

THE CIVIL LIABILITY IMPLICATIONS OF TRADE SECRET MISAPPROPRIATION UNDER THE LEGAL FRAMEWORK OF AFGHANISTAN

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Abstract. *In today's world, where knowledge and technology are key elements in economic growth and development, trade secrets, as part of the intangible assets of businesses and commercial companies, play a significant role in enhancing competitiveness and securing their market position. The importance of protecting these secrets becomes even more critical when considering that unauthorized disclosure or misuse can cause irreparable harm to their owners. As economic interactions become more complex and commercial relations expand, the phenomenon of trade secret violations has emerged as a serious legal challenge, leading to an increase in private law disputes. The legal system of Afghanistan, recognizing the importance of the issue, has made efforts to establish effective legal frameworks to protect trade secrets. Among these efforts, civil liability serves as a key legal tool, playing an essential role in compensating the injured parties and creating deterrence.*

This study, employing a descriptive-analytical approach and using library-based research methods, aims to conduct a legal analysis of the effects of civil liability resulting from the violation of trade secrets, with a detailed examination of the role and function of civil liability in Afghanistan's legal system. The findings of this research indicate that the right to compensation, the right to use legal actions, the right to employ precautionary measures, and the right to file a lawsuit are the most important effects of civil liability. Although Afghanistan's legal system has taken steps towards the protection of trade secrets, it still requires further strengthening, revision, and greater alignment with global developments in this field. By offering practical recommendations, this study seeks to contribute to enhancing legal understanding, improving existing legal mechanisms, and creating more effective frameworks for the protection of trade secret owners' rights.

Keywords: *Civil Liability, Compensation for Damages, Filing a Lawsuit, Precautionary Measures, Legal System.*

Introduction

In the contemporary era, information and technical knowledge play a crucial role in economic competition, and trade secrets, as a vital part of businesses' intangible assets, have a decisive impact on economic development and success. Maintaining the confidentiality of these secrets is of paramount importance for companies and individuals engaged in commerce. With the expansion of commercial relations and the increasing complexity of economic interactions, cases of trade secret violations have also risen, leading to a significant number of disputes in the realm of private law.

The legal system of Afghanistan, recognizing the importance of protecting trade secrets, has undertaken efforts to ensure such protection. One of the key tools in this regard is the application of civil liability rules to those who violate trade secrets. The primary aim of this liability is to compensate the owners of the secrets for the damages suffered and to restore the injured party to the position they were in prior to the harm. However, it must be noted that trade secrets possess unique characteristics, and it is necessary to assess whether the Afghan legal system has taken these particularities into account when addressing the effects of civil liability arising from the violation of trade secrets, and whether the civil protections provided effectively contribute to achieving justice in this area.

Answering these questions requires a thorough examination and analysis of the effects of civil liability for trade secret violations under the Civil Code and the Law on the Protection of Trade and Industrial Secrets.

This article aims to study the effects of civil liability arising from the violation of trade secrets within the Afghan legal system, specifically by clarifying the legal rights of the injured party, including the right to compensation, the right to invoke legal actions, the right to employ precautionary measures, and the right to file a lawsuit.

The research examines each of these effects in four separate sections, with careful legal analysis and reference to domestic laws, particularly the Civil Code and the Law on the Protection of Trade and Industrial Secrets of Afghanistan. It is hoped that the findings of this study will contribute to enhancing the legal understanding of this field and to the improvement or strengthening of existing legal frameworks.

The Concept of Civil Liability

Civil liability is synonymous with non-contractual obligations and strict liability. It refers to the duties that arise as a result of a lawful or unlawful act, without the existence of a valid contract between the parties (Dehkhoda, 1998, p. 20907; Hodavand, n.d., p. 56).

The Concept of Violation

Violation refers to a culpable act or omission that causes harm to another (Anvari, 2003, p. 7927).

