



# The Journalist's Tort Responsibility and The Ways to Avoid It in Light of the Saudi Press and Publication System: An Analytical Study\*

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## **Abstract:**

This study aims to determine the tort responsibility of the journalist in case of violating the rights of individuals and the extent of the possibility to avoid the tort responsibility of the journalist. This can happen through the decisions of the competent committees to consider violations of the provisions of the Saudi Press and Publication Law, based on the reasoning of its decisions on Article (9) of the Saudi Press and Publication Law. In the research, the analytical approach is used to the relevant texts from the Saudi Press and Publication System and the applied approach, which is based on strengthening legal and legal positions with judicial positions. In this study, the author addresses the pillars of the tort responsibility of the journalist by highlighting the pillars of Tort and damage, with the possibility of pushing the journalist to tort responsibility through satisfaction with the publication and the right to objective criticism. The study recommended: reorganizing the journalist's tort responsibility through the inclusion of legal texts in the publications and publishing system due to the absence of legalization of financial transactions, which shows the general rules of responsibility, and publishing the decisions of the competent committees to consider violations of the provisions of the Saudi Press and Publication Law as a result of the absence of legalization of civil transactions.

**Keywords:** Journalist Tort; Human Dignity; Privacy; Moral Damage; Objective Criticism

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## **Tanggung Jawab Kerugian Wartawan dan Cara Menghindarinya Berdasarkan Sistem Publikasi dan Pers Saudi: Sebuah Studi Analitis**

### **Abstrak:**

Penelitian ini bertujuan untuk mengetahui tanggung jawab gugatan wartawan dalam kasus pelanggaran hak-hak individu dan sejauh mana kemungkinan untuk menghindari tanggung jawab gugatan wartawan. Hal ini dapat terjadi melalui keputusan komite yang berwenang untuk mempertimbangkan pelanggaran ketentuan Undang-Undang Pers dan Publikasi Saudi, berdasarkan pertimbangan keputusannya pada Pasal (9) Undang-Undang Pers dan Publikasi Saudi. Dalam penelitian ini, pendekatan analitis digunakan pada teks-teks yang relevan dari Saudi Press and Publication System dan pendekatan terapan, yang didasarkan pada penguatan posisi hukum dan hukum dengan posisi yudisial. Dalam studi ini, penulis membahas pilar-pilar tanggung jawab kerugian jurnalis dengan menyoroti pilar-pilar kerugian dan kerugian, dengan kemungkinan mendorong jurnalis untuk melakukan tanggung jawab kerugian melalui kepuasan terhadap publikasi dan hak atas kritik yang objektif. Kajian ini merekomendasikan: menata kembali tanggung jawab wanprestasi jurnalis melalui pencantuman teks hukum dalam sistem penerbitan dan penerbitan karena tidak adanya legalisasi transaksi keuangan, yang menunjukkan aturan umum pertanggungjawaban, dan mempublikasikan keputusan komite yang berwenang untuk mempertimbangkan pelanggaran. ketentuan Hukum Pers dan Publikasi Saudi sebagai akibat tidak adanya legalisasi transaksi perdata.

**Kata Kunci:** Gugatan Wartawan; Harga diri manusia; Pribadi; Kerusakan Moral; Kritik Objektif

### **Деликатная ответственность журналиста и способы ее избежать в свете судовской прессы и системы публикаций: аналитическое исследование**

