

THE LEGAL TORT LIABILITY OF THE JOURNALIST FOLLOWING THE ASSAULT ON THE RIGHT TO THE IMAGE IN THE SAUDI PRESS AND PUBLISHING SYSTEM

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Abstract: *This study aims to determine the journalist's tort liability in the event of an assault on the right to the image. This journalist, while carrying out his work tasks such as publishing news, reports, and investigations, takes many pictures and then republishes them to the public, despite the absence of a particular legal text that protects the right to the image from press attacks in the Kingdom of Saudi Arabia due to the absence of codification of civil transactions, there remains the possibility of protecting the right to the image is possible according to the Saudi press and publishing system. If the elements of civil liability are available, the aggrieved party can claim compensation from the journalist for the damages he sustained. Moreover, when practising his work, the journalist aims to deliver information to the public. In implementing the public's right to obtain information, he publishes many pictures to achieve the public interest and the public's right to know. The right to the photo becomes a restricted and non-absolute right. The journalist can defend himself from responsibility by proving that the photo was taken in a public place, by a public figure, or that it was taken and published to achieve the public interest. In the research, we adopted the analytical approach to the relevant texts from the Saudi press and publishing system and the applied approach based on strengthening jurisprudential and legal positions with judicial positions. In this study, we discuss the basis of the civil liability of the journalist and the conditions for its establishment. And the provisions of the civil liability of the journalist in the event of an assault on the image. The study used the descriptive analytical method to conduct the investigation. The study recommended calling on the Saudi regulator (legislator) to stipulate the protection of the right to the image as an independent right in the press and publishing system texts so that it confirms the protection of this right from the civil point of view. It urged the Saudi regulator (legislator) to organize special preventive measures to be taken when the right to photograph is violated. The person who attacked the image must stop it by preventing publication and returning the pictures to their owner.*

Keywords: *tort, right to the image, journalist, moral damage, compensation.*

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INTRODUCTION:

A journalist is a person who practices journalism, and his job is to collect and disseminate information about events, trends, and people's issues. That is because the profession of a journalist



is to prepare reports for broadcasting or publishing in various media such as newspapers, television, radio, and magazines. When the journalist performs his duties, he takes and publishes many pictures of the events and personalities related to the news he directs to the public. His work may constitute an attack on the right of individuals to the image. The assault on the right to the image by journalists is one of the common attacks, especially after the recent development in photography and communication technologies and the information revolution and global networks. The possibility of attacking the right to the image has increased after the development of means of speed of transmission of information and programs to manipulate images by distorting them through montage and other means. The image does not stop at the limits of the physical embodiment of a person but also reflects his personality, emotions, misery, deprivation, or reputation. Therefore, the image is closely related to the human person, hence its value and the need to protect it. Here it was natural for a set of rights to respond to it, and accordingly, Jurisprudence and jurisprudence recognized a person's right to his image. It includes the right of a person not to take a picture of him without his consent. To publish his image in the written or visual press.

The right to the image went through several stages; some rejected it, others agreed with it, and a third side attached it to the right to privacy. However, the right to the image went beyond the stage of disagreement over its recognition to the stage of *de facto*, as it imposed itself in the legislation issued, either explicitly or implicitly (Al-Maghrabi & Assaf, 2019). Accordingly, to determine civil protection of the right to an image in the Kingdom of Saudi Arabia, it is necessary to refer to the decisions of the committees concerned with examining violations of the provisions of the Saudi Press and Publications Law, which established the protection of this right based on Article (9) of the Saudi Publications and Publications Law, following the idea of human dignity. This stipulates that: "Every official in the publication is committed to objective and constructive criticism aimed at the public interest, and is based on correct facts and evidence. It is prohibited to publish by any means any of the following: 3- Defamation or prejudice to reputation or dignity, defamation or personal abuse of the Mufti General of the Kingdom, members of the Council of Senior Scholars, statesmen, any of its employees, or any person of a unique natural or legal capacity.

