coronavirus. Communicable diseases also include a wide range of diseases. The mental and psychological state of the child carrying the virus and the disease and its transmission methods generally do not affect the safety and commitment of the carrier. Other laws enacted and documented in this field are a law known as civil liability, according to Article One of this law, "Whoever, due to recklessness, imposes harm on the life or health of the person and causes spiritual or material damages is bound to compensate for his or her own harm". The physical interaction of carriers for disease and virus is among the careless cases; thus, the above legal article can be invoked to consider the carrying

person as the guarantor of material and spiritual harm to others. People who transmit the coronavirus, even if they are unaware of their illness, are subject to this legal article and are responsible for the material and moral losses incurred by other people. In Iran's legal context, the legal ground of the practice of civil liability for coronavirus transmission is based on a short theory. But in an aspect where the transmission and epidemic is carried out in hospitals or health centers where the carriers are being treated, it is certain that they have a legal obligation to the results. The jurisprudential basis of the civil responsibility of the harmful virus is the base of its harmful rule. The inclusion of civic responsibility for the coronavirus causes as much damage as possible. Non-observance of personal hygiene against the virus is based on the rule of self-immolation sanctions, rule of the responsibility for excretion of possible losses, rule of the safeguard of the soul, rule of self-protection, rule of denial of loss, general and application of the causes of suicide as well as the principle of caution is haram and forbidden. The failure to observe public health against the virus is also forbidden according to the rule of denial of loss, the rules of respect, the public, and also the means of haram and forbidden as a result of haram acts. The infectious coronavirus communicator is based on the rule of attenuation, the rule of respect, the rule of diffusion of loss, the rule of safety obligation, and the rule of obligation to safeguard conventional care.

#### **2-1-1 UNPROVISION OF CORONA LOSSES**

No doubt one must expect, one loss is to be compensated in a few ways, and the victim can't bring together two or more of the means of compensation; Thus, when a few people are mutually responsible for compensation, getting compensation from one makes it easy for others to do so.

Article 319 of the Civil Code states: "If the owner takes from one of the usurpers all or part of the property, he shall not have the right to receive the compensation of the usurper."

Or Article 322 of the Civil Code states: "Abra Azmi, one of the usurpers, will not cause others to be their part in the interests of his capture, but if he does commit one of the usurpers to the Hypocrites, he will not have the right to go to Lahaddin".

In fact, after establishing the responsibility of the coronavirus, the defendant is not required to compensate the victim. So if he is compensated, there is no provision for a sentence to be restored.

#### **2-1-2 PERSONAL LOSS DUE TO CORONA**

"In the case of coronavirus, when the damage is done to a particular person, it is not very difficult; But when the harm is done to a company and does not make a particular person feel the loss of it, it is more difficult; Is such a fine to be expected, and if it is to be called for, who has the right to plead? Is such a loss to be done in groups? Can a group of people with a legal character file such a action?

As to the fact that the loss must be a matter of personal and not of the general public, to be expected, it is not accepted; For, as we are good friends, we can be good friends, and have a certain sense of personal loss, as we are good friends. In addition, in the discussion of public health loss, our main discussion is about the public losses that should be followed up.

The question is whether the loss to public health, which is a common cause of public health, is a destruction to cause civil responsibility. There are two main types of comments: I agree and I disagree. Now, let us examine this comparatively.

#### **2-1-3 PREDICTABILITY OF CORONA LOSSES**

Usually, in the capacity of expressing damages, they divide the damage into moral and material losses and consider some damages to be spiritual and material damage. loss resulting from injuries to the body, life or health, and the safety and well-being of the individual, both of which cause major bodily injuries and both injuries.

Since civic responsibility may become a result of contract or a law accident, the predictability of loss in contractual liability (Bariklo, 2006: 78) is considered. It should be noted that civic responsibility in all sense consists both of contract responsibility and non-contract liability that some jurists deny should be carried out even under contract liability. (Ahmed Seraj, 1410:106) In the Coronavirus Transmission Argument, where major damage is done unconventional, the predictability of damage is not very practical; and it is not easy to claim that the risks of contractual and non-conventional responsibility are equally implemented. In Iranian law, this condition can be inferred from the Article 521 of Civil Code of 2013.