### **Абстрактный:**

Это исследование направлено на определение деликтной ответственности журналиста в случае нарушения прав человека и степени возможности избежать деликтной ответственности журналиста. Это может произойти в результате решений компетентных комитетов о рассмотрении нарушений положений Закона Саудовской Аравии о печати и публикациях на основании обоснования своих решений по статье (9) Закона Саудовской Аравии о печати и публикациях. В исследовании используется аналитический подход к релевантным текстам из Саудовской системы печати и публикаций и прикладной подход, который основан на усилении юридических и юридических позиций с помощью судебных позиций. В этом исследовании автор обращается к столпам деликтной ответственности журналиста, выделяя столпы деликта и ущерба, с возможностью подтолкнуть журналиста к деликтной ответственности через удовлетворение публикацией и право на объективную критику. В исследовании рекомендовалось: реорганизовать деликтную ответственность журналиста путем включения юридических текстов в системы публикаций и публикации в связи с отсутствием легализации финансовых операций, которая показывает общие правила ответственности, и опубликовать решения компетентных комитетов по рассмотрению нарушений. положений Закона о печати и публикациях Саудовской Аравии в результате отсутствия легализации гражданских сделок.

**Ключевые слова:** журналист Tort; Человеческое достоинство; Конфиденциальность; Моральный урон; Объективная критика

## **A. INTRODUCTION**

The press at present attracts the interests of public opinion, and there is no doubt that the number of newspapers issued in society has increased, whether in the traditional written form or published by modern means such as the Internet and electronic press, and this is due to the importance of the press in presenting social, economic and political conditions through publishing and presenting Information in the form of press articles and investigations.

There are many duties on the journalist, which he must abide by when he publishes, presents, or broadcasts, such as respecting the reputation and dignity of individuals. He can only avoid with consent to the publication and objective criticism; otherwise, his tort responsibility will be incurred, and he will be obligated to compensate. The committees concerned with looking into violations of the provisions of the Saudi Press and Publication Law are responsible for attributing or denying the responsibility to the journalist, but they moved away from Islamic jurisprudence, which established tort responsibility on the basis of harm (objective theory) (Mansour, 2021) where it was established on the basis of Tort (Personal theory), whether it is required to be proven or assumed, and this is a violation of Article (48) of the Basic Law of Governance, which obligated the courts to apply to the cases before them the provisions of Islamic Sharia, in accordance with the evidence of the Qur'an and Sunnah, and the regulations issued by the guardian that do not contradict With the Quran and the Sunnah, and the Article (1) of the same system has been confirmed, and it must be noted that the Kingdom of Saudi Arabia does not have a system of financial transactions (civil law) that regulates the provisions of civil facts, but the general system in it is Islamic Sharia, and the Saudi publications and publishing system is free of regulation tort rules.

## **B. METHODS**

This research has studied the subject at theoretical levels based on the descriptive-analytical method. The necessary data and information have been collected in a library method using books, articles, and dissertations related to the research topic. The research was conducted by referring to the scientific works and existing documents related to The Journalist's Tort Responsibility, and

reviewing and studying legal sources related to Saudi Arabia policy, and related information.

## C. RESULTS AND DISCUSSION

### 1. Journalist in Saudi Arabia

Within the Saudi context, it is not easy to find independent previous studies on the subject of the current research, but the only study on the current topic is: *Professional responsibilities in the light of Islamic Sharia provisions and Saudi regulations*, 2016, done by the lawyer Waseem Husam Al-Din Al-Ahmadi. In Section Five, he focused on the responsibility of the Journalist in the Light of Islamic Sharia and Saudi Regulations, when he dealt with the responsibility of the journalist in light of the Saudi regulations and the mechanism for avoiding in it, as he devoted only two pages to it and completed the discussion of the journalist's criminal responsibility in the Saudi regulations, and did not mention the decisions of the specialized committees looking into violations of the provisions of the Saudi Press and Publication Law, through which the position of those committees regarding the establishment of The tort responsibility of the journalist in its pillars, and he did not address how the journalist should avoiding that responsibility, and this is what we are alone with in this research, which makes it the first in dealing with the My analysis of the pillars of the journalist's tort responsibility and the mechanism for avoiding long it according to the articles related to him in the Saudi Press and Publication Law, in support of the decisions of the specialized committees looking into violations of the provisions of the Saudi Press and Publication Law, which based their decisions in the report on the protection of people's rights from press attacks in; Reputation (honor and consideration), private life, and the image of the idea of the right to human dignity by belonging to those rights, which is the modern basis for granting that protection based on the third item of Article (9) of the Saudi Press and Publications Law. In our study, we also dealt with the possibility of avoiding the journalist to tort liability through consent to publication and the right of criticism.

