

## **The Nature of the Responsibility of the Vaccinator: A Comparative Study**

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### **Abstract**

*The damage caused by vaccines is one of the important and accurate topics. Because it is closely related to the physical safety of individuals, and then we looked at the legal qualification of responsibility and found that there is a difference between the responsibility of the vaccinator according to the type of vaccination and the place where the vaccination took place. Compulsory vaccination varies according to the legislation in question, and the French legislature adopts objective responsibility for it, and we tended to support it because it allows the injured party to obtain compensation from the state directly and exempts him from proving the error. This is by adopting the method of analytical, descriptive, and comparative study between the legislation of four countries, namely, Iraq, Egypt, France, and Lebanon, and with a statement of the position of jurisprudence and jurisprudence whenever we are able to do so.*

**Keywords:** *responsibility - nodal - tort - vaccine - vaccinator - health institutions.*

### **1. Introduction**

First: the idea of the research topic

Since ancient times, man has been concerned with the safety and health of his body. He has always sought to search for all means that would preserve the soul and prolong life, whether those means were curative or preventive.

With the spread of epidemics and infectious diseases and their transmission among human beings by touching or even breathing, scientists have been searching and exploring for medical products that can stimulate the body's immunity from certain diseases before they occur. Sometimes to death, as the roots of this discovery go back to the tenth century AD in China, as it was the first attempt to reduce smallpox disease by taking a substance from smallpox sores and rubbing it with the skin.

Recently, the first successful experiment with vaccines dates back to the year 1796, when Dr. Jeans discovered a vaccine against smallpox.

Despite the importance of vaccines, this does not sometimes prevent damages that are often described as serious to the person subject to vaccination, whether those damages result from intentional errors or negligence on the part of the vaccinating authorities, or because the vaccines are not safe from the authorities. This means that vaccines, in addition to the benefits they bring to the recipient of the vaccine, may at the same time cause harm for which the vaccine producer or the vaccinator is responsible for, depending on the circumstances.

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All of this calls for studying the nature of the responsibility of the vaccinator in comparison with other legislations and determining the penalty for compensation for damage and for the individuals subject to vaccination to be aware of their rights when they undertake to receive vaccinations.

Second: the importance of the research and the reasons for its selection

The importance of the research is mixed with the reasons for choosing it, which prompted us to study the subject, which can be summarized in the following points:

- 1- Familiarizing vaccine recipients with the legal controls and guarantees to protect them in obtaining their right to compensation if they are harmed as a result of receiving the vaccines.
- 2- Legal studies in Iraq and even in the Arab world, according to our research, did not include a specialized and comprehensive study of the subject of research as a thesis or master's thesis, and what was found of it was limited to researching the administrative responsibility arising from compulsory vaccination or within the scope of corona vaccines.
- 3- On the practical side, the importance of the study is represented by the spread of vaccination units throughout the country, especially with regard to vaccinating children, which should make those in charge of the vaccination process aware of the need to take the necessary care to prevent mistakes and the resulting harm.

Third: Research problem

The study problem lies in several aspects, represented by the seriousness of vaccines due to their connection to human health and the infallibility of the body, in addition to the existence of a legislative deficiency regulating liability arising from vaccine damages other than what is included in the scope of Corona vaccines, whether the matter is within the scope of civil law or within the scope of special laws such as the Public Health Law and the Protection Law Therefore, it is necessary to develop the necessary provisions for him, so a problem arises about the appropriateness of the general rules of civil liability to adapt them to the rule of cases related to damages arising from vaccines, or is it necessary to propose new legislation commensurate with the nature of those damages.

A number of questions arise from these problems, as follows:

- 1- The nature of the responsibility of the selective inseminator?
- 2- The nature of the responsibility of the compulsory vaccinator?

Fourth: Research methodology

In our study of the subject of the research, we will rely on the analytical approach, which is based on analyzing the existing legal texts related to the study. Are they sufficient to apply them, or does it require legislative intervention to amend them, in addition to reviewing and discussing jurisprudential opinions seeking the help of appropriate judicial decisions, and expressing an opinion on them.

