

The employer's civil liability for sexual harassment in the workplace "Comparative Analytical Study"

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Abstract

Sexual harassment spread widely in the workplace in this period, and although it affected women and men, its impact on working women was greater. This is primarily due to the economic conditions our society is going through and the abuse of power by employers. Sexual harassment is considered a gross violation of human rights, undesirable behavior and a form of violence against workers. In light of this, the research aims to demonstrate the effectiveness of the Egyptian and Iraqi labor law, the Saudi system, and some comparative laws in protecting the worker from sexual harassment in the workplace. In order to reach this, we followed the comparative analytical approach between Egyptian and Iraqi law, with the help of some other laws in this regard. And we concluded with a set of recommendations, the most important of which is to tighten the responsibility of the employer by establishing it to bear the responsibility of the risks in order to push him to provide a safe work environment, in addition to tightening the disciplinary penalties for the establishment in case of laxity, and this is achieved by not linking it to the number of employees in the establishment.

Keywords: Harassment, Worker, Employer, Civil liability.

I. INTRODUCTION

Harassment is a significant societal problem, especially in the workplace, as it affects all employees, regardless of their gender. Recently, the phenomenon of harassment increased after the economic conditions changed in the Arab countries and women entered the field of work. On this basis, the courts played an important role in obligating the employer to protect workers from sexual harassment in the workplace, by appreciating their responsibility in the event of failure to provide a safe environment for the worker. Sexual harassment has devastating economic effects, whether on the establishment or the worker. Because the worker cannot work in an environment that puts him under the pressure of sexual harassment, which causes him psychological and emotional pain that affects his decision-making in a timely manner, which may expose the establishment to problems related to

its inability to fulfill its obligations towards others, and at the same time he may be forced to leave work, which leads to he lost it. Especially in light of the non-deterrent sanctions in the current regimes, whether Egyptian, Iraqi, Saudi or American law; These regulations decided non-deterrent parts, although the Saudi system imposed a penalty on the facility that failed to investigate the incident of harassment in the workplace and linked the determination of the fine based on the number of workers in the facility, as did the 1981 United States of America law related to civil rights.

A. *Research importance*

The importance of the research revolves around the fact that work is the only source for the vast majority of people. Especially in light of the economic conditions that swept the world with a

family, forcing women to work in order to help provide for the needs of the family. Which has become necessary to consider the current legislation to address the legislative shortcomings to protect her from acts of harassment that cause her financial damage related to her loss of wages as a result of leaving work or treatment as a result of acts of harassment, in addition to the moral damages that disturb her due to acts of harassment that may interfere with her in depression that eventually leads to her suicide.

B. Research problem

The research problem lies in the inability of current legislation to confront acts of sexual harassment in the workplace, due to the difficulty of proving it in most cases because harassment has multiple forms, and this requires the legislator to amend labor laws, whether in Egypt, Iraq, Saudi Arabia or in the United States of America to decide effective worker protection. To achieve this, the employer's responsibility must be emphasized to push him to provide a safe work environment. As a result, this problem raised several questions:

- What is the concept of sexual harassment and its forms?
- What is the legal nature of the employer's civil liability for sexual harassment?
- What are the grounds for the employer's civil liability for sexual harassment?
- What is the penalty for achieving civil liability on the part of the employer?

C. Research methodology

In order to solve the problem raised in the research and answer the questions it raised, I followed the analytical comparative approach between the Egyptian and Iraqi labor law, the Saudi system, and the Civil Rights Act 1981 in the United States of America, with the help of some jurisprudence opinions followed in this regard, while giving our opinion on some issues.

D. Research Plan

Based on the foregoing, the research was divided into four sections:

- The first section: the concept of sexual harassment and its forms.
- The second section: the legal nature of the civil liability of the employer for sexual harassment.
- The third section: the basis of the civil liability of the employer for acts of sexual harassment.
- The fourth section: the penalty resulting from the realization of civil liability on the part of the employer.

II. THE CONCEPT OF SEXUAL HARASSMENT AND ITS FORMS

The phenomenon of sexual harassment of female workers is not new, but has existed for a long time, as it was the reason for severing the relationship between workers and the relevant institutions. This is due to the problems of discrimination in the field of work, which are generated due to differences in sex, religion or ethnic affiliation.