This condition can also be used with the speech of some jurists. The late Karki researcher in Talab's argument says, "Azha Kan Al-Zab Makan Ya'qub Al-Talaf Ban Company The existence of a Mulk,





1408: C. 6, 206: Responsibility is a waste of time that the occurrence of the time of its fulfillment is a predicable cause." The late Sahib Al-Kalam also considers the condition of its realization to be a predictability of loss. (Najafi, Bibi: c37, 59)

### **3- THE LEGAL DOCUMENTS OF CIVIL LIABILITY DUE TO CORONA**

#### **3-1 CAUSAL RELATIONSHIP OR CITATION ABILITY**

So far, based on jurisprudential and legal documentation, it has been established that the person carrying the virus is a civil responsibility in any situation that occurs and where the victim is guilty of causing damages, its diagnosis is made by the judge. Now there is discussion about the causal relationship, which is an essential element of civil responsibility; This means that there must be a relationship between the victim's loss and the offender's guilt. It is reasonable to believe that no one should be responsible for any harm that has not resulted from his act. In other words, causal relationship in civil responsibility is one of its pillars. The proof of this relationship between the verb with the offense is a condition of the person's responsibility to compensate (Hassani, 2006, 27).

The causality relationship is important because in many cases, loss and damages occur but because of the absence of causal relationship the subject is dismissed. At first, because of the importance of the subject, express its intent from the citation ability, and the concept of citation ability to citation, then the criteria upon which to rely.

#### **3.2 THE CONCEPT OF CAUSATION AND ITS CITATION IN THE LIGHT OF RULE AND THE SOURCE OF THE PROBABLE LOSS DUE TO CORONA**

The most important criteria of communicable, communicable, and communicable diseases are on the mass and bulk scale and at a high speed epidemic. Since transmission of these diseases is also associated with individual and social damages, the principle of self-sacrifice and freedom of individuals in social behavior in patients with contagious diseases is limited. One of the restrictive rules of this article is the rules of sanity for the ability to avert possible losses. In this rule, a logical equation is formed between two parameters: the first parameter is the probability of loss (disease transmission) and the second parameter is the degree of severity and also adverse effect (illness ingested). Establishing an equation between degree of probability (occurrence of loss, transmission and transmission of disease) and the probable importance (intensity of lines of disease) are among the most accurate debates in the principles.

This rule will have several agreements regarding individual, social and governmental judgments. On a macro-level, this principle provides tasks to the government in order to prevent the spread of disease. At the intermediate level are institutions and assemblies and social institutions that have duties to prevent possible loss. At the individual level, numerous legal rulings in the areas of personal and family behavior are placed on the responsibility of citizens to prevent the harm. The aforementioned issues are addressed in all three areas of concern including individual, social and governmental with two approaches: the first is to avert possible loss of self (preventing the transmission of the disease to itself) and the second is to avoid the probable loss of others (preventing transmission of the disease to others).

Whenever there is a loss, the responsibility of compensation is given to the one who causes the loss of the documentary to his or her act. This citation ability is based on the common causality relation. In the civil liability law, the philosophical concept of causality relation, or its common meaning in other sciences is not considered; but rather the meaning that the old age comes in (Yazdani, 2007, 260).

In this scenario, an "A" person who is infected with the coronavirus directly and without an intermediary, the person "B" with the coronavirus. As in the case of A, B is in his arms and from this physical contact, the first person is infected by the virus and is also infected by the second person. In this case, the offended party according to Article 776 of the Civil Code, which is so conciliated: "If a person has made a mistake or vice, he will be guilty of a compensation"; through the legal process, and by demanding justice from the victim, seek redress.

Therefore, in the ability of citation, when we look at the theory of ability of citation as a basis in civil liability, we follow to state that whenever a damage occurs, it is responsible for compensating the person with the documentary damage. Causation relationship between loss and verbs ("not harmful factors") is one of the pillars of civil responsibility and one of the conditions of realization of responsibility.

### 3-2-3PLACE OF CITATION IN JURISPRUDENCE

The Islamic term refers to the legal term that assigns a matter to sharia; when it is said that the verdict of this case is derived from the prophetic narration, meaning that the sentence of it was stated in the narration or that in many cases the argument was based on principles and jurisprudence. As a general rule, in Islamic sharia there is no value for a judgment without relying on a scripture, narration, consensus or juridical rules or reliable religious sources. In the contemporary jurisprudential literature, terms such as "Habahalhakam", "Standard to Point", and "Standard to Number of Narrations" are used. In Islamic jurisprudence and the texts of narrative books, we use the word "citation much," and they rely on the verse or narration or fiqh rule for license, prevention, abnegation or contestation of a sentence or practice. In sufficient axioms, there are many references to the term "The Standard Word", which is mentioned from a page of four examples: "The Standard Society of Astanada to HasnaZarare...A Statement of Elvsha By Al-Reza...A. O'Hatha Al-Khabar (Kalyani, 1429, 294).

