The Social Sciences 11 (12): 3163-3170-, 2016
ISSN: 1818-5800

A Comparative Look to Lawyer's Civil Liability Towards the Client

Fatmeh Sadat Mousavi and Azizullah Fahimi
Department of Law, Faculty of Law, Qom University, Qom, Iran

Abstract: Lawyer is a critical and key job because of its association with dignity, honor and properties of others including the client. The relationship between lawyer and client is organized and controlled in two ways; one is the law contract based on which the lawyer is obliged to implement its provisions and violation of which, if injurious for the client, is liable to be required for compensation by the lawyer. In addition to contractual obligations, there are obligations, extraneous to the contractual type, a lawyer feels under the pressure of law; it is quite clear that in case of the absence of a contract such legal requirements are automatically cancelled. Legal obligations which are appointed by BAR Association consider punishments appropriate to a specific violation of law which is dealt with in quasi-judicial authorities and BAR Association. Although, this authority does not have jurisdiction to explore lawyers' civil liabilities, if the lawyer is convicted in such authorities, the sentence can be documented in legal courts to remove the burden of proving the guilt from the shoulder of the client and the client in case of a civil liability case, only has to prove his loss due to lawyer's illegal action. In addition, the client has to prove the causal relationship between lawyer's action and consequent harm.

Key words: Civil liability, contractual responsibilities, lawyer, legal obligations, Iran

SOURCES AND FOUNDATIONS OF LAWYER'S CIVIL LIABILITY

Sources of civil liability of the lawyer: The first point is that sources of civil liability which are the same as legal documentations of civil liability are divided in two types of general and specific resources.

General sources of civil liability of the lawyer: Civil liability is generally based on 'No loss and No dirar' jurisprudence law and considering the jurisprudence foundations of Iran Civil Law, the Civil Code adapted in 1928 mentions civil liability under the name of compulsory guarantee and expresses four fulfillment criteria: confiscation, loss and causality introduced 308, 339 and 328 articles in order; the fourth criterion is vindication which is not accepted among civil liability requirements by deceased professor, Dr. Katoozian; he argues that "religion is not based on the occurrence of loss to others. The legislator wanted to obligate the person who has benefited from finance or business of another so that he pays what he has vindicated for, even though no harm happens to the owner or the agent".

In addition to the mentioned articles which have not noted civil liability explicitly despite expressing provisions of the laws of civil liability, Civil Liability Code enacted in 1961 addresses responsibility of the individuals and the causes of loss against the damaged person.

Specific sources of civil liability of the lawyer: In addition to general civil liability laws and regulations which hold people responsible for their actions and puts them against each other for the losses they incur, legislators, given the importance and criticality of some jobs, enact specific regulations and legislations, such as laws on doctors, engineers, supervisors, notaries and official experts whom are subject to specific trade laws and are, accordingly, controlled and monitored.

Since, lawyer is a critical and key job because of its association with dignity, honor and properties of others including the client, he is inevitably subject to certain trade regulations; thus, necessary related law was adopted in 1935. The Independence Bill of BAR Associating was approved in 1954 and 1955 by Joint Commission of National Assembly, Senate and Ministry of Justice. Mentioned regulations establish requirements for lawyers' non-compliances of which leads to civil liability of trespassing lawyer. Therefore, BAR Association is in charge of taking disciplinary sanctions against trespassing lawyer in these regulations.

Foundations of civil liability of the lawyer: Prior to Civil Liability Code of 1961, civil law was the single legal source of civil liability in Iran; even, this regulation was known as loss, causality, confiscation, etc. rather than as civil liability. Based on relevant articles, it can be concluded that primary basis for realization of civil liability is not solely failure in duties and according to legal and

Corresponding Author: Fatmeh Sadat Mousavi, Department of Law, Faculty of Law, Qom University, Qom, Iran

jurisprudence regulations of 'No loss' and 'the richer one', it can be stated that compensation or civil liability is to restore a previous balance which is destructed by one of the partners.

