



The Role of Legal Institutions in Compensating for Damages Caused to Spiritual Personality

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Abstract

The issue of damages is one of the most challenging topics, which is stated as necessary in the principles of current laws and regulations; But how to compensate and how to evaluate it has not been determined. In the legal systems of different countries, there are ways to compensate for moral damage; However, there is no fixed and specific criteria for the methods of compensation for moral damage. The author believes that according to the foundations of Islamic law and Iranian law, the ability to compensate moral damage and the way to compensate it can be justified and inferred as follows: Spiritual damage and its compensation methods are cited In addition to the rule of harmless reason, another prediction of dowry in the case of physical injuries leads to moral damages. Rationally, they also decide to compensate the moral damages inflicted on individuals. In the Iranian legal system, moral damages can also be compensated. In Islamic jurisprudence, there is no known method to compensate for spiritual losses, but the common methods in customary law and in jurisprudence are also acceptable; Because the methods of compensation for spiritual damage are relative matters and the result of the legal and social thoughts of each age; And from the silence and non-repeal of the Sharia, we can get consent and Shariah ruling, so it can be stated that accepting financial compensation and all kinds of non-financial compensation in order to repair the spiritual damage can be justified and defended in Islamic jurisprudence.

Keywords: *Damage; Moral; Non-Financial Compensation Based on Rational Laws; Subject Matter; Financial Compensation for Moral Damage; Non-Financial Compensation for Moral Damage*

Introduction

The subject of moral damage, examples of the possibility of claiming and how to compensate it is a relatively complex subject of legal science. In the definitions given by jurists of the absolute concept of harm, some types of spiritual harm have been mentioned, and almost most of the jurists have considered the entry of any kind of defect into the reputation, life and every dimension of human personality as a harm. In the past, most of the countries considered spiritual losses as irreparable, and for this reason, the courts refused to issue judgments to compensate them. Countries under socialist laws such as the Soviet Union, former China and Denmark are among this group of countries. Therefore, the issue of the

necessity and possibility of compensation for spiritual loss has caused many debates among legal scholars, because in today's life conditions, bearing loss is no longer limited to the case when a person loses material benefit; Moreover, spiritual damages, psychological damages and spiritual damages have become very important, so that humans have become vulnerable to spiritual damages as well. Damages that are sometimes not obvious and hurt people from the inside. For this reason, in the conditions of life and industry, it is doubtful and debated whether compensation for material losses is preferable to spiritual losses. Therefore, the question has always been raised as to whether the damage to a person's reputation can be compensated, and how and with what justification can they be compensated by paying money?

In the jurisprudence of damages compensation, spiritual can be accepted and justified by citing some reasons. The rule of "harmless" which is one of the jurisprudential facts and the source of many religious and transactional rulings has a wide scope and has been cited in the verses and hadiths to prove the civil liability caused by spiritual damage and the methods of compensation. Manavi is mentioned. In addition to the harmless rule, another reason for the possibility of compensation for moral damage and the possibility of calendering and material compensation for such damages is the prediction of dowry in the case of physical injuries that lead to moral damage.

Also, rationally, they decide to compensate the moral damage caused to individuals; Because non-payment of material and spiritual damages is injustice in the opinion of intellectuals, and oppression is also a matter in the eyes of God It is abominable, so the order not to compensate for spiritual damages is an abominable thing from God. Despite the fact that there is no recognized method for compensation for moral damages in Islamic jurisprudence, but the common methods of compensation for damages in customary and subject law, including financial and non-financial compensations, are acceptable in jurisprudence, and the silence and non-repeal of Sharia can be used in some cases. Received consent and Shari'a ruling Most of the jurists are also of the opinion that compensation for moral damages is allowed, and in the legal systems of different countries, there are ways to compensate for moral damages. In the current laws and regulations, there is no fixed and specific standard and standard regarding the methods of compensation for moral damages, and this legal gap has caused a different procedure in the courts. It can even be said that in some cases, due to the lack of clarification by the legislator on how to compensate for moral damages and the lack of clarity in the ruling, the courts are reluctant to issue a decision to compensate for such damages. In spite of this issue, the nature of compensation for moral damage has evolved widely and regulations have been provided for it.

In Iran's legal system, moral damage can also be compensated. In Article 9 of the Criminal Procedure Law and Articles 1, 2, 8 and 10 of the Civil Liability Law, the possibility of claiming moral damages has been confirmed. According to Article 171 of the Constitution, compensation for moral damage is also permissible; Because by recognizing the responsibility of compensating the moral damage caused by the judge's ruling in this principle and the absence of a specific reason that makes the said ruling unique to this particular case, the possibility of compensating the moral damage is obtained from this principle. Therefore, in this article, after mentioning the nature of examples and types of spiritual damage, the necessity of its compensation in law and jurisprudence has been examined. Then, the methods of compensation for spiritual damage are discussed, and in this part, attention is paid to the compatibility of the method of compensation with the situation of the victim and the method of compensation in jurisprudence. 1. The nature of moral damage Intellectual rights and capitals have always been the concern of humans and like material capitals, they have been subject to damage. In religious thought, the violation of human sanctity by himself or another is considered as a divine insult, because his sanctity is considered higher than the most important divine sanctities, i.e. Baitullah Haram. Therefore, recognition of human dignity requires that his spiritual rights and interests be protected. In moral teachings, Islam has concepts such as backbiting, mocking slander, etc., showing the care of preserving the dignity of man and dealing with the violator of his spiritual rights, Naqibi, 2006, p. 124). The definition of spiritual harm is difficult because both the concept of harm and the concept of spirituality are common and obvious concepts that cannot be analyzed by logical criteria. Some types of spiritual harm