The right to the image is not absolute. However, it often fades in front of the public's right to information, as it is also established that individuals within society have the right to know what is happening in the society in which they live. It is the journalist's responsibility as part of the media apparatus within the state, which leads to the burden of disseminating information to individuals. When he performs this task, he exercises his right to inform the public of what is happening, often using the image to express what is happening in terms of events.

1. LITERATURE REVIEW

Khasawneh (2015) conducted a Study that aims to determine the civil responsibility of the journalist in the event of an assault on the right to the image. Although no particular legal text protects the right to the image, the possibility of protecting the right to the image remains possible following the general rules of the Jordanian Civil Code and the rules of copyright law. The right to the image becomes a restricted and non-absolute right. The journalist can defend himself from responsibility by proving that the video was taken in a public place, for a public figure, or that it was captured and published to achieve the public interest. For the journalist and the conditions for its establishment, the second topic deals with the provisions of the civil liability of the journalist in the event of an assault on the image.

Hammadi (2019) focused on his study on the civil responsibility of the journalist following the assault on the right to the image in Algerian law. In this topic, he discussed the basis of the civil liability of the journalist for publishing the photos and the conditions for its establishment in the first topic. Then, in the second topic, we deal with the provisions of liability resulting from the



right to the image. He concludes that: the abuse must be accompanied by particular rules and preventive measures to prevent abuse in light of technological development. The right to the image has two advantages, the first is that the right to the image is related to private life, and the second is that the right to the image is a subjective right independent of the right to privacy. For the civil liability of the journalist to be established, the three components of the civil liability must be available in general: the error, the damage, the causal relationship, and that the compensation is equal to the damage. Finally, the right to the photo is restricted, but some exceptions may allow the journalist to photograph and publish the photos.

Idris (2019) concentrated on his study on the Civil Responsibility of the Journalist. The study aimed to demonstrate the importance of the journalist's civic responsibilities. The researcher used the comparative analytical approach to achieve the study's objectives, as a comparison was made between the Jordanian and Egyptian laws. The results showed that Jordanian law obligated the journalist to respond and correct the press releases in case he made a mistake in the press release. The study recommended to the Jordanian legislator the importance of clarifying the difference between the right of reply and correction in the Press and Publications Law, with the tightening of control over the journalist when he performs his journalistic work and the need to impose a set of restrictions on the practice of this work to achieve protection and balance it with the freedoms of others.

Al-Shamayleh (2022) focused in his Study on the Tort Responsibility for Violating Others' Privacy in the Saudi Press and Publication System. This paper profoundly specifies the journalist's tort in breaching personal freedom and explains the possibility of avoiding it based on Article (9) of the Saudi Press and Publication Law. He made the following recommendations: Regulating journalist torts through publications and press law. The journalist has the right to objective criticism to avoid a tort and show the publication's acceptance. Research shows that reforming essential texts in the Saudi Press and Publication Law safeguards persons from overstepping the journalist and causing material and moral harm.

Previous studies relied on civil law and the press and publishing law on the one hand and, on the other hand, adapting the legal nature of protecting the right to the image as one of the rights inherent to the personality. Due to the absence of codification of the Saudi civil transactions (law) system, our study was limited only to the Saudi press and publishing system, which built the legal nature of the right to the image on the idea of the right to human dignity.

2. DISCUSSION

The basis of the civil liability of the journalist for violating the right to the image.

Jurisprudence differed in the right to the image, as the first direction believes that there is no right in the image because there is no legislative text that determines the right of a person in his image, as well as the absence of interest in recognizing this right, so there is no harm in photographing the person and publishing his image. In contrast, the second direction supports the idea of the right's existence. In the image, he responded to the first trend of not invoking the existence of a legislative text related to the right as a justification for not recognizing this self-standing right that necessitates legal protection. As for the lack of interest, there is no doubt that assaulting the right is a legitimate interest sufficient to establish responsibility (Al-Baqli, 2017).