Referring to the texts of the Iraqi and Egyptian legislation, we find that the Iraqi legislator defined sexual harassment in Article 10/3 of the Iraqi Labor Law [1] as "...any physical or verbal behavior of a sexual nature or other behavior based on sex that affects the dignity of women and men and is undesirable." is unreasonable and offensive to the recipient, and results in any person express or implied refusing or not submitting to such conduct to make a decision affecting their employment"

In Article 10 of the Iraqi Labor Law No. 37 of 2015, the Iraqi legislator prohibited sexual harassment in employment and the profession, whether it was in the search for work, in the case of vocational training, employment, or work conditions and conditions. Whoever violates the provisions of the Labor Law shall be punished by imprisonment for a period not exceeding six

months and a fine not exceeding one million dinars, or by one of these two penalties.

As for the Egyptian legislator, sexual harassment was not defined in Labor Law No. 12 of 2003 [2], but the legislator permitted the employer to terminate the employment contract in the event of an assault on him or the general manager, or a gross assault on one of his subordinates during or on the occasion of work by the worker. In return, the worker was given the right to terminate the employment contract in the event of an assault on him or one of his relatives by the employer or his representative.

In the Penal Code, the Egyptian legislator clarified the penalty prescribed in the event of exposure to others in a public, private, or frequented place by making sexual or pornographic matters, suggestions, or insinuations, whether by sign, word, or deed by any means, including wired, wireless, or electronic means of communication, or any other means. Another technical means, which is imprisonment for a period of not less than two years and not more than four years and a fine of not less than one hundred thousand pounds and not more than two hundred thousand pounds, or one of these two penalties. And if the act is repeated by the offender through prosecution and tracking of the victim, the imprisonment shall be for a period of not less than three years and not exceeding five years and a fine of not less than two hundred thousand pounds and not more than three hundred thousand pounds, or one of these two penalties, and the penalty of imprisonment shall be doubled in its minimum and maximum limits in the case of Repetition. It is considered sexual harassment if any of the aforementioned crimes are committed with the intention of obtaining a benefit of a sexual nature, and the penalty in this case shall be imprisonment for a period of no less than five years[3].

In Saudi Arabia, the Saudi regime defines[4] harassment as "every saying, act, or gesture of sexual significance, emanating from a person towards any other person, that touches his body or honor, or offends his modesty, by any means, including the means of modern technology".

The Saudi system also punished sexual harassment with imprisonment for a period not exceeding three years and a fine not exceeding three hundred thousand riyals, or with one of these two penalties in the event of recurrence, or the crime was committed against a person with special needs, or the perpetrator had direct or indirect authority over the victim. Against him, or the crime took place in a place, study, shelter, or care, or the perpetrator and the victim were of the same sex, or it occurred in times of crises, disasters, accidents, and other cases mentioned in this system. This is without prejudice to any harsher punishment prescribed in Islamic law or special laws. The instigator and the false whistleblower shall be subject to the same penalty prescribed for the perpetrator of the crime of harassment and half the maximum limit thereof in case of attempt[4].

The Saudi regulator also authorized the employer to terminate the employment contract and terminate the work relationship without the worker receiving compensation or a reward or even notifying him in several cases, including the worker's bad behavior or his committing an act that violates honor and trust, and this has been proven against him[5]. On the other hand, Article 81 of the same system gives the worker the right to leave work without notifying the employer if he or a member of his family or the responsible manager commits a violent assault or immoral behavior towards the worker or a member of his family.

In addition, the decision of the Saudi Minister of Labor dated 5/5/1443 decided in item 52 of it that "the establishment does not form a committee to investigate cases of behavioral abuse in the work environment, or the establishment fails to investigate and recommend the imposition of a disciplinary penalty on those found guilty within five days." Act of receiving the complaint (the communication), or the establishment's failure to impose a disciplinary penalty on the aggressor worker in the case of behavioral abuse in the work environment after the committee's recommendation on those found guilty within thirty days from the date the conviction is proven. The fine will be five thousand Saudi riyals (5000) if The number of

workers is less than ten and multiplied by their multiplicity, ten thousand Saudi riyals (10,000) if the number of workers is category (B) from eleven to fifty and multiplied by their multiplicity, and the fine amounts to twenty thousand Saudi riyals (20,000) and multiplied by their multiplicity if the number of workers is of category (a) Fifty or more.