are mentioned in the definitions given by jurists of the absolute concept of harm. For example, Mirza Hasan, Bojnordi has considered the entry of any kind of defect to the reputation, life and every dimension of the human personality as examples of harm (Bojnordi, 1410 AH, vol. 1, p. 21). Mir Fattah Maraghi, although he did not propose an independent discussion about spiritual harm in the discussion of the principle of harm, but he considered the harm that is caused to the human body and the reputation of a person as one of the types of the concept of harm. An apparent defect in the body or in the interests and in the conventional form of the human body is considered a language.

In addition to listing financial damage as examples of harm, he also listed violations of people's fixed Shariah rights, such as the right to study in common places, mosques and holy places, which sometimes is a non-financial right, and any act that causes damage to the human body. unnatural pain in the human body and assault on dignity is considered as one of the examples of harm (Mirfatah, 1417 A.H., vol. 1, p. 309) Humanity and the studies of educators some Arab jurists have also said in the definition of spiritual harm that it is a harm that The good reputation, reputation and spirituality of a person are included; For example, insults, fault-finding, condemnation and slander, etc., also damages caused by judicial actions such as filing a lawsuit are also considered spiritual harm (Najm Jiran, 1981, p. 263) In this context, Jafari Langroudi writes: The harm that is done to the honor and dignity of the affected person or one of his relatives is like revealing the secret of the patient, it is a spiritual loss (Jafari Langroudi 1368, p. 416). Some jurists believe that it is difficult to define moral damage and it can be said that damage to emotional and non-financial benefits such as feeling physical pain and mental suffering, loss of honor, dignity and freedom is moral damage (Katouzian 2006, vol. 1, p. 144). In another definition, it is said that damage is moral damage that has been caused to the dignity, eyebrows or emotions and feelings of individuals, violation of non-financial human rights, and damage to the feelings of friendship, family, religion, and pain caused by an accident. It is moral damage, and these cases today can be a license to claim moral damage, Safai 1355, p.240)

There is also a loss that is not caused to a person's property, but it is a loss that is in contrast to a material loss and is caused to a person's non-financial interests (Senhour, Bit, Vol. 1, p. 864). Ashuri says that the damage is the spiritual damage and language done to fame, dignity, freedom, beliefs, religion, life, beauty, feelings, emotions and family interests (Ashuri, 1376, vol. 1, p. 208). Some say that spiritual harm is the language that affects the immaterial human capital. In other words, the damage that is done to the external senses, feelings, emotions, ego, family or job status, or social status of a person and causes an internal impression or a decrease in his credibility and value is a spiritual harm (Al-Awji, 1995, vol. 2, p. 168)

Examples and types of moral damage of drift and first studies Spiritual loss may appear in different ways. sometimes in the form of damage to personality rights; such as the damage that comes to a person's credit and reputation; Such as insults, insults, slander, and slander sometimes appear in the form of physical pain that the victim suffers from an accident, or in the form of a mental disorder resulting from an accident due to the fact that the victim's face is smeared, or as a result of being injured. Feelings and emotions such as sadness and grief are shown to a person who has lost his loved ones as a result of an accident. Therefore, it can be said that moral damage is of two types:

Languages related to dignity and reputation, and in short, what is a person's capital or intellectual property in common language. 2.2 Damage to emotions and the creation of emotional distress and impression that a person sees by losing his loved ones and considering their pain and suffering, Katoozian, *ibid.*) Atef Al-Naqeeb, while stating that spiritual damage is realized when a person's social status is harmed as a result of violation of his honor and dignity, he states that the causes of material damage are also provided.

In other words, insulting the dignity and honor of the speaker weakens and reduces his commercial credit and thereby affects his business position as well (Atef al-Naqeeb, 1412 AH, p. 268). Sanhori is also the injuries that bring the cost of treatment or reducing the ability to work. Examples of material and spiritual damage and acts that affect a person's feelings and emotions; It is like taking a child from a mother who violates the children of the father's mother. He considers as examples of spiritual damage. He considers the other side of spiritual damage in a place where the religious beliefs, religious and moral feelings or the fixed and indisputable rights of the person have been harmed. Like when someone enters the owner's property in order to argue with the owner. Here, if material damage has not been caused to the owner, he can claim moral damages simply by violating his fixed right, i.e. entering his property (Senhouri, *ibid.*).

