

Inter relationships between Criminal Liability and Tort Liability

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Abstract

The importance of the subject under study is reflected in the importance of responsibility in general, as a method that gives dynamism and effectiveness to legal texts, especially tort liability, whose nature has been tainted by some ambiguity as a result of assuming a specific purpose for it, which is reparation for damage, and as a result of the inability to compatibility between this supposed goal, and the violation of what is hoped for Responsibility, and not only desired, but constitutes an integrated system with the nature and nature of responsibility, and an appropriate descriptive of the act on which it is based and its supposed breadth, so that the goal is achieved only by describing the error, which in turn remained controversial in its content and pillars, and its achievement of justice in particular. For the injured and proportionate to reparation.

This research aimed to achieve the following results:

- 1- The Jordanian Council was more expansive than some legislations when it did not indicate the level of family relationship necessary to obtain a wage in return for moral damage.
- 2- The privilege of the reward for moral damage in the Jordanian law does not transfer to the beneficiaries unless it has been settled or granted by the last judicial ruling, and its disbursement in these two cases does not require the beneficiaries in an unusual arrangement.

Keywords— privilege, family relationship, Responsibility, compatibility, unusual arrangement, inability.

INTRODUCTION

The legal rule, with its various sources, aims to create a commitment and arrange a right, and this reciprocal relationship between right and duty (obligation), needs to be activated and given practical feasibility, to the obligation that is based only on responsibility. Legal responsibility constitutes the energy that gives the legal text with its rights and duties, the effectiveness and dynamism that gives it life, so what is the effect of obligating an action or a prohibition without defining a method that guarantees the fulfillment of this prohibition or command? It has settled on dividing legal responsibility into two main parts: (civil and tortious liability) and penal liability, and contractual liability is narrowed and limited so that it only violates the controls agreed upon by the parties to the contractual relationship, as well as criminal liability, as it is limited to the

explicit legal text to be established based on the principle of legitimacy. But on the other hand, tort responsibility was characterized by its wideness, as a result of the lack of discipline in its foundation, and the multiplicity of opinions and jurisprudential theories that tried to determine this basis, which resulted from an attempt - to create a kind of harmony between the concept of responsibility, which needs an act for which the perpetrator is held accountable, and the supposed purpose of the tort responsibility of compensation and reparation, and the personal theory it established on the basis of error was the most stable and common of these theories.

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ambiguity as a result of assuming a specific purpose for it, which is reparation for damage, and as a result of the inability to compatibility between this supposed goal, and the violation of what is hoped for Responsibility, and not only desired, but constitutes an integrated system with the nature and nature of responsibility, and an appropriate descriptive of the act on which it is based and its supposed breadth, so that the goal is achieved only by describing the error, which in turn remained controversial in its content and pillars, and its achievement of justice in particular. For the injured and proportionate to reparation.

The tort responsibility is based only on the error, but does the error constitute the optimal basis that is compatible and compatible with the purpose of tort responsibility? Moreover, by stripping it of the purpose of tort responsibility, what is the penal responsibility? Moreover, what is tort? Moreover, what are the connections between them? Is the error, by its loose nature, valid to establish a legal situation?, and as presenting here another problem related to the method, and not only in its basis, does tort liability, which is the blame and reprimand and the consequences of this content of assignment and accountability, constitute the optimal approach to reparation for damage?, In other words, is tort by its nature the means that should lead to this end? Evaluators must lead to results.

Accordingly, the research will be divided into four sections, as follows:

- 1- The first topic: identifying the concept of responsibility in law.
- 2- The second topic: criminal responsibility.
- 3- The third topic: tort liability.
- 4- The fourth topic: the interrelationships between criminal liability, tort liability and harmful act.

The first topic:

Responsibilities in law

The first requirement: acknowledgment of responsibility:

Through this requirement, we address the linguistic meaning in (first branch) and the idiomatic meaning in (second branch) of responsibility in two successive branches:

Section one: the linguistic meaning:

Responsibility is a language by which a person was responsible or required for things or actions that came to him, that is, a person's actions or behaviors that he is responsible for their results, that is, to bear the responsibility for the harm he caused to others, and to be held accountable for what he did, and in this sense it expresses the philosophical state The moral and legal, in which the human being is responsible and required for things and actions that have occurred in violation of the laws, rules and moral, social and legal provisions.

