



## RESEARCH ARTICLE

### THE CIVIL LIABILITY OF THE SPORTS COMMENTATOR IN THE JORDANIAN CIVIL LAW

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#### ABSTRACT

Sport announcer (commentator) is a person with extensive media experience and sport knowledge in a particular sport game that allows him to comment on, by describing the matches' events and introduce his technical opinion objectively and honestly. Practically, he is different from the sport analytic or critic with what he hold of moral and legal control, including honesty and truthfulness, away from defamation or abuse, he is also legally liable for whatever misconduct or bad comment or say regarding dignity or honor of any player, club, team, therapist and any person of the audience, therefore he will not legally liable if his commentary was free of any misconduct regarding reputation and honor, and his critics where within the legal framework.

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#### INTRODUCTION

This study researches, analyses and synthesizes the subject of SC civil liability in the Jordanian civil law; since through the SC description of the events and sports matches that he is assigned to comment on, therefore he will be followed-up, watched, tracked and listened to by a very large number of people, including those who are in the game, via television, radio or any other means. With all the styles and the skills the commentator has and use during his work, which include and not limited to psychological factors that he may be subjected to during the game, some of his words can form a strong motive to pursue and questioning him by civil law, meaning that the words he uses in the commentary does not necessarily mean that all are permissible, but it might be considered illegal, and will make him subject to civil dispute if it included insulting or misappropriation of reputation, status and or considerations, or it included humiliation, or false interpretation of what is really going on in the game, or it included false criticism aimed to defamation and derogation of the persons or facts.

**The importance of the Study:** The study of this subject is of great importance to many groups of society, especially judges, lawyers, professors and students of faculties of law and information and workers in the field of sports commentary. In addition, this subject has not been researched or studied

previously, beside the common misconception among the workers in the field of sports media which make them believe that workers in this field are not responsible in terms of civilian statements, words, criticism or a signal or arrogance or insult made during there commentary in the game. In addition to the importance, seriousness and social class of the SC, and how this profession may contribute effectively and seriously in the promotion of sport, ethics and combating crime, beside many negative phenomena's, in addition to the lack of specialized studies on this subject, conflicting opinions around it and because it seeks to stand firmly on the essence of commentator responsibilities.

#### The problem of the study

When the SC is legally held responsible for his commentary in a sporting event? When he is not held legally liable? And what is the legal nature of this responsibility?

#### First -The Sport Commentator Concept

The concept of Sport Commentator (SP) is illustrated by the exposure of three interesting issues; the first is to define the Sport Commentator (SP) and the specificity of his role. The second is to distinguish him from similar terms, especially the sport analyst and sports critic, and the third will focus on listing of Sport Commentator (SP) moral and legal restrictions and controls.

Based on the above, this section will be divided into three demands, as follows

- The first requirement:** Define the SC and specificity of his role.
- The second requirement:** To distinguish between the SC concept from other similar terms.
- The Third requirement:** Ethical and legal controls of SP.

The Definition Sports Commentator (SC) and the specificity of his role: The Jordanian legislative system did not include any legal text that defines the meaning of sports commentator in sports or media<sup>1</sup>. In this context, the jurisprudence in more than one place tried to, directly and indirectly, formulate a definition of the SC.

The most prominent of these definitions are: A SC is a person who comments on a match during its broadcasting, in order to explain the events, provide background information and attract viewers' attention to the game<sup>2</sup>; he is known as sport informant who monitor and explains what is going on in the game<sup>3</sup>; He is also known as the person who transfers all the issues that affect the game honestly, objectively and without bias<sup>4</sup>; A person who is distinguished by a variety of mental qualities, media, sound and sports that make him a successful, distinct and acceptable commentator to both athletes and viewers<sup>5</sup>; he is the person who describes sports activity and comment on it honestly, objectively and absolute neutrality<sup>6</sup>; and Finally, he covers a sports match and describe its movements, skills, athletic spirit, and assess the players and referees performance in the game<sup>7</sup>. In all the above SC definitions, it is noted that all the definitions are almost very close in their direction since they are describing the commentator as the one who is describing what is going on in the sporting events and matches, while some had referred to the personal specifications of the person who handle this task. It is worth mentioning that sport commentator is a normal sportsman, male or female, with a vast experience in the sport he or she commentate on, during his presence where the sporting event and action are taking place; during which he commentate and present his correct technical sport-view with subjectivity and honesty, using words and phrases that attract viewers, not using any offensive or illegal expressions of public order or public morals.