The idea of private life as a traditional basis for a journalist's responsibility:

The idea of the extent to which the right to the image is linked to the right to private life sparked a jurisprudential dispute that was divided into three directions. The first one believes that the right to the image is a manifestation of the right to private life. Private life transcends the framework of private life so that it is protected outside this framework, and the second considers that the right to the image is independent. Some jurists did not accept this view, given that the right to the



image means protecting its owner in his physical and moral integrity, and the third takes a middle position. Moreover, they believe that the right to the image has a dual nature, as it may be a manifestation of the right to private life if the image is related to the private life of the person, and it may be an independent right by itself if the image does not constitute a violation of the person's private life (Al-Ta'i, 2017; Muhammad & Raddad, 2019).

The idea of human dignity as a modern basis for journalist responsibility:

The idea of the right to human dignity is ancient, as ethics played an important role in legal life and the development of legal rules, in addition to being a flexible idea that cannot be defined in a specific framework. Protecting the right of people to display their tragedy publicly is evident in the fact that it means preserving human dignity. At the same time, it means that a person belongs to a broad and precise meaning, humanity (Fayed, 2008).

The idea of human dignity can be rooted in civil responsibility by referring to religions as a primary source of it, and the Islamic religion is considered in particular at the forefront of religions that devote this idea, as it was stated in the Almighty saying in Al-Isra, verse 70: " We have honored the sons of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favours, above a great part of our creation."

The committees specialized in examining violations of the provisions of the Saudi Press and Publication Law have adopted in their decisions regarding the right of people to have their pictures taken when assaulted in determining the protection of his belonging to the right to human dignity based on a text (Article 9 / Paragraph 3), and in their decision, it was established that the elements of tort liability were available through The published news that included an insult to the dignity and reputation of the plaintiff, due to the appearance of her picture in the published news and obliging the newspaper to pay compensation for her right.

The Conditions for establishing the journalist's tort liability for violating the right to the image.

For the journalist to be tortious, its elements must be present: the error, the damage, and the causal link between the error and the damage. To clarify these elements, we discuss the error and damaged elements. The third element, related to the causal link, is not unique to any specificity in the field of the journalist's tort responsibility, so we will not address it but refer to it in the general literature on civil liability.

The Mistake: The journalist's failure to fulfil the special obligations imposed on him by his profession, which are the source of the law. The journalism profession requires the journalist to know how to practice it. Where the Saudi Press and Publication Law requires a journalist, when practising his profession, not to prejudice or be subjected to the publication of the right to reputation or dignity of persons, and this is done through:

1. Distorting the human image by distorting his image.

As a result of the technical development witnessed by the world in the field of digital cameras and computer programs, it has become possible to change the human image dramatically. For example, changing the skin colour or the person's shape, such as putting on a beard for a non-bearded person or removing the veil from a veiled girl, and this work is called montage (Al-Muslimi, 2001). On the other hand, it does not only represent an attack on the private interest of the owner of the image, but it is an attack on the public interest because the public receives false and dishonest information (Bahr, 2010).

2. Defaming a person by publishing his image.

This case is the most widespread case of assault on the image, and it is called moral falsification. According to it, the journalist makes no material changes in the image. However, the image remains as it is, except that it does not reflect the truth of its owner, as it is accompanied by a comment that creates a false impression of the truth of its owner. According to this method, the



person's reputation is distorted, and he is subjected to slander or defamation by publishing his image so that the image is placed in A particular context, leading to defamation of the owner of the photo (Hammadi, 2019). Moreover, in the decision of the committee concerned with examining violations of the provisions of the Saudi Press and Publication Law, for a news article published by the defendant (the newspaper) entitled (a 27-year-old teacher in one of the governorates in the region held a party and a varied buffet of food for all her schoolmates And her acquaintances and her family, on the occasion of her divorce from her deceitful and exploitative husband) with the publication of the plaintiff's picture that was taken from one of the channels that previously interviewed her, it was proven that the defendant (the newspaper) violated defamation by publishing the plaintiff's picture and insulting her. The plaintiff is entitled to compensation for the damage resulting from this error and the completion of Elements of tort liability (fault, damage, and the causal relationship between them).