## 2. The Tort of the Journalist

Tort liability in its general rule has three pillars, if available, entailing the consequences of liability, namely Tort and damage and the causal link between Tort and damage, and to clarify these pillars, we address the first pillar: the tortious Tort, and the second pillar of damage, either the third pillar related to the association of causation, it is not unique to any privacy In the area of the journalist's tort responsibility, so we will not address it, but rather refer to it on the public literature on civil responsibility.

The Tort is the main pillar on which tort liability is based. Various comparative legislations have focused on the idea of Tort and dealt with it within the articles of tort responsibility, and this concern reflects the importance of the Tort pillar as one of the basic pillars of tort responsibility (Al-Mariya, 2017; Al-Thnoon, 2003). Most of the legislation neglected the definition of Tort, leaving it to the jurists and commentators, whose opinions differed, and among the definitions that defined the Tort in tort liability, what was said is: "Deviation from the usual behavior of the ordinary person present in the same external circumstances as the perpetrator of the harm with his awareness of this deviation," (Farah), 2021).

The general definition of Tort applies to a journalistic tort because when a journalist publishes a topic in the newspaper, he is based on a constitutional right to freedom of publication, freedom of expression and opinion, and freedom of the press. However, this right was not stronger or comparable in strength to the right that he attacked or harmed by it, or if he abuses his right to achieve purposes that are not related to his right in the first place, such as the public benefit, or the public interest, then the journalist will have deviated from his right and made a mistake in his behavior and became liable to Tort due to the availability of other pillars of tort responsibility (Fahmy, 2012; Hegazy Emad, 2008). Therefore, in the exercise of his profession, the journalist was obligated not to prejudice or interfere with publishing the right to the reputation or dignity of persons following the third clause of Article (ninth), which states: "Every official in the publication is committed to objective and constructive criticism aimed at the public interest, and based on facts. It is prohibited to publish by any means any of the following: 3- Insulting or harming the reputation or dignity, defaming

or personally offending the Grand Mufti of the Kingdom, members of the Council of Senior Scholars, statesmen or any of its employees or any person of a natural quality or private legal" Following the previous Article, the Saudi regulator alone adopted the right to human dignity to protect people's rights, including; The right to reputation (honor and prestige) belongs to the right to human dignity, which is the modern basis for protecting people's rights from attacks by the press, (Fayed, 2008). To clarify this, we address prejudice to the right to reputation (honor and consideration), prejudice to private life, and prejudice to the right to image.

### **3. Violation of The Right to Reputation (Honor and Prestige)**

The right to honor and consideration is one of the important aspects of private life, where moral integrity must be provided for a person to live a calm and stable life and perform his role in society in a satisfactory manner. The hidden gem, whoever stole a person's money, robs him of worthless things that were his property and became the property of others, but whoever steals the reputation derives its owner of things that do not enrich him and leaves him poor and destitute (Al-Jubouri, 2015).

This right has two components; Objective (honor) and personal (consideration), the first consists of a set of characteristics representing the minimum amount of moral values, which a person must hold for these values regardless of any other consideration. Respecting his human dignity and describing this element as the objective is because it represents qualities that represent human dignity and respect, such as honesty and honesty. That would raise doubts about the availability of this authority (Fahmy, 2012). Article (9) of the Saudi Press and Publication Law affirmed that publication by any means that harms the reputation or dignity of persons is prohibited. Anyone who has suffered harm may claim compensation by Article (35) of the Saudi Press and Publication Law, which stipulates that: "Every newspaper attributed to A third party made an incorrect statement or published false news, to correct it by publishing it free of charge, at the request of the person concerned in the first issue issued after the request for correction, and this is in the place where the news or statement was previously published or in a prominent place thereof.

compensation." Moreover, this is what the committee concerned with looking into violations of the provisions of the Saudi Press, and Publication Law obligated the newspaper to avoid compensation to the private right in favour of the plaintiff for the newspaper's publication of news that was not based on facts and evidence, and in which it was exposed and prejudiced the reputation and dignity of the plaintiff.