We will also rely on the comparative approach, which is a comparison between the texts of Iraqi, Egyptian, French and Lebanese law, and an indication of the similarities and differences between them and the study of weaknesses and strengths in Iraqi law by looking at what those legislations brought and collecting information in order to reach the acceptable results so that the Iraqi legislator can derive from them what he deems appropriate.

Fifth: Research Structure

To clarify and clarify the subject of the research, we will address it in two requirements. In the first requirement, we will discuss the contractual liability of the vaccine producer,

and then we will explain in the second requirement the tort liability of the vaccine producer.

The nature of the responsibility of the vaccinator

First of all, we must explain the concept of vaccines from the jurisprudential and legislative perspectives. From the scientific point of view, vaccines are defined as “substances that contain the pathogen of a particular disease, or part of the agent or one of its products after modification, and then the introduction of these materials into the human body in one of the following ways. Vaccination aims to stimulate the immune system in the body to produce antibodies that eliminate these substances and then remain in the body, which gives it immunity against the disease itself, so it cannot cause the disease.

Vaccines were also defined as "preparation of a number of living or weakened organisms that produce immunity to certain diseases by forming antibodies when they are exposed to the body, the most famous of which is the poliovirus vaccine, so that the mechanism of action of the vaccine is a reaction of the body to identify viruses that the doctor wants to prevent exposure to the body."

It is also defined as “substances consisting of either parts of the components of the microbe or all of the microbe after killing it or weakening it so that it cannot cause disease.”

As for the legislative aspect, the issue of defining the legislative definition of vaccines is a relative issue that differs according to different legislations and differs in one legislation from time to time according to scientific and technical developments in the health field, and reaching the definition of the legislative definition of vaccines is important in the order of many legal effects arising from its use, which It differs from other medical products.

In the Iraqi law, it did not explicitly provide for a specific definition of the vaccine, but it included the vaccine within the concept of special preparations, as it was stated in the Law of Practicing the Pharmacist Profession that “they are preparations or compositions that contain one or more substances with medicinal properties to cure humans or animals from diseases or to prevent them.” They are used for any other medical purpose, even if this is not explicitly announced, and which were previously prepared for sale, offered for sale, or given to the public for external or internal use, or by injection, provided that they are not included in one of the pharmacopoeia layers and their official appendices. Among these preparations are liquids and equipment intended for disinfection that have not been It is mentioned in the constitutions of medicines, household insecticides, as well as food products and cosmetics that are used only for medical purposes”.

It is clear from the review of this text that vaccines are included in the concept of special preparations and are considered by virtue of medicine, given that vaccines have protective properties that are given to the human body for the purpose of forming immunity in his body against infection with a certain disease, and what the Iraqi legislator has approached in this is not scientifically correct, given that the vaccine It is given to a person before the disease, while the medicine is given after infection.

On the other hand, the Iraqi legislator has confirmed that vaccines are included in the medical materials through what is contained in the Law of Providing and Using Corona Vaccines No. (9) for the year 2021..

As for the Egyptian law, we find that it explicitly defined the legislative definition of vaccines and distinguished them from the rest of the other medical products, as it was stated in the law “practicing the profession of medicinal, bacteriological and pathological chemistry, medical diagnostic laboratories, scientific research and biological preparations” that the vaccine is “every substance or mixture of substances Prepared from

accidental bacterial or viral germs, or preparations derived from them, with the intention of using them in injections for humans or animals.

In addition, the Egyptian legislator, in addition to explicitly defining the concept of vaccines, has considered vaccines to be included within the concept of private pharmaceutical preparations through what was stated in the Law of Practicing the Pharmaceutical Profession: “products and compositions that contain or are described as containing one or more substances with healing properties.” human beings from diseases, or to prevent them, or used for any other medical purpose, even if this was not explicitly announced, when it was prepared for sale and was not included in one of the editions of the pharmacopoeia and its official appendices. It is related to human treatment or used to combat the spread of diseases..

