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DIMENSIONS OF LITIGATION IN OPEN DAMAGES LAWSUIT

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Abstract

In its simple sense, the center of the dispute is the cause of interest or harm upon which one relies in filing a class action lawsuit. Privacy is achieved in a class action lawsuit because the multiple parties do not rely on the personal right in their class action lawsuit, even if they rely on this (personal) right to join it or accept the request. This joining is after the announcement and the second concept is the transfer of the position of the dispute from one party to another such as filing a lawsuit by a company or a competent authority after agreeing to finance the litigation. The third meaning of the collective lawsuit is the adoption of the lawsuit as a model (the central lawsuit) in that the focus of the claim is on the unit of the defendant, an employer such as factories, laboratories, and companies. This lawsuit is called a class lawsuit or a collective lawsuit, and it prevails between the classes of workers or employees who are bound by an employment contract. Collective or administrative contracts within the scope of an institution or business entities affiliated with the same employer whether it is a natural individual or a legal entity such as a production company. We sought to collect data on collective damages in Iraq and achieve employer unity to enhance the statistical value of collective damages by systematically considering statistical data and the extent to which these damages are realized or worthy of litigation.

The research aims to achieve the following scientific objectives: 1) explain the specificity of the litigation center in a collective tort lawsuit, the importance of financing, and the possibility of litigation turning into a subject for trafficking or speculation; 2) determine the judicial process in the Anglo-Saxon countries and compare it with Iraqi law.

Keywords: class action, model suit, litigation financing, adversarial, interference, request to join, collective tort, relativity of damages, commercial litigation, speculation in litigation.

Introduction

The litigation center combines the reason for the civil claim, whether interest or harm, for example, with the idea of verifying the link between that support and the parties to the civil litigation in the collective injury lawsuit.

The basic idea is that the focus of a person's lawsuit (the model lawsuit) was filed on the personal basis of its owner without being connected in principle to the potential parties who will join it to form what is called 'a class action lawsuit' based on that model lawsuit, which is the center and focus of the dispute in the collective harm lawsuit (Brian, 2014). The center of the dispute is important in the balance of the origin of the lawsuit and why the lawsuit is proven. The model is considered proven for all parties who accepted

the announcement of joining the lawsuit. The model is the announcement directed by its owner or the company that manages the financing for the litigation through legal agencies. Here, the center of the dispute is a new concept that we propose as a new term that is free to research and explain in terms of Conditions, elements, requirements, and procedures (Abram, 2000).

Litigation Center for Financial Claims

Financial claims within the judicial scope may stem from the personal right to withdraw from obligations in contracts, the promise of a reward unilaterally, the right to compensation for damage in an unlawful act, or the achievement of a state of unjust enrichment from paying what is not due or paying off the debt of others. It is a personal status, linked to a personal right by law, such as the right to inheritance (Harper, 2023).

In addition to the financial rights associated with the real rights, such as the property rights and the rights that derive from them.

Within the framework of the Center for the Possibility of Litigation lies the idea that every interested party or everyone who is harmed by a relationship or lawsuit has the right to enter, as a principal, into a lawsuit or an overlapping or organized lawsuit for another party.

A distinction must be made between the basis of the claim in litigation, and the legal basis used for the civil claim as a valid or legal reason that represents a contract as a source of obligation or a reason for gaining ownership. All of this is 'differentiated' from the link and that source or reason is an interest, a personal right, or damage to it that calls for litigation. Requesting a financial element in the civil lawsuit (Harper, 2023).

Within the scope of the dispute in the mass tort lawsuit, a new center for litigation appears, represented by the institutions that adopt the issue of litigation financing by covering the expenses of the lawsuit, and the entry of these institutions as a party to the litigation through the 'litigation financing' contract, which raised allegations and objections to the effect that this adoption by those financial institutions has a character. It seeks, with its economic power, to obtain compensation amounts for the class of individuals affected in the collective damage lawsuit, and thus this behaviour by institutions is considered commercial litigation (Galanter, 1993).

These institutions make financial bargains to buy the damages of the affected group or class, and this makes the litigation characterized by a lack of seriousness due to the lack of seriousness in demanding compensation for the damage to achieve the bargain. However, the presence of a financial position in the litigation through a legitimate contract, which is 'financing' even if it is fictitious and its reality is Purchasing damages then proving the legitimate position in litigation is achieved, and saying that trading in litigation requires, even implicitly, considering the judiciary as part of the deal and this matter is not achieved, and saying that requires challenging the judiciary's complicity with those financial institutions (William, 2017).

