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Civil Responsibility Arising from the Transmission of COVID-19

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Abstract

Background: Once COVID-19 is transmitted, the corresponding civil responsibility should be clarified by the identification of the transmitter, compensation of the damage and detection of the causal relationship between the damage or harm and the harmful act.

Methods: This research has been prepared by descriptive analytical method and its data has been collected by documentary library tools.

Results: What makes this relationship meaningful and suable is the existence of fault. By definition, fault refers to any deviation from the normal or conventional behavior. On this basis, a COVID-infected person is considered faulty if he or she does not care about public health and transmits the disease to others by avoiding safety measures and violating hygienic protocols. This lack of care for others is a concrete example of deviation from normal civil behavior. One cannot claim civility unless the safety measures prescribed by the law are taken. Violating the law in this case, which leads to disease transmission, is considered as a fault.

Conclusion: If an infected person is incautious enough to make others sick, the law holds him or her faulty; the harm done by the undue lack of causation Based on this obvious causal relationship, the faulty individual is held responsible for the loss or damage compensation, as by incurring the treatment costs.The most important challenges in respect of covid are the non-recognition of certain transporter to the victim of covid 19 and proof of causation.

Keywords: Civil Responsibility, Transmission of COVID-19, Harmful Act, Causation

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Introduction

Nowadays, the spread of COVID-19 has posed great challenges to mankind and brought up certain issues regarding civil responsibility. As an important concept in the realm of personal rights, civil responsibility ensures the realization of those rights. In the case of individuals who have already caught COVID-19 or shown the symptoms of that, the tenets of civil responsibility should be clarified so as for them to be aware of the legal consequences of violating the safety protocols set by medical authorities. In this respect, a number of questions arise, including 'What is the legal respons ibility of those who are aware of their disease symptoms but do not practice hygiene and, thus, endanger the others around?', 'Do the laws on civil responsibility allow to label a patient faulty if he or she transmits the disease?',

'Do the consequences of violating civil responsibility apply only to those who are aware of their disease or to unaware patients as well?',

'Is it possible to develop a legal matrix by which to define civil responsibility for those who transmit COVID-

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↑What is "already known" in this topic:
In already similar researches, the transmission of diseases was known to be the cause of responsibility without any doubt or challenges.

→What this article adds:
In this research, transmition of covid 19 is studied merely. And also considered elements of civil responsibility in this point. The most important challenges in respect of covid are non-recognition of certain transporter to the victim of covid 19 and proof of causation.

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19?', and 'How is causality applicable to the disease transmission issue?'.

To discuss civil responsibility in connection with the transmission of COVID-19, there seem to be three major concepts to analyze, including the imposition of harm or damage, the commitment of harmful acts and the relationship of causality. The first is obvious and does not need to be explained, but the other two concepts are focused on in this paper.

Parameters of the civil responsibility involved in COVID-19 transmission

The stability of a society and its healthy interpersonal relations rest upon the regard for the law and the fulfillment of social duties. COVID patients and disease-suspected people, as a member of society, are likely to violate the civil rules and regulations enacted to bar the disease from spread. These individuals should be informed of the legal consequences of any irresponsible behavior in this regard. Therefore, it is necessary to shed light on the factors that make sick people responsible for any activity that may cause the disease to spread.

1. Harmful acts

According to Principle 1 of the civil responsibility code, "an individual is responsible for making compensations in the case of committing an illegal act, either on purpose or out of inconsiderateness, to harm or damage someone's life, property, freedom, image, commercial reputation or any other legally entitled right". This law addresses harmful acts so as to assign responsibilities to those who commit them.

Basically, it is important to identify the agent of a harmful act and hold him or her responsible for compensation. By definition, a harmful act can be a matter of proceeding to do or failing to do something (1). Therefore, whatever moves or the behavior significantly related to the occurrence of harm or damage is referred to as a harmful act. The distinctive feature of such an act is a fault, and whoever does it is faulty, hence characterized as illegal or illegitimate. For fault to occur deliberately or deliberately, a harm-inducing act has to be done with a certain degree of illegitimacy; otherwise, the act will not be socially considered as a fault (2). The interpretation of an act is socially-bound; that is, an act is harmful if it is deemed against the norms or moralities of society (3).

All the judicial systems worldwide have recognized the commitment to the avoidance of hurting others (4). Every citizen is obliged to behave with care and caution in society (e.g., by observing the health protocols and taking the recommended safety measures) so that no one may incur harm or damage. Accordingly, any violation of regulations or deviation from normal social behavior is considered a fault. A normal citizen is one who recognizes the norms and criteria of the society and behaves in conformity with them (5). On this account, whoever behaves outside the scope of these norms and criteria is to be legally held responsible for whatever harm or damage caused to others.

