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The Influence of Psychological Factors on the Establishment of Causation Arising from Immaterial Acts With a Look at The Judicial Practice of European Countries

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Abstract

Among the three elements of tort law, causation has a particular importance, so that some introduce it as the basis of tort law. In philosophy, it is synonymous with causality. In law, there are various theories about causation which is different from its philosophical meaning. In most of legal writings, causation has been studied as a physical phenomenon. Causation is usually associated with emphasizing the apparent act of actor. The matter of Psychological influence in the causation, or in other words, "psychological causality" is related to the personal psychological influences on the other (Influenced) that this person causes harm to himself or a third person. Where an actor, is a man has a will to react under the psychological influence of another. Considering that persons with respect to their personal characteristics and different situations show different reactions to psychological stimuli, it is difficult to establish causality the custom between losses and the influencer person in a partial or general. Psychological influences are immaterial and non – measurable and should be used auxiliary criteria to establish causation, also determining a criterion for it is very difficult. The legal doctrine has tried to provide criteria in this case so that judges can more accurately consider all the actors involved in an event. The matter of the influence of psychological factors on the Establishment of Causation is different from the matter of moral damages in tort law. Moral damage is a kind of spiritual losses that is related to sense and feeling which cause sadness and depression in individuals. The title of this research may mislead the reader in a way that the research deals with the study of moral damages and suffering caused by harmful actions of others. It should be noted that the issue of moral damage is based on kinds of losses in tort law, while the matter of the research in the scope of another element of civil law i.e. establishment of causation. Therefore, it is necessary to note that the similarity of the title of the research with the issue of moral damages

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should not be mistake to as the present article about moral damages. Today, in the judicial procedure of European countries, some cases of the causation between psychological factors and the occurrence of loss are observed which are sporadically cited in the legal writings of authors. This shows that the attention of legal doctrine has been particularly attracted to these sporadic practices to further focus on psychological influences and provide criteria to measure it and to expand the minds of judges in establishing the causation and to strengthen their analysis. This research, using a descriptive-analytical method and relying on library resources, seeks to answer the following questions that What specific criteria can be identified for establishing causation in the presence of psychological effects? How can causation be established in Iranian law when a psychological influencer actor exists? The findings show that the three individuals are generally involved in the event, one is the influencer (the first actor), another is the influenced (the intervener), and third party (the injured party). If the injured party is either the influenced or the first actor, it will be a case of intervention by two actors and if the loss is entered into a third party, the intervention state is three actors. In the intentional case of the first actor which deception, stimulation and threat from its instances, the causation is more convenient. When the first actor is unintentionally affecting, in a situation where the two actors are involved, if the first actor, through its psychological effect, causes an intervening reaction and ultimately, the intervener causes loss to the first actor, the matter can be studied within the framework of the injured party's negligence, but if the intervener, as a result of the psychological effect created, harms itself, the matter is considered among the issues of multiple causes and the Establishment of causation. In a situation where the intervener is passive, such as shock caused by psychological impact, the issue is related to the compensation for moral damages and is outside the scope of the discussion. In a situation where the intervener is active, whether acting intentionally or unintentionally, criteria have been provided by legal doctrine. The main criterion consists of the conjunction of four conditions, which are: 1) The creation of a psychological influence on the intervener, 2) The foreseeability of the risk for the influencer, 3) The acceptable motive of the intervener, 4) The proportionality between the created risk and the intervener's action. The main criterion and its four conditions, due to the existence of the third condition (The acceptable motive of the intervener), assuming the intentional action of the intervener, he is unable to establish of causation with the first actor, because the realization of intention is traditionally considered to break the chain of causality. Therefore, a complementary criterion under the title of "violation of duty" has been presented in the case where the intervener acts intentionally that subject to three conditions: 1) focus on the first actor, 2) violation of duty by the first actor, 3) significant contribution of violation of duty in the occurrence of losses. In this criterion, unlike the main criterion, the focus is on the first actor

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	<p>instead of the intervener. This criterion is derived from the multi-responsibility approach in European countries. In Iranian law, in the case of the intervention of two actors, the issue can be subject to the discussion of the rule of deception or the fault of the injured party, depending on whether the first actor was intentional or unintentional. In case of intervention of three actors, if an unintentional intervener acts and the circumstances of association of cause and actor or multiple causes occur transversely, the main criterion that depends on the four mentioned conditions, it can be helpful in establishing conventional causation which is accepted in Iranian law. In the situation of the or multiple causes, in a longitudinal way, by abandoning the single-responsibility view and replacing the multi-responsibility approach and considering the unusual action of the influencer in the occurrence of the event as one of the actors involved, he can be partially or totally responsible for the harmful act. In the scope of compensation, the capacity of article 3 of Iran's tort law can be used to determine the manner and quality of compensation for damages. These criteria, together with the above conditions, try to expand the scope of ascertaining the causality and seek to recognize the influence of psychological factors in the causation by abandoning purely physical criteria.</p>
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