

Civil responsibility arising from terrorist operations. A comparative study.

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Abstract

Is terrorism and terrorist operations of most important And most phenomena dangerous in human societies what caused This phenomenon of a serious breach of security and safety of Individuals communities and what produced this violation of the Serious damage caused to individuals and property alike , and it Gave the terrorist operations of legal problematic put general Legal rules of civil liability and , in some cases , is able to meet The needs of the community it is hoped the protection that these Rules achieved when applied to non-terrorism cases , as in the Case of research on the availability of the conditions required by Law for the establishment of civil liability or when the claim for Damages resulting from terrorist operations, and that the Perpetrator is often unknown or identify the person responsible For indemnity damages.

Keywords

Civil responsibility ' terrorist operations

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Introduction

The phenomenon of terrorism is one of the most dangerous phenomena witnessed in contemporary societies because of its impact on all aspects of society and the effective role of terrorist acts in confusing the security and stability of societies, in addition to the impact of terrorist actions and operations in causing extreme damage to lives and money without any distinction between Community members are targeting public, private funds and even the infrastructure of these societies .As a result of this danger posed by terrorism, countries, including Iraq, have been persistent in dealing with the damage caused by terrorist acts, trying to repair the damage as much as possible and alleviate the suffering that these actions and operations cause to members of society .Since terrorist operations as behaviors or wrongful acts (both criminally and civilly) result in damage to individuals, so it is a natural area for the application of legal rules in civil responsibility, specifically tort responsibility, because these actions constitute an act harmful to the people and the money obligated to compensation.

In the interest of the legislator, at the local and global levels, to compensate for the damages arising from terrorist acts and operations, do not only comply with the rules that the civil law came up. The special laws aimed at repairing these damages, especially after the emergence of some legal problems when dealing with the issue of compensation for damages through the provisions of the law Civilian .To learn about the adequacy the rules of civil responsibility in establishing the responsibility perpetrator of the terrorist act and the effectiveness of these rules in covering the damages arising from these actions. The author try to study the (Civil responsibility arising from terrorist operations), focusing the study on the pillars of the important responsibility in establishing responsibility of the perpetrator damage and as far as the matter is concerned subject of the study leaving details of other matters for specialized research in the area of tort responsibility .In addition, study means parts of responsibility in accordance with the provisions of civil laws and the special laws what is mean by anti-terrorism laws. It is at the same time a comparative study between the civil law and the laws of terrorism in both Iraqi, Egyptian and French law, and that by dividing the research into three topics, deals with concept of Terrorism, the pillars of responsibility and the compensation for those affected by terrorist operations.

What is Terrorism

There were many opinions that dealt with the definition of terrorism in the multiplicity of directions through which the phenomenon of terrorism. At the same time the reasons for the emergence of this phenomenon have become multiple and different. Because of the multiplicity author will define terrorism and explain its causes and this is what will address in this topic by allocating a first requirement to define Terrorism is a language, a term and a second requirement to explain the causes of terrorism.

Definition of Terrorism

The definition of terrorism according to the linguistic meaning of the word terrorism and its meanings, as is the case in the idiomatic definition of this word and on the level of jurisprudence and legislation, which through two branches, the author allocate the first to define terrorism as a language and the second branch to define terrorism as a term.

The first branch: terrorism is a language

The word terrorism comes from the verb awe. Fear of awe, it is fear and dismay (Ali, 2020), and the word of awe came in the Holy Qur'an in many subjects and in multiple meanings. As it came in the sense of fear of God and fear of him as in the Almighty saying (When his anger abated, Moses took up the Tablets upon which was inscribed guidance and mercy to those who fear their Lord) and (Allah says: 'Do not take to yourself two gods. He is only One God; so have awe of Me') and (Their fear of you in their hearts is greater than their fear of Allah; that is because they are a people who do not understand) and (Children of Israel, remember My favor I have bestowed upon you. Fulfill my covenant, and I will fulfill your covenant with you. Me, you must fear.) and, (So We answered him, and gave him John, curing his wife (of sterility). They raced with each other in good works and called on Us out of yearning and awe, and they were humble to Us). It came the word