The Concept of Trade Secrets

In its literal sense, "secrets" means hidden matters or information that should not be disclosed to others, while "trade" refers to commerce and transactions (Amid, 2008, p. 375). In legal terminology, a trade secret refers to a set of information related to methods and techniques of manufacturing and producing goods and products, work programs or formulas, designs, and practical and experiential skills used in the production and marketing of products. This information must remain undisclosed to the general public and competitors in a specific economic or commercial field. The secrecy must be such that it provides independent economic value and practical benefits, and it must generally not be accessible through conventional means (Emami, 2017, p. 513; Hadavand, n.d., p. 56).

Compensation for Damages

The right to compensation for damages, as the direct and primary effect of civil liability arising from the violation of trade secrets (Nawaf Salameh Al-Zein, 2013, p. 92), will be examined under five sections. The first section addresses the concept of compensation for damages; the second discusses the principles of compensation; the third explores the types of compensation; the fourth examines the methods of compensation; and the fifth analyzes the criteria for determining compensation under the legal system of Afghanistan.

The Concept of Compensation for Damages

Compensation for damages has been defined as the elimination of harm and losses inflicted on individuals or their property as a result of the wrongdoing of the liable party. The extent of compensation is proportional to the harm suffered and the deprivation of rights that the injured party would have enjoyed had the wrongdoing not occurred (Rahimi, 2018, p. 117; Jafari Langroudi, 2016, p. 260). The liable party is responsible for bearing the damages resulting from their misconduct or negligence. In other words, compensation for damages is a sum of money or anything else that offsets the harm suffered by the injured party and restores the lost value of their assets, which is the natural consequence of the harmful act (Baker, 2016, p. 289).

Although the above definition presents the general concept of compensation, the focus of this writing is specifically on compensation within the framework of civil liability arising from the violation of trade secrets. Therefore, it is necessary to define compensation by considering the specific characteristics of trade secrets. Accordingly, compensation refers to eliminating the losses inflicted on the owner of trade secrets due to the violation committed by the infringer, with the amount of compensation being proportionate to the damages and deprivation suffered by the owner of the trade secrets—rights that would have been realized had the violation not occurred.

Principles of Compensation for Damages

In order to determine the amount and method of compensation for damages, certain principles must be observed. These principles serve to guarantee justice and fairness throughout the compensation process, and therefore require careful examination.

1. **Principle of Proportionality:** It is stated that the purpose of compensation is to restore the injured party to their prior condition; that is, the best form of compensation is one that returns the injured party to the situation they were in before the damage occurred. Based on this principle, actual restitution is considered the most effective method of compensation (Saghiri, 2008, pp. 615–616). The principle of full compensation for damages is also evident in Hanafi jurisprudence, and can be inferred from the Islamic legal maxim *La Darar* ("no harm and no harassment") (Moqtada Damad, 1995, p. 130), which holds that causing harm is prohibited and that any harm inflicted must be remedied through full compensation.

2. Similarly, the Afghan Civil Code stipulates: *"The court shall determine the compensation proportionate to the harm suffered, provided that the said harm has directly resulted from the harmful act."* The Law on the Protection of Trade and Industrial Secrets of Afghanistan also acknowledges this principle, stating: *"(1) The court shall oblige the violator of the provisions of this law to compensate for the following:*

3. Damages equivalent to the loss, based on the rate applicable on the date the damage occurred.

4. **Principle of Considering the Financial Status of the Liable Party:** Justice and fairness require that individuals be held responsible according to their capacity, as imposing beyond one's ability (*taklif ma la yutāq*) is prohibited in Islamic law, and the principle of *raf' al-haraj* (removal of hardship) supports this notion. Therefore, if the liable party is insolvent and unable to pay the compensation at once, the payment must be scheduled in installments.

5. Article 781 of the Afghan Civil Code provides: *"The method of compensation shall be determined by the court, considering the circumstances. Compensation may be paid in installments or through periodic payments, in which case the court may require the debtor to provide security."*

Thus, these two major principles—full compensation and consideration of the debtor's financial situation—have been taken into account by the Afghan legislator in the Civil Code and are equally applicable to trade secrets. Given the economic value of trade secrets, full compensation is essential; yet, in cases where the violator is financially incapable of paying the full compensation at once, installment payments must be allowed.