#### **4. Violation of the right to private life:**

There are many jurisprudential opinions to define the concept of the right to a private life, which has not escaped criticism, and this difficulty is due to the fact that private life is a flexible idea that does not have fixed or stable limits, as it varies according to individuals according to their ages and personalities, and this difficulty is also due to the appreciation of each society for values that conflict With the protection of private life, this protection contradicts the right to the media and constitutes a restriction on it, and therefore the scope of private life narrows and expands according to the society's view of the freedom that the press should enjoy, and among the most famous definitions of the right to private life: "Every person seriously violates Unjustifiably, the right of another person that his affairs and affairs do not reach the knowledge of others, and that his image not be exposed to the public's attention, is considered responsible to the victim (Al-Sabban, 2020; Abboud, 2020; Mustafa, 2021; Al-Assaf, 2019). We did not find in the decisions of the committees concerned with looking into violations of the provisions of the Saudi Press and Publication Law - from what we have - even though the case is related to the protection of the right to private life, a reference in their decisions to the use of the term "the right to private life," but rather considered it a right that belongs to the right to dignity. Humanity according to Clause (III) of Article (Ninth) of the Saudi Press and Publication Law, unlike the legal jurisprudence in which the right to private life was based on its affiliation with the rights inherent (close) to personality to grant that protection to persons.

In a decision of the committee concerned with looking into violations of the provisions of the Saudi Press and Publication Law, the defendant (the newspaper) obligated the defendant (the newspaper) to compensate the plaintiff

for what was published against him and his family and to attach a picture of his daughters to the news, which leads to damage to his reputation, and since defamation itself is considered moral damage, and an insult to reputation and dignity in a family case. The researcher's point of view; The regulations issued by the Kingdom of Saudi Arabia do not conflict with the Book (the Noble Qur'an) and the Prophet's Sunnah, which results in the

## **5. Violation of The Right to The Personal Pictures**

Jurisprudence and the judiciary have recognized the human right to his image, which includes the right of a person not to take a picture of him without his consent. (Al-Tai, 2017 AD). Like other legislation, the Saudi Press and Publication Law did not include a special text to protect the right to the image. However, the committees specialized in looking into violations of the provisions of the Saudi Press, and Publication Law granted protection to the right to image. So that the committee found that the published photo does not indicate that the plaintiff was aware that there was a photographic process, as the photo was taken sideways, and thus it is clear that the plaintiff did not know and agreed to photograph. The right to the image is not absolute. However, it often vanishes in front of the public's right to information, as it is also established that individuals within the community have the right to be aware of the events taking place within the community in which they live. However, this exception is restricted not to prejudice the dignity and humanity of persons, and this What was confirmed by the decision of the competent committee to look into violations of the provisions of the Saudi Press and Publication Law by not answering the defendant's plea (the newspaper) that the plaintiff is a sports personality subject to praise and slander, by saying, "Because fame does not give anyone the right to offend or transgress against its owner on the pretext that he is a famous person." Furthermore, the committee issued its decision obligating the defendant (the newspaper) to compensate the plaintiff with the private right, and the facts of the case are summed up by the defendant (the newspaper) publishing the news with a copy of it. The regulations in the Kingdom of Saudi Arabia using the concepts and terminology found in Islamic jurisprudence, and this is understood from the application of the committees specialized in looking into violations of



the provisions of the Saudi Publications and Publications Law For Clause (Third) of Article (Ninth) of the Saudi Press and Publication Law. Muslim jurists did not use the term "the right to private life" at all, neither in the old nor in the new, but the fact that jurisprudence did not use this term does not mean that it does not recognize this right, but on the contrary, the Islamic Sharia has recognized this right from the beginning, and its applications are known. Many of them are the right of a person to the sanctity of his home and to live safely from the intrusion of others, and other applications about which texts have been received in the Qur'an and the Prophet's Sunnah (Al-Hamim, 2000; Hijazi Imad, 2008).