Privacy of the Litigation Center in the Class Action Lawsuit

A collective lawsuit is called a class lawsuit, which is a lawsuit that relates to a group or class that suffers damage from the same source, regardless of the amount of damage among the people in that class or the type of actual damages that befall that class.

The specificity of the collective damage lawsuit 'class case' or 'class lawsuit' is that the center of the dispute against any person within the collective damage achieved takes effect in its primary effect which is 'the validity of litigation for others' after accepting the notification or 'announcement' of the filing of the lawsuit by one of the parties within the class, in addition. The effect which is 'the case ruling', applies to the rest of the class members.

The manifestation of the above effect is called 'the model lawsuit', the 'original' lawsuit, the 'center' lawsuit, or the 'exemplary' lawsuit. Despite the multiplicity of names, the name of the claim or lawsuit is 'the model' at the level of civil and judicial jurisprudence, where the lawsuit is directed against the source of the collective damage from a factory or plant. Or an entity or a person to be sued civilly for damages resulting from his economic activity whether this activity had a dependency relationship with those affected, such as employment contracts, a relationship of consumption of the commodity produced, or use of the service provided by the source of the damage (William, 2017), accordingly the status of the dispute established by one of the individuals within the collective damage will have its effects in terms of the success of the judicial claim and the issuance of the ruling for compensation to the parties who have suffered damage of the same type or other damages with a single source of the damage such as radioactive contamination resulting

in damage to neighbouring cities or connection to an administrative relationship that requires a service such as food that cause poisoning, even if their patterns and level of impact on a meal or workers shift differ, regardless of the cause of the poisoning related to the poor quality of the original food or the poisoning resulting from its spoilage due to poor storage. This is called ‘the open position for litigation’ in a collective tort lawsuit (Pleading, 2018).

The Open Nature of Compensation in Collective Harm

The damages that occur within the case of collective damage are characterized by non-typical damages. For example, damage to a worker within the scope of an employment relationship in a collective contract, such as work injuries with machines within the production unit, is considered typical, usual and expected damage in the line of damages due to the possibility of damages to machines such as scratches and wounds in the process of loading and unloading goods (American Bar Association, 2021).

Advanced damage is called ‘typical’ because it is common in shipping goods.

As for the damage resulting from radiation leaks inside production units or providing workers with unhealthy meals that cause poisoning to the workers or their exposure to chemicals that cause chemical contamination, this contamination is concentrated and harmful to the skin, such as petrochemicals, or is exacerbated by poor ventilation due to lack of quality construction. All of these damages are called ‘atypical damages’ or other than ‘the usual’ and some civil law jurists call it exceptional damage because it, by all names, constitutes a departure from the expected damage in light of the work correlation to the nature of the damages envisaged from every production or laboratory work whether agricultural or industrial (American Bar Association, 2024).

Because collective damages go in scope and nature from the usual situation to unusual damages, the first sign of that departure is that the scope of the damage is on the horizontal level collectively affecting a number and class of people workers or employees in a labor or administrative relationship and association and compensation for it will be characterized by an open character through the following (Barkai, 2014).

1. The compensation will be detailed by identifying all types of damages, whether their amount varies between members of the group in collective damage, whether the type of damage is the same, such as poisoning damage or whether the types differ with the unity of the source such as the multiple activities of the economic unit producing factories and factories.

2. Compensation within the scope of contractual liability is not limited to the direct material damage expected because the damages go beyond the scope of breach of contractual liability to the scope of exceeding the obligations of the contract, so the contract is a link to the group in the work of that economic establishment, such as a factory or factory, without having to do with the obligations of the worker and the employer (in the sense Technical contract) is related to these damages because they depart from the contractual scope, represented by the phrase ‘the damages are a result of the breach of contractual obligations’.

In conclusion, they are damages outside the typical meaning of breach of contract due to other damages that are perceived but outside the contractual nature of the employer’s or employee’s breach thereof.