Types of Compensation for Damages

Compensation for damages should be structured in a way that restores the injured party to their original condition, meaning that the entirety of the damage must be compensated. To ensure full compensation, it is necessary to study the different types of compensation available based on the variety of harms suffered by the injured party. The types of compensation are as follows:

1. **Compensation for Actual Damages:** Any damage resulting from the violation of trade secrets that affects an individual is compensable (Rahbari, 2009, p. 185; Kaabi Rad et al., 2024, p. 201). Article 11 of the Law on the Protection of Trade and Industrial Secrets of Afghanistan explicitly states: *"The compensation shall be equivalent to the damage based on the market rate on the date the damage occurred."*

2. **Compensation for Loss of Profits (Lucrum Cessans):** If the legitimate profits of the trade secret owner are lost due to the violation of trade secrets by the infringer, such loss of profits is compensable. This is considered the primary harm faced by the owner of trade secrets, particularly in cases of disclosure. However, if the profits were merely speculative or uncertain, they cannot be claimed (Rahimi, 2018, pp. 124–125).

3. **Compensation for Unauthorized Gains by the Infringer:** If the violator has obtained benefits through the misuse of trade secrets, they must compensate the trade secret owner for such illicit gains, as these profits are directly linked to the reduction in the owner's rightful benefits. Accordingly, Part 3 of Paragraph 1, Article 11 of the Law on the Protection of Trade and Industrial Secrets of Afghanistan provides: *"3) Compensation for the unlawful profits obtained through the misuse of trade and industrial secrets, unless such profits have already been considered when calculating the damages under Part 1 of this paragraph."*

4. **Court Costs and Legal Fees:** These costs, which include attorney's fees, court filing fees, documentation costs, and other related expenses, are also recoverable. According to Part 2 of Paragraph 1, Article 11 of the Law on the Protection of Trade and Industrial Secrets of Afghanistan: *"2) Expenses incurred by the injured party for proving their claim, including attorney's fees, are recoverable."* Undoubtedly, such costs are also claimable in lawsuits concerning the violation of trade secrets and are, therefore, subject to compensation.

Methods of Compensation for Damages

The methods of compensation for damages are discussed both in the Civil Code and the Law on the Protection of Trade Secrets of Afghanistan. These methods are as follows:

1. **Actual Compensation (Restitution):** If the damage involves tangible property, the best method for compensation is restitution, where the actual item is returned to the injured party.

This method is referred to as restoring the situation to its original state. According to Article 765 of the Civil Code regarding the restitution of wrongfully possessed goods: *"The possessor is obligated to return what they have wrongfully possessed."* Thus, restitution is the primary method of compensation, and as long as it is possible, no other forms of compensation should be considered (Rahimi, 2018, p. 120). However, in the case of trade secrets, restitution is less applicable since trade secrets are intangible.

Although it is possible to claim for tangible products or industrial goods derived from trade secrets, these would not be returned to the owner of the trade secrets, as they are the property of the infringer, not the owner of the secrets.

2. **Monetary Compensation:** Since restitution is not always possible, especially in the case of trade secrets, Afghan law provides for monetary or non-monetary compensation. According to

Article 781 of the Civil Code: *"The method of compensation shall be determined by the court according to the circumstances; compensation may be made in installments or based on ongoing revenue."* This provision, an incomplete adaptation of Article 171 of the Egyptian Civil Code, allows the judge to select the method of compensation, including monetary compensation.

Additionally, the Law on the Protection of Trade Secrets of Afghanistan, in Article 11, states:

"The court shall order the infringer to compensate for the damage equivalent to the loss based on the market rate at the time the damage occurred." Thus, monetary compensation is recognized as a valid method of compensation for trade secret violations.

3. **Non-Monetary Compensation (Restitution of Equivalent Goods):** One of the methods for compensation in Afghan law is non-monetary compensation, where the infringer is required to provide an equivalent of the lost goods to the injured party. Although this method is not explicitly mentioned in the Civil Code, it can be inferred from Article 781, which allows the judge to choose the compensation method. This method is similar to the provision in Article 209 of the Iraqi Civil Code, which allows the court to order restitution of similar goods in the case of damages involving goods that can be replaced. However, non-monetary compensation is not suitable for trade secrets because trade secrets do not have an equivalent in the market.

