

Implications of Administrative Responsibility Based on Liability: A Comparative Study

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Administrative responsibility based on liability implies responsibility is its legitimate work as long as this action causes harm to the natural or moral person. Here, liability is realised on the basis of only two grounds, damage and causal relationship, where the administration commits compensation to the injured person and does not dispose of that liability. Liability only occurs if the causal link between its work and the damage was established, and that such responsibility was based on the existence of legitimate work for the administration or the execution of the hazardous business as well as on the equality of common costs. The positions of the comparative laws differed with regard to its report. The implementation of this responsibility and its impact varies. Administrative responsibility was taken on the basis of responsibility for damages and the responsibility of the administration for public medical facilities.

Key words: *Irresponsible administrative liability / non-fault liability / administrative responsibility for legitimate work / responsibility for risk / liability / compensation for benefit.*

Introduction

According to Dr. Hassan Al-Thanoun, the prevailing idea at the time of the development of the French civil legislation in 1804 was that if a disaster is caused by a human, non-human or as a result of a mistake, the affected are not entitled to compensation from those liable. If the state or a charity intervened to help the afflicted, its work would be nothing more than charitable.

This has been the case until early in the last century, but nowadays people have changed their perceptions and it has become the prevailing feeling that this calamity or catastrophe, whatever its source, has caused an imbalance in the financial and legal status of a member of



the community and that justice is required to fix this imbalance and restore the financial balance of the person (Abdel Hamid, 1997).

Recognition of the notion of responsibility based on liability has become controversial within legal systems. It has contravened the traditional notion of three-pronged tort. The responsibility of the administration for its legitimate work is a complementary theory to the traditional theory that the state bears the default responsibility for its material and legal work.

Research Importance

The importance of the research is to shed light on the idea of this responsibility, to define the concept and its provisions, as it was implicit in the jurisprudence studies, as well as the developments in the world in general and in particular the Middle East, where the issuance of laws in some countries, including Iraq, provided for compensation for terrorist acts. This provides an understanding of the statement of the legal basis for this compensation and what prompted the administration's report.

Research Problem

This research will explore the extent of the adoption of administrative responsibility based on the assumption of responsibility by the administrative judiciary in Iraq, with comparative analysis of countries that have varied between supporters and opponents in light of recent developments that increased the intervention of the state and its increased activity in public life, which led to increased responsibility of the state even when not at fault.

Research Methodology

This study follows the method of comparative analytical research of legal texts and jurisprudence, firstly focusing on France and Algeria, then Egypt and Sudan and finally Iraq.

Research Structure

In this study, we highlight the importance of administrative responsibility in terms of its concept, characteristics and pillars. This is what we will address in the first section of this research. As for the second topic: we will discuss the controversy on the basis of this responsibility in comparative studies and indicate the position of trends in favour of the position of the administrative judiciary and the legislator, as well as the trends rejecting the idea of achieving the responsibility of the Department for its legitimate work, as we have provided legislative models and will address the position of the judiciary and legislator Iraqi from taking this idea. Finally, in the third section of this study, we will deal with the



provision of administrative responsibility based on liability and its forms and then cases of absence.

The First Topic

What is the basis for liability?

Management is generally held accountable for its actions, whether these actions are material that have a certain legal effect, such as building public establishments, or legal ones, such as individual public administrative decisions that cause damage to administrative responsibility. The general principle is that there is an error to achieve administrative responsibility. What is the concept of that responsibility and what are its characteristics and pillars? We will address this topic in three demands: the first requirement will demonstrate the concept of administrative responsibility based on liability, the second requirement will address the characteristics of administrative responsibility based on the responsibility of liability, while in the third requirement we will address the elements of administrative responsibility based on liability.

The First Requirement

The concept of administrative responsibility based on liability

The concept of the theory of liability in civil law requires that the person whose activity was a source of the liability is fined for their part in the damage. (E) This is administratively defined as fault-free liability or risk-based liability (Hassan, 1991, Abdul Razzaq, Mohamed Maher, 2013, Majed, 2010).