Custom and habit in primitive societies and among different tribes was the basis and source of all social phenomena and it alone was considered the source and basis of religion, ethics of exchanges and transactions - all the legal systems of the world are more or less important for custom. believed (Faiz, 2004, p. 134). And humanities and Arabic studies in jurisprudence, the determination of examples of harm and, accordingly, spiritual harm is deferred to the society's custom. Naraghi, 1375, p. 57, therefore, the definitions of the concept of spiritual damage in Iran's legal system are based on the society's custom.

Therefore, the types of moral damage are not confined and limited to certain types, for example, violation of the moral rights of a child, the origin of worldly and hereafter responsibility, civil and criminal moral, and the jurisprudential rules of harm, no harm, and based on reason are the jurisprudential foundations of the theory of compensation. It provides damage to the intellectual rights of the child. It is also possible to mention the right to identity, the right to name the nationality and lineage, the right to education, freedom and the integrity of the body and soul, among the spiritual rights of the child, Naqibi, 2002, pp. 58-77.

By induction in the teachings, legal rulings and moral teachings, it is possible to identify many spiritual rights that have been defined for humans by the holy law. What is important is to pass from the recognition of moral right to a right that also creates legal requirements. The necessity of compensation for spiritual damage in the rights of the description of the health of the body, human being, happiness, dignity and reputation of the person, health of soul and spirit, respect and social dignity and many other non-financial matters that relate to the human personality, is not only respectable from the Shari'a point of view, but also from It is not permissible to encroach on these matters in terms of the foundation of reason and the rule of reason. Therefore, people's personality, religious and social thinking should be respected by others.

In Iranian law, apart from the fact that most jurists believe that compensation for moral damages is permissible (Katouzian, *ibid.*, p. 227; Shahidi, 1371, p. 260), a number of experts in this field strongly disagree with the truth of the title of damage to moral damages and or the ability and possibility of compensation are opposite and they believe that the nature of spiritual damages is such that it cannot be compensated in any way (Omid Zanjani, 2013, p. 59), some legal scholars were also of the opinion that from a theoretical point of view, it is possible There is no compensation for the pain and suffering felt or the lost dignity. Because such things cannot be fixed with money, some others say: even fixing it with money may be considered as an insult to the character of the person who endured it.

From a practical point of view, the estimation of moral damage is associated with problems. Because in practice, the judge determines the amount of damages based on the fault of the perpetrator, while the civil liability is considered fair only when it is based solely on the actual damage. , 1372 p. 317); However, with the passage of time, changes have been made in this field, so that the vast majority of legal scholars, both domestic and foreign, today believe in the necessity of compensation for any kind of damage and spiritual language, and in the position of rejecting the arguments of the opponents, they state that, first, payment A sum of money is not the only way to repair the damage caused to the victim

and most of the legislators have considered other compensation methods as well. Second, the purpose of language compensation is not necessarily to return to the previous situation, but what should be considered is to find a way to relieve the pain and provide spiritual satisfaction and satisfaction to the victim, and without hesitation to pay a sum of money to the victim, a way to achieve It makes these goals smooth (Akhundi, 1376, vol. 1, p. 242). In this regard, Katouzian says: "Just as with money in material things, you can find an equivalent for lost wealth, it is also possible to provide spiritual happiness." These joys are not able to eliminate sadness and emotional impact, but they are enough to relieve mental pain (Katouzian, *ibid.*, p. 150)

It can be said that allocating some money to someone who is suffering pain, such as someone whose beautiful face has become ugly, allows him, for example, to go to a skilled doctor to relieve him and try to fix the defect as much as possible. The language is not always to rebuild what was destroyed, but often it is to give the victim the opportunity to get the equivalent of what he lost and in this way to satisfy his heart (Faqeeh Nakhjiri, 1351, p. 86) Anyway, today the theory of moral compensation has evolved widely and regulations have been provided regarding it. With the introduction of Article 9 of the Criminal Procedure Law, which was approved in 1339, moral damages and their compensability were explicitly considered by the legislator, and after the approval of the Civil Liability Law, the related rules were further developed. In articles 1, 2, 8, and 10 of this law, the legislator has generally approved the possibility of claiming moral damages, for example, in article 1 of the mentioned law, it is stipulated: "Anyone without legal permission intentionally or in The result of carelessness to life. .. or damages any other right that causes material and spiritual loss, he is responsible for compensation for the damage caused by his action. In Article 10 of this law, it is also stipulated: "A person whose personal or family honor and credit is harmed can demand compensation for his material and spiritual losses from the person who caused the harm, whenever the importance of the loss and the type of fault require it. In case of proof, the court can, in addition to issuing a judgment for financial damages, order to remove the language by other means, such as the obligation to apologize and to insert the judgment in the newspapers and the like. Also, stopping the work or abandoning a device that causes damage and loss, refers to eliminating the source of loss, which prevents future losses; For example, a worker who uses tools that cause harm to third parties or a craftsman who uses worn out and unrepairable tools while performing his duties. They should put those tools and equipment aside and stop working with them, and the past losses should be compensated. In these two cases, which were mentioned as examples, leaving the source, the harm, causes harm in the future, something that is denied in the hadith of Harm (Katouzian, *ibid.*, p. 152). And it prevents future losses, but the losses incurred in the past must be compensated. Of course, it is not possible to compensate them in such a way that the damaged situation returns to its previous state, because time does not return to the past. For example, not only closing the non-standard factory, confiscation of smoky cars, collecting harmful products, preventing and stopping the worker's actions that cause the language to the third party, the obligation to apologize and the unconventional building tin is necessary to eliminate the source of harm. Rather, the languages that have been damaged until the execution of the sentence must also be compensated (Article 8 of the Civil Liability Law).