4. **Order to Perform an Act Related to the Wrongful Act:** Another method of compensation in the Afghan legal system involves the judge ordering the individual to perform an act related to the wrongful and damaging act. While this method can be implicitly derived from Article 781 of the Civil Code, which grants the judge full discretion in choosing compensation methods, the Afghan Law on the Protection of Commercial and Industrial Secrets explicitly recommends this method of compensation. As stipulated in Article 10 of this law: "1) The court, upon the request of the person mentioned in Article 9 of this law, shall take precautionary measures as follows:

1. Cease the wrongful use of commercial and industrial secrets,

2. ...

3. Obtain an undertaking from the violator to prevent the disclosure of commercial and industrial secrets now and in the future."

Therefore, ordering the performance of an act related to the wrongful act is considered one of the best methods of compensation, as it can, similar to the restitution of property, restore the situation to its previous state. This is because it prevents the unlawful possession of commercial secrets, which leads to harm to the owner of the secrets.

Criteria for Determining Compensation

In order to compensate for the damages suffered by the injured party, it is necessary to establish the time and place that will serve as the basis for determining the amount of compensation. The judge is required to base the compensation on these criteria. Accordingly, the time and place criteria for compensation in the Afghan legal system, particularly in relation to trade secrets, will be examined as follows:

a) Criterion for Determining the Time of Compensation: Although various criteria for determining the time of compensation have been discussed in legal doctrine, the Afghan Law on the Protection of Commercial and Industrial Secrets explicitly addresses this issue. Article 11, Section 1, Clause 1 of the law states: "Compensation equivalent to the damage shall be made based on the rate of the day the damage occurred." Therefore, there is no dispute regarding this matter. The criterion for determining the time of damage is derived from Islamic jurisprudence. However, criticism has been raised against this view, arguing that it does not align with the social dynamics and inflation prevalent in society. It is suggested that the criterion for determining the time of compensation should instead be based on the day of payment.

b) Criterion for Determining the Place of Compensation: Although the Civil Code and the Afghan Law on the Protection of Commercial and Industrial Secrets do not explicitly address the place of compensation, Islamic jurisprudence dictates that the place of the damage is the determining factor for compensation. Since the Civil Code and the Law on the Protection of Trade Secrets are applicable within the geographical boundaries of Afghanistan, it can be concluded that in Afghanistan, and in line with Islamic jurisprudence, the place of the damage is accepted as the criterion for determining compensation.

Legal Action

A legal action, in contrast to a legal event, refers to voluntary activities undertaken to create a specific legal effect, and the law attaches the desired effect to it (Katouzian, 2016, p. 281). In the case of the violation of trade secrets, when the right to compensation arises, the first step to enforce this right is the decision made in the form of a unilateral action by the owner of the trade secret or a joint action by the injured party and the infringer. In the following, bilateral and unilateral legal actions will be studied under the terms of "contract" and "unilateral declaration."

Contract

The Civil Code of Afghanistan defines a contract in Article 497, Paragraph 1, as: "A contract is an agreement of two wills to create, modify, transfer, or release a right within the limits of the law." While the principles of freedom of contract and the autonomy of will are fundamental to the validity of contracts, in the case of civil liability arising from the violation of trade secrets—where the regulations are mandatory and relate to public order—these principles cannot be applied, as the scope of the autonomy of will is limited when it conflicts with public order (Rahimi, 2018, pp. 130-131). To better understand this, it is necessary to divide the discussion into two parts: the conclusion of a contract before the damage occurs and the conclusion of a contract after the damage occurs.

