

## Harmful Act and Omission Resulting In the Creation of Civic Responsibility

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### Abstract:

It is the responsibility of the person causing the fault. According to 953 of the Civil Code, based on the definitions of fault or negligence, including the violation of Articles 951 and 952 of the Civil Code, abuse or negligence is the act or omission. But the question arises-whether liability or responsibility arising from the same act or omission? Is it harmful to an act or omission by virtue of their responsibilities? In response to this question, several theories of jurists and lawyers expressed. But the majority are of the view that liability arising from an act or omission is the same. But the two are different, and the difference in creating a sense of responsibility or liability is the basics. With the explanation that the loss is not achieved simply by harmful act omission while Tsbyb both the verb and the omission is realized, resulting liability.

**Key words:** responsibility, act, omission, silence.

### Introduction:

According to Article 953 of the Civil Code: "the fault of either abuse or negligence" The Civil Code Articles 951 and 952 as well as each of abuse or negligence is defined thus: "Violence, exceed the limits permitted or conventional to property or other rights" And "waste reduction action is to quit under a contract or other property necessary to maintain normal." Therefore it can be said with regard to this material, material element verb harmful, abusive and damaging omission, is wastage. Doing something that is harmful act against another. As it was a material element verbal abuse is harmful. In other words, tilt and yaw to the specified behavior. The jurisprudence of the abuses and excesses they indulge synonymous to do anything that is not. Like carrying a heavy load to carry conventional animal and cause the death of the animal Or the liability is made for digging the wells because there have been abuses, "Fela liability Ditto abuses Balhfr our nest" Omission to do

something which is not harmful to the detriment of another. Stated that an omission of material is harmful waste reduction. The current Turkish law, waste reduction means that it is not permitted to leave. Such as animal feed is not the cause of death of the animal. Based on the concept of civil liability action and omission, raised numerous questions Myshvd.ya guarantee the realization of the principles of waste and Tsbyb under the act and omission is possible? Does the amount of liability arising from an act or omission is different? Lawyers and jurists have the same opinion on this issue?

To answer these questions, this article is a brief review of law and the rights of Iranian and Islamic Jurisprudence France and Germany, in four different acts and omission of responsibility, except liability resulting from an act or omission, the rights of France and Germany, and the effect of the liability assessed silence.

## Differences in responsibility

The topic of waste and possible loss of omission and legal obligation, contractual or common law duty to act in accordance with the legal rules for liability arising from the verb Vtrk assessed.

### 1- Responsibility for the loss.

One of the important rules in various jurists have sought to establish civil liability adherence to the rule waste. According to this rule, the guarantee is wasting everyone else's property. Stewardship of the waste generated in other mine waste. Therefore, if someone else's property directly dissipated and wasted steward is responsible for compensation for damages is based on this principle.

The ideas described above can be concluded that the stewardship of resources, the majority of the waste is achieved simply by harmful act, thereby leaving the harmful act in this area is not possible.

### 1-1-There is a legal obligation, contractual or customary.

Precedent when the refusal or omission arising out of guilt and responsibility, which is committed to playing a leading legal practice (such as drowning or obligation to assist the helpless and the obligation to conform to the rules traffic) or the administrative (non-compliance with the conditions of industrial activity or some mass protests) or any custom or practice (disregarding the literary celebrities in the book) is the responsibility of the individual. If you do not have an obligation to refuse to act, although the cause of loss, guilt, and therefore causes no liability unless the refusal is the intention of hurting else. Hence, some researchers believe that the principle means of waste reduction as well as the usual practice is to perform. The different types of omission can be evaluated on the following division:

#### 1-1-1- Omission in the act.

The omission of specific tasks that the person has refused or failed and instances of negligence and

recklessness can be found in this omission. Article 1383 of the French Civil Code in this regard due to: "Whoever is not only responsible for losses of his action to another but it is also responsible for losses resulting from imprudence and recklessness." On the other hand, in addition to the obligation on the contractor's contractual obligation to leave, other principles such as the rule of warning and guidance can be found in the legal rules.