As for the French law, it becomes clear to us through the provisions of the French legislator in the Public Health Law issued No. (303) for the year 2002 that he considered vaccines to be intertwined in the concept of medicine, and this is evident through what was stipulated in Article (5111), which defined medicine as “every A substance or compound presented as having therapeutic properties in the face of human or animal diseases, as well as every product that can be presented to humans or animals for the purpose of medical examination or to correct or modify their vital functions.

As for the Lebanese law, the legislator has explicitly defined vaccines as “the vital substance consisting of a killed or weakened microbe or its products that is given to the body to activate it to form antibodies to this microbe and then acquire immunity against it”.

After we explained a summary of the concept of vaccines in terms of jurisprudence and legislation, we find that the nature of the responsibility of the parties involved in the vaccination process differs according to the compulsory nature of vaccination. The responsibility resulting from voluntary vaccination differs from what is contained in compulsory vaccination. The responsibility of the voluntary pollinator and the second of the nature of the responsibility of the compulsory pollinator are as follows.

The first requirement

The nature of the responsibility of the elective inseminator

Individuals always aim to immunize their bodies and increase their immunity from infectious or dangerous diseases, so they resort, with their full will, without obligation, to take some vaccinations voluntarily, not under compulsion, and the aim is to achieve personal interest.

The principle is that all persons enjoy complete freedom in receiving vaccinations, and therefore the state must take all necessary measures to preserve the health of the individual and refrain from all methods that violate that freedom. His choice and consent. Voluntary vaccination is defined as “every vaccination that is not imposed on individuals by the legislator”. Voluntary vaccination takes place through the individual’s consent and consent, as consent is a cornerstone of all legal actions.

The nature of the responsibility arising from the voluntary vaccination differs according to the authority in charge of it. Vaccination may take place in health institutions belonging to the public sector, or it may be done in private institutions. Therefore, we will divide this requirement into two branches. The first branch is the responsibility of the vaccinator in public health institutions, and the second branch is the responsibility of Vaccination in private health institutions.

The first subsection:

Responsibility of the vaccinator in public health institutions:

The medical liability arises mainly when there is a negligence on the part of the medical professions by not taking the necessary care required by the nature of those professions, which results in damage to the physical integrity and financial integrity of the vaccine recipient.

In the optional vaccination, which is done at the will of the recipient of the vaccine without coercion from the higher authorities in the country, the damages that befall him as a result of receiving that substance in public health institutions are not on a contractual basis, and the affected person cannot rely on the provisions of contractual liability to claim compensation, and perhaps the reason for that is It lies in the absence of a direct legal relationship between the recipient of the vaccine and the health cadres (doctor, nurse), depending on the circumstances.

As all rights and obligations between the vaccine recipient and the vaccinating body are regulated according to the regulatory regulations that are set by the administration of public health institutions, so the vaccine recipient deals directly with the management of the health institution in its legal person without having the freedom to choose, as he does not deal with the vaccinating bodies in their personal capacity, but as subordinates and users of the institutions they work in, so the nature of civil liability arising from the damages of optional vaccines that are carried out in public health institutions is subject to the rules of tort liability arising from breach of a legal obligation on the basis of the responsibility of the subordinate for the actions of his subordinate.

The idea of this responsibility is based on the requirement of the existence of a subordination bond that gives the subordinate over the work of his subordinate actual authority for everyone who works under his account, so he is subject to his supervision and direction, which assumes the establishment of the responsibility of the state; This is because the activity of the vaccinator in public institutions is considered a highlight of the state's personality and thus the establishment of its responsibility. This responsibility is based on an assumed mistake on the part of the superior, which is the breach of his duty of caution and caution, and therefore the superior can get rid of his responsibility by proving that he took the duty of caution and caution and that he had exercised sufficient care and that the damage had occurred even if that care was exercised

Or that the mistake made by the subordinate is not related to his job activity, and in this regard, the Iraqi Court of Cassation held that "the person from whom the act of assault was committed shall bear responsibility for the harm that befell the victim because of his personal action, not the subordinate (the defendant) if the assault is not related to the job activity."