1. Conclusion of a contract before the damage (Obidat and Mazi, 2014, p. 399 and Abasi and Mahdipoor, 2010, pp. 4-5): If the owner of a trade secret agrees with a person who has been granted permission to use the trade secret, stating that if the person authorized to use it negligently discloses the trade secret to a third party, resulting in a violation, the authorized person will not be held responsible, then the validity of such an agreement must be analyzed. It is necessary to differentiate between situations where the negligence of the authorized person involves the intentional disclosure of the trade secret. In such cases, the contract that permits an illegal and unlawful act would be against public order and invalid. This is because Article 830 of the Civil Code stipulates: "2) The agreement of the parties to exempt any liability arising from the failure to perform their contractual obligations is permissible, but liability resulting from fraud or gross negligence cannot be waived by agreement of the parties..." Therefore, any

agreement that authorizes actions contrary to public order and mandatory rules is invalid. However, if the agreement only concerns the removal of liability and provides rational benefits for both parties, it can be considered valid, and the authorized person may refer to the contract based on their exemption from liability (Rahimi, 2018, pp. 130-132).

2. Contract after the occurrence of damage: It is beyond doubt that after the damage occurs, it is possible for the owner of the trade secret and the infringer to reach an agreement through a settlement contract to compensate for the damage, convert the damage, or eliminate the damage. Such an agreement does not violate public order or mandatory rules. In fact, the legislator has emphasized this, as such agreements help reduce the number of lawsuits in courts, do not harm the reputation of traders commercially, and are more effective in maintaining the confidentiality of trade secrets.

Unilateral Act

A unilateral act or legal action refers to an activity carried out by the will of one person, which produces legal effects. Divorce, rescission, and promises are examples of such legal actions. The Civil Code of Afghanistan, in Article 751, treats unilateral acts according to the rules of contracts, stating: "A unilateral will is subject to all the provisions related to contracts, unless the presence of mutual consent between two parties to create an obligation is deemed necessary."

Just as contracts can play a role in damage compensation, unilateral will can also have an impact in this context. To understand the role of unilateral will in civil liability arising from the violation of trade secrets, it is necessary to examine the role of unilateral will from two perspectives:

1. Consent before the occurrence of damage: If the owner of the trade secret grants permission to a person to use the trade secret, and as a result, damage occurs to the owner of the trade secret, the violation of the trade secret is no longer an issue, and the damage caused is permissible, as it is considered a part of legitimate business competition. Therefore, the consent of the trade secret owner as a unilateral act prevents civil liability from being imposed on the user.

2. After the occurrence of damage: If a trade secret is violated, the owner of the trade secret can eliminate civil liability for the violation through a release or waiver of the right to compensation. In this way, the heirs and successors of the trade secret owner will not have the right to claim compensation for such a violation.

Precautionary Measures

Precautionary measures refer to actions taken temporarily to prevent future damage or to prevent the escalation of damage in the future (Abhari, Mohammadi, and Nemati, 1399, p. 117; Jouhri et al., 1391, p. 3). One of the actions that plays a significant role in protecting trade secrets and can prevent further damage in the event of a breach of trade secrets is precautionary measures. These measures can also act as an important deterrent to the violation of trade secrets before any harm occurs. Although precautionary measures are implemented by the courts based on the Law on the Protection of Trade and Industrial Secrets, the significance of these measures in preventing or limiting damage in the context of trade secrets is such that it deserves separate attention.

The Law on the Protection of Trade and Industrial Secrets specifies precautionary measures as follows: "(1) Upon the request of the individual mentioned in Article 10 of this law, the court shall decide to implement the following precautionary measures:

1. Suspension of the wrongful use of trade and industrial secrets
2. Issuance of an order for the destruction of documents containing trade and industrial secrets in the possession of the violator,
3. Obtaining a commitment from the violator to prevent the disclosure of trade and industrial secrets in the present and future."

The measures mentioned in this article relate to actions that can help prevent unauthorized use and future harm to the injured party.

Article 10, paragraph 2 of the same law also explicitly addresses the possibility of extending this period until a suitable time, stating: "The court may extend the duration of the measures mentioned in paragraph (1) of this article, depending on the circumstances, for an appropriate period to eliminate the commercial benefit gained by a third party through the misuse of trade and industrial secrets."