It is also defined as liability arising from the activity of the public authority which causes harm to an individual, without making a mistake. It is obliged to compensate the injured person if the damage is serious and special. (Abdel Hamid, 1997) This is an exceptional responsibility, since the general principle is that there is an error, damage and causal relationship, but this responsibility is realised without any error on the part of the administration. Although the fault is the cornerstone of administrative responsibility in accordance with the traditional concept, the responsibility of the administration can be made without the existence of such error or even presumed that once the damage occurs the judiciary ruled the responsibility of the administration and that created this responsibility is the French Council of State, (Abdul Razzaq) This was followed by the difficulty of identifying the mistake issued by the employer (Abdul Razzaq) as well as the difficulty of proving it (Salem Bin Rashid, 2009); (Mohamed Refaat, 2005); (Suleiman, 1985); (Abdul Razzaq). It also helped to establish this theory as the basis of administrative responsibility with a number of factors, namely:

1. The use of advanced methods in the management and management of public utilities.
2. The expansion of attempts to interfere with the administration in public life.
3. The lack of traditional rules of responsibility based on the idea of wrongdoing or presumed wrongdoing to achieve justice for those affected.
4. The achievement of social justice and satisfaction of public opinion (Abdul Razzaq).

The Second Requirement

Characteristics of administrative liability based on liability

The characteristics of administrative responsibility based on the assumption of liability shall be determined by the existence of legitimate conduct by the administration and that such conduct is dangerous.

1. The management conducts the project

The responsibility of management is realised on the basis of the error that is caused by them and which causes harm to the concerned person and the causal relationship between them. The responsibility of the administration is that there is a fault on its part, and here the traditional administrative responsibility arises (Abdul Razzaq) (Maher, 2013; Ghazi and Adnan, 2012; Mustafa; Soumia). Its activities may cause harm to some individuals with the absence of the element of error, and the victim is deprived of compensation in accordance with the rules of civil liability for the absence of the element of error. For example, the State may act to cause the legitimate dismissal of its employees or public works may occur in harm to individuals, and management may actively risk causing harm to individuals, or may refrain from implementing the judicial decisions without constituting a failure to essential administrative responsibility but because the public interest had to protect the largest category at the expense of the least category (Amer, 2002).

2. The existence of a risk management work.

One of the characteristics of this responsibility is that there is a risk in the activity practised by the administration to cause harm to individuals (Harir; Abdul Hamid, 1997; Zuhair Abdel-Mut'al, 2017; Ismat, 2016). However proponents of traditional responsibility try to bring them closer to the rules of justice or logic, this theory remains incapable of compensating the injured in all cases not attributed to human action and acts such as force majeure or sudden incidents such as war damage or disaster. (Amer, 2002)

3. Justice and equality before public costs

Equality is one of the most important principles enshrined in the constitutions of the State, and the State seeks to achieve it. This principle requires that there should be equality among all citizens in carrying the public burden. Therefore, the French Council of State found that it is not fair to bear certain individuals alone serious harm, but justice requires that the group bear the management of the harmful activity, which ultimately is in the interest of the society (Wissam; Naguib and Mohammed; Hamdi, 2016; Hassan, 2001). (Esmat, 2016) Equality before public burden is the basis on which the responsibility of management is held without error. (Ghazi and Adnan, 2012)

Third Requirement

Pillars of administrative responsibility based on liability

Administrative liability based on liability shall be achieved by the availability of the following two elements:

Damage

The concept of damage is what affects a person in a right or a legitimate interest (Abdel Hamid, 1997), and the legitimate interest is any interest protected by law. If the interest is without the protection of the law, compensation is no longer affected. (Ghazi and Adnan, 2012) The harm is either material, that is, a breach of an interest of financial value, or it may be moral by inflicting damage to feelings, dignity, emotion or honour (Amer, 2002; Sabry, 1960; Hassan, 2001). (Hamdi, 2016)

Damage shall also be inflicted on an individual or individuals who are self-appointed and unusual, that cannot be attributed to an attachment error (Harir) or for reason beyond the control of the administration (Salem Bin Rashid, 2009; Abdel Hamid, 1997; Abdul Razzaq; Esmat, 2016). For a specific group of individuals, and being unusual, that is, it goes beyond the usual limits that an individual must bear in return for life in the community, or in return for the services provided by the administration. This type of damage differs from the damage required to assume responsibility for tort. In the end, it is sufficient to meet the general conditions agreed (Hassan, 2001).