The sport commentator handles very important tasks that could be summarized by the following:

- Reduce the role of extremism, regionalism and sectarianism.
- Compacting the violence phenomenon in sports fields.<sup>8</sup>
- Develop sports culture.<sup>9</sup>

- Positively influences individuals and groups behavior.<sup>10</sup>
- Evaluate Players and Referees performance.<sup>11</sup>

To distinguish the term sports commentator from similar terms The concept of SC differs from similar concepts, such as: sports analyst, sports critic. The differences can be presented as follows:

**Sport Commentator and Sport Analyzer:** The SC covers the events live from where the event takes place. His comments are transmitted to viewers and listeners during the game.

As for the sports analyst, his role begins after the end of the game or the end of the first part of it, and generally makes his analysis from a place outside the game location. The analyst monitors, and shares his views regarding the reactions and disadvantages of players, referees, the public, and the stadium, his opinion is purely technical, introducing his views in calm, non-emotional and non-interactive style<sup>12</sup>. Sports analyst can also express his opinion on the work of the SC in action during the game, showing the strengths and weaknesses in the commentating process, the most important characteristic of his work that he is considered as the paramedic to the public to determine the validity or invalid referee decisions during the game<sup>13</sup>. From the above, it is clear that there is a great deference between Sport commentator and sport analyst, and there are many other differences beside what had been already mentioned, such as: the sport analyst is a specialist in the analyzing the events, processes and facts of the game in terms of performance, skills, activity and decisions of the referees, coaches technical plans and technical managers of the competing teams. His analysis is usually scientific and derived from the reality of what had happened, and is also based on previous studies and courses, while the SC serves as a messenger to convey ongoing match events to the audience.

**Sports Commentator and Sports Critic:** The task of the sports critic is to expose the advantages and disadvantages, including the disadvantages of the actions that are happening during the game, his style is somewhat harsh, offensive, intense and emotional, whenever the player's, referee or coach faults are serious<sup>14</sup>. Finally, where the legislator did not provide any definition of what is meant by the SC, it would be preferred that the legislator had provided a definition of what he means by the commentator, the analyst and the sports critic. So that there is no confusion or mix in the pursuit of any of them, whether criminal or civil, if any of them had committed what requires criminal prosecution or civil suit.

**The Ethical and Legal Controls of the Sports Commentator:** A SC, while doing his job of commenting on a sports match whether it was football, basketball, handball, volleyball, or any other sport, must have moral values and traditions, morally and legally, so as not to violate the law and not to be a subject to civil suit because of damage caused by him inflicted on those who were harmed by his comments whether he was a player, a coach, a fan or any other person.

<sup>1</sup> These laws are represented by: The Audiovisual Media Authority law, the Press and Publications law, the Radio and Television Corporation law, and the Supreme Council of Youth Law.

<sup>2</sup> Emad, Atef, (without year), Sport Media, 2012, p. 57.

<sup>3</sup> Abdullah, Kamal. (2009), Lessons in sports commentating, Sports library, Cairo, 10th edition, p. 15.

<sup>4</sup> Yaqoub, Fahmi. (2009), Basics of sports Commentating, Sports library, Cairo, 1st edition, p. 15.

<sup>5</sup> These laws are represented by: The Audiovisual Media Authority law, the Press and Publications law, the Radio and Television Corporation law, and the Supreme Council of Youth Law.

<sup>6</sup> Emad, Atef, (without year), Sport Media, 2012, p. 57

<sup>7</sup> Abdullah, Kamal. (2009), Lessons in sports commentating, Sports library, Cairo, 10th edition, p. 15

<sup>8</sup> Yaqoub, Fahmi. (2009), Basics of sports Commentating, Sports library, Cairo, 1st edition, p. 15.

<sup>9</sup> Mahmoud, Shareef, (2010), the art of sport commentating, without publishing house or country, p. 21.

<sup>10</sup> Abdulaziz, Ahmad, (2008), Sports Media, without publishing house, p. 5.

<sup>11</sup> Mohamad, Mohamed Abdullah, (2005), Sport commentating from beginning to End. Egyptian book council, p. 14.

<sup>12</sup> Emad, Atef, Sport Media, et al, pp 93-95.

<sup>13</sup> Yaqoub, Fahmi, Sport Announcer fundamentals, et al, p. 67.

<sup>14</sup> Abdullah, Kamal, lessons in Sport commentating, et al, p. 17-18.

These features include<sup>15</sup>:

- Honesty, integrity, Neutrality, Objectivity and Abstraction.
- Transferring the truth accurately and professionally.
- Not to exaggerate in the coverage of an event during the match.
- Avoid the abuse or defamation.
- Spreading the awareness and cultural messages to the public.
- Non-intolerance and unjustified emotion.

