

The Obligation to Minimize Damage in Civil Liability: The Case of Migration Damage

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Abstract

This study explores the unification of patterns of civil liability in public law systems and its impact on creating obligations in private law systems, as it is based on the objective theory of the essence of civil liability based on the unification of its patterns, which in turn is based on damage in evaluating and estimating compensation without regard to error, in order to alleviate the burden of the party—the injured person in terms of his proof of the official's mistake. We overcome the burden of proving mistakes within the scope of civil liability unification. We will explain to him how the theory of unification of civil liability in civil law systems contributes to recognizing the obligation to mitigate damage in French law systems.

Keywords: *Civil Liability, Migration Damage, public law systems, unification of Civil Liability.*

1. Introduction

French judicial precedents have formulated an extensive body of regulations in response to the presence of texts that have become incongruous with the prevailing social reality and the need to offer legal resolutions to the conflicts they encounter (Al-Bsherawy & Al-Ibraheemy, 2023). This development has been prompted by economic and technological advancements that have permeated developed nations and the desire to align with the progress observed in countries that were not hasty in their adoption. In order to effectively adapt to the dynamic global transformations across several domains, particularly in the realms of economics and investment. The legal system in the United States has a prominent position among the Anglo-Saxon nations that have built their legal frameworks to keep pace with societal advancements, foster growth, and provide stability in civil and commercial dealings (Spring, 2016). In this context, it was incumbent upon French law, serving as a paradigm for Latin nations, to adhere to the principles and methodologies of said legal systems rather than confining its legislative scope only to the provisions inherited from Roman law at that period. The historical context reveals that the French legal system is not impervious to external influences, as evidenced by the phenomenon commonly referred to as the "Americanization of French law." This phenomenon emerged due to the impact exerted by American legal principles on the French legal framework. Specifically, French law started assimilating American legal concepts by enacting contemporary legislation and incorporating American judicial precedents (Wiegand, 2021). This influence is particularly notable in private law, where numerous texts have drawn inspiration from American legal doctrines (Jaszi, 2017). The unification of patterns of civil responsibility stands out as a notable consequence derived from the impact of Anglo-Saxon rules on French law. The basis for establishing civil

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liability has shifted away from personal theory, as fault is no longer a conditional factor (Merryman & Pérez-Perdomo, 2018). Recent amendments to French law have deemphasized the role of fault, as it is not mentioned in the general provisions or conditions for establishing liability (Slominski & Trauner, 2021). Instead, the focus is primarily on two primary conditions: the presence of damage and the existence of a causal relationship. To the concept of damage, these projects have affirmed that damage is a fundamental element of liability. They emphasize that any harm arising from an assault on a lawful interest, be it of a financial or moral nature, should be duly compensated. It is important to note that the text encompasses all forms of damage, regardless of whether they fall under contractual responsibility or negligence. The discussion primarily focuses on the consequences of damage rather than delving into the specific causes of action. This observation suggests the lack of consideration for assuming responsibility as a fundamental aspect of establishing civil liability. However, it is essential to note that the absence of fault does not imply the absence of action or the occurrence of harm without a clear attribution to an individual. In contrast, an action is present, yet there is a lack of accompanying conditions for its inclusion. The confirmation of the causal relationship, as described under the error description, signifies a notable decrease in the significance of error and a corresponding increase in the prominence of the theory of harm in French law. This shift in emphasis would occur if the proposed projects about the modification of civil liability were to be ratified. Adopting the unification of modes of responsibility resulted in the formation of duties predicated on damage. In the context of the proposed legislation on civil liability reform, our objective is to substantiate this theory by elucidating the responsibilities in question and assessing the soundness of their foundation in terms of damage.

2. Literature Review

The proliferation of unintended harm arising from industrialization within society, commencing in the latter half of the 19th century, has rendered the conventional principles of civil liability in civil law frameworks inadequate in addressing these circumstances and the associated challenges (Mackenbach, 2021). Consequently, there is a need to prevent the classical form of civil liability from faltering in its capacity to handle such scenarios effectively. The "sun of substantive liability" concept has been introduced as a proposition reflecting a recent trend in France. This proposition advocates for the need to harmonize patterns of civil liability, drawing inspiration from American law. In civil law countries, the classical theory of civil liability is founded upon three fundamental elements: fault, harm, and the causal link between them (Zhai, 2022). Nevertheless, what alterations have occurred in this conventional theory? The theory's stability has been questioned due to deviations from the early nineteenth century until the present day. This is evident in the draft civil liability reform law, which has seen changes in the significance and organization of error and damage concerning neutralization and expansion. Established patterns of unifying civil liability have influenced these changes. We will examine the deviations from the 2017 Civil Liability Reform Project in American law and compare them to the existing French Civil Liability Law. This analysis aims to support the hypothesis that the obligation to mitigate damage can be reinforced by harmonizing the patterns of civil liability. To achieve this, we will explore two subsections that pertain to this requirement.

