

# Investigation and Identification of Parental Civil Liability for Harmful Acts and Behaviors of Their Children

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## Abstract

The present study aimed to examine, identify and explain parental civil liability for detrimental acts of their children as well as examining weak points and vague of related laws. To achieve a better understanding of liability, first it defines this legal entity, and then the definition of parents and its similar terms have been addressed. Also, jurisprudence foundations that caused the emergence of this liability for parents were mentioned, and legal and psychological perspectives on this issue have been raised. Also, the question arises-whether liability or responsibility arising from the same act or omission? Is it harmful to an act or omission by virtue of their responsibilities? In response to this question, several theories of jurists and lawyers expressed. But the majority is of the view that liability arising from an act or omission is the same. But the two are different, and the difference in creating a sense of responsibility or liability is the basics. With the explanation that the loss is not achieved simply by harmful act omission while Tsbyb both the verb and the omission is realized, resulting liability. Finally, it analyzes the related Iranian laws. The results indicate that different assumptions and conditions are needed to be considered in order to know the parents to be responsible, and parental liability for their children's acts is not absolute and unconditional. Therefore, in our legal system, in other words, silence is not responsible sufferance no rights. The exceptional cases by jurists and lawyers stated that a person's silence is his responsibility. But these exceptional cases, such defects women should not be restricted interpretation of this criterion is exceptional unity and the introduction of harm to another person's silence wherever the person responsible was silent.

**Keywords:** Civil liability; Children; Parents; Harmful acts; Behaviors

## Introduction

Parental liability statutes impose liability on parents or guardians for the civil or criminal acts of their minor children. Virtually all states impose some degree of civil liability on parents for torts committed by their children. Several states make parents responsible in the criminal area as well. Most states limit parental liability, but a few do not. These latter states do not cap liability when children damage property, commit negligent acts when driving a motor vehicle, harm a person or property when involved in a gang, or use or possess a firearm. Under parental liability statutes, parents may be held liable for personal injury, property damage, vandalism, shoplifting, firearm possession, bias, false reporting, and curfew violation offenses their minor children commit. Generally, these laws limit the dollar amount of a parent's liability. But in some states there are no caps for certain acts. In these states, parents are generally fully responsible for their children's property damage, motor vehicle accidents, gang activity, or firearm use and possession. Some states remove the cap on liability if they can show that parental neglect caused the minor to commit the act [1].

Each state has its own law regarding parents' civil (non-criminal) liability for the acts of their children. Parents can be held responsible for their children's harmful actions much the same way that employers are responsible for the harmful actions of their employees. This legal concept is known as vicarious liability. The parent is vicariously liable, despite not being directly responsible for the injury. Parental liability is the official legal term that defines the parent's responsibility to pay for any damages caused by negligent, intentional, or the criminal behavior and acts of their child or children. Our children are a risk as parents are liable while they are in our care. In many states the parents are liable for any malicious or willful property damage their children might cause. Most states start holding parents responsible when their child is between that age of eight and ten. In every state the laws vary regarding the monetary threshold or limit for damages that may be collected.

Children's offenses may be civil and/or criminal. A Civil case would include a lawsuit for financial damages such as property damage. The local, state or federal government may cause a criminal case if a child violates criminal law. Some behaviors of children can lead to both civil and criminal prosecution [2,3].

When a child makes a detriment, the first question that comes to mind is that who is responsible for compensation? And principally, whether it is possible to ask for compensating the damages incurred by the child or not? Perhaps this question in the past has been answered hesitantly and it was believed that since the child is responsible for his acts, so it is not possible to ask for compensating the incurred damages not only from the child but also from his parents. But today, with the development of civil liability domain, there is no doubt that no detriment must remain without compensation and whenever damage is caused as a result of personal act or omission, he is bound to compensate [4,5]. It is worth noting that despite the adoption of parental civil liability in the Iranian legal system, this issue has not yet been analyzed comprehensively and independently. Perhaps the reason is that this issue is considered to be adopted from foreign law and it was withdrawn from studying by an unconventional justification of conflict between its related materials. To answer these questions, this article is

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a brief review of law and the rights of Iranian Islamic, in four different acts and omission of responsibility, except liability resulting from an act or omission, the rights of France and Germany, and the effect of the liability assessed silence.

