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Medical and Legal Responsibilities in Concealing Epidemic Diseases; a Jurisprudential and Legal Review

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ABSTRACT

Introduction Infectious diseases, particularly the coronavirus, are among the critical public health and medicine issues that have significantly impacted all aspects of human life. One of the key factors in spreading and intensifying these diseases is the concealment and suppression of related information, which can have disastrous consequences for public health. This issue, besides its social, cultural, and economic dimensions, is also of particular importance from a legal and medical perspective. The present study examines the civil liabilities of individuals and legal entities in relation to concealing infectious diseases such as the coronavirus. It analyzes the factors influencing the transmission and spread of diseases from medical and legal viewpoints.
Conclusion In jurisprudential and legal sources, various principles, including destruction (Etlaf), causation (Tasbib), and no harm (La-Zarar), are considered for civil liability, which applies to health and medical issues during pandemics. This research, using a descriptive-analytical method and utilizing library resources, the Holy Quran, and the latest jurisprudential and legal findings, explores the medical and legal obligations of individuals and legal entities in managing and preventing the spread of infectious diseases. Despite numerous studies in this area, this research presents an innovative approach to examining responsibilities in the medical and legal context. It demonstrates that Ja'fari jurisprudence, with its flexibility and dynamism, provides specific and well-reasoned jurisprudential and legal solutions to prevent the concealment and suppression of diseases and protect public health.

Keywords Epidemic; Legal Entities; Liability; Disease Concealment; Coronavirus

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Introduction

Health and well-being are among the divine gifts and trusts that humanity must wisely safeguard. However, an undeniable reality is that health, under certain circumstances, may be jeopardized due to the occurrence of diseases and disorders. Diseases, based on their nature and mode of impact, are classified into two main categories: communicable (contagious) and non-communicable (non-contagious) [1]. Communicable diseases are those caused by specific infectious agents or their toxic products, transmitted directly or indirectly from humans, animals, plants, objects, and other sources to individuals, rapidly spreading within communities [2]. These diseases can be further divided into lethal diseases such as tuberculosis, cholera, AIDS, Ebola, MERS, and COVID-19, and non-lethal diseases such as herpes and thrush [3].

COVID-19, also known as acute respiratory disease, is an example of a communicable disease caused by infection with the novel coronavirus, a virus closely related to the SARS coronavirus [4]. The World Health Organization (WHO) has referred to this virus as "nCoV," where "n" stands for "novel" and "CoV" refers to "coronavirus" [5]. This virus led to a global pandemic in 2019, with common symptoms including fever, cough, and shortness of breath. Less common symptoms include muscle pain, phlegm production, and sore throat. While in most cases, the disease causes mild symptoms, in some instances, it may progress to pneumonia and multi-organ failure. The mortality rate for COVID-19 ranges between 1% and 5%, varying according to age, body size, and individual physical characteristics. The virus primarily spreads through tiny respiratory droplets from infected individuals, especially during coughing or sneezing. The incubation period between exposure to the virus and the onset of symptoms is typically between two and fourteen days. Preventive measures such as handwashing and other hygienic practices can effectively reduce the spread of this virus [4].

Islamic jurisprudence (Fiqh) is one of the esteemed domains of human knowledge that establishes the rights and rulings for individual and social behaviors. It utilizes authoritative Islamic teachings to address and adapt to contemporary issues, including contagious diseases and health crises such as the coronavirus. This field, with its mission across various aspects, especially when dealing with emerging phenomena like the COVID-19 pandemic, examines the rulings of sacred Islamic law [6].

The Islamic jurisprudential system possesses unique capabilities and capacities to adapt to crises and emerging issues, particularly in health and medical contexts. Based on principles such as the prohibition of causing harm to others (Ḥurmat al-Iḍrār bi al-Ghayr) and the precautionary principle (Qāʿidat al-Taḥdhīr), this system can suspend or appropriately modify legal rulings when necessary. It can establish and enforce norms and obligations in times of need. Therefore, the system of Islamic jurisprudence can play an effective role in managing social and health crises such as pandemics, enhancing the coexistence and synergy between jurisprudence and law by adapting to emergency conditions at both national and international levels [7].

