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# **A Comparative Study of the Saudi Press and Publication System's Tort Responsibility for Violating Others' Privacy**

**Dr Nasser Jameel Al-Shamayleh**

*Associate Professor, Department of Law - College of Business Administration, Prince Sattam bin Abdulaziz University - Kingdom of Saudi Arabia.*

*Email: [n.alshamaileh@psau.edu.sa](mailto:n.alshamaileh@psau.edu.sa)*

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## **Abstract**

This research explains the Saudi regulator's premise for protecting individuals' moral rights from journalistic abuse. This might specify the journalist's tort in breach of personal liberties and the possibility of avoiding it based on Article (9) of the Saudi Press and Publication Law. Saudi Press Law. This research compares the Saudi and Jordanian Press and Publication Laws. Article (9) of the Saudi Press and Publication Law highlights the contrast with Jordanian legal documents. The applied method relies on legal and judicial positions. The foundations of the journalist's tort liability are error and harm, where the error is distinguished from the general principles accepted, and the possibility of avoiding the journalist's tort by agreeing to publish and the right to criticize. The research finds: 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: Reformulating the essential texts in the Saudi Press and Publication Law to safeguard persons from overstepping the journalist and causing material and moral harm. Due to the lack of legalization of financial transactions and publishing the decisions of the competent committees to consider violations of the Saudi publications and publishing system, the press can compromise the reputation or dignity of a person without criticizing a subject or the person's consent.

**Keywords:** tort responsibility, human dignity, private life, moral harm, objective criticism.

## **INTRODUCTION**

The number of conventional and online publications has grown. Because articles and newspaper investigations help illustrate social, economic, and political reality. Because of what he does in his job duties and his responsibility for them if his writings injure others or breach his duties or negligence, the number and type of lawsuits against journalists have increased. The journalist has many responsibilities, including preserving people's privacy. These requirements originate from journalism's ethics, which include honesty, integrity, and duties. Publication and objective criticism are journalistic obligations.

The committees probing Saudi Press and Publication Law infractions determined the journalist's tort culpability (personal theory). They abandoned Islamic law, which focused on injury (objective theory) (Mansour, 2021). The latter contradicts article (48), which requires courts to apply Islamic Sharia to such instances, basing their rulings on the Book and the Sunnah and guardian-issued laws that don't contradict them. Saudi Arabia's public order is governed by Islamic Sharia, comprising the Quran and Sunnah. The Saudi Publications and Publishing System, which determines tort liability, differs from Islamic Sharia. The committees that examine infractions have also incorporated Article 9's concept of human dignity in response to journalistic attacks on people's rights.

## **LITERATURE REVIEW**

Much research focused on journalists' tort and preserving western citizens' rights, dignity, and privacy. Richard Karcher's *Tort Law and Journalism Ethics*, 2009, emphasized the need to "seek the truth," minimize sensationalism and trivia and preserve privacy. Charles C. Scheim explored *The Right to Privacy in Trash Tort or Trash TV?: Food Lion, Inc. v. ABC, Inc.* Eugene Volokh sees Tort Law as a way to defend people's privacy in his 2014 book. We found no independent studies on our topic in the East, especially in Saudi Arabia.

The only study on the author's topics (Al-Ahmadi, 2016) dealt with one of his topics under Section Five (Responsibility of the Journalist in the Light of Islamic Sharia and Saudi Regulations).

## **ELEMENTS OF JOURNALIST TORT RESPONSIBILITY**

Establishing the tort responsibility of the journalist requires the availability of its pillars, which are the error and harm and the connections between them; to explain these pillars, we handle the pillar of error and the pillar of harm in public literature on civil liability.

### **THE ERROR PILLAR**

Error is essential to personal tort liability. The error-free liability is a case that cannot be considered unless a legal document allows it (Al-Thnoon, 2003). Error is a deficiency in a person's action that a diligent individual in the same external conditions as the official would not make. This general definition encompasses contractual and tortious duty (Farah, 2021). The journalist's tort duty error fails to satisfy his profession's legal obligations. Journalism takes specific know-how. When a journalist writes anything illegal, he makes a mistake (Fahmy, 2012; Hegazy, 2008). The Saudi Press and Publication Law require journalists to respect persons' privacy when publishing. Article (9) states: Article (9) of the Law Saudi publications and publishing protects people's right to reputation, privacy, and image against press attacks (Fayed, 2008). We examine discrimination against private life, image, and reputation to clarify.