Necessity of compensating for spiritual damage in the religion of Islam, encroachment on spiritual matters is forbidden. Insulting, humiliating and belittling people is prohibited and forbidden according to reason, verses of narrations and consensus (Mir Fattah, *ibid.*, p. 556 and Halu Sadat and obituary studies in the Holy Quran, there are many verses condemning and forbidding belittling others, mocking, insulting and backbiting, using nicknames, slander and slander, etc. (Hamzah, verse 1-Hujrat, verse 11-Noor, verse 15) The Prophet of Islam (pbuh) and the imams of Athar (pbuh) have also emphasized the sanctity of violation of personality rights and damage to the reputation and spiritual rights of individuals in various forms (Sheikh Har Amili, 1388 AH, vol. 8, pp. 610 and 608). What can be clearly deduced from the sum of the verses and traditions is that the intellectual, religious and social character of people has a special respect that should be respected by others, and as it was said, the Shari'a ruling regarding the issue of spiritual damage is sanctity.

Therefore, based on the ruling of the Sharia and the intellect, the obligatory ruling of sanctification on actions that cause spiritual damage is fixed. Based on this, until the effects of spiritual damage are removed from the victim, the effect of sanctity remains, and in order to destroy the stability and continuation, the language must be compensated for the spiritual damage, and the need to compensate for the spiritual damage is constant. Therefore, in jurisprudence, as much as the body and soul of individuals are protected, intellectual rights are also protected by the legislator. Although some have stated that there is nothing in the words of the jurists that indicates the rejection or acceptance of the moral damage guarantee, but it seems that the following considerations should be taken into account regarding the position of moral damage and its content from the point of view of jurisprudence.

It is true that spiritual harm does not have a clear place in jurisprudence, but it has not been negated either. So that the jurists of the Guardian Council of the Law have stated about the note of Article 30 of the Press Law, filing a lawsuit for moral damages is allowed and the court is obliged to handle it; However, the calendar of spiritual damages to property is materially contrary to Sharia standards. Of course, it is necessary to remove insults and insults done to a person in a way that is appropriate to it, if the rightful person demands it" (Gasemzadeh, 2008, p. 187 Imam Khomeini recognizes custom everywhere and in every age and time. According to him, it is proof that a custom can be fulfilled at any time and place and there is no prohibition against it. Therefore, when the Shariah does not prevent it and does not prevent it, we get that the action according to the custom is rationally satisfied and allowed by the Shariah (Faiz, pp. 144 and 146). gives an opinion Even now, custom sees spiritual damage as part of the concept of loss. Therefore, harm is a defect that appears on a person's wealth, honor and soul, Bojunordi, 1410 AH, Vol. 1, p. 178; Naini, 1373, vol. 2, p. 199).

The dignity of the transmission of the Harmful Hadith, which is one of the most famous hadiths among different sects of Muslims, is in the pure position of spiritual harm. The Prophet (pbuh) was personally responsible for the administration of justice, and every case that needed judicial consideration in the society of that day was taken to him. He also ruled personally according to the standards of Sharia. Examples of the proceedings of the Holy Prophet (PBUH) have been quoted, which include: personal circumstances, claiming the right to intercede, property ownership claims, religious issues, criminal limits and retribution, nuisance claims, and establishment of rules. Harmless in the case of Samrah bin Jandab, Saker, 1365, p. 62) In fact, creating disturbance in a matter is a sign of spiritual harm, and eliminating the source of harm is one of the ways to compensate for this type of harm. Because if the tree remained, its owner would cause trouble for the Ansari man's family and the loss would continue, so since at that time compensation for spiritual loss was not done in the form of money in the form of a calendar, the Prophet ordered it to be cut down, it is wise to say that if In this way, another loss was inflicted on that family, the Prophet (PBUH) ordered to compensate for it, and here the tree tin is a way to compensate for the loss and prevent future losses, because otherwise it would cause another loss, which is in accordance with the provisions of the Harmful Rule. There were contradictions.

Therefore, harming others is wrong and the root of the harm must be eliminated first, and then, as far as possible, the damaged situation should be returned to its previous state. It can also be acknowledged that instead of remaining the root of harm is prohibited and respected as well as creating it. The consequence of such a thing is the need to compensate and replace it, which according to custom is equivalent to being a guarantor.