3. Caricature:

It is the art of handwritten photography in a satirical manner to comment on an event and criticism in order to correct social behaviour or express intellectual and political orientations. In a decision of the committee concerned with examining violations of the provisions of the Saudi Press and Publication Law, it was established that moral damage had been inflicted on the plaintiff for what was published against him in the newspaper through exposure to his person in a way that insults dignity because the defendant (newspaper.....) published a caricature of the plaintiff in the form of the character The fictional "Pinocchio" is a puppet made of pine wood whose nose lengthens whenever he speaks falsely under the title (a ball manager and a press conference), as the drawing shows the plaintiff as repeatedly lying, which is considered defamation of his reputation.

The Damage: Damage is considered the second pillar of tort liability. It may be material or moral and is the most common occurrence within the scope of the journalist's tort liability. It is expected (Al-Janabi, 2021) so that the journalist publishing excerpts from the private life of a famous person without her permission, which resulted in material Damage to him, represented in missing the opportunity to publish her memoirs, which missed the opportunity for financial gain, but the damage caused by the journalist Its impact is not limited to the financial interest of the victim. However, it may extend to prejudice his reputation, dignity, and social status, which applies to the term moral damage, which is every violation of a non-financial right (Al-Jubouri, 2014; Al-Kharousiyya, 2011). Moral damage does not affect financial responsibility but causes moral pain. For the aggrieved, such as harming a person's dignity or reputation.

Moreover, in the decision of the Committee concerned with examining violations of the provisions of the Saudi Press and Publication Law, it was established that the elements of tort liability (error, damage, and the causal relationship between them) are available for what was published against the plaintiff, by mentioning his full name and that he is the husband of the daughter of his companion in prison, described as a terrorist, which leads to damage to his reputation and dignity, and since the damage in this lawsuit occurred through this publication to a significant person in his work, society, family, and surroundings, and he has his considered immunity, accordingly, it was proven to the Committee that the damage occurred due to this error, and the plaintiff deserved compensation for the private right in reparation for the damage. Its estimate is based on Committee and its discretion.

Compensation for damage is required to be realized, such that the damage occurred to the injured party or that it is inevitable that it will occur in the future. As for the potential damage that did not occur, and there is no confirmation of its occurrence in the future, it is not a reason for compensation. Likewise, personal harm must befall the plaintiff, whether in his money or his psyche. Therefore every claim based on harm to another person is not compensated for (Shakir, 2022). Moreover, it is settled in jurisprudence and jurisprudence that if the act was characterized by illegality, it is not compensated for except with the availability of the element of damage, so the damage is the basis for liability that revolves around it, whether it exists or not, so there is no



room for saying that civil liability exists if the damage is not available, and therefore the burden of proving the element of damage falls on the injured person in addition to other elements of civil liability. However, a part of the jurisprudence believes that the rights inherent to the personality, including the right to the image, give its owner specialization and exclusivity that prevents others from participating in the powers of his right, interfering with it, or attacking it. Moreover, when these rights are violated, the assault inevitably includes the meaning of damage without the need to prove it. It generates interest for the owner of the right to demand restitution and stop the assault and claim compensation for it (Al-Amr, 2020).

In the same context, some of them say that the judge's authority when the violation of the rights inherent to the personality occurs is based on determining the scope of the damages, not on proving their existence because their existence is assumed (Al-Khayyat, 2019). Based on this opinion, which I agree with, if an assault occurred by the journalist on the right to the image of a specific person, the aggrieved party can claim compensation for the damage inflicted on him once the illegality of the act committed against him, represented in the assault on his image, is proved.

Provisions of liability resulting from the infringement of the right to the image.

