

The Role of Corrective Justice in Explaining Vicarious Liability in Iranian and European Law

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Abstract

Vicarious liability, as one of the most controversial institutions in tort law, has consistently been confronted with the fundamental question of the basis upon which a person other than the direct wrongdoer may be obligated to compensate for damage. The theory of corrective justice, which emphasizes the restoration of the disrupted legal relationship between the injured party and the party responsible for the harm, appears in its traditional interpretation to be incompatible with this form of liability. The present study, adopting an analytical-comparative approach, seeks to examine the possibility of explaining vicarious liability within the framework of contemporary interpretations of corrective justice in Iranian and European law. The findings demonstrate that, in European law, particularly in English judicial practice, vicarious liability has gradually been reinterpreted on the basis of normative attribution criteria, including institutional role, the degree of control over the activity, and the connection between the harm and the organized activity; a development that enables this institution to be reconciled with corrective justice. In contrast, although Iranian law recognizes vicarious liability within the framework of liability arising from the acts of others, it has generally remained without a coherent theoretical explanation grounded in the basis of attribution of liability. This study concludes that a reconsideration of vicarious liability in light of corrective justice and the concept of normative attribution of liability can provide a theoretical foundation for the principled limitation of vicarious liability and enhance its coherence and predictability in Iranian law.

Keywords: Vicarious liability, corrective justice, normative attribution of liability, tort law, comparative law.

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1. Introduction

Vicarious liability is one of the challenging institutions in the law of civil liability; it is an institution in which a person is required to compensate for damage although that person has not directly committed the harmful act. This feature raises a fundamental question: on what normative basis can the attribution of liability in such cases be justified? This question is not merely technical; rather, it is directly related to the foundations of justice and the logic of liability in legal systems. In this context, the theory of corrective justice, as one of the most important theoretical frameworks of civil liability, occupies a fundamental position in the analysis of this issue (Zeinoddini, 2019). Corrective justice focuses on restoring the disrupted balance between the injured party and the party responsible for the harm, and its purpose is to compensate for the violation of a right or the infliction of wrongful harm. However, the classical understanding of this theory is usually based on symmetry between the “harm-causing actor” and the “person responsible for compensation.” For this reason, vicarious liability appears, at first sight, to be incompatible with the logic of corrective justice, or at least exceptional to it. This apparent conflict has led many analyses to explain vicarious liability not on the basis of justice, but through functional justifications such as protection of the injured party, risk distribution, or economic efficiency. Nevertheless, recent theoretical and doctrinal developments in comparative law, particularly in European law, indicate that the traditional understanding of corrective justice is being reconsidered. In these new approaches, the attribution of liability is not confined solely to the direct act; rather, institutional relationships, structures of control, the connection between organized activity and the creation of risk, and the responsible person’s benefit from those activities are also taken into account. Accordingly, efforts have been made to analyze vicarious liability not as a deviation from corrective justice, but as an extension of it within the framework of the concept of “fair attribution of harm” (Stanford Encyclopedia of, 2022).

In European law, particularly in English judicial practice, this theoretical development has been accompanied by an effort to delimit and regulate vicarious liability. Criteria such as the “type of relationship between the actor and the person held liable” and the “existence of a sufficient connection between the duty and the harm” have been introduced as tools for determining the limits of vicarious liability. Recent decisions of the Supreme Court of the United Kingdom indicate that the development of vicarious liability does not necessarily mean its unlimited expansion; rather, it can be controlled within a principled and justice-oriented framework (Gilker, 2021). By contrast, although Iranian law has accepted liability arising from the acts of others, particularly employer liability arising from the acts of employees, in statutory provisions and doctrinal analysis, it still suffers from the absence of a coherent theoretical explanation in this field. Existing regulations and studies mainly focus on ensuring compensation for the injured party and pay less attention to the reason why an indirect person is required to compensate and to the justice-oriented basis of this obligation. This has caused the relationship between vicarious liability and corrective justice in Iranian law to remain largely implicit and unstated (Deylami et al., 2020).