All the comparative legislations agree that the liability of public health institutions for vaccine damage is tort based on the fault of the person responsible for the actions of his subordinates, through what was included in Article (219) of the Iraqi Civil Code, which states "the government, municipalities and other institutions that perform a public service Every person who exploits an industrial or commercial establishment is responsible for the damage caused by their employees, if the damage results from an infringement committed by them while performing their services."

It is noted from the above text that the Iraqi legislator has specified the categories covered by the description of the subordinate, including the institutions, and therefore those in charge of the vaccination process are affiliated and subject to their institutions.

The French legislator has also explicitly acknowledged the responsibility of the state for errors made by its employees, through what was included in Article (1142-1) of the Public Health Law, in which it was indicated that the responsibility of the public health

institution that carries out preventive operations such as immunization and diagnosis And treatment when an error is proven that led to harm to the patient.

The second subsection:

#### Responsibility of the vaccinator in private health institutions

An individual may go on his own to private centers intending to receive a specific vaccine to prevent a specific disease, and as a result, he is linked to a contract with the administration of that institution in which the recipient of the vaccine is obligated to pay that institution the agreed wages, and the institution is committed to implementing this contract by giving him the vaccine and supervising it. Accordingly, there is a nodal link between the recipient of the vaccine and that institution.

With regard to the responsibility of managing private health institutions, it turns out that there is an opinion, that distinguishes between ordinary (material) work, which is meant by those works that are not related to the technical assets of the medical profession and are issued without regard to the capacity of those who perform them.

And between professional and artistic works that are directly related to the technical assets of the professions. Hence, the responsibility of that institution for the mistakes of its health cadres (doctors and nurses) who carry out the vaccination with regard to their technical work is non-existent, in addition to that the bodies that carry out the vaccination directly are personally responsible for the damages that befall the recipient of the vaccine as a result of his error, and the supporters of this opinion are based on several considerations It is represented by the fact that the doctor is not considered to be affiliated with the administration of the institution, so they have absolute freedom in relation to their profession without authority or control, and the administration of the institution has no authority to issue any orders in relation to the core of their profession, as it relates to an activity that affects human safety.

As for professional actions, the institution is responsible for the mistakes of its subordinates, and this opinion is under consideration since when the recipient of the vaccine chooses a specific institution to go to, he is associated with the management of that institution by a contract that creates corresponding obligations on the shoulders of the two parties, in which the institution is obligated to implement this contract from While administering the vaccine, this commitment is primarily represented by exerting the necessary care with regard to the effectiveness of the vaccine, and a commitment to achieve a result represented by not harming the recipient of the vaccine, the fitness of his body to receive it, and the absence of any future complications.

In line with what has been mentioned, there is a contractual bond between the recipient of the vaccine and the private institution, which is a special type of contract. As the administration of that institution, by accepting the offer issued by the vaccine recipient, is responsible for not implementing this contractual obligation, and for that, it selects a number of skilled health personnel without being able to consider the mistakes of those personnel as a foreign reason for exemption from responsibility, according to the general rules For contractual liability, the contractor cannot have the right to get rid of the responsibility when he chooses someone else on his behalf in the implementation, except by proving the foreign cause.

In conclusion, and despite what those cadres enjoy in those institutions with a kind of independence, this does not preclude holding the private institution accountable for the mistakes of its employees, and its responsibility in that is a contractual responsibility for the actions of others, and this is evident indirectly in the Iraqi and Egyptian laws, through what it stipulates According to Article (259/2) of the Iraqi Civil Code, "1- It is permissible to agree that the debtor bears the consequences of the sudden accident and force majeure. Nevertheless, the debtor may stipulate that he is not responsible for the fraud or gross error that occurs from persons he employs in the implementation of his

obligation”, and the aggrieved party can also refer directly to the vaccinator in accordance with the rules of tort liability based on personal error that must be proven.

As for the French law, what was regulated by Article (1142-1) of the Public Health Law did not differentiate between the responsibility of public health institutions and those of the private sector. Therefore, the damages that befall the vaccine recipient as a result of receiving that substance in private institutions are subject to the provisions of Article (1242) of the Civil Code, so the administration of that institution is responsible for the damages that befall the vaccine recipient as a result of the actions of its users.