### **INFRINGEMENT OF THE REPUTATION RIGHT**

Attacking a person's moral integrity is typically more painful than attacking their bodily integrity. Hence legislators and judges are keen on respecting moral integrity (Al-Jubouri, 2015). The right connotes both dignity and consideration. Honor is an absolute and abstract virtue that doesn't vary among people. It embodies dignity and respect. It was regarded as a breach of one of its duties of honesty and integrity. Ethical values are behaviors that impact human honor, and the second is how people evaluate a person's suitability to undertake life obligations. It varies in society (Fahmy, 2012), and article (9) is ready to be published. It violates people's privacy, and any victim may seek compensation under Article (35) "Every newspaper that misattributed a comment or published false news must fix it for free. Based on the request of the person involved in the first issue produced following the rectification request, or in a prominent location therein, the person affected has the right to claim compensation."

Article (267) of the Jordanian Civil Code states that the guarantee includes the moral right and that any attack on another's reputation renders the aggressor liable for the guarantee: "Security includes moral injury. Infringer's honor or reputation renders him liable for the guarantee." In a judgement by the Jordanian judiciary, it was declared that the article characterizing the plaintiff's legate as a spy and an agent of Israel without proof indicates defamation, and his heirs must be reimbursed for the loss they incurred due to publishing false news that harmed his reputation (Al-Hiyari, 2015).

### **INFRINGEMENT OF THE RIGHT TO PRIVATE LIFE**

The law defined privacy differently. It varies from society to society, time to time, and individual to person, and it's impossible to separate public and private life because of their interdependence. Within the law, do not disclose it or prevent others from viewing, publishing, or interfering with it (Al-Sakban, 2020; Mostafa, 2021). Muslim jurists don't use the terms "right to privacy", "private life", or anything similar. Instead, Islamic Sharia initially recognized it, and many applications have been known to it under the concept of rights in general (Al-Hamim, 2000; Hegazy, 2008). Article (9) did not include the phrase "private life." Still, it was included in paragraph (6-H) of Article (73), which states: "In line with Article (9) of the system, when importing or authorizing publication or circulation of any publication, it shall comply with the full. 6-H- Life secrets cannot be revealed in news or photographs. Individuals" Saudi laws employ Islamic words. Although the Jordanian Press and Publication Law stipulate in Article (4) respecting private life and its sanctity in the exercise of its mission by the press, it is considered an objective organizational article that: does not contain any reference to the prevention of violating it achieving tort responsibility, because it defines the mission of the press in general and this Jordan's judiciary confirmed (Al-Assaf, 2019). Legal jurisprudence considers the right to reputation, the right to private life, and the right to an image to be rights inherent in the personality (Al-Mughrabi, 2019). Article (48) of the Jordanian Civil Code protects these rights against unlawful assault (Al-Mughrabi, 2019). The Jordanian constitution's seventh article emphasizes the sanctity of private life and its

protection. Therefore a journalist has no right to breach it unless the individual agrees. Journalists' objectivity in private life is insufficient.

The Jordanian judiciary defined private life as marital, emotional, family, and personal facts and events. This is a private area. Then he can prevent interference or intrusion. So that he may enjoy tranquillity and serenity," and one of the things that should not be publicized is marital, family, and familial life, and the Code of Honor for Saudi Journalists and the Jordanian journalist verified this. The committees, concerned with evaluating violations in their rulings, have established protection of the right to reputation, private life, and image; when challenged by the journalist, referring to Article (9). Unlike laws based on the right to private life, which is a personal right in legal jurisprudence.

## **INFRINGEMENT OF THE RIGHT TO THE PHOTO**

The owner of a photo can object to its taking or publishing, even during a journalist's job. The owner can sue for compensation (Al-Tai, 2017). Saudi and Jordanian laws do not protect personal images. Saudi and Jordanian committees protected personal image copyrights. The victim can demand damages for the unauthorized alteration of his photo. The committee agreed to pay the defendant for invading the plaintiff's privacy. In a ruling by the Jordanian judiciary, a photojournalist publishing an article about a food campaign to seize corrupt materials and attaching a picture of the plaintiff and his son suggests he is among those arrested for food violations, which is a violation of the plaintiff's private life, social status, and commercial reputation (Al-Assaf, 2019).

Photo rights aren't absolute. To spread information and the right to know, it is legal to photograph public individuals in public places or celebrities for media or at public events. This exception doesn't violate the owner's humanity and dignity.

