

COMPENSATION FOR VICTIMS OF TERRORIST CRIME IN THE FRENCH AND JORDANIAN LEGISLATION: BETWEEN REALITY AND EXPECTATIONS A COMPARATIVE ANALYTICAL STUDY

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Abstract: *This article presents the compensation for victims of terrorist crime in the French and Jordanian legislation by conducting a comparative analytical study of the legal texts in the French and Jordanian legislation. It addresses this issue by clarifying the position of the French and Jordanian legislation on compensating the victims of terrorist crime. The article concludes that the French legislator approved legislative texts that help the victims of terrorist crime claim compensation based on the philosophy of social solidarity, however, the Jordanian legislation was completely different from the French legislation and devoid of any legislative texts that help the victims of terrorist crime claim compensation except for the provisions included in the Draft Law on Martyrs of the Jordanian Armed Forces and Security Corps Fund. In the last part of the article, the set of recommendations that would contribute to supporting the idea of compensating the victims of terrorist crime in Jordanian legislation is offered.*

Keywords: *terrorist crime, compensation, victims' compensation fund, Draft Law on Martyrs of the Jordanian Armed Forces and Security Corps Fund*

INTRODUCTION

Terrorist crime is one of the most dangerous crimes that our societies have been living through lately. This crime has become a dangerous and painful scourge that threatens humanity with all various affiliations, organizations, institutions, and gatherings. It also leads to violating security and stability, destroying property, violating sanctities, desecrating sanctities, and killing, kidnapping, and threatening the lives of many civilians.¹ These crimes constitute a large percentage of all crimes committed in our societies due to the increasing extremism and chaos. Hardly a day passes without news agencies and various local and international media informing us of the news of terrorist acts all over the world that pose an imminent threat to humanity, human civilization, and public security.² The crime of terrorism is one of the crimes of extensive damages; it leads to terrorizing the people and violating the public order of the state and society.³ In addition, it endangers the safety of society, harms and endangers the lives, freedoms, and

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¹ ERIC, D. *Le Terrorisme en droit international, in réflexions sur le définition le répression du terrorisme*. Bruxelles: Edition de l'université de Bruxelles, 1974, p. 125.

² AL-KHASHAN, M. A. *Rough, Definition of political credits and thematic credits. The new school of the Students*. Scan, 2013, p. 4.

³ NAYIL, I. A. *Political Crime Scene in the Confrontation with the Terrorists of the International Union of 1020-86 (1986) and Egyptian Law No. 98 Letter 1992*. Cairo: Dar Ennahda al-Arabiya, 1996, p. 20.

security of people, and causes damages to public or private facilities or properties.⁴ The damage caused by a terrorist crime is sustained by the state, people, or assets, which disrupts the functioning of the public facilities. The terrorist crime is often devoid of the personal motive of the perpetrator, so, there is no selective choice of the victim. The terrorist criminal focuses on inciting terror and fear with the intent of achieving influence and control over an individual, a group of individuals, or even the entire community, to achieve a specific goal that the perpetrator seeks to achieve. Sometimes specific victims are targeted, such as politicians, religious leaders, or public security officers. The same applies to establishments and institutions that are targets of terrorists. Sometimes, terrorist acts occur randomly without selection, and other times they are targeted at selected targets, such as security headquarters, ministries, embassies, universities, hotels, and the like. Accordingly, victims of terrorism can be divided into three categories. Firstly, terrorist act victims whose identities are unknown; those are the persons who have had their misfortune at the scene of the terrorist crime, such as the person who found himself at the place of a car bomb explosion. Secondly, victims who are targeted not for themselves, but because their jobs are of concern to the terrorists for their criminal project. This type of victim usually derives its identity from belonging to a specific profession or activity in society, such as being a policeman, a businessman... etc. Finally, victims whose identities are targeted by terrorists, and here the relationship of the victim with the terrorist is personal contrary to what characterizes the terrorist crime in this regard, as stated above. In most cases, the role of the victim in the terrorist crime constitutes an obstacle to his right to compensation, except in special cases. The main question of this research revolves around how the victim of the terrorist act can obtain fair compensation for the damages he sustained if the perpetrator of the terrorist crime is not known or died and cannot be recourse to claim compensation. This does not apply only to the people who confront the terrorist act as a result of their work in the security sector, such as the public security officers or the security corps who are victims of this terrorist act but applies more broadly. Therefore, we try to explain how the Jordanian legislator dealt with the victims of the terrorist crime and whether the victim of the terrorist act can obtain compensation for the damages he sustained. If the Jordanian legislator dealt with that, how did he compensate the victims of the terrorist act, especially if the perpetrator was not known? We have recently witnessed the targeting of our beloved Jordan for terrorist acts. The important issue that must be addressed here is the extent to which the victim of the terrorist crime receives compensation under the Jordanian legislation and how we can benefit from the legislation that has addressed this issue. Therefore, we will try to cover this topic and answer the most important questions it raises by adopting the comparative analytical method to identify the findings and recommendations that we hope to benefit from in our study.