2.1. *Mitigate the influence of Errors.*

The proposed Civil Responsibility Reform Law of 2017 reduces the significance of mistakes within civil responsibility (Geistfeld, 2017). This reduction is evident via two primary aspects that emphasize the diminished relevance of error. One notable aspect is the diminishing significance of its function as a foundation for legal responsibility. Regarding the second axis, it can be seen that the draft Liability Law Reform of 2017 no

longer relies on other pillars (McCuskey, 2017). The concept of civil liability, specifically in French law, is founded on the connection between the legal concept of fault and the occurrence of damage, as outlined in Article 1382 of the French Civil Code before the legislative reform in 2016. This article states that any action by an individual that results in harm to another person necessitates the presence of a fault. In other words, for an act to be deemed a mistake, it must be accompanied by the occurrence of harm. The development above was preceded by a prevailing tendency that arose due to the Americanization of French law and the convergence of civil liability frameworks. Professor Viny posits that the criteria used to ascertain the extent of contractual and tortious liability lack precision, even within common law jurisdictions, owing to the absence of consistent and unambiguous definitions for fundamental concepts such as Contracts and obligations. Professor Viny suggests a framework that advocates for the partial incorporation of American law into the French legal system. The objective above is achieved by advocating for acknowledging the autonomy and confidentiality of commercial agreements and suggesting the provision of restitution for harm incurred within the realm of contractual culpability as governed by tort law. The convergence of French law with American law, as seen in positive law, is exemplified by the unification of patterns of civil responsibility via questioning their borders, as Viny has described (Koulu, 2019). The phenomenon of convergence has become evident when a third party, who is not a party to the contractual agreement, might derive advantages from the failure to fulfill the terms of the contract. In cases where this contract is impaired due to non-performance, the ability to seek legal redress through tort claims, as established by American judicial precedents, was limited to third parties who suffered harm due to the contract's non-performance. This limitation arose from their inability to derive any benefits from the contractual guarantee, thereby necessitating the allocation of liability. The courts establish the debtor's contractual duty by using the implicit guarantee, which puts liability on the debtor without any fault in the contract. Regarding the proposed legislation aimed at reforming the civil liability law of 2017, it is important to note that the requirement of error as a prerequisite for establishing liability has been eliminated (Al-Ali, 2017). Additionally, the draft law redefines the act necessitating compensation as a tortious mistake instead of a mere failure to fulfill contractual obligations. The inclusion of the theory of tort liability for personal action in the reform project has facilitated a commendable transition within the existing civil law framework (Klinsky & Brankovic, 2018). This transition entails recognizing that any action leading to harm to others imposes an obligation on the individual responsible for the wrongdoing to provide compensation. This principle is further reinforced by the provisions outlined in the proposed draft law 2016, which explicitly states that individuals are accountable for damages resulting from their mistakes. This implies that the right to receive compensation arises as a consequence of the action rather than contingent on the action itself, independent of any resulting consequences. It can be said that within the framework of mistake and damage in both forms of civil responsibility, compensation is necessary for the incurred harm. This holds whether it is considered a prerequisite within tort liability or as damage necessitating compensation within the realm of contractual obligation. Consequently, the proponents of implementing standardized frameworks for civil liability experience a bolstering of their stance. Subsequently, the prospect of effectively consolidating the duty to minimize harm becomes more tangible when a mistake is not seen as a fundamental basis for establishing civil culpability. The significance of mistakes within the framework of contemporary French civil law cannot be overstated, as it serves as a fundamental prerequisite for establishing civil responsibility and forms an essential cornerstone upon which it relies. Although responsibility is acknowledged to exist, the reform project outlined just two prerequisites for establishing and implementing civil liability, notwithstanding its significance. The first criterion, as stated in Article (1235), pertains to the occurrence of harm. The present text encompasses a broad range of damages, including both contractual and tortious liabilities. The speaker discussed the negative consequences of an assault on a valid concern. Consequently, their discussion

focused on the outcome of the action, namely its impact, rather than the origin of the action. This line of reasoning leads to the inference that there exists an action that has negative consequences, although the moral wrongness of this action is not a prerequisite for the occurrence of damage. Therefore, it might be inferred that the absence of negligence The concept of mistake serves as a determinant for attributing accountability. The exclusion of error is inferred as a fundamental principle based on the second requirement, which establishes a causal link between the defendant's actions and the resulting harm, establishing culpability. Consequently, the reform initiative did not establish a direct correlation between the mistake and the resulting harm but instead deviated from the legal standpoint entirely. The existing stipulation only focuses on harm and cause, without establishing a connection between the conduct and wrongdoing, nor seeing it as a prerequisite for establishing culpability.