Section two: idiomatic meaning:

We will address the idiomatic meaning of responsibility in general and administrative responsibility in particular by reviewing what Western (first) and Arab (second) jurisprudence says.

In Western jurisprudence, Professor VODAL dealt with the definition of responsibility in its broad sense and its various uses: political responsibility, penal responsibility and disciplinary responsibility, whose account falls within the general use of the word in the various branches of law.

From there, he moves to define the concept of civil liability in particular, and believes that it lies in that "obligation that imposes certain conditions, that the person who caused the harm to redress him through compensation in kind or in return" and the administrative responsibility that is sometimes called the responsibility of the public authority, an essential element in The administrative system represents a subjugation imposed on the public authority, as is the principle of legality.

As for Gosserand, he did not define responsibility, but defined the official as that person on whom we finally bear the burden of the damage that has occurred. Civil responsibility to include moral and moral responsibility as a result of accepting the person's responsibility in facing himself, which contradicts the idea of the duality of the responsible and the injured and the definition is flawed, although he was right in highlighting the idea of the final obligation to compensate as

a condition for the contract of responsibility in the strict sense ().

In Arab jurisprudence, Arab jurisprudence did not address the definition of responsibility in an original way, but rather its attempts were influenced to a large extent by the trends of Western jurisprudence, and one of the most important definitions that was said in this regard was what the Sanhoury jurist brought from << that responsibility is compensation for damage arising from an illegal act. Moreover, this illegal act may be a breach of a contract concluded, this is the contractual responsibility, it may be intentionally or unintentionally harming others, and this is the tort responsibility.

The second requirement: types of responsibility

The word responsibility bears different meanings according to the field to which it belongs. It may mean penal, constitutional, disciplinary, civil, administrative or other responsibility. This diversity of responsibilities raises a question about the interrelationships between penal responsibility and responsibility for the “negligent” act. Moreover, the nature of each responsibility, so in its scope, we will address the most important divisions of responsibility to get to the important aspect, according to the following approach:

Section One: Moral and Legal Responsibility:

Moral responsibility is achieved when a person commits a sin that he is asked about before God, and his conscience is held accountable for him, whether that is by doing or abstaining from an act. While it seemed that, he is not important in this regard, if the damage occurred or not, so the moral responsibility is completely independent of its consequences, as it may be available for mere intent or for the self-inflicted sin or aggression, and there is no penalty except for remorse of conscience or the disapproval of society. Individual behavior and alienation from it. Hence, it is clear that moral responsibility must be excluded from the scope of legal responsibility, in whose jurisdiction the law aims to regulate relations between individuals,

it only leads to the occurrence of damage that entails a legal sanction, and therefore its scope expands to everything that narrows the scope of legal responsibility. This kind of responsibility ensues every time one crosses the boundaries he or she has drawn. Law and agreement and shall be liable for damages arising therefrom. The forms of this damage vary, as are its conditions. Sometimes its impact extends beyond society.

Section Two: Criminal and Civil Liability:

The distinction between civil and criminal responsibility has helped to reveal a common basis between crimes that entail only a civil penalty represented in compensation, and this basis is based on negligence and lack of foresight. Funds Or recklessness or ignorance of what should be known, or any similar error, no matter how small, obliges the one who caused it to compensate, then the faqih came with the “Pothier” and differentiated between misdemeanors and similar misdemeanours, and discussed the responsibility for the actions of others. Thus, civil liability became somewhat independent of criminal liability in the late period of the old French law.