We have divided this research into two main subjects; first; and second, the positions of the French legislation and the Jordanian legislation on compensating the victims of terrorist crime.

⁴ NOORII, H. *A Penalty of Punishment, Punishment of Crime, Legal Shrines, First Edition*. 2013, pp. 181–182.

I. SECTION ONE: THE POSITION OF FRENCH LEGISLATION ON COMPENSATING THE VICTIMS OF TERRORIST CRIMES

Referring to the French legislation, we find that the French legislator had previously adopted the idea of compensation, but he developed this compensation by establishing a special fund to compensate the victims of terrorism. In this section, we are trying to clarify the legislative basis for compensation represented by the Victims' Compensation Fund, and then the conditions and procedures to obtain the compensation.

I.1. First: The Legislative Basis for Compensation Represented by the Victims' Compensation Fund

The legislative basis on which the idea of compensation for crime victims is based has developed by considering the existence of the state's mistakes, the ideas of risks, and equality vis-à-vis public burdens, which leads to state mistakes, harm, and a causal relationship.⁵ If the mistake does not exist, the responsibility of the state to compensate the victims of the crime is not established. Likewise, the aggrieved party must prove the state's mistake. Because of the many criticisms leveled at the idea of the necessity of the existence of a mistake, the basis for the state's responsibility became the harm instead of the mistake, in order to create a balance between the individual's private interest and the requirements of the public interest. This is consistent with the requirements of justice and equality, which require holding the state responsible for compensating for the damages without committing any wrongful act. Perhaps the most prominent theories that advocated the idea of the state bearing the responsibility to compensate victims of terrorist crime are the theory of risks, the theory of equality vis-à-vis public burdens, and the theory of solidarity. As for the theory of risks, it means that the state bears the responsibility for the damages resulting from the existence of risks that it benefits from, such as the use of firearms by the state's security forces in the face of acts of violence and terrorism. The result of an activity carried out by the authority for the benefit of the national group, because that would impose an additional burden on the state in addition to paying the tax imposed on it under the tax law. This breaches the principle of equality of citizens vis-a-vis public burdens. The theory of guarantee and solidarity is based on the citizen's right to security in most international constitutions and covenants, which imposes on the state an obligation to guarantee the damages that result from compromising this security, and this is what the French legislator has adopted, in addition to the solidarity and cooperation of the social body by all available means in order to redress the damages sustained by the members of society that make them bear more burdens than others. Solidarity is the expression of the basis upon which assistance is provided by the nation to a group of individuals who have faced great difficulties and hardships. In the case of crises that afflict the existence of the group as a whole, a feeling of solidarity appears in the sense of belonging to the same group.⁶ The French legislator has adopted this theory

⁵ AL-ZOGRD, A. S. *Compensation for Insistence Arising from Terrorism*. Alexandria: New University House, 2007, p.140.

regarding the state's obligation to compensate the victims of terrorism. Referring to Western legislation, especially French legislation, we find that the idea of compensation for victims of crime is not new. The French legislator enacted a law to compensate victims of violence in 1977, which obligated the state to compensate victims of crimes against bodily integrity in the event that the perpetrator was unknown or insolvent. This law restricts compensation only to two cases: if the crime is harmful to bodily integrity, such as causing injury and murder, and if the perpetrator is insolvent or unknown. Because of these two conditions, the French legislator tried to develop its legislation and enacted a law in 1981 to add to the compensation a new list of money-related crimes such as theft, fraud, and breach of trust, in 1983, the French legislator recognized the state's responsibility for compensation for damages caused by gatherings. Thus, the French legislator took positive steps to compensate the victims of the crime. The French legislator added another step forward by adoption of Act No. 9 of September 1986 obligating the state to compensate victims of terrorist crimes by establishing a special guarantee fund that undertakes to compensate for victims of terrorist crimes, including all bodily and moral damages, as well as future damages that may arise as a result of the development and aggravation of the injury and damages after approving the original compensation amount.⁷ Funding for the fund comes from a tax on every insurance policy on cars, homes and businesses in France.