3. Compensation in contractual and tort liability is available on a wide range of types and descriptions of damage including moral and material damage and the expected and unexpected features of direct and indirect damage, current, immediate, probabilistic, and future, with its introduction achieved and its effects lax in the future.

All of this establishes the open concept of harm.

Table 1

Statistics of mass damages at oil sites in Iraq / southern Iraq / Basra Governorate / South Rumaila oil site, for five years

Year	Respiratory system diseases	No. of compensation
2018	240	0
2019	222	0
2020	162	0
2021	310	0
2022	319	0

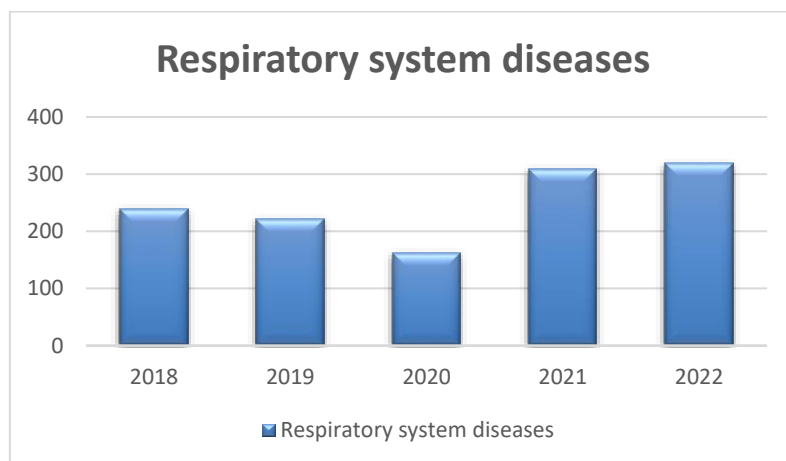


Fig. 1. Statistics of mass damages at oil sites in Iraq / southern Iraq / Basra Governorate / South Rumaila oil site, for five years

Table 2

Statistics on mass damages in petrochemical plants in Iraq / southern Iraq / Basra Governorate / Tanuma city for five years

Year	No. of pollution	No. of compensation
2018	414	0
2019	510	0
2020	602	0
2021	701	0
2022	836	0

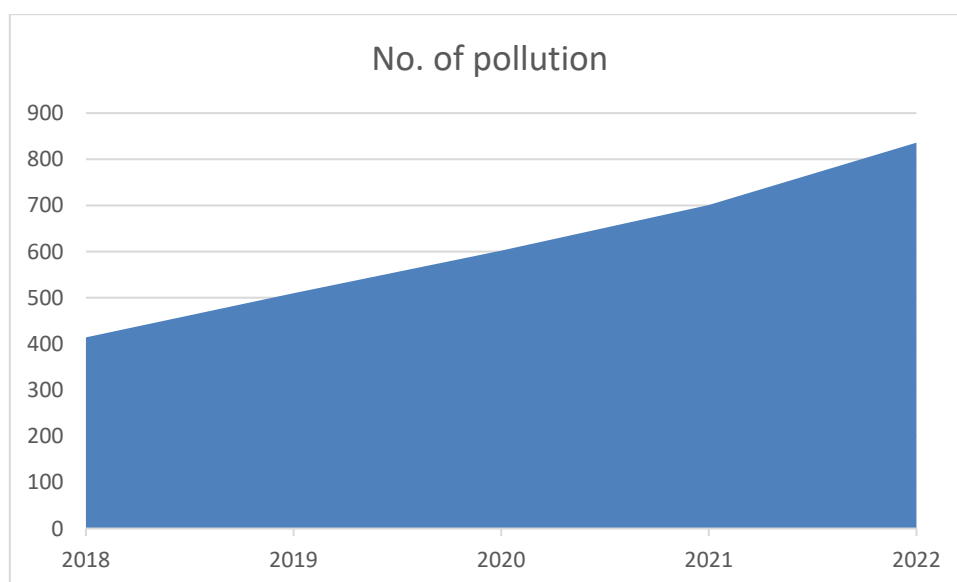
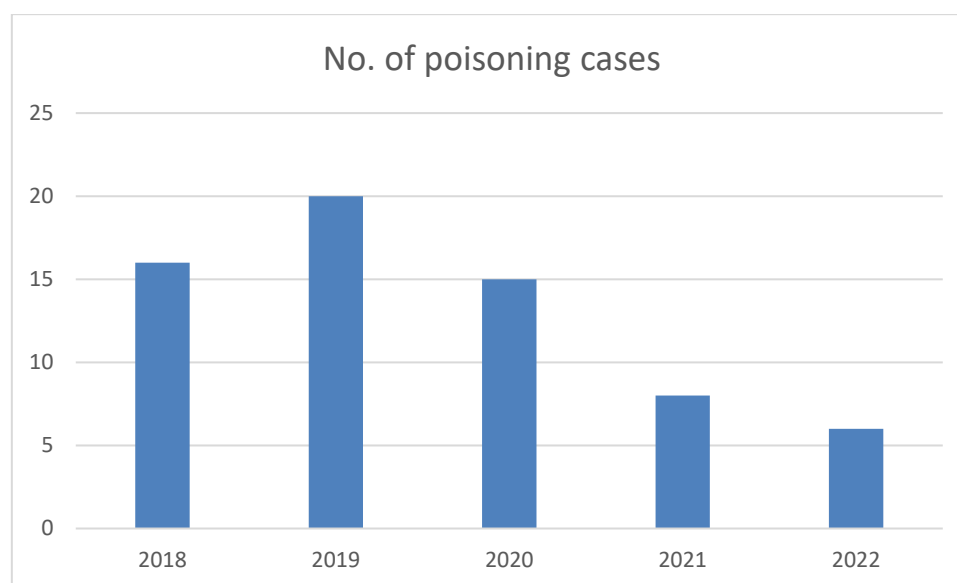


