

Performing Contractual Obligations in Iranian Civil Code

Mehdi Pirhaji

Faculty of Human Science and Law, Islamic Azad University of Isfahan (Khorasgan), Iran,

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ABSTRACT

Fulfillment of obligation in Iranian Civil Code is formulated in Articles 265 to 282. Fulfillment of obligation is defined as an act by virtue of which the obligor fulfills anything that he/she has undertaken to do under the contract. Fulfillment of obligation is the final cause for parties in concluding the contracts. In Iranian Civil Code, the obligations will be discharged by one of the factors of fulfillment of obligation, cancellation by mutual consent, release from obligation, substitution of obligation, set off and recoupment and acquisition of debt. The subject matter of obligation is an affair that debtor undertakes towards another party. This subject can be transferring the ownership of property, fulfilling or restraining from specific action. Fulfillment of obligation can be studied under the two separate topics of arbitrary execution and compulsory execution of contract. The parties to contract can determine the way as well as the time and place in which the contract should be performed. The Islamic lawyers by considering the Verses from Quran and the traditions have emphasized on obligations and their terms. The binding nature of obligations has been recognized officially in law of Iran and the parties to the contract should be obliged to the stipulated obligations in the contract. Some executive guarantees have been considered for non-performing the liabilities. In Iranian legal system some solutions have been determined for compensating damages. The purpose of this study is to make the reader familiar with performing the contractual obligations or fulfillment of obligations as a part of Iranian contract law. This is an analytical research.

Key words: Performing obligation, Fulfillment of obligation, Discharge of obligations, Contract

INTRODUCTION

Fulfilment of obligation, in literal terms means to perform and remain faithful to a promise [17]. Fulfilment of obligation is the most common factor of discharge of obligation, because both parties will achieve what they expected from concluding the contract and obligation. In contractual obligation, fulfilment of obligation is the final purpose of for one who concludes a contract [4]. When parties perform their obligations under the contract, it terminates. Fulfillment of obligation is to perform the promise and can be interchangeable with terms such as to pay the debt and to perform the obligation. To perform an obligation is in fact to fulfil the obligation which is undertaken by the obligor [5]. Performing or fulfilling the provisions of contract is usually done arbitrarily (intentionally). In the term 'fulfillment of obligation', the word 'obligation' refers to a promise and contract as well as the liability resulted from it and it is an action by virtue of which the obligor performs what s/he has undertaken to do under the contract. If it is not possible to do so, contract will be revoked according to circumstances; or, in the case of temporary possibility, under certain condition the obligee has the right to terminate the contract.

Law is the world duties and obligations of people towards each other. Originally, the law science takes into account any subjects relating to duties and obligations that people have to one other and stipulates some ways to perform obligations and fulfil the duties [39]. Therefore, to identifying and defining the obligations and then to providing some strategies to perform them, are the most important subject matters in Law Science. Any legal system has predicted some strategies for both terminating the legal liabilities of obligor and clearing them from obligations; these strategies are known as "factors of discharge of obligations". The most important and common factor of discharge of obligation is fulfilment of liability, or in Civil Code term 'fulfillment of obligation' [27]. According to Sheikh Tabrasi in *Majma al-bayan*, contract and obligation means a strong promise [43]. It is a strict promise between two or more persons [5]. Obligation literally means "to be undertaken" and in legal terms it refers to "a legal relationship by virtue of which one is obliged to transfer and submit the money to the other party or to a specific act or omission. [23].

Obligation due to any cause is not eternal and will be eliminated in some ways.