1.2. Second: The Structural Organization of the Victims' Compensation Fund

The French legislator established a special fund to compensate victims of terrorist crime, intending to assist crime victims and compensate them immediately for the damage they sustained as a result of the terrorist act. The fund comprises a president and nine members, provided that the president is either an advisor to the Court of Cassation or the attorney general at the Court of Cassation. The members include representatives of the insurance sector and the Victims' Compensation Fund. The members of the Board are appointed for a period of three years renewable, and its resolutions are effective within 15 days of their adoption. The Fund is supervised by the Ministry of Finance. The Fund meets periodically as required by the interests of the victims. It usually meets once every three months unless there is a need for otherwise. The guarantee fund is financed by the insurance sector, as the fund does not receive any of the budget allocations from the state. The French legislator imposed a fee of 5.90 euros on each insurance contract documented by insurance companies. These proceeds will go to the Victims' Compensation Fund to be used in compensating victims of terrorist crime. These resources amounted to 666.8 million euros in 2017. In parallel, their expenditures amounted to 436.4 million euros. However, we note that the financing of such funds varies from one

⁶ ATAR, R. *Compensation of the victim for damages arising from terrorist crimes. Doctoral thesis*. Mansoura: Faculty of Law, Mansoura University, 2001, p. 422; FAYYAD, I. T. *The responsibility of the state for the actions of its employees in Iraq with reference to French and Egyptian laws*. Cairo: Dar Al-Nahda Al-Arabiya, 1973.

⁷ La loi du 9 septembre 1986 relative à la lutte contre le terrorisme et aux atteintes à la sûreté de l'Etat a institué un Fonds de Garantie chargé de l'indemnisation des dommages corporels consécutifs à un acte de terrorisme. Ce fonds est financé par une contribution prélevée sur les contrats d'assurances de biens.

country to another. In Finland, for example, the fund's budget is derived from the budget of the Ministry of Justice, while in Sweden it is funded by the fines imposed on the perpetrators of crimes.⁸

1.3 Third: Victims Benefiting from the Victims' Compensation Fund

Regarding the French Code of Criminal Procedure,⁹ the Insurance Law and the Law on the Establishment of the Victims' Compensation Fund, the persons benefiting from compensation are classified into two categories:

1. The French citizens: Every person holding the French nationality who is a victim of a terrorist crime irrespective of wherever it occurred, whether within or outside the French territory, has the right to compensation. Wherever the terrorist crime occurs and a French citizen (who enjoys French citizenship) becomes a victim of the terrorist crime, he deserves compensation in accordance with Article 126-1 of the Insurance Law.¹⁰ The consolidation of the principle of solidarity between the French prompted the French legislator to amend the condition that the French (with French citizenship outside France) be regularly registered with the French consulates.¹¹
2. Foreigners (non-French citizens): With reference to the text of Article 706-3 of the French Criminal Procedure Code and Article 126-1 of the Insurance Law, we find that the French legislator granted the right to foreign persons who are victims of a terrorist crime that occurred within French territory. The French legislator required compensation to be granted to foreigners on the condition that the crime occurred within the French territory. The philosophy of the French legislator regarding the entitlement of a foreigner to claim compensation stems from the state's responsibility to preserve the security of people, the safety of their lives, and their freedoms. Therefore, it was decided to apply the Fund's Law to the incident of the murder of an Algerian lawyer (Ali Al-Masili) in Paris on 04/17/1987, as well as the killing of the imam and director of the Myrha Mosque in Paris on 07/11/1995 as a terrorist incident that occurred against a foreigner within French territory.

⁸ Finland: le Financement par une budget du ministère de la justice. Ireland : Financement: budget du *Department of Justice, Equality and Law Reform* (ministère de la justice). Luxembourg: Financement: frais de justice criminelle du ministère de la justice. Portugal: Financement: ministère de la justice. Sweden: Financement : amendes payées par les auteurs d'infractions.

⁹ L'article 706- 3 du code de procédure pénale française dispose que ' Toute personne ayant subi un préjudice résultant de faits volontaires ou non qui présentent le caractère matériel d'une infraction peut obtenir la réparation intégrale des dommages qui résultent des atteintes à la personne, lorsque sont réunies les conditions suivantes :³ La personne lésée est de nationalité française ou les faits ont été commis sur le territoire national).

¹⁰ Article L126-1 du code d'assurances française qui dispose que Les victimes d'actes de terrorisme commis sur le territoire national, les personnes de nationalité française victimes à l'étranger de ces mêmes actes ainsi que leurs ayants droit, quelle que soit leur nationalité, sont indemnisés dans les conditions définies aux articles L. 422-1 à L. 422-3. La réparation peut être refusée ou son montant réduit à raison de la faute de la victime.