Numerous works have been written on pandemics; however, no comprehensive independent study addresses the jurisprudential and legal aspects, particularly the coronavirus. The rights of individuals infected with COVID-19 constitute one of the major subfields of the broader jurisprudential and legal discourse surrounding the pandemic, but this issue has not been addressed in a direct, independent, or holistic manner under a distinct title.

Given the significance and necessity of this issue, the present research employs a descriptive-analytical method, utilizing library resources, to study the duties and responsibilities of individuals and legal entities during the outbreak of contagious diseases, the concealment of such diseases, and the infliction of harm on others from both jurisprudential and legal perspectives. This study addresses ambiguities and unresolved questions in this area and offers solutions. The state can significantly prevent the spread of contagious diseases through its authority and powers. In cases of negligence in fulfilling its duties and obligations, it must be held accountable for compensating the damages suffered by the affected parties.

Many studies have been written regarding pandemics and the responsibilities of individuals and legal entities concerning such diseases. Throughout the history of Iran and other countries worldwide, numerous devastating pandemics have occurred during various periods, claiming the lives of thousands. At times, the extent and impact of contagious diseases in Iran have been so severe that they have led to significant political, cultural, and social transformations.

Dehghannejad & Kasiri [8], argue that one of the main reasons for Iran's backwardness during the Qajar era, compared to European states, was the population shortage and the sparsely populated nature of much of the country. The primary cause was the widespread pandemics such as the plague and cholera. Their spread was largely due to the failure to implement timely measures, such as establishing quarantine zones. Quarantine has long been a focus of attention in all advanced countries to prevent disease transmission. Although Iran had been familiar with quarantine practices for centuries, its principles were never executed scientifically, effectively, or efficiently.

Gholizadeh & Khanmahaleh [9], assert that the emergence of unforeseen and unprevented contagious diseases evokes conditions in Iran's social history that arose due to the spread of diseases such

as cholera, plague, and tuberculosis, as reported by various sources and research studies. The history of contagious diseases like cholera, plague, and tuberculosis can be traced back to the millennia before Islam, serving as significant contributors to mortality rates. Historical pathological findings indicate evidence of such diseases in the skeletal remains from the Neolithic era. Even the vertebrae of mummified Egyptian bodies have shown signs of tuberculosis. Reports in historical sources regarding pandemics often do not precisely specify whether the diseases in question were the plague or cholera. At times, some historians have mentioned both diseases interchangeably.

According to Jokar [1], the emergence of various contagious diseases such as tuberculosis, cholera, and plague, along with other dangerous diseases like malaria, typhoid, AIDS, hepatitis, and Ebola, has historically posed significant challenges. Today, the rapid proliferation of a deadly virus known as "coronavirus" has become a new and serious concern for the medical community. To ensure public health, robust and well-founded jurisprudential and legal principles can be envisaged to establish obligations on the Islamic government to prevent and control the spread of COVID-19. Through a descriptive-analytical method and by referring to jurisprudential and legal evidence and the opinions of jurists, the study articulates the responsibilities of the government in this regard.

Khodabakhshi [10] and Zarshenas [11] assert that the divine origin of diseases has a long-standing presence in various religions, nationalities, and ethnicities. In ancient Iran, certain diseases, such as cholera and plague, were considered manifestations of the anger and wrath of the gods. It was believed that whenever the vengeful and bloodthirsty gods became thirsty for the blood of their servants or required a sacrifice, they would send diseases as a form of divine punishment.

Mahmoudi [12], employs a descriptive-analytical research method and library sources to examine the jurisprudential and legal rulings regarding neglecting hygiene in the face of contagious diseases, particularly COVID-19, as well as the liability and criminal responsibility of the transmitter. He argues that neglecting personal hygiene in relation to this disease is impermissible based on the principles of the prohibition of causing harm to oneself (Ḥurmat al-Iḍrār bi al-Nafs), the obligation to avert potential harm, the obligation to preserve life, the principle of negation of harm, and the generality and specificity of the evidence prohibiting suicide, along with the principle of caution against what is forbidden.