The novelty of the present article lies in analyzing vicarious liability not as an exception to the principle of the personal nature of civil liability, but as a normative extension of corrective justice. By drawing on criteria for the attribution of liability in European law, particularly institutional role, control, and the connection between harm and organized activity, the article presents an analytical model for rereading the basis of vicarious liability in Iranian law; a model that can lead to the principled limitation of liability and enhance its predictability. Accordingly, the present article, adopting an analytical and comparative approach, examines the role of corrective justice in explaining vicarious liability in Iranian and European law and seeks, by drawing on the theoretical and doctrinal achievements of European law, to assess the possibility of rereading the foundations of vicarious liability in Iranian law and presenting a more coherent framework for the attribution of liability and the determination of its limits.

2. Conceptual Framework of the Study

2.1. *Corrective Justice*

In this article, corrective justice is understood as a normative theory in the law of civil liability whose purpose is to repair the disruption created in the legal relationship between the injured party and the party responsible for the harm. According to this theory, civil liability is not an instrument of social policy or merely a means of risk distribution; rather, it is regarded as a

legal response to the violation of a private right. The central axis of corrective justice is the “rightness of the attribution of liability” and the restoration of legal balance between two specific parties. The classical understanding of corrective justice is usually based on symmetry between the actor causing the harm and the person responsible for compensation; that is, the person who has committed the harmful act is the same person who must compensate for the damage. However, in contemporary literature, this understanding has been reconsidered. New theorists, by expanding the concept of the legal relationship and focusing on institutional roles and structures, have considered the attribution of liability beyond the direct actor to be justifiable within the framework of corrective justice. This broader interpretation provides the necessary theoretical ground for analyzing vicarious liability within the framework of corrective justice (Goldberg & Zipursky, 2020).

2.2. *Vicarious Liability*

In this study, vicarious liability refers to a situation in which a person, because of a specific legal, institutional, or organizational relationship with the harm-causing actor, is required to compensate for damage without having directly committed the harmful act. The essential feature of this type of liability is the apparent separation between the “actor causing the harm” and the “person responsible for compensation,” a matter that has made it one of the most controversial institutions in the law of civil liability (McBride & Bagshaw, 2020).

In many analyses, vicarious liability is explained through justifications such as protection of the injured party, risk distribution, or economic efficiency. However, the focus of this article is that vicarious liability can be explained not merely on the basis of functional considerations, but on the basis of the fair attribution of harm within the framework of corrective justice. From this perspective, vicarious liability is justified when the harm has occurred within the context of an activity that the responsible person has organized, directed, or benefited from (Witting, 2023).

2.3. *Attribution of Liability*

In this article, “attribution of liability” does not mean merely a physical causal relationship between an act and harm; rather, it means a normative connection that determines why and how a harm should be attributed to a particular person. Normative attribution focuses on the question of whether, from the standpoint of justice and legal logic, it is fair to regard a person as responsible for the harmful consequences of a conduct or activity. This question distinguishes a justice-oriented analysis of vicarious liability from purely protective or economic justifications. Within the framework of vicarious liability, attribution of liability may be based on factors such as institutional role, the degree of control over the activity, the creation or management of risk, and benefit from the harmful activity. This concept is the connecting link between corrective justice and vicarious liability, because it makes it possible to analyze the obligation of an indirect person to compensate for damage not as an exception, but as the logical consequence of that person’s role in the structure that generated the harm (Shiri & Barzegar, 2025).

2.4. *European Law*

In this article, “European law” does not refer merely to a set of continental legal systems; rather, it specifically refers to theoretical and doctrinal developments in the law of civil liability in European systems, especially English law. The reason for this focus is that the case law of the Supreme Court of the United Kingdom has played a decisive role in recent years in redefining the limits and foundations of vicarious liability. In this system, vicarious liability is regulated through criteria such as the “type of relationship between the actor and the person held liable” and the “existence of a sufficient connection between the relationship and the harmful act.” These criteria indicate an effort to establish a balance between protection of the injured party and respect for the justice-oriented limits of liability, and for this reason they have particular importance for comparative analysis and for rereading the foundations of vicarious liability in Iranian law (Campbell & Lindsay, 2024).