Criminal responsibility is never established without a rule of personal error attributed to the offender, whether intentional or unintentional, and this error should be at a certain level of gravity, which is a reason for criminalization and a social source of criminal punishment and is also characterized by its important effects compared to civil punishment Or the administrative one that is closely related to the freedom, dignity and future of individuals, not to mention its connection with their lives in some images. Civil liability is also different from criminal liability, in that although it is based on the basis of the occurrence of a harmful wrong act that obliges the doer to compensate the damage, it can, in many cases, be based on non-personal errors in the sense that it is not based on the person obligated to compensate, as In the case of liability for the actions of others and for the possession of things and animals, it may even be based on the mere occurrence of the damage according to some expanded theories of liability such as risks, equality before public burdens and others.

Section Three: Commit to contractual liability and tort liability

Civil liability is divided into contractual and tort and arises from a breach of a previous obligation, and the original obligations either arise from the contract, or from the law. The basis of contractual liability is the contractual error, that is, a breach of a contractual obligation. As for the tort responsibility, it is based on the breach of a single legal obligation that does not change, which is the obligation not to harm others. Creditor.

The second topic

Criminal liability

The first requirement: the nature of criminal responsibility, its elements and conditions

Section one: What is criminal responsibility, its elements and conditions?

Penal responsibility usually means the capacity of the offender to be criminally responsible for that, but this should not be understood by describing the moral element as the corner of criminal responsibility, that criminal responsibility does not depend on the moral element only, whether it was intentional, wrong or unintentional, but criminal responsibility requires. Because it has other pillars such as the legal pillar and the material pillar, penal responsibility is the cornerstone of the penal criminal system, because criminal prosecution aims to hold accountable those who committed the crime, incited it, or helped facilitate and implement it with the intention of inflicting retribution on him.

The second section: the concept of criminal responsibility:

There are many concepts expressed by the term responsibility in general; Being used in many ways, sometimes it was used to express the responsibility of man for himself, and sometimes it was used to express the responsibility of man for the actions of others, not to mention it was used as a term to express the civil responsibility of man and many other different aspects. Some of the jurisprudence defines responsibility in its general sense as "A person's commitment to what he pledged to do or abstain from it, even if he breaches his

pledge, he will be held accountable for his reneging and then he is obligated.

However, responsibility in its general sense is broader than being limited to a person's doing or abstaining from what he is committed to. It may arise from what the person has done by himself or through others, as well as he must bear the consequences for the act of others, as in the case of bearing the responsibility of the follower, the person may be asked for The actions of the subordinate, or whoever is under his guardianship or guardianship, and the scope of criminal responsibility was widened to include the person's responsibility for the actions of things and animals, such as the person's responsibility for the things and animals under his guard. This is a responsibility that the legislation has set distinct criteria for it between civil and criminal responsibility.

The third section: the foundations of criminal responsibility:

The issue of the foundations of penal responsibility is one of the topics that also raised a great dispute among the jurists, and the basis of their difference was in a primary question: Is a person free to choose or is he guided while committing a crime?, and the diversity of legal thought in his study of this issue into several doctrines, but he focused on two main doctrines, which are the doctrine of freedom Choice is the traditional doctrine and the positivist doctrine, and some call it the doctrine of crime, realism, or social responsibility. The advocates of the doctrine of freedom of choice, and they are the supporters of the traditional doctrine, see that the basis of penal responsibility stems from the freedom of choice, because a sane and mature person can distinguish between good and evil, between good and evil, between legitimate and illegitimate, and this means the assumption that a person is free.

In order for the legal effect of penal responsibility, which is the application of the legally prescribed penalty by law, a person must have the elements of responsibility that are represented by awareness (awareness) and freedom of choice (will), and the Jordanian legislator referred to this and the evidence for

this is the text Article (74/1) of the Jordanian Penal Code stipulates that “no one shall be punished unless he committed the act consciously and voluntarily,” as if a person’s ability is affected, such as lack of awareness or lack of freedom of choice, This is followed by the effect on the extent of the availability of responsibility by the absence of the penalty as in the penal, and then the effect on the legally prescribed penalty, either the state of insanity (Article 92/1) of the Jordanian Penal Code, and the state of drunkenness and drug poisoning (from the same law). On the other hand, by mitigating this responsibility in accordance with Article (93) and the diminution that the offender had at the time of committing the crime.