Article 264 of Iranian Civil Code stipulates that obligations are discharged in one of the following ways: fulfilment of obligation, cancellation by mutual consent, release from obligations, and substitution of obligation, offset and recoupment. Article 264 of Iranian Civil Code has been adopted from Article 1234 of French Civil Code [33]. However, these two articles differ from each other in that Art 1234 of French Civil Code has stipulated nine cause for discharge of obligation while four of them are absent in Article 264 of Iranian Civil Code: loss of the subject of contract, annulment or cancellation of contract, fulfillment of contract and lapse of time. In contrary, in Article 1234 of French Civil Code, cancellation by mutual consent has not been considered as a cause of discharge of obligations [21]. In this study, the first cause of discharge of obligation – fulfilment of obligation – in Iranian Civil Code will be discussed in detail. After providing a brief introduction, definition of obligation as well as fulfilment of obligation; nature and legitimation of fulfilment of obligation; pillars of fulfilment of obligation; effects, time, place, and costs of fulfilment of obligation; and finally, performance of obligations and damages resulted from lack of performance in Iranian Law, will be analyzed. The research method is analytical and its purpose is to introduce a part of contract law in Iran – fulfilment of contractual obligations or fulfilment of obligations.

Definition of fulfilment of obligation:

Fulfilment literally means to perform and to keep promise [35] for which such words as payment of a debt and execution of obligation may be used [21]. Fulfilment of obligation occurs when someone performs what they have undertaken to do. Then, a debtor fulfils his/her obligation by paying his/her debt and a hired worker by doing what he/she have been hired for. Fulfilment is the best way to remove an obligation. No definition for fulfilment of obligation has been provided by Iranian Civil Code. However, it is common to consider fulfilment of obligation as a legal relationship by virtue of which someone can ask the other to do something [21]. Obligation is called credit in the view of the creditor and liability (debt) in the view of the debtor [18]. Five factors may cause the creation of an obligation: contract, quasi contract, crime, tort and law. This categorization has been adopted from French Law and has been accepted by some Iranian lawyers. However, it should be known that in Iranian contract law, the “law” is the main source for all obligations and requirements, regardless of its cause [22]. Regarding to this, some authors integrate causes of obligation and those of the creation of liability into the legal ‘actions’ and events. Then, obligation may

be created with or without the intention of the person.

According to the definition of obligation, its subject matter is: obligation to give something to the ownership of other, obligation to doing a work, obligation to refuse to do a work [45]. In Iranian Law, the subject matter of obligation, even briefly, should be determined; it should not be absolutely unknown.

The nature of fulfilment of obligation:

The simplest way to perform an obligation is ‘fulfilment of obligation’ or in French Law terms, it is ‘payment’. Whether the subject matter of obligation is cash or transfer of property (specific or general goods), or whether it is act or omission, by performing it, the fulfilment of obligation is done. Then, fulfilment of obligation is an act by virtue of which obligor does what has undertaken under the contract [21]. From this definition, it can be concluded that the term ‘fulfilment of obligation’ is restricted to the arbitrary performance of contract and does not cover the obligations out of the contract (due to the civil responsibility or usurpation or illegitimate vindication).in Iranian Civil Code, legal decrees relating to the fulfilment of obligation are not restricted to the performance of contract and they are general rules of obligations [21]. Lawyers disagree on what the legal nature of fulfilment of obligation is and whether the will has any role in it [5]. Some believes that fulfilment of obligation is a kind of ‘agreement’ and needs the mutual consent of parties. Therefore, obligee’s acceptance is the condition for the realization of performance. From the aforementioned explanation, the following results can be achieved:

- a. Fulfilment of obligation may clear the obligor from obligations and discharge them
- b. In makes no difference whether the cause of obligation to be contract, unilateral legal act or otherwise.
- c. Fulfilment of obligation includes both its voluntary and obligatory performance
- d. In fulfillment of obligation it is not necessary that the object of obligation to be doing an act, rather, omission can also be the subject matter of fulfilment of obligation.
- e. Fulfilment of obligation includes either partial or full performance of it [5].