It may be thought that based on the rule of subordination, Samra had the right to enter his property without permission or notice. However, it must be stated that according to some jurists, "the reason for the condemnation of the monarchy is a harmless reason; Because the rule of harmlessness is a secondary reason and the rule of sovereignty is one of the primary reasons, and it is clear that the secondary reasons always rule over the primary reasons. Also, in the fact that the rule of monarchy can be a permission to cause harm to another, the monarchy of Mard Ansari is cited, which caused damage to Samra and his tree was cut down. It has not happened, and Samra himself caused this loss by insisting on

Ansari's harm (Hosseini Shirazi, 1988, p. 125). Therefore, the possession of the owner is limited to conventional and rational possessions, and beyond this limit, it is considered illegal and unauthorized.

In other words, according to lazarr and lazarrar in Islam, the reason for the ruling and order of tin tree is the ruling of the Prophet (PBUH). Therefore, it can be stated that if we are of the opinion that negating the provisions of the rule is harmful, then the harmless rule is not sufficient for civil liability; Because the main purpose of civil liability is to compensate the loss and the liquidation of the judgment of loss is also used as one of the means of compensating the loss. Also, the rational focus is that the language importer should prepare the imported language. Now, if the owner does not sign this ruling, by not issuing the ruling and requiring him to pay damages, he will cause another loss, which is negated by the rule of harmlessness. Therefore, the rule of harmlessness, by preparing and compensating, also prevents losses that may occur in the future (Hekmatnia, 2006, p. 121).

Among the contemporary jurists who believe that the rule of harm implies the proof of ruling is Makaram Shirazi, Makaram Shirazi, 1380, pp. 72 and (121), based on this, it can be stated that in the records of Islamic jurisprudence, spiritual damage is taken into consideration and about the method of compensation. There is also an example in the practical tradition of the Messenger of God (PBUH) such that it was narrated from Zamakhshari that the Prophet (PBUH) sent Ali (PBUH) to see the people who had been attacked by Khalid Ibn Waleed. Ali (a.s.) even paid for the fear caused by the attack of horses on women and children, this performance is actually a financial compensation for spiritual loss (Zamakhshari, 1364 A.H., vol. 3, p. 182). Imam Khomeini (may Allah be pleased with him) is of the opinion that the provisions of the rule of necessity is a governmental prohibition. To say that some of the orders and prohibitions issued by the Prophet (PBUH) were based on his authority. Therefore, the Prophet (PBUH) was issued a decree for corruption, and its meaning was that in my government, no one should cause harm to another, that's why they ordered to cut down the Samrah tree.

Imam Khomeini did not consider the reasons of those who do not consider the rule of harm as a positive guarantee to be sufficient, and after considering the rule as one of the rulings of Sultania, he says: If we ignore the meaning of the rule of harm, there is no prohibition that the sentence of harm be a lawmaker, and this illusion that the use of the negation of harmful rulings and the proof of guarantee is not permissible from the use of a single word is invalid; Because while the negation remains in force, there is no problem in the negation of harm and harm, taking into account that they have external examples, it is one of the alleged facts, not that it is allowed in the word or allowed in the omission, and it is necessary in Cases of denial of the truth abroad need to be corrected, and this correction here is to close the way for all kinds of harm in the field of Islam. Therefore, if the holy law allows the infliction of personal and financial harm on another, the claim of negation of the harm will not be valid. The same is true if he legislates harmful laws. In the same way, if the ruling does not provide compensation for loss of life, murder, injury, and financial loss, then this claim will not be valid. As a result, the corrector of this claim is to block the way to all types of loss, so this rule in retribution and guarantees have been used and it can be said in general: the application of the claim of negation of harm includes all of the aforementioned. Mousavi Khomeini, 1415 AH, p. 271, when an action is prohibited, it indicates that the continuation of that action is forbidden and its source must be removed, as follows: It is obligatory to remove the damage (Bojnoordi, *ibid.*, p. 183).

Even though Sheikh Ansari considers the provisions of the non-harmful rule to be the negation of a harmful ruling, he finally states that a non-harmful ruling requires existential rulings. In other words, the ruling of non-guarantee requires the entry of harm into the language, and it is clear that due to the generality of the hadith and the rule of non-harm, one should rule on guarantee. Some of the later jurists have also accepted the spiritual loss. He is the owner of titles among them. He states: "...but regarding honor, its rule is everything that is part of obligatory respect, and violating it causes humiliation and breaking his respect among people, therefore, if a person violates his wife or .. harming his incestuous family and women belonging to him, or slandering and taunting him in absentia, or revealing something

that he is not happy to reveal, all these cases are defamation and in fact harm to It is different, and the claim that the loss only applies to property and body and does not include these cases, is not correct and is considered a loss like these things" (Mirfatah, *ibid.*, vol. 2, p. 309).

All rational customs and necessary traditions that have emerged in human societies or will emerge from now on and are like the customs of imitation of the world, such as all kinds of exchanges and transactions from the sale of goods to other common sales and types of rent. and in short, every legal and non-legal issue that has been realized in the civilized world and human need can be seen in it, and even if one of them is stopped, it will be a great challenge and disturbance in the rational society. It appears, and like all kinds of insurance and goodwill transactions, it is considered common practice and is very wide. According to Imam Khomeini's opinion, it can be said that if all these rational customs were not subject to the consent and signature of the Shariah, the Prophet and Imams (PBUH) should have prevented them during their lifetime and presence, and we believe that they had the power to do the work, and since there is no trace of their prohibition anywhere and there is no word in any book, we recognize all of them as permissible, correct and signed (Faiz, 2004, p. 149).