Therefore, we must address the study of the elements of criminal responsibility, which were stipulated by the Jordanian legislator in Article (74/1) of the Penal Code, and then address the nature of the impediments to responsibility.

First: Awareness (awareness): First, awareness means awareness or discrimination, which is the person’s ability to understand the nature of his behavior, and to appreciate the consequences of it. Or the appropriation of the money of others, as well as the social value in terms of being forbidden and not permissible.

This is what Jordanian legislation stipulates in Article (80) of the Jordanian Penal Code, which, in any case, stipulates, “ignorance of the law shall not be considered an excuse for anyone who commits any crime.”

The legislator used the term awareness or awareness, sometimes he used the term awareness as in Article (92/1), and sometimes he used the term awareness as the text in Article (74/1), and other times he used the term feeling in Article (93), and in other places as In juvenile law, the term discrimination is used, as well as in civil law.

Second: Will: Will here means freedom of choice, and it is the second condition for the establishment of penal responsibility, and it means the ability of a person to direct himself to a certain action or abstain from it, or it is his ability to do and leave and it has the same meaning in the criminal field, as it means one’s

ability to navigate Possible forms of behavior and the selection of the best from his point of view, and not the concept of will, which is an element of the moral pillar, the availability of which is sought when searching for the availability of the elements of the crime, but rather the will (freedom of choice) that constitutes one of the elements of criminal responsibility, which is sought After committing the crime for the purpose of determining the extent of criminal responsibility of the offender at the time of committing the crime, it is a matter subsequent to the commission of the crime and the availability of all its elements. In any case, the meeting of the criminal responsibility policeman is essential for its advancement before the perpetrator or the contributor to the crime, so the first of them does not replace the second, and if any of them fails, the reason is accidental or specific to it, it undermines the criminal responsibility from its foundation, which leads us to search for a criminal official for the crime.

The second requirement: the types of impediments to criminal responsibility

Subchapter One: Insanity and Mental Impairment:

The Jordanian legislator considered insanity and mental infirmity an impediment to criminal responsibility, and the evidence for this is the text of Article (92/1) of the Jordanian Penal Code, which states: “Anyone who commits an act or abandons it is exempted from punishment if, at the time of committing it, he was unable to comprehend his actions or He is incapable of knowing that he is prohibited from committing that act or omission because of a defect in his mind.” Hence, it becomes clear that the conditions of abstinence must be met. The responsibility of the insane and the mentally disabled is: to prove that the person is insane or mentally impaired, that he has lost awareness or will, and that he is experiencing a loss of awareness or will at the time of the commission of the crime.

The Jordanian legislator preferred when he equated insanity with mental impairment so as not to adhere to a specific medical connotation

or term, content with the effect of mental illness, which is the ability to perceive or the ability to choose, and accordingly falls under the meaning of madness and mental impairment some cases in which the growth of mental faculties is stopped without reaching The stage of medical maturity, such as "dementia", which is the most severe deficiency of the mind, followed by "immorality", which occupies the middle rank between dementia and normal or average intelligence, and does not require in a mental impairment that the sufferer loses both awareness and will, but is available by the loss of one of them.

The second section: the criminality of half-madness:

However, the Jordanian legislator addresses the issue of the criminality of half-madness, as Article (60/2) states: "But if insanity or mental impairment results only in a lack of weakness of awareness or will at the time of committing the crime, this is considered a failed excuse and an application for that, the Jordanian Court of Cassation In one of its decisions, it did not recognize a low level of intelligence (mental weakness) as an impediment to penal responsibility, so it ruled, "Responsibility is not denied by a low level of intelligence only, but mental illness denies penal responsibility if."

Section Three: Contemporary Loss of Perception of the Time of Commitment of the Crime:

The Jordanian legislator has been keen to clarify this condition, and the evidence for this is stipulated in Article (92) of the Jordanian Penal Code. The criminal penalty for the accused as long as he was aware and willing at the time of committing the crime as if he was intermittently insane and committed the act during a period of his recovery.

