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Original Research

Examining and Identifying the Similarities and Differences among the Rules Governing Contractual Fault in Iranian Law, Imamiyyah Jurisprudence, English Law, American Law, and French Law

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Contractual fault is one of the important issues in the law of obligations and plays a fundamental role in determining the liability of the obligor in cases of non-performance of an obligation. In different legal systems, despite the acceptance of the principle of the binding force of contracts and the necessity of performance, differences can be observed in the foundations, conditions of realization, and legal effects of contractual fault. In Iranian law, which is influenced by Imamiyyah jurisprudence and French law, the element of fault plays an important role in establishing contractual liability, whereas in common law systems, particularly English and American law, contractual liability is more often analyzed on the basis of the mere breach of contract. In Iranian law, the general principle is that once the due date has arrived and the obligation has not been performed, a claim for damages becomes possible; however, in certain cases, even before maturity, where impossibility of performance or lack of intention to perform is established, anticipatory breach may be invoked. The common foundation among Iranian law, Imamiyyah jurisprudence, and, to some extent, French law is the emphasis on compensating damages in such a way that the injured party is placed in the hypothetical position that would have existed had the contract been fully performed. In Iranian law and Imamiyyah jurisprudence, conditions such as the occurrence of damage, causal relationship, certainty, and foreseeability of damages are taken into consideration, although these conditions are set out in Iranian legislation in a scattered manner and are further elaborated in legal doctrine. French law, which has influenced Iranian law, also adopts a similar approach to full compensation for damages. By contrast, English law presents more coherent and clearly defined limitations, such as remoteness of damage, the doctrine of mitigation of damages, contributory fault of the injured party, and force majeure. American law, in addition to accepting the basis of fault, also considers its different degrees and adjusts the scope of liability according to the severity of fault. An important point of divergence is that, in Iranian law, the degree of fault does not affect the extent of liability, whereas in American law this factor is determinative. Furthermore, in Iranian law, force majeure has an explicit statutory basis, while other limitations are mostly discussed in legal doctrine, unlike common law systems, which provide more precise frameworks.

Keywords: *contractual fault, breach of contract, compensation for damages*

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1. Introduction

Contracts are among the most important instruments for regulating economic and social relations in human societies. The validity and effectiveness of contracts largely depend on the parties' compliance with the obligations arising from them. Where one of the parties refuses to perform contractual obligations or performs them defectively, the issue of contractual liability and the fault of the obligor arises (Katouzian, 2014). In the Iranian legal system, contractual liability is primarily based on the concept of fault, which is rooted in Imamiyyah jurisprudence as well as French law. By contrast, in common law legal systems such as English and American law, liability arising from breach of contract is generally examined in an objective manner and independently of proof of fault (Treitel, 2015).

In this regard, in all legal systems under examination, namely Iran, Imamiyyah jurisprudence, France, England, and the United States, the fundamental principle is that the injured party must be placed in the position in which he or she would have been had the contract been performed; this is the principle of full compensation for damages. In Iranian law and Imamiyyah jurisprudence, contractual liability is founded on concepts such as fault, occurrence of damage, causal relationship, and foreseeability, although these conditions are often expressed in a scattered and non-systematic manner. French law, which has influenced Iranian law, adopts a similar approach, with the difference that it gives priority to specific performance over damages and regards termination or damages as secondary remedies. By contrast, English and American law, as common law systems, adopt a more pragmatic and economic approach. In these systems, in addition to recognizing compensation for damages, rules such as mitigation of damages, remoteness of damage, contributory fault of the injured party, and anticipatory breach have been developed with greater precision. The doctrine of anticipatory breach is one of the most important points of divergence, as it allows the obligee to take preventive measures, such as suspension or termination, before the due date where there is a strong probability of breach. In Iranian law, this institution has not been expressly developed and remains more faithful to the traditional view, whereas in common law and international commercial law it holds an important position. Moreover, in American law, unlike Iranian law, degrees of fault affect the determination of the extent of liability. In terms of foundation, the traditional conception of strict liability in common law has been challenged, and today the role of fault is accepted in many cases. This increases the incentive for cooperation and the preservation of beneficial contracts, whereas an approach based purely on strict liability may reduce such an incentive. Overall, the similarities lie in the objective, namely justice and compensation for loss, and in some conditions of liability, while the differences appear in the manner of applying fault, the timing of legal intervention before or after breach, the priority of performance or damages, and the extent to which the governing rules have been developed.