It must be sufficient to prove the damage and the causal link between the damage and the legitimate management activity, depending on whether it is damaged by fault, force majeure, third party act or sudden accident. (Hassan, 2001)



Causation

The association of causation with responsibility, whether contractual or default, is based on the error of the duty of proof or based on the assumed error. It is also within the scope of material or objective responsibility, that an idea does not assess the weight of error, and here the association of causality is realised between the act. Those who want to be held accountable for the damage done to the injured are supporters of the theory of liability, who see the failure to prove the error in most accidents, especially what happens in the factories and their mechanical machinery. The resulting impossibility to prove the error gives rise to responsibility for the damage done on the basis of their activity (Hassan, 1991).

If the responsibility is realised by the absence of error with the presence of damage, there must be a causal relationship, which is the link between the wrongful act of the administration and the realisation of the damage. The work of the administration is the direct or main cause of the damage being compensated. The administration is legitimate, and here the burden of proving the causal relationship lies with the victim (Hassan). The administration does not shirk its obligation unless it proves the wrongdoing of the injured or force majeure, but the sudden incident does not relieve the administration in its obligation to compensate the damage based on liability, privacy or capacity. Unusual and serious damage are the basis of compensation, and this requirement has been set by the Egyptian State Shura Council to avoid the expansion of this responsibility. (<http://carjj.org/sites/default/files/events/mswwly-ldr-bdwn-kht1-lswdn.docx>)

The Second Topic

Controversy over the basis of administrative responsibility in comparative legal studies

The statement of the basis of the responsibility of the administration based on the responsibility entails looking for this in the comparative studies that were between supporters and opponents. There is a trend that recognised that responsibility, while another trend refused to accept it, (<http://carjj.org/sites/default/files/levents/mdkhl-lsyd-ryys-mjls-ldwl.docx>) therefore it is required to address the position of the Iraqi legislator. We will address this topic by dividing it into three demands: the first one will deal with the basis of administrative responsibility based on liability in France and Algeria; the second one will deal with the basis of administrative responsibility based on liability in Egypt and Sudan; and the third to take responsibility in Iraq. (<http://tribunaldz.blogspot.com/2015/12/blog-post>)



The First Requirement

The legal basis for administrative responsibility in France and Algeria

The legal basis for the adoption of the provisions of administrative responsibility is based on the responsibility of the French Council of State, which contributed to the recognition of that responsibility on the administration with the absence of error, once the damage is achieved and the causal relationship between the administration's legitimate act and the damage arises as its responsibility. The Department has the burden of proving the absence of responsibility by proving the absence of a causal relationship, by showing that the damage has been caused by a foreign act (Ismat, 2016) (Ghazi and Adnan, 2012; Majed Ragheb, 2010; Mohamed Maher, 2013; Mohammed Refaat, 2005).

In France, not only the judiciary but also the provisions of administrative responsibility without error were reflected in the laws issued at that time, including the law of 12 June 1929 and the law of 8 October 1946, which provided for compensation for the legitimate dismissal resulting from the abolition of a job as well as laws issued in 1898, 1921, 1946 and 1948. (Maher, 2013)

As for Algeria, the idea of establishing administrative responsibility without error has been gradually achieved, and contributed to its crystallisation of the jurisprudence and then gradually enshrined the judicial decisions passed since 1977 in accordance with the jurisprudence of the Algerian judiciary (Mahmoud) (Mahmoud; Mahmoud, 2014; Mona, 2014; Naguib and Mohammed, 2013; Amer, 2002). This includes the decision No. 079099 of 21/2/2013, which ruled the responsibility of the administration without failure due to deficiencies in the maintenance of a property, as well as Resolution No. 083088 and Resolution No. 93503 on 18/9/2014, which considered the delivery of weapons by the state to a member for self-defence holds the state responsible and compensation for the harm caused to the victim, and resolution 097935 on 19/3/2015 to compensate the neighbours for the inconvenience caused by the suit. The municipality did not prevent it despite the complaint. Presidential decrees on the implementation of the Charter for Peace and National Reconciliation related to compensation for victims of the national tragedy, state support for families affected by the involvement of one of their relatives in terrorism, and how to reintegrate or compensate those who have been subjected to administrative proceedings have been adjudicated on national tragedy charges from 1999 to 2010 (Mahmoud, 2014).