This is what the Lebanese legislator followed, as he considered that the responsibility of private health institutions is the responsibility of his negligence, (the responsibility of the subordinate for the actions of his subordinate) and this is deduced through what was stipulated in Article (127) of the Lebanese Code of Obligations and Contracts, and the Lebanese judiciary has indicated that The responsibility that arises from vaccination damages is tortious, so the administration bears the damage resulting from the mistakes of its subordinates. In one of the decisions issued by it, it was stated that “the administration’s negligence in taking the necessary precautions in a way that requires providing the minimum level of medical care for vaccine recipients constitutes a mistake in the administrative organization, which It means that the administration is responsible for the mistakes of its subordinates, no matter how simple their mistake, which requires compensation for the injured person based on the rules of justice and fairness.”

From here, and in order for this responsibility to be established in French and Lebanese laws, there must be a dependency relationship between the vaccinator and the private health institution. To give up her professional independence when working in private institutions while providing the necessary care for the recipient of the vaccine, and then he must reject any pressure that would affect his decision during the exercise of his profession.

The recipient of the vaccine may turn to a specific doctor himself, so the relationship between them is based on the contract concluded; Because the agreement to receive the vaccine in exchange for a sum of money is considered a valid consensual contract if all the elements of the contract are met in terms of consent, the place and the legitimate reason and all, and according to what was stipulated in Article (73) of the Iraqi Civil Law “The contract is the engagement of the offer issued by one of The two contracting parties accept the other in a manner that proves its effect on the object of the contract.” This is what the Iraqi Court of Cassation indicated in one of its decisions with the principle that “the patient resorts to a specific doctor himself, intending thereby to achieve a specific result. The doctor's responsibility once the other party is harmed”

And the same principle was followed by the Lebanese judiciary, as it was stated in one of the decisions “to determine the responsibility of the doctor, there are no rules and provisions that are distinct from other responsibilities, but rather a normal liability that is based on the error committed by the doctor and on the causal link between this error and the harm complained of, and this is the burden of proving The doctor's fault on the plaintiff seeking compensation”.

We believe that what the French and Lebanese legislators have followed regarding the determination of the tort liability of private health institutions is a good direction, as through this the victim gets rid of the burden of proving the error issued by the affiliates of that institution, which he is unable to prove within the framework of contractual liability as long as it is related to a medical field that is impossible for anyone without qualifications. Knowledge and experience prove it.

We conclude from all of the foregoing that the nature of the civil liability arising from the damages of optional vaccines differs according to the authority carrying out the vaccination process and differs in the laws under comparison, so it turns out that all the



legislation under comparison follows the rules of tort (the liability of the superior for the actions of his subordinate) within the framework of the responsibility of public health institutions, This is different when it comes to vaccination that takes place in private health institutions, as we have found that this responsibility is a contractual responsibility for the act of others in the Iraqi and Egyptian laws), and a tort liability in the French and Lebanese laws.

The second requirement

The nature of the responsibility of the compulsory inseminator

For the desire to achieve prevention from infectious diseases or those that cause a serious defect on individuals in the event that they do not receive the necessary health care, the legislator has imposed in certain cases obligating individuals to receive vaccinations forcibly, as prevention saves a lot of trouble as it saves institutions Health is a lot of expenses that can be spent on specific diseases if they were prevented in the beginning, and compulsory vaccination is defined as “a legal obligation imposed by the legislator for the benefit of society, in which a person cannot freely do it or not do it because it is imposed by the state in order to Achieving the public interest, which is the protection and promotion of society’s health”, and it is also known as “a medical activity or work that the state decides to impose on citizens as a legal obligation”.

And since the nature of civil liability resulting from the damages of compulsory vaccination differs according to the comparative legislation, some of them have based their organization on general rules in accordance with the provisions of tort liability, and some of them have organized them in a special legislative organization, as is the case in French law establishing the responsibility of the state without error, so we will divide This demand has two branches, the first branch is for the trend that says the tortful responsibility of the vaccinator, and the second branch is for the objective responsibility of the vaccinator.