In comparison, between the Iraqi and Egyptian law and the Saudi system, it is clear that the Iraqi legislator and the Saudi system exposed the concept of harassment directly. As for the legislator who died, the number of cases that are considered sexual harassment, whether by traditional methods or in any other way, and the repeated penalties for it. Praise be to the Egyptian legislator for not defining sexual harassment because definitions are among the tasks of jurisprudence. However, the Egyptian-Iraqi legislator used broad terminology that accommodates all methods of sexual harassment. However, the Saudi regulator was more assertive than the Egyptian and Iraqi legislators. Because he decided a penalty for the establishment in the event of failure to investigate or delay in imposing the penalty regarding behavioral violations occurring in the work environment. However, he is disgraced for taking the number of workers as a basis for determining the punishment. It is better for the Saudi regime to overlook this basis and assess the fine according to the general rules.

In light of this, some jurisprudence has reached the definition of sexual harassment as (anyone who is exposed to others in a private or public place, by making sexual matters, suggestions or hints, whether by sign, word or deed by any means, including wired and wireless means of communication, as well as acts of stalking and tracking To the victim if the intent of these acts is to obtain from the victim a benefit of a sexual nature) [6].

On the international level, the first reference to harassment was made by the amended European Social Charter in 1996, where Article 26 recognized the right of workers to protect their dignity during work and obligated states to take all appropriate measures to protect workers from

bullying and hostile behavior in the workplace or in relation to work [7].

The International Labor Organization (ILO) Convention on Violence and Harassment of 2019[8] defines violence and harassment as “a set of unacceptable behaviors, practices, or threats, whether single or repeated, with the aim or result in physical, psychological, sexual or economic harm.” or likely to lead to it, and includes gender-based violence and harassment.”

The European Commission also defined sexual harassment as inappropriate behavior of a sexual nature and may be verbal or non-verbal. This behavior affects the dignity of both women and men [9]

And in the face of the ambiguity about defining sexual harassment accurately, some have defined it[10] as “a group of sayings and actions that carry sexual connotations that lead to severe straits, as they include verbal insinuations, verbal statements, and actions such as touching and exposing such as pictures, jokes, clips, jokes, and sexual stories, as sexual harassment differs from sexual assault Such as indecent assault and full sexual intercourse in kissing or anus, and the opposite and solicitation by any means are included in the acts of harassment, as well as non-innocent flirtation.

It was defined as “harassing others with repeated words or behaviors of humiliating sexual overtones that violate their dignity with the aim of creating a hostile situation to intimidate or offend them; as well as the case in which the behavior is not repeated, but is used by exerting intense pressure to obtain sexual services for the benefit of the perpetrator or others” [11].

Sexual harassment can be physical, such as unwanted contact, whether it takes the form of touching, caressing, hugging or kissing for sexual assault or rape. It may be verbal, such as socially and culturally inappropriate and unwelcome comments that contain sexual overtones, such as joking or commenting about a person's clothing or body, whether directly or indirectly. Finally, sexual harassment may be non-verbal, such as frequent winks and finger gestures, as well as viewing unwanted pornography and sexual images, in addition to e-

mail messages, notes, or short sex messages [12]

From the aforementioned, we can define sexual harassment as every behavior, act, or statement, whether through confrontation directly or indirectly, or through the Internet or means of communication of all kinds that constitute unwanted sexual suggestions, or pressures to obtain sexual services for the offender or others.

III. THE LEGAL NATURE OF THE EMPLOYER'S CIVIL LIABILITY FOR SEXUAL HARASSMENT

The employer's civil liability generally varies into contractual and tort liability, according to the source of the obligation. The responsibility of the employer for the sexual harassment of his subordinates is consequential, and in application of that, Article 174 of the Egyptian Civil Code [13] stipulates that "the superior is responsible for the damage caused by his subordinate by his illegal work, when it was caused by him in the course of performing his job or because of it." The bond of subordination, even if the follower is not free to choose his follower, when he has authority over him, he must supervise and direct him.