Yazdaniyan & Taghavi [13] studied a patient suffering from a contagious disease, exemplifying a victim who must compensate for the resulting damages upon transmitting their illness and causing harm to others. Consequently, the law imposes multiple obligations on such patients when they know their condition. Among these obligations are the duty to ensure the safety of others and to avoid causing harm to them, notifying relevant individuals about their illness, and taking preventive measures. This article addresses all contagious diseases and was written before the coronavirus outbreak.

Ishaqi et al. [14] also conducted a study in which they reference Article 22 of the Law on Preventing Contagious Diseases and Articles 290, 291, and 493 of the Islamic Penal Code ratified in 2013. They state that if an individual, through negligence, causes the transmission of the virus or, being aware of their infection, fails to take necessary precautions despite having a legal duty; they are subject to criminal prosecution and liable for compensating the damages incurred by those infected. The research generally examines criminal and civil liabilities but does not provide a detailed analysis of the responsibilities of individuals.

Mahmoudi Madouieh [15] analyzed the approach of Islamic jurisprudence in addressing natural disasters such as COVID-19, categorizing natural disasters into two types: natural events like earthquakes and human-induced incidents. He considers the outbreak of various contagious diseases, including pandemics, as a form of natural disaster. Mahmoudi emphasizes that the Islamic jurisprudential perspective advocates for a rational approach that adheres to health and medical guidelines and follows physicians' directives. He references the principle of La-Zarar (no harm) and the prohibition of aiding in wickedness and transgression, along with citing traditions from the Prophet Muhammad and the infallible Imams. He posits that solutions for pandemics like COVID-19 include quarantine measures and maintaining social distancing.

Maqsoudi & Soleimani [16] examined the various dimensions of civil liability for individuals arising from the COVID-19 virus, focusing on the legal principles of liability such as “Etlaf” (destruction), “Tasbib” (causation), and the principle of “La-Zarar”, among others. They paid less attention to the responsibilities and obligations of legal entities in this context.

Abbasi Khorasani & Aghavi [17] consider COVID-19 to be one of the contemporary issues that have emerged recently, responding to the needs of society within the framework of advanced Islamic jurisprudence. Their book consists of fifty discussions and includes fifty ethical hadiths at the beginning of each chapter. Overall, this book addresses the jurisprudential issues related to COVID-19 while providing less emphasis on the legal responsibilities of individuals concerning infectious diseases.

Mashhadi [18] emphasizes that considering the environmental impacts and contexts of the outbreak of COVID-19, the environmental law system requires significant transformation and the implementation of preventive legal responses. He posits that it is essential for humans to philosophically and legally

reassess their relationships with nature and animals and, at a practical level, adopt necessary legal measures to address the spread of this disease.

Mohammadi Jorkouyeh [19] argues in his article on the responsibilities arising from infectious diseases and viruses that, according to general liability rules, the transmission of dangerous diseases or viruses like COVID-19 or AIDS to others constitutes harm to others and can establish a basis for liability. He notes that the transmission of diseases can lead to intentional, negligent, or purely negligent criminal categories. However, proving the causal link in legal proceedings can be particularly challenging in cases like the transmission of COVID-19, which has a relatively long incubation period.

The studies that were conducted predominantly focused on defining and elucidating the concept of infectious diseases, utilizing either classical or contemporary scientific data. While several articles and research works have extracted keywords related to epidemics and the responsibilities of natural and legal persons from legal texts and articles, the legal perspectives derived from Islamic jurisprudence have largely been overlooked or minimally addressed. This article asserts that within various chapters of Islamic jurisprudence, numerous propositions exist that remain unexplored; most previous studies have revolved around one aspect of the issue, such as economic, cultural, health-related, and political dimensions.

This article attempts to present the duties and responsibilities of natural and legal persons in concealing infectious diseases like COVID-19 from the perspectives of Islamic jurisprudence and law, highlighting a noticeable gap in other research packages. This study's findings indicate that solid and well-founded jurisprudential and legal bases prohibit the concealment of such diseases and underscore the obligation not to harm others.