### **Purpose of civil liability laws in general**

A civil wrong, or “tort,” is created by a law that places responsibility for one person’s injury or property damage onto the person who caused the injury or harm. The purpose of such laws is, in short, to make sure that victims are not left to bear the financial brunt of injuries caused by others. The basic idea is to shift that burden to the person responsible for the victim’s injury.

### **Parental liability laws**

Historically, under English and U.S. common law, parents were not liable for their children’s torts just based on the parent/child relationship alone. Some participation by the parent in the civil wrong was necessary to hold parents liable. The participation could include encouraging or condoning a child’s misconduct, directing a child to engage in the conduct that caused the injury, or turning a blind eye to a child’s obviously dangerous conduct. However, the law, like so much in society, changed once the automobile and automotive injuries became commonplace [5,6].

### **Daddy didn’t take the T-Bird away: How the car changed the law**

A joy-riding teenager who recklessly smashed into someone committed a tort under common law, but his parents would not have been held liable if they had no reason to know he would be driving negligently. But that left the injured people without a source of compensation for their losses. In response to injured parties having to confront “judgment-proof” teens, states enacted a slew of parental liability laws. More recently, injuries caused by children with unsupervised access to firearms and other, similar high-profile incidents have renewed interest in holding parents accountable for their children’s conduct. Now, all 50 states have some type of law that holds parents liable for damage caused by the conduct of their children. Under many of these laws, a parent’s lack of knowledge of the child’s conduct is irrelevant, and the parent is liable for damages caused by the child’s negligent or wrongful actions. This is a form of what is known as “vicarious liability.”

### **Vicarious liability of parents for children’s torts**

Unlike criminal law, vicarious liability may be imposed in cases involving civil wrongs for acts done by others without proof of bad intent on the part of the individual held liable. The justification for this doctrine is that society benefits by transferring the burden of a loss or injury to the person best able to bear it. In the case of parents’ liability for the harmful acts of their children, parents are in a far better position to deal with the damage done than the children themselves, who usually have very limited individual resources to compensate someone they have injured.

### **Legislating parental duty to control and supervise children**

Some parents who have been sued under parental responsibility laws have argued that the laws interfere with their right to parent as they see fit, because in the course of defining poor parental supervision, the laws necessarily define what a “good” parent is. While parents have a fundamental right to rear their children, as the Supreme Court has recognized, that right comes with the duty to exercise reasonable

supervision and control over their children. Courts have routinely held that states have a compelling interest in promoting the public welfare by holding parents accountable when they fail to fulfill that duty. This is the basis upon which courts uphold parental responsibility laws.

### **Purpose: compensate victims**

Under parental responsibility laws, parents can be ordered to pay damage awards to the people harmed by their children’s actions. This financial burden is imposed on them because lawmakers recognize that the children who caused the harm cannot compensate the victims [6,7].

### **Purpose: encourage parental control**

Although the usual purpose of vicarious liability is to ensure compensation for a victim injured by another’s conduct, parental responsibility laws have another, perhaps greater, goal: to spur parents to properly supervise and control their children. This goal is apparent when a law includes a cap on the award that a plaintiff may recover from the parent of a child who has injured them or damaged their property, because the cap indicates that compensation to the victim is not the motivation for the legislation [6].

### **Damage award upheld by Georgia Supreme Court**

Two 15-year-old boys broke into a house, causing property damage. Under Georgia tort law, a victim could sue the parent of a child who committed a willful act against the victim, such as vandalism, for an award of up to \$500. The homeowner sued the boys’ parents under that law and won \$500 from each boy’s parents. The parents appealed, arguing that they were denied due process because the statute penalized them for the acts of others. The Georgia Supreme Court rejected the parents’ argument, finding that Georgia had a legitimate interest in preventing vandalism and that the statute was designed to serve that interest because the capped damages would encourage parental supervision. It upheld the judgment against the parents [7,8].