Legitimacy of fulfilment of obligation:

Fulfilment of obligation is the simplest as well as the most natural way in which the obligor can release him/herself from obligations which are upon him/her. That is, by fulfilling the obligations, the parties to the contract will terminate the contract in a way they had expected from the beginning . All legal systems emphasize on the fulfilment of obligations in contracts and transactions. Islamic law, from which the Iranian Civil Code has been adopted, commands

to fulfill the obligations in many verses and Hadith [6]. The main reason for this has been stipulated in Ma'ede Surah which says: "O' you who believed, fulfil your contracts" it commands directly the believers to fulfil their obligations and contracts. 'Al-oghud' (agreements) is a general word in Islamic rules and includes all the agreements for which the term 'contract' holds true. That is, contract – or obligation – complies with all religious conventions such as monotheism and the other Islamic principles, ritual practices, custom-based and creative and confirmed laws including contracts and transactions. The fulfillment of all of these conventions is obligatory [44]. Another justification which is cited for the legitimization of fulfilment of obligation is a narration from the Prophet Mohammad, in this case he stated "the Muslims hold on their obligations" This means that every believer must hang on to fulfilment of their obligations [11].

The necessity of fulfilment of obligation:

The subject matter of obligation is an action that debtor undertakes to do for the other party and may include the possession of property, act or omission [35]. In Iranian Law, in all contracts, the main principle whether possessory or promissory is their irrevocability, as it is in Islamic Law (without mutual consent) which is also acceptable in other legal systems [31]. In Article 219 of Iranian Civil Code the principle of irrevocability has been accepted.

According to the Article 220 of Iranian Civil Code, a contract binds the contractors not only to what is stipulated in the contract, but also binds them to the consequences arising from custom or law [9]. This Article is the interpretation of Article 1135 of French Civil Code. The main purpose of the parties which are engaged in a contract is to reach the subject matter of the contract. If a contract is performed, then it is terminated in the best way [21]. Iranian Civil Code has classified the causes of obligations into two main groups:

- A. Contractual obligations
- B. Natural (inherent) obligation such as usurpation, loss, (indirect) causation, and vindication. It can be concluded that agreement and will are two main pillars of any contract. According to the Article 183 of Iranian Civil code, a contract is made when one or more persons make a mutual agreement with one or more persons, on a certain thing which they consent to.

The principle of will sovereign has been accepted in Article 10 of Iranian Civil Code [36]. However in Article 975 of Iranian Civil Code, it has explicitly been restricted it to three factors: Law, Public order and public morals. Law has also determined the general conditions of a valid contract [34]. A contract in which all the fundamental conditions for validity of a contract are integrated, in the relationship between two parties, it is considered as law. That is, not only none of the parties have the

right to cancel the contract (principle of unilateral irrevocability), but also they are obliged to perform all the provisions of contract as well as what they have undertaken to do (Article 219 of Iranian Civil Code) [27]. In Iranian Law, the conclusion of contract may bring some effects which can be categorized into two groups:

- A. The effects which will be immediately resulted from contract
- B. The effects which are upon one of the parties

Those obligations which are directly resulted from the contract must be performed after occurrence and have an irrefragible relationship with their origin. The provisions of contract must be performed willingly. In Iranian Civil Code fulfilment of obligation is one of the causes of discharge of obligation (Article 264). However, the executive aspect of fulfilment of obligation has much more important than its role in discharge of obligation [21].

In Iranian Civil Code, fulfilment of obligation can be studied under two separate Articles: voluntary and obligatory performance of contract [29]. Parties to the contract can determine the manner, time and place of performance. Typically, fulfilment of obligation is a voluntary act in which the consent of creditor plays a role. When the debtor refuses to fulfill intentionally his/her obligations, he/she should be obliged to do so. This obligation is requested from the court and the legal enforcement of contract may appear in this stage.

Pillars of the fulfilment of obligation:

The four main pillars for the realisation of fulfilment of obligation are needed. If all those three pillars exist correctly, fulfilment of obligation will realise in a full and comprehensive way, and also the debtor will be released. Those pillars are: performer – The person to whom the obligation is undertaken-object of payment – the time, place and cost of the payment [8].

- A. The performer [40].