First subsection:

The direction of negligence of the vaccinator:

All medical work, including receiving vaccinations, is subject to special laws and instructions of a technical nature related to the importance of the medical profession, and that the responsibility arising from those tasks is tort whether or not the recipient of the vaccine is bound by a contract with the vaccinator, he is bound to respect the principles of the profession.

Supporters of this view believe that the life of the vaccine recipient is considered part of the public order, and therefore every agreement issued in connection with it regarding exemption and mitigation of liability will be null and void. Therefore, whatever harm the vaccine recipient suffers as a result of compulsory vaccination is subject to the existing tort rules. On the basis of the responsibility of the subordinate for the actions of his subordinate, given that the vaccinators are often affiliated with public health institutions, it is impossible to consider that relationship between the vaccine recipient and the vaccinator as a contractual relationship.

Hence, the error necessitating the responsibility of the authorities carrying out the compulsory vaccination is an assumed error that can be proved to the contrary within the framework of Iraqi law, and is not subject to that in the Egyptian and Lebanese laws, and thus the application of that rule does not provide adequate legal protection for those affected by the compulsory vaccination as long as the follower is able to get rid of His responsibility is to prove that he has taken the duty of caution and caution and that the damage was inevitably real, even if such care was taken.

The tort liability resulting from compulsory vaccination is not limited only to the recipients of the vaccines, but rather it arises in addition to that by refraining from



vaccination, and the basis for that is due to negligence and lack of insight into receiving the vaccine on time or not receiving it at all, as the error that leads to the establishment of the tort liability is either a mistake Positive by doing an act that the law prohibits, or a negative error by abstaining from an action required by law, and it is required for abstaining to arrange responsibility that it be voluntary, and if the will is absent, we will not be facing a negative error attributed to the abstainer.

And since compulsory vaccination is considered a duty imposed by the legislator, in the event of abstention from receiving it and harm to the community results, the person abstaining from it will be liable tort towards the victim, and the responsibility for failure to vaccinate is mainly raised in relation to the responsibility of the shepherd for those under his care, given that For the preventive nature of the vaccine to avoid any harm that may arise from a specific disease if the vaccine is not taken, and if the guardian or guardian, in different cases, does not give any importance to the mandatory vaccinations for those under his care, then in all these cases he will be liable tort.

Due to the difficulties raised by the rules of tort in ensuring that the victim obtains his right to compensation, the French legislator adopted a different approach to the legislation in question, which is to report state officials for the damages of compulsory vaccination without error in what is known as objective liability, and this is what will be explained in the second paragraph.

The second subsection: the direction of the objective responsibility of the vaccinator

Since the provisions of tort liability based on the supposed error do not provide legal protection for the recipient of the vaccine, it is often possible for the follower (the health institution) in charge of the vaccination to get rid of its responsibility once it is proven that it has taken the duty of caution and caution in behavior.

The French legislator issued special laws to regulate that responsibility and determine the state's responsibility for those damages and considered it obligated to compensate for the damages of compulsory vaccination, and the responsibility in that is a liability without error, the French legislator issued the law dated 1/7/1964 and it was included in the paragraphs of the Health Law The French General Assembly stipulates in its texts the responsibility of the state without error, and this is evident from what Article (3) stipulates: "Without prejudice to the lawsuit that can be exercised according to the general rules (by the victim or her family against the person doing the vaccination), the state bears compensation for all Damage is directly based on compulsory vaccination within the conditions mentioned in this law and was conducted in an approved vaccination center, and the state resolves within the limits of compensation paid by it by the victim in its rights and claims against those who caused the harm."

However, determining the responsibility of the state without error in French law is only done when certain conditions are met, which are regulated by law:

- 1- That the damage to be compensated for occurred on a date after the issuance of the law.
- 2- That the vaccination has taken place in the designated health centers, and it is the same for those centers to be public institutions or accredited private centers.
- 3- The damage to be compensated for should result from the vaccination process itself and not from other medical errors.