3. Corrective Justice and the Problem of Attribution of Liability

Corrective justice, as one of the fundamental theories of the law of civil liability, is based on the premise that wrongful harm disrupts the legal relationship between two specific persons and that the function of the law of liability is to repair this disruption through the obligation to compensate for damage. Within this framework, civil liability is not an instrument for achieving broad social objectives, but a normative response to the violation of a private right. For this reason, the central concern of corrective justice is not the social consequences of liability, but the correctness of attributing liability to a specific person; an understanding that has also attracted the attention of some writers in contemporary Iranian legal literature (Rezvan & Shamshiri, 2024). In the classical interpretation of corrective justice, attribution of liability is usually based on symmetry between the actor causing the harm and the person responsible for compensation. This means that the person who has committed the harmful act is the same person who must compensate for the damage. This understanding has also been reflected in a significant part of traditional Iranian legal doctrine and has established the principle of the personal nature of civil liability as a fundamental rule. Consequently, liabilities that disrupt this symmetry, including vicarious liability, have often been regarded as exceptions or as requiring additional justification (Heratian et al., 2021).

However, contemporary social and economic developments, particularly the expansion of organized and institutional activities, have shown that exclusive focus on the direct actor causing the harm is insufficient for a fair explanation of civil liability. In Iranian law as well, some studies have emphasized that in many cases harm occurs within structures that operate beyond the individual conduct of the harm-causing actor. This reveals the necessity of reconsidering the concept of attribution of liability (Hosseini, 2021).

In new approaches, attribution of liability is analyzed as a normative judgment, not merely as the result of a physical causal relationship between an act and harm. Accordingly, the main question is not who directly caused the harm, but to whom, in light of existing legal roles and relationships, the harm can fairly be attributed. This analysis has also received attention in part of Iranian legal literature through emphasis on concepts such as institutional role, authority and control, and benefit from the harmful activity (Akbari, 2024).

Within this framework, corrective justice can extend liability beyond the direct actor without resorting to purely instrumental justifications. A person who creates or directs an organized activity and benefits from it may normatively be regarded as responsible for the risks arising from that activity. This analysis is consistent with views in Iranian law that justify employer liability or institutional liability not merely on the basis of protecting the injured party, but on the basis of the fair attribution of harm (Mousipour & Esmaeili, 2021). Accordingly, vicarious liability can be reinterpreted in light of corrective justice, so that this institution is analyzed not as a deviation from justice, but as its logical extension within the context of institutional and organized relationships. In this sense, corrective justice continues to emphasize the bilateral relationship between the injured party and the person responsible for the harm, but it redefines this relationship at a more structural level and in accordance with contemporary legal realities. Such a rereading can provide a more coherent theoretical foundation for vicarious liability in Iranian law.

4. A Justice-Oriented Explanation of Vicarious Liability in European Law

In European law, vicarious liability is no longer analyzed merely as a protective instrument for ensuring compensation for the injured party; rather, it has gradually been reinterpreted within a normative framework based on the logic of fair attribution of liability. This development is the simultaneous result of theoretical progress in the law of civil liability and judicial reconsideration in determining the limits of the liability of persons who have not directly committed the harmful act but have played a role in creating or organizing the context in which the harm occurred (Cane, 2022).

In the English legal system, whose influence on the European law of civil liability is undeniable, vicarious liability has, in recent decades, evolved from a relatively limited concept tied to the classical employment relationship into a more flexible institution focused on “institutional liability.” Instead of relying solely on the existence of an employment contract, courts examine the real nature of the relationship between the harm-causing actor and the person held liable and take into account the roles of organization, supervision, and institutional benefit in attributing liability. This change in approach shows that vicarious

liability is based less on formal categories than on a substantive analysis of the relationship and the roles of the parties (Davies, 2021).

In the same direction, the criterion of a “relationship akin to employment,” as the first step in establishing vicarious liability, reflects the effort of European law to connect liability with the institutional role of the person held liable. This criterion maintains that vicarious liability is justified only when the responsible person, through an organizational or institutional structure, has the power to direct or control the activity of the harm-causing actor or benefits from the results of that activity. Such an analysis links liability not to financial capacity, but to the normative position of the person within the structure that generated the harm; this is compatible with the contemporary interpretation of corrective justice (McBride, 2021).

The second step in explaining vicarious liability in European law is the examination of a “sufficient connection between the relationship and the harm.” This criterion plays an essential role in limiting vicarious liability and prevents every harmful act committed by the actor, regardless of the context in which it occurred, from being attributed to the person held liable. By emphasizing this criterion, European courts seek to ensure that the harm has occurred within the framework of an activity that the responsible person created, organized, or facilitated. This approach is a clear reflection of the logic of corrective justice, because it limits the attribution of liability to cases that are normatively defensible (European Group on Tort, 2023).