Civil Liability Act of 1960 changed the basis of civil liability to failure in duties. The first Article of the law of civil liability changed its basis thoroughly. According to this article, "Anybody, willfully and negligently, without legal authorization damages life, health, property, freedom, dignity, business, reputation or any other rights established by law that would result in moral and material loss of an individual, he is liable to compensate the damages caused by his action". And this is how error became the basis of civil liability. According to this theory, for the injured person to reach his right and compensate his loss, he must prove that a loss is inflicted on him by an agent who has committed an error. In other words, error theory holds that there must be someone whose actions are blameworthy and, thus, responsible for the loss of another.

On the other hand, according to compulsory insurance law of civil liability of owners of motor vehicles adopted in 2008, the legislator has taken advantage of responsibility theory. Multiplicity of law principles is economically important in terms of passage of time, changes in living conditions and kind of relationships between people. However, there are some challenges against such multiplicity, challenges such as whether new law and its regulations necessitate obligations of the law so that final theory is considered as legislator's ultimate issue or each theory occupies a certain place and hast its value and final adoption of all principles is required. The main objective of this section of discussion is determining the basis on which civil liability of the lawyer is realized. It seems that getting to an accurate and clear answer to this question requires determining whether commitment and obligations of a lawyer towards his client is of result of tools type.

PRINCIPLES OF CIVIL LIABILITY OF THE LAWYER

Certain elements are required for the realization of civil liability. Component elements and pillars are elements which have causality relationship with the action or incidence, i.e., the occurrence of the actions or events results from or is the effect of, such pillars and the absence of any of these elements or the presence of their contradictories results in the cancellation of civil liability; therefore, these pillars are essential to prove civil liability. These pillars include presence of loss, committing a harmful action, causal relationship between the action and the loss.

Presence of loss in civil liability of the lawyer: Loss has been defined as 'whenever there is a defect in property or certain benefits are lost or health and personal dignity of an individual is damaged (Katoozian, 38). According to this definition, loss can be both material and spiritual. If negligence of a lawyer causes lapse of time or wiping out of the right of the client, he has caused material damage and loss and if such a loss qualifies for the conditions of claim, the lawyer is caught in the trap of civil liability' also, of negligence or heedlessness of a lawyer results in revealing the secrets of his client and the client's reputation is damaged, civil liability comes up and the caused damage can be claimed.

However, proving the occurrence of the loss is necessary for the court to witness the damage of the client. It should be noted that not all types of loss require compensation because there are many damages that are not normally identified as loss and the damaged person is not considered injured or harmed against. Therefore, the main qualifications of caused loss are.

Certainty of loss: compensation of loss presupposes its occurrence; therefore, certainty of loss is required if there is any hope of claim (Ghamami, 1997). France announced 'the immediate assessment of the damage' precedent rule to ensure certainty of the occurred loss and the State Council also stressed this criterion for the recognition of the loss. However, this did not remain immune from the criticisms of the writers. It has been said that such a provision is based on the incorporation of 'ensuring loss occurrence' and 'determining its extent'. How can we not consider a loss inalienable if in the occurrence of which there is no doubt but determining the quality and the quantity of the loss is impossible? Therefore, it has to be noted that proving the occurrence of loss establishes liability, regardless of the uncertainty in terms of scope and extent of the loss. It is on these grounds that lawyers consider future loss the occurrence of which is certain as strongly realized and open to liability (Emami, 2009). So in the above example, the loss which occurs to the client is redeemable if acknowledged by common knowledge and receiving benefits is certain for the client if the barrier of less certainty is removed. Is loss is the result of participation in an auction and receiving benefit due to winning the auction, it cannot be considered conclusive and, therefore, redeemable.

Loss must be direct and straight; according to article 520 of civil law, the loss must be a direct result of the intended action. Therefore, regarding the previous example in which the client is arrested and no beneficial contract is signed, if another person takes the contract by paying more money and this causes the client's loss of the contract, it is clear that this loss is not caused by lawyer's fault or negligence.

The loss must be uncompensated: the philosophy of civil liability is that no harm remains uncompensated. Thus, as the losses are to be compensated, it is not reasonable if a loss or damage is compensated by a number of factors. Article 319 of Civil Code focuses on this issue. Thus in case of compensation of a client's loss in one way or another, like extending time and opportunity of the contract by a person who expects profit, no other compensation is required for the realization of the loss of the client.