## **6. The Damage**

The harm is considered the second pillar of tort liability. The harm is everything that affects a person concerning one of his rights, whether the harm is material harm to the sufferer in his body or his money, or the harm is moral harm that affects the sufferer in his feelings, emotions, dignity or honor, and moral harm is the most common in the scope The tort responsibility of the journalist. This element (damage) must meet several conditions in order to award compensation. We first deal with the types of damage, and secondly, the conditions that must be met in the damage in order for it to be compensated.

### **a. Types of damage:**

If a person is harmed by harming his body or money, diminishing his financial rights, or missing a legitimate interest for him whose benefit is estimated financially, then this is material harm. It has many and varied forms, such as infringement of intellectual property rights, as if the journalist publishes a press investigation published by a journalist. Another wrote in a newspaper under his name (Al-Janabi 2021; Saleh, 2016). In a decision of the Primary Committee concerned with violations of the provisions of the Saudi Press and Publication Law, the defendant (the newspaper) obligated the defendant (the newspaper) to avoiding compensation to the plaintiff's private right, for what is published against the plaintiff and his industrial facility by mentioning the plaintiff's name and the name of the factory, describing its location, defaming it, and publishing offensive accusations, which leads to damage to the plaintiff's

reputation. Moreover, his factory has not been proven, and there is no doubt that the factory has suffered a loss for this type of publication, which will result in consumer distrust in the factory despite the accusation not being proven, which affects the reputation of the factory, which is considered moral damage to the legal person (Abu Wafia, 2017).

The damage resulting from the debtor's failure to implement his obligation may not be financial harm that affects the financial right of the creditor. However, rather it may be harm that affects his feelings, feelings, or reputation, so it is described as non-financial harm, as it does not affect the financial aspect of the creditor's responsibility, but rather affects the moral aspect of it, so it is described as Moral damage (Al-Janabi, 2021), the moral damage is mostly in cases of defamation and prejudice to the reputation and dignity of people, and that the cases of material damage are few compared to cases of moral damage in this regard. Among the most important forms of moral damage; is the image represented by the assault on human honor, dignity, and reputation, since in addition to providing physical safety, moral integrity must be provided for the person to live a calm and stable life and to fulfill his role in society in a satisfactory manner, (Abdul Samee, 2011).

#### **b. Conditions for compensable Damage:**

In order for the injured person to claim compensation, the press damages must meet several conditions because some damages, despite their existence, do not require compensation.

*The first condition:* The alleged Damage is proven with certainty and certainty so that the judge is confident that the applicant for compensation would be better off if the defendant had not committed the act that entailed his responsibility, and from this description it is inferred that the Damage must have already occurred or will inevitably occur In the future, and therefore, it is not permissible to compensate for the potential Damage, and although the general rule in moral Damage is that it decreases with the passage of time, the more time passes, the lighter it becomes on the injured, but it is possible that these consequences will be relaxed to the future, the moral Damage may not It appears

immediately, but it slackens over long periods, and during these periods this Damage may exacerbate, leading to greater results than it was, at a time when prompted, as in the post-traumatic effects, that a person may be exposed to, especially after publishing pictures of him from The journalist accepted the occasion of the crime incidents, where the traces of trauma do not immediately clear up, but rather exacerbate with the passage of time, if the passage of time may not be enough to erase these traces, but review it when he mentions them every time leading to worse and more important results. (Shaker, 2020)