The right of reply and correction is the ideal form of in-kind compensation for infringement in a press publication. It dealt with (Article 35) of the Saudi Press and Publications Law. Then it clarified (Article 88) of the Executive Regulations of the Saudi Press and Publication Law regulating the right of reply and correction. It may be difficult in many cases to judge compensation in kind, as in cases it is not possible to restore the situation when the reputation and dignity of the person have been affected by the assault On his right in his form until before the damage occurred, as we are facing an absolute impossibility. Hence, compensation in kind is not possible by nature, so the court rules another type of compensation in return (cash and non-monetary). Monetary compensation is distinguished from other compensation methods in that it is valid for judgment regardless of the type of damage, material or moral (Al-Jubouri, Yassin, 2023).

The decision of the committee specialized in examining violations of the provisions of the Saudi Press and Publication Law stated the reasons on which it relied in issuing its ruling to compensate for moral damage in a case whose facts are summarized by the defendant (the newspaper) publishing a story about the plaintiff, with his colour and clear photo attached to the story in a case that was acquitted. The plaintiff, from it, what it says: "...and since the moral damage cannot in many cases be lifted or removed with the same amount, since this is impossible by virtue of the nature of this damage, so the material compensation is the closest thing that can be compelled to him in order to achieve Justice and put an end to the injustice, and since the compensation is paid what is required From a financial allowance due to causing harm to others, the committee considers the permissibility of material compensation for moral damage, provided that the damage is direct and fixed and due to an illegal reason, and all of this is proven in the pending case, so the elements of tort liability are fulfilled by error, damage, and the causal relationship, and compensation is established, and since the principle is in compensation is generally to be estimated by the amount of direct damage caused by the error, and with the absence of a legal or regulatory text obligating the case examiner to follow specific criteria for estimating compensation, determining its value is subject to the discretionary authority of the committee as the first expert in this regard, and all of this is based on the principle of appropriateness and the committee's diligence to achieve Justice, redressing injustice, and redressing the damage in a balanced manner, taking into account the surrounding circumstances and the direct impact on the compensation claimant.

According to civil liability rules, the person obligated to pay compensation is the perpetrator of the harmful act that caused damage to others. Accordingly, the journalist is responsible for the damages he caused to others due to attacking their photos. If he published the image through a publication, then the publication is subject to the Press and Publication Law, and a compensation



claim is filed by the person who sustained the damage (Al-Khasawneh, 2015). The question arises: To what extent is the right in the image transferable through inheritance?

It follows from relying on the idea of the right to human dignity as a basis for journalistic tort responsibility that the right to human dignity does not end with death, and this is one of the cases of honouring a person by preserving his dignity even after his death, in contrast to the rights inherent (attached) to the personality that expires with the death of the person because it is attached to his personality. When it expires, it is natural for the rights that relate to it to expire (Al-Shamayleh, 2019).

In application of this, the committee specialized in examining violations of the provisions of the Saudi Press and Publication Law concluded in its decision that it was proven that the newspaper had violated the Press and Publication Law according to (M9 / Paragraph 3) for publishing incorrect facts of a piece of news including a photo of the deceased, which is an insult to the dignity of the deceased and his family, which entitles the plaintiff to compensation for damages, what he suffered from this publication and the abuse and accusations that his deceased son was subjected to. The right to dignity generally extends to all attacks affecting a person's humanity.

3. THE MEANS OF PUSHING THE JOURNALIST TO RESPONSIBILITY FOR VIOLATING THE RIGHT TO THE IMAGE.

Acceptance of photography from the subject:

A person's satisfaction with his image's production, publication, and display is a reason for permitting the journalist's work in publishing images. This is usually done under a contract between the journalist and the rights holder, according to which the person agrees to use his image for purposes specified in the contract (Hammadi, 2019). There may be many forms of expression of consent, including express, verbal, written or implicit. A part of jurisprudence believes that a person's presence in a public place, away from his private life, is considered implicit permission for others to take his picture. Permission to photograph does not necessarily mean permission to publish because taking and publishing a picture are two different matters. In the case of permission to publish, this publication must be within the limits of the permission and within the scope of the information that the right holder approved it, as well as adherence to the means of publication included in the permission, provided that it must be taken into account that the permission granted to a person to publish a picture is a special permission for that person and only those who issued it in his favour benefit from it (Hijazi, 2008; Al-Muslimi, 2001).