In some sources of jurisprudence, the notary transaction is not correct because it lacks two things, one citing the owner and the other satisfaction: "Its results are intangible, intangible, inexact, almalek and al-reza"; (Low, 464, 1413).

In Islamic jurisprudence, citation is very important. The validity of transaction proves the individual's guilt or guaranty in compensation is the authentic citation principle.

A phrase that in Fiqh terms, meaning "to accept" as opposed to "offer", has much application in juridical texts. Hence, this phrase is accepted and validated in Islamic jurisprudence. Since infinitive is fake, it has been used in Persian texts and used in various senses. in many jurisprudence and interpretive sources, capability is mentioned as being causality (Jorjani, 1404, 622; Factor, 1429,804;Naraghi, 1425, 35; Vahid Behbahani, 1931, 17). According to some sources, ability is the meaning of strength and merit. In Kens-o-Quran, "safia" has no ability to possess, or mortgage health condition is subject to guardianship (sola, beta, 19; gilani, 1413).

Some jurisprudential sources say that capability means talent, In Iranian civil law, a condition for the well-being of marriage is medical capability for marriage, in order to have the physical capacity of each prospective husband and wife for sexual relations and possible consequences for that. In some places, the term capability is defined as competence: the incorrectness and ability of the non-Imam of Imamiye for the purpose of the Earth and Time or in some expressions of ability means the aptitude of the Shia Fiqh for evolution (Lari, 1418, 167; A group of researchers, 1426, 26).

So, the term of capabilities which is a fraudulent infinitive has not been used in the Arabic text; however, in the Persian texts the meaning of competence, talent, ability, capacity, accepted and justified. The purpose is to have the merit or appropriate of citing and to have the truth of the causative factor. Therefore, the results obtained from the norm should be applicable and could be cited as a reference to a harmful person.

One of the Faqihs has a detailed discussion on the citation and the criterion of common-law practice: "The principle of the murder of Al-Sadd in the opinion of Al-Arf, Al-Qassas Jazz, Sawakan al-qatal-Mabsha, Allah Baltasbeeb, and its meaning Al-MubashraJadir Al QatalQatalQatalQebsha, and I am the last Object, Kalazada and al-khanq. But Al-TasbeebFaha and Anayi Al-Maasb is the last thing of Jatbetab against Al-Muth, Kaman Al-Mudan, even Maat Joa and Atsha, Van Al-Muth, Bashareh Ali Al-Juh and Al-Atash, and HomaEstenda Ali Al-Hebse, Fican Hu Al-Mosaneh (14221, 309) When the law of a willful murderer is concerned, it is permissible for the murderer to be a murderer or a murderer to cause murder. A handler means that murder may be controlled, such as choking or slitting someone's throat. If a person is imprisoned or died, the death of the documentary is due to hunger and thirst and these two acts are also documented in prison and therefore the reason for murder is to be defined.

Some of the Islamic jurists, in explaining the basis of responsibility and bailiff, have said that if the documentary is due to reason, then it is the guarantor, and if the verb is performed by the steward, the steward is the sponsor. (Khvanesari, 1418, 173).

Some other jurists, as well, consider the criterion of citation according to the reason and steward of the argument, believing that "the test is the responsibility of the documentary verb" (Najafi, 1988, 55).

Here, we can refer to the steward as capable and it is appropriate that others also discuss the issue of waste, stating that the topics of concern are not related to the responsibility but rather it is important to know whether the agent of loss can be considered as a minor or as commensurate with his interventions. Or, in other words, does the title of the author apply to him or not?(Hosseini Al-Maraghi, 1417, 435) This is the final phrase of the theory of "citation ability."

Some contemporary jurists also adopted citation as the basis for civic responsibility. They believe, "If a teacher teaches a child to swim and the child accidentally drown, if he is deeply documented

into the teacher's act, the teacher is a guarantor". (Khui, 2017, 242) It is clear from this that the responsibility is not the coach's fault, but the fact that the drowning is a documented should be. In short, Fiqh is the basis of responsibility in Islamic jurisprudence. Consultation and duties are not the role of a civil servant, but rather, they should be proven to whom the outcome can be referred to as the steward or cause, to whom it can be cited, that is the guarantor.