The third topic Tort

The first requirement: the concept of tort liability

Section one: The meaning of tort, harmful act.

As for liability in the law, it means "the obligation of a person to compensate for the damage arising from the act of those under his care or control of persons or followers, or

anything under his control, such as animals, buildings or other inanimate objects, within the limits established by law." As for Islamic law, it means a guarantee, and this means: "To guarantee money, i.e. his obligation, and it is said: he guaranteed money, and with money a guarantee, I am a guarantor and a guarantor, i.e. I committed to him, and guaranteed money: I obliged him.

Subsection Two: Elements of tort liability:

What are the elements to be provided for the establishment of tort liability? Since tort liability is an error that results in harm to others - which requires compensation for those who have suffered the damage - on this basis, tort liability has three pillars, which can be summarized as follows:

1. Error: It is a breach of a previous legal obligation issued by Edraak, which is an obligation to respect the rights of all, and not to harm them with any kind of damage.
2. Damage: It is a harm inflicted on a person in a right or a legitimate interest for him, and it is an essential pillar of liability, as it will require compensation, and here the compensation is as much as the damage, and by its negation, the tort liability is negated, and it does not remain a place for compensation, and the claimant of responsibility will not have an interest in File a lawsuit.
3. Causal relationship: It means that the damage is a natural and direct result of the person's breach of the duty imposed by the law.

Tort responsibility for personal actions Responsibility for personal actions means: "Any personal act that comes from the responsible person himself, and causes harm to others, and it is a responsibility that is based on the error that must be proven." This is the general rule in tort liability, on this basis the person who has suffered harm can resort to the judiciary and request compensation, and the compensation is estimated to the extent of the damage incurred. It should be noted that tort responsibility for personal actions is of two types, namely: tortious responsibility for personal actions that fall on the human soul and the most prominent forms of it are murder,

assault, and severe injuries. Tort liability for personal actions that fall on money or everything that can be valued with money and the most prominent forms of it: assault on buildings or land owned by others.

Section Three: Tort Liability for the Action of Others:

The principle of responsibility is that a person is only asked about the actions he commits by himself and that cause harm to others, but the law excludes some cases from this general rule, in which the person is made responsible for the actions of others that harm other people, without having any involvement in These acts, and the reason for this is the existence of a certain legal relationship that links the person responsible for the wrong behavior with the first person, which gives the right to the person who has been harmed by holding the latter accountable. Accordingly, the tort responsibility for the act of others can be defined as: "That responsibility that is not based on an error that must be proven, but on the existence of an assumed error that was issued by others and not from the person himself, but the responsibility was established in the face of the latter." The basis of this type of responsibility is the desire of the legal legislator to remove the burden of proving error from the victim, i.e. the person who has been harmed." The tort responsibility for the actions of others is of two types:

First: The first case: the case of someone who is obligated to supervise a person who is in need of supervision, because of his young age, or because of his mental or physical condition, so every action issued by these people will be held accountable for the supervision and care, and he can be asked for compensation. The second case: the case of the subordinate for the actions of the subordinate, and here is the responsibility of the subordinate for the harm caused by his subordinate to his illegal work, if it occurred during the performance of his job or because of it, and it is required for this type of responsibility, the existence of the relationship of dependence between the subordinate and the subordinate, and the occurrence of a mistake on the part of the subordinate This error must have occurred while the subordinate was doing his

work for the subordinate or because of this action.

Second: The second case: tort liability for living and non-living things, which is a type of tort responsibility in which a person is asked for damage caused by something under his protection or guard, and it causes harm to others, whether it is alive - such as an animal or plant - or if it is not living such as a building or machinery Mechanical and in fact, this kind of responsibility is based on the idea of fault as well.

But it is not a human error resulting from work, but a mistake in guarding and insurance, and the idea of responsibility remains based on the error, which gives the right to every person who has suffered damage to claim compensation, which is of three types, namely: the responsibility of the animal keeper for the harm he inflicts on others if he makes a mistake guarding and securing him, as if both had attacked a person and had caused him a mortal wound; Because the owner did not insure it adequately. Liability of the building owner who has caused damage to others; Because its owner did not do the work he was obligated to protect others, such as restoring it, for example, because it was somewhat old or dilapidated, so it fell on someone and caused severe damage to him. The responsibility of the person who guards and secures mechanical machines, or those things whose guard requires special care; Because of the nature of these dangerous things, that negligence in securing them would cause harm to others.