Since COVID-19 is transmitted from infected individuals to others, a pertinent question arises: Is a person who conceals their illness and, through interactions with healthy individuals, causes the transmission of the disease and inflicts financial and physical harm on them legally and jurisprudentially responsible? Research in this area explores the duties and responsibilities of natural and legal persons during the outbreak of infectious diseases. This study analyzes how the concealment of COVID-19 can lead to liability and responsibility for the individual who hides their illness and results in harm to others.

Specifically, it examines whether, if an infected individual intentionally conceals their health status and causes harm to others, they can be deemed responsible under Islamic jurisprudence and legal frameworks. Additionally, it investigates what legal measures and actions can be taken to address this issue. The findings of such studies typically highlight that the concealment of a contagious disease violates ethical and moral standards and imposes legal obligations on the individual, potentially resulting in civil and criminal liabilities. The duty to inform others about one's health condition becomes essential to prevent harm, and the legal consequences for failing to do so may include compensation for damages and accountability under relevant laws.

Evidence of liability for disease transmission through concealment

The verses "... and do not mix the truth with falsehood or conceal the truth while you know (it)" (Al-Baqarah/42) and "... indeed, those who conceal what we have sent down of clear proofs and guidance after we made it clear for the people in the Scripture—those are the ones whom Allah curses, and they are cursed by those who curse" (Al-Baqarah/159) indicate that concealing the truth, especially regarding contagious diseases like COVID-19, is forbidden. Individuals must disclose their condition to those at risk of exposure; failing to do so will result in liability [20].

Although there is no general rule in jurisprudence and law regarding the liability arising from a negative act (omission), and this issue is contentious, the prevailing opinion is that it does entail liability [21]. A person who is infected with a contagious disease, especially COVID-19, and conceals this condition from others, leading them to come close and subsequently contract the same illness, is liable. There is no distinction in liability whether the infected person had malicious intent to transmit the disease or whether the concealment was due to negligence, embarrassment, or other reasons. Therefore, jurists have issued a fatwa stating that a patient who intentionally or negligently does not inform their doctor about a contagious disease, resulting in the doctor's infection or death, is responsible for the doctor's blood money [20, 22].

Rule of "Tahzir" (warning)

Jurists have articulated a principle in discussions regarding individuals' responsibilities for their actions: "He who warns has excused himself." According to this principle, if someone warns another before acting, and the listener does not heed the warning, leading to a wrongful act resulting from that action, the person who issued the warning will not bear any responsibility.

Muhammad ibn Ali ibn Hamzah Tusi (6th century) addressed the issue in his book Al-Wasila ila *Nil* al-Fadila as follows:

> "When a man passes between the archers and the target and is struck by an arrow if the archer has warned him, he is not liable. However, if he has not warned him, the place is within the archer's property, and the injured person entered without permission, he is still not liable. But if the injured person entered with permission or if the place is not the archer's property and he did not give a

warning, the liability falls on the 'Aqila (the responsible party) [23]."

Based on this rule, if someone warns vulnerable and at-risk individuals in an appropriate manner before performing an action, but the listener does not pay attention to the warning, and as a result of that action, the individual suffers a loss, whether bodily or financial, the person giving the warning is excused and, under certain conditions, is exempt from civil and criminal liability [24].