### **SECOND PILLAR - THE HARM**

The harm, the most prevalent aspect of the journalist's tort obligation and considered the second pillar of tort law, may be material or moral and is subject to several requirements before receiving compensation.

#### **FIRST - TYPES OF HARM**

The journalist's error may result in material harm, which is a violation of the injured person's right to financial value, and the material harm that the journalist is requesting may cause the victim to lose or miss the gain he anticipated if the news picture, or article had not been published in the newspaper (Al-Mariya, 2017).

The case of prejudice to the financial consideration or reputation of the victim, mainly if the article involves defamation of his work, trade, or industry; in general, if the harm affects the material interests of the aggrieved party. Undoubtedly, publishing without supporting evidence seriously harms the producer's financial liability. This harm will consist of the loss incurred from not selling the commodity and the profit lost on the goods (Al-Jubouri, 2018). However, the journalist may also injure the victim's reputation, dignity, and social standing referred to as moral harm. Moral harm violates a non-financial right (Al-Jubouri, 2014; Al-Kharusiya, 2011). Moral damage It does not influence financial disclosure but instead causes the victim moral distress, such as by undermining their dignity or reputation. In defamation proceedings, it is acknowledged that moral hurt predominates over monetary harm and that harm to a person's character and dignity is vital. This is because there are fewer cases of material harm than a moral harm. As a result of the nature of the error, we argue that moral harm is frequently coupled with material harm. As a cornerstone of his tort liability, the journalist does not harm the wounded person's body. Publishing the news or a picture, etc., does not result in injuries, harm, or deformities in the person's organs unless he seeks compensation for moral hurt since the error is an assault on his reputation or his dignity through a news item, article, or photo that he publishes.

It was proven to have the elements of tort liability (error, harm, and the causal relationship between them) for what was published against the plaintiff by mentioning his full name and that he married the daughter of his companion in prison, described as a terrorist, causing harms, and since the harm in this lawsuit was caused by this publication to a person who is respected in his work, community, family, and surroundings and has his immunity, according to the law. The plaintiff was entitled to compensate for his right to privacy.

The moral damage a person suffers can be split into three categories: The first category consists of societal factors, such as an attack on a person's dignity, reputation, or private life. The second category is the emotional side, which enters the victim's heart and causes anguish and sadness, such as snapping a person's photograph without his knowledge or permission and distributing it. The third type of harm is defection or the harm that

occurs to the non-injured party affected by the harmful conduct. The latter could be considered under the following conditions: that harm occurs to the original victim and the apostate victim, that there is a relationship between The original aggrieved and the apostasy affected, that there is a causal relationship between the harmful act and the apostate harm, which is a material and moral harm, and that the recurring harm is consequential and not original, it follows the actual harm, so it is not permissible, for instance, for the wife, husband, or children of Given the preceding, we reach the following conclusion: the harm caused to a person by a journalist's work is the harm inflicted on him in his financial interests or moral rights as a result of the journalist's breach of his legal obligations that are imposed on him in general not to harm others, so the compensable harm for the journalist's error takes one of two forms: it may be material harm to the victim on his financial liability, such as the loss of petty cash; or it may be moral (Sultan, 2021; Al-Sami, 2011; Al-Sarayrah, 2016).

## CONDITIONS FOR COMPENSABLE HARM

Civil jurisprudence disputes whether the journalist's harm qualifies for compensation (Al-Janabi, 2021). Whatever the difference, the harm that arises from the journalist's mistake must be actual, i.e., that it has occurred. This is the case if the published statements, including their title and words, and the signs and images surrounding them, indicate that the journalist intended to attribute insulting facts to the plaintiff that would cause him harm, including future injury. Future harm is compensated if unavoidable and can be estimated, such as future reputation damage (Saleh, 2016).