As for tort liability, as mentioned above, it is: "A person's obligation to compensate for the damage arising from the act of those under his care, or his control of persons or followers, or anything under his control, and within the limits set by law, and accordingly, civil law jurists have cited many differences between These two types of liability, the most important of which are: Extent of compensation: compensation in contractual liability, the contracting party is asked in the contract about the direct damage expected to be obtained, and he is not asked about the indirect and unexpected damage, unless it was caused by fraud or a serious

mistake, while in the tort responsibility the debtor is asked Compensation for direct, foreseeable or unexpected damage, regardless of the severity of the fault.

Excuses: There is no place for excuses in tort; because the nature of matters requires that, but in contractual liability, excuses as a rule are obligatory to hold the debtor accountable for compensation. **Solidarity:** If there are multiple officials in tort liability, they are all bound to compensate as a matter of solidarity. As for contractual liability, the rule is that there is no solidarity between debtors except by the text of the law, or according to the agreement permitted by law. **Eligibility:** The age of discrimination is sufficient for tort liability, but in contractual liability, it is required that the full capacity of the contracting person is of majority.” **Agreement to Exemption from Liability:** Agreement to exempt from liability within the scope of tort liability is not permissible, otherwise this agreement shall be considered void, in while it is within the scope of contractual liability, and it is permissible unless the debtor commits fraud or a serious error.

Prescription: A tort liability lawsuit lapses after 3 years from the day the aggrieved person became aware of the damage, and 15 years from the day, the harmful act occurred, while contractual liability lapses after 15 years. **Evidence:** The burden of proof in contractual liability is easier than in tort liability.

The fourth topic:

The interrelationships between tort and criminal liability:

Legislations differ among themselves in the theories on which tort liability is built, or what is called in Jordanian law the harmful act. Some of them base the tort liability on doing the damages without the fault, and some of them base it on the fault so that whoever caused the damage is not obligated to compensate unless he was at fault. The importance of harm as one of the pillars of the harmful act that creates the obligation is because it is the first requirement that must be met in order to search for the other

pillars. This deviation results in harm to the victim and its legal conditions are met.

Legislations do not differ among themselves in requiring the occurrence of harm in order to achieve responsibility for the harmful act, and that it is the nucleus after which it searches for the pillars and other conditions. That the perpetrator must be distinct and aware of the nature of the act of deviation in the behavior he commits in order to be said to be responsible for the consequences of that act, and in return, some others, including the Jordanian law, did not require this and made the responsibility existing in the right of the one who commits the act of damages when the third party is harmed as a result of it, regardless of the extent of his discrimination and awareness, and this increases the protection of the right of the injured to seek compensation from the perpetrator.

Accordingly, there is also a link between tort and criminal liability, with the following from their pillars in terms of:

The physical aspect:

In criminal responsibility, the material element is the act or omission by which the crime unfolds and its body is completed, and it depends on three basic elements:

Action: It is an activity or behavior, whether positive or negative, as non-compliance, abstaining from performing a specific behavior would have prevented the achievement of the result criminalized by the law, and the abstinence results in the occurrence of the result prohibited by this law, without being issued by A person has any positive behavior, as Article 22 of the Health Law stipulates that refraining from implementing any action requested of him to prevent the spread of infection is considered to have committed a crime punishable under the provisions of this law. Therefore, refraining from adhering to quarantine procedures and refraining from mixing with others in the form of criminal behavior is punishable, whether this leads to the transmission of infection or exposing others to the possibility of infection.

• **Result:** It is all the harmful consequences of criminal acts.

• The causal relationship: It is that link between the action and the result, and that is when the injured person performs a voluntary act that he has done and that results have emerged to him that he did not want, either directly or indirectly, but he could have avoided them if he acted in a different way.