This is because the damage arises from the individuals' negligence and lack of attention. According to this rule, if a person performs an act without any negligence or lack of attention and causes harm to one or more individuals, the perpetrator of the harmful act will be responsible for compensating for the damages incurred. Therefore, based on the rule above, since the individual concealing their COVID-19 illness is aware of their condition and knows that this disease easily spreads to those around them, by hiding their illness and engaging in high-risk behavior in public gatherings and places without observing health precautions, and not warning those at risk about it, they will be liable for any damages incurred, whether bodily or financial. Besides practical notoriety, the basis for the validity of the warning rule is the rule of causation and the consensus of the rational, supported by a narration that Imam Sadiq transmitted from Amir al-Mu'minin [25, 26]. According to this narration, during the time of Imam Ali, a group of children were playing with slingshots, and one of the children threw a stone with a slingshot, hitting another child and breaking their teeth. The parties involved in the dispute brought the matter before Amir al-Mu'minin, and the one who caused the damage defended himself by presenting evidence and witnesses to prove that he had warned the other child by saying 'Beware' before taking action. Imam Ali ruled in favor of the damage-causer, stating, "He who warns has excused himself." The narration is supported by its transmission through very reputable individuals (Muhammad ibn Ya'qub al-Kulayni, Muhammad ibn Hassan al-Tusi, and Muhammad ibn Ali ibn Babawayh) and the presence of Muhammad ibn al-Fadhl as a reliable narrator in its chain of narration, which lends it the backing of the practical consensus of the jurists [23].

The aforementioned rule is contingent upon certain conditions, and the presence of all these conditions absolves the agent of the damage from responsibility. Conversely, the absence of any of these conditions will prevent the application of this rule. The first condition is that the warning must be issued effectively and within reasonable limits. Secondly, the warning must reach the injured party, and factors such as deafness should not prevent their awareness [27]. Thirdly, there should be sufficient time between the moment of notification and the performance of the risky action to allow the injured party a chance to escape [28].

Therefore, if the individual at risk does not have enough time to escape the dangerous situation, or lacks the physical ability to move away from the danger, or if the environmental conditions and circumstances of the dangerous situation do not allow the individual to distance themselves from the danger, the one causing the harm will be held liable. Their warning will not exempt them from responsibility [23]. This rule is the basis for many legal provisions, such as Article 4 of the Law on Road and Railway Safety, which prohibits pedestrians, unauthorized vehicles, and livestock from entering and crossing highways and stopping vehicles in the traffic lanes [24]. Legal scholars have stated that individuals infected with contagious diseases must exercise reasonable care to protect others and foreseeable victims. This duty of care includes warning others as well [29]. No liability will arise if the infected individual informs others of their contagious disease and follows health protocols [30].

In the context of the discussion, since an individual infected with COVID-19 entering a specific gathering of healthy individuals due to the high transmissibility of the virus engages in a risky action, this act falls under the rule of Tahzir. This means that if the infected person, while present in the gathering, fully adheres to the conditions mentioned earlier and still causes harm to another, they will not bear any responsibility for compensating for the damage based on the Tahzir rule. However, if they fail to meet any of the conditions, according to the principle of Tahzir, they will be responsible for compensating any damages inflicted upon others.

Rule of "Etlaf"

The principle of "Etlaf" is one of the foundations of civil liability, which implies an individual's responsibility for medical damages caused to others due to the destruction of property. The phrase "whoever destroys another's property is responsible for compensating it" clearly reflects this rule. According to this principle, whenever someone causes the destruction of another's property, including in the form of medical damages, whether intentionally or unintentionally, they are liable for compensating the loss. In the case of destruction of the property itself (Ain), the individual must provide the equivalent to the owner. If it involves the destruction of benefits (Manfaʻat), they must compensate for its monetary value [31].

The principle of Etlaf (destruction) is a rational rule that is invoked in all societies and similar cases. In the context of Etlaf, an individual directly causes the loss of property and medical damages rather than merely facilitating it. The main criterion for distinguishing between the direct agent and the facilitators of loss is the standard of common understanding, which determines whether there is a direct and unmediated relationship between the harmful act and the loss of property and medical damages. In the occurrence of Etlaf, a causal relationship is sufficient, and even if the

loss occurs unintentionally, the responsibility created still remains [23]. For example, if a person releases an arrow and accidentally injures an animal, they are responsible [32].

Iran's Civil Rule also addresses the responsibility arising from Etlaf in Articles 328, 329, and 330, covering all types of property, including both the substance (Ain) and the benefit (Manfaʿat), and it accepts the prevailing opinion among jurists. Therefore, according to the principle of Etlaf, if an individual infected with COVID-19 conceals their illness and directly causes medical damages to another person, such that their disease is transmitted to the other individual and results in personal injury or financial loss, they are responsible for compensating the damages, even if they did not intend to harm the other person.