Future harm is harm whose causes have been realized and whose effects are all or part of the future; it is termed achieved harm. It doesn't happen, and the power and weakness of this potential fluctuate; it may be illusory (Shakir, 2020). Potential harm hasn't occurred, and there's no indication it will work in the future. The matter vacillates between possibility and absence, and the strength of this possibility fluctuates so much that the harm may be an illusion. According to jurisprudence and the law, this hypothetical harm is compensable. Therefore, we must wait until this assumption becomes certain, such as seeking a corporation to compensate for not closing a deal due to a published article regarding its financial status and the case was not particular. Moreover, if we assume that all actual injury must be compensated, whether present or future, there is no room for potential harm, yet the missed opportunity harm is not without problem. Legal law decided that missing the opportunity constitutes actual harm, even though the opportunity itself is potential harm (Abu Al-Saud, 2011). A journalist published passages from these memoirs without the owner's permission, denying him a financial return. Missing the chance to publish here is harmful, even if financial gain is available. In the missed opportunity paradigm, the compensated harm is the missed opportunity as a realized harm. Thus, the damaged individual can receive compensation for squandered opportunities if he can prove that others are at fault (Ali, 2016). The direct harm that requires compensation must be the natural effect of the journalist's tortuous error. The journalist is only accountable for the direct harm caused by his mistake. This error must cause that damage (Al-Hawamdeh et al., 2017).

Contrary to reality, a journalist writes that a firm that is bankrupt or run by an approved manager known for mismanagement harms the company's reputation. Thus it stops doing business and is liquidated. Creditors confiscated its assets because it couldn't pay its debts. The corporation and its manager's firing are only responsible for the direct injury caused by the inaccurate publishing of the company's reputation.

The harm also affects the injured party's rights or guarantees compensation. In jurisprudence and justice, recompense for harm is a fundamental right of the wounded. This disorder affects the body and life, yet If the journalist injures one of the aggrieved's rights, such as his reputation or privacy, he might be sued for damages. If the victim's financial interests are breached, they may be compensated (Fahmy, 2012).

The committee listed the conditions for decision harm: "Since moral hurt cannot often be alleviated or eradicated by the same, material recompense is the closest that may be done. Forcing him to achieve justice and redress injustice, and since compensation is the payment of financial compensation due to causing harm to others, the committee considers the permissibility of material compensation for moral harm, provided the harm is direct, fixed, and for an unlawful reason, all of which is established in the pending case, thus fulfilling the pillars of responsibility. The default is the error, the harm, the causal relationship, and the compensation. Since the principle in compensation is generally to be estimated by the amount of the direct harm caused by the error and with the absence of a legal or regulatory text that obliges the case examiner to follow specific criteria for estimating compensation, the determination of its value is subject to the discretionary authority of the committee as the first expert. All of this is founded on the principle of appropriateness and the committee's jurisprudence to achieve justice and eradicate injustice. Redress injury in a balanced manner, taking the

surrounding circumstances and the direct impact on the applicant for compensation into account "less Causation includes moral harm, including direct harm, and the committee's discretion to determine moral harm recompense.

## **AVOIDING THE TORT OF THE JOURNALIST**

When the harmed person proves the tort responsibility of the journalist, it is fair that the journalist causing the harm is obligated to redress him according to the method specified in the law. However, he is not obligated to do so when he can pay his tort responsibility by proving one of the specific means to pay it. Therefore a question arises regarding the means that make the journalist disclaim his tort.

## **POSTING SATISFACTION**

Every person has the right to safeguard their reputation or dignity under the law and the judiciary. Individuals might object to anything that could affect their reputation or dignity. They may also establish publishing limits (Hegazy, 2001; Saleh, 2016). Even though permission to publish does not lead to a surrender of the sanctity of private life, consent has a unique role so that it is not bereft of all legal value in its existence. Satisfaction removes these rights' protection, allowing associated views and publications. For the journalist to comply with the consent of the aggrieved by publishing to pay for it, the person involved must accept publishing what is related to his privacy, as he can assess what can and must be published.

Thus the victim must have approved of it (Hegazy, 2008; Khairy, 2001). Such Allowance may be explicit, or it may be implicit, deduced from the circumstances. Although we prefer that the permission be explicit, this does not negate the possibility that this implicit consent is derived from any act or circumstance surrounding the publication, and from this, it can be considered the person with whom a newspaper is conducting a press interview has implicitly consented to the publication of what he said in this interview. In image rights, permission is implicit if a person accepts his portrayal without objecting. Do we have the right to ask if silence is enough to elicit implicit consent? Whoever sees his photo or name in a newspaper and remains mute denies the journalist's accountability. Or is his silence a refusal and the journalist is responsible for publishing? Generally speaking, silence is allowed if the release of an article on the person would be beneficial. Silence can be considered a publication agreement, even if it's later. If a journalist released a photo of a person with a montage (Khairy, 2001) such that it was loathed by others, publication here has no value to those who dealt with it. The journalist's silence cannot be regarded as permission to the publishing. Hence silence in this scenario would establish journalistic accountability. Whoever has the right to a private life decides what is published about it (Hegazy, 2001). Who has the right to agree to publish if the facts to be published include a minor?