Finally, it is preferable that the Jordanian Sport Media Union (JSMU) administration need to write and establish a code of ethics for sport commentators' behavior which include what had been sighted above, in order to upgrade the occupational level of sport commentator which is considered very critical, because of its great effect on the audience, not only that, but it is preferable to have a special law for sport commentators, that include regulations, values, and conditions that govern the sport commentator.

### Second-the nature of sport announcer civil responsibility

The legal adaptation of any of the issues is extremely difficult. The main and direct reason for this difficulty lies in the fact that there is no legal provision stating the legal nature of the issue under discussion. Through legal adaptation, the proper legal basis for this issue and the legal provisions applicable to it are firmly established<sup>16</sup>. As civil liability is divided into contractual liability and wrongful act liability, we shall present these responsibilities in a manner that reflects the legal nature of SC liability from a civil perspective, when it could be contractual? And when could he be held responsible for the malicious act? Therefore this section will be divided into requirements:

**The first requirement:** the contractual responsibility of the sports commentator.

**The second requirement:** sports commentator responsibility for harmful act.

### The contractual responsibility of the sports commentator

It is known that the contractual liability is the penalty of the contract<sup>17</sup>, a penalty for a breach of the contract, or the failure of the debtor to perform his contractual obligation, whether he failed to fulfill his contract commitment intentionally or due to negligence or for reasons related to his action within the contract.<sup>18</sup> This responsibility consists of three divisions, represented by the harms resulted, the harm and the reason it is considered harmful action.<sup>19</sup> In the condition of the existence of a valid contract that establishes the debtor obligations.<sup>20</sup>

15Abdulaziz, Ahmad, Sport Media, et al., pp. 45-46.

16 Mohamed Abdullah, Sports Commentators, Et al., p. 17-18.

17Atef Emad, Sports media, et. Al. p. 60..

18AtefEmad, Sports Media, et al, p 63.

19SherifDarwish Al-Labban, Professional, Ethical and Legal Controls for the New Media Publications, Faculty of Information, Cairo University No Date, pp. 101-108, Ibrahim Hamdadi, Violence in Sports Fields: The size of the problem and the possibilities of solutions and the role of the media and its role in reducing the spread of the phenomenon, Morocco, no publishing houseno, without date, , pp. 84 and beyond, EssamSulaiman Al-Mousa, Professional, Ethical and Media Controls for the Treatment of Crime and Deviance in Society, Publications of the Center for Studies and Research, Symposium of

From the above, it is noted that contractual responsibility requires the existence of a contract, which should be valid and then breached, the right contract is: " The original contract is described as being issued by the contracted people themselves and it include the local authority responsible of implementing it, also the contract include a good and legal purpose, and has all the right and legal terms and conditions and is not accompanied by illegal condition that might make it invalid<sup>21</sup>. Before presenting the definition of the liability of the SC, it is considered necessary to refer to the following:

- If the channel, television station or radio from which the sport commentator is commenting on the match is owned by the SC, meaning that its ownership belongs to him. There is no room to talk that there is a contractual responsibility.
- If the channel or the television station or the radio station that broadcast the SC is an official institution, ie, meaning that it is official public sector organization then we need to differentiate between two issues:

**The first issue:** If the SC is a public worker, that is, he has been assigned to that channel permanently rather than temporarily or based on daily expenses, then his relationship with the institute is organizational not on contract basis, therefore if the sport commentator conducted any breach during his work in the channel or station and a damage was inflicted as a result then he can't be prosecuted on the basis of contract breaching because there is no contract or in light or light of general provisions of contractual liability, due to the absence of contractual bond, therefore, he is civilly penalized by the general rules followed in the case of a breach in the organizational relationship, on the basis of his responsibility for his harmful act<sup>22</sup>.

**The second issue:** if the sport commentator works with the channel or station on the basis of work contract, then the civil claim will be valid when he breach his obligations set on his work contract, according to his contractual liabilities addressed in the work contract.

As for the elements of the contractual responsibilities of the SC, they could be presented as the following:

The commentator error (breach of contract obligation): In the area of contractual liability, a collective error can generally be defined as conduct or conduct by a contractor against another contracting contract in a manner contrary to, or contrary to, or

Seminars and Scientific Meetings, Naif Arab University for Security Sciences, Riyadh, 2005, Samerasheikhany, New Media in the Information Era, Journal of Damascus University - Volume I - First Issue + Second 2010, p. 468 (435-480).