Committing harmful act by the lawyer in legal systems: Not all harmful acts create the necessity of civil liability the harmful act must be considered morally abnormal by the public and the loss is publically reprimanded. Thus, legal experts consider an action harmful if it is morally improper. The improper element must be distinguished from the legitimacy of harmful action. Some laws, such as France Civil Code, consider the concept of error sufficient for illegitimacy of a harmful action, because committing a fault is unacceptable for the law or custom and there is no need for reiteration. This interpretation makes sense as long as fault is the single basis of civil liability; however, legal systems which mention liability without fault point to necessary illegitimacy of an action. That's why, Civil Code of Switzerland and Germany state that damaging action must be either against the law or illegitimate. According to article of 1960 Civil Liability Act which considers error the basis of liability, "anyone who knowingly or unknowingly causes moral or material harm of another person is liable to compensate the damages of his action" (Ibid, 54).

Now, that the distinguishing element of a harmful action is clear, the main point is the commitments a lawyer finds towards his client, commitments which first are under the protection of law, custom and good morals and second, necessitate compensation and civil liability if they are disregarded.

The causal relationship between the lawyer's act and the resulted harm: Proving the occurrence of loss of the client and committing the error of the lawyer does not solely justify the claim for the damage; rather, the causal relationship between the lawyer's act and the resulted harm has to be proved, too. The real cause of damage is considered necessary condition in common law and to determine the condition which is necessary (real cause of damage occurrence), this criterion is applied as measuring rod. The question is: will the client have suffered the same damage if it were not for lawyer's harmful act?.

Lawyer's commitment to fulfill contractual obligations towards the client is an example of the main obligations resulting from the nature of the jib of the lawyer. This commitment which is established as a contract between two parties, requires lawyer's commitment to materials and arrangements of law, although not stipulated in the contract or in the absence of client's independent permission. For example, when a layer is asked to adjust the text of a contract of transaction and in exchange for fees, get committed to doing it, it is quite clear that the client's going to the lawyer is for legal information which is considered in writing the contract; now, if the lawyer intentionally or unintentionally inserts provisions in the contract which are detrimental to his client and implementing the contract causes loss or damage to the client, the client would sue a civil liability claim against the lawyer and ask him to compensate his loss.

LAWYER'S CIVIL LIABILITY AND OFFICIAL VIOLATION

Lawyers will have two types of commitments after sealing the contract. First group includes basic and primary obligations which are legal provisions agreed upon between two partners in the contract. This category of commitments can be referred to as 'basic or fundamental commitments'. Second category includes commitments which are subordinate and secondary to fundamental obligations the purpose of which is providing aspects of original obligations. Therefore, there will be no subordinate commitments if the contract is not finalized. Law, norms and ethics determined the content of secondary provisions. Although, violations of such provisions will establish requirements similar to those of primary obligations for both lawyer and client, both can charge the offender and the lawyer must pay compensation in case of damage to the client. The only difference is that civil liability of the first category is contractual while that of second category is natural and legal. It should be noted that although lateral obligations are subordinate to the main commitments of the contract, these legal requirements outlive the end of the contract and the lawyer will have civil liability in case of violating such obligations if the main contract is cancelled. An example is maintaining confidentiality by the lawyer which still exists after the termination or loss of the contract; lawyer won't have the legal right to disclose secrets under the excuse of termination of the contract.

Contractual liability of the lawyer towards the client: Contractual liability of the lawyer towards the client

means not performing the obligations the lawyer is obliged to in the contract in a way that brings loss to the client; thus, the damage occurred to the client must be compensated. A contractual liability should meet two necessary conditions:

- There must rule a solid contract between the injured party and the source of loss
- Damage must be caused by non-implementation of the provisions of the contract

The absence of any of these two conditions removes the case of civil liability and creates a case of compulsory guarantee. According to the first condition, the requirement for the realization of the contractual obligation of the lawyer is the presence of a contract designed according to the terms of validity and validated by the law. Thus, if the contract is cancelled, the damage which results from cancellation or misrepresentation is not caused by an act of breach (Ibid, 65). For example, when a lawyer establishes a contract which is not legally validated and the other party experiences loss or damage due to lawyer's inaction run-fulfillment of necessary terms, the damaged person cannot claim for compensation of the loss and it is not included in contractual obligations of the lawyer.