On the other hand, we find that the Iraqi legislator stipulated in Article 19 of the Civil Code [14] that "governance, municipalities and other institutions that perform a public service and every person who exploits an industrial or commercial institution is responsible for the damage caused by their employees, if the damage occurred from them while carrying out their services. He can the employer is to get rid of the responsibility if he proves that he took care to prevent the harm from occurring, or that the harm would have occurred even if he took such care.

In comparison, between the Egyptian and Iraqi law, we find that the Egyptian legislator used loose terminology that extends the scope of the employer's responsibility for the actions of his subordinates during or on the occasion of the job. Another employee in or outside the workplace, or even against a member of the public. As for

the Iraqi legislature, the employer's liability is limited to the harm that occurs only during the job, and therefore the employer cannot be held liable for sexual harassment that occurs on the occasion of work; Because the Iraqi legislator used the phrase "if the damage occurred from them while performing their services", it suggests limiting liability to damage occurring during the performance of the service only.

In light of this, we call on the Iraqi legislator to follow the approach of the Egyptian legislator. Because it expanded the scope of the employer's responsibility even if he took the necessary precautions to prevent sexual harassment, and this makes the employer more careful in choosing the worker he employs.

In the United States of America, the employer is asked about sexual harassment by one of his subordinates, and is committed to preventing it. In application of this, the Supreme Court of the United States of America ruled that the organization is responsible for sexual harassment, even if he did not know directly about its occurrence [15].

This is what happened in the case of Meritor Savings Bank v. Vinson, in which the plaintiff sought compensation for sexual harassment by her bank manager who asked her to have sex with him, and she refused; however, due to the fear of losing her job, she accepted to have sex with him. In light of this, the district court denied her application, because she had consensual sex with the defendant, and therefore was not his victim, and this had nothing to do with her continuing the job. However, the Court of Appeal overturned this ruling on the grounds that the district court did not look into whether or not there had been harassment in the workplace. The bank is considered responsible for the harassment that was issued by the defendant, whether he was aware of its occurrence or not. Accordingly, the Supreme Court upheld the ruling of the Court of Appeal on the basis that gender discrimination creates a hostile environment in accordance with the guidelines of the Equal Employment Opportunity Commission of 1980, if proven [16].

Not only did the American judiciary stand on the employer's responsibility for acts of harassment among employees, but also decided his responsibility for the acts of harassment issued by the worker's supervisor. However, the US judiciary has set criteria for determining the person responsible for the harassment in order to determine responsibility, including the employer's strict liability report for the acts of sexual harassment committed by his subordinates. However, the employer is solely liable for sexual harassment based on negligence if it neglected to prevent it, to know or address the harassment, or to hire the harasser. Here it is clear that the American judiciary followed criteria for determining responsibility that differ according to the case of the harasser [17].

Based on the foregoing, several conditions must be met to establish the employer's responsibility for sexual harassment occurring in the workplace or on the occasion of it, namely:

The dependency relationship between the subordinate and the subordinate: It is clear from the foregoing that the subordinate relationship is achieved when there is an actual authority of the subordinate over the subordinate, and that this authority focuses on control and guidance [18].

And some of the Subordinated jurisprudence defined that the person who has authority over another person and issues orders to him, and did not use this authority in reality, and is subject to his supervision and guidance[19].

This is confirmed by Article 1, Paragraph 10, of the Iraqi Labor Law[1] by saying that "the work contract: any agreement, whether express or implied, orally or in writing, whereby the worker performs work or provides a service under the management and supervision of the employer in exchange for wages of any kind." This meaning is echoed by Article 31 of the Egyptian Labor Law [2] and Article Five of the Saudi Labor Law [20]. The dependency relationship is loosened by the lax oversight and guidance [21].