Nevertheless, we should not lose sight of the fact that compensation is not limited to the Damage that occurred but rather includes the Damage that will inevitably occur in a later period, which is what we call future Damage, even though this type of Damage rarely occurs in the field of the journalist's tort responsibility, as this often arises Damage for bodily injury because the judge may not be able to determine it definitively. When a journalist publishes an investigation about addiction with a picture of the person, which caused future Damage to the owner of the picture, which was his dismissal from his job because of the knowledge that he was an addict, everyone became alienated from him, and dealing with him became within a limited scope. His wife filed a lawsuit asking for divorce from him, so the owner of the picture has to. He demands compensation for the offense and defamation of his reputation and dignity in his community and family, which the committee concerned with looking into violations of the provisions of the Saudi Press and Publication System responded to requests for compensation. However, the harm may not be certain to occur in the future, but rather it is based on an illusion and an assumption that has no basis, and therefore it may or may not occur. The matter is hesitant between the possibility of falling or not. (Al-Jubouri, 2014 AD). The harm may be embodied in the journalist's perpetration of acts that would cause financial harm to others. For example, if the journalist, while carrying out his duties, published excerpts from the private life of a famous person without her permission, which results in material harm in missing the opportunity to publish her memoirs on her own, thus she missed the opportunity to earn. Financial or at least underestimating it (Al-Mariya, 2017; Ali, 2016).

*The second condition:* This condition means that the damage is a natural result of the journalist's practice of his journalistic work, which requires compensation, as it is not permissible to compensate for indirect damage. It is the harm that does not arise between it and the Tort attributed to the journalist, a causal relationship, where this link is broken by another factor independent of the will of the journalist such as force Cairo or the fault of others or the fault of the victim. If the journalist publishes an article about the life of a famous person in which he reveals the facts of his life before he became famous, which led to him having a heart attack that led to his death as a result of publishing aspects of his life that he was keen to hide from the public eye, here, he must It compensates for the direct damage, which is the death of the aggrieved party, because the publication of this article, even if it violates the right to the sanctity of the private life of the victim, was also a cause of death (Wahdan, 2011; Al-Hawamdeh et al., 2017).

*The third condition:* That the damage affects an acquired right or a legitimate interest. This condition does not mean that the damage has been achieved. However, rather it is intended: if the applicant for compensation is not the original aggrieved party, that there be a legal relationship between the aggrieved party and the applicant for compensation so that the latter has the right to seek compensation, as one of the conditions for the harm that necessitates compensation is to inflict a right Earned, any benefit that is protected by law. The law protects all of these rights, i.e., interests and their ramifications. If this interest is not legitimate, then there is no place to claim compensation for infringing it. For example, a drug seller cannot ask a journalist to compensate for the damages he sustained due to publishing propaganda campaigns. In newspapers, it warns against drugs and abuse and shows the penalties for anyone who trades, promotes, or buys them. (Fahmy, 2012).

## **7. Avoiding the Tort of the Journalist**

The fact that the journalist's tort responsibility is realized does not prevent him from avoiding that responsibility if certain reasons or cases can deny him responsibility. It is based on the absence of the corner of the Tort on his part and revolves in its entirety around proving that the journalist did not commit a

mistake during the exercise of his profession. These reasons are related to the work The journalist is related to, and these defences are represented by the consent of the aggrieved to publish or the right of journalistic criticism, and to clarify this: we address the acceptance of publication and the right of criticism.