The Second Requirement

The legal basis for administrative responsibility in Egypt and Sudan

The introduction of administrative liability based on liability in Egypt varied between supporters and opponents. We did not find a unified trend to adopt them. The Egyptian Council of State has at times acknowledged it and sometimes denied it in a number of its provisions regarding the legitimate dismissal of employees despite the adoption of the employment laws in Egypt, which are represented by Law No. 210 of 1951 and Law No. 47 of 1978 with the authority of the administration to dismiss the employee without disciplinary route. (Majed Ragheb, 2010) The Egyptian Council of State has issued several resolutions stipulating that compensation should be paid for the lawful dismissal, including the decree stipulating that if the State wishes to sacrifice a public employee, they can be dismissed by retirement before reaching the age of retirement, in accordance with the law and the public interest. At the same time, it should bear the risk of such conduct and compensate the dismissed staff member reasonably. (Majed, 2010) "In spite of this pro-responsibility stance, we find that the administrative judiciary does not take responsibility without error in general, as well as the Egyptian civil law, it does not assess the responsibility without error, as well as the ordinary judiciary, so it was decided to say that the Egyptian administrative judiciary does not hold any responsibility to the administration without It does not, however, assess liability on the basis of error, except in a narrow manner, after the legislator decides on special legislation that the error is the basis of management's liability for compensation." (Mohamed Maher, 2013)

In Sudan, the position of the Sudanese law and judiciary has been correct not to adopt the provisions of administrative responsibility based on liability. The principle is that there is no responsibility without proving the error, therefore there is no responsibility on the administration, (Mohamed Maher, 2013) and it is not possible to determine its responsibility without error only on the basis of a text, such as the appropriation law. On the date palm seedlings 1947, the Town Planning Act 1950 and the Work Injury Compensation Act 1981, the position of the law on the absence of administrative liability without error was due to Sudan's unified judicial system as well as the Anglo-Saxon origin of Sudanese legislation. (Mohamed Refaat, 2005)

Third Requirement

The legal basis for administrative responsibility in Iraq

The divergence of the ordinary judiciary and the administrative judiciary in Iraq on the adoption of the idea of the basis of responsibility, we find that the ordinary judiciary and

based on the provisions of the Iraqi civil law has based the responsibility on the idea of the supposed error, and left the special rules under the law of labour, social security and insurance to regulate the rules of responsibility. (Mohamed Refaat, 2005) The Iraqi legislator quoted the substantive provisions in determining liability in its provisions of Islamic jurisprudence. The decisions of the Court of Cassation were based on those provisions in its decisions establishing liability for management on the basis of liability. (Mona, 2014)

With regard to the administrative judiciary position, administrative responsibility can only be achieved by the existence of error. Consideration of requests for compensation is not in isolation from the decision of the court to cancel, independent claims for compensation are not accepted, and this position according to the provisions of Article (7 / VIII / a) Of the Fifth Amendment Law of the State Consultative Council Law No. 17 of 2013 in force. (Mustafa)

In sum, we find that the administrative responsibility based on liability has a wide resonance under the provisions of the ordinary judiciary unlike the case of the administrative judiciary which does not apply this responsibility. We believe that the amendment of the legal text of Article 7 is the optimal area of application of the administrative judiciary to achieve the principle of equality between individuals before the overhead costs, which is a prerequisite in the discharge of this responsibility.