Thus, three main precautionary measures are foreseen in the Law on the Protection of Trade and Industrial Secrets of Afghanistan. Some of these measures prevent the continuation of trade secret violations, such as parts 1 and 3 of Article 10, while others are useful for preventing initial violations of trade secrets, such as paragraph 2 of Article 10.

Although Article 10 of the law specifies that the adoption of these measures is the responsibility of the court, under the Law on Commercial Arbitration, the authority to implement precautionary measures also lies with the arbitration panel.

Lawsuit Filing

The right to file a lawsuit is sometimes introduced as a direct consequence of civil liability; however, it is more accurate to define the direct consequence of civil liability arising from the breach of trade secrets as the right to compensation for damages. This means that if compensation is not voluntarily provided, the injured party may file a lawsuit against the violator based on their right to seek compensation (Barikloo, 1394, p. 248).

Therefore, filing a lawsuit is one of the secondary consequences of civil liability arising from the breach of trade secrets, which follows from the right to compensation. The injured party can turn to the courts and arbitration to seek their rightful compensation. In the following, the various methods of pursuing the right to compensation will be examined.

Recourse to Commercial Courts

Courts, being the arm of justice in any country, represent one of the most important methods of resolving disputes related to the right to compensation for damages. This is because, when the violator of trade secrets does not voluntarily compensate for the damages, they must be compelled through the courts and the coercive power of the state. To understand the role of courts in enforcing the rights of the trade secrets owner and ensuring compensation, the following points are discussed:

1. Parties to the Lawsuit: For a lawsuit to be filed, it is necessary that the parties to the dispute—referred to as the claimant (plaintiff) and the defendant—be present. The Civil Procedure Code defines the parties to a lawsuit in Article 6, stating: "The person who seeks the right is the claimant, and the person from whom the right is sought is the defendant." Therefore, the parties to the lawsuit are the claimant (plaintiff) and the defendant.

According to the above definition, the owner of the trade secrets becomes the claimant, and the violator of the trade secrets is the defendant. The trade secrets owner can claim their right only if the damage has been directly and immediately caused to them, and cannot claim

damages on behalf of others. Heirs, successors, or representatives of the owner of the trade secrets can also file a lawsuit as claimants if they prove their legal capacity.

The defendant, from whom the right is being sought, is the one who has violated the trade secrets. For the defendant to avoid bearing the cost of damages, they must defend themselves against the claimant by providing legal evidence and documentation to counter the claims and evidence presented by the claimant.

2. Subject Matter of the Lawsuit: The subject or claim of a civil liability lawsuit arising from the violation of trade secrets may involve the right to compensation for damages or precautionary measures to prevent further harm to the trade secrets owner. To compensate for damages, it must first be proportional to the loss, and secondly, the compensation must be monetary because it is not possible to compensate for trade secret damages by restoring them or providing a substitute in the market.

Additionally, in some cases, the trade secrets owner may seek actions such as implementing precautionary measures to prevent the violation of trade secrets or mitigate future harm. In this context, Article 10 of the Law on the Protection of Trade and Industrial Secrets in Afghanistan defines measures like the destruction of documents containing trade secrets, halting improper use of trade secrets, and obtaining a commitment from the violator not to disclose trade secrets as actions that can be requested in a lawsuit.

3. Nature of the Court's Ruling: There is a difference of opinion regarding the nature of a court's ruling in civil liability cases arising from the violation of trade secrets. Some believe that the court's ruling has a constitutive effect, meaning that the right to compensation arises only when the judgment is issued, and therefore, delayed payment damages are not applicable. However, the prevailing opinion is that the court's ruling has a declaratory effect, and delayed payment damages should apply, as compensation may be provided before the judgment is issued or the damage may be transferred to another party (Safai & Rahimi, 1400, p. 249).

4) Advantages of Referring to Commercial Courts:

- **Specialized Judges:** Judges in commercial courts are experts in commercial law, which ensures more accurate and informed rulings on issues related to trade secrets and other commercial matters.