¹¹ LOI no 90-589 du 6 juillet 1990 modifiant le code de procédure pénale et le code des assurances et relative aux victimes d'infractions (1).

1.4. Fourth: Procedures for Obtaining Compensation

Anyone who has been a victim of a terrorist act has the right to apply for compensation to the Ad Hoc Committee at the High Court of First Instance, according to Article 706-4 of the French Code of Criminal Procedure. The application must include all the necessary papers. This committee is composed of a chairperson with the rank of judge from the High Court of First Instance and two members, one of whom is a judge from the Court of First Instance and the other is one of the persons interested in the rights of victims, provided that he enjoys the full exercise of his civil rights and holds French citizenship. This committee has a judicial nature, so it renders its judgments in a judicial form, and these judgments are subject to appeal by way of appeal.¹² The committee receives all claims for compensation from victims of the terrorist crime within three years from the date of the crime, irrespective of whether the victim has French citizenship or not. However, for the foreigner, the French legislator stipulated that the terrorist crime occurred within French territory to give him the right to claim compensation. This condition does not apply to a French national who holds the French citizenship. Whether the crime occurred within or outside the French territory, he has the right to demand compensation if he has been a victim of this terrorist act. After receiving the application accompanied by all the required documents, it will be sent without delay to the aforementioned Victims' Compensation Fund, and, within two months, the latter should invite the victim and submit an offer for compensation. If the offer is accepted by the victim, the documents are sent to the chairperson of the committee formed in the court of first instance for approval. However, if the application is rejected by the Fund or the offer was not accepted by the victim, the papers are also sent to the committee formed at the court of first instance for consideration. Then it makes its decision, and this is set out clearly in the provisions of Article 706-5-1 of the French Code of Criminal Procedure.¹³ The victim is entitled to compensation for material damage and moral damage, while relatives of the victim are entitled to receive compensation for moral damage. Compensation can be granted to a spouse for the death his/ her spouse. Here, we find that the French legislator did not apply the general rules to compensate victims of terrorist crime but rather set special rules in the Code of Criminal Procedure to redress the damage resulting from it if a terrorist act was proven against the victim and this person was a French citizen or a foreigner against whom the terrorist crime occurred in the territory of France.

¹² L'article 706-4 du code de procédure pénale française dispose que ' L'indemnité est allouée par une commission instituée dans le ressort de chaque tribunal de grande instance. Cette commission a le caractère d'une juridiction civile qui se prononce en premier ressort. La commission est composée de deux magistrats du siège du tribunal de grande instance et d'une personne majeure, de nationalité française et jouissant de ses droits civiques, s'étant signalée par l'intérêt qu'elle porte aux problèmes des victimes. Elle est présidée par l'un des magistrats.

¹³ L'article 706-5-1 du code de procédure pénale française dispose que " ...En cas d'acceptation par la victime de l'offre d'indemnisation, le fonds de garantie transmet le constat d'accord au président de la commission d'indemnisation aux fins d'homologation. En cas de refus motivé du fonds de garantie, ou de désaccord de la victime sur l'offre qui lui est faite, l'instruction de l'affaire par le président de la commission ou le magistrat assesseur se poursuit... ».

II. SECTION TWO: THE POSITION OF JORDANIAN LEGISLATION ON COMPENSATING VICTIMS OF TERRORIST CRIME

After stating the position of the French legislator on the compensation for victims of terrorist crime, we found that he set special rules for compensation in the Code of Criminal Procedure, and he also recognized the state's responsibility for compensation based on the principle of social solidarity like other legislation. However, we wonder about the position of the Jordanian legislator on this issue. Did the Jordanian legislator recognize the state's responsibility for compensating the victims of the terrorist crime? or did he suffice with some special provisions for compensation? This is what we will explain below.