Legally, the debtor is obliged to pay his/her debt back and no one but himself/ herself is obliged to fulfil those obligations. In this regard, Article 269 of Iranian Civil Code states that "fulfilment of obligation may be realized when the obligor gives (pays) something which is in his/her possession or for which they are permitted by the possessor, and also have capacity. In addition to being the owner of the property they pay, the fulfiller must not be incapable of obtaining the possession of his/her properties [46]. In Article 190 of Iranian Civil Code the capacity of parties is considered as a fundamental condition for the validity of a contract and in Article 211 it is stipulated that "for validity of a contract the both parties must be mature, reasonable and legally prudent." Furthermore, the Article 213 does not consider the transactions by the incapable persons as effective [5].

The fulfilment of obligation can be transferred to others and the legislator may not ask the party to do it with the provision of procuration. It is clear that if the obligation is fulfilled in a correct manner, the debt will be released and it makes no difference whether the debtor or someone else to pay the debt [21]. Article 271 of Iranian Civil Code stipulates that “a debt shall only be paid to the creditor or his/her attorney or to someone legally entitled to receive such payment.” [27].

By considering mentioned matters, the payment of obligation can be determined for the following persons [5]:

- a. Creditor
- b. Creditor's agent
- c. Third persons

It is evident that what is paid as a debt needs to be the same thing that was mentioned in the contract. In this case, the obligor will be released from the debt and his/ her obligation is fulfilled [13]. The fulfilment of obligation will not be realized unless all the conditions stipulated for its realization in Iranian Civil Code to be met. These conditions may be related to the parties to the contract, object of performance, or the quality of performance. The most important legal effect of fulfilment of obligation is the discharge of obligation and the debtor's release.

A. By considering the time of fulfilment, there are four acceptable assumptions:

1. If the time of payment has been set at the time of entering into the contract, the obligor must fulfil his/ her obligation at that time because both parties are bound to what has been agreed in the contract.
2. If the time of payment has not been set at the time of contract, but the parties have agreed that the obligee should decide about the time of payment, then the obligor is required to fulfil their obligation at any time requested by the creditor (derived from Art226 of Iranian Civil Code).
3. If any specific time has not been set at the time of contract for fulfilment of obligation nor has it been left for the obligee to decide the time of fulfilment of obligation, then the custom should be followed. Article 220 Civil Code of Iran states “A contract binds the transactors not only to what is explicitly mentioned therein but also to all the results arising from the contract by law or custom [27].

B. Place of fulfilment: Place of Fulfilment: Determining the place of the fulfilment of obligation is necessary to recognize not only the responsibilities of the obligor but also the jurisdiction of court over probable disputes between the parties [21]. According to Article 13 Civil Procedure Code of Iran, in business lawsuits and the lawsuits related to movable property caused by contracts, the court of the place where contract has been concluded and court of the place where the obligation is to be executed shall have jurisdiction. The following

assumptions related to the place of fulfilment are assumed:

1. If the place of fulfilment has been determined at the time of the contract, then the obligor is required to fulfil his/ her obligation at the same place. Because both parties bind to what is stipulated in the contract (Articles 220 and 280 of Iranian Civil Code). Changing the place of fulfilment is only possible upon the agreement of obligee.
2. If the place of payment has not been determined at the time of contract, but the parties have agreed that the obligee should decide about the place of payment, then the obligor is required to fulfil his/ her obligation at any place requested by the creditor [27].
3. If any specific place has not been determined at the time of contract for fulfilment of obligation nor it has been left for the obligee to decide the place of fulfilment of obligation, then the custom shall be followed.
4. If no specific place has been determined by mutual agreement, custom, or the decision of obligee, then according to Article 280 of Iranian Civil Code the obligation should be fulfilled at the place where the contract has been concluded [27].
5. According to hearsay evidence, if it is impossible to fulfil the obligation at the place where the contract is concluded, then based on the principle of freedom from suspicion, the obligor must be released from the excess of delivering the property in the place of its occurrence or doing the act in the place of the obligee.