Based on this, if we are of the opinion of non-compensation for spiritual loss, while the custom considers it as loss, this is itself a ruling on loss that has been negated by the rule of non-reparation. Therefore, regardless of the above content which clearly confirms the title of harm over mental and spiritual damages, the customary factor, which is used as an indicator and criterion for identifying examples of harm in the words of jurists, allows us to Clinging to this reason is firm and firm on suffering. Let's apply the title of harm to people mentally and physically, and after that, we will arrange the rules of harm on them.

Another important point is that the damage, whether material or spiritual, is caused. It is oppression, and since the intellect considers oppression to be ugly and the elimination of oppression is considered good and desirable, compensation for it in any possible way is acceptable to the intellect. In other words, reason dictates that the damage must be compensated. Reason also, in case of financial, physical, or damage to dignity and honor, the causer of the damage is held responsible for compensation. However, if the sharia is silent in some cases, his silence and non-rejection is a sign of the sharia's acceptance and consent. Therefore, if we consider mental, emotional and spiritual damages as examples of damage, according to the rational principle of the need to compensate for damage and the principle of harmlessness, we must also acknowledge the compensability of such damages and consider the cause of spiritual damage as a guarantor of compensation. Otherwise, it will contradict the provisions of the harmless rule. Also, in support of this claim, it should be said that in the Sunnah of the Holy Prophet (PBUH), there is an example of financial compensation for spiritual loss (Ahmed, Idris Hamman, p. 352). Therefore, it can be seen that in Islamic law, spiritual harm is not prohibited and guaranteed. It is worth mentioning about Article 171 of the Constitution, which stipulates: "Whenever due to the fault or mistake of the judge in the matter of the ruling or in the implementation of the ruling on the case, a particular material or moral harm is caused to someone, in the event that the fault of the guilty party is according to Islamic standards. is a guarantor and otherwise, the damage will be compensated by the government and in any case the defendant will be restored to his dignity, recognizing the responsibility of compensating the moral damage caused by the judge's sentence in case of his fault in this principle and there is no special reason that the sentence Make the aforementioned unique to this case, and also the possibility of compensation for spiritual loss, which is obtained from principle 171, the spiritual loss caused to the victim can be compensated, Shahidi, 2013, pp. 259-262).

What happened to Gibran is a moral loss, meaning that before Gibran's visit, there is a moral loss that must be mentioned. Moral loss means that Juan Gibran has suffered a moral loss. In some cases, due to limited individual resources, it is possible to create a valid verb that is affected by a broad and more general meaning, and in other words, it is possible to file a lawsuit that may end up being long. In Iranian law, the rules and principles of jurisprudence are met with the possibility of

devising a new method for the most serious moral damage caused by an act that is just an act of impurity that occurs in a garden or under the influence of a decision, such as a car rental. The function of third person attenuation If there is any direct damage to the addressee, there is severe intimidation, but he or she is in a garden or a garden under the influence of the decision of his wife. There are only two resources for the addressee to have intimidation at the time of Juan Gibran's losses. This is an incoming loss, and it is in an irregular phase. In our opinion, if we mention the above requirements, there is no need to compensate for the loss of morality and the absence of the original 171 Basic Law and Articles 1, 20, 8, 9 and 10 of the Civil Liability Law, this point must be addressed A source of shame and reparation for moral loss He must do something to understand the concept of Gibran's loss of truthfulness. There are various types of compensation for civil liability in the reality of ways to make a responsible commitment (actor) and follow the goals of civil liability that are not intended to see the objectives of civil liability in the near future with a statutory legal agreement that has come to the satisfaction of the applicant and restore it to the Pishin mode Maintaining awareness and refraining from committing acts contrary to social order, with the mediation of Sirin. Among the objectives mentioned above, Gibran Khasarat is an essential factor in determining the effects of civil liability in the entirety of this legal system. This is a compensation for losses and a fine may be incurred against other types of civil liability in a relatively recent manner. We would like to state that you are obligated to make amends for any loss or compensation for any disciplinary action resulting from any wrongdoing in the event that the person has suffered any shock or distress. In addition, this judgment is obligatory to compensate for the loss of any possible wrongdoer and to avoid committing a bad act on his face. The importance and position of this issue is becoming more and more obvious day by day, especially considering the situation caused by the current pluralistic and complex world, the increase of risk factors resulting from machine and industrial life. For this reason, among this, the discussion of compensation has found a special place and has attracted the attention of scholars and jurists. It seems that paying special attention to this part of civil responsibility issues has a logical and rational justification; Because if we accept that the most important goal of civil liability is to compensate the losses and damages caused to the victim and restore his former status. It is obvious that this goal will not be achieved unless the subject of the language implements his commitment. The characteristic of responsibility is to re-establish the balance lost by language, as far as possible, and to put the victim in a position that he would have been in if the language had not been implemented. He noted that it is not possible to compensate the imported languages in such a way that the damaged situation returns to its previous state, because time does not go back to the past, it is inevitable that the loss must be compensated as far as the customs know (Khodabakhshi, 2008, p. 123). The assumption of compensation for moral damage is better than the state of not compensating it, in addition to the fact that according to the rule of reason and the way of thinking, it is permissible to compensate fixed moral damages. So, for example, not only shutting down a non-standard factory, collecting harmful materials in a workshop, requiring an apology and so on. .. it is necessary to eliminate the damage, but also the languages that have entered the language until the execution of the sentence should be compensated. Matching the compensation method with the damaged situation is one of the most important effects of this, the principle of matching the compensation solutions with the damaged situation. In other words, the method of compensation should be proportional to the damage caused to the victim. On the other hand, there should be a common sense between the method of compensation and the damage caused. As a result, the method of compensating for any damage will be different according to the property (Qasimzadeh, *ibid.*, p. 161). The methods of compensation for moral damage are divided into two main groups: financial and non-financial compensation. In the vast majority of cases, financial compensation is an amount of money, which is sometimes paid only for the satisfaction of the victim, but in non-financial compensation, several methods are used, such as The teacher apologizes to his student in front of the class, and such as the publication of the conviction of the subject, the language requiring an