II.1 First: The State's Responsibility to Compensate the Victims of the Terrorist Crime according to the Accompanying Mistake

First of all, it must be noted that compensation must be sought from the perpetrator of the crime, whether he was a natural person or a legal person. The perpetrator of the terrorist crime (the perpetrator) must be required to compensate for all the damages he has caused, whether material or moral damages. Here, there is no problem, as all legislation recognizes this responsibility, and that the perpetrator bears the responsibility for compensation. However, the problem arises if the perpetrator is not known or was killed and there is no recourse against his heirs to claim compensation. Therefore, ideas emerged calling for the establishment of the state's responsibility to compensate the victims of terrorist crime. Some have founded this idea based on the state's responsibility for its actions, and others have founded it on the idea of social solidarity, which is adopted by the French legislator as we have already shown in this research. There is no doubt that the state is responsible for its actions that cause harm to others, but the legal basis for establishing this responsibility differs as to whether it is based on a personal mistake or on a service offense. The mistake cannot be attributed to the department since it is a legal person, but the mistake is attributed to those who do the work, i.e., the workers in this department, as they are natural persons. Hence the distinction between the mistake made by the employees in the department as a personal mistake or a service offense.¹⁴ So, the service offense is a mistake that can be attributed to the department itself, even if it was committed financially by one of its subordinates.¹⁵ If the person belonging to the department has bad in-

¹⁴ La faute personnelle est celle qui est commise par un agent public et qui présente une gravité extrême qui a été définie par un juriste au début du siècle dernier, le professeur Laferrière, qui disait que la faute personnelle « ne révèle pas un administrateur plus ou moins sujet à l'erreur, mais l'homme avec ses faiblesses, avec ses passions, avec ses imprudences... ». Cette faute personnelle peut se détacher totalement du service lorsqu'elle a été commise hors du service et que par voie de conséquence, elle n'a aucun lien avec celui-ci. Exemple : un fonctionnaire qui commet un meurtre extérieur au service et sans aucun lien avec celui-ci commet une faute personnelle n'engageant pas l'administration. Cette faute personnelle sera jugée par les tribunaux judiciaires. In: *Cours de droit.net* [online]. [2024-02-29]. Available at: <<http://www.cours-de-droit.net/conditions-de-la-responsabilite-administrative-a121604262>>.

¹⁵ Al-TAMAUI, S. *Administrative Judiciary, Book Two. Judgment of compensation and methods of appealing judgments - a comparative study*. Cairo: Dar Al-Fikr Al-Arabi, 1986, p. 139; SHATNAWUI, A. K. H. *Al-Wajeez in Administrative Law. First edition*. Amman: Jordan Wael Publishing House, 2003, p. 217. La faute de service est celle commise par les agents de l'administration dans le cadre de leur fonction; la faute est alors imputable au service et non à l'agent.

tentions while performing his job duties and deliberately turns to harming others, then he is responsible for compensation, not the department.¹⁶ But if it is otherwise, then the department bears the harmful consequences incurred by the individuals. Moreover, if the purpose of the work is functional and not personal, then the department also bears the responsibility for the harmful consequences as it is a kind of service offense. For example, when a policeman runs after a fleeing criminal on the public road to arrest him, and while he is running, he hits a passerby causing him harm. This employee is for and because of his job. The effect of the service offense on the functioning of public utilities can be shown regularly and steadily as follows:

II.1.1. The Public Utility Did Not Perform the Required Service

This image is represented in the case of the department's failure to perform a duty that it should have performed for the interest of individuals, and its negative attitude results in harm to individuals. The department is in a negative position by refraining from doing what it must do. This image is a stage in the development of the system of state responsibility to compensate for the damages caused by service offenses. Examples include the department's failure to erect a barrier to prevent flooding, or failure to erect a barrier to prevent pedestrians from falling from a high place, or the school administration leaving piles of gravel and sand in the schoolyard which resulted in a child falling on the ground and being injured, in addition to accidents that happen to students in educational institutions due to negligence of the administration in performing one of its duties, for example, if the administration puts a fireplace in one of the schools and neglects to take measures to keep young students away from it. Therefore, some students suffer from burns as a result of approaching this fireplace.¹⁷ By applying the above to the work of the public utility in confronting terrorist acts, we find that if the public utility concerned with combating terrorist acts is not fully prepared to confront such acts, responsibility can be established towards the department, and a picture of unpreparedness must be established and the department's failure to perform the required service must be proven.

II.1.2. Poor Performance of the Required Service by the Public Utility

It can be said that if the public utility performs the service required poorly, the department's responsibility for compensation will be realized. Jurisprudence has confirmed that the manifestations revealing the public facility's poor performance of the service required of it represent the first case in which the French State Council established the

Les agents ne sont donc pas personnellement responsables des fautes qu'ils commettent dans l'exercice de leur activité. La responsabilité de l'administration est alors seule mise en cause, même si l'agent à l'origine du dommage a bien été identifié. In: *espace-droit-prevention.com* [online]. [2024-02-29]. Available at: <<https://www.espace-droit-prevention.com/fiches-pratiques/responsabilite-administrative/faute-de-service/pdf>>.