Throughout the history of law in Iran, the exertion of harm or damage and the failure to fulfill commitments signed up in contracts have been considered as instances of fault. From a social point of view, a fault is often predisposed when some loss or damage is incurred. In such a case, compensation is imperative unless there is no causal relationship found between what is incurred and what or who is said to be the agent (6). Based on the fault-agent relationship, an individual who is infected with COVID-19 and naturally obliged to regard public health by practicing hygienic protocols, e.g., wearing masks, will be considered faulty if his lack of caution or failure to take safety measures leads to the transmission of the disease to others. The individual's behavior is, indeed, interpreted as an obvious deviation from social norms; hence, the person is suable as faulty. Deliberate or non-deliberate, the harm done is to be made up for. Transmission of COVID-19 is usually associated with loss of lives or, at least, financial damages such as treatment costs, which have to be paid by the one who has transmitted the disease.

Accordingly, those with infectious or contagious diseases have to take the utmost care to keep other people safe. Any disregard for public health is defined as fault or crime in legal terms (7). The legal stipulation for damage compensation applies even to those who are sick but are not aware of their disease. The set of laws in the penal code generally makes provision for normal social behavior. The laws come into practice when predictable harm is not prevented due to carelessness, nonfeasance, or malfunction. In other words, it is the predictability of adverse occurrences that form the basis of legal pursuits. In the current circumstances, every citizen, especially corona-infected and COVID-suspected ones, has to take the probability of disease transmission seriously, warn the others around about it and minimize the risk of transmission by wearing masks, social distancing and letting others know about their probable infection. Indeed, individual citizens are responsible for one another's health and safety, and sick people have to be concerned about their predictable victims (8).

It is quite evident that concealing one's disease is a faulty act. From a social point of view, such an act refers to whatever harmful or damage-inducing behavior, either as doing something prohibited by the law or failing to do something obligatory (1).

By virtue of the first principle in the Civil Responsibility Code and the fault definition in the Iranian judicial system, sick individuals with COVID-19 are held responsible and faulty merely due to the carelessness that leads to disease transmission. The question is whether or not the one victimized by a corona-stricken person can sue the faulty transmitter and claim compensation. The answer seems to be affirmative.

Now suppose a corona-infected person who is not aware of his or her disease transmits it to another person who dies of it later. Is the unaware transmitter responsible for what occurs and is there any compensation due? In this regard, it is believed that the mere occurrence of harm is enough to oblige the transmitter to pay the damage. This necessarily does not take the intention of harm for granted, but it is necessary to prove the relevance of the harm to the suspected transmitter (9). As the law decrees, being

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responsible for harm or damage does not depend on the agent's awareness of the harmfulness of the act. That is to say, the one who causes an infliction to others may or may not be aware that the act would lead to harm or damage (for instance, by failing to wear a mask, keeping a social distance from others or informing them of one's being sick, in the case of corona-infected people). Also, the act may be done on purpose or not. In either case, the law holds the agent faulty as well as responsible for the compensation. This legal view is supported by some Hadiths or holy quotations (2).

Just as doing an act may inflect some harm, failing to do any act may be of harm as well (9). The latter is a case of nonfeasance where an act or a duty made obligatory by the law or a contract is not fulfilled. Wearing masks under the current pandemic circumstances is a duty enforced by the law. The breach of the law, purposely or not, would mean disease transmission, which is a social fault. To take it from another point of view, however, it is to be mentioned that the matter is quite probationary; not every infliction is to be labeled as a crime or fault. People are legally charged with what happens only if they do not meet the safety requirements of an act. This can be a matter of taking caution or precautions as much as possible (10). Such being the case, the issue takes up the status of a social phenomenon; an act is criminal only if the society deems it so (11). Therefore, responsibility for compensation is ruled out for a person who does his or her best to avoid hurting others (9). When some harm is done, the one incurring it has to prove the involvement of malfeasance or a lack of care and caution. Otherwise, nobody is taken responsible, and no claim can be made for compensation (11).

2. Causal relationship

The third criterion based on which to judge civil responsibility is the casual relationship between the act and the harm done. Whoever is hurt or incurs damage has to first prove such a relationship and then claim for compensation. Once socially acceptable and adequate evidence is provided for a harmful act, the one who has done it is to be held responsible for compensation. Therefore, from the legal point of view, judgments in this case should be passed on the basis of the socio-rational correspondence between occurrences and outcomes. This makes the issue socially significant. That is, if the society makes a correspondence or perceives an entailment between two items (herein acts and their consequent harm or damage), those items have to be viewed in a cause and causal relationship.

Considering the above discussion, the question to arise is 'how to prove the causal relationship in the case of COVID-19 transmission?' Nowadays, the growth of population and urbanization has made the contacts of people closer and the transmission of contagious diseases more possible. The question on COVID transmission arises back here about the transmission of other diseases; 'how to interpret the causality involved and how to deal with the transmitting individual?' Of course, it is not easy to prove a cause-and-effect relationship for each and every case of transmission because there are too many causes and factors involved in disease transmission among large crowds. Besides, since diseases are transmitted in different ways (e.g., through breathing, touching polluted surfaces, eating and drinking), it seems quite hard to determine from whom a person has caught the disease.