Without getting into the technicalities (Bahr, 2010; Hegazy, 2001), it can be said whether permission is provided. The minor's privacy impacts the family's privacy, hence revealing it falls under the guardian's power. The legal representative must decide if the publication hurts him and his family. Consent must be devoid of will-affecting flaws and based on evidence and complete foresight. Fraudulent means that fool the plaintiff into providing information about his business to publish it, or the journalist exploits the plaintiff's need or frivolity and his overpowering desire to become famous, making him agree to publish on unfair terms (Mansour, 2021). The consent is presumed to have been given by the plaintiff before his private information was published in the newspaper and relates to past or present events, not future events. Part of civil jurisprudence considers that consent after publishing can free the journalist from civil culpability (Al-Hiyari, 2015).

Privacy, reputation, and image are the person's pre-established rights. Temporarily and for specific facts, he can waive his right to protection. This waiver may be in the form of prior or subsequent permission, and the journalist's tort responsibility is not realized. He can keep this consent to pay for it if the court verifies its power in proof from post-publication consent, so it need not be met in all circumstances and times before publishing (Hegazy, 2001).

Consent should be confined to the agreed-upon issues. This implies if the journalist exceeds the limits of consent and publishes facts, including those Its owner authorizes, alters the form or style of its presentation, or distorts issues he was aware of, which the victim consented to publish, or who violated the agreed terms for publication. In practice, consent to publish some information doesn't allow the newspaper to publish other information the individual didn't supply. What is published shouldn't be more than what the person allows, and consent isn't restricted to deciding themes. It also affects the mode of publication, so the journalist is

erroneous if he changes it; the plaintiff may only be pleased with publishing his material in the same template he specifies. This is crucial to happiness. Permission to publish an image in a magazine for money or free does not mean permission to publish it in another magazine. Consent has been provided to a specific magazine and cannot be retracted to other publications. Non-public (Al-Hiyari, 2015). Is the plaintiff's approval required when the same journalist or another journalist reproduces the same facts? In other words, if the individual expressly consented to the publication of specific information or his photograph, or did not protest after the fact, what is the effect of this consent on the subsequent publication, whether from the same newspaper or another newspaper? Civil jurisprudence differed in answering this question (Hegazy, 2001). Some saw the permissibility of republishing without the person's consent because confidentiality has been removed from private information since it was published in the past. This means the facts emerge from being private facts and become general for all. Second, republishing a person's privacy requires his consent. Prior publication does not warrant republishing without the person's consent. Republishing without permission attacks private life, even though the facts have been published before. We can only join the second opinion since it protects privacy adequately and is consistent with its nature (Al-Amr, 2020; Al-Jali, 2019 AD).

## RIGHT TO CRITICISM

That a journalist's right to information is to express an opinion on matters of interest to people and related to their public affairs to make them rise to what is complete by exposing defects and correcting distortions in behavior and acting by expressing opinions and comments following specific conditions and controls, and the journalist, when he uses this right, stems from the consideration of freedom of thought, opine, and comment (Al-Assaf, 2019). So that this view doesn't turn into a disaster and cause more harm than good, journalistic criticism must have a specific scope and particular requirements. If these conditions are met within that scope, the right of criticism can be regarded as full payment of responsibility. The journalist isn't entitled to compensation because he's exercising a legal right, and legal permissibility contradicts the guarantee (Al-Hiyari, 2015). Jurisprudence defines the right of criticism as the right of every person to voice an opinion, comment, or discuss an issue of public concern with the goal of public good based on the truth. What society promotes by revealing and avoiding job flaws (Saleh, 2016). Article 39 refers to media freedom, provided it doesn't violate human dignity. Article 8 guarantees free speech. Article 9 outlines journalistic standards.

Article 15 of the Jordanian constitution states: "1- The state protects freedom of opinion, and every Jordanian has the freedom to express his opinion verbally, in writing, photography, and all other means, provided he does not go beyond the law." Article 3 of the Jordanian Press and Publication Law states: "The press and printing are free, and every Jordanian has the right to express his viewpoint freely by word, writing, photography, drawing, and other methods and media." The Jordanian judiciary defines criticism as assessing a subject or action's pros and cons. A critique is a form of free speech. It's one of the press's social roles. It's regarded as permissible if the right to criticize is limited. It is for criticism to reply to a definite, socially important fact, to be constrained to it, and for the critic to employ proper terms as required in a good-faith critic (Al-Assaf, 2019).