The question arises: what is the basis of compensation in some Iraqi laws issued after 2003, including but not limited to the law of compensation for those affected by military operations and military mistakes and terrorist operations? (Naguib and Mohammed, 2013) It aims to compensate every Iraqi person, natural or moral, who has been harmed by military operations, military errors, terrorist operations, wounded by the Popular Mobilisation and Peshmerga, and to determine the severity of the damage and the grounds for compensation and how to claim it. According to this law, the Department intends to compensate the damage caused by military operations and terrorist operations. Although the state did not make a mistake, and did not take unlawful action, its responsibility is based on the liability and equality in the bearing of public costs and social justice, as those affected by the operations suffered only harm, and therefore require compensation, However, the compensation provided in this law may not be combined with compensation for the same damages in accordance with another law. In the event that the victim receives compensation less than what he is entitled to under this law, the difference between what is paid to him and what he is entitled to under this law shall be granted. (Naguib and Mohammed, 2013)

This trend has also been implemented by the Egyptian legislator, despite his rejection of the administrative responsibility based on liability and the minimal acceptance of it, issued in Law No. 24 of 1967 on the determination of pensions, subsidies or loans for losses of self and money as a result of hostilities amended by Law No. 97 of 1994. This compensation is in



respect of and affects the conditions of the public and private sector as a result of losses due to hostilities. This entails an obligation and duty on the State to compensate every injured person who meets the conditions of eligibility (Sabry, 1960). In the aftermath of the two world wars, the French government passed legislation to compensate those who had been affected by the war or those damages to compensate those who could not be brought before him. (Salem Bin Rashid, 2009)

The Third Topic

Ruling on administrative responsibility, forms and cases of absence

If the administrative responsibility based on the assumption of liability is realised in the laws adopted, what is the ruling? What are the main applications of administrative responsibility based on liability? What are the cases of absence from the administration? This section will be divided into three demands: the first requirement, we will deal with the provision of administrative responsibility based on the liability; the second requirement will deal with some forms of administrative responsibility based on liability; while the third requirement will deal with cases of absence of administrative responsibility.

The First Requirement

The provision of administrative responsibility based on liability

The French Council of State decided to compensate for material damage resulting from the responsibility of the administration without error, but this position has been through three stages with regard to compensation for moral damage. In the first stage, the French State Council refused to compensate for moral or moral damage, whether accompanied by damage. The moral damage at that stage was within the framework of irreversibility. Sadness and emotion do not make money, though the second stage in which the French Council of State approved compensation for moral damage if it was accompanied by material damage. This is due to compensation for moral damage, even if it is not accompanied by physical damage, even if the moral damage is not due to the death of a loved one with whom the victim is a legal association. (Salem Bin Rashid, 2009)

In Egypt, the judiciary has settled on the application of civil rules in compensation for damage, whether material or moral. (Soumia) The Law of the Administrative Court of Justice specified the decisions for which the Court is competent to compensate, including the final administrative decisions issued to retire public employees or to dismiss them without disciplinary action, i.e. compensation arising from administrative responsibility on the basis



of liability. It governs compensation for the injured, even if the administration's act is legitimate. (Soumia)

The Second Requirement

Some forms of administrative liability based on liability

The Department is responsible for compensating for the damage caused to others due to its legitimate work. There are many forms of such liability. This responsibility may arise from the organisation of the public facility by deliberately terminating the service of the public employee in order to ensure the smooth and regular functioning of the public facility. The Department shall bear the indemnity for work injuries or damages resulting from public works and may refrain from enforcing judicial rulings in the interest of a more general and comprehensive interest, but its failure to do so would be harmful to a certain category. (Soumia)

A recent trend has emerged regarding the scope of public medical facilities, and this area is considered one of the most important modern areas for the application of administrative responsibility on the basis of liability, because the errors of treating physicians are difficult to prove as it requires precise technical issues as well as the principle (joining classes) or courtesy among doctors. When one of their colleagues is accused of negligence, in this case, the determination of administrative responsibility on the basis of liability in the medical facility has a human dimension that the individual feels of high value and that the law has prepared the necessary protection and guarantees for a person's body to ensure their safety, especially in delicate cases such as blood transfusions and organ transplants. Therefore, the French judiciary has decided to compensate the damages to those who apply for blood donation without being charged with establishing evidence of a mistake from the public health facility. In the city of Sansber, transmission occurred to one of the teachers and after about three months, the teacher gave birth to a deformed child, and filed a claim with the Minister of Education before the Administrative Court. The court decided that if an infectious disease epidemic is occurring, we are facing an extraordinary serious situation beyond the extent. There is a causal link between the harm inflicted on the child and the mother, and the work and activity of this public facility. It is no longer a matter of whether the activity involves an error in which the responsibility is based on the idea of danger. The Council has endorsed this resolution. (Wissam)