According to the second condition, the client has to prove that the damage is a direct result of non-implementation of the provisions of the contract and no other agent is responsible for the occurrence of the damage. As you can observe, the contractual nature of the lawyer's liabilities necessitates the client to prove the causal relationship between the lawyer's inaction and resulted harm. Thus, considering the tools nature of the lawyer's commitments to the client, the client must prove lawyer's unfulfilling of the contractual terms. A considerable challenge to contractual liability is that if legal obligations of the lawyer which are binding per se are included in the contract such as mentioning that the lawyer is required to maintain client's confidentiality which is also put on his shoulders by law, are violated by him, will his liability be contractual or compulsory?

A comparative look to lawyer's compulsory liability: Some of the legal obligations of the lawyer towards the client are listed in the followings; these provisions are extracted from Iran Civil Code, Attorney Law passed in 1936 independence Bill of the BAR act of 1954 and related regulations:

- Commitment to honesty and truthfulness
- Commitment to observing necessary care in the pursuit of the lawsuit
- Obligation to exercise care at the time of duty
- Commitment to client confidentiality and observing permission limits

The above statements which are ruled by legal experts, are compliant with necessities of the job of the lawyer stipulated according to US and Europe legal professional ethics. However, the highlighted point of Iran's legal system in comparison with other legal systems, is that the majority of the above mentioned obligations had legal origin and is supported by sufficient sanction. According to article 22 of Independence Bill of the BAR act of 1954, determining the types of violations of lawyers is done with the approval of the Minister of Justice, the regulations of which were adopted by the Ministry of Justice in 1936. However, since professional ethics in mentioned countries does not have legal basis, courts take action with obligation in determining violations of lawyers in civil liability lawsuits against them (Ghahremani, 1998).

Honesty and integrity towards the client: Honesty and integrity are fundamental principles of law and the occupation of the lawyers; when lawyers achieve the position of practicing law, they should in accordance with Article 39 of Independence Bill regulation of BAR Association, swear to God that they will obey and apply honesty in their procedures of affairs of individuals.

In the event of non-compliance with the legal duty and violation of oath, according to paragraph 3 of Article 81, 80 and 9 "If the layer appeals to beguiling techniques for prolongation of the trial, he is sentences to grade 4 disciplinary punishments. This penalty in addition to civil liability, is determined in case of the occurrence of the damage to the client.

In Europe's regulations on corporate functions of lawyers, the general principles that guarantee proper implementation of the legal profession and proper functioning of the judiciary, especially Article 202 which is known as moral perfection and trusts attraction, emphasize the need for trust in the relationships between the lawyer and others. According to this Article, chastity, honesty and integrity of the lawyer is required and there should be no doubt in his characteristics.

Fundamental principles of the legal profession are mentioned in Article 1 of Coordinated Internal Regulations of French BAR Association. According to paragraph 3 of Article 1, a lawyer should perform his duties with competence, conscience independence, honesty, humanity, dignity integrity, objectivity, cooperation, courtesy, politeness and gentleness.

Lawyer's commitment to honesty towards the client includes both counseling and litigation representations

time. According to Article 1-4 of America's model pule, if the client makes an independent decision the implementation of which is legally detrimental and the lawyer is aware of this, lawyer's silence and indifference creates him liability (Ghahremani, 1998; Abedi *et al*., 2011). In addition, the lawyer must be confident of his scientific capability to defend the claim of the client and in case of insufficient information on the subject of the case, he should acknowledge his inability to tackle with the legal issue.

According to Belgium's law, this commitment on the part of the lawyer is referred to as pre-contractual obligations. That's why, liability arising from breach of this commitment is considered non-contractual liability. Thus, if the lawyer accepts a case and takes legal action despite his lack of academic and technical ability and desired result is not achieved because of weak function of the lawyer and the right claimed during the proceedings enters the lapse of time, the lawyer is hold liable to compensate any possible loss or damage (Ibid, 146).