New theoretical analyses in European law show that these criteria are not merely technical instruments; rather, they represent a transition from purely instrumental justifications toward a justice-oriented explanation of vicarious liability. In this explanation, vicarious liability is analyzed not for the purpose of efficient distribution of loss, but as a legal response to the institutional role of the person held liable in creating risk and disrupting the injured party’s legal relationship. Such an understanding directly connects vicarious liability with the concept of fair attribution of harm (Bussani & Palmer, 2022).

The reflection of this development can also be observed in Iranian legal literature, where some recent studies, inspired by developments in comparative law, have emphasized the need to move away from purely protective analyses and to pay attention to the basis of attribution of liability in vicarious liability. This convergence indicates that the European legal experience can provide a theoretical ground for rereading vicarious liability in Iranian law without requiring a departure from the traditional foundations of justice (Borjian & Al-Dabbagh, 2018).

In the author’s view, recent developments in European law show that vicarious liability cannot be regarded merely as an institution based on protective considerations or risk distribution. The increasing emphasis on criteria such as the nature of the institutional relationship and the sufficient connection between the relationship and the harm indicates that European law is consciously seeking to reconstruct the normative basis of vicarious liability. This reconstruction brings vicarious liability closer to the concept of fair attribution of harm and places it within a framework compatible with corrective justice. From the author’s perspective, the importance of this development lies in showing that the expansion of vicarious liability does not necessarily mean its unlimited extension; rather, it can occur together with principled and justice-based limitation. The importance of these criteria for Iranian law is that they can provide a theoretical alternative to analyses based on presumed fault or purely protective justifications. This experience offers a theoretical model that can also inspire the rereading of the foundations of vicarious liability in Iranian law, especially in moving away from purely protective analyses and toward a clearer formulation of the criteria for attributing liability.

5. Vicarious Liability and Corrective Justice in Iranian Law

In Iranian law, vicarious liability has mainly been recognized within the framework of liability arising from the acts of others, especially employer liability arising from the acts of employees. The Iranian legislature, without explicitly addressing the theoretical foundations of this type of liability, has in some cases required a person other than the direct harm-causing actor to compensate for damage. This approach indicates that the main focus of the Iranian legal system has been on ensuring compensation for the injured party, rather than on theoretically formulating the basis for attributing liability. In Iranian legal doctrine as well, vicarious liability has often been analyzed as an exception to the principle of the personal nature of civil liability. Many analyses explain this type of liability through justifications such as protection of the injured party, ease of access to compensation, or presumed fault in supervision. Although these justifications are practically important, they alone cannot

provide a coherent answer to the fundamental question of attribution of liability; particularly because, in these analyses, the connection between the responsible person and the harm inflicted often remains implicit and unanalyzed (Hosseini, 2021).

Nevertheless, some recent studies in Iranian law have sought to move beyond purely protective frameworks and reread vicarious liability in light of the theoretical foundations of civil liability. In these views, emphasis is placed on the role of the employer or responsible person in creating, organizing, and benefiting from the activity that resulted in harm. On this basis, the harm inflicted is regarded not merely as the result of the individual conduct of the actor, but as the consequence of risks arising from an organized activity. This analysis makes it possible to bring vicarious liability closer to the logic of corrective justice (Yazdanian & Ghodsi, 2015).

From the perspective of corrective justice, the main question is whether the harm inflicted can fairly be attributed to a person other than the direct actor. In Iranian law, although this question has not been explicitly raised, dominant analyses in Iranian law, despite reaching similar results, suffer from the absence of a clear theoretical formulation, and this has led to ambiguity in the basis of attributing vicarious liability. The obligation of an employer to compensate for damage arising from the act of an employee can be analyzed not merely on the basis of protecting the injured party, but on the basis of the normative attribution of harm; that is, the employer, because of his institutional role, is responsible for the foreseeable risks arising from the activity that he has created and directed (Akbari, 2024).

Within this framework, vicarious liability in Iranian law can be reinterpreted as an institution compatible with corrective justice, provided that the attribution of liability is based on clear and defensible criteria. Criteria such as the existence of a meaningful institutional relationship, an effective role in organizing the activity, and the connection between the harm and the activity under the supervision of the responsible person can provide a coherent basis for limiting and explaining vicarious liability. The absence of explicit reference to these criteria in legislation and judicial decisions is one of the main reasons for ambiguity in the limits of vicarious liability in Iranian law (Mohseni & Mansourlakouraj, 2017).