The Third Requirement

Absences of administrative liability based on responsibility

It is indisputable that in the absence of harm or causation, liability based on responsibility shall be discontinued, as the causal relationship between the tortures and the legitimate management act is interrupted, and this shall be achieved in the following cases:

1. Check the damaged error.

If the administration proves that the fault of the aggrieved has contributed in whole or in part to the damage, it shall be exempted from liability to the extent that the aggrieved error contributes to the damage, and there is no difference between whether the error was made by the aggrieved personally or from his affiliates, provided that such an error is invoked. For example, if a driver of a vehicle accidentally collides with an electric pole on the highway, the column falls on the vehicle and shatters the driver. If it is proven that the fault of the injured is the only cause of the damage, the administration shall be exempted from the error altogether. (Zuhair Abdel-Mut'al, 2017)

Force Majeure

Force majeure is defined as any event that has no income to the will of the human being, and cannot be expected, both of which cannot be prevented, and which makes the implementation of the obligation impossible, and exempts the debtor from collateral, i.e., from damages to the factory and transport. Any incident outside these projects is a physical departure from a volcano or a sudden accident like a machine explosion. However, compensation is required in the case of force majeure and no liability is waived in the event of a sudden accident. (Zuhair Abdel-Mut'al, 2017)

The French Council of State is very strong in its application of the force majeure. It did not consider the stormy wind at a speed of up to 100 kilometres per hour force majeure, or a flood which had occurred before, while a hurricane was considered unusual danger and rain that led to massive floods within two hours was force majeure. If the force majeure is interrupted causation, as the responsibility of management based on liability requires that the damage to individuals is due to the known administrative activity and legitimate management. If it is proven that the damage was caused by force majeure, this prevents management's responsibility provided that no expectation PL and it could not be prevented or avoided, or its consequences could not be avoided by management. (Zuhair Abdel-Mut'al, 2017)

Violation of the Status of the Victim by Law or Public Order

The basis of compensation in liability-based liability achieves harm and a causal relationship between the legitimate work of the administration and the damage. The administrative judiciary adds the idea of the legitimacy of the victim's centre to the effect that the judiciary rejects the idea of compensation if the victim is in a position contrary to law, public order or public morals. For example, if the victim has undertaken construction on state-owned land without a permit from the administration, no one can benefit from his mistake. (Zuhair Abdel-Mut'al, 2017)

Acceptance of Risks

It goes without saying that the acceptance of risks or satisfaction of damages under the provisions of civil liability is considered, as some agree to exemption from liability and the consequences of the consequences of the irresponsibility clause. (Abdel Hamid, 1997) Under administrative responsibility, jurisprudence judged acceptable that damage arising from a hazard known to the injured does not entitle them to the right to compensation, as in the case of a person who moves to reside in a property that does not have the right to claim compensation for the damage of existing establishments before moving to the property such as highways and other infrastructure. (Zuhair Abdel-Mut'al, 2017)

Results and Conclusion

At the end of this study we reached a number of conclusions and recommendations as follows.

1. The responsibility of the tortuous administration for its wrongful act which entails the right of the injured person and its administrative responsibility for its legitimate work which causes harm to others, whether natural or legal person shall be realised.
2. Responsibility based on the notion of liability is achieved by having only two pillars (damage and causality), except for the traditional notion of administrative responsibility based on error, damage and causation.
3. This responsibility is imposed by the principle of justice and equality between individuals in the face of administrative burdens, public costs or risks of public works.
4. Within comparative studies in the recognition of the administration's responsibility for its legitimate act or responsibility without error based on the reality of each state and legislation, we find support for the realisation of this responsibility and reject the idea of realisation, as the state works in the public interest and cannot conceivably account for the legitimate act.
5. As long as administrative responsibility has been achieved without error, the consequent compensation shall be obtained. The Department shall not dispose of such liability unless it



proves that the causal relationship between its legitimate act and the damage is no longer due to force majeure or the consequence of the fault of the aggrieved or its danger status.