terrorism in the sense scaring the enemy and the means of terror and fear as in the verse (Muster against them whatever you are able of force and tethers (ropes) of horses, so that you strike terror into the enemies of Allah and your enemy, and others besides them whom you do not know but Allah does. All that you spend in the Way of Allah shall be repaid to you. You shall not be wronged) and ('Throw, ' he replied. And when they threw, they bewitched the people's eyes and terrified them, and produced great sorcery) (The Holy Quran). The word of terrorism in the foreign languages corresponds to the word (terror), which means horror and intense fear. It is rooted (ters) in the sense of intimidation and (terrorism) and means the use of violence and intimidation in particular to achieve political purposes (Alonso & Serrano, 2014). The terrorism in the French language is the word (Terreur) which means the use of authority Terrorism as a measure of intimidation and terror, and the word (terrorism) means the use of terrorism by individuals and societies (Al-Sanhouri, 2007).

The second branch: Terrorism as a convention

The word did not agree on the definition of terrorism, as there were many definitions of multiple views. The term of terrorism has no specific legal content and it is difficult to come up with a definition of this term due to the lack of commensurate with the custom of new situations (Al-Ta'any, 2021). As the term of terrorism considered a term that has more than one meaning to more than one situation, with which it is difficult to define a specific and agreed upon content (Bertelsen, 2013). It has been defined as the threat or use of political violence when this action aims to influence the position or behavior of a wider group of direct victims or when its consequences extend beyond national borders (Caplan, 2005). Deal that calls for illegal actions that affect society and cause its members to panic and intimidate (Christol, 1980). It has been knew that it was an interim goal that it resorted to in order to achieve a final goal. As the use of violence with the intention of achieving a final goal, whether political, would be the goal first (Cooper, 2001). Trend towards counting terrorism went as an organized hostile act that uses, threatens to use it against individuals, group's public, private properties inside, outside the state to achieve illegal goals that provoke terror and panic among its members (Denning, 2013). The use of unlawful compulsive violence against people or property to sow terror and fear from the fear among the people for specific purposes (Ericson & Doyle, 2004).

As for the laws, the Iraqi legislator mentioned in the applicable Iraqi Penal Code the terrorist crime after which one of the exceptions mentioned on the political crime and did not provide a definition of terrorism (Ganor, 2009). The Iraqi legislator after it mentioned one of the elements of some of the punished crimes such as the crime of conspiracy other than the basic principles of the constitution or the attack on the systems Fundamental of the state or assaulting employees and citizen (Gerhards & Schäfer, 2014). As for the Iraqi Anti-Terrorism Law No.13 for the year (2005) terrorism was defined in Article (1) thereof as (every criminal act by an organized individual, group targeting an individual, group of individuals, groups, official or unofficial institutions causing damage to property Public or private in order to disturb the security situation, stability and national unity, the introduction of terror, fear and dismay among people, provoke chaos in order to achieve terrorist goals).

Article (2) of this law dealt with the identification of terrorist acts and that in eight paragraphs, some promised that the direction of the Iraqi legislator to individuals An independent legal article to define terrorism in general and another article to enumerate images of some terrorist crimes. A good approach that leads to the ability of the text to absorb new images and forms of terrorism that may appear in the future (Goldstein, 2007). As for the Egyptian legislator terrorism was defined in Law No. 97 for the year (1992): as (every use of force, violence, threat, or intimidation, which the perpetrator resorted to in implementation of an individual or collective criminal project, with the aim of disturbing public order or endangering the safety and security of society. This would harm people, cause terror among them, endanger their lives, freedoms, security for the risk of harming the environment, communications, transportation, money, buildings, public private properties, occupying or seizing them, preventing hindering the practice of public authorities, places of worship, or institutes, knowing its actions or obstructing the application of the constitution, laws or regulations). It is recorded, on this definition, that it identifies certain means through which it tries to collect the means and elements of the terrorist act, but this does not allow the judge to use a wide discretionary power not to add it to a phrase, other or a phrase, to name a few. Until the judge is given the authority to expand in case of future terrorist acts (Hayajneh, 2012). It is also noted on this definition that it came at length or elaborated on many acts that it was better to

avoid mentioning in the definition and to replace that by setting a general rule for the definition of terrorism (Heiser, 2002). Whereas the French legislator defined terrorism as a violation of the law submitted to it by an individual or a collective organization that aims to provoke serious disturbances in public order through threats or intimidation, in Article (1) of Law No. (86-1020) on (9) September (Herning Sitabuana, 2017). It is noticeable to the French legislator that he took care of compensation for the bodily damages resulting from terrorist acts and left compensation for material damages to be compensated by insurance.