### 3-2.4 JURISPRUDENCE CRITERIA FOR CAPABILITY OF CAUSALITY IN CORONAVIRUS

In this case, a person will cause the person B to transmit the virus to person C. In this case, contrary to the previous case, the intermediate exists, and the verb or omission of the harmful act has been indirectly affected by another person. The Civil Code of Article 763 states: "In the case of a public gathering of the bailiff and the , any of those who are under contract or in favor of a certain offense is . If they both share, they are assigned as a common ."

Different theories have been proposed on the criteria of causal relationships among the lawyers. Since the ability of citation is closely related to the causal relationship, the theories can be taken up in answer to this question. Two criteria can be used to determine the causality relation. From a negative point of view, in order to account for an event, it must be considered as one of the necessary conditions for the attainment of the harm, that is, to know that without such an event the harm is I can't. So if the defendant's negligence was proven to have been taken as well (or if no caregiver could have done it without harm), then it is clear that the fault did not result in the damage because there is no negative correlation between the act and the damage.

But from a positive point of view, it is not enough that the act of readout is a necessary condition for the occurrence of an accident. Rather, it should be considered whether there was an effective relationship between the occurrence of the damage and the object concerned or not. For example, if three persons push a car and the car falls in the valley and two of them are sufficient for the vehicle to crash, negative criteria such as third person's force is not a necessary condition for realizing a loss, it is shouldn't be considered as responsible; However, if there is a positive criterion, because there is an effective relationship between his action and the appearance of his losses, he should be held responsible (a). The view of Islamic jurists in respect to the relation of causality of judgment of custom, accepted the authentication of the causality relationship among many religious scholars. Some scholars believe that "the criteria for determining responsibility must be a common-law [title to be responsible for loss], whether custom can hold a mere bailiff accountable, or can hold both accountable and account for just cause." (Hosseini Al-Maraghi, Pishin, 435) Some other jurists have also paid attention to this criterion in the discussion of the gathering. And considered "Urfi's function as the basis of steward's responsibility or as a reason, in an assumed occupation of the steward (MirzayNaeni, 172)

Therefore, if the murder caused by transmissible virus, the offender is responsible for the crime committed. The jeweler is responsible for the person who has imprisoned the other and is prevented from receiving food and water. Following this prohibition, the person is sick and it is known that the disease is caused by not receiving food, therefore, death or death by weakness or disability; This is because, according to the individual's health and condition, the situation of the time will vary as in the cold and heat season: "But the recent epithets of the scientific and the reason of the weakness of the common forces is even a waste of the fasts and deliberately, and that's the death of Imam Ali, Lama Arab, and that's the birth profile of Zakan is often me, and is a token of the Bakhtef and now and then Zamna" (Najafi, 1404,42,27).

So, the criterion of citation is common in the coronavirus transmission issue - forensic theory - where it can be concluded based on forensic theory or trusted physician that the death of the victim due to arbitrary treatment of the accused about the transmission of the coronavirus is a homicide task. In Islamic jurisprudence, in a number of cases, the religious scholars consider the criterion of the argument as a common principle: Ayatollah Khoi, for example, on the crime of eating a poisonous catchment, writes: "That al-gath is an authentic act, and so much is the virtue of the backwardness." (Khoi, 1413, 42)

### 4- ASSESSMENT OF THE RULES OF MITIGATION AND ACTION IN PRESENCE OF CORONAVIRUS TRANSMISSION

According to the rule of 'action', if a person receives a loss of knowledge and consent, no one can help him, and if the owner does something to overawe him, he loses his mind; That is because respect for property is something he himself has since abolished (HusainiMaraghi, 1417, c. 2, p. 488); as if to give his property to another man.