Recommendations

1. The legislator recommends that this responsibility should be established in conjunction with the tort's responsibility for its illegal work for the purpose of compensating the injured, whether a natural or legal person.
2. There is a need to regulate the provisions of this responsibility and not be limited to decisions issued by the ordinary judiciary, as the developments in the world may cause unintentional damage to others, requiring compensation for the injured. It must be organised and under certain conditions imposed by the privacy rules of liability without error.
3. Increasing risk due to terrorist acts has resulted in a wide range of natural and moral persons being severely injured without fault, which necessitates acknowledgment of their sacrifice. This acknowledgment is to compensate them for damages, whether due to military or terrorist operations.
4. We recommend that the legislator should regulate the conditions of administrative responsibility based on liability as the legal basis lies in the rule of fines and must be recognised compensation for the work of the legitimate management that results in harm to individuals.
5. We recommend the need to unify the position of the administrative judiciary with the position of the ordinary judiciary in Iraq, which settled on the determination of the responsibility of the administration based on responsibility.



REFERENCES

- Abdel Hamid, A. Z. (1997). Administrative judiciary, prolonged in administrative law. Dar Al-Nahda Al-Arabiya, Cairo, 7(92): 263- 279.
- Abdul Hamid, A. Z. (1997). Judgment of the Administrative Judicial Court in case No. 21 of the year 4 Judicial Council Group fourth year, p. 904, issued on June 15, 1950, citing d. Majid Ragheb Al-Helu, previous source, p. 4809; Abdul Hamid Abu Zeid, Administrative Judiciary, Prolonged in Administrative Law, Dar Al-Nahda Al-Arabiya, Cairo, 2(82): 276.
- Abdul Razzaq, A. A.-S. Mediator in Explaining the New Civil Law, Sources of Commitment, House of Revival of Arab Heritage, Beirut - Lebanon, without year printing, 7(62): 152 – 169.
- Abdul Razzaq, A. A.-S. Mediator in the explanation of the new civil law, sources of commitment. Dar Al-Arabi Heritage Revival, Beirut - Lebanon, without a printed year, 6(73): 1119.
- Abdul Razzaq, A. A.-S. The Mediator in Civil Law, 1(12): 696.
- Amer, G. A. (2002). Multiple causes and its effect on tort liability. Ph.D. Dissertation Submitted to the Faculty of Law Council, Al-Nahrain University, 7(62): 162 – 169.
- Amer, G. A. (2002). The multiplicity of causes and its impact on tort liability, a doctoral thesis submitted to the Council of the Faculty of Law, University of Nahrain, 6(84): 135.
- Esmat, A. M. (2016). Tort liability in Arab civil laws. Zain Publications, Beirut, Lebanon, First Edition, 7(56): 162 – 172.
- Ghazi, F. M. & Adnan, U. O. (2012). Administrative judiciary, House of Documents and Books in the National Library, Baghdad, first edition, 6(31): 227.
- Ghazi, F.M. & Adnan, A. O. (2012). Administrative judiciary. Books and Documents House, National Library, Baghdad, First Edition, 3(82): 215 – 235.
- Hamdi, A. O. (2016). Liability without error for public medical facilities, a letter to Zagazig University, 7(26): 112.
- Harir, A.-G. Also, in this regard, Mr. Harir Abdel-Ghani, Risk-Based Administrative Liability, Non-Wrong Administrative Liability, research published on the website: 7(62): 162 – 174.