20 After investigation, research, follow-up, survey and question, we did not find any study of jurisprudence, or judicial precedent refers to the nature of the civil responsibility of the sports commentator, until the moment of preparation of the lines of this research.

21Munther Al-Fadl, The Mediator in Explaining Civil Law, A Comparative Study Between Islamic Jurisprudence and Arab and Foreign Laws, Dar Aras Publishing and Publishing, Arbil, Iraq, vol. 1, 2006, p. 221, Atef al-Naqeeb, general theory of liability arising from personal action 3, 1984, p. 15, Muhammad Jalal Hamza, Illegal Work as a Source of Commitment, Comparative Study, Algiers, 1986, p. 11.

22 Ahmed Mohamed Mohamed El Refaey, Principles of Civil Law, Publications of the Egyptian Ministry of Education, Cairo, 1 st, 2010, p. Belhadj Al-Arabi, General Theory of Compliance in the Algerian Civil Code, Part II, Legal Case, Algeria, I, 1995, pp. 7-8.

contrary to what is committed in the contract for the benefit and benefit of the other contractor.

**It can also be defined as:** a deviation in the debtor's conduct of obligation. Which is due to the failure of the contractor in the right contract to implement its commitment fully or to implement part of it without the remainder or the implementation of defective or delayed?

**The contractual error can generally be defined as:** (a) the Contractor's non-compliance with the contract to the extent that it is bound by the contract and the contract obligation, the most important of which is the full and timely implementation of the contract and without any defect, defect or deviation. Regarding the sport commentator contractual responsibilities, it could be represented by the following:

**Violation of contractual obligations:** With regard to contractual liability, the Violation of contractual obligations is generally defined as the conduct of the contracted person or party by action or manner on contrary to or in contravention of, the obligations of the other contractor. It is also defined as: deviation in the debtor's action toward his contractual obligation, which could happen by the failure of the contractor to fulfill his commitment fully or to implement part of it without the rest or a breach in the way of implementation or delayed (). The contractual error can generally be defined as: the non-compliance of the Contractor's with the contract to the extent that it is bound by the contract and the contract obligations, most important of which is the full and timely implementation of the contract without any defect or deviation. its noted from the above meanings of the contractual misconduct or breaching, that it indicated clearly the existence of deviation, defect or slowness in the conduct of one of the parties to the contract, and that the contractor did not comply with the contract stipulated by law and the general law of the relationship between him and the other contractor.

As for the definition of the contractual error and its cases for the SC, where not addressed by the Jurisprudence and not explained by details, we will try to provide a definition of this misconduct, as follows: (The SC does not abide by the direction of the channel or the television or radio station for what he has undertaken to do for the benefit of this channel or station as a sport commentator on the sports matches. and it could be also competing on a game in a way that contradicts or contravenes what was agreed with the channel or station, Or comment on the match in a way or a method not common on sports commentating). With regard to the most important cases of contractual misconduct that could be expected to be committed by the sport commentator, they could be described as follows:

**Failure to fully implement the obligation:** in this case the sport commentator refrains from carrying out his commitment in favor of the channel or station in whole. For example: the commentator had committed to comment of 2016 FIFA World Cup, that will take place daily from 10:00 am, 2:00 pm and 8:00 pm, but he did not show up to any match.

**Failure to partially implement the obligation:** in this case; while the SC need to fully implement his commitment; but does not comply, and partially fulfills his obligation. Although the SC did not refrain from implementing his commitment, he partially fulfilled his commitment.

**Defective implementation of the contractual obligation:** In this case, while the SC performed his obligation in a defective manner, in a way that contradicts, what was agreed upon with the channel or station, and the faulty implementation of the commitment by the SC could be done on the following aspects: when his comments on the game did not include suspense or excitement, commenting on the match incorrectly, or use incomprehensible language or tone, or in an offensive not neutral and inaccurate manner, or pausing for long periods of without commentating. The use of abusive or obscene words or phrases during commentating, the obvious and scandalous bias of a commentator in favor of a team at the expense of another team, encourage the audience to riots, against the referee or the opposing team, the use of sarcasm and irony against the channel or audience or players, sleeping, or being preoccupied by telephone calls, reading papers, or talk to people near him with unrelated subjects to the match, or commenting in an unprofessional manner, beside unjustified laughing or shouting on the audience, referee, or coaches; Incorrect information and news during commentating, not sharing technical opinion on many of the referees decisions, players and goalkeepers; the unjustified and improper objection to the performance of the referee or players.