As for tort liability, the material pillar is one of the pillars of tort responsibility, which is represented by a tortious error. Responsibility does not arise unless there is a mistake that results in harm to others, and the error is linguistically: “guilt” and an error: “any path of error deliberately or otherwise.” The legal error is: “It is a breach of a previous legal obligation that results from distinction or awareness.” Therefore, the error in this case is based on two elements, the first of which is material: “which is the breach,” and the second is moral: “which is discrimination or awareness.” The material element of the error is: “It is an act that a person commits and causes harm to others, either with intent, which is what is called a civil crime - or unintentionally, but as a result of negligence or negligence, or it may be his failure to take the necessary precaution in the act that was issued by him, and this The so-called quasi-civil crime”, therefore, any act issued by a person and intended to infringe on others, is considered a harmful act that entails the establishment of tort liability and then compensation. Therefore, the law imposes on every person a legal obligation not to harm others, which is an obligation to take care, not an obligation to achieve a result, which this person must observe vigilance, caution and caution in all his actions, in order to avoid harm to others, but if he deviates from this behavior The duty to follow is considered infringing and therefore mistaken, especially if it is conscious and aware, and here is the tort that gives the right to others to claim compensation for damage.

Second, the moral aspect:

It is the subjective aspect of the crime directly, and it is a deep expression of the link between the mental activity practiced by the perpetrator and the material activity that he brought. The moral element is available immediately after the criminal act is issued by the will of the

individual; This pillar plays an important role by expressing the study of the nature of the relationship that exists between the will of the actor on the one hand and the action committed by the actor on the other hand, and the consequences of that.

The Jordanian legislator stipulated in Article 256 of the Civil Code “every damage to others obliges the doer, even if he is not distinguished, to guarantee the damage.” Jordanian law took the act of harm as a reason for responsibility for the harmful act and did not blame it on the wrongdoer of the harm. However, he divided the damages in Article 257 into direct harm and harm by causing. Whereas Article 257 of the Civil Code stipulates “1. Damage is direct or causing... If it is direct, the guarantee is necessary and there is no condition for it. If it is caused by causing, then it is stipulated that the infringement or premeditation or that the act lead to the damage.”

Moreover, direct harm is: when the harm is a natural result of the harmful act, because inflicting harm on others by direct is a prohibited act in itself carried out by the unit of responsibility of the doer because it represents an assault on the right and money of others. Moreover, the one who does it here has an absolute guarantee; whenever he is associated with harm. Whenever a person’s deed results in harm to another, he is obligated to compensate him without condition such as infringement or intentionality. Whenever the conditions of tort for the harmful act are fulfilled, which is the damage, the causal relationship between them, as the legislator took the objective theory of the harmful act that is based on the assumption of error, and it is necessary to prove the existence of harm without error.

The moral aspect of tort responsibility: In tortious responsibility, the moral element of error is perceptive and discrimination. Or at least he must be distinguished, in order for the law to consider him responsible for his illegal actions, for example, the responsibility does not lie in the face of the undistinguished boy, for the harm he inflicts on others, and the same is the case with the insane, the lunatic, and those who lose their consciousness due to a

temporary event outside of their control. Willingness to be under the influence of intoxicants or drugs.

The moral aspect of the criminal responsibility, the moral aspect was considered one of the most important elements of the crime that cannot be attributed to the criminal responsibility of the perpetrator without proving the degree of psychological preparedness to him, given that the penal law does not care about the material effects of the behavior more than it is concerned with the degree of criminal seriousness of the offender, but the moral character of this element He made the task of proving it difficult, in addition to the difficulty of distinguishing between its forms as well, that is, between intentional and its forms on the one hand, and unintentional error and its forms on the other. As this difficulty has made it a justification for modern legislation to adopt simplified criminal texts that do not require proving this essential element of attribution of responsibility, claiming that this is impossible at times, and given the specificity of some crimes that require speeding up their adjudication at other times, especially when it comes to crimes of an economic nature, or on the grounds of triviality The crime, especially when it is a violation, and this in fact violates a basic principle of criminalization, which is the rule "no crime without a moral aspect".