### **Negligence per se**

Where a state has a parental responsibility law that makes it a crime for a parent to fail to prevent a minor from committing a crime, a parent convicted under such a law may also confront a civil action by the victim. In that action, the victim may argue that the parent’s violation of the criminal parental responsibility law is proof by itself of the parent’s negligence, so that the victim need not prove negligence in the civil lawsuit. Negligence that has been established by virtue of an earlier criminal conviction is known as “negligence *per se*.” If a victim persuades the court that the parent’s conviction of the parental responsibility crime is negligence *per se*, the victim will have a much easier time proving his or her case and winning damages from the parent [9,10].

### **Differences in Responsibility**

The topic of waste and possible loss of omission and legal obligation, contractual or common law duty to act in accordance with the legal rules for liability arising from the verb *Vtrk* assessed [10,11].

### **Responsibility for the loss**

One of the important rules in various jurists have sought to establish civil liability adherence to the rule waste. According to this rule, the guarantee is wasting everyone else’s property. Stewardship of the waste generated in other mine waste. Therefore, if someone else’s property directly dissipated and wasted steward is responsible for compensation for damages is based on this principle. The ideas described above can

be concluded that the stewardship of resources, the majority of the waste is achieved simply by harmful act, thereby leaving the harmful act in this area is not possible [11,12].

### There is a legal obligation, contractual or customary

Precedent when the refusal or omission arising out of guilt and responsibility, which is committed to playing a leading legal practice (such as drowning or obligation to assist the helpless and the obligation to conform to the rules traffic) or the administrative (non-compliance with the conditions of industrial activity or some mass protests) or any custom or practice (disregarding the literary celebrities in the book) is the responsibility of the individual. If you do not have an obligation to refuse to act, although the cause of loss, guilt, and therefore causes no liability unless the refusal is the intention of hurting else. Hence, some researchers believe that the principle means of waste reduction as well as the usual practice is to perform. The different types of omission can be evaluated on the following division [12,13].

### Omission in the act

The omission of specific tasks that the person has refused or failed and instances of negligence and recklessness can be found in this omission. Article 1383 of the French Civil Code in this regard due to: "Whoever is not only responsible for losses of his action to another but it is also responsible for losses resulting from imprudence and recklessness." On the other hand, in addition to the obligation on the contractor's contractual obligation to leave, other principles such as the rule of warning and guidance can be found in the legal rules [14,15].

**Breach of statutory duty or special:** This kind of omission independent. This omission when it is realized that the particular task for some people is required. Such as the assignment of custody for parents in Article 1168 of the Civil Code: "To hold both the right and duty to raise their children." The beauty of commerce or assignment for each of the couples in Article 1103 of the Civil Code: "The couple must Hassan socialize with each other." The origin of these assignments is not the only laws passed by the legislature in this Act and includes any used in its general sense Legislation, regulations, instructions, manuals, or even common sense and be specific. For example, according to the Traffic Regulations Article 87: "The driver of any motor vehicle accident resulting in injury or death to the perpetrator shall immediately stop the vehicle at the crash site and the installation of safety signs warning against Article (71) of the Regulations of the event alert drivers of other vehicles... ". The benefits of such Shfaftrbvdn today with respect to the norm of law, the handling of customary norms may not be available because of their civic responsibility through several means. Thus, it appears that the general rules of law, the determination of specific instances and external events and customary law with only the help possible. The convention has been used as a supplement and interprets the law. Rules relating to compensation in this regard is no exception. As a result, the above description can be concluded that a violation of customary duties in violation of the rule of law and contract, causing the apex responsibility. Although some argue that the absence of statutory or common law duty of omission cannot be held responsible [16,17].