2. The Concept of Fault and Its Types

Lexically, fault means weakening, negligence in an act, failure in an act, as well as sin and offense. Fault has also been defined lexically as abbreviation, shortening, leniency, negligence, deficiency, shortcoming, and omission. A person at fault means one who falls short or an incapable duty-bound person. In legal terminology, fault is the conduct of a person whose act causes harm to another, provided that the act is unlawful. In jurisprudence, it is often used in the same sense, and its opposite is incapacity or excusable failure, which refers to abstaining from an act due to inability to perform it. The distinction between culpable ignorance and excusable ignorance is appropriate to this meaning. In French law, terms such as fault, mistake, and negligence are also used, which appear to be employed to express the notion of fault. Some authors have also referred to contractual fault as a breach related to the contract.

In the field of contractual liability, fault has been divided into two concepts: general and specific.

2.1. General Concept of Fault:

Fault in its general sense means the mere non-performance of a contractual obligation according to the terms of the contract, without the role of fault or the subjective element in the non-performance of the obligation.

2.2. Specific Concept of Fault:

Fault in its specific sense means non-performance of an obligation accompanied by fault and a subjective element.

Articles 951 to 953 of the Iranian Civil Code address fault. According to Article 953 of the Civil Code: "Fault includes both transgression and negligence." Article 951 defines transgression as follows: "Transgression is exceeding the scope of permission or customary practice in relation to the property or right of another." In defining negligence, Article 952 of the Civil Code provides: "Negligence consists of omitting an act that is necessary for the preservation of property by virtue of contract or customary practice."

However, the definitions of transgression and negligence in these articles are open to criticism because, as can be observed, in none of these definitions is violation of the law recognized as fault. According to some contemporary jurists, since the apparent meaning of these articles concerns contractual liability, this objection may be overlooked.

From the combination of Articles 951 to 953 of the Civil Code, it can be concluded that fault should be defined as performing an act that a person, by virtue of contract or custom, should have avoided, or refraining from an act that he or she should have performed. Thus, fault may be defined as deviation from the conduct that a reasonable person would have adopted in the same circumstances in which the event occurred.

In Iranian civil law, the sign of fault is that it has a sanction, and its sanction is compensation of the injured party's loss by the person at fault, namely the person who caused the harm. The meaning of fault appears to be that a person is compelled to compensate the injured party for the loss caused by his or her negligence and carelessness, whether by act or omission. Thus, from these definitions, it follows that a person must be careful in his or her conduct in society so as not to become liable to pay damages and compensation to another. Therefore, if this matter is implemented, the number of civil claims concerning demands for compensation for inflicted loss and damage will certainly be reduced to a minimum at the level of official and macro-social statistics. From what has been stated above regarding fault in civil terminology, it may be inferred that, according to reason, every human being is responsible for his or her own acts and conduct. At times, when persons commit fault, they are recognized as responsible for their acts, and the damage inflicted by them upon society or a specific person should not remain uncompensated. As a result of this responsibility, ownership of certain dangerous objects makes the owner liable for their harmful effects, and such liability takes on an objective and real character. Of course, there is disagreement in legal doctrine regarding the concept of fault. Some define fault in civil liability as an act that is unlawful and attributable to the perpetrator; if all these elements are present, fault can be established. Others define fault as a type of transgression and violation of an obligation in which a person has fallen short in performing a contract or has failed to perform the relevant obligation.

The customary understanding of the term fault consists of transgression and negligence. Transgression occurs when a person performs an act whose omission is required, and negligence is the omission of an act whose performance is required. Some jurists, in the definitions they have presented, have considered any act or omission contrary to the laws of the country, custom, or contract to constitute fault. Others have regarded it as a legal status in which a person is placed as a result of committing an act without legal authorization, either intentionally or through carelessness.

Overall, in Iranian law, contractual fault means the obligor's breach of an obligation arising from a contract. The Civil Code refers to this issue in various articles. According to Article 221 of the Civil Code:

"If a person undertakes to perform an act or undertakes to refrain from performing an act, in the event of breach, he or she shall be liable for the damages of the other party."

Article 227 of the Civil Code also provides that the obligor is exempt from liability when he or she proves that the non-performance of the obligation resulted from an event outside his or her sphere of control.

According to many jurists, in Iranian law, the principle is the liability of the obligor in the event of non-performance of the obligation, unless he or she proves the absence of fault (Katouzian, 2014; Safai, 2011).