### 1-1-2- Breach of statutory duty or special

This kind of omission independent. This omission when it is realized that the particular task for some people is required. Such as the assignment of custody for parents in Article 1168 of the Civil Code: "To hold both the right and duty to raise their children." The beauty of commerce or assignment for each of the couples in Article 1103 of the Civil Code: "The couple must Hassan socialize with each other." The origin of these assignments is not the only laws passed by the legislature in this Act and includes any used in its general sense Legislation, regulations, instructions, manuals, or even common sense and be specific. For example, according to the Traffic Regulations Article 87: "The driver of any motor vehicle accident resulting in injury or death to the perpetrator shall immediately stop the vehicle at the crash site and the installation of safety signs warning against Article (71) of the Regulations of the event alert drivers of other vehicles ... ".The benefits of such Shfaftrbvdn today with respect to the norm of law, the handling of customary norms may not be available because of their civic responsibility through several means. Thus, it appears that the general rules of law, the determination of specific instances and external events and customary law with only the help possible. The convention has been used as a supplement and interpret the law. Rules relating to compensation in this regard is no exception.

As a result, the above description can be concluded that a violation of customary duties in violation of the rule of law and contract, causing the apex responsibility. Although some argue that the absence of statutory or common law duty of omission cannot be held responsible.

**1-1-3- As no specific legal duty not to refuse.**

In this type of omission, the person in charge, the current required to do by law or regulation, or custom, and also not to do certain acts of omission Nmydadh that his omission to be considered first. But in this kind of omission, a mere recklessness and negligence, is however not legally or customarily the task. Some jurists mere negligence or omission in the law, but do not guarantee he suggests that if the guarantor is a person who shall neglect or omission to waste reduction. It also stated that if the animal is negligent in its maintenance, so the animal does not have the power to keep it, do not waste reduction and therefore not responsible. For example, a person who sees a lit cigarette in the middle of the forest, whether in negligence or recklessness charge refrain from turning it off is not? In this example, the person is not to say that the act of smoking a cigarette is also responsible for certain was his own. On the other hand, the law, regulations, guidelines or common law does not impose a duty on her cigarette. But is based on the principle of prudence and necessity of probable losses, if such person is in charge of recklessness and lack off of cigarettes?

**2- Liability resulting from an act or omission difference.**

In the opinion of jurists and legal issues are discussed separately.

**2-1-The opinions of jurists.**

The topic jurists ideas about equality or inequality liability resulting from an act or omission that is expressed in legal texts is investigated. The reasons for each of these theories are explained in separate topics.

**2-1-1-View favoring the equality guarantee.**

Some jurists believe that the concept of waste reduction, so if for example omission omission caused the dead animal, animal feed, whereby the liability. The liability resulting from an act or omission in terms of equality of damaging evidence presented including command and prohibition of God and accompanying abuses going on as grounds for liability of legal texts.

**2-1-2-Opponents consider equality guarantee.**

Some jurists agree draws liability arising from an act or omission is not harmful and that is basically not accept liability arising from the omission. They also talk to confirm their adherence to evidence-laws including lack of personal responsibility, neglect or Sahy, according to the rule of presumption of innocence. So since it was introduced in the discussion agreed, in the opinion of jurists and other reasons, due to the possibility of having to prove the liability in case of omission and yet another reason not to turn to the original.

**2-2- Legal theories.**

Legal liability resulting from an act or omission on the topic have expressed opinions the pros and cons of each of these theories are discussed separately.

**2-2-1- Comment proponent of equal responsibility.**

A group of lawyers agreed liability arising from the omission and therefore the potential loss arising from harmful act of omission as its agent to know the causes of responsibility. In this regard, the reasons put forward by the Act and the principle of cooperation and justice.

**2-2-2- Considering the opposition equal responsibility.**

Proponent of the theory group of jurists, lawyers, as opposed to liability arising from the omission that causes them harm attributable to the lack of omission, omission without chastising, according to most and The non-existence of omission.

**3- Rights of France and Germany.**

In this review the rules that belong to the Roman-Germanic countries, France and Germany, and from the perspective of the law are also assessed.

**3-1- French law.**

Omission in French law the action and the lack of a legal obligation of the contract and is responsible but the common people do not do their homework on the basis of Article 63 of the

French Law of the Criminal Code Act 1945(Correctional prison sentence and compensation for those who are willing to commit a crime against a person's health, do not stop, states) have used and leave it to spread civil verbs, and say: "There's no reason to do anything that does not make the common man, common man's fault, but you do not do what I will not be considered an error"also,if the offense is not practical because the law is due to the civil and not criminal But some say that this article is for Jzast rights and it should be in the area of civil liability. First, some broad interpretation of Article 67 and Article 727 of the Civil Code also establishes a place in the know. According to this article if the heir of the testator notified murder, but it does not reveal the culprit. French judicial procedure in certain cases liability is accepted by the silence. Therefore, according to French law, the mere omission of the current leaving that task with customary law or not, with intent to cause harm if it is the examples of guilt and responsibility, but if no harm is intended, with no obligation.