In spite of the difficulty to find the actual agent of a harmful act in many cases, there is often a likely cause or a driving factor behind what occurs. So, it is not impossible to identify the agent of disease transmission or the one who has been influential in it. For example, let's suppose an old couple who are bed-ridden at home and too decrepit to leave home. They have to be looked after by their child, but he or she visits the parents without taking the required safety measures such as wearing a mask. This may lead to the transmission of the virus to those old people. It is also true of a nurse who takes care of old people at home or at a nursing home without taking safety measures. In such cases, it is almost reasonable to consider someone faulty if he or she is the only one involved in the harm. Yet, labeling this person as faulty depends on the existence of a socially recognized causal relationship between that person as the agent and the claimed harm or damage. In other words, if the agent were not there, the harm (e.g., disease transmission) would not be done. This substantiation is based on the rules of logic; the phrase 'X led to Y' is correct only if 'Y would never occur in the absence of X'. Applied to COVID transmission cases, this rule makes it easy to find the ones responsible for the consequences and, thus, for the compensation.

Generally speaking, any carelessness that naturally results in harm or damage (as in the above-mentioned example of the child and the nurse who did not take the precautions like wearing a mask or taking hygienic measures) gives the license to consider the agent faulty and responsible for due compensation (12, 13).

Regarding the causal relationship between a harmful act and the harm that results from it, as most jurisprudents believe, a court judge is authorized to pass a judgment once he comes to certainty (14). This authority is also stipulated in Principle 1324 of the Iranian Civil Code. As the principal puts it, if the body of the corresponding evidence is formidable enough to convince the judge, he has the authority to pass a verdict although there is no absolute certainty yet (15).

Back to the afore-mentioned example, the verdict passed by the court may also be based on absolute certainty gained through delving into the available pieces of evidence. In this case, the court can safely claim a causal relationship between the act of the infected person (child or nurse) and what has happened to the harmed person (old man or woman). Basically, judicial verifications have to be based on certainty or knowledge. This knowledge is socially valid and relied on and can be conventionally put to practice, although it is simply outweighed by the natural rules of cause and effect (16). Yet, in the absence of such a clear-cut natural relationship, the court has the legal authority to depend upon the conventional knowledge at hand.

In certain cases, however, it is hard to identify the real cause or the actual agent of disease transmission. For in-

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stance, one may not say for sure, 'who is responsible for the transmission, the transmitter or the catcher?' Also, 'what if there are several factors concurrently involved in the act?', and 'which one is to be considered causally related to the act?' This complicated situation can be exemplified with an office where ten people work together closely. One of them gets infected with the corona virus. The question is whether the infected person caught the disease inside or outside the office and, if inside, from which one of his colleagues. Since each of the colleagues runs an equal chance of having transmitted the disease, it seems hard to point a finger to any specific one as the responsible person. As far as the set of laws in Iran is concerned, this kind of multifactorial situation, where a number of equally suspected agents are involved, is an exception and remains undefined by the law. Therefore, the responsibility for the harm or damage should be divided among those involved in the act (17). This division should be equally made because there is no evidence for the greater impact of any one of those agents than the others.

With respect to the likelihood of such ambiguous situations, the judicial system is obliged to enact certain laws or policies to support those who incur a loss or damage. There can, at least, be a framework with which to establish a kind of cause and effect relationship for multi-factor occurrences. In the present circumstances, of course, the ascending trend of COVID-19 and the increasing number of the infected make it impossible to establish a one-to-one correspondence for each and every case of the disease incidence. The issue of making compensations is, thus, out of the question now. What remains in question, however, is the general point that the disease transmission due to disregarding the hygienic protocols is associated with the responsibility for damage compensation. Moreover, the one identified as the definite cause of transition has to be sued to pay for the harm done.

Conclusion

When COVID-19 is transmitted, the civil responsibility issue becomes important. By virtue of the cause and causal relationship, the individual who causes the transmission should be identified and made to compensate for the harm done. All around the world, judicial systems recognize the moral commitment to the preservation of public health and the avoidance of hurting others. Everybody in the society is obliged to have a conventional behavior, a facet of which for a COVID-infected person is to protect others by taking adequate care and caution so as not to transmit the disease to them. It would be an obvious deviation from normal social behavior for a citizen who has the disease or its symptoms to associate closely with the others without practicing the assigned hygienic protocols, thus risking their lives. Such a person, if proved to have been the cause of transmission, is faulty and responsible for damage compensation. So, it is imperative for every citizen, especially those infected, to seriously take the safety measures recommended by the authorities. Any lack of care in this regard leads to the wider spread of the disease, which brings about civil responsibility to take.

Conflict of Interests

The authors declare that they have no competing interests.

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