**a. The acceptance of Publication:**

The principle established in jurisprudence and the judiciary is that every person has the right not to interfere with him or harm his reputation or dignity. Therefore, a person has the right to object to the publication of everything that affects his reputation and dignity and limit what can be published about his life, as he alone has the right to accept publication. He may also specify the controls and conditions that this publication will be subject to (Hegazy Mustafa, 2001; Saleh, 2016). Accordingly, consent to publish something related to private life is a legitimate reason for revealing, interfering, or investigating matters. Thus the journalist is not responsible if the publication was done with the consent of the person concerned and with certain controls. (Hegazy Emad, 2008; Khairy, 2001). The consent to publication may be explicit, whether in writing or orally, although some legislations require that consent to publish in writing to allow infringement on private life. By publishing implicitly, so that it can be learned from the circumstances surrounding the publication, that the person is satisfied with this publication, for the person who looks into the lens of the photographer while smiling, this is an implicit satisfaction on his part with photography. (Hegazy Mustafa, 2001). In a decision of the committee concerned with looking into violations of the provisions of the Saudi Press and Publication Law, the defendant (a journalist) obliged the defendant (a journalist) to avoid compensation for the plaintiff's private right so that the committee found that the published photo did not indicate that the plaintiff was aware that there was a photocopying process, as the photo was taken sideways. Thus, it is clear that the plaintiff did not know and agreed to the filming. For the validity of the consent to be published, it is required that it be issued by a clear, informed will from the defects that may be tainted, and it is also required that the consent be specific and specific (Al-Ta'i, 2017).

Civil jurisprudence differed in the extent to which consent is necessary when re-publishing. The existence of harm from the subsequent publication can

be imagined as long as this information has become public and considered part of history and therefore enters the poss

**b. Right to Criticism:**

The constitution guarantees freedom of expression in various fields. It is concerned with highlighting objective and constructive criticism, so that criticism should not involve opinions that have no social value, such as those whose only goal is to heal grudges and personal grudges, and Article (39) of the Basic Law of Governance referred to freedom of opinion Article (Eighth) of the Saudi Press. Publication Law clarified that freedom of opinion is guaranteed by various means of Publication and specified within the scope of legal and legal provisions. Adherence to it when using the right of criticism, that it be objective and aims at the public interest and is based on valid facts and evidence.

The journalist's use of the right to criticize is not devoid of every condition, as there are conditions that must be met to exercise this right in order for the journalist to be able to avoid his civil responsibility, and we address these conditions in turn:

*The first condition* - that the subject of the criticism is established or accepted: This means that the critical facts are actual and not a figment of the critic's imagination, and we do not mean here that the facts are proven in advance. Rather, it is sufficient that the person who comments in good faith, that is, believes in the validity of the incident and has reasonable reasons for his belief, but if the facts are not established or, Publication is prohibited for reasons related to the public interest, so a journalist may not criticize or comment on it. Otherwise, he will expose himself to responsibility because the goal for which the right of criticism was permitted in the law is its benefit to the public and society, and assessing whether the facts are proven or not is a matter within the discretionary power of a judge Topic. (Al-Hiyari, 2005; Al-Assaf, 2019).

*The second condition - that the subject of criticism is an issue of public interest:* The journalist criticizes the subject as one of the important topics for the public, even if it is not related to the public interest. As for topics that do not concern the public and relate to the personal life of individuals, it is not permissible to discuss these topics and express an opinion on them. Moreover,

the defendant's Saudi Publication (the newspaper) paid compensation to the plaintiff for the private right, as it became clear to it that what was published included the Publication of incorrect facts and evidence and also included the insult and defamation of the plaintiff's reputation by publishing several articles, one of the titles of those articles (stopping the director with tuberculosis and subjecting students to a medical examination ) Where the plaintiff enclosed a medical report after examination from a hospital that proves that the samples are negative for tuberculosis and that it does not pose a risk of infection to others.

***The third condition - that the criticism of the incident is objective:***

Criticism should not be directed at a person with an opinion, action, or behaviour with the intent of harming his reputation or standing and defaming him. Rather, criticism should be directed at actions and behaviours. It is not separate from the incident, and it is correct to call it a mere use of the right to criticize, even if it harms the doctor (Omar, 2007). The committee concerned with looking into violations of the provisions of the Saudi Press and Publication Law found that the news published in the newspaper published information that was not based on accurate facts and evidence, as it was mentioned in the news article. Approximately four million riyals went entirely to the members of the board, recovering sums of money they spent on the football team and the rest of the club's activities last season), which proved to the committee the availability of the elements of tort responsibility (Tort, damage, and causation) for what was published in the right The plaintiffs. Since defamation is considered moral damage and prejudicial to reputation and dignity, it has been proven that this Tort caused the damage. The plaintiffs' entitlement to compensation for reparation for this damage and its estimation is due to the committee and its discretion.