In Imamiyyah jurisprudence, the term contractual fault has not been used directly, but various jurisprudential rules constitute the basis of liability arising from contractual breach. The most important of these rules include the following:

The rule of fulfillment of covenants, “awfu bil-‘uqud”;
The rule of no harm;
The rule of causation;
The rule of destruction.

Imamiyyah jurists believe that after the conclusion of a contract, the parties are bound to perform its terms, and in the event of breach, they will be liable to compensate the damage (Najafi, 1984).

Furthermore, in cases where transgression or negligence by the obligor is established, his or her liability will be certain (Mohaghegh Damad, 2010).

3. The Concept of Fault in American and English Law

In American law, fault also has a specific rule and results from the breach of a duty or from negligence. In certain circumstances and conditions, it also includes the faults of others where the duty to control or supervise them lies with that person. In this definition, breach of duty refers to non-contractual fault, and the term delictual fault in United States law concerns non-contractual obligations. Negligence refers to unintentional fault and indicates the existence of fault in both contractual and non-contractual obligations. This definition of fault also refers to liability arising from the acts of another, which may originate from either non-contractual grounds, such as parental liability toward children, or contractual grounds, such as the liability of a guardian of minors and persons lacking mental capacity.

Unlike a regime based on strict liability, which considers performance of the covenant necessary under all circumstances, the moral concept of fault does not accept this principle and considers performance of the covenant desirable only where favorable conditions exist. This is because it takes into account the benefit and interest of both parties to the contract and does not regard the imposition of unfair conditions and all losses on one party as desirable. It considers performance necessary where the required conditions are fulfilled and maintains that, in such a case, the law must satisfy the parties’ purposes in the transaction. Moreover, the rules governing contracts must take into account, in the best possible manner, all moral elements and social and national norms.

4. The Concept of Fault in French Law

Article 1382 of the French Code provides that any act of a person, in whatever manner, that causes damage to another obliges the person through whose fault the damage occurred to compensate it. Article 1383 of the French Code states that every person is liable to compensate damage caused not only by his or her own act, but also by negligence and carelessness. Therefore, in general, any fault that causes damage may be subject to legal action. The term fault is highly important because it expresses a general rule, and in terms of result there is no difference between a delict and a quasi-delict.

French law is one of the first systems to have developed the theory of contractual fault in a systematic manner. Under the French Civil Code, in the event of non-performance of an obligation or delay in its performance, the obligor is liable to compensate the damage caused to the obligee, unless he or she proves that the non-performance of the obligation resulted from force majeure (Nicholas, 1992). French law has had a significant influence on the drafting of the Iranian Civil Code, and many rules of contractual liability in Iranian law have been adopted from that system (Katouzian, 2014).

5. The Concept of Fault in the Common Law System

In the common law system, after the dominance of fault-based liability in this system, common law jurists declared the inadequacy of the personal and moral criterion of fault and sought social and customary standards of conduct. In the Second Restatement of Torts proposed by the American Law Institute, fault has been defined by using a social standard of conduct as follows: “conduct that falls below the standard established by law for the protection of others against an unreasonable risk of harm.”

What is most evident in common law is the creation of the reasonable person theory for assessing fault. A reasonable person is someone who avoids creating an unreasonable and foreseeable risk that leads to damage. In Blyth v. Birmingham, fault was defined as follows: “Fault is the omission to do something which a reasonable person, guided by those considerations which ordinarily regulate human affairs, would do, or doing something which a prudent and reasonable person would not do.” In Iranian positive law as well, fault has a customary and social meaning. As the Civil Code, in Articles 951 to 953 concerning the definitions of transgression and negligence, has accepted the judgment of custom in this regard. The most appropriate definition of fault appears to be transgression and negligence in relation to the conduct of a reasonable person in the same external circumstances of the occurrence of the event, or conduct that a reasonable person would not commit if placed in the circumstances of the event. Of course, in measuring the customary concept of fault, what has been accepted is its objective and social meaning. As Articles 951 and 953, and especially Article 1216 regarding the liability of incapacitated persons, have accepted judgment concerning fault according to an objective standard, since these articles do not take into account the physical and psychological conditions of the person at fault, and the criterion for determining fault is the judgment of custom.

In common law, contractual liability is analyzed on the basis of the concept of "breach of contract." In this legal system, proof of fault is usually not required for liability to arise, and the mere breach of a contractual obligation is sufficient to create liability (Farnsworth, 2004).