IV. THE BASIS OF THE CIVIL LIABILITY OF THE EMPLOYER FOR ACTS OF SEXUAL HARASSMENT

The establishment of the employer's responsibility for acts of sexual harassment issued by his subordinates entails his obligation to compensate. Based on this, the federal courts decided to recognize sexual harassment as a form of discrimination, which constitutes a violation of Title VII of the Civil Rights Act of 1964 AD, provided that the number of workers is not less than fifteen workers or more. However, Chapter Seven of this law did not refer to sexual harassment. However, the guidelines of the Equal Opportunity Commission defined sexual harassment and defined the employer's scope of responsibility [22].

In all cases, the victims of sexual harassment are compensated according to the tort liability law, because it provides effective treatment for the injured, as compensation for pain and suffering arising from sexual harassment that exceeds the limits of Chapter VII of the Civil Rights Act of 1964.

And he disagreed about the basis of the civil liability of the employer for the actions of his subordinates according to the angle from which he looks at it. This is what we highlight through the following items:

A. First: The theory of assumed error

According to the most correct opinion in jurisprudence, the Iraqi legislator attributes the responsibility of the superior for the actions of his subordinate to the idea of assumed error, as some tried to seek to protect the injured by assuming the error on the part of the superior, which is the assumed error in supervision and guidance as a simple assumption that can prove the opposite as the master can Work to get rid of his responsibility by denying the causal relationship between the error and the damage by proving the foreign cause[23].

Thus, the employer is asked about the harassment emanating from others if the work environment does not secure the workers from

the assault of others; In application of this, the female workers who work to serve customers in a restaurant filed a lawsuit against the employer on charges of being subjected to sexual harassment by customers, on the basis of forcing them to wear a provocative dress and the environment of the restaurant leads to sexual harassment. Here, I suppose that the fault is on the part of the employer, who must prove the opposite in order to absolve him from responsibility. He also asks the employer about the harassment of his workers, as his responsibility was raised when he asked the receptionist to wear sexually provocative clothes, which caused her to be harassed by her colleagues[24].

B. Second: The theory of bearing the risks of liability:

This theory is based on the idea of fining the sheep, which dictates that as long as the business owner benefits from the activity and draws a benefit for it, and he seizes its fruits and the resources that result from it; On the other hand, he has to bear a fine, because it is not fair in anything that a person benefits from his activity and leaves others to bear the consequences of his risks, because whoever has the benefit deserves the responsibility[25].

According to this theory, any harassment that occurs to the worker is the responsibility of the employer, considering him the beneficiary without the need to prove the fault, in order for the injured worker to obtain compensation for the harm he suffered. The basis of liability here is damage, that is, it flows without the need to prove the error or take the necessary precautions.

However, this theory has been criticized for several reasons [18]:

- It holds the superior responsible for the actions of the subordinate in the exercise of his job, whether it was a mistake or not, except that the superior is not responsible unless the subordinate commits a mistake.
- If the subordinate responsibility is determined according to the benefit that accrues to him from

the activity, then it cannot be determined in the case of using the follower for a personal benefit.

- This theory establishes subordinate responsibility without giving him the right to claim what he owes to the follower on the basis that he benefited from the activity.
- However, we believe that this theory is directly proportional to the size of the risks that have become widespread in the field of work due to economic conditions, especially after the employment of women in various fields, perhaps the most prominent of which is sexual harassment.

C. Third: The theory of legal guarantee:

The legal guarantee means that the subordinate is responsible for the mistakes of his subordinate that cause harm to others as long as the subordinate enjoys the right to care, control, direct and issue orders to his subordinate, especially if the error occurred during the performance of the work or because of it[26].

This was echoed by English jurisprudence, because this type of liability imposes a penalty on the economically powerful party, especially in the relationship between the worker and the employer. This type of liability falls within the scope of the English tort liability law [23].

In application of this, if the harassment occurred from one of the workers on the other, the employer is responsible for that as long as he has the authority to direct, control and supervises. However, this theory is based on a comparison between the right of the victim to his physical, material and moral safety, which embodies the general right to safety on the one hand, and the right of the business owner to engage in an activity even if it leads to injury to others. Provided that the law and the rules of precaution necessary to prevent damage from occurring are observed. This theory is based on dual civil liability, as it requires guarantee in the event of prejudice to physical integrity or financial responsibility without the need to prove fault. On the one hand, liability is determined on the basis of fault in the case of economic damage. This is

what exposed it to criticism because it did not give a logical explanation for the basis of civil liability [27].