***The fourth condition - that the criticism is appropriate to the subject***

***matter of the criticism:*** The critic's departure in his criticism from appropriate and appropriate expressions to achieve the purpose of criticism has gone beyond the limits of criticism and entered the circle of prejudice to reputation and dignity. 2007). We did not find in the decisions of the committees concerned with looking into violations of the provisions of the Saudi Press and Publication Law that explicitly refers to this condition, in the researcher's opinion that the committee adheres to the terms of Article (Ninth) of the Saudi Press and

Publication Law, which did not include the phrase (appropriateness), but this It does not prevent us from finding it indirectly in one of the decisions. In a decision of the committee, it was stated that the newspaper's Publication of a news item under the title (My country... demands the immediate dismissal of a leading official in the secretariat after exploiting his functional authority), is an infringement and transgression of the journalistic profession that aims to Constructive criticism aimed at the public interest without compromising the dignity of persons or compromising their reputation, which is considered defamation of the plaintiff and damages that require punishment and compensation for him for the damage he has suffered, with which the committee concludes that the newspaper violates the publications and publications system. Department of prejudice to reputation and dignity.

The researcher supports the second opinion; It confers effective protection of the right to privacy, as the right to privacy is not limited to just the right to confidentiality, but also includes other things besides that, such as the right to be forgotten (Al-Amr, 2020; Al-Jali, 2019).

#### **D. CONCLUSION**

For the journalist's tort responsibility to be established, its elements are required: the tort, the damage, and the causal link. The first pillar is: the tort Tort is the pillar and spark of the journalist's responsibility. Three rights have been reviewed as cases in which there is a tortuous Tort: the right to reputation, the right to a private life, the right to an image, as mere exposure or prejudice to these rights checks the existence of the Tort, and to protect the owner These rights assumed the Tort, so that the aggrieved party would be exempted from proving it, and this is in contrast to the general rules of tort liability, this is on the one hand, and on the other hand, the Saudi regulator relied on the idea of human dignity to protect these rights in accordance with Article 9 of the Saudi Publications Law, which is thus a remedy Legal loopholes in the right to private life and the extent to which it is related to the right in the image and its affiliation with the idea of personal rights, which is still an area of disagreement among jurists, as jurisprudence was divided into three directions, which were not able to protect those rights upon the death of a person if they were attacked by the



journalist, as These rights end with the death of this person on the one hand, and on the other hand, there is a sect that lacks protection and are victims of accidents and crimes due to the predominance of the right to information. In order for the journalist to be asked about the harm inflicted on people, a set of conditions must be met in the harm: it must be real, that is, the harm must have occurred, it must be direct, and finally, it must affect one of the acquired rights of the harmed person or a legitimate financial interest for him.

The consent of the person is exempt from the responsibility of the journalist in publishing, but this consent may be explicit or implicit, and in order for the consent to produce its effect in excluding the responsibility of the journalist; That it fulfills a set of conditions related to its validity, the time of its issuance, and the topics on which it is determined. It is required for the validity of the approval of publication to be issued by a free, conscious, and aware will, and the rule in this regard is that whoever has the right to a private life is the only one who has the authority to determine what is published in matters related to his private life. It is also required for consent, whether expressed or implied, in addition to the above, that it be specific and specific so that its effect is limited to the topics on which the consent was issued without extending to others. The journalist may use the right of objective criticism to avoid his responsibility through the availability of a set of conditions: That the subject of criticism be stable or accepted, that the subject of criticism is a subject of public interest, that criticism of the incident be objective, that the criticism is appropriate to the subject of criticism.

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