C. Article 281 of Iranian Civil Code states that the costs of payment shall be paid by the obligor unless the parties agreed otherwise.

According to this Article, three cases should be discriminate as to the costs of fulfilment [5]:

If no explicit agreement has been reached upon the costs of fulfilment, the payer must determine the costs according to the custom (Articles 225 and 220 of Iranian Civil Code) [40].

If there are neither an explicit or implicit agreements on the cost of fulfilment, nor any specific custom in this regards, then cost of the fulfilment is required to be paid by the debtor. This is based on the general rule which states “when one is obliged to do an act, he/ she is also obliged to meet *all* its requirements [27].

Specific performance in Law of Iran:

Some legal systems strongly disagree with impelling the specific performance. While Islamic lawyers believe that the best solution for breach of contract is to oblige the parties to do the specific performance. Furthermore, a minority considered the right of cancellation for obligee. Iranian Civil Code has chosen the method of majority. In the past, the obligations were fulfilled immediately and the object of sale came in the possession of the buyer. Therefore, there was no obligation to be worried about its breach. Iranian and Islamic lawyers have

adhered to some methods to prevent the breach of contract and the violation of contractual rights of the obligees, these methods are as follows:

A. Enforcing the specific performance as much as possible

B. The liberty of obligee to request either the specific performance or revocation of contract

Islamic jurists and lawyers consider the obligations and their implied terms to be required to be fulfilled by the obligor, based on their assumption on the verse "O you who believed in God: fulfil your contracts" and Hadith "the fulfilment of obligation is an obligatory order and no one has denied it", it means that the fulfilment of obligations is necessary and no one may deny it [31]. It can be concluded that no one has denied the necessity of fulfilment of obligations. Nevertheless, whether refusing the fulfilment of obligation or any of its terms may lead to revocation of contract; this is a critical discussion which caused disagreement among the lawyers.

Some Islamic jurists believe that the obligee is entitled to cancel the contract or request its fulfilment from the obligor. Since the breach of contract discharges the obligation and gives the party the right of cancellation. None of these rights has superiority over the other. Thus, the obligee may decide to choose anyone he/she wishes. The right of cancellation is created immediately after the breach of contract; this right does not depend on the impossibility of specific performance, because enforcement is the requirement of the right and the cancellation right may be created due to violation [14]. This solution is said to be more protective of social order and public rights [14], although no compelling reason is mentioned for it. Following the view of Shia jurists, Iranian Law has accepted and emphasized on the enforcement in specific performance. In cases where the specific performance is possible, there is a way to cancel the contract. Because contracts which are concluded based on the law are binding for both the parties and their attorneys and the necessity of fulfilment of obligation will be discharged only when the contract is cancelled by mutual consent or due to any legal reasons.

Damages resulted from the non-performance of obligations in Law of Iran:

The principle of necessity of performing contracts is accepted in Iran Law (Bahrami, 1390: 116) and both parties are obliged to the stipulated obligations in the contract. Some legal enforcement has been considered if the parties refuse to meet their obligations, whether fully or in partial, or if they meet them by delay.

In Iranian legal system there exist three ways to compensate the damages:

1. To determine the amount of damage explicitly, before it is occurred

2. To determine the method of measuring the amount of damages after their occurrence. This is the clearest method in Iranian legal system based on which any agreement to compensate the damages after their occurrence is valid so long as it does not violate the law. In cases where no agreement has been reached, legal procedure may solve the problem. This method is common in contracts relating to contractors. It is also used in consulting contracts of the management and planning organization.

3. To determine the amount of damages and the way of compensating them which are stipulated by law (such as court verdict) or by custom (implicit stipulation by the parties to the contract) [37].