### 3-2- German law

German criminal law are crimes of omission is the omission, But for the person responsible for the omission should be a legal obligation to leave it, the person responsible. For example, the German Criminal Code and leave the task of helping others has been identified pursuant to this task is the responsibility of the individual. This model is also available in our laws. Single article of the Penal Code to refrain from helping victims and Johnny Hazard Elimination Act of 1354 provides that: "Everyone sees the person or persons exposed to danger and be able to act immediately or seek help from others or to promptly notify the competent authority or authorities thereby preventing the occurrence or aggravation of the action without its own risks Avaya others and even help or circumstances indicate the need for help on this would refrain from action, Misdemeanors and one year imprisonment or a fine of up to fifty thousand rials will be condemned..."

On the other hand, although the omission of rules on criminal law and procedure, but in practice,

there exists a legal obligation to the current situation court judges in the omission have been given. Hence, if the omission in violation of the standard of care to be a standard of care, the court left open to liability action brought declares.

So, given the above, it can be said in the German legal system, omission of an act that causes harm to others if the cause of civil liability.

### 4 - Silence effect on liability.

Another issue related to the liability is due to the omission of a benefit check is empty, silent study and its role in establishing the liability of. This explains the fact that silence is a kind of omission, The issue is whether the mere silence of the study will also take responsibility and liability is binding or not.

#### 4-1- Define the rights and status of silence.

Silence is the opposite of speech and word literally means leaving words, inertia, is settled. Within the meaning of the term jurists have defined it in two senses: In the first sense of the word quit if the utterance is based upon the silence. The second meaning refers to a negative position with words or actions, and only in cases of need, despite evidence of attributes, indicating the will of the. The silence lay someone who clearly express their will and will not do anything so that His will be inferred directly. Contrary to what seems to be a lot of silence in life are legal persons. But the silence of those who are legally recognized as a declaration of will, wherever or imply agreement on customs and Avaza circumstances and specific to the intent of silence, the discoverer of esoteric Shmrd, it can be the legal effect of. But should be taken with caution and reticence in this way be considered valid, implying that it is not in doubt.

#### 4-2- Comment jurists about liability arising out of the silence

Some jurists have examined the question of silence and the injured have been expressed. If you are going to lose money under the oppression of non-owner silence against this prevents wasted no fault liability. Others believe that when a man and woman couple married when he is silent and Muhammad is his fault, Couples can have on the

health of women over dowry to the wife, her parents or by referring to marriage. The liability of the parent or by the fault of the doubt, but if you are ignorant or wrong, About their liability is disputed among jurists. Some people like to prevent ignorance or responsibility and liability Nmy-Dannnd. In contrast, another group of jurists known of the condition of liability and mediators, but you are ignorant of the science woman knows no liability. Mention has also been suggested that defects in the sale is obligatory and not faint expression, for example, leave the obligatory and forbidden, therefore guarantee is binding.

#### **4-3- Comments lawyers about liability arising out of the silence.**

Some legal experts have concluded that if even the silence and absence of defects, said the woman suffered She could see and make up for the losses.

#### **Conclusion:**

Liability or responsibility resulting from an act or omission caused the same to be held responsible. Although some jurists and lawyers are opposed to the idea. This law establishes that such fault or negligence of aggression (verbal or omission) considers both the cause is actually responsible. Abuses in the legal texts is going to work together and both are binding guarantee of not less than one and not more But what makes the difference is in the process of making responsibilities. That is, according to theory, the majority of jurists and lawyers, the loss cannot be left solely to the action of the verb is attained Vatlaf; While Tsbyb time of the act or omission is achievable through. Another point is that, despite this omission is that silence is the best but it is not only silence. Therefore, in our legal system, in other words, silence is not responsible sufferance no rights. The exceptional cases by jurists and lawyers stated that a person's silence is his responsibility. But these exceptional cases, such defects women should not be restricted interpretation of this criterion is exceptional unity and the introduction of harm to another person's silence wherever the person responsible was silent.

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