Commitment to meeting the necessary care in pursuing claim: One of the legal duties of the lawyer is implementing necessary pursuit of the advance of the lawsuits; he should do his best to do the job as efficiently as possible. The lawyer should be constantly aware of the progression of the case and pay special attention to setting proper defense bills, unless a legal excuse prevents his presence in the meeting in case of which he must declare his apology to the court in due time. It is only in accordance with Article 27 of law where lawyer's informing the court for the reason of his absence is valid, unless the contrary is proven in which case the lawyer is sentenced to grade 4 disciplinary punishment.

According to some legal writers, this legislative act undermines the rights of the lawyers because General and Revolutionary Courts act which was passed 64 years ago in 1336, undermines the rights of lawyers who are among the most noble professions in community, why don't they consider lawyer's promise enough for his absence in court in Article 41 of Civil Procedure Code; however, 1936 code mentions this case and considers lawyer's promise sufficient unless the contrary is proven. (Ensafdaran 84) Therefore, it can be said that lawyer's commitment is to result in this respect. In other words, no excuse except for unpredicted events is accepted for violation of this obligation. Thus, the common mistake according to which all obligations of a lawyer are commitments to tools, must be reconsidered, because in case where the lawyer is required to do a certain thing in a certain moratorium, how is it possible to limit his responsibilities solely to the attempts he has made within a limited deadline? (Ghahremani, 1998).

According to a comment of French Supreme Court, "Lawyer is not allowed to surrender to the court's initial creed without his client's awareness; he should not remain passive while the appeal deadline passes" (Abedi *et al*., 2014). Thus in the above example, the client can claim compensation if any damage occurs to him.

Commitment to precision at the time of duty: Perhaps, it can be said that practicing law which covers many legal issues, is the first and most fundamental obligation of the lawyer. Thus, it must be said that the lawyer is obliged to comply with the law and do the case with utmost care. According to article 660 of Civil Code which delimits the obligations and liabilities of lawyers, "The lawyer's power is either absolute or conditional over client's affairs". An issue which requires lawyer's special care is tackling with basic operations and necessities of the contract without explicit and independent permission of the client. According to Article 671, "Performing legal job prerequisites necessary arrangements unless stated clearly by the contract". By necessary arrangements we mean all those things which are requirements of the legal nature of the contract because the contract is not legally finalized in case of disregarding fundamental conditions by lawyers. The mere existence of a contract is not a strong claim for contractual liability of the lawyer and, if preliminary requirements determined by law and custom are not ready and do not lead to civil liability of the lawyer, such as cancelling the stamp and accuracy in complementing the petition according to rules of procedure.

Filing accuracy is another occasion in which lawyer's precision affects the fate of the case and the client. For example, according to Article 2 of Law Amending on Prevention of Duress act of 1973,"Accepting possession removal claim of immovable property requires proving former relationship of the plaintiff and less than one month duration of the present possession status; so, if the current possessor has owned the property for more than one month, duress possession removal claim will not be paid attention to and expropriation claim must be used to remove seized property". If the lawyer presents possession take over complaint for a case of more than one month duration of seized property, his compliant will not be heard and the magistrate is not allowed to make up for his mistake by changing the title of his complain to expropriation. Obviously, lawyer's lack of scientific skills in designing the lawsuit is a certainty and he has to compensate the occurred loss if the client can prove it. (Ghahremani, 1998; Abedi *et al*., 2012).

In Swiss law, lawyer's civil liability caused by lack of awareness of the rules is hardly acknowledged; even his mistakes in selecting defense tactics in the lawsuit which might result in damaging the client are not considered his liabilities; however, lawyer's mistake in adopting necessary procedures and limitations is subject to strict and absolute liability. Swiss' law implements best effort discipline instead of due care discipline which is much stricter; but to prove lawyer's legal violations, the helps of experts and BAR Association are asked for (Gharemani 1998).