In legal system of Iran there is no definition for the failure to fulfil obligation [21]. However, in contracts, legal enforcement is a power which is used as guarantee to execute law and court verdicts. In the other words, legal enforcement is an indirect or direct way to meet the legal or contractual requirements or to compensate the damages and losses the sufferer. This legal enforcement has rooted in many legal systems or Law or in the agreements and contracts between the obligor and the obligee. The guarantee of those enforcements which rooted in laws such as "the right to impel the specific performance" have been inferred from Articles 237, 238, 376, 476, 579 of Iranian Civil Code [27]. In addition, some other legal enforcement has rooted in law which can be indicated including nullity, non-influence of contract or compensation of loss and causation [10]. This penal Clause is one of the legal enforcements which have been accepted in Iranian Law. It should also be noted that the Supreme Judicial Council has approved the "penal clause" in its statement in 18/October/1983 and 2/November/1983. It can also be seen in the verdict No. 219/27/2907 and 29/9/3/1450 issued by the Supreme Court of Iran.

It should be noted that in legal system of Iran, the condition of damage determination in contracts will lead to effects and verdicts only when all the requirements of the validity of contract is met; otherwise, this condition is null and void. In Articles 232 and 233 of Iranian Civil Code by explaining the assumption of failure to fulfil obligations or delay in fulfilling them, or whether the subject matter of obligation is cash or not, damages have been divided into three groups:

1. Material damage: this kind of damage can be estimated and changed into money. As to its occurrence, material damage can be either in the form of non-existence of the object (object destruction) or lack of interest [1].

2. Intellectual damage: this kind of damage may also occur in many different forms including damage to someone's personality (right of dignity in the case of defamation) [42].

3. Expectancy damages: the last part of article 728 of old Civil Procedure profit loss is also demandable.

“Damage may be loss of the property or loss of profit resulted from the fulfilment of obligation.” By profit loss it means loss of the established profit; that is, the profit which the obligee would gain if the obligor fulfilled his/ her obligations [37].

In legal system of Iran (Civil Code) there were no regulations relating to the expectancy damaged before the approval of Civil Procedure Act. in 1318. However by approving this act, besides loss of property, the profit loss is also considered as damage. Many different verdicts have been issued by the legal courts in this regard such as the verdict No, 921 issued from 5th branch of Tehran Legal Court; this verdict was issued after the establishment of Islamic Republic of Iran regime, considering the inflation and economic conditions. However, the second Note of Articles 515 of Iranian Civil Procedure Code enacted in 2000 states that “Damages due to the lack of profit may not be claimed while damages due to delay in payment in may be claimed legal cases” [26].

In order that the obligee can claim for compensation, some conditions should be met: **A)** Expiry deadline is expired; **B)** the damage is subject to the obligee; **C)** Failure to fulfil obligation is not due to external cause; **D)** Compensation of damage is required by contract, custom or law. Briefly, the plaintiff may request from the defendant the amount stipulated in the contract as compensation, according to Articles 226, 221, 227, 229, and 230 of Iranian Civil Code and observing the conditions in the Article 515 of Civil Procedure of Iran [27]. In Iran Law, in order that damages can be demanded when they are indirect, immediate, due to the neglect of obligee in fulfilling his/ her obligation. It should not be contrary to the public morals, as well.

Conclusion:

The purpose of legal rules and regulations is to set and formulate social relationships. Contracts play a critical role in achieving this purpose. The importance of contract in man’s life is evident and no one can consider himself/ herself needless of it. According to article 183 of Iranian Civil Code, a contract is made when one or more persons make a mutual agreement with one or more persons, on a certain thing which they consent to. Contract is the result of one or more wills as well as the effect and result of an agreement on the creation of an obligation. Fulfilment of obligation means to perform the promise. It can be used interchangeably with terms such as to pay the debt and to perform the obligation.