The Legal Concept of Compensation for Damages

Regarding the concept of compensation for damages, since human nature is founded on the pursuit of justice and respect for justice, compensation for damages is naturally and customarily imposed on the breaching party who caused the loss, and by virtue of law and morality the obligor is required to compensate it. This social and legal guarantee exists to protect the contractual rights of the parties to the contract. It may be said that all legal systems have followed similar foundations and principles, although they also differ from one another.

In common law, particularly in England, the primary principle in compensation for damages is that compensation must fully cover the injured party's loss in such a manner that no loss remains uncompensated. To realize this principle in English law, the theory of the "same position" is used. This means that compensation for damages must place the injured party in the same position in which he or she would have been had the contract been performed.

In Iranian law, many cases presented as damages resulting from breach of covenant, especially in the current conditions of the contemporary world where material values constitute the main axis in evaluating daily developments, fall under the category of loss of profit and prevention of the party's access to his or her expected benefit. By failing to perform the contract or by failing to deliver the goods on time, the obligor may cause the other party to supply the purchased goods to the market later than the agreed date, suffer a price decrease, fail to participate in commercial competition on time, and fail to obtain the necessary profit. Alternatively, delayed delivery of goods may cause loss of the buyer's commercial reputation before others or may prevent the buyer from securing many transactions from which he or she could have obtained substantial profit. In jurisprudence, such losses are referred to as "loss of profit," which has been disputed among jurists either in terms of the concept of harm or the causal relationship. Denial of liability and responsibility in such cases means that the breaching party cannot be held liable for the ideal expectations of the other party merely because the latter cherished certain benefits and, upon failing to attain them, considers the breach of covenant to have disrupted his or her aspirations. However, Mirza Qomi, in one of his legal opinions, considers the agricultural worker who was negligent in tending to the crops and thereby caused a reduction in the final yield to be liable. Thus, every kind of loss must be remedied and removed from the injured party.

For example, the role of the degree of fault in compensation for damages in Iran and the United States is as follows:

Iran: the degree of fault, whether intentional, gross, or ordinary, does not directly affect the amount of compensatory material damages, and the objective is "full compensation." Its main effect is observed in criminal liability or in contractual exceptions, such as insurance.

United States: the degree of fault has a very significant effect on the type and amount of recoverable damages. Intentional and gross fault may lead not only to compensatory damages but also to punitive damages, the purpose of which is punishment and deterrence.

6. Civil Liability

From the perspective of legal science, liability has various forms. Perhaps the most important type of liability is legal liability. In general, liability means accountability for breaches committed by a person in relation to his or her obligations and duties. A liable person is one who bears an obligation, and if he or she does not perform it, he or she will be called to account. Civil liability, in its broad sense, is a legal duty that one person has toward another, and its opposite is criminal liability. This liability may include matters such as compensation for damages, maintenance of relatives, delivery of the subject matter of a transaction, and similar obligations. However, civil liability in its specific sense refers to the duty of a person to compensate damage caused to another. This damage may be material, such as destruction of a neighbor's wall due to collision with a vehicle, or non-material, such as moral damage. In other words, civil liability in the specific sense deals with loss and damage.

The expression "civil liability" has not been defined in the law. However, Article 1 of the Civil Liability Act enacted in 1960 provides: "Any person who, without legal authorization, intentionally or as a result of carelessness, causes harm to the life, health, property, freedom, dignity, commercial reputation, or any other right created by law for individuals, thereby causing material or moral damage to another, shall be liable to compensate the damage arising from his or her act." Therefore, it is said that in every case where a person is compelled to compensate another's damage, he or she has civil liability toward that person. This definition is so broad that it includes all branches of obligations arising from contract, quasi-contract, delict, and quasi-delict. However, in the present study, apart from the difficulties involved in providing a comprehensive definition of "civil liability," greater attention is paid to cases in which the state, outside contractual obligations, has caused damage and loss to natural or legal persons.

In general, civil liability means the obligation and commitment that a person has to compensate damage caused to another, whether the damage results from the act of the liable person, the act of persons connected to him or her, or objects and property under his or her ownership or possession. Civil liability in American law refers to a civil wrong, that is, a wrong other than breach of contract for which the law provides remedies for compensation. The origins of modern civil liability lie in actions for trespass and trespass on the case based on indirect injury. Of course, a brief review of the definition of this term in scholarly books shows that no single and comprehensive definition has been provided for it.