Commitment to client confidentiality and observing permission limits: Since lawyer is trustworthy for the client and tries to solve the problem of jurisdiction by asking the client to tell his secrets, he consults the client with the intention of helping him. Revealing secrets of client is contrary to the requirements of law which is in accordance with the nature of integrity. According to Article 30 of 1936 Code of Law, "The lawyer is obliged to keep secrets of the client of which he has been informed, secrets related to the honor, dignity and property". Paragraph 2 of Article 81 of regulations of BAR Association Independence Bill stipulates grade 5 disciplinary punishments for revealing secrets of the client.

According to article 648 of 1976 of Civil Code of the Parliament, "If physician, surgeon, midwife and pharmacist who shares people's secrets due to the mature of their jobs disclose people's secrets illegally, they will be sentenced to three months and one day imprisonment or one million five hundred thousand to six million R". This Article has been adopted from Article 378 of French Code of Criminal procedure, except for the type and extent of punishments. Although both texts do not directly mention lawyer's betrayal, the expression of 'all those who are actually confidant of people's secrets due to the nature of their jobs' includes lawyers, too.

Therefore, in case of illegal revealing of the secrets of the client by the lawyer, the lawyer will be both subjected to disciplinary punishment and prosecution; even, according to the ideas of some legal experts, spiritual losses are also included under civil liability of the lawyer.

PRESENTING LAWSUIT AND RELEVANT AUTHORITIES WITH THE AGENCY OF THE LAWYER

As mentioned earlier, the obligations of a lawyer towards his client are classified in two groups of conventional and compulsory. Obviously, breaching conventional obligations results in contractual liability and, according to general rules, contractual liabilities are processed in public courts; if a lawyer violates the nature of law, he will be subjected to compulsory liability.

This discussion is challenged by some questions; what happens if a lawyer violates both contractual and legal obligations? Do both liabilities need common or separate lawsuits? In case of a lawyer's violation of the nature of law which legal council is qualified to process the lawsuit? Does BAR Association disciplinary court have jurisdiction over the case and if the answer is yes, how far does the scope of proceeding go? Can the client directly refer to public courts without discussing the lawsuit with judicial authorities? And finally, is it possible for the client to refer to both disciplinary and public courts to claim his rights?

Possibility or impossibility of the combination of two liabilities from a comparative perspective: Two assumptions are required for combining two types of liabilities. The first assumption is that the injured party could bring a single claim in which he benefits special rules of both liabilities. For example, to prove the guilt of contractual liability or responsibility with respect to the principle of compulsory liability intended liability is resorted to. another interpretation of combination of liabilities is that the injured party is allowed to select the type of claim he proceeds if violation is both from contract and from nature of law or take action for the second of liability in case of the failure with the lawsuit of the first liability.

Some consider such an interpretation of the first assumption impossible, because it is simply impossible to prevent two law suits; necessarily one claim must be processed. Contractual and compulsory liabilities have particular characteristics and a claim in which the attributes of their two liabilities is mixed, is neither contractual nor compulsory; rather, it is athird claim which is not recognized by law. In regard with second interpretation, some believe that applying the term of "combination" is not that much accurate and the word "choice" would have been much better. This is to say that the person is given the choice to select one form of liability in case of the collective presence of both forms of violations. Thus, the word "collection" here means whether the injured party is allowed to choose type of claim based on his own interests; this is what legal scholars have intended to express (Hashemi, 2010).

Some jurists do not put any limitation on combining or selecting type of liability, because it does not contradict the will of the legislator and the public order. The existence of contract should not deprive the injured party from the guarantees law has put to present the infliction of unpredicted damages (Hashemi, 2010).

While the majority French lawyers and legislators tend to "non-colleting" strategy towards liabilities and some argue that the oblige knows the obliged of a contractual liability only in case of the establishment of the contract, so any relationship which results from the contract must be under the obligation of the contract; thus, when the committed person refuses to implement contract terms, contractual not compulsory liability is enforced (Hashemi, 269) while one of our legislators, Dr. Shahidi, criticizes those who are opponents of liability collection after expressing discrepancies between contractual and compulsory liability in French law, he states that: "this idea seems unacceptable because the assumption is that to sets of rules match over the case, none of which invalidate or contradict the other. Thus, the injured party has the freedom to choose the path he will go through to reclaim his right because there is no reason of either invalidation or contradiction of two types of liabilities".Our legal procedure recognizes the possibility of combining and collecting two types of liabilities; some decisions of the court indicate that judges cite both conventional and compulsory rules in handling the amount of the damage of the case.