apology in newspapers, stopping harmful work and destroying the source of the language (Madani, 1376, vol. 4, p. 381). In Iran's law, the legislator has provided all kinds of compensation methods, both financial and non-financial, in order to compensate for spiritual loss. As a general rule, Article 3 of the Civil Liability Law stipulates the amount of language and method and the quality of compensation according to The situation will determine the case. Article 10 of the above-mentioned law is also a special ruling regarding some of the moral damages, i.e., damage to the dignity and credit of individuals, and it stipulates that "the person who harms his personal or family dignity and reputation can recover from the person who caused the damage." He wants compensation for his material and spiritual language. When the significance of the loss and the type of fault require it, the court can. .. In addition to issuing a judgment for financial damages, he should order to remove the language by other means, such as the obligation to apologize and enter the judgment in newspapers and the like." As can be seen, financial and non-financial compensation can be ordered together. For example, if a worker causes damage to a third party during the performance of his duties, which causes his face to be ugly and requires high-cost treatment, in this case, both financial and non-financial compensation have been achieved. Seyyed Hassan Emami writes: Because damage to the dignity of pain and emotional suffering is not a property that can be compensated by money, therefore, the laws of some countries have not allowed to claim damages for it, but because the language of condemnation is to pay An amount that heals and relieves the mind of the tongue is seen and includes the punishment of the perpetrator, the social logic accepts it (Emami, 1378, vol. 1, p. 578) But regarding some types of spiritual loss, it is not possible to compensate through non-monetary and non-financial means, such as physical pain, mental pain and fear, if financial compensation is not considered for them, they will remain without compensation, and it is obvious that this is acceptable. is not; Because it is not logical to accept a concept of loss but not consider a specific compensation for it; Because in this case, another loss will occur. Therefore, in addition to the material compensation, i.e. paying a sum of money to the victim, the legislators have also considered other ways to compensate for the moral damage, which include requiring the perpetrator of the harmful act to offer an apology or The publication of the verdict in the press mentioned. In some cases, the injured party requests the payment of damages and spiritual language for the benefit of one of the charity associations. For this reason, there is no explicit provision regarding the calendar of moral damages to financial affairs in the civil liability law, and at the same time, there is no prohibition mentioned in this law. What the Civil Liability Law emphasizes in various articles is the need to compensate for both moral and material damages.

The method of compensation for moral damage in jurisprudence as mentioned, spiritual damage is accepted in Islamic jurisprudence; But in relation to the methods of reparation for moral damage in jurisprudence, it should be said: sometimes in Islamic jurisprudence, some actions that harm the dignity and reputation of individuals, such as slander or slander, have criminal or otherworldly consequences. It is obvious that this performance guarantee, although it can indicate the attention of Islam on moral damage, but it is not considered as a compensation method in its own special sense and in the common sense of private law, because it should not be forgotten that moral damage is not exclusive to the mentioned cases and cases Others, such as damage to the social status, profession, and religious beliefs of individuals, or damage to the beauty of a person's face, or spiritual damage caused by the death of a person's relatives are also examples of spiritual damage. Therefore, it can be said: Although there is no recognized method for compensation for spiritual losses in Islamic jurisprudence, it seems that common methods in customary and subject law, including financial and non-financial compensations, can be accepted in jurisprudence. Because compensation methods are relative matters and the result of legal and social thoughts in every age. What is important is compensation for the damage caused to the victim. It is on this basis that Article 3 of the Civil Liability Law has left the method and quality of compensation to the court according to the circumstances of the case and has left the judge's hand free to choose the appropriate method.