Accordingly, the person's approval of publishing his picture in a specific newspaper does not mean that he has allowed the publication of all newspapers. It is not permissible for a newspaper to publish based on his permission to another newspaper. The question arises: Can a journalist who has obtained permission to publish a picture of a specific person republish it again? For example, he publishes a picture of a specific person in a press report and then republishes the picture in another press report without obtaining the permission of its owner. The French judiciary, led by the French Court of Cassation, has decided that republishing what was previously published separately is prohibited when republishing without the person's consent (Al-Khayyat, 2019). Accordingly, the journalist may not publish the photos without obtaining new permission from the owner because that constitutes an assault. He has the right to his image, and it is unacceptable for the journalist to publish the image at a later time without new permission from the person who owns the image. His previous acceptance is sufficient.

The right to the media is a reason for the permissibility of publishing the image.

According to the right to information, the public is supposed to have the right to know and be informed of all that is happening in terms of public events and issues, in addition to their right to be informed of the activities carried out by the public and famous personalities from a public activity of interest to the public. This leads to the transformation of privacy into the public, and public events and the lives of celebrities become subjects for the media and the press. The public's right to information does not mean infringement on the privacy of individuals and intrusion into



their privacy. Instead, the media must be granted the right to transmit and broadcast information within the framework of the public interest, and the right to information may conflict with the interests of public figures who publish their photos in order to inform the public about the activities of these people for the public benefit. This leads to a conflict between the right to privacy and the right to information, as the right to information requires the publication of all events that occur in society, and saying otherwise means imposing a kind of censorship on media freedoms (Al-Maria, 2017). Hence, it was necessary to strike a balance between the conflicting interests in order to achieve the general interest of all members of society, and among the exceptional cases that permit the publication of pictures are:

Public facts and incidents

According to this exception, a person may not object to the publication of his image if it is in a public place; Because he is in a public place while practising his professional activities or for a walk and other reasons that mean that he has become a part of this place, like the buildings, roads and facilities, and therefore he cannot prevent people from looking at him or photographing him without prior permission, as it becomes difficult to obtain The consent of all the people who appear in the photo taken in the public place (Al-Maghrabi & Assaf, 2019). For the implementation of this exception, it is required that the public place be the main subject of the photo, and the appearance of the person in the photo was accidental. But if the person is the main subject of the photo and the place appears as a background for the photo, then it is not permissible to take the photo, and that entails civil liability (Al-Baqli, 2017)

In the implementation of this, the case was dismissed from the committee concerned with examining violations of the provisions of the Saudi press and publishing system because the photo published with the news was taken for the plaintiff in a public place. A national festival, and it was clear to him the journalists and photographers in front of him and their flash cameras, and the plaintiff was the one who voluntarily visited The pavilion of the Ministry of Health at the Janadriyah Festival and picked up the examination device to find out the percentage of carbon pollution in its lungs in front of people and the sight of visitors to the health pavilion. Accordingly, what was published is not considered a violation of the Saudi press and publishing system and does not violate dignity.

Official men or people of public prominence

Furthermore, public or official figures are the persons who assume public positions in the state, especially political ones, including the head of state, the head of government, ministers, and others. The reason for the permissibility of photographing and publishing pictures of public figures without obtaining their permission during the exercise of their public activities is that these official figures in the state assume public functions and run affairs in the country, so the public is interested in knowing their news and actions, as their jobs have an impact on social, political and economic life, therefore The public has the right to be acquainted with the public activities of these personalities, but also to know about every element in their private lives, which has a reflection or impact on their public activity (Al-Maria, 2017), provided that their private lives are not affected except to the extent that has an impact on the practice of public life that Its concept expands at the expense of the concept of private life, given the general character of the personality, even if the expansion is relative and varies according to the importance of the public position they occupy, and if the public personality exists in a public place but independently of his public or professional life, he enjoys the same rights as any person from the general public.