However, we believe that the blame theory is most appropriate in the case of sexual harassment in the workplace. Because it motivates the employer to investigate accuracy in choosing his workers and to secure the work environment in a way that prevents or at least limits the occurrence of sexual harassment.

V. THE SANCTION RESULTING FROM ACHIEVING CIVIL LIABILITY ON THE SIDE OF THE EMPLOYER

Sexual harassment is considered a work injury, as Article Fifteen (15) of the Egyptian Labor Law No. 12 of 2003 defines it as “infection with one of the occupational diseases shown in Table No. (1) Attached to this law, or injury as a result of an accident that occurred during or because of the performance of work. In this ruling, every accident occurs to the insured during the period of his going to start his work or his return from it, provided that the going or coming back is without delay, stop or deviation from the normal path. The implementation of this law in coordination with the Chairman of the Board of Directors of the Health Insurance Authority”.

As for the Saudi labor law, it was devoid of a definition of work injury, but the Saudi Labor and Social Insurance Law[28] defined it in Article Twenty Seven (27) as “an occupational injury is every accident that occurs to the contributor during work or occurs to him as a result of work. Also, every accident that occurs to the contributor on his way from his residence to his place of work and vice versa, or on his way from his place of work to the place where he usually takes his food or performs his prayers and vice versa. Work Injuries are considered diseases that are proven to have been caused by work, and are also considered, with the same description, occupational diseases specified in accordance with the rules stipulated in the following paragraph, and the date of the first medical observation of the disease is considered by virtue of the date of the injury ...”.

In Iraq, the Iraqi legislator defined it in Article 1 of the Retirement and Social Security Law[29] as “the occurrence of an occupational disease or an organic disability as a result of an accident that occurred during or because of work, and it is considered in the ruling of that accident that the insured worker during his direct going to work or during his return from it, and diseases are specified Occupational defects, organic defects, and the percentage of disability left by each of them, in tables attached to this law, to be issued by a decision of the Minister based on a proposal by the Board of Directors after consulting the Ministry of Health, and it is also determined by medical expertise in cases not mentioned in the mentioned tables”.

In comparison between the Egyptian law and the Saudi and Iraqi labor systems, it was found that there is a convergence in defining the concept of work injury, as it was clear from these definitions that the worker is not required to be under the supervision of the employer until his responsibility is assessed.

In light of the foregoing, the worker shall be compensated for the damages he sustained as a result of the harassment that occurred during or because of work. Harm is generally defined as damage that is directed at a right or a legitimate interest [30]. This damage has two forms, namely: material damage and moral harm. Physical damage is the harm that befalls a person in his body and money, and it must be a realization of occurrence, and that it be a breach of the right or financial interest of the injured [31].

Thus, the material harm resulting from the sexual harassment of the worker in the workplace or because of it may be in wages and treatment. If the worker is unable to perform his work due to sexual harassment, the competent authority is obligated to compensate the payment of wages, and the latter means an amount of money equivalent to the full wage of the injured person, on the basis of which the insurance contributions are paid. The worker is entitled to wages from the day following the occurrence of the injury. As for the wages of the day on which the harassment occurred, the employer is obligated to pay it, whatever the hour of the injury

occurred during it[32] . The material damage here is represented in the worker being cut off from work because of the pressures he was subjected to.

In addition to the foregoing, there is what is called in-kind compensation, which is the treatment that is determined by the General Authority for Health Insurance, except that if it is not possible to transfer the injured person to the affiliated bodies, he is treated in another body according to the treatment categories applicable to the General Insurance Authority, but if the treatment requires the transfer of the injured outside The city in which he resides or the regular means of transportation he cannot ride. The employer bears the transportation expenses. The employer can also undertake the treatment and care of the injured person at his own expense after obtaining the permission of the General Insurance Authority in accordance with the conditions determined by the Minister of Insurance in agreement with the Minister of Health and deducted. In this case, the work injury insurance contribution shall be reduced by one third. The same meaning was echoed by the Saudi regulator[32] .