**Delay in implementing the contractual obligations:** this situation is realized when the match starts on time and the commentator did not show up on time of the match, or the commentator showed up onetime but was not in location to start his work when the match started or he is in location but simply kept silent without ant excuse. Upon to the above, the next question comes up, and that is: is the sport commentator commitment in commentating on a sport event means his commitment to achieve a goal or to take care of how is commenting?

The commitment of sport commentator in commenting on a sporting event is to achieve the goal or target.

Because SC is obliged to comply with the contract conditions, in which he need to commentate on the assigned matches for him, and not part of them, and he need to accomplish his task in the most proper and professional style according to the signed and agreed contract with the station or/and TV channel, SC must not comment on the matches in a manner that is defective or contrary to and contradicts with the agreed upon with the channel or station, or comment in violation of the common rules, regulations and customs of the sports media in the commentary, or to include in his comment abusive or offensive words, or interferes in the private life of others, or is concerned about the other issues which has nothing to do with the sports commentary, or does not present the truth, or to comment using an offensive language, and as long as it is agreed in the contract to do what is required by the contract, then the SC is not allowed to breach his obligations under this contract, and in this sense, the SC commitment is a commitment to achieve a result which is to comment in the game in a fundamental and legal manner, free of any defect, shortcoming, delay or abuse.

If the SC did not comment on the match as usually customary, or refrain from the total commentary or commented on the match and leave the rest of the match or delayed his commentary or comment in a bad way. Then his action is considered a breach of his contract obligation and did not achieve target and the desired outcome of the contract and

from commenting on the game, then the mistake is presumed at his side, the channel or station is not required to prove this. However, the SC can deny responsibility for his competence, If he proves to the presiding judge the claim of liability, That failure to achieve the desired result of the contract, is due to another reason beyond his control, or its the channel or station or to do others responsibilities, for example. And since the SC obligation is a commitment to achieve a result in light of the above, we cannot conclude that his commitment is to care for what he does.

This is because the nature, substance and content of the care commitment does meet the desirable results and outcomes from sports commentating contract concluded between the sports commentator and the channel or station, because the result under this contract is commenting rather than full or partial commenting or delay in commenting, let alone that the essence of his commitment is to care, which does not impose on the sports commentator to reach the desired result, but only to pay attention to access it, and this is contrary to and negates the desired outcome of the sport commentator contract, so the correct adaptation of the commitment of sports commentator is a commitment to achieve the Purpose but not to take care of the results. It is important to note that the burden of proving the fault of the contract as a general rule, lies on those who had signed it with the SC whether it was a radio or TV station, noting that the sports commentator has the right to prove that there is no contractual fault on his part or that there is no damage or proves the absence of causation for the criminal cause<sup>23</sup>.

#### **Contractual harm:**

The aggressive damage is considered the second pillar of the contractual liability of the Sports Commentator.<sup>24</sup>We find that the legislator dealt with the contractual damage in articles 360 and 363 of the Jordanian Civil Code, while the definition of contractual damage was not mentioned in any of these articles, since the legislator stated in article 360 that: " If the in-kind implementation or the debtor has insisted on refusing the execution, the court shall specify the collateral amount required by the debtor, taking into account the damage suffered by the creditor and the intransigence which appeared to be owed by the debtor" while article 363 of the same law stated that: "if the security was not decided by law or the contract, the court shall assess the damage that is actually happened when it occurs". The Contractual harm had been defined generally as the resulted harm caused by a breach of the contract or a prejudice action to a legitimate interest of a person in the contract, and this is considered the most important element in establishing the contractual responsibility, which will lead to accountability liability and dispute, and this is what is the contractual responsibility is based on or its absence<sup>25</sup>.So this is what is meant by the contractual harm in general within the frame of contractual responsibility, but what is meant by the

contractual harm with regard to the contractual responsibilities of the sport commentator, it could be described as follows: " (whatever effect the channel or the TV station or radio station in harm caused by the breach of the sports commentator commitment to the contract with this channel or station, which is the reason for forcing the sports commentator to compensate the channel or station for losses and abuses to the channel or station resulted from sports commentator failure to fulfill his duties and commitments accordingly towards them).The contractual damage resulted from contractual error of the SC may be materialistic; the physical damage is the financial damage<sup>26</sup> that effect the debtor financially<sup>27</sup>. Examples of damages are: (when the sports commentator (SC) urge the public and viewers not to follow a channel or a TV station that has already contracted him or ask the public not to advertiser not to buy their own cards, or when the sports commentator commit an act resulting in the closure of the channel or station by the authorities, or that the actions of the sports commentator (SP) was the reason for obligating the channel or station to pay large sums of money as compensation for damages caused by the commentator that touched others).