While it is meant by famous personalities: people who do not hold public positions, yet their personalities are known and the focus of public attention. Examples of this include artists, athletes, writers, writers, and others who enjoy a particular reputation in their society, and the reason for the permissibility of photography and publishing their pictures is that These personalities arouse curiosity and curiosity among the public, due to their great popularity, and they also need that fame and popularity to continue their existence in the field in which they carry out their activities,



and thus it is permissible to photograph or publish the image of the famous person while practicing his professional activity, provided that he is not in it Infringement of the reputation and dignity of the person (Fadel, 2018) and this was confirmed by the decision of the committee specialized in examining violations of the provisions of the Saudi Press and Publication Law by not answering the plaintiff's argument (the newspaper) that the plaintiff is a sports figure subject to praise and slander, saying, "Because fame does not give anyone the right to offend To its owner or to attack him on the pretext that he is a famous person, and the committee issued its decision obliging the defendant (the newspaper) to compensate the plaintiff for the private right.

4. CONCLUSION:

It has become established that the right to the image is a well-established and recognized right where he found an echo in the judiciary rulings and the opinions of legal scholars after he occupied them for many years. The necessity of keeping pace with the established protection of the right to the image with the scientific progress that has affected the technology. Photography is through establishing special and explicit rules to protect the right to the image and effective procedures, the most important of which are preventive measures to prevent and stop abuse, in addition to the right to apparent compensation related to the protection of the human image as a subjective right independent of the right to privacy so that he can A person may object to the publication of his image without his permission, even if the publication did not entail prejudice to his private life, and protection for this independent right has been established under the rules of copyright laws.


Despite the trend of jurisprudence towards the sufficiency of the occurrence of an assault on the right to the image for the establishment of civil liability and the assumption of damage, It was concluded through this research that in the absence of explicit texts, it is necessary to refer to the general rules in civil liability that require the establishment of responsibility to fulfil the complete essential elements of civil liability, which are harm, damage and causation. The victims' compensation for publicly displaying their photos is commensurate with the damages they suffered. The judge has discretionary power to determine the scope of publishing the photos to know the publicity of the damage, its extent, and other surrounding circumstances. Determining who is obligated to compensate is affected by issues, the most important of which is the method of publishing photos by a journalist. A journalist who works independently and publishes in an independent location away from press publications is solely responsible for civil compensation, following the general rules of civil law. At the same time, the journalist who publishes in a press publication is jointly responsible with the newspaper, the editor-in-chief and the publication owner in the face of the person affected by the publication of the photos, following the provisions of the Press and Publication Law. The right to the image is not absolute but rather a restricted right. Therefore many exceptions to it allow photography and publication, as the consent of the person is a reason for the permissibility of photography and publication. Likewise, the availability of the public character, whether concerning individuals or facts and the public's right to know the latest news and developments is one of the reasons for the permissibility of the journalist's act without the ensuing civil liability.

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References:

- [1] Al-Amr, Rabih Mahmoud, (2020). *The rights attached to personality, the right to oblivion, the right to privacy, Amman, Jordan, Dar Al-Thaqafa for publication and distribution.*