2.2. The Expanding the Scope Of Damage's Function

As a result of the decline of the theory of error, the role of the theory of harm in the project to reform the civil liability law was strengthened, as damage is among the most important topics to which the drafters of the civil liability reform law gave great importance (Dodge & Mansour, 2021). The project delineated the specific attributes of this injury about its nature as a particular kind of damage and a specific situation, thereby necessitating its identification. It is recognized that harm may have ensued from an assault on a valid interest, whether of a financial or non-financial nature. This acknowledgment underscores the notion that any actual harm, regardless of magnitude or severity, is deemed damage necessitating reparation (Almashhadani, 2023). Consequently, this broadens the scope of compensation to encompass diverse forms of harm. We commend the Civil Liability Reform Law drafters for their decision to address the issue of damage specifications without explicitly categorizing them. It is recognized that listing all sorts of harm exhaustively is not feasible. However, the focus should be on identifying and delineating how damage manifests itself. Another characteristic of damage is its requirement to be specific and immediate. Future damage is generally not compensable unless there is uncertainty surrounding it. However, any expenses incurred to prevent imminent harm, mitigate its severity, or prevent its escalation are considered compensable damages as long as they are deemed reasonable. The presence of harm is crucial in determining civil culpability, as it is a requirement outlined in the general conditions. Consequently, the criteria for establishing liability does not just rely on the incorrect act or mistake committed but also on the actual occurrence of damage. Regarding its sufficiency as a condition for establishing civil liability, the absence of fault does not nullify the presence of harm. This deduction is derived from the statements made by the project's authors in the text of Article 1235 (which states that compensation is required for any harm caused due to an infringement upon a legitimate interest or financial or moral rights), as mentioned in the preceding passage. The absence of a connection between mistake and harm suggests that damage alone can establish accountability independent of error. This shift in responsibility from a personal to an objective dimension occurs. The evidence above substantiates that the central concern of the French civil law theory would be the theory of responsibility provided that the proposed reform of the civil liability legislation is ratified. The fundamental nature of it is characterized by its capacity to do damage rather than being attributed to mere mistakes.

If the draft civil liability reform law is enacted, it will signify a significant change in the stance of the French legislature regarding this hypothesis (Emar & Abu Issa, 2021). This change introduces a new normative approach that prioritizes the assessment of damage over the evaluation of the act committed as a determining factor for the type of liability. Consequently, this modification alters the theory of liability, which was previously determined by the source of the obligation. It now shifts towards determining liability based on the effect of the obligation. Two main axes, the first being, characterize this shift... Direct damages refer to the tangible harm that must be remedied by the principles

of tort responsibility, regardless of whether the underlying duty arises from a contract. The second aspect pertains to indirect consequences, namely the harm inflicted on other parties, which the stipulations of contractual responsibility may evaluate. Based on the analysis above, it can be inferred that in Latin legal systems, such as French law and Iraqi law, the legislative gap can be addressed by applying the principle of unifying civil liability. This principle allows for establishing various obligations, including mitigating damage. Introducing this praetorian obligation in French law brings it closer to American law. This obligation is explicitly stated in the draft law mentioned earlier, as will be elaborated upon in the subsequent sections. Consequently, considering the possibility of integrating contractual and tortious responsibilities, a question arises regarding applying the obligation to mitigate damage in conjunction with other compensatory principles that may impose limitations. In the following discussion, we will explore this issue to substantiate the hypothesis of coexistence between the obligation to mitigate damage and other specific compensatory principles.

3. Research Methodology

There has been a divergence in legal discourse on the characterization of civil liability patterns in public law systems compared to their role in establishing duties in private law systems. Hence, the focus of this study will be restricted to examining the intellectual underpinnings of these patterns by juxtaposing the conventional and modern philosophical frameworks controlling the fundamental concepts of public accountability. The principles' origin and purpose are determined by analyzing factual evidence and research results. Furthermore, a comparative strategy is employed to assess and harmonize the philosophical and legal perspectives on the topic of study.