In fact, it can be said that the Deferred DeferredDeferredDeferredDeferredDeferredDeferredDeferred Payment Deferred Act (which occurs when there is indicative or non-consensual vice versa) is



related to the subject of civil liability. However, in the place where a person finds himself responsible or herself doing harm or refraining from doing wrong, because there are no two persons and it is meaningless to damage oneself, the rule of action is brought up.

about the relation of this rule with the rule of reducing some of the two rules to independence and distinction; This rule of practice only applies to civil liability (Bay, 2020, p. 45) because it abolishes both criminal and civil liability and the abolition of criminal responsibility in the first place is important in the principle of change, but the rule of action only applies to civil responsibility. Others believe that the relationship between the principle of action in the realization of remission is undeniable. Because the denial of responsibility of warning is if the damaged person is aware of the warnings. If the situation is not realized and if the damaged person is not affected as the place of knowledge and is not damaged, the content of the regulation of action against the injured is not applicable. Therefore, it can be said that if the criterion of inaccountability is the consciousness of the person affected by the warning, not merely the act of warning, the difference between surprise and the attempt at a minimum. Their differences are not as obvious as they should be. (Hekmatnia, 2007; Shirkarami et al, 2020),)

The intersection of the Law of Action principle is where a person does not avoid the dangerous situation in spite of the warning of the cause of harm and being aware of it, and in fact he does not wish to indemnify the damages and therefore some authors believe that Tahasir rule is more than an independent rule than he is the rule of action (Mr. Firouzabadi, 2020, p. 78). Because, under the rule of mitigation, responsibility is free when the alarm is in danger of being warned; That is, act without warning, and do something that would result in harmful consequences and the import of damage would be the result of a warning action (January, 1419, pp. 163 and 166).

In order to explain the correct relationship between the principle of change and the rule of action, it is necessary: Firstly, it is found that the effect of change is sufficient to satisfy the requirement of the person, or that it must be a personal effect. In other words, simply a warning; sufficient for the rule flow, or a warning is also a condition for the rule flow. Thus, the problem of independence and non-independence of the Rules of Procedure and Methods is finally defined.

## **5- THE CHALLENGES OF OBTAINING CAUSAL RELATION IN TRANSMISSION OF CORONAVIRUS**

In case of multiple transmitters, it is difficult to prove the causal relation of causation in coronavirus transmission. Because in the French court procedure in various courts of hepatitis c transfer claims through blood transfusion or AIDS using blood taken from the blood bank has encountered some problems, the same problems with contracting the coronavirus are classified as follows:

### **5-1 THE UNKNOWN CAUSES OF VIRUS TRANSMISSION AND CAUSING DAMAGE**

In the case of a person infected with the coronavirus, it is not known that a person has been infected because he or she has not been infected with the virus. However, the cause or cause of the infection is unknown and not its number, meaning we do not know if the transmission of the virus comes from the mouth of a person who is infected, or through levels of virus or other means, many people in a city may be infected with the virus that has caused the transmission of the virus to a healthy person, but it is unclear how many people are. Here we have a synopsis of virus transmission, but around the science is unproductive, in the principle of non-products overview the principle of acquittal.

### **5-2 LACK OF PROOF OF DAMAGE CAUSED BY CLAIMANT**

A person who claims to have a harmful effect on Viroos coronavirus must prove to whom the virus was transmitted and harmed, according to the rule of Al-Binina Ali al-Claiming Waliman Ali Man Enker, there is no such proof of a claim for coronavirus infection. If, in the French court case, the alleged infection of a person who claimed to have contracted the hepatitis C virus was caused by blood transfusions from a center that sued against the National Blood Transfusion Foundation. The research court dismissed his claim, arguing that there were no positive reasons for infected blood transfusions. The French State Court also rejected the appeal, saying "a person who attributes his pollution to blood products must prove it by any means, including through statistics." (Jorden, 2007, 95) We have the same issue. Someone claims that someone is responsible for the transmission of the coronavirus.

### 5-3 IMPOSSIBLE TO TRANSMIT TIME AND TO RECOGNIZE THE ORIGIN OF POLLUTION

The origin of coronavirus infection is difficult to identify and access; Because the virus does not have an invisible body to see where it has been transmitted and from which source it is difficult to achieve, however, there is no definitive scientific evidence of a relationship between the presence of the person infected in a group or in an environment and the infection of the coronavirus. For example, physical and normal crimes such as premeditated murder by beating and harming with non-fatal behavior to prove the premeditated murder, there is a need to verify the intent of the murder and to achieve it is difficult, but it is not possible to achieve the transmission of such a suspected cause, because it is not easily applicable to the suspected transmission. The form of intentional or unintentional is indecidable and not provable (Georgia, 2020, 224); Because first, experts have the distinct view that the virus can be in a incubation state for up to two weeks and not show any symptoms; Thus, a deceased person may have had the virus before he or she was faced with the defendant, but symptoms have not yet appeared in him.