- **Less Formal Procedures:** Commercial courts often have more flexible procedural rules, which can streamline the resolution of disputes, making it less formal and quicker than in general courts.

- **Fair and Equitable Rulings:** The specialized nature of commercial courts allows them to provide fair and equitable decisions based on the particular needs and dynamics of business and trade law.

- **Ability to Enforce New Laws:** Commercial courts are better equipped to implement and enforce new laws, particularly in the rapidly evolving fields of commercial law and intellectual property.

- **Recognition of New Intellectual Property Issues:** Specialized judges in commercial courts are more capable of identifying and addressing emerging issues related to intellectual property and new trade secret protections.

- **Faster Resolution Compared to General Courts:** Commercial courts tend to have faster proceedings than general courts, thus resolving commercial disputes more expeditiously.

- **Encouragement of Trade Growth:** The swift and effective resolution of commercial disputes helps promote trade, encouraging businesses to invest and engage in international markets.

(For further reading, see Aslamzada, 1399, pp. 129-130).

5) Disadvantages of Referring to Commercial Courts:

- **Non-enforceability of Rulings at the International Level:** One major drawback is that decisions made by commercial courts may not be enforceable internationally, especially in cases involving cross-border issues or international trade secrets.

- **Inflexibility of Laws:** Commercial courts may operate under rigid legal frameworks that may not easily adapt to evolving commercial needs, potentially hindering the resolution of novel issues.

- **Damage to Business Reputation:** Disputing commercial matters in court, particularly those involving trade secrets, may harm the reputation of businesses, leading to a loss of consumer trust or business relationships.

(For further reading, see Aslamzada, 1399, pp. 130-131).

Conclusion

This study, focusing on the effects of civil liability resulting from the violation of trade secrets in the legal system of Afghanistan, has examined the importance of civil protection for trade secrets as intangible assets in today's business world. Trade secrets, which play a crucial role in success and economic competition, are exposed to various threats. Therefore, maintaining the confidentiality of these secrets is of particular importance for businesses and individuals engaged in commercial activities.

This paper analyzed the effects of civil liability resulting from the violation of trade secrets in four key legal dimensions:

1. **The Right to Compensation:** One of the primary effects of civil liability is the right to compensation for trade secret owners. According to Afghan law, when a trade secret is violated by an individual or an institution, the injured party may approach the court to seek compensation for both direct and indirect damages. This compensation serves as a main tool to restore the status quo before the harm occurred, providing protection for trade secret owners against potential violations.

2. **The Right to Utilize Precautionary Measures:** Another legal right for victims of trade secret violations is the right to utilize precautionary measures. In the event of a trade secret violation, owners can use legal measures, such as requesting a temporary injunction to immediately stop the disclosure of sensitive information. These precautionary measures are especially significant in cases where further and broader harm to trade secrets may occur, and they have an immediate effect.

3. **The Right to File a Lawsuit:** Trade secret owners have the right to file lawsuits in case their secrets are violated and defend their rights through legal channels. This right not only serves as a tool for the enforcement of trade secret owners' rights but also strengthens business trust in society. Moreover, the ability to file lawsuits provides individuals and businesses with the assurance that, in the event of a violation, they can resort to legal authorities to pursue damages.

4. **The Right to Utilize Legal Action:** This paper specifically emphasized the right to utilize legal actions to stop the activities of trade secret violators. Trade secret owners can use legal tools such as restraining orders or injunctions to prevent any unauthorized use of their secrets.

This legal action is especially important when trade secret violations continue on a recurring basis.

The research results indicated that, while Afghan law covers civil liability comprehensively and accurately, there are practical challenges and execution problems in fully implementing these principles. The lack of transparency and adequate enforcement guarantees in certain cases prevents the complete realization of legal protections. In this context, the need for legal reforms and improvements, particularly in strengthening enforcement measures and increasing the legal awareness and education of business practitioners, is evident.

Ultimately, this paper suggests that to enhance the protection of trade secrets in Afghanistan, the country's legislator should focus on the development and improvement of four key legal aspects—compensation, precautionary measures, the right to file a lawsuit, and the right to use legal actions. Given the expansion of trade relations and their complexity, these measures can help reinforce legal security in the commercial sector and create a safer environment for economic activities in Afghanistan.