4. Results

There has been a discourse surrounding the potential continuation of the duty to mitigate harm in both common law and civil law systems, serving as a constraining principle for compensation alongside other relevant principles. It is worth noting that the discretionary power of judges to determine compensation is not without limitations, as it is subject to various restrictions and principles. Consequently, we shall examine these principles in further detail. This study aims to explore specific compensation measures to address the apparent contradiction between them and provide evidence supporting the hypothesis that they can be applied simultaneously. The research will focus on two main aspects: firstly, reconciling the obligation to mitigate damage with the concept of comparative neglect, and secondly, reconciling the obligation to mitigate damage with the principle of total compensation.

4.1. Reconciling the obligation to mitigate damage with the principle of Comparative Negligence

Despite the prevalence of the comparative negligence principle in common law jurisdictions, the principle of mitigation of damages continues to be acknowledged as a fundamental tenet in American contract law and tort law. This distinction in content has sparked considerable scholarly discourse. Damage mitigation refers to the strategies and measures used to reduce or minimize a certain event's negative impacts or consequences. The party experiencing harm must adhere to rational steps to mitigate prospective losses. The principle of harm mitigation may be found in Article (350) of the Second Amendment to the American Contract Law, where a similar definition is provided. When comparing the principle, comparative negligence is recognized as a legal defense strategy that seeks to proportionally diminish the amount of compensation due to the plaintiff based on the extent of their culpability. The concept referred to as comparative negligence, comparative liability in public law systems, is well recognized. Based on the

statement above, the damages that may be mitigated are apportioned amongst the involved parties without being specifically attributed to each party. The jurist contemplates Adar. The concept of comparative negligence is a legal defense that diminishes the compensation awarded to an injured party based on the proportionate extent to which they are deemed responsible for the resulting harm. The underlying principles that form the basis for comparative negligence and mitigation of losses have engendered persistent disagreement and discourse on the coexistence of both theories. Mitigation of damages relies on three fundamental norms, namely: Firstly, the defendant is not queried prior to the plaintiff on the potential harm that may be inflicted upon the plaintiff in the case of The occurrence of the damage cannot be attributed to the actions of the individual in question, but rather to the failure of the injured person to undertake reasonable precautions or actions to prevent or mitigate the harm. Secondly, following the first principle, the plaintiff is entitled to reimbursement for the expenses paid in mitigating the harm. Additionally, it is established that the creditor or the aggrieved party is entitled to receive complete compensation if they undertake reasonable steps. Comparative negligence and the concept of reduction of damages are founded on distinct rules, with the former centered on the assessment of blame for both the plaintiff and defendant. Consequently, liability is apportioned proportionately within the framework of comparative negligence. The evidence above indicates that the legal duty to minimize harm in American jurisprudence may be seen as an outgrowth of the principle of shared negligence since it applies to each party involved. The allocation of responsibility is approached in a similar objective manner, with variations in the timing of its application. The primary distinction between them and comparative negligence is the allocation of culpability, which involves the intricate theory of causality to apportion damages among the wrongdoers. Based on the above statement, it is said that the division of losses that are inherently indivisible is not feasible, particularly when an individual carries a greater degree of legal responsibility for those damages. In cases where there is no justifiable basis for apportioning the loss between two wrongdoers, the whole of the culpability will be assigned to one party due to the indivisibility of the losses. In the present context, the Supreme Court of Texas decided to reverse the Court of Appeals verdict, which held that the owner is not required to offset the damages in question. The lease agreement entered into by Austin Hill Country Realty and Palisades Plaza Company acknowledges the landlord's responsibility to limit their losses and make reasonable attempts to fulfill this commitment. However, it is important to note that liability is allocated differently in cases involving comparative negligence. It is distributed among the parties involved based on the percentage of fault attributed to each party in the specific circumstances. This approach avoids assigning blame solely to one party and instead reflects what is known as causal liability. Causal liability helps determine the degree of fault and indicates the extent to which a party deviates from the standard of reasonableness. Following this assessment, appropriate actions can be taken. In this analysis, we examined the fundamental tenets of two concepts, namely the duty to alleviate damages and the principle of comparative negligence, which serve as defining factors in determining the extent of compensation within the framework of American law. One first consideration is how these two concepts, particularly within the realm of tort law, coexist and operate in conjunction, given their distinct characteristics. This is particularly relevant when examining the overarching framework within which the principle of comparative negligence is applied. The persistence of the duty to minimize damage may be particularly perplexing, particularly in light of the transition from contributory to comparative negligence. To substantiate the hypothesis regarding the potential coexistence of these concepts, legal scholar Adar posits the inclusion of the duty to mitigate harm within the broader framework of comparative liability. This proposition emphasizes the specific temporal phases during which the injured party must actively mitigate preventable damages. Currently, he engages in the act of committing. The accused party faces misconduct allegations, while the one who has suffered harm assumes the plaintiff's role. The distinction between comparative blame and the concept of