The Causes of Terrorism

Terrorism is one of the most complicated phenomena, as it has many common causes, intertwined and intertwined factors that appear mostly to the emergence of terrorism, but can record some of the reasons in the following few paragraphs:

First: Political reasons

Political causes are one of the most important causes of terrorism and its consequences. Political oppression often pushes individuals and sects into violence to express their thoughts and opinions (Humphrey, 2003), as the level of participation is low. Politics, lack of political pluralism, lack of freedom of expression, lack of a real transfer of power, ignoring minority demands and suppressing dissent all this leads to the development of the phenomenon of terrorism and creating an environment suitable for its growth (Kunreuther, 2002). In addition, the association of terrorist organizations with foreign terrorist organizations is one of the motives for terrorism, especially since the organizations work for the countries in them and their interests (Lakdawalla & Zanjani, 2005).

Second: Economic reasons

The economic crises of most of the countries of the world are a reason for the emergence of terrorism. Economic policies that are not appropriate to the economic reality of countries lead to a widening gap between the poor and the rich (Miers, 2014). The growing role of the economy in life, as it is the new force in today's world and interference in distinguishing between the rich, the poor, the strong, and the weak, intentional sabotage, and the destruction of the economy have become one of the most important causes of terrorism in the current period (Molinari et al., 2014). Unemployment also plays a large role in the direction towards terrorism as unemployment leads to a kind of psychological frustration facilitates the process of attracting the unemployed by terrorist groups. As individuals' need for money may cause them to do any work including carrying out terrorist acts (Plaster, 2004).

Third: Personal reasons

The personal causes of terrorism are the personal goals that the incumbent of terrorist acts and operations seeks to achieve from carrying out these actions as extorting funds, obtaining a ransom, or fleeing from the state, or from implementing rulings (Schmid, 2004). In addition, these goals differ according to the individual's personality and behavior (Testa & West, 2010).

Fourth: Other reasons

A misunderstanding of religion and its purposes may lead to strictness in religion, provocation of religious feelings, accusing others of delinquency and criticism of scientists in a sarcastic and alienating manner. In addition, the strictness of what is not necessary or misplaced (Muhammad Al-Hawari), sharpness and cruelty in calling and expiation of Muslims and lying in wait for others is one of the most important manifestations of religious extremism (Tyler et al., 2010). The social and cultural environment plays an important role after it from the causes of terrorism, as it is the environment in which the individual is create and which affects the cultural and social formation of individuals (Verger et al., 2004). Education and the audio-visual and print media are among the most important factors that help an individual to develop his culture and skill and that necessarily affect his inclinations for terrorism (Ali, 2020).

The Pillars of Civil Responsibility

Civil liability is built on the elements that must be met, namely error, harm and the causal relationship between wrong and harm. Since terrorist acts have, privacy in terms of errors, harm and causation, so author will address these pillars from the point of civil laws and the special laws represented in anti-terrorism laws, by allocating an independent requirement to each part of these pillars.

The First requirement Errors

The mistake is the civil liability arising from terrorist acts and operations, the same terrorist act in terms of the laws of terrorism, and at the same time a mistake that civil liability exists. Therefore, author will address the part of mistakes through two branches, the first to identify mistakes in civil laws and the second in the special laws of anti-terrorism laws.

The first branch: Defining mistakes in the civil law

There were many opinions and contradictions regarding the concept of error that entails responsibility, especially after the legislator left the concept of error without definition (Alonso & Serrano, 2014). As a trend went to the definition of error as a breach of a previous commitment, but it is taken on this concept not to specify what is this commitment, which is a breach of error, and this trend tried to limit these obligations are to refrain from violence, to stop cheating, and to refrain from any action for which reasons, power or skill have not been prepared for or performed by them (Al-Sanhouri, 2007). This concept is closer to being a division of types of errors that not defined (Al-Ta'any, 2021). While another trend was defined as a breach of a previous legal obligation (Bertelsen, 2013). There are those who went to the definition of error as a deviation from the familiar behavior of the ordinary person, which issued by discrimination and awareness (Caplan, 2005). As for the mistake, that justifies the establishment of civil responsibility for terrorist operations. it is any deviation of a person from the usual person's behavior and a violation by the perpetrator of a legal and humanitarian obligation towards the society in which he lives (Christol, 1980). As well as the error, that justifies the establishment of civil responsibility for terrorist acts and operations, in turn, analyzed into two material and moral pillars:

First: the physical pillar

The material pillar is error in transgression and deviation in behavior, which in turn represented by terrorist action, which is an objective criterion that considers deviation in behavior by looking at the behavior of the person causing the same harm (Cooper, 2001), which is usually measured by the behavior of the usual person. The standard adopted for assessing errors in the case of terrorist acts mixed, based on objective and personal foundations. The objective basis for this mistake is a breach of a legal duty, and there is no doubt that the terrorist action is a perpetrator of errors, regardless of his motives (Denning, 2013). It is possible to inflict terrorist action on serious errors, which in turn counted on the intentional act in ruling and what judged by grave mistakes. even if it is not intentional, but because of its gravity it is inconceivable that it occurred from the most neglected or stupid people, thus avoiding the claim of perpetrators of the terrorist act to evade the results of their actions that it was unintentional (Ericson & Doyle, 2004).

Second: The moral element

The availability of the material pillar is not sufficient for the establishment of responsibility for terrorist acts, so there must be a moral element represented by perception, discrimination and intent to harm others, as there is no responsibility without discrimination, as in the case of the unmarked boy, insanity and the imbecile (Ganor, 2009), but the Iraqi civil law did not require distinction for the establishment of civil responsibility by excluding an element Perceiving this responsibility and arranging responsibility for establishing the corner of the transgression (Abdul Majeed), and this is what the Iraqi civil law stipulated in Article (191) thereof, and it is the opposite of what the Egyptian Civil Law went to in Article (164) as the responsibility of non-discrimination in the Iraqi civil law is a reduced original responsibility. In the Egyptian law, it is a mitigated, compulsory, reserve liability. However, the Egyptian civil law allowed a non-discriminatory liability in Article (164/2) if there is no

official or it is not possible to obtain compensation from the responsible, and that responsibility in this case is based on bearing the consequences (Gerhards & Schäfer, 2014). Consequently, the person carrying out the terrorist act is asked about these acts because there is an intention to harm others because these acts represent a breach of the security of society, and he does not look for the intention of this person, especially after considering these acts among the grave mistakes that the person responsible for them is responsible for, and whether this act is positive or negative. Positive action is to cause harm, while negative action appears by letting others commit the terrorist act and not preventing them and notifying the competent authorities (Goldstein, 2007).

The second branch: determining the error according to the special laws

The Iraqi Anti-Terrorism Law No. (13) of (2005) deals with defining acts that are considered terrorist acts in Article (2) thereof in its text: (The following acts are considered terrorist acts:

- 1- Violence or threat that aims to throw terror among people or expose their lives, freedoms, security at risk, exposing their money, property to damage, regardless of its motives and purposes, is the implementation of an individual or collective organized terrorist project.
- 2- Knowledge of violence or threats to vandalize, demolish, damage or intentionally damage buildings, public properties, government agencies, institutions, government agencies, state departments and the private sector, public facilities, public places intended for public use, public meetings for frequenting the public, public money and attempting to occupy or seize it, expose it to danger, or prevent it from being used for the purpose prepared for it with the motive of destabilizing security and stability
- 3- Whoever organizes, chairs, or takes over the leadership of an armed terrorist gang that practices and plans for him as well as contributing and participating in this work.
- 4- Working with violence and threats to incite sectarian sedition or civil war or sectarian strife by arming citizens or compelling them to arm each other and incite or finance.
- 5- Attacking with firearms against the army or police departments, volunteer centers, or security services, or attacking the national military sectors, their supplies, communication lines, their camps or their bases with a terrorist motive.
- 6- Attacks with firearms and with a terrorist motive against all embassies and diplomatic bodies in Iraq, as well as all Iraqi institutions Arab and foreign institutions and companies and international governmental and non-governmental organizations operating in Iraq according to an effective agreement.
- 7- Using, with terrorist motives, explosive or incendiary devices designed to kill and possesses lives, or spreading terror among people, or by detonation, release, diffusion, planting, booby-traps, or objects of any form, or by the influence of toxic chemicals, biological agents, similar materials, or radioactive materials.
- 8- Kidnapping, restricting the freedoms of individuals, detaining them, or financial extortion for purposes of a political, sectarian, national, religious nature, or a beneficial element that threatens security and national unity, and encourages terrorism.