Obligation is the most important subject matter in Iranian Civil Code. According to Article 264 of Iranian Civil Code, the obligation may be discharged in one of the following ways: fulfilment of obligation, cancellation by mutual consent, release from obligation, substitution of obligation, and offset or recoupment. Article 264 of Iranian Civil Code has

been adopted from Article 1234 of French Civil Code and some changes are made in it. These changes were made with the purpose of compliance with the legal system of Iran. There is no definition of the fulfilment of obligation in Law of Iran. Fulfilment of obligation is the simplest as well as the most natural way in which the obligor can clear him/herself from obligations which are upon him/her. That is, by fulfilling the obligations, the parties to the contract will terminate the contract in a way they had expected from the beginning. All legal systems emphasize on the fulfilment of contractual obligations and transactions. The obligation, to which the person is responsible and obliged to perform, may be arising either from contract or something else.

The first Clause of Article 264 of Iranian Civil Code stipulates fulfilment of obligations as one of the causes of discharge of obligation. Therefore, the obligation will be discharged when the obligor fulfills his/ her obligations. There are four fundamental requirements for an obligation to be realized: Fulfiller – the person to whom the obligation is undertaken- object of payment – the time, place and cost of the payment. Fulfilment of obligation, payment of debt and performance of obligations are sometimes used interchangeably. Fulfilment of obligation occurs when the obligor acts based on his/ her obligations. Iranian Civil Code has not explicitly determined the causes of discharge of obligation. However, it has divided them into two groups:

A. Contractual obligations

B. Natural (inherent) obligations such as usurpation, loss, (indirect) causation, and vindication. It can be said that agreement and will are two main pillars of any contract. Article 975 has explicitly restricted them to three factors: Law, public order, and public morals. Law has also determined the general conditions for a valid contract. A contract in which all the fundamental conditions for validity of a contract are integrated, acts as law in the relationship between two parties. That is, not only none of the parties have the right to cancel the contract (principle of unilateral irrevocability), but also they are obliged to perform all the provisions of contract as well as what they have undertaken to do (Article 219 of Iranian Civil Code). In Iranian Civil Code, fulfilment of obligation is one of the causes of discharge of obligations (Article 264). However, the executive aspect of fulfilment of obligation has much more importance than the role of discharge of obligation.

In Iranian Civil Code, fulfilment of obligation can be studied under two separate Articles: the voluntary and obligatory performance of contract. Parties to the contract can determine the manner, time and place of performance. Typically, fulfilment of obligation is a voluntary act in which the consent of creditor plays an important role. When the debtor refuses to fulfill intentionally his/ her obligations,

s/he should be obliged to do so. This obligation is requested from the court and the legal enforcement of contract may appear in this stage. Thus, fulfilment of obligation is an act by virtue of which the obligor fulfills anything that they have undertaken to do under the contract. The most important legal effect of fulfilment of obligation is the discharge of obligation and the debtor's release. If the fulfilment of obligations is done in accordance with law and contract, and also its subject matter, qualities, amount, time and place comply with the debt, then the obligation is performed and automatically discharged. Performance of contract is based on this fact that persons are obliged to perform what they have undertaken to do in the contract. The necessity of performance is effective for all the contracts whether revocable or irrevocable. That is, the revocable contract should be performed. The term fulfilment of liability is usually used to refer to those contracts the subject of which is money; that is, to the monetary contracts.

Another important issue related to the fulfilment of obligation is the nature of fulfilment of obligation. Some Iranian lawyers believe that the legal nature of fulfilment of obligation is a specific contract. While, in the view of some other fulfilment of obligation is a unilateral legal act which requires the will of payer to create. However, if it does not require the transfer of a property or right such as delivery of a car to the buyer, it is considered a simple judicial practice. Considering different views about the nature of fulfilment of obligation, it can be concluded that it is not a single phenomenon and depends on the subject of obligation. All legal systems emphasize on the fulfilment of obligations in contracts and transactions. Islamic law has also command the believers to fulfil the obligations in many verses and Hadith. The main reason has been stipulated in Quran, Ma'ede Surah which says "O' you who believed, fulfil your contracts" which command explicitly the believers to fulfil their obligations and contracts.