avoidable consequences is significant at this juncture. The party that has suffered an injury is obligated to undertake measures to minimize the extent of the harm after its occurrence, in contrast to the potentially liable party. This statement elucidates the underlying approach of comparative negligence, highlighting the inherent inconsistency in its methodology when juxtaposed with... The principles above are only observed under legal systems based on common law. In civil law systems, a conflict arises when determining compensation between the principles of providing complete reparation for damages and the duty to mitigate damages. These principles play a significant role in determining the amount of compensation. In the subsequent section, we aim to reconcile these principles and eliminate any conflicts that may arise between them.

4.2. Reconciling the obligation to mitigate damage with the principle of Full Compensation

Despite the prevailing need to mitigate harm and its incorporation into most legal frameworks, many legal systems, such as those found in civil law jurisdictions, continue disregarding the responsibility to mitigate damage. Consensus over the legislative acknowledgment of it has not yet been reached. The field of jurisprudence and the court have historically turned to alternative concepts to mitigate compensation, such as non-compensatory damages. The causality between the wounded individual's direct actions and their culpability is intricately interconnected. The French legislation does not include a specific legislative provision that explicitly mandates the duty to mitigate damages, except in two texts. One of these texts is Article (175-17) of the Insurance Law, which stipulates that the insured party must actively preserve the insured property and take all necessary precautionary measures to protect their rights against third parties who may be held responsible for the damage. The maritime insurance policy is concisely required to mitigate damages within its purview, even if this commitment is implied. However, indications of its origin may be traced back to a period before the enactment of the French Civil Code in 1804, as some ancient French legal scholars have shown a willingness to acknowledge this phenomenon. It is incumbent upon the creditor impacted by the breach to make a reasonable effort to mitigate any potential escalation of harm. However, in 2003, the Court of Cassation deviated from the established guidelines outlined in the French Civil Code and declined to acknowledge the duty to minimize damages. The Legislative Law of Obligations, as outlined in Order No. 131 of 2016, establishes that the individual responsible for a harmful act must rectify all resulting consequences. Furthermore, the affected party is not burdened with the duty to lessen the damages in favor of the party responsible for the harm. This decision has since become a fundamental principle consistently cited to justify rejecting any case that necessitates mitigation. Two distinct approaches have arisen regarding the legal recognition of the need to minimize damages rooted in total repair. The objective of completely paying the plaintiff, by the idea of full compensation, which is a fundamental aspect of civil responsibility, may be attained if this principle is explicitly included in Article 1147 of the French Civil Code, as it was before the enactment of Legislative Reform Order No. 131 of 2016. The second article referred to is Article 1382, which was formulated before the enactment of Legislative Reform Order No. 131 in 2016. In the context of its application, the Court of Cassation has affirmed the principles of tort liability as outlined in Article 1382 of the French Civil Code (prior to Order No. 131 of 2016). According to Article 1382, the wrongdoer must provide compensation for all resulting damages, and the injured party is not obliged to mitigate their harm in favor of the liable party. The Court of Cassation has based its stance on complete restitution for harm, which asserts that the aggrieved person should be restored to the condition they would have been in had no harm occurred. The Court of Cassation's decision not to embrace this pledge extends beyond the economic loss described earlier and encompasses broader implications. The Court of Cassation justified its refusal to consider bodily injury using Article 16-3 of the French Civil Code and the ideal of complete restitution. The Court of Cassation has produced several judicial judgments based on Article (1147) that demonstrate a failure to acknowledge