### 5.4 INTERVAL BETWEEN BEHAVIOR AND OUTCOME IN CITATION TIME

Another drawback is that the person claiming to have the virus within the time that it was passed on from someone else may later have received the coronavirus and another factor has cut the causality of the first factor. Many people are probably connected with the deceased in this interval. Perhaps the virus has been transmitted to him from contact with the non-accused and...All of this can't render the person carrying the virus guilty.

If a criminal dies of food, blood or blood poisoning, the victim dies of poisoned throwing food, there is no time interval between criminal behavior and the result; However, in some crimes there is a time-gap between criminal behavior and the outcome, for example if one intends to kill another through the transmission of the deadly virus like Coronavirus and AIDS, to kill and transmit a deadly virus, the person may die from the transmission of the virus or other factors such as neglect by the victim of the treatment, negligence by the medical staff... cause death for injury and self-citation problem. However, the lawmaker does not see a time limit on the use of "critique of crime", provided that the offender is convicted of a crime based on common knowledge and common sense. The reason for the termination of these documents is not the same. According to Article 493 of the Islamic Penal Code, "the existence of a time between the offender's behavior and the result of that act does not preclude the realization of a crime, such as the death from the transmission of the causative disease, which, in case, is subject to qisas or diyah, the rule of this article and article 492 of this law applies to all applicable crimes." It is clear that there is a difference between predictability of loss and predictability of loss principle. Regarding the principle of liability and civil liability according to the selected theory, it is not necessary to forecast damages. However, since the lessening is an obstacle and takes away the created guaranty, the issue of predictability here is one step after the principle and one can use the title of compensatory factor that does not foresee the damage enter.

In adapting the subject of the article, two points should be distinguished; First, the prediction of harm from the person who is aware of his or her contagious condition and who predicts that his or her arrival in public places will lead to contagion. Depending on what happens, Tahzir is not enforced and is suremended by transmitting the disease to others. The second is the prediction of harm for a person who is unaware of his illness or his being a carrier, for whom, if there are conditions of dismissal, either from the government in general or from the other side, the rule of impediment may be carried out, and he shall be relieved from responsibility. However, in the coronavirus problem, it is difficult to diagnose people's carriers and infection from the same person. In most cases, people can be infected by people with the disease via people's luggage.

### CONCLUSION

The phenomenon we have heard about and feared in all ages and in all quarters is the tragedy of the coronavirus that engages a person in various ways; But what is still missing in medical and criminal law cases, the methods and methods of compensation and harm caused by the coronavirus epidemic are in the scope of private law. Therefore, communicable diseases such as coronavirus have been among the greatest concerns for today's world, which has affected the daily activities of humans. Members of society have legal responsibilities towards each other and they must observe hygiene when they learn about a contagious disease so that it does not cause epidemic and contagion to others or manifestations of human and financial losses. It should be noted that the

individual in the right view is affected in three ways by his/her behavior, by the connection or cause of other people with the coronavirus, and in this opportunity each one is dealt with in way. In this type of disaster, the individual will come to contact, deliberately or unintentionally, the objects and surfaces infected with the coronavirus. In this study, according to the legal data and arguments of Tahzir rule, the main subject of Mehtar al- ghaza is mentioned and the theory of adequacy of Tahzir operation is accepted by everyone in favor of liability. By boundary and mitigation of cases in which gardening is loss and loss of suspicious causes, one of the issues which is caused by uncertain causes is the responsibility of the causative agent (Coronavirus Carrier) where the damaged and injured are not able to act according to the taghir (convergence with other losses) and the deprivation is able to damage caused by the rule of its causation.

The citation is a mixture of moviets and sympathizers; In other words, if an offender's behavior is directly identified as the cause of death, the reason is called "death". But if indirectly, the reason is based on his behavior, then death and murder are called "causative". The same applies to whether an individual is a killer disease, such as the coronavirus, AIDS, hypathite or other contagious diseases or how many people contribute, all of which, in turn, leads to crime, so that documented crime is all of those tools and that all causes are intentional. In such cases, the authentication is important and if it is proved that the person involved in the transmission of the disease is intentionally involved, and the death is caused by the disease, that person is the subject of the perpetrator of the offense and all the consequences of the intentional killing are realized. If the elements of intentional murder do not get caught in this act, the act is considered unintentional and it is punishable by blood money.

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