In addition, the Egyptian legislator has defined acts that are considered terrorist acts and thus a mistake that civil liability may be established as a result of any of these acts, through the text of Article (86) of the Egyptian Penal Code added to Law No. (97) of (1992).

As for the French legislator, in the Anti-Terrorism Law No. (86-1020) issued on 9/9/1986, a system is based on distinguishing terrorist behavior with two objective elements, which is the commission of some of the acts stipulated in the penal code that are specifically directed at people, and a personal element, which is a motive. Intimidation and stirring terror, and what is meant by stirring terror is the collective fear of peoples, which is what French jurisprudence goes to (Hayajneh, 2012).

The second requirement: harm

Damage is defined as harm that inflicts a person with his money, body, honor, or affection, and it is the duty of compensation, whatever its kind, whether material or moral, and in other words it is every harm that afflicts a person in a right or in a legitimate interest (Heiser, 2002). As for moral damage, it is money that does not represent a financial loss, but rather a prejudice to the feeling and the origin of civil liability is the realization of damage to the claim for compensation (Herning

Sitabuana, 2017), whether the damage is material or moral, as the first thing that the plaintiff assigns responsibility is to prove the damage and the interest will not be denied from filing a lawsuit in the event that the damage is not achieved (Humphrey, 2003). In order for the damage to be subject to compensation, there are three conditions:

First:

That the damage is real: the damage is realized if the damage has actually occurred or will inevitably occur in the future (Kunreuther, 2002). The damage is considered a fact when it was proven with certainty and certainty, whether this damage was a loss that was caused to the affected person or gained his death (Lakdawalla & Zanjani, 2005). The damage could not be estimated immediately, so the judge would have the choice between ruling for temporary compensation while reserving the right to demand reconsideration of compensation within a certain period (Miers, 2014), and postponing the ruling for compensation until the damage is finally settled (Molinari et al., 2014), which can be deduced from Article (208) of the Iraqi Civil Code and Article (170). Of the Egyptian civil law, and missing the opportunity to win is a real harm (Plaster, 2004).

Second:

That the damage is immediate, anticipated, or unexpected, which is what Article (207) of the Iraqi Civil Code came to read: (1) The court assesses compensation in all cases to the extent of the harm suffered by the victim and what he suffers from gain, provided that this is a natural result of the unlawful act 2- A denial of the benefits of notables includes in assessing compensation, and the guarantee may include the remuneration.

Third:

If the damage befalls a right or a legitimate interest. The damage shall be realized if there is a breach of the right or financial interest of the injured, and this right or interest must be legitimate. What is meant by the right is the right whose source is the law, but it is not necessary for the legitimate interest to rise to the level of right, but rather that it is not in violation of the law or public order and public morals (Schmid, 2004). In Iraq, Law No. (20) of (2009) was issued the Law of Compensation for Those Affected by War Operations, Military Errors and Terrorist Operations, and it specified the type of damages that are covered by this law by compensation, in Article (2) thereof according to certain procedures, as for the French Law and according to the Law (86-1020) (For the year (1986)) permits compensation for bodily and material damages and also allowed compensation for future damage and complementary damage. In the latter case, the injured must provide evidence that the bodily harm has been exacerbated in the period from the occurrence of the accident to the date of requesting compensation.

The third requirement: the causal relationship

It is the direct relationship between the mistake committed by the terrorist and the damage that befell the injured, and the cause is the third pillar of the responsibility, and it is an independent pillar of the error (Testa & West, 2010), as it is not sufficient for civil liability to exist and the presence of error and damage, rather it is necessary that the error is the natural cause of this damage and a direct consequence of the individual's breach His legal duty (Tyler et al., 2010). However, the independence of the causal relationship does not appear clearly and clearly except when the error is assumed (Verger et al., 2004). Estimating the availability of the causal relationship or not is one of the substantive issues to be decided by the trial court (Ali, 2020). The question of determining causation arises when several causes overlap with the occurrence of damage. In order to determine causation, two theories emerged, namely the equivalence theory of causes and the theory of productive cause (Alonso & Serrano, 2014), and the lead theory of the equivalence of causes that consideration is given to every cause that contributed to the occurrence of the harm, even if this cause was far away, then all the causes that caused the harm are equivalent, and each of them is considered a cause of its occurrence. As for the productive cause theory, it holds that the one who evaluates the causal relationship between error and damage is the productive cause, which leads to the damage without the accidental