responsibility to reduce harm in the context of contractual liability. By the French Civil Code, which acknowledges the idea of contractual responsibility, a ruling by the Court of Cassation has reversed the judgment made by the Court of Appeal. The ruling stipulated that the one responsible for the deleterious action must rectify the resulting harm. At the same time, the affected party is not burdened with the responsibility of remedying the damage in support of the perpetrator. The alternative course of action is shown by the legislative proposal that modifies civil responsibility. This proposal underwent many iterations before its ultimate version, unveiled in 2020, to secure the anticipated endorsement. The emergence of this phenomenon may be attributed to the existence of favorable French legal precedents, the collaborative deliberations of the Chancellery, and the expansion of the reform decree about the Law of Obligations, namely No. 131 of 2016. The proponents of this viewpoint have endeavored to challenge the hypothesis of the contradiction between the principle of full compensation and the concept of responsibility to reduce harm, aiming to demonstrate the notion of their ongoing coexistence. In order to enhance the normative function of the compensatory function, the draft law amending civil liability includes the text of Article (1263). This article states that, except in cases of bodily injury, the damages suffered by the victim can be minimized if they fail to take reasonable and necessary measures to prevent the aggravation of their prejudice, particularly about their ability to pay. From this text, it can be inferred that the judge has the authority to impose an obligation to mitigate damages when the plaintiff could have avoided or minimized the damages by exercising reasonable and ordinary care to prevent or mitigate the spread of harm. This raises the question of how such an obligation can be applied in light of the objective of civil liability, which is to compensate the creditor or injured party fully. According to the authors of the proposed modification to the Civil Liability Law, establishing a clear differentiation between direct and indirect damages is crucial for ensuring consistency and continuity in its implementation. Civil responsibility is a legal concept encompassing three fundamental elements: mistake, harm, and the causal link between the error and the resulting damage. According to Article (4-1231) of the French Civil Code, the defendant must compensate the plaintiff for the direct damages caused by their actions.

The basis for this decision stems from the ruling made by the Court of Appeal in a case concerning the economic harm suffered by the plaintiff as a consequence of an accident that rendered them unable to work. The plaintiff sought compensation for an extended period starting from the time of the accident. However, it was revealed that the plaintiff could hire a temporary employee and resume work in February. This indicates that the plaintiff did not take proactive measures to minimize their damages. Consequently, the Al-Amyan Court of Appeal reduced the compensation awarded to the plaintiff. The court's decision was grounded on the finding that the loss experienced by the plaintiff was not a direct outcome of the accident but rather a result of their failure to mitigate damages by seeking assistance from another individual to manage their bakery. Consequently, his failure to mitigate effectively severed the causal link for some of the harms above. Drawing from the existing framework of the French Civil Code, it is conceivable that Article 1151-1 may encompass the concept of contractual liability, wherein the debtor is absolved of liability for damages that the creditor could have averted by adopting reasonable measures. Similarly, Article 19-1386 may address tort liability, whereby the party accountable for compensation is not held responsible for damages that the aggrieved party could have mitigated by undertaking reasonable measures. Within the framework of Iraqi legislation, several articles of the Iraqi Civil Code are inherently bound by the duty to alleviate harm, as shown by the inclusion of Article (210) about contractual responsibility and the second paragraph of Article (269). Nevertheless, it would be advisable for the Iraqi legislator to emulate contemporary legislative practices by incorporating the duty to mitigate harm into explicit provisions within the Iraqi Civil Code. This would effectively resolve the conflict between the principles of harm mitigation and total compensation, aligning with the approach adopted by other legal

systems, such as American law. About contractual responsibility, we propose to the French legislature that the creditor should undertake reasonable efforts to fulfill the duty that the debtor has failed to fulfill, wherever feasible. Failure to do so would reduce the compensation to which the creditor is entitled, according to the losses that the creditor might have mitigated. About tort responsibility, we propose to the Iraqi legislature. The injured person must take necessary actions to minimize the losses, wherever feasible. Failure to do so may result in reduced due compensation proportionate to the damages that might have been mitigated.

5. Conclusions

The primary objective of the proposed Civil Liability Reform Law of 2017 is to develop a liability framework that is centered on two fundamental principles: harm and causal link. This framework seeks to eliminate the need for blame and instead introduces a system of unified civil liability, drawing inspiration from the prevailing trends in American law. The prominence of injury is amplified while the significance of the mistake is diminished in the context of the civil liability reform law. The dedication to reducing harm was focused on harmonizing patterns of civil responsibility rooted in substantive liability, which is predicated on damage. In the context of public law systems, resolving conflicts between the duty to alleviate harm and other compensation principles is contingent upon the temporal application of those principles since this temporal factor plays a crucial role in resolving the dispute. In civil law systems, resolving conflicts involves differentiating between direct and indirect harm to the fullest extent feasible. Mitigate potential damage by appropriate and rational methods. Hence, we propose that the Iraqi legislature allocate the responsibility of mitigating harm via specific provisions, such as those outlined in the civil liability reform legislation.

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