¹⁶ KHADER, T. F. *Administrative Judiciary – Compensation Judiciary State Responsibility for Non-Contractual Works*. Cairo: Dar Al-Nahda Al-Arabiya, 2005–2006, p. 108.

¹⁷ AL-TAMAUI, S. *Administrative Judiciary, Book Two. Judgment of compensation and methods of appealing judgments – a comparative study*. Cairo: Dar Al-Fikr Al-Arabi, 1986, p. 126.

responsibility of the department to compensate for the damages incurred by it.¹⁸ The public facility's poor performance of the required service involves all positive actions in which the department performs wrongly, whether in the form of making administrative decisions or taking actions, and whether it is the work of an employee or an unknown person or anything else. Therefore, it was decided to consider the state responsible for employees developing a disease as a result of poor ventilation of workplaces heated by coal,¹⁹ as well as a security force colliding with passers-by while chasing after a criminal causing a permanent disability to the passers-by. With regard to confronting terrorism, the responsibility may be on the public department if the police personnel use one of the attendees to negotiate with the terrorists, and this results in the death of the negotiator, or assigning the police to confront a terrorist group fortified in one of the dwellings within a residential building, or when they try to free hostages from the hands of a terrorist group who takes them as human shields, these confrontations can result in injuries or killings of citizens or policemen due to the poor performance of the facility. In general, these confrontations were poorly planned due to a complete lack of insight into the nature of the region, the location of the crime, and the arming of the terrorist group. Here, it is necessary to identify the service offense on the part of the police facility and to ensure that the element of poor service performance is available in the required manner.

II.1.3. Delayed Performance of the Required Service:

One of the important issues in the work of the public department is that it has the freedom to choose the appropriate time for its intervention in the performance of the service, as it is able to determine the time required to avoid harmful consequences for individuals. However, the department's delay in carrying out a certain action may sometimes result in harmful results that cause harm to individuals, and this is considered a service offense on the part of the department which must bear responsibility for these consequences.²⁰ The slow performance of the public utility's required service can be considered an example of the public utility's failure to perform the required service; once the sufficient time specified for the performance of the service passes without the public department carrying out its duty, this is considered as the public utility's failure to perform the required service. The department must bear the responsibility for the consequences of the unjustified delay, as the supreme function of the department is to satisfy the public needs and to be keen to protect the rights of individuals and not to prejudice them. Therefore, the delay in treating the patient can be considered a kind of service offense that forces the department to bear responsibility, as well as the delay in arresting a dangerous criminal which resulted in harming people, is deemed a service offense that established the responsibility of the state. It can be envisaged that responsibility would arise in this way if the policemen arrived late

¹⁸ 2. ABU AMARA, M. *Administrative Judiciary in Palestine – Administrative Law Group – Part Three. Fourth edition.* 2000–2001, p. 200.

¹⁹ AL-HELO, M. *Administrative Judiciary, First Edition.* University Press, 1977, pp. 422–423.

²⁰ AL-SAWAIER, H. *A Responsibility for Administration Actions “Non-Contractual Liability”, A Comparative Study.* 1997, p. 49.

at the place of the terrorist crime after reporting it, and this delay led to more harming victims and the escape of the perpetrators. As a result of showing the examples of service offense, whether by not performing the required service or by the poor service or the delayed performance of the service, we find that it is difficult to establish the responsibility of the state because of the requirement to search for the service offense as the basis for the establishment of responsibility. It is the responsibility of the judge, when considering the service offense, to take into account the gravity of the mistake and all the circumstances surrounding this mistake, whether the circumstances are material or personal. Taking into account the time and place in which the facility performs its services or material works is very necessary to determine the severity of the mistake. Mistakes made under normal circumstances are completely different from the ones made under exceptional circumstances, such as in the case of terrorist acts. Likewise, the mistake that is made at night is different from the mistake that is made during the day, and the mistake committed in densely populated places and the public is completely different from that made in open and remote places. The mistake in confronting terrorist acts inside the city differs from the mistake made in remote and open places. A lot of damage to individuals and properties can be caused in overcrowded places, unlike in remote and sparsely populated places.