cause, and the productive cause is the usual cause that usually causes the damage (Al-Sanhouri, 2007). The last theory is adopted by the Iraqi, Egyptian and French judiciary. The Iraqi civil law dealt with the question of denying the causal relationship in Article (211), while the Egyptian civil law dealt with it in Article (165), and it is noticeable to the Iraqi civil law that it used the term celestial lesion as a foreign cause that breaks the causal link, which is an expression derived from Islamic jurisprudence and intended From him all force majeure is not attributed to the person, and at the same time the expressions of force majeure and sudden accident were derived from French law, and these three terms have one meaning, which is force compelling (Abdul Majeed). What concerns us in this regard is the question about considering the terrorist act as force majeure and thus breaks the causal link, and the answer is negative, because force majeure or a sudden accident that is a cause of severing the causal relationship must meet two conditions, the first is that it cannot be expected, not by the plaintiff. Only, but on the part of the most vigilant people, the criterion here is objective, not subjective. As for the second condition is the impossibility of payment, if the incident can be paid even if it is impossible to anticipate it, it is not considered at that time force majeure, and therefore the terrorist act cannot be considered a force majeure that cuts the causal relationship between error and damage due to for lack of compelling conditions (Al-Ta'any, 2021).

As for what breaks the causal relationship and according to the text of Article (211) of the Iraqi Civil Code and Article (165) of the Egyptian Civil Law, it is force majeure or a sudden accident when its conditions are met, as mentioned above. Likewise, the injured person is not permitted to refer to another person for compensation on Damages caused by his mistake (Bertelsen, 2013), especially when the mistake of the injured person is a mistake that is absorbed, and the error is absorbed when the mistake of the injured exceeds the error of the person who committed the action in his severity or when the mistake of the person doing the damage is a result of the mistake of the injured (Caplan, 2005). Also, the action of others affects the causal relationship and leads to its severing if this act constitutes a deviation and that the other person is not among the persons for whom the defendant is held responsible. In order to sever the causal relationship due to a foreigner, the defendant must prove that the damage was caused by a foreign person who takes his fault (Abdul Majeed). If the fault of others is combined with the fault of the defendant, the damage will have two causes, and the third party and the person causing the damage are considered jointly responsible and according to the text of Article (217) of the Iraqi Civil Code and Article (169) of the Egyptian Civil Law.

Compensation for those affected by terrorist operations

The primary objective of establishing civil liability is to compensate for the damage caused as a result of the harmful act committed by the person doing the damage, and within the scope of terrorist acts is represented by the terrorist act. As a result of the large number of damages caused by terrorist operations, many special laws were issued to deal with the issue of damages caused by terrorist operations and acts, so we will address the issue of compensation for damages through two demands, the first we allocate compensation according to the rules of civil law, and the second we will deal with compensation in accordance with the special laws.

The first requirement: compensation according to the rules of civil law

In order for the civil liability lawsuit to take place, it must be instituted by the (injured) plaintiff, who in turn may be the victim directly or whoever was harmed by the terrorist act or the general successor of the injured, and the plaintiff, who in this case is the perpetrator of the terrorist act. The claimant. The compensation may be in a variety of ways, it may be monetary or non-monetary, and it may be compensation for material or moral damage, and it may be compensation in kind or in exchange, and monetary compensation is the compensation that prevails in the judgment in civil liability claims, and it is possible that monetary compensation includes material or moral damage. The original in compensation Compensation is also included in the compensation for deprivation of the benefits of the notables and the loss of the injured from earning as well as the wages, as the compensation can be installments or an arranged revenue, and the court has the right, upon the request of the aggrieved party, to order the return of the situation to what it was, or to do a specific thing or to return homosexuals and this is what As stipulated in Articles (207, 208 and 209) of the Iraqi Civil Code and Article (170, 171, 121 and 222) of the Egyptian Civil Code. In

the case of assessing the compensation, the court must take into account the personal circumstances surrounding the injured person, such as his health and financial condition, noting that the compensation for material damage includes his two elements, which are the financial loss suffered by the injured and what he lost in terms of gain in contrast to compensation for moral damage, which is considered a stand-alone element that represents in Mostly with sufficient satisfaction for the injured. Also, the right to compensation for material damage is transferred to others, such as heirs and creditors, unlike compensation for moral damage, as it is a right related to the injured person, and it is not transferred to others unless its value is determined by virtue of an agreement or by the issuance of a final judgment.