**As no specific legal duty not to refuse:** In this type of omission, the person in charge, the current required to do by law or regulation, or custom, and also not to do certain acts of omission Nmydadh that his omission to be considered first. But in this kind of omission, a mere recklessness and negligence, is however not legally or customarily the task. Some jurists mere negligence or omission in the law, but do not guarantee he suggests that if the guarantor is a person who shall neglect or omission to waste reduction. It also stated that if the animal

is negligent in its maintenance, so the animal does not have the power to keep it, do not waste reduction and therefore not responsible. For example, a person who sees a lit cigarette in the middle of the forest, whether in negligence or recklessness charge refrain from turning it off is not? In this example, the person is not to say that the act of smoking a cigarette is also responsible for certain was his own. On the other hand, the law, regulations, guidelines or common law does not impose a duty on her cigarette. But is based on the principle of prudence and necessity of probable losses, if such person is in charge of recklessness and lack off of cigarettes? [17,18].

### Liability resulting from an act or omission difference

In the opinion of jurists and legal issues are discussed separately.

**The opinions of jurists:** The topic jurist's idea about equality or inequality liability resulting from an act or omission that is expressed in legal texts is investigated. The reasons for each of these theories are explained in separate topics [17].

**View favoring the equality guarantee:** Some jurists believe that the concept of waste reduction, so if for example omission caused the dead animal, animal feed, whereby the liability. The liability resulting from an act or omission in terms of equality of damaging evidence presented including command and prohibition of God and accompanying abuses going on as grounds for liability of legal texts [18].

**Opponents consider equality guarantee:** Some jurists agree draws liability arising from an act or omission is not harmful and that is basically not accepting liability arising from the omission. They also talk to confirm their adherence to evidence-laws including lack of personal responsibility, neglect or Sahy, according to the rule of presumption of innocence. So since it was introduced in the discussion agreed, in the opinion of jurists and other reasons, due to the possibility of having to prove the liability in case of omission and yet another reason not to turn to the original [19,20].

**Legal theories:** Legal liability resulting from an act or omission on the topic have expressed opinions the pros and cons of each of these theories are discussed separately [20].

**Comment proponent of equal responsibility:** A group of lawyers agreed liability arising from the omission and therefore the potential loss arising from harmful act of omission as its agent to know the causes of responsibility. In this regard, the reasons put forward by the Act and the principle of cooperation and justice [20].

**Considering the opposition equal responsibility:** Proponent of the theory group of jurists, lawyers, as opposed to liability arising from the omission that causes them harm attributable to the lack of omission, omission without chastising, according to most and The non-existence of omission [21].

### Silence effect on liability

Another issue related to the liability is due to the omission of a benefit check is empty, silent study and its role in establishing the liability of. This explains the fact that silence is a kind of omission, The issue is whether the mere silence of the study will also take responsibility and liability is binding or not [22].

**Define the rights and status of silence:** Silence is the opposite of speech and word literally means leaving words, inertia, is settled. Within the meaning of the term jurists have defined it in two senses: In the first sense of the word quit if the utterance is based upon the silence. The second meaning refers to a negative position with words or actions,

and only in cases of need, despite evidence of attributes, indicating the will of the. The silence lay someone who clearly express their will and will not do anything so that His will be inferred directly. Contrary to what seems to be a lot of silence in life are legal persons. But the silence of those who are legally recognized as a declaration of will, wherever or imply agreement on customs and Avaza circumstances and specific to the intent of silence, the discoverer of esoteric Shmrdr, it can be the legal effect of. But should be taken with caution and reticence in this way be considered valid, implying that it is not in doubt [23].

**Comment jurists about liability arising out of the silence:** Some jurists have examined the question of silence and the injured have been expressed. If you are going to lose money under the oppression of non-owner silence against this prevents wasted no fault liability. Others believe that when a man and woman couple married when he is silent and Muhammad is his fault, Couples can have on the health of women over dowry to the wife, her parents or by referring to marriage. The liability of the parent or by the fault of the doubt, but if you are ignorant or wrong, about their liability is disputed among jurists. Some people like to prevent ignorance or responsibility and liability NmyDannd. In contrast, another group of jurists known of the condition of liability and mediators, but you are ignorant of the science woman knows no liability. Mention has also been suggested that defects in the sale is obligatory and not faint expression, for example, leave the obligatory and forbidden, therefore guarantee is binding [24].