III. SECOND: THE STATE'S RESPONSIBILITY TO COMPENSATE THE VICTIMS OF THE TERRORIST CRIME IN ACCORDANCE WITH THE RELEVANT LEGISLATION

Referring to the Jordanian special legislation, we did not find any legal texts addressing the issue of compensation for victims of terrorism unlike the case in the French legislation, except for the Jordanian state's issuance of the draft law of the Jordanian Armed Forces and Security Corps Martyrs' Fund in 2018. This fund was established after that the beloved Jordanian state witnessed terrorist acts that killed people and damaged properties. This draft law can be considered as the laws related to the issue of compensation for victims of terrorist crime, where a member of the armed forces or security corps may be martyred while facing a terrorist crime.

This draft law is considered a successor to Law No. 1 of 1972 concerning the Jordanian Armed Forces Martyrs' Fund, Law No. 3 of 1985 concerning Public Security Martyrs' Fund, Law, and Law No. 2 of 1993 concerning Civil Defence Martyrs' Fund. This draft was sent by the Jordanian government to the House of Representatives for discussion and comments. Our research relates to this draft law as a proactive view concerning compensation for victims of terrorist crime. We will try to extract the idea of compensation from the draft law concerning the Armed Forces and Security Corps Martyrs' Fund for the year 2018 as follows:

III.1. The Personal Aspect of the Draft Law on the Jordanian Armed Forces and Security Corps Martyrs' Fund

Referring to the draft mentioned above law, we find that it established a specific requirement for the personal aspect (the persons who benefit from this fund); they should be

martyrs. Article 2 of the draft law defined the martyr as any officer, non-commissioned officer, candidate, individual, military student, police student, or a commissioned person who dies as a result of war operations or confrontation of terrorist actions, or died because of his injury after being transferred from the place of the operations, or who died due to first aid firefighting, rescue operations and training on the same, and for whom a decision to be granted this capacity is made by the ad hoc military committee at of the Jordanian armed forces or security corps. However, the House of Representatives added the phrase “or the civil servant who dies or loses...” to the end of the text. This addition means that the martyr is not only the one who dies but also the one who is lost and whose location is not known. The necessary condition to benefit from this fund is the martyrdom or missing of persons belonging to the armed forces or security corps, and if one of these two conditions is not met, the persons cannot not benefit from the fund. Here, we record our observations on this draft law. A person who belongs to the institution of the armed forces, whether in a military capacity or in a civilian capacity, who is injured or disabled while performing his duty or on the occasion of his duty, does not benefit from this fund. We believe that this draft law should be called “the Jordanian Armed Forces and Security Corps Martyrs’ and Wounded Persons’ Fund” and not to be limited to martyrs only. Anyone who sustains an injury that results in permanent total or partial disability as a result of war, terrorist acts, or security operations related to the job of the injured person must be included in this fund, and this is what many countries have adopted. Accordingly, we suggest adding a paragraph to Article 2 of this draft law to define the meaning of the injured; that is, everyone who sustains an injury that results in permanent total or partial disability as a result of military operations terrorist acts, or security operations related to the job of the injured. For example, the serious injury of the family breadwinner which prevents him from working and upsets the family’s balance is no less important than martyrdom or loss of that person. The pain is the same and the result is the same for the family, so we find that it is socially logical that the circle of beneficiaries of this fund be expanded to include those with permanent full or partial injuries, and that direct and urgent aid should be given to them to be able to accept the new social life. As a result of the search for persons who benefited from the Martyrs’ Fund draft law of 2018, we find that it was limited to members of the armed forces and security corps, and did not include civilians who may be victims of military or terrorist operations.

III.2. The Objective Scope of the Draft Law on the Jordanian Armed Forces and Security Corps Martyrs’ Fund

The draft law on the Armed Forces and Security Corps Martyrs’ Fund of 2018 indicated that the actions included in this fund that enable the people we referred to earlier to benefit from the benefits of this fund are as follows:

1. Military operations are defined by the draft law as armed engagement with the enemy on land, sea and air.
2. All internal security incidents, including security and intelligence operations, the chasing of wanted persons, and the resulting death, missing, or capture. This means all security actions aimed at combating crimes, maintaining security and public order, and achieving public tranquillity in the country.

3. Any other case that the Cabinet decides to consider as a military operation. This is a good action from the part of the drafters of this draft law, so, a citizen with a civilian character can perform a heroic act that amounts to being considered a martyr, such as preventing a terrorist act, helping to arrest dangerous criminals, or confronting the enemy in cases of military operations. It is true that this draft law pertains to members of the armed forces and security corps, as they are the authorities authorized to confront military and security operations, but it does not prevent civilian persons from carrying out their national duty and confronting such operations. They are also the martyrs of the homeland who deserve all our honor.