Rule of Safety Commitment

The principle of safety commitment is one of the legal principles specifically applied to safeguard the health and safety of individuals. This rule was initially enacted in the French legal system and has since been extended to other legal systems, including those of Germany, England, and Iran [33].

In addition to its application in contracts, this principle has also been extended to legal events, as ensuring safety is essential in circumstances outside of contractual obligations and in various legal occurrences.

The safety commitment refers to establishing a legal responsibility grounded in the natural obligation to respect physical integrity and to refrain from causing harm to others [34].

In this context, safety means a normative condition in which individuals and their property and interests remain protected from physical and health-related hazards and injuries [35]. Safety, recognized as a natural and fundamental human right, is acknowledged universally across all civilizations, religions, and legal systems [33]. Therefore, all individuals consider the safety commitment a special right [36].

Rule of "Tasbib"

Ta'sib refers to any act or action that indirectly leads to the destruction of property in such a way that if that act had not occurred, the loss or destruction of the property would not have happened, even if the act itself does not directly cause the loss [24]. In Ta'sib, the person does not directly destroy the property; instead, they create the conditions and prerequisites for the loss. In other words, they take actions that lead to the loss due to other causes. For example, if someone digs a pit in a public pathway and an individual falls into it due to negligence, or if someone parks in an unauthorized location and causes others to slip and sustain injuries, in these cases, the causative agent has not directly destroyed the property or harmed others, but society attributes the loss to them and, for this reason, holds them responsible [31].

Regarding COVID-19, two possible scenarios may arise. First, when an infected individual directly transmits the virus to another person, resulting in damages to that individual. In this case, the infected person falls under the Etlaf rule and will be responsible for compensating the damages. Second, when the infected individual spreads the coronavirus into the environment, the infected person contracts the illness through contact with contaminated surfaces. In these cases, the individual who concealed their illness and caused the virus to spread into the environment will be held responsible for the incurred damages under the Ta'sib rule.

Rule of "La-Zarar"

The necessity of compensating for the harm caused to others is one of the oldest concepts related to civil liability, and all other rules have originated from this source. In Islamic law, the rule of "La-Zarar" serves a similar role, and this principle is one of the most famous and important legal rules, with many prominent jurists dedicating independent treatises to it in their writings and reports [23].

In his treatise on the " rule of no harm," Sheik Ansari points out that the phrase "La-Zarar" literally does not mean the complete absence of harm in Islam, as it is evident that harm exists in the real world. He presents three perspectives regarding the meaning of "La-Zarar":

a: Prohibition of Harm to Others: " La-Zarar " intends to prohibit actions that cause harm to others.

b: Denial of Uncompensated Harm: This implies that if someone suffers a property loss, that loss must be compensated for [37].

c: Denial of Harmful Rulings: No Islamic ruling has been established that would cause harm to God's servants [38].

However, Sheikh Ansari considers the third viewpoint more accurate [38].

The Constitution prohibits harming others in Article 40: "No one may use the exercise of their rights as a means to harm others or infringe upon public interests." This article emphasizes that the right to individual freedom should not come at the expense of others. Additionally, civil law deems causing harm to others as undesirable and addresses its consequences in various provisions. For instance, Article 69 states that a waiver made due to harm to creditors is considered invalid. Furthermore, Article 1130 lists causing harm to the wife as a reason that compels the husband to divorce: "If the continuation of marriage causes hardship for the wife, she may refer to the Islamic judge and request a divorce. If such hardship is proven in court, the court may compel the husband to grant the divorce, and if compulsion is not possible, the wife may be divorced with the permission of the Islamic judge" [39].

Therefore, a person infected with the coronavirus, although entitled to freedom of movement and the right to participate in public places and gatherings,

does not have the right to do so if their presence causes harm and damage to others, in accordance with Article 40 of the Constitution. If this individual conceals their illness and, through contact with healthy individuals, causes harm and damage to others, they fall under the rule of La-Zarar. This rule states that no harm should remain without compensation. In this case, specifically due to the transmission of COVID-19, damages have been inflicted on a person who has contracted the disease, and the cause of these damages is the individual infected with the coronavirus, who concealed their illness and interacted with the victim, resulting in the harm. Therefore, according to the rule of "no harm," the inflicted damages must be compensated.