REFERENCES

1. Ebrahimi, Mohammadi, and Nemati, Hamid, Sam, and Ehsan. (1399). A Comparative Study of Compensation for Intellectual Property Violation in Iranian Law and the TRIPS Agreement, *Legal Civilization Quarterly*, Vol. 3, No. 7, Fall and Winter.
2. Aslamzada, Syed Modood. (1399). *Methods of Dispute Resolution in Intellectual Property Law in Iran and Afghanistan's Legal System*, Master's Thesis, Al-Mustafa International University – Gorgan Branch, Faculty of Humanities, Department of Islamic Studies and Law.
3. Emami, Asadollah. (1396). *Industrial Property Law*, 2nd edition, Tehran: Mizan Publications.
4. Anvari, Hassan. (1382). *Great Dictionary of Speech*, 2nd edition, Tehran: Sokhan Publications.
5. Barikloo, Ali-Reza. (1394). *Civil Liability*, 6th edition, Tehran: Mizan Publications.
6. Bakr, Ismat Abdulmajid. (2016). *Civil Tort Liability in Arab Civil Laws*, 1st edition, Beirut: Zayn Legal and Literary Publications.
7. Jafari Langerudi, Mohammad Jafar. (1395). *Legal Terminology*, 20th edition, Tehran: Ganj Danesh Publications.
8. Jouhari, Mahdi, et al. (1391). *Precautionary and Interim Measures in Industrial Property Litigation (Comparative Study in Iranian Law and the TRIPS Agreement)*, SID.
9. Khalid Nawaf Salamah Al-Zabin. (2013). *Supervision of National Trademark Registration in Jordan*, Middle East University, Master's Thesis.
10. Dehkhoda, Ali Akbar. (1377). *Dehkhoda Dictionary*, 2nd edition, Tehran: University of Tehran Press.
11. Rahimi, Mohammad Ishaq. (1397). *Civil Liability and Extra-Contractual Obligations*, 1st edition, Kabul: Farhang Publications.
12. Rahbari, Ibrahim. (1388). *Trade Secrets Law*, 1st edition, Tehran: Semat Publications.
13. Saghiri, Esmail. (1387). *Simplification of Law*, 5th edition, Tehran: Mizan Publications.
14. Safai and Rahimi, Syed Hossein and Habibullah. (1400). *Civil Liability (Extra-Contractual Obligations)*, 14th edition, Tehran: Semat Publications.

15. Abbasi and Mahdipur, Solmaz and Parastoo. (1389). Trade Secrets and Their Protection Methods, unpublished.
16. Obeidat, Madi, Mahmoud Riyad, and Ramzi Ahmad. (2014). Contractual Protection of Trade Secrets (Comparative Study), Journal of Legal and Economic Research, No. 55.
17. Amid, Hassan. (1387). Amid Dictionary, 36th edition, Tehran: Kabir Publications.
18. Civil Procedure Code of Afghanistan.
19. Trade Secret and Industrial Protection Law of Afghanistan.
20. Civil Code of Afghanistan.
21. Civil Code of Iraq.
22. Civil Code of Egypt.
23. Katouzian, Nasser. (1395). Introduction to Legal Science and Study in the Iranian Legal System, 105th edition, Tehran: The National Publishing Company.
24. Kabi Rad, Rezaei, Tooti, and Karimi, Sara, Abolghasem, Fatemeh, and Fayzeh. (1403). Criminal and Civil Protection of Trade Secrets in Iranian Criminal Law, Quarterly Journal of Economic Jurisprudence Studies, Vol. 6, No. 2, Summer.
25. Mahakagh Damad, Syed Mustafa, Fiqh Rules, Vol. 1. (1374). 5th edition, Tehran: Ministry of Culture and Islamic Guidance Publications.
26. Hedayat, Mahdi. (n.d.). Foundations of Trade Secret Protection in U.S. Law, Human Sciences Portal.