In addition to the above types of contractual damages that is expected to occur to the TV or satellite stations as a result of contractual breach by the Sport Commentator (SC). In general, and according to the above, the moral damage in general is defined as: whatever that cause harm for the debtor in his honor, reputation and dignity<sup>28</sup>.this kind of harm had been stated by the Jordanian legislator in article (267) of the civil law, which state that: "it also secure the rights against the moral damage. Any assault on the person freedom, presentation, honor, reputation, social status or financial consideration shall make the infringer responsible for the guarantee". It is worth mentioning that this provision is specific and is related to responsibility for the harmful act, but there is no impediment, or legal impediment to its application within the scope of the contract of the sport union<sup>29</sup>. With regard to the moral damage definition resulting from a breach of the contractual obligation by the Sports Commentator (SC) is "what affects the channel or the contracting station with the sports commentator of harm to its reputation, financial state, or social status because of the sports commentator breach with his obligations stated in his contract with the channel or station). In this regard Court of causation had ruled that: "The worker must take into account his actions, the requirements of decency and ethics, when the worker break these requirements this is considered a of his contractual obligations, therefore the damage caused to the employer as a result, need to be considered according to the rules of contractual liability<sup>30</sup>.

<sup>26</sup> Ramadan Abu al-Saud, mediator in the explanation of the Egyptian and Lebanese civil law, the university publishing house, Beirut, 1st. edition, 1984, p. 197.

<sup>27</sup> Abdul-Fattah Omar, Al-Wajiz in Civil Liability, Dar Al-Fikr, Alexandria, 1st. edition, 2002, p. 57, Khairy Hijazi, The Stochastic Responsibility, Dar Mahmood, Cairo, 1st. edition, 2011, p. 13.

<sup>28</sup> In this regard, Article 448 of the Jordanian Civil Code provides that: "The obligation shall be discharged if the debtor proves that the fulfillment of the obligation has become impossible for a foreign reason for which he has no right." This decision was confirmed by the Jordanian Court of Cassation in several of its provisions, including: 1962/2000, January 8, 2000, and Adalah's publication of information systems, and Nuri Khater, Civil Law Commentary, et al., p. 365 and beyond..

<sup>29</sup>For more criticism of the Jordanian law on civil law, see Adnan al-Sarhan and Nuri Khater, Civil Law, op. Cit., 312.

<sup>30</sup>Suleiman Markas, Explanation of the Civil Code, Part II, Obligations, without publishing house or year, p. 34 and beyond, mohamadAlshamy, the General theory of commitment in civil law, 1st. part, commitment sources the new generation library, 1994, p. 287. The Sources of Commitment in the

<sup>23</sup>Article 167 of the Jordanian Civil Code and its amendments No. 43 of 1976.

<sup>24</sup>He should be prosecuted according to articles 256 – 263 of the Jordanian Civil Code, It worth mentioning that the public official is: "The person appointed by decision of the competent authority in a job included in the table of job formations issued under the general budget law or the budget of a department, the employee appointed under contract, does not Include the person who receives a daily wage ", as confirmed by Article 2 of the Civil Service Law and its amendments No. 82 of 2013.

<sup>25</sup>Ismail Ghanem, The General Theory of Commitment, Part II, Without publishing house, or location, 1967, p. 53.

The sports commentator's abuse of the channel financial position or station during his commenting on a game; such as claiming that the channel is about to go bankruptcy or about to stop broadcasting for financial reasons and the claim of the sports commentator during the commenting that the channel or station is a channel, is broadcasting a pornographic film, or it is a racist, sectarian or is a provocative channel of regional or genitalia, and here is the burden of proving harm is laid on the victim<sup>31</sup>. In other words, the channel or station must provide the court with, written and personal data as evidence, and request for technical expertise to prove the damage caused by the contractual error of the sports commentator, and for the bodily harm which harms the person in his body<sup>32</sup>. It may occur that the sports commentator beat during his duty the director of the channel or station or photographer or the director, therefore in order for the station to claim that they deserve compensation for the damage caused by the contractual defect by the sports commentator, the general conditions of damage must comply with the general rules; harm should be Immediate or expected or foreseeable<sup>33</sup>. Thirdly: The causal relationship between the contractual error and the contractual damage<sup>34</sup>. The third and last pillar of the liability of a sports commentator is the associated or causal relationship, which means the connection between his contractual error and the damage caused by this error, so that if the sports commentator did not breach his contractual obligation towards the channel or station, then the channel or station must prove that the damage caused to it is due to a breach by the sports commentator to his contractual obligation. If the channel proves that the commentator did not attend the work to comment on the game or that he partially commented on it, or that he left or delayed to attend and comment, or that his comment was defective or contrary to what was agreed upon.