Explanation of the scope of responsibility

Responsibility refers to the imposition of obligations and duties on an individual. In other words, responsibility means that a person is committed and obliged to fulfill specific tasks. In legal terminology, this term signifies an individual's need to be accountable for their actions and behavior. When this accountability is realized before God or in the individual's conscience, it relates to moral responsibility. However, when this responsibility is realized in accordance with established laws and regulations, it pertains to legal responsibility [31].

Legal responsibility can also be divided into two categories: criminal responsibility and civil responsibility. Criminal responsibility arises when an individual commits a crime explicitly defined in the law [40].

This classification helps us better understand the legal and ethical obligations regarding infectious diseases, including COVID-19, when examining the responsibilities within legal and jurisprudential frameworks. It also allows us to better analyze the accountability for damages and harms resulting from concealing one's illness.

Individuals suffering from infectious diseases, particularly COVID-19, may be affected by the illness for a considerable period and incur significant treatment costs. Scientists have warned that the effects of COVID-19 may remain permanently in the patient's body. In severe cases, the virus can especially impact the kidneys and respiratory system, leading to serious health issues for the patient. These problems can result in severe damage to their physical health and consequently lead to the individual's incapacitation [41].

Considering the jurisprudential foundations such as the rules of “Tahzir”, “Etlaf”, “Tasbib”, and “La-Zarar”, we conclude that the injuring party is responsible for compensating the incurred damages. In this regard, a fundamental question arises regarding the extent of the injuring party's liability: to what extent are they liable, and are all potential damages subject to claim and compensation? In the following sections, we will examine the rulings related to some of these damages.

Loss of benefits compensation

Property's benefits are categorized into "actual benefits" and "potential benefits." Actual benefits refer to profits a person derives after gaining control over someone else's property [31]. In contrast, potential benefits pertain to those profits that may be obtainable, but the possessor, by controlling the property, prevents the owner from utilizing it, and they do not benefit from it either. For example, suppose someone unlawfully seizes a car and does not use it during the period of seizure but merely parks it in their home. In that case, this type of utilization is referred to as potential benefits.

The term "loss of benefits" refers to a situation where a person prevents the owner from utilizing their property without deriving any benefits from it themselves. In such cases, the wrongful possessor is liable for the lost benefits [42]. Article 328 of the Civil Code also considers the loss of benefits as a basis for the liability of the person causing the loss, stating: "Whoever destroys someone else's property is responsible for it ... whether the destruction is intentional or unintentional, and whether it pertains to the property itself or its benefits."

Therefore, if an individual is deprived of the benefits of their property due to quarantine or hospitalization due to the transmission of COVID-19 and incurs damages as a result, according to the views of jurists and the Civil Code, the incurred damages are claimable. The person who transmits the disease, especially in cases where they conceal their illness and interact with healthy individuals, will be held responsible for compensating for the damages.

Moral damage

Moral damage refers to the harm inflicted on a person's non-material rights and cannot be directly quantified in terms of monetary loss or financial damage [31].

This type of damage encompasses any non-material loss that affects a person's personal rights and can manifest in various forms, including physical pain, emotional distress and suffering resulting from a disturbance in the individual's psychological balance, changes in appearance or bodily form, and discomfort related to these changes, or fear of exacerbated pain or premature death. Such injuries harm the personal rights of the individual [43].

Moral damage can occur due to harm to a person's reputation and dignity, or it may manifest as physical pain or emotional distress. For example, a change in appearance or damage to feelings and emotions, such as grief and sorrow from losing a loved one, can be considered moral damage. However, moral damage is often accompanied by material loss as well. For instance, insults and defamation, which initially harm an individual's reputation, may also adversely affect

their commercial credibility and decrease their customer base [31].