Civil responsibility for the terrorist act is realized as soon as criminal responsibility is realized, as the basis of the terrorist act is assault on everyone for the most vulnerable person, except if the injured person in general has or has an interest in the assault. Civil and criminal liability may exist at the same time, and civil liability may occur without penalties, as in the case of the death of a terrorist as a result of the action he carried out, and the investigation of criminal responsibility presumes the fulfillment of the elements of civil liability, an assumption that cannot prove the opposite. Compensation for direct damage must be, whether foreseeable or unexpected, and the compensation estimate must be consistent with the degree of infringement committed by the perpetrator of the terrorist act, as the severity of the error must be the basis for estimating compensation, and this does not prevent compensation for exposure to the inherent rights of the person.

The second requirement: compensation according to special laws

As a result of the large number of terrorist acts and operations that societies are subjected to and the occurrence of severe and grave damage to lives and property that are carried out by terrorists and who often die as a result of carrying out these acts and the inability to know the perpetrator of these acts or even their age, and the matter may reach not to demand compensation for the perpetrator of terrorist acts for reasons Various, including the fear of the victims of the perpetrators or their families, led many countries, including Iraq and France, to enact special laws to compensate the damages resulting from terrorist acts. In Iraq, Law No. (20) of (2009) was issued regarding compensation for those affected by war operations, terrorist acts, and military errors, and Decree (86-111) of 10/15/1986 that added the text of Article (9) of Law (86-1020) of the year (1986) in France, which introduced a special system to compensate those affected by terrorist acts, while the Egyptian legislator issued Law No. 97 of (1992) which confined itself to stiffening the penalty and trial procedures for terrorist crimes, leaving compensation for the damages caused by terrorist operations to the general rules of civil law.

In Iraq, Law No. (20) of (2009) gave the authority to estimate compensation for those affected by terrorist acts and operations to a body competent to assess compensation, which is the Central Committee for Compensation for Those Affected by War Operations, Military Errors and Terrorist Operations, which is referred to in Article 3 of this Law. The basis for blaming the state for compensation is based on a presumed proven error. Proof of the opposite is not accepted unless the state proves that the injured person intentionally injured his body or money with damage as a result of its warfare operations against the enemy, and whatever the legal basis on which the injured person relied to claim compensation for the damage he sustained. The basis for it is based on Law No. (20) for the year (2009) (Christol, 1980), and the law specified in Article (9) of it the amount of compensation in the amount of 5,000,000 dinars for the martyr's family who are members of the armed forces, internal security forces and security agencies, whether the martyr is on a permanent angel or from contracts,

As for the martyr who is not affiliated with the security services, an amount of 3,750,000 dinars to be paid to his family, and the law also specified an amount not less than 2,500,000 and not more than 4,500,000 as compensation when the employees of the security services were injured with a disability rate of 50-75%. The compensation is 5,000,000 dinars, for non-employees of the security services, an amount of not less than 2,000,000 dinars and not more than 3,000,000 dinars if he is incapacitated by 50-75%, and the compensation is 3,500,000 if the disability percentage is 75-100%, but if the disability percentage is less than 50%, the compensation amount becomes 1750000 dinars. What is meant by the families of the martyr are the parents, sons, daughters, husband, wives, and brothers-sisters, and it is noticed that this compensation system is not considered compensation in the true sense of compensation since the amount of compensation has been arbitrarily determined without regard to the size of the damages resulting from the

terrorist act,

On the one hand, and on the other hand, this is not considered a comprehensive compensation because it is limited to bodily harm without moral and future damages and material damages associated with bodily harm, especially after Article (8) prohibits the combination of the stipulated compensation and compensation for the same damage according to any other law, which is understood to be impermissible. Demand to amend compensation by increasing its amount if it is aggravated by its size at the time of its estimation by reconsidering its assessment, which is permitted by Article (208) of the Iraqi Civil Code, and we hope that the texts related to the form of compensation and the time of its estimation will be amended in order to achieve proportionality between the amount of compensation and the variable damage And taking into account when estimating the value of money and the rise in prices, so that the amount of compensation is consistent with the size of the damage (Cooper, 2001). Therefore, the matter of estimating compensation must be assigned to the judiciary, because that requires dealing with purely legal issues in which the judiciary is better informed than the administrative authority (Denning, 2013).