1- The occurrence of being criticized must be one of the facts. One of the prerequisites for press criticism is that it should focus on natural facts. Thus the critical journalist cannot fabricate a specific fact and then comment on it, or that incident is just his imagination or hearsay). The journalist does not exercise the right of criticism unless based on two types of facts: facts that have already come into the public's possession due to their fame or the act of their owners by presenting them to the public, so they have settled and become recognized facts, and facts that the public has not yet seen and does not have, but the critical journalist exposes them. If legal, the journalist demonstrates their validity (Al-Assaf, 2019). For a journalist to discharge his civil obligation by using his right to criticize, he must either state the facts that people know and whose criticism he tells in a correct and undistorted manner or, in some situations, both. If somebody wishes to divulge anonymous information to the public, he must be careful and confirm its accuracy.

2- A public-interest comment. The Jordanian Court of Appeal ruled that the article's language did not veer from authorized criticism because its pillars were based on truth and an appropriate statement. The public interest, when he condemned the announcer's linguistic faults, mispronunciations, and mixing of words (Al-Assaf, 2019).

3- The expression or criticism about the situation is objective. Criticism shouldn't be designed to hurt the person's reputation and dignity. Instead of criticizing others, focus on their behaviors and deeds. The critic must indicate the occurrence he is referring to and the scope of his criticism while expressing his view or criticizing (Sorour, 2021). The trial court considers if the phrases are defamatory or just critical. View and comment are the essences of criticism and the purpose of a system for exercising criticism and expressing an opinion on public issues (Al-Najjar, 2001). One of the Jordanian judiciary's rulings stated that the writer's

criticism to improve the banking sector and expose the negative aspects of banking policy to liberate the national economy and allow Jordanian investors in that sector is valid because criticism of the Central Bank's management, a public body subject to criticism, is linked to its work in the public interest. The press can criticize it if it doesn't violate public or personal freedom (Al-Assaf, 2019).

4- The Criticism is Appropriate and Proportionate to Its Subject To achieve his goals, the critic must use Appropriate and Proportionate Expressions (Omar, 2007).

5- Good-faith criticism The condition of good faith necessary in criticism is related to facts, so we can't construct a set basis to measure it. However, the critic must believe in the truth of his criticism by appreciating matters sufficiently, and his criticism should be in the public interest, not destructive. The right to criticize needs good faith, which means the critic must have a public interest in his beliefs. He legislated for the group's advantage, which should relate to a matter that concerns and benefits this group. Second, the critic's belief in the truth of his beliefs, i.e., the validity of the opinions he expresses. He's legal. His dishonesty or wrong views bring blame (Al-Najjar, 2001). If a matter of good faith is left behind in criticism, such as if the criticism is focused on an incident that doesn't interest the public or expresses an opinion that isn't convinced of it, such as if he practices an act that contradicts his views or declares what contradicts his criticism on other occasions, this indicates his bad intention and his opinions have left the circle of criticism. (1999).

## CONCLUSION

The committees based the journalist's tort liability on the alleged inaccuracy (personal theory.) It has strayed from Islamic law, which bases tort culpability on injury (objective theory.) This is due to the absence of the financial transaction system, or civil law in Arab law, which includes general civil liability rules, both contractual and tortious. We call on the Saudi regulator to expedite the issuance of the financial transaction system following Islamic jurisprudence, which adopted the objective theory as the basis for establishing civil responsibility. The Saudi regulator relies on Article 9 to defend people's rights from illegal journalist attacks. To alleviate the injured as a result of the illegal journalist's assault on the rights of people to publish, the error corner has gone out of the scope of the general rules from the fixed error to the supposed error, making the mere publication without the consent of the person or the journalist's positional criticism a reason for tort responsibility. The journalist's mistake was putting the burden of proof on the defendant (the injured) (the journalist). The journalist must have the subject's explicit or inferred consent to publish. Any action or circumstance surrounding publication constitutes implicit permission. Implicit consent must be lawful, timely, and cover the appropriate themes to absolve the journalist of duty.

A journalist can use the right of criticism to avoid blame if the incidence is established and factual. The view or comment relates to a public interest incident, is objective, proportionate, and in good faith.

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