According to Article 8 of the Civil Liability Act, "anyone who causes damage to the reputation, credibility, or status of another person through false assertions or publications is liable for compensation." Some legal scholars believe that moral damages are irremediable because they cannot be quantified in monetary terms; for example, the lost reputation of a dignified individual cannot be restored with money. Furthermore, ethically, it is considered inappropriate for an individual affected by moral damage to demand monetary compensation from the court [44].

Concerning the above discussions, if an individual suffers provable moral damages due to the transmission of COVID-19, these damages must be appropriately compensated by the individual who transmitted the disease, provided that the necessary conditions for proof exist. This situation encompasses cases where moral damages lead to material losses or financial expenditures are required to mitigate their effects.

Loss of Earnings

In some cases, contracting COVID-19 may result in the patient becoming temporarily or permanently incapacitated and losing the ability to perform work activities. This situation can lead to an inability to cover normal living expenses and the maintenance of dependents. The question is, what is the ruling on such damages? Should these damages be compensated or not?

According to jurists' rulings, if the injured person is an employee or worker of an individual or organization, compensation for the loss of earnings due to incapacitation must undoubtedly be paid. This is because, with the conclusion of a contract, the interests of the employee acquire actual value, and destroying that value is considered the loss of property, which, according to the principles of liability, must be compensated.

However, if the injured person is not employed and is engaged in freelance work, jurists have described this damage as "loss of profit" (damnum emergence) [45]. Some believe that although this situation is considered a loss in customary terms, it does not constitute a loss of property and, therefore, does not fall under the principles of Etlaf and Tasbib [46].

In contrast, some jurists have asserted liability in the matter of "imprisonment of a free trader" based on the reasoning of the jurists [47]. This ruling indicates that the consensus among jurists regarding liability in the "imprisonment of a free trader" does not have any particularity. In their view, no loss should remain without compensation. Thus, the criterion for the ruling is deprivation of work, whether due to a crime committed by the damaging party, imprisonment resulting from filing a baseless lawsuit with the ruler, or due to infection with a virus like COVID-19. Therefore, the party responsible for the physical harm leading to incapacity is liable in this case.

Additionally, jurists who have argued for applying the principle of "La-Zarar" to establish financial liability have regarded this principle as an independent cause for proving civil responsibility alongside the principles of "Etlaf" and "Tasbib". Since deprivation of work is considered a loss in common understanding, it follows that the damages resulting from incapacity must also be compensated [46].

Conclusion

According to Islamic jurisprudential principles and legal regulations, no individual is permitted to cause harm or damage to another person. In case of causing harm, they must compensate for the damages inflicted. The transmission of contagious diseases, particularly infectious diseases like COVID-19, is not exempt from this rule. If a person infected with a contagious disease conceals their illness and, without following health protocols and engaging in close contact with healthy individuals, causes the transmission of the disease to others, resulting in financial and physical harm, they are responsible for compensating these damages. This responsibility is based on jurisprudential principles such as "Tahzir", "Etlaf", "Tasbib", and "La-Zarar", as well as Article 1 of the Civil Liability Law enacted on 27 April 1960, which clearly states that any person who unlawfully and either intentionally or through negligence causes harm to another's health, property, liberty, reputation, or any other right, leading to material or moral loss, will be held responsible for compensating the damage [47].

The scope of this responsibility, due to its medical implications, includes compensation for losses such as "loss of profit" (damage caused by not receiving healthcare services), "deprivation of benefits" (loss due to missed treatment opportunities), "moral damages" (harm to mental and emotional health), and also damages from disability (reduction in physical and occupational abilities). In this context, all individuals and legal entities, especially the Islamic government, encompassing all governing bodies, are responsible for ensuring public safety and health. The Islamic government must, in accordance with the principles of the constitution and by utilizing its sovereign authority—such as establishing a crisis management committee and mobilizing all available resources—properly inform the public about the nature of the disease and how to prevent and treat it. It must also take necessary actions to control the spread of the disease, combat potential violations, and facilitate healthcare conditions for the public to protect public rights and the health of individuals during the outbreak of infectious diseases like COVID-19.

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