As for the French legislation, compensation for damages is made according to Law No. (86-1020) of (1986), as the damages are compensated for bodily damages from the guarantee fund. As for the material damages, the French legislator left compensation for it to insurance companies (Ericson & Doyle, 2004). The compensation includes all terrorist acts that occur on the French territory, regardless of whether the injured person is French or a foreigner, and the French who are exposed to terrorist acts outside France, and these damages are compensated through the guarantee fund, which is known as a legal entity licensed under private law and enjoys legal personality and includes all insurance companies Which covers the risks covered by compulsory insurance under any French law or regulation (Ganor, 2009). It is worth noting that this law is applied retroactively, starting from 01/31/1984, to compensate those affected by the terrorist acts that occurred during the years 1985-1986. It is noticeable that the French legislator has authorized the request for supplementary compensation when these damages escalate, by submitting another compensation request. Thus, the provisions for compensation for damage are in accordance with the general rules on civil liability, and this is only made after the injured person provides evidence that bodily harm has exacerbated the period between work the terrorist and raise the request to the fund (Gerhards & Schäfer, 2014).

Conclusion

After completing the study of the topic (Civil responsibility arising from terrorist operations), we would like to record some of the findings and recommendations of the research:

Results

- 1- Terrorism is any hostile act by a person or group of persons aimed at destabilizing the security and stability of society by spreading terror by any means whatsoever to achieve certain goals or goals.
- 2- There are no clear or obvious causes or motives for terrorism, as these reasons vary with the difference in societies and differ in different environments and cultures, which made the matter of identifying them, and specifically, difficult.
- 3- The pillars of civil liability arising from terrorist acts and operations are the errors, damage and causal relationship, taking into consideration the determination of laws specific to some acts, which are in particular errors requiring criminal liability, and at the same time an assumed error for the establishment of civil liability cannot prove the opposite.
- 4- The terrorist act represents the material element of mistakes, just as intending to harm others is the moral element of it.
- 5- It is possible to consider the terrorist act as a serious mistake, thus avoiding the problem of providing the moral element and the problem of proof at the same time.
- 6- The terrorist act is not considered a force majeure that breaks the causal link due to the lack of its conditions, which are unpredictability and the impossibility of paying it.
- 7- The Iraqi legislator in Law No. (20) of (2009) determined compensation, according to the detail in Article (90) thereof, but this determination of compensation was not successful, as it is a

specific compensation in a blasphemy, disregarding the seriousness of the act and the severity of the damage.

8- The French legislator, in Law No. (86-1020) issued on 9/9/1986, is concerned with compensation for bodily damages arising from terrorist acts by establishing a guarantee fund, leaving compensation for material damages to insurance companies.

Recommendations

1- Amending the legal articles related to compensation for damages in Law No. (20) for the year (2009) in a way that makes the compensation consistent with the size of the damages resulting from the terrorist act and at the same time covers the aggravation of these damages in the future.

2- Granting the judiciary, the authority to estimate compensation and not to entrust this matter to an administrative authority because of the judiciary's scientific ability and practical experience in the compensation of damages.

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Laws

1. Iraqi Civil Law No. 40 of 1951, as amended.
2. Egyptian Civil Law No. 131 of 1948.
3. The French Civil Code of 1804.
4. Iraqi Anti-terrorism Law No. 13 of 2005.
5. The Law of Compensation for the Damaged People due to Military Operations, Military Errors and Actions Iraqi terrorist No. 20 of 2009 amended.
6. French anti-terrorism law No. 86-1020 of 1986.
7. Decree No. 111-86 of 10/15/1986 amending the anti-terrorism law French.
8. Law No. 97 of 1992 amending the Egyptian Penal Code.