Third: damage caused:

The third aspect of tort liability and the law requires the person who has suffered damage to prove the existence of this causation between the fault that was made by the first person and the damage he sustained, so that he can claim compensation. To demand the injured party for compensation for damage caused by others, and the defendant, if he wants to pay the liability for it, must deny the causal relationship by proving the foreign cause that has nothing to do with it. To prove it in order to prove the tort liability, but sometimes the matter gets mixed up when there are multiple causes or multiple damages.

As for the harm caused by the cause with regard to penal responsibility: some have defined the cause as: "What is necessary from its existence

to existence and from its non-existence is non-existence for its own sake, so the judgment exists with Him and not through it. Causing the damage of something, i.e.: causing something to happen in something that leads to the destruction of something else, as is the custom. In addition, whoever cuts a hanging lamp rope is a cause that leads to it falling to the ground and breaking it, and then he will have damaged the rope directly and broke the lamp as a cause. The Jordanian law required here to compensate the aggrieved one of three cases:

- Infringement.
- Intentionality.
- That the act leads to harm.

The Explanatory Journal of Civil Law indicated that: "The words (intentional) and (infringement) are not synonymous. What is meant by intentional harm is not the intentional act of the act. What is meant by infringement is that the perpetrator does not have the right to perform the act from which the harm occurred. The damage is an unintended consequence."

We find here that whenever the criminal court decides to convict the carrier of infection, even if by conscious error; By not intending to result in the crime, the transmitter of infection is obliged to guarantee his harm by causing him to be transgressive by not having the right to carry out the act that harmed others, in addition to that his act is contrary to the law and the reason for his criminalization is that it leads to harm to others, so the transmitter of infection is responsible for compensation for all what he produces His act of harming the rights of others, whether it was a natural result of his action, such as injuring another and incurring treatment expenses, or if it was a cause such as harming him or his death as a cause.

Moreover, the Jordanian law has assessed compensation for damage in proportion to the damage incurred by the victim and the loss of earnings, if this is a natural result of the harmful act. Earn. Article 267 of the Civil Code defines moral damage as "every transgression against others in their freedom, honor, honor, reputation, social status, or financial consideration.

Results

1- According to the content of Article 256 of the Jordanian Civil Code, the harmful demonstration or the risk depends on three pillars: the unsafe demonstration, the damage, and the causal relationship between them, with the aim of the absence of this duty and its non-existence. .

Liability for wrongdoing hinges on three pillars, namely, the harmful manifestation, the damage, and the causal relationship between them. It is not the destructive proof that recognizes it from the ordinary offenders' obligation, but the harm that is the cause of the harm that occurs in the consistent parts of a computer or in the case of physical damage. Paying compensation for each individual aggrieved, with little regard for the amount of damage, regardless of whether the affected victim is the principal person harmed or the apostate of the principal victim harmed, while the payment of moral harm is not to those affected who suffered a defector first harmed Only if there is a connection between them and the first.

2- The Jordanian Council was more expansive than some legislations when it did not indicate the level of family relationship necessary to obtain a wage in return for moral damage.

3- The privilege of the reward for moral damage in the Jordanian law does not transfer to the beneficiaries unless it has been settled or granted by the last court ruling, and its disbursement in these two cases does not require the beneficiaries in an unusual arrangement.

Recommendations

1- Correcting the content of Article 3/267 to ensure that compensation for moral damage is transferred to the heirs, regardless of whether the last court issued an order.

2- Amending the content of Article 267/2 to ensure that the payment of those referred to in that section is distinct from the moral harm they suffer due to permanent disability or relative harm to those affected. Alternately limiting the issue of relatives by the legislator and not leaving the matter and the door wide open for the court to decide this, not to mention the

impact of other people, perhaps with this harm from those who are not included in the text, however, and that is not covered, so the amendment of the text qualified.

3- Expanding the scope of the good harm to include the privilege of the injured person who suffers mental torment because of the great harm he has caused.

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