Fig. 2. Statistics on mass damages in petrochemical plants in Iraq / southern Iraq / Basra Governorate / Tanuma city for five years

Table 3

**Mass damage statistics table for poisoning as a result of eating fish caught
in the Al-Sanaf Marsh in Iraq / southern Iraq / Dhi Qar Governorate / Suq Al-Shuyoukh city,
for five years.**

year	No. of poisoning cases	No. of law suit
2018	16	0
2019	20	0
2020	15	0
2021	8	0
2022	6	0



**Fig. 3. Mass damage statistics table for poisoning as a result of eating fish caught
in the Al-Sanaf Marsh in Iraq / southern Iraq / Dhi Qar Governorate / Suq Al-Shuyoukh city,
for five years**

Safety Condition Criterion for the Possibility of Mass Harm

Tightening cases of compensation for collective damage within the scope of collective labor contracts under the premise of the general commitment to safety that prevails in public and private productive and economic institutions, which are obligated to provide the highest levels and safety requirements to accommodate unusual damages in the collective labor relationship.

In the same context, major economic institutions, among their safety obligations include respecting neighbouring residential complexes for the concept of safety in the technical sense, which requires them to provide safety standards with the utmost attention to avoid atypical damages (Dionne, 1992).

This is achieved through

1. Civil commitment in the residential life of cities is based on 'denying harm' based on the principle of civil safety, which means that the nature of the residential life of cities has nothing to do with the typical form of damage, nor the unusual or exceptional form of damage of a collective scope.

2. Establishing the concept of environmentally friendly business, which includes collective harm, so cities and environmentally friendly life appeared.

3. Give a classification of foodstuffs between healthy and natural organic sources and inorganic materials mixed with chemicals or manufactured materials.

4. The commitment of economic institutions to the necessity of clarifying risk patterns in the goods produced and services provided as a prelude to avoiding typical damages. As for non-typical damages, they do not fall within the description of the expected typical form of damages (Bebchuk, 1984).

The Relationship of Accompanying Contracts to Collective Damages

The criterion of probability in unusual damages makes it part of the normal course of work of economic institutions that produce goods and provide services based on the 'preventive system' merely because of the possibility of damage occurring even if it is not described as potential damage (Richman, 2004)

For example, insurance contracts for workers against work risks, life insurance immunization campaigns and medical inoculations against types of germs, viruses, or communicable diseases, all of this within the scope of the production unit.

The classification was made into the second decade in the following description (Steadman, 2013).

1. It is an independent contract from the basic contract from which collective harm may be achieved, so it has no relation to it in terms of validity and invalidity.

2. It is a contract linked to the employment contract that causes the possibility of collective harm, so its status in terms of validity and invalidity is linked to the original contract.