As for the moral harm, it is what befalls the person in a non-financial interest, that is, what befalls the person in his reputation, honor, or consideration [33] . Despite the occurrence of a jurisprudential dispute about his compensation, especially in the field of the contractual relationship, the Egyptian legislator and the Iraqi mentioned a definitive ruling to compensate him, and in return the Saudi regime permitted compensation for him as well. We find that the moral damage resulting from sexual harassment is related to depression and fear, as these are psychological issues that the worker suffers from. Touching the worker's body, directing words containing sexual overtones, or sending messages containing explicit, unwanted sexual expressions can cause him psychological pain that may put him in a state of Depression or a nervous breakdown, or cause moral harm to her honor.

In any case, it is required for the injured party to obtain compensation for the damage arising from sexual harassment, that the damage he suffered is

personal, direct, and verified, and that it affects an established right or a legitimate financial interest[34] .

On the other hand, American law does not prevent compensation for non-financial losses, and therefore it is possible to compensate for moral and moral damage arising from sexual harassment[35] .

But the law that governs this issue in the United States of America is the Civil Rights Act of 1991, where it set a ceiling for compensation for sexual harassment, setting a minimum limit of fifty thousand US dollars (50,000) if the number of workers in the facility ranges from fifteen to one hundred workers and a maximum compensation of three hundred One thousand (300,000) US dollars[36] .

However, setting a ceiling for compensation is unacceptable, as the methods for estimating compensation must be at the discretion of the courts in the light of each case separately, according to the circumstances and circumstances.

In any case, according to the general rules, the judge estimates the compensation in the light of the circumstances and in the way he deems appropriate. The compensation may be in one payment, or in the form of installments. It is also correct for it to be a regular income. In these two other cases, he requests the submission of insurance from the debtor to guarantee the right of the creditor. The principle is that the compensation be in cash, but this does not prevent the judge from ordering, by way of compensation, to return the situation to its place, or to order the performance of a specific order related to the illegal work [37].

In estimating the compensation, the seriousness of the damage is taken into account, not the error. The compensation includes the loss suffered by the creditor and the lost profits. The compensation is estimated at the time of issuance of the judgment [38].

It should be noted that the calculation of compensation according to the labor system in force in both Egypt and Iraq is not commensurate with sexual harassment, as it must be determined according to the general rules for calculating

compensation and according to the circumstances of each case separately.

VI. CONCLUSION

After we finished the research as mentioned above with a set of results, recommendations and a list of references as follows:

A. Results

- We concluded that the Iraqi legislator and the Saudi regime exposed the concept of harassment directly. As for the legislator who died, the number of cases that are considered sexual harassment, whether by traditional methods or in any other way, and the repeated penalties for it. In light of this, we ended up defining sexual harassment as “every behavior, act, or statement, whether through confrontation directly or indirectly, or through the Internet or means of communication of all kinds, that constitutes undesirable humiliating sexual suggestions, or pressures to obtain sexual services.” offender or otherwise.”
- The responsibility of the employer is tortious unless there is disagreement about the basis of this responsibility. Some attributed it to the supposed error on the part of the employer, others attributed it to the theory of bearing the risk, and others attributed it to the theory of legal guarantee. And we concluded that the basis of the employer's responsibility is to bear the risk because it is commensurate with the acts of sexual harassment.
- The establishment of the employer's responsibility entails his obligation to compensate the worker for the damages incurred, whether the damage is material, which is represented in the loss of wages as a result of leaving work or treatment, or moral as a result of infringement on the honor and reputation of the worker.

B. Recommendations

- The need to intensify the responsibility of the employer by not linking the penalties imposed on the establishment in the event of laxity in the investigation of acts of harassment to the number of its employees; Because that pays to ensure the creation of a safe work environment.
- Determine the responsibility of the employer on the basis of bearing the risk; because this is an effective protection for the worker who is a victim of sexual harassment. The purpose of the rules contained in the labor laws is to protect the weak party, which is the worker, without harming the interest of the employer.
- Imposing the establishment of special rules for calculating compensation for sexual harassment damages in the workplace and not subjecting them to the rules for calculating compensation for work injury in its traditional form.
- Workshops should be held for workers to educate them, how to avoid acts of harassment, and how to file complaints.

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