The sports commentator can claim that the defect is caused by a third party and he has nothing to do with it, as if he proves that there was a formal closure of the road to the place of the game, Or to return to the action of the channel or station, such as proving that the channel or station did not notify him of the commenting time, or told him to that they had replaced him with another commentator, or did not provide him with the names of the players to comment on the game or he could blame the bad actions on others, such as proving that a The referee, coach or any other person is the one who has cut off the commentator devices and prevented him from commenting on the match. So in order for the commentator to benefit from an external bad action non-attributed to him, and such unexpected lead to preventing the sports commentator from performing his obligation, therefore he could not be pushed or

compared to another commentator with regard to efforts exerted in the same circumstances<sup>35</sup>.

The sports commentator's responsibility for the malicious act

The Jordanian legislature had regulated, through the Civil Code, the provisions of responsibility for the harmful act in general, and specifically through articles (256-292). We generally mean that he did not specify provisions or articles on responsibility for the harmful act of doctors or the community of engineers and others, including sports commentators, and merely provided general provisions applicable to all without distinction or exception. But what is form a concern to us is the organization of the responsibility for personal actions, in order to measure, drop and apply it to the sports commentator when the malicious act was committed. To achieve this purpose and to stand firm on the responsibility of the sports commentator for the harmful act, ie when he has committed an unlawful act, that cause harm to others, we could view the meaning of sport announcer elements of responsibility on harmful act based on the following:

#### **The meaning of responsibility for sports commentator harmful action:**

We know that a malicious act<sup>36</sup>, or also as a tort liability, which is considered one of the most important sources of obligation, and is also considered the most commonly spread on the contracts, and as mentioned earlier, we are concerned about the personal actions only, therefore, so our discussion will be limited to the harmful act in the framework of personal conduct only, and responsibility for the acts or personal conduct in general, which represent the general rule in responsibility, that appear when a breach or misconduct of a legal obligation is committed prior to a legal contract prohibiting the harming or causing damage to others, and when this not lawful act caused damage that form a legal responsibility within the legal context that govern the relationship between the parties<sup>37</sup>. As for the sports commentator, what is meant in the personal responsibility of the SC is: that responsibility which arises to existence, when the commentator breach his previously agreed upon legal obligation, although he supposed not to commit such a breach, but nevertheless he commits it. Therefore, the concept of obligation here is that he is not allowed to harm others, but he does so, and therefore the damage that is caused by him which is characterized as illegitimate is the source of his responsibility. In other words, the sports commentator, during his or her work as sports commenter in a sports match, commits a legal violation which led to cause harm to others, cause damage to others from his comments; player, official, a trainer, a referee, a fan or any other person. Therefore it is clear from the above, that the responsibility of the sports commentator for his wrongful actions is formed when he or she perform the task or profession of sports commenting illegally, not because this profession is prohibited, but because he has committed a breach of his legal obligations, because of the legislator orders to him not to harm others.

Kuwaiti Civil Law, Kuwait University Publications, 1983, p. 382., Faisal Abdul-Wahid, *Civil Responsibility in the framework of the family of ties*, House of University Culture, Cairo, 1st. edition, 1998, p. 198 and beyond.

31 Faisal Abdul-Wahid, *Civil Responsibility in the framework of the family of ties*, House of University Culture, Cairo, 1st. edition, 1998, p. 198 and beyond.

32 Fouad Amran, *Financial Damage*, Knowledge Establishment, Alexandria, 1st. Edition, 2009, p. 3 and beyond.

33 Asmaat Ahmed Al-Bahaji, *Protection of the Right to Private Life in the Light of Human Rights and Civil Responsibility*, New University Press, Alexandria, 1, 2005, p. 205, Nasser Al-Shamayla, *Literary Damage and Transfer of the Right to Compensation*, , P. 238 and beyond, Muhammad Naji Yaqoot, *The Idea of the Right to Reputation*, Al-Ma'aref Establishment, Alexandria, 1, 1985, p. 118.

34 Adnan Al-Sarhan and Nuri Khater, *Explanation of Civil Law*, op. Cit., P. 324.

35 The Jordanian Court of Cassation's Judgment No. 293/90, Adalah's Information Systems Publications.

36 Muhammad Wahid al-Din Sawar, *Explanation of Civil Law, General Theory of Commitment, Part I*, Damascus University Press, vol. 6, 1961, p. 371

37 Ahmed Al-Sharqawi, *Physical Damage, Comparative Study*, Without a Publishing House, Cairo, 1st edition, 2010, p. 7 and beyond.