Civil liability in English law may generally be divided into three categories: liability arising from negligence, liability arising from intentional acts, and liability without fault. Nevertheless, some areas of civil liability cannot be placed as true subsets of any of these three categories. For example, product liability may be regarded as a combination of liability without fault and liability arising from negligence. Similarly, in English law, damages resulting from road accidents and traffic collisions are considered a subset of liability arising from negligence, whereas the rules governing them are more compatible with liability without fault.

Although at first glance, the two categories of liability arising from negligence and liability arising from intentional acts in English law may be placed together within fault-based liability, for greater ease and precision in examining and analyzing issues, this classification has been adopted in contemporary English and American law. In American law, unlike English law, these classifications are expressed more explicitly. Nevertheless, there is also an opposing view, and some prominent common law jurists, including Oliver Wendell Holmes, have examined liabilities in two categories: fault-based liabilities, including intentional acts and negligence, and liabilities without fault.

The common feature of all three general categories of liability is that they all operate to protect the interests of the injured party. However, there are broad differences among these categories. For example, liabilities arising from negligence constitute the least coherent area of the law of civil liability in the United States and England, whereas liability arising from intentional acts is the most coherent area, and liability without fault occupies a middle position between the two.

7. Research Background

Mohammad Samiizadeh, in a master's thesis completed in 2012 entitled "Methods of Compensation for Damages Arising from Breach of Contract in Iranian and English Law," stated that in Islamic law the rule of "binding force," in Roman law the rule of pacta sunt servanda, and in common law the rule that "a contract is binding" have all been established in the direction of performing a valid contract.

The issue of compensation for damages arising from breach of contract has gained such importance in the field of private law that for several decades it has been the subject of numerous studies. Among these, the United Nations Convention on Contracts for the International Sale of Goods has acquired a legal and international status. In addition, the International Institute for the Unification of Private Law in Italy and the European Union have also drafted valuable instruments in this regard. In all these instruments, the issue of compensation for damages arising from breach of contract has been assigned an independent section. The factor that led to the selection and discussion of methods of compensation for damages arising from breach of contract was the absence of specific rules in this field. Not only in the text of Iranian laws but also in the writings of Iranian jurists, no independent title under the heading of damages arising from breach of contract has been presented and discussed separately; rather, the relevant discussions have been scattered across civil liability, conditions, options, and causes excluding liability.

Reza Maqsoudi and Mahsa Darvi, in their article entitled "The Role of Fault in Contract Law in the United States of America," concluded as follows:

Contractual fault is the intentional or negligent non-performance of an enforceable contractual obligation. The concept of fault can be analyzed from both moral and economic perspectives. Both concepts of fault play an important role in contracts. Fault may be examined at both the formation and performance stages of the contract. The role of fault is clearly visible at the formation stage in rules relating to unconscionable contracts, rules concerning interpretation of contracts, mistake, duress, and fraud. At the stage of performance, the role of fault may also be observed in the contracting parties' duties to exercise care in order to prevent accidents, mitigate loss, prevent opportunism, observe good faith, avoid breach of contract, and similar matters. Applying a fault-based liability regime in contract causes the parties to have a greater incentive to cooperate and preserve beneficial contracts, and it distributes losses arising from non-performance of obligations in a fair manner, so that the person who has committed fault is liable to compensate the damage. Furthermore, in cases where neither party to the contract is at fault, this regime distributes costs and losses fairly between the parties. This also causes the obligee to cooperate more with the obligor in the performance of the contract.

8. Discussion and Conclusion

A comparative examination of the rules of contractual fault in common law systems, namely England, the United States, Iran, and Imamiyyah jurisprudence, reveals fundamental differences and similarities, understanding which is essential for jurists and economic actors. In the common law system, the main focus is on "breach of contract" as the basis of liability, and the criterion of assessment is the precise performance of obligations. Proof of fault or subjective negligence of the obligor is not a necessary condition for creating liability, although the principle of "foreseeability of damage" limits the scope of compensation for indirect and unforeseeable damages, and there is a clear distinction between liability arising from breach of contract and civil liability, or tort.