- Hassan, A.A.-T. (2001). The simplified in civil responsibility, Part II, the error, 2(66): 571-573.
- Hassan, A.A.-T. (2001). The simplified in civil responsibility, the first part, the error Baghdad, 7(68): 222 – 236.
- Hassan, A.-T. (1991). Almsbut in civil liability damage. Baghdad: Times Company for Printing and Publishing Joint Stock, 1(23): 370.
- Hassan, A.-T., Al-Masbout in civil liability damage, Part II, Times Printing and Publishing Co., Baghdad, 2(66): 152 – 166.
- Ismat, A. (2016). Liability in Arab civil laws, Zain Publications, Beirut, Lebanon, First Edition, 3(46): 66.
- Maher, A.-E. (2013). Compensation for public works, First Book, First Edition, 2013, p. 366.
- Mahmoud Khalaf al-Jubouri, Administrative Judiciary in Iraq, second edited edition, Dar al-Murtada for Printing, Baghdad, 2014, 6(73): 257.
- Mahmoud, H. Administrative judiciary, hierarchy of legal rules. Journal of Administrative Sciences, First Issue, Second Year, 1(2): 68 - 88.
- Mahmoud, K. A.-J. (2014). Administrative judiciary in Iraq. 2nd Edn., Dar al-Murtada for Printing, Baghdad, 7(25): 140 – 161.
- Majed Ragheb, E. H. (2010). Administrative judiciary. New University Publishing House, Alexandria, 2(72): 251- 277.
- Majed, R. E.-H. (2010). Administrative Judiciary, New University Publishing House, Alexandria, p. 473.
- Mohamed Maher, A. E.-E. (2013). Modern judicial principles of the supreme administrative court in Egypt. Abu El-Magd Printing House, First Edition, 2(62): 407.
- Mohamed Maher, A. E.-E. (2013). Modern judicial principles of the supreme administrative court of Egypt, Abu El-Magd Printing House, First Edition, 8(63): 145 – 159.
- Mohamed Refaat, A. W. (2005). Administrative justice, the principle of legitimacy and organization of administrative justice. Al-Halabi Publications, Beirut, Lebanon, First Edition, 2(54): 361.



- Mohammed Refaat, A. W. (2005). Administrative justice, the principle of legitimacy and organization of administrative justice. Al-Halabi Publications, Beirut, Lebanon, First Edition, 8(82): 126 – 137.
- Mona, R. M.B. (2014). Management responsibility for invalidity of cause and end in administrative decision, comparative study. Dar Al-Nahda Al-Arabiya, Cairo, First Edition, 4(62): 128 – 129.
- Mona Ramadan Mohamed Batikh, the responsibility of management for the invalidity of cause and end in the administrative decision, a comparative study, Dar Al-Nahda al-Arabiya, Cairo, the first edition, 2014, 6(92): 247.
- Mustafa, Z.A. F. Administrative judiciary, Council of State, Cairo, fifth edition, without year printed, 5(16): 725- 734.
- Naguib, K.A. & Mohammed, A.J. K. (2013). Administrative judiciary. Third Edition, Baghdad, 7(26): 192 – 202.
- Sabry, (1960). Risk theory as a basis for management responsibility in administrative law. Research published in the Journal of Administrative Sciences, Cairo, No. 1, 1(43): 214- 225.
- Salem Bin Rashid, A.-A. (2009). Administrative judiciary, comparative study, Dar Al Thaqafa for Publishing and Distribution, Amman, First Edition, First Edition, 8(53): 26-48.
- Salem Bin Rashid, A.-A. (2009). Administrative justice, a comparative study, Dar Al-Thaqafa for Publishing and Distribution, Amman, First Edition, First Edition, 2009, p. 274.
- Mr. Sabry, Risk Theory as a Basis of Management Responsibility in Administrative Law in the Journal of Administrative Sciences, First Issue, 1960 Cairo, p. 215.
- Soumia, A. S. Algerian Prime Minister, responsibility of the administration without error in the Algerian System, research published on the website, 4(26): 162 – 177.
- Suleiman Mohammed Al-Tamawi, (1985). A Brief in the Administrative Judiciary, A Comparative Study, Dar Al-Fikr Al-Arabi, Cairo, 1985, 5(65): 211.
- Zuhair Abdel-Mut'al, I. A.-S. (2017). Sudan working paper on responsibility of administration without error, Seventh Conference of Presidents of Administrative Courts in the Arab States, Beirut, Lebanon, 21-23 August 2017, published on the website, 5(74): 246 – 255.