Therefore, the ways of compensation for spiritual damage cannot be considered limited, because compensation is important in the case of damage, and the way of compensation is methodical, not objective. Therefore, what is common under the title of spiritual damage compensation methods in the current legal systems, including Iran, is derived from the latest intellectual and legal developments in this field. In particular, there is no restriction or prohibition from the holy Shariah regarding the compensation of spiritual damages, and the rulings of the Shariah regarding the compensation of spiritual damages confirm that the goal of the Shariah is to compensate the damage caused to the victim, and the method of compensation depends on the possibilities of achieving that goal. is Therefore, as mentioned, where it is possible to reject the exact property, the objective compensation comes before everything, otherwise, the payment of kind or price is suggested. As in the case of the fear of the women and children of the Bani tribe, Khazima, a certain amount of money was paid by Amirul Momineen (a.s.), which is a financial compensation for the spiritual damage. Even the prediction of dowry in case of physical injuries resulting in murder, wounding, disability, or illness of the injured person can be a good reason for the possibility of compensation for spiritual damage and the ability to schedule it; Because all physical injuries and mental and emotional sufferings are important examples of spiritual damage, as a result, material compensation for such injuries through the payment of money is a strong proof that not only is there no prohibition in Islamic law regarding the compensation of spiritual damages. Rather, in the practice of calendaring and material compensation, some examples of spiritual damage such as physical injuries have been recognized.

Even if we say that the dowry is a special ruling and it is imposed only in certain cases, such as defects in body parts such as the loss of eyes, ears, hands, and wrongful murder, we can use the criteria in the dowry ruling, which is the payment of a certain amount of money for He used compensation for the damage and said that in other spiritual damages that have been caused to the mental health and social character of the injured person, to compensate for the spiritual damage and support the language, in return, the language should pay some money to the language, of course, as It was said that compensation in the strict sense of the word is not possible even in financial and material damages, let alone spiritual damages, and the only purpose of paying money is to create satisfaction and satisfaction for the language. It is evident that the payment of some money to gain the satisfaction of the members of the Bani Khuzimah tribe. Therefore, the methods that are used now to compensate for spiritual loss are definitely not irrational, and in cases where there is silence in the Shari'a, the jurists refer to the way and structure of the intellect, so the existing methods are not against the rules and principles of the Shari'a. Based on the above, it can be stated that the acceptance of financial compensation and all types of non-financial compensation in order to repair spiritual damage can be justified and defended in Islamic jurisprudence.

The result The law of civil liability is derived from the principle of justice and it is in the position that no harm is left unprepared as much as possible, the legal duty to not harm another and the obligation to pay damages are mandatory judgments, and being liable for damages is a type of status judgment that is The obligatory sentence of non-harm is related to the other and it is the basis of the sentence for the obligation to compensate for the damage. Therefore, civil liability arises when someone damages another's right without legal permission and causes damage to him as a result. Civil liability resulting from moral damage and its compensation methods are proven in Islam, according to the rule of harmlessness, custom and common sense. Limiting the scope of the application of the rule of no harm to the negation of rulings greatly reduces its social role in the implementation of justice. Reason also considers it necessary to compensate for unjust losses. Provisions such as the rule of harm before it is a Shariah ruling is a rational ruling, and the Shariah is also a sign of the ruling of the intellect and the building of the intellect in this regard. A person should have the same understanding of this rule as the understanding of rationality. It can also be inferred from the revelation of the hadith of "Harmless" and the instruction of the Holy Prophet (PBUH) regarding tree tinning that his order to tree tinning is actually to eliminate the source of harm, which is one of the ways to compensate for spiritual damage. In addition

to the harmless rule, another reason for the possibility of compensation for moral damage and the possibility of calendering and material compensation for such damages is the prediction of dowry in case of physical injuries. Based on this, there is not only no prohibition in Islamic law regarding material compensation for spiritual damages, but the calendar and material compensation of some of its examples, such as physical injuries, have been recognized. In Iran's legal system, non-pecuniary damage is compensable with the provision of Article 9 of the Criminal Procedure Law, which was approved in 1339. Madani, the relevant rules were further developed so that in articles 1, 2, 8 and 10 of this law, the possibility of claiming moral damages is generally confirmed. Article 171 of the Constitution also proves the permissibility of compensation for moral damage. There are different methods that are used to compensate moral damages according to the jurisprudence of different types of moral damages, the most important of which are financial and non-financial compensation. sometimes In Islam, some actions that harm the dignity and reputation of individuals, such as slander or slander, have criminal or otherworldly consequences. It is obvious that this performance guarantee can indicate the attention of Islam on spiritual harm. However, in Islamic jurisprudence, there is no known method to compensate spiritual losses, but it seems that the common methods in customary and subject law, including financial and non-financial compensations, can be acceptable in jurisprudence because the methods of compensation are relative matters and the result of Legal and social thoughts exist in every age and the methods that are used now to compensate for spiritual loss are definitely not irrational, and in cases where there is silence in the Shari'ah, jurists should refer to the way of thinking. Therefore, the existing methods are not against Sharia rules and principles. Therefore, the acceptance of financial compensation and all types of non-financial compensation in order to repair the spiritual loss can be justified and defended in Islamic jurisprudence.

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