In charge authority: The certain point is that the client can sue his own lawyer initially in legal courts and in accordance with Article 159 of the Constitution, the courts are obliged to investigate any claim of any individual; thus, the client demands the lawyer to compensate the incurred loss after proving the violation of the lawyer from contractual and compulsory obligations and the causal relationship between loss and the agent of occurrence. What is more is that the client can take action initially in BAR Association disciplinary authorities. If the lawyer is sentenced guilty in disciplinary authority and the plaintiff client demands compensation of damage and losses caused by a fraud lawyer, he can refer his claim to legal courts. Based on the principle of independence of judiciary authorities in issuing verdict and the validity of verdicts in legal courts which is predicted as an implicit exception under Article 390 of Civil Procedure Law, since the verdicts of BAR Association disciplinary court as law enforcement agencies, are solely valid as action-motivating opinions, legal courts can not consider them as solid bases for issuing any sentence in a case of civil liabilities of the lawyer because in addition to what was mentioned about the independence of court, civil liability lawsuit has its own elements of which committing the fault is one. Therefore, the verdict of disciplinary court only remove the burden of proving error for the client and he should prove the incurred laws and the causal relationship between lawyer's violations and the inflicted harm. If the client does not refer to disciplinary court, he should prove the error as well as the loss.

This question is asked by a majority of lawyers: in case of non-establishment of lawyer's disciplinary violations by law enforcement agencies, is the injured party allowed to continue his claim in the form of civil liability by referring to legal courts? The answer provided to this question is that the credibility of the scope of the sentence must be considered; however, there are other responses to this question because the establishment of regulatory authorities of lawyer has been in accordance with law and their decision should be considered legitimate within its jurisdiction. Another point is that since their verdicts are, broadly speaking, criminal, they cannot be totally ignored in issuing the final sentence. However, since proving lawyers violation of regulatory necessities is similar to the condition governing criminal courts in establishing the intent to commit fraud deliberately by the lawyer, sole determination of the error, regardless of being intentional or not, suffices in a case of civil liability; thus, the above response is enough in such case (Ghahremani, 137).

CONCLUSION

The CSP on one hand and contracts protected by such law on the other hand are like double-edged scissors which cause the formation of proper and systematic community relations. Malfunction and shortcoming of any one of the mentioned agents cause abnormalities and deformities in noted relationships. Thus, the legislator must apply all his intellectual rigor to ensure that the passage of time and change of circumstances do not weaken the regulatory power of law and articulations, especially in case of critical jobs, such as lawyers and doctors, who are directly associated with the life and property of majority of people. Although civil liability closes the escape route of the offenders and outlaws, the smell of aging and failure of some laws prevent the achievement of the mission of legal authorities. Thus, it can be said that such studies are warnings for legislators to awake them out of silence and stillness against changing living conditions and human relationships; God Willing.

REFERENCES

Abedi, G., A. Hedayatizadeh, F. Rostami, 2011. An investigation on relationship between leadership style and organizational maturity nurses in educational hospitals. World Appl. Sci. J., 12: 939-943.

Abedi, G., L. Azimehr, F. Rostami and S. Mohammadi, 2012. Applying a model of patients right in the state hospital Sari Iran. Int. J. Collaborative Res. Internal Med. Public Health, 4: 103-110.

Abedi, G., S.H. Darvari, A. Nadighara and F. Rostami, 2014. The relationship between quality of life and marriage satisfaction in infertile couples using path analysis. J. Mazandaran Uni. Med. Sci., 24: 184-193.

Emami, S.H., 2009. Civil Code. Islamic Publications, Tehran, Iran.

Ghahremani, N., 1998. Civil Liability of the Lawyer. Wheat Publications, Iran.

Ghamami, M., 1997. Civil Liability of Government. Justice Publications, Iran.

Hashemi, A.A., 2010. The Scope of Civil Liability. Imam Sadeq University Publications, Tehran, Iran.