3. It is a supplementary contract that does not appear except if unusual collective harm appears, so it is dormant during the implementation stage of the employment contract from which the collective harm results.

In general, the position of the secondary or accompanying contract with the primary contract falls within the scope of the potential nature of the occurrence of collective harm.

Therefore, one of the things that consolidate the center and scope of the dispute in collective harm is by giving a complementary character to the contracts accompanying the parent contract that was linked to or resulted in the collective harm (Inglis, 2010).

The Relationship of Collective Damages to the Model Contract

Classifying mass damages as exceptional, atypical damages has led to the emergence of the typical form, which means including all possible damages and mentioning the possible circumstances and causes that lead to them.

Thus, a jurisprudential trend emerged calling for reducing the nature of possibility through control and specification of the model contract in the advanced sense.

All of this falls within the line of explaining the center of the dispute on both sides of the damage which are 'the affected class and the employer'.

The obligations specified in the model contract have a protective nature for both parties (Inglis, 2010).

The first party 'the employer': Determining the damages, even if they are possible, makes the employer aware of his contractual position regarding the damages that can be covered if they occur. It also enables him to pay attention to the preventive aspect of avoiding collective damages.

The second party 'the affected class': The bargaining position of the workers in concluding the basic contract when they imagine the damages in the parent contract, even if it is a possibility, makes their negotiating position in the original contract and secondary contracts such as insurance losses clearer and stronger.

In general, the standard contract is accompanied by a geographical dimension, which is the location of the work, which is the location of the production unit of a factory or factory.

If the damage is caused to a source that is outside the workplace and cannot be linked to the source, which is the employer, then we will be facing damage that is foreign to the contractual relationship established by the model contract.

In general, assessing compliance with safety requirements or determining the nature of the damages and the extent of the potential danger thereof to the collective or individual cases of the affected class may require the use of specialized expertise from medical sciences and pure sciences in explaining the premises, causes and consequences.

Conclusions

1. The center of the dispute is by shifting from the individual character of the plaintiff in his capacity to the rest of the affected people from the same source based on the implementation of the idea of the 'model lawsuit' and its effects apply to all the affected people who are informed of the lawsuit or join.

2. The alternate or secondary center that adopts litigation by financing mass tort litigation will achieve a secondary position in litigation.

3. The personal characteristic of collective damage takes a general nature represented by the diversity of the damage in its source among more than one individual, whether the damage is of the same type or

another type provided that the source or cause of the collective damage is unified such as the polluted production unit from a factory or factory.

4. The benefit from litigation in a collective damage lawsuit occurs when a positive ruling is in favor of the lawsuit. The model includes the ruling that includes all the affected classes in collective damages so that each person receives compensation for the amount of the damage he suffered.

5. The proof of collective damage based on the model lawsuit relies and is based on the cause of the damage in the presence of collective damage and not the cause of personal harm to the owner of the model lawsuit or the first lawsuit in collective damage.

6. The damages are open in terms of material or moral damages and their characteristics are direct and indirect, expected and unexpected, to be classified in light of them being atypical damages resulting from a usual situation in the contractual relationship or unacceptable in the legally existing situation in tort liability.

7. The most important evidence that these collective harms are not typical or common is that they include a group of people in a certain class such as workers or a certain entity such as population centers.

8. The technical meaning of the employer's commitment and attempt to get rid of collective harm is not considered because collective harm is not typical.

The breach of the employer's contractual obligations is more than a source of collective damage.

9. The legitimacy of financing litigation in transferring the adversarial position to financial institutions adopting a collective injury lawsuit is the basis for accepting litigation without saying that litigation is financing trading, even if it is determined that the purpose is profitable for those institutions especially in factoring contracts.

10. The center of the dispute does not express the nature of the dispute whether a personal or real interest or right or anyone who has been harmed by an act thus the prosecution starts from the personal nature of the claim to the model lawsuit and from the personal right of the affected people or the general right of the state when harming the population to the financing party. In financing litigation file a lawsuit on behalf of those affected in the litigation financing contract that establishes the rights of the parties. This meaning is achieved even if the financing contract is fictitious because the apparent situation is approved without the real situation such as benefiting from the number of affected people or the profitable nature of the institution's pursuit of profit.

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Conflict of Interest. None.

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