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- [2] Al-Baqli, Ayman Mostafa Ahmed, (2017). *Civil Protection for the Right to the Image in the Framework of Practicing the Journalism Profession*, *Journal of the Faculty of Law for Legal and Economic Research*, Alexandria University, Issue 2.
- [3] Al-Jubouri, Salal Hussein, (2014). *Compensation for Moral Damage in Civil Responsibility*, Alexandria, Egypt, Dar Al-Fikr Al-Jami`.
- [4] Al-Jubouri, Yassin Muhammad, (2023). *AD, The General Theory of Personal Rights and Obligations, Sources of Obligation*, Amman, Jordan, Dar Al-Thaqafa for Publishing and Distribution.
- [5] Al-Janabi, Farhan Muhammad Jassim, (2021). *Damage in Civil Liability: A Comparative Study*, Alexandria, Egypt, New University House.
- [6] Al-Kharousiyya, R. H., (2011). *The Permissibility of Compensation for Moral Damage*, Alexandria, Egypt, Modern University Office.
- [7] Al-Khayyat, Haifa Youssef Ahmed, *Legal Protection of the Right to the Image in Light of Technological Advancement*, 2019, Dar Al-Nahda Al-Arabiya, Egypt.
- [8] Al-Maghrabi, Jaafar-Assaf, Shaker, (2019). *Civil Responsibility for Violating the Right to Image via Mobile Phone*, Amman, Jordan, Dar Al-Thaqafa for Publishing and Distribution.
- [9] Al-Maria, Amr M., (2017). *Civil Protection from the Damages of the Electronic Press*, Alexandria, Egypt, New University House.
- [10] Al-Muslimi, M. K., (2001). *Civil Responsibility arising from the assault on the right to the Image*, Cairo, Egypt, Dar Al-Nahda Al-Arabiya.
- [11] Al-Shamayleh, N. J. . (2022). *A Comparative Study of the Saudi Press and Publication System's Tort Responsibility for Violating Others' Privacy* . *BiLD Law Journal*, 7(1), 253-261. Retrieved from <https://bildbd.com/index.php/blj/article/view/192>
- [12] Al-Shamayleh, N. J. M. (2019). *Legal controls protecting the right to a personal image in the Kingdom of Saudi Arabia*, *Moroccan Journal of Local Administration and Development*, No. 146.
- [13] Al-Taie, Ziyad Khalaf Aliwi, (2017). *The right to the Image and its civil protection, a comparative study*, Cairo, Egypt, House of Legal Books and Dar Shatat for Publishing and Software.
- [14] Bahr, Mamdouh Khalil, (2010). *Protection of Private Life in Criminal Law*, Cairo, Egypt, Dar Al-Nahda Al-Arabiya.
- [15] Fadel, Basem M. (2018). *The Right to Privacy between Release and Restriction*, Alexandria, Egypt, New University House.
- [16] Fayed, Abed, (2008). *publishing pictures of crime victims, civil Responsibility for presenting the victims' tragedy in the media, a comparative study*, Cairo, Egypt, House of Legal Books and Dar Shatat for Publishing and Software.
- [17] Fahmy, K. M., (2012). *The Civil Responsibility of the Journalist*, Alexandria, Egypt, Dar Al-Fikr Al-Jami`.
- [18] Hammadi, Mohamed Selim, *The journalist's civil Responsibility following the assault on the right to the Image in Algerian law*, 2019, *Journal of Law and Business*, Issue 51
- [19] Hegazy, Imad Hamdi, (2008). *The Right to Privacy and the Responsibility of the Journalist, in the Light of the Provisions of Islamic Sharia and Civil Law*, Alexandria, Egypt, Dar Al-Fikr Al-Jami`.
- [20] Al-Khasawneh, Maha Youssef, *The Civil Responsibility of the Journalist for Attacking the Right to the Image in the Jordanian Civil Law*, 2015, *the University of Sharjah Journal of Sharia and Legal Sciences*, Volume 12, Number 2.
- [21] Muhammad, Aqil Sarhan: Raddad, Sima Jabbar, *The Legal Nature of the Right to the Image*, 2019, *Al-Qadisiyah Journal of Law and Political Science*, Volume 10, Number 1.
- [22] Shakir, A. A., (2020). *Compensation for Future Damage*, Alexandria, Egypt, New University House.