Decrees of fulfillment of obligation in Iranian Civil Code are formulated in Articles 265 to 282. Fulfillment of obligations is defined as an act by virtue of which the obligor fulfills anything that he/she has undertaken to do under the contract. According to this definition, fulfillment of obligation means to perform the contract. The parties to contract not only determine the subject of their contract by mutual consent, but also they can stipulate the way as well as the time and place in which the contract should be performed. In cases where the subject of contract is money, its performance is called payment, such as payment of cheques. However, fulfilment of obligation is a general term which covers money payment – to submit money – to do or refuse to do something and to transfer. Fulfilment of obligation is restricted to performing contractual obligations. Contractual liability means: promisor's obligation to

compensate damages suffered by the other party due to failed to perform contract. Fulfillment of obligation is the simplest as well as the most natural way in which the obligor can clear him/ herself from obligations which are upon him/her. That is, by fulfilling the obligations, the parties to the contract will terminate the contract in a way they had expected from the beginning.

Some immediate results may be created when a contract is concluded, including possession in sale contract. Some consequences are upon one or two parties. The obligation which is directly resulted from the contract needs to be performed after the mutual consent. Fulfilment of obligation or performance of obligation is the most common means of discharge of obligation because by fulfilling the obligation both parties can achieve what they have expected from concluding the contract. Fulfilment of obligation is an action by virtue of which the obligor performs what they have undertaken to do under the contract. Parties to the contract can specify the time, place and manner in which the contract is to be performed. For impossibility of performance, it can be referred to Article 348 of Iranian Civil Code. Those contracts whose impossibility of fulfilment is clear at the time of conclusion and both parties are also aware of this impossibility, is considered null and void by Iranian Civil Code, since delivery may become impossible. General principle in Iranian Law is that the court may not consider those obligations which are illegitimate.

Performing contractual obligations at the appropriate time is the concern of parties to the contract and one of the most important issues in daily life. Thus, it is worthy to pay great attention to this issue. Typically, parties specify a time in which the contract is required to be performed. While, sometimes no specific time is mentioned for the performance of obligations and consequently the contract is concluded without duration. What can be inferred from the jurisprudents' views is that time is an important factor in contracts so that in some contracts nonexistence of a specific time for performance of contract may nullify the contract and in some other the existence of time specification may do the same.

In Iranian Civil Code, the urgency principle is established to avoid the prolongation of fulfillment of obligation. Otherwise, the obligation must be fulfilled at customary time and determining customary time is left for typical criteria. In Iranian Civil Code, regarding the Article 226 claim for damage is ambiguous. If the obligation is not performed at the reasonable or customary time, the obligee can claim first for obliging the other party to perform his/ her obligations and then for the revocation of contract. Islamic lawyers believe that the best solution for breach of contract is to oblige the parties to do the specific performance.

Furthermore, a minority considered a right of cancellation for obligee. Iranian Civil Code has chosen the method of majority. Although this method is accepted in domestic law, it has not broad application internationally. Additionally, in foreign business, Iranian Law is not able to adhere to compulsion and therefore replace it with revocation and payment of damage. The obligor is free to fulfil the obligation or to pay damage instead, in such a way that it put the obligee in a position in which they would be put if the contract were performed. The principle of necessity of performing contracts is accepted in Iran law and both parties are binding to what is specified in the contract. Some legal enforcement has been considered if the parties refuse to meet their obligations, whether fully or in partial, or if they meet them by delay.

In Iranian legal system, there exist three ways to compensate damages:

1. To determine the amount of damage explicitly, before it is occurred
2. To determine the method of measuring the amount of damages after its occurrence. This is the clearest method in Iranian legal system based on which any agreement to compensate the damages after their occurrence is valid so long as it does not violate the law. In cases where no agreement has been reached, legal procedure may solve the problem. This method is common in contracts relating to contractors. It is also used in consulting contracts of the management and planning organization.
3. To determine the amount of damages and the way which is stipulated by law (such as court verdict) or by custom (implicit stipulation by the parties to the contract) to compensate it.

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