Determining the responsibility of the state without error in the framework of compulsory vaccination is based on several justifications, as it was considered that the basis of that responsibility is the principle of general equality, which requires that all members of society bear public expenses and costs on an equal basis among themselves.

Since the compulsory vaccination procedure is a legal obligation imposed by the state for the public interest, it is not fair for some individuals to bear the harm and not others. This burden must be borne by all citizens by paying compensation to the affected person from the state's general budget, thus restoring balance among all members of society.

Another opinion goes to the fact that the basis of the state's responsibility is based on the idea of risks, so every activity causes harm to society, even if the doer is not at fault, that does not preclude the realization of responsibility, and according to that, the state is responsible for all the harmful results of its activity, as it is based on damage alone without Wrong, the idea is that whoever creates risks in society bears all legal consequences even if his behavior is normal, which means not distinguishing between wrong and wrong action.

All of this led the French legislator to issue Law No. (4) of 2004, according to which he established the Compensation Fund for Medical Accidents, called "The National Office for Compensation for Medical Accidents (I, Oniam), and the legislator also confirmed that the responsibility of the state without fault is limited to the mistakes of its subordinates. The damage is caused by a defect in the vaccine, so whoever bears the burden of compensation is the producer.

And in the Iraqi law, we find that the Iraqi legislator has taken the responsibility of the state to compensate for corona vaccines, through what was stipulated in Article (4) of the law on the provision and use of corona vaccines. The manufacturer of the vaccine, the Ministry of Health and the Environment, its formations, and its employees, from the damages resulting from the provision and use of medical materials necessary to prevent corona virus.

A summary of the foregoing shows us that the nature of civil liability resulting from the damages of compulsory insemination is tortious (the responsibility of the superior for the actions of his subordinate) within the framework of Iraqi, Egyptian and Lebanese law, while the French legislator regulated the damages resulting from those operations, by special laws, establishing the responsibility of the state without error. Therefore, we find that what the French legislator followed would provide legal guarantees for receiving the vaccine and encourage individuals to take it as long as the damage will be remedied if it is achieved.

## Conclusion

After we finished, with God's grace and success, the completion of this research, in which we dealt with "the nature of the responsibility of the vaccinator," we reached a number of results and recommendations as follows:

First: the results

1- There was no specific definition of vaccines in the Iraqi legislation, neither in the law on the provision and use of corona vaccines, nor in the law of practicing the pharmacy profession, but the legislator contented himself with including vaccines within the concept of special preparations by including it in Article 1 of the law of practicing the profession of pharmacy, contrary to what the Egyptian legislators went to. And the Lebanese provide an explicit definition of vaccines to distinguish them from other medical products.

2- As for the responsibility of the person in charge of the optional vaccination process that takes place in public health institutions, it became clear to us that all the comparative legislations have agreed that the responsibility of that institution is tort based on the error of the follower due to the actions of his subordinates. As for the vaccination that takes place in private health institutions, the nature of that Responsibility in the Iraqi and Egyptian laws is contractual for the act of others, because there is a direct contractual

link between the injured party and that institution, with the possibility of recourse to the person in charge of the vaccination process directly based on the tort liability.

3- Responsibility is tortious in compulsory vaccination in the Arab legislation subject to comparison, unlike what is contained in France, when the legislator determines the responsibility of the state without error and adopts the rules of objective responsibility.

Second: Recommendations

1- We hope that the Iraqi legislator will amend Article (2) of the Law on the Provision and Use of Corona Vaccines No. 9 of 2021, which includes those in charge of the vaccination process, and hold them all legal responsibility if it turns out that the damage has arisen from their mistake, and it will be as follows: “The companies that produce vaccines and manufacture and supply special vaccines are asked with the Corona virus, and all parties carrying out the vaccination process, civilly and penally, if it becomes clear that the damage has resulted from their intentional or negligent error.

2- We hope that the Iraqi legislator will organize special legislation in which he determines the full responsibility of the state to bear the burden of compensation in the event of the absence of the official or his inability to bear compensation, similar to what is contained in the framework of corona vaccines.

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