By contrast, American law, by presenting broader criteria, considers not only express breach of contract but also "reasonable commercial conduct" and "professional standards" to be relevant in assessing fault. The Uniform Commercial Code also establishes objective and standardized criteria for commercial transactions, particularly in the sale of goods, and the concept creates a stronger basis for liability in service contracts, such as medical, legal, and engineering contracts. Moreover, the scope of compensation for damages in this system is often more flexible than in common law, and consequential damages are recoverable where foreseeability is established. In Iranian law, the approach is different. Article 221 of the Civil Code conditions the claim for damages on "contractual stipulation," "custom," or "law," and fault by itself is not a general basis for contractual liability; rather, it is mostly treated as a presumption or implied condition. This, despite practical challenges in the precise criteria of "foreseeability of damage" and "causal relationship," makes the assessment of damages complex, and the burden of proving fault is usually borne by the claimant. In Imamiyyah jurisprudence, however, the concept of "contractual fault" does not exist independently, and the discussions are examined under the titles of "fulfillment of covenant," "causation," "destruction," and the general rules of liability. The criterion of assessment is mostly objective and typological, meaning that the obligor's conduct is compared with the customary and expected conduct of an ordinary person or specialist in the same field. The principle is the liability of the breaching party for compensation of damage, unless he or she can prove legal impediments or absence of causation. In fiduciary or professional obligations, observance of customary care and professional standards is the criterion for the obligor's liability or non-liability.

Despite these differences, key common features may also be observed, including the ultimate objective of compensating the injured party, the importance of elements such as occurrence of damage and causal relationship, and the consideration of custom as a basis for determining reasonable conduct or the amount of damages in many systems. However, the fundamental divergences are clearly visible in the main basis of liability, namely breach of obligation versus proof of fault; criteria for evaluating conduct, namely individual or subjective criteria versus objective, typological, reasonable, or professional criteria; the scope and method of calculating damages, including foreseeability and direct damages versus consequential damages; and the burden of proof. Understanding these differences and similarities is essential for the proper interpretation of contracts, prediction of liabilities, and reduction of disputes in today's complex legal relations.

Despite theoretical differences, similarities also exist among the legal systems under examination.

First, all these systems have accepted the principle of the binding force of contracts. In Imamiyyah jurisprudence, this principle is derived from the Qur'anic verse "awfu bil-'uqud" (Najafi, 1984).

Second, in all systems, breach of a contractual obligation gives rise to liability and the possibility of claiming damages.

Third, the existence of a causal relationship between breach of obligation and damage is considered one of the essential conditions of contractual liability (Treitel, 2015).

The most important difference among these systems lies in the basis of contractual liability.

In Iranian and French law, the element of fault plays an important role in the realization of liability, and the obligor may be exempted from liability by proving the absence of fault (Katouzian, 2014).

However, in English and American law, contractual liability is often objective, and the mere breach of contract is sufficient to create liability (Farnsworth, 2004).

Another difference concerns specific performance. In Iranian and French law, the principle is specific performance of the obligation, whereas in common law, monetary compensation is usually preferred, and specific performance is ordered only in special cases (Treitel, 2015).

In Iranian law and Imamiyyah jurisprudence, fault still plays an important role in determining contractual liability, although the principle is strict liability. This approach is rooted in jurisprudential principles that emphasize justice and equity. By contrast, the common law system, with its pragmatic approach, has set aside fault in contractual liability and emphasizes the precise performance of obligations. This approach is compatible with the market economy and the predictability of contracts. With the 2016 reforms, French law has moved toward strict liability, although fault still plays a role in determining the amount of damages and in certain special cases.

The common law system, by expressly recognizing anticipatory breach, allows the contracting party to react earlier and prevent further losses. This approach is compatible with the principle of mitigation of damages. In Iranian law and Imamiyyah jurisprudence, the absence of an express provision for anticipatory breach may lead to legal uncertainty. Nevertheless, jurisprudential rules such as "no harm" can provide a legal basis for responding to anticipatory breach.

The objective standard in the common law system and, to some extent, in French law provides greater predictability and is more compatible with the principle of equality. By contrast, the subjective standard in Iranian law and Imamiyyah jurisprudence is more consistent with individual justice but may lead to uncertainty.

In all systems, the principle is full compensation for damages, but the methods of calculation differ.

The comparative study of contractual fault in Iranian law, Imamiyyah jurisprudence, French law, English law, and American law shows that although the principle of the binding force of contracts is common to all these systems, important differences exist in the foundations of contractual liability. Iranian law, which is influenced by Imamiyyah jurisprudence and French law, relies to a considerable extent on the element of fault. By contrast, common law systems tend more toward objective liability based on breach of contract. It appears that, given economic developments and the complexity of contractual relations, moving toward a form of objective liability in certain contracts can help increase legal certainty and facilitate compensation for damages.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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