III.3. Resources of the Jordanian Armed Forces and Security Corps Martyrs' Fund

Referring to the draft law in question, we find that the funding sources of this fund derive from the monthly deductions from the salaries of members of the armed forces and security corps. Article 6. Para. B of the draft law details how these deductions are calculated. So that the 700 fils are deducted monthly from the salary of colonels and above ranks; 600 fils are deducted monthly from the majors and lieutenant colonels; 500 fils are deducted from lieutenants, and first lieutenants; and captains, 400 fils are deducted from candidates, agents, first agents, and military cadets, while 250 fils are deducted from the sergeant and first sergeant and finally 150 fils are deducted from corporal, the first soldier, the policeman, the soldier, and students. This means that the sources of financing this fund are private and not public. The source of funding is from the salaries of the members of this military and security institutions. We believe that the financing resources should be expanded to involve members of the country, and aid should be raised to the families of the martyrs, the missing persons and the injured. Many countries have adopted good methods to finance the Martyrs' Fund, and this can be achieved by imposing a tax by affixing a stamp of a value of one Jordanian dinar on the following papers and documents: gun licenses, driver's licenses of all kinds, certificate of good conduct, tickets sold for attending sports matches, tickets for concerts and musical festivals of all kinds, residence visas for foreigners, contracting contracts and government procurements. This idea of imposing a partial tax to finance the Martyrs' Fund develops a sense of patriotism among all individuals towards the families of the martyrs, the missing, and the injured as a result of the war and security operations.

CONCLUSION

In this study, we reviewed the compensation for victims of terrorist crime in the French and Jordanian legislation. We have clarified the concept of terrorist crime and the extent of compensation for the victims of this crime. Throughout this study, we noticed that there are differences between the French and Jordanian laws. This is reflected positively in the findings and recommendations. We reached a set of findings and recommendations for this study, which are summarized as follows:

Findings

1. The French legislator adopted the idea of compensating the victims of terrorist crime based on social solidarity and not based on the idea of wrongdoing. Therefore, the French legislator sat special rules for compensating the victims of the terrorist crime in

- the Code of Criminal Procedure, provided that the person (the victim) is either a French citizen or a foreigner who was the victim of the terrorist crime within the territory of France.
2. The French legislator established a special fund to compensate the victims of the terrorist crime, with the aim of helping and compensating the victims of the terrorist crime. The fund comprises a president with the rank of judge from the Court of Cassation, and representatives of the Ministry of Justice, the Ministry of Interior, the Ministry of Economy, and the Ministry of Social Security, three persons who are interested in the rights of victims of terrorism crimes, and representatives of the insurance sector and the Victims' Compensation Fund. Board members are appointed for a term of three years renewable.
 3. Jordanian legislation does not have special rules for compensating victims of a terrorist crime unlike the case in French legislation. However, the Jordanian legislator adopted the draft law on the Armed Forces and Security Corps Martyrs' Fund which is limited to martyrs and missing persons affiliated with the military and security establishment.
 4. The financing resources of the Jordanian Armed Forces and the Security Corps Martyrs' Fund were limited to monthly deductions from the salaries of members of the armed forces and security corps.

Recommendations

1. We recommend that the Jordanian legislator adopt the provisions of French legislation and establish a special fund to compensate victims of terrorist crime, and that said fund be chaired by a judge of the Court of Cassation, and comprise representatives from the Ministry of Justice, Interior, Planning and Finance, and representatives of the local community who are interested in human rights in general and terrorist crime victims in particular
2. We recommend that the civilian person who responds to terrorist acts, security, and humanitarian operations (in the event of rescuing the drowned) be considered a martyr and to add that to the draft law on the Jordanian Armed Forces and Security Corps Martyrs' Fund.
3. We recommend that the Armed Forces and Security Corps Martyrs' Fund not be limited to martyrs and missing persons only, but to include anyone who has been subjected to an injury that resulted in permanent total or partial disability as a result of military operations, terrorist acts or security operations related to his/her job.
4. We suggest adding a paragraph to Article 2 of this draft to define what is meant by the injured; that is, everyone who sustains an injury that results in permanent total or partial disability as a result of military operations, terrorist acts, or security operations related to their jobs.
5. We recommend renaming the Jordanian Armed Forces and Security Corps Martyrs' Fund Bill to become the Jordanian Armed Forces and Security Corps Martyrs and Victims Fund Law.
6. We recommend adding a partial tax to finance the Martyrs' Fund by affixing a stamp of a value of one Jordanian dinar on papers and documents related to some licensing procedures and certificates of good conduct, tickets for matches and parties, residence visas for foreigners, contracting contracts and government procurements.