## Conclusion

Liability or responsibility resulting from an act or omission caused the same to be held responsible. Although some jurists and lawyers are opposed to the idea. This law establishes that such fault or negligence of aggression (verbal or omission) considers both the cause is actually responsible. Abuses in the legal texts is going to work together and both are binding guarantee of not less than one and not more But what makes the difference is in the process of making responsibilities. That is, according to theory, the majority of jurists and lawyers, the loss cannot be left solely to the action of the verb is attained Vatlaf; While Tsbyb time of the act or omission is achievable through. Another point is that, despite this omission is that silence is the best but it is not only silence. Therefore, in our legal system, in other words, silence is not responsible sufferance no rights. The exceptional cases by jurists and lawyers stated that a person's silence is his responsibility. But these exceptional cases, such defects women should not be restricted interpretation of this criterion is exceptional unity and the introduction of harm to another person's silence wherever the person responsible was silent.

## References

1. Asadi H (2004) The principle of precaution of jurisprudential and legal theorists five schools of Islamic Jurisprudence and legal practices
2. Eshtehard A (2009) Alrvh Documents, vol. 21, first edition, Alasvhlitbah and Publishing House, Tehran, Iran.
3. Katoozian N (2011) Philosophy of Law, printing, Inc. publication, Tehran, Iran.
4. Katoozian N (2013) Introduction to the Science of Law (44th edn), Tehran, Inc. publication.
5. Motahari MB (2013) Jurisprudence and Law, Vol. 20, first edition, Qom, Bina.
6. Law scholar, Sayyid Mustafa, 1406 AH, The rules of jurisprudence, vol. 1, 12th edn, Tehran, published By the Centre for Islamic Studies.
7. Kamali M (2000) The Swiss precautionary principle in criminal law in dealing with Iran and damage to crops by Genetic manipulation, Technology Law Newsletter
8. Collins (2000) Principles of Security and Crime Prevention, Khordad, Routledge, London, UK.
9. Dubber, Markus, HÖrnle, Tatjana (2014) Criminal Law: Comparative Approach, Oxford University Press, India.
10. Hotois G (2001) Nouvelle encyclopédie de Bioéthique, De Boeck Supérieur.
11. Nadya Sadat L (2011) Forging a Convention for Crimes against Humanity, Cambridge University Press, USA.
12. Lawson, Fredrick Henry, Markesinis BS (1982) Tortious Liability for Unintentional Harm in the Common Law and Civil Law, CUP Archive, Cambridge University Press, USA.
13. Amid H (2012) Amid Persian Dictionary. Amir kabir publication, Iran.
14. Beheshti A (2012) Islam and the Rights of Child. Qom: Islamic Propagation Office of Qom, Seminary Publication center.
15. Hilli HI (2011) Qawaid Al-Ahkam. Qom: Razi.
16. Jafari Langroudi MJ (2012) Terminology of Law (4th edn), Tehran: Ganj-e-Danesh.
17. Jahangir M (2009) Islamic Punishment Code (73rd edn). Didar publication, Iran.
18. Juba'i al'Amili Z (2012) Masalek Al-Faham Ela Tanqih Sharae' Al-Islam, Iran.
19. Katouzian N (2013) The Philosophy of Law, Sahami Enteshar Company, Iran.
20. Ma'refat MH (2014) Hezanat. (4).
21. Najafi MH (2008) Javaher Al-Kalam fi Sharh Sharaye' Al-Islam (2nd edn) Islamieh, Tehran, Iran.
22. Sadeghi M (2004) A review of Child Custody in Civil Law of Iran and France. Nedaye Sadegh, Iran.
23. Savatier (2013) The Custody of Minors in France.
24. Thani S (2014) Ar-Rawda-l-Bahiyah fi Sharh allam'a-d-Dimashqiy, Al-Hadith, Iran.