Comparative examination shows that Iranian law, in terms of practical outcomes, has in many cases reached solutions similar to those of European law; however, this convergence has often occurred without explicit theoretical formulation. Therefore, conscious use of the theoretical achievements of comparative law can strengthen the coherence of the doctrine of civil liability in Iranian law and lead to a clearer explanation of the relationship between vicarious liability and corrective justice. In the author's view, the main challenge of vicarious liability in Iranian law lies not in accepting the principle of compensation for damage, but in the absence of a coherent theoretical explanation of the basis for attributing liability. The continuation of purely protective analyses, although it benefits the injured party in practice, leads in the long term to ambiguity in the limits of liability and instability in judicial practice. From the perspective of corrective justice, vicarious liability is justified only when a normative connection can be established between the responsible person and the harm inflicted. Rereading vicarious liability in light of this logic can move Iranian law beyond the exceptional understanding of this institution and organize it within a principled, limited, and predictable framework.

6. Conclusion

Vicarious liability is among the institutions that appear to conflict with the traditional interpretation of corrective justice, because in it a person becomes responsible for compensating damage although that person has not committed the harmful act. This apparent conflict has led many analyses to explain vicarious liability as an exceptional institution based on functional considerations such as protection of the injured party or risk distribution. However, the findings of this study show that such an understanding is not necessarily the only possible interpretation. An analysis of the theoretical framework of corrective justice, especially in its contemporary interpretations, shows that this theory does not focus solely on the commission of the direct act; rather, it emphasizes the "normative attribution of liability" and the repair of disruption in the legal relationship between the parties. By developing this concept and considering institutional relationships, structures of control, and organized activities, vicarious liability can be analyzed not as a deviation from corrective justice, but as its logical extension within the context of complex social relationships.

A comparative examination of European law, particularly English judicial practice, shows that this legal system has in recent years sought both to expand and to limit vicarious liability. The use of criteria such as the "type of relationship between the actor and the person held liable" and the "sufficient connection between the relationship and the harm" reflects an effort to

establish a balance between protection of the injured party and respect for the justice-oriented limits of liability. This approach shows that vicarious liability can be reconciled with corrective justice within a principled and predictable framework. By contrast, although Iranian law has in practice accepted vicarious liability in forms such as employer liability arising from the acts of employees, it still suffers from the absence of a coherent theoretical explanation in this field. The dominant focus on the result of compensation, without a clear formulation of the basis for attributing liability, has caused the limits of vicarious liability to remain unclear and, in some cases, to lead to different and unstable interpretations. This study shows that rereading vicarious liability in light of corrective justice can help strengthen the coherence of the doctrine of civil liability in Iranian law and provide a more coherent explanation of its foundations.

Without redefining the basis for attributing liability, vicarious liability in Iranian law will continue to remain an exceptional and unstable institution. The justice-oriented analysis presented in this article shows that this institution can be reconstructed within a principled, limited, and predictable framework; this not only does not conflict with corrective justice, but also represents its contemporary manifestation in the context of institutional relationships.

*It is suggested that Iranian legal doctrine, in analyzing vicarious liability, move away from purely protective or instrumental approaches and place the concept of “normative attribution of liability” at the center of analysis. This makes it possible to redefine vicarious liability not as an exception to the principle of the personal nature of liability, but as an institution justifiable within the framework of corrective justice.

*Courts can, in interpreting provisions relating to liability arising from the acts of others, pay greater attention to criteria such as the nature of the relationship between the actor and the person held liable, the degree of control or direction over the activity, and the connection between the harm and the organized activity. Such an approach can contribute to the logical limitation of vicarious liability and enhance the predictability of judicial decisions.

*It is suggested that the legislature, drawing on comparative legal experiences, especially European law, provide general and clear criteria for determining the limits of vicarious liability. Explicitly stating criteria such as “the connection of the harm with an activity under the supervision or for the benefit of the responsible person” can reduce existing ambiguities and prevent the unregulated expansion of liability.

*Future studies can examine vicarious liability comparatively in other European legal systems or analyze the role of corrective justice in similar institutions, such as liability arising from the acts of representatives or state liability. Examining the effect of this approach on the level of actual compensation for damage and on the coherence of the civil liability system can also open new horizons for future research.

Ethical Considerations

All procedures performed in this study were under the ethical standards.

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Conflict of Interest

The authors report no conflict of interest.

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