It is therefore the legal liability of the sports commentator for his work that makes him liable to legal accountability, which is considered an offense that exposes the sports commentator as a result of his conduct when he violates the legal rules imposed on him, which obliges him not to harm others, whether personal or legal. Therefore, the legal responsibility of the commentator arises when he is not committed to the game ethics and being negligent of principles, honesty, impartiality, objectivity and respect for others.

Second: Elements of the personal responsibility of the sports commentator for the harmful act:

The personal responsibility of the sports commentator has to do with his commentary process on a sports match when he is practicing his duty to comment, regardless of match type, whether it is football, basketball, volleyball, table tennis, athletics or any other sports game, and his responsibility arises, when he commit the following actions:

A. The wrongful act (harmful): The illegal act in general is defined only in the explanatory memos of the Jordanian Civil Code<sup>38</sup> Article (256) of this law stipulates that it is<sup>39</sup>: "The harm, is the civil responsibility even if it is committed by a non-privileged person and that the term harm according to Article 256 of the Civil Code is sufficient against other terms such as the terms of unlawful employment, unlawful action or an act prohibited by law and other terms."

According to the above, and since damage is considered the first element of personal responsibility, which is the wrongful act, this will indicated that will that this element is considered the first pillar of the sport commentator personal responsibility for his harmful action, which is the orbit and area of his personal responsibility it is when his responsibility appear in this area, he must commit a harmful or/and any illegal act against others. Therefore, the harm is this area is considered as the following: "exceeding the limit that require stopping, or dereliction of the limit that should be actually reached, or refraining from an action which will cause harm as a result"<sup>40</sup>

It is worth mentioning that harming according to the above meaning is different than the concept of damage, and more than that, it is a concept that is not synonymous at all, because harming is an illegal act performed by the sports commentator such as insulting, blaming, gluttony or derogatory of a team or club or player or Fan, referee, coach, fan, viewer, or follower.

38See in terms of contractual damage in general: Mohammed Sari Al-Saadi, *The General Theory of Obligations, Part One, Sources of Commitment*, Dar Al-Nahda Al-Arabah, Cairo, 2003, p. 94. Mustafa Al-Auji, *Civil Law (Civil Liability)*, Part Two, Halabi Rights Publications, Beirut, 2004, pp. 219. Zuhdi Yakan, *Civil Liability or Illegal Acts*, Modern Library Publications, Beirut, No Publication Year, pp. 89. Amir Faraj Yousef, *Civil Liability and Compensation*, University Publications House, Alexandria, 2006, pp. 195. Ali Ali Sulaiman, *General Theory of Commitment, Sources of Commitment*, University Publications, Algeria, 1, 2003, pp. 97 et seq.

39For more on the causal relationship, see:

1. Abd al-Razzaq al-Sanhuri, *al-Waseet*, op. Cit., P. 688 and beyond.  
2. Hasan al-Danun, *The General Theory of Obligations*, Without Publishing House, Baghdad, 1976, p.p. 178 and after.  
Muhammad Wahid al-Din Sawar, *Explanation of Civil Law, General Theory of Commitment, Part I*, Damascus University Press, vol. 6, 1991, pp. 394 et seq.

40(See Article 247 of the Jordanian Civil Code and the decisions of the Jordanian Court of Cassation as follows: (Decision No. 274/2014 of 21/7/2014, Decision No. 1627/2013 of 4/8/2013 and Decision No. 320 / 2012 dated 25/6/2012, and Decision No. 232/2008 dated 11/3/2008), all of which indicate the conditions of benefiting from the foreign reason for exemption from liability.

While the damage is the harm or negative impact resulting from the illegal act of Sports Commentator (SC) inflicted on any of the above mentioned people, therefore (SC) responsibility for his unlawful act, which caused and inflicted harm as a result still exists even if such harmful action was not an unintentional one. Sports commentator for he did not project any severely affected by any of those mentioned above or others, which resulted in and check for damage remain, even if not has available in order to harm, the bug that the focus and over civil liability in Jordanian and Islamic jurisprudence and civil law as well, are of an objective nature purely and purely the responsibility and consideration to any factor or personal element relates to the will of the actor or perceived or indistinguishable or his purpose or consciousness of the results do, how can it be the sports commentator mm G and aware and conscious of the results of the year to do an asset.

This is because the responsibility of civil liability in Jordanian civil law and Islamic jurisprudence is purely objective and does not consider any factor or personal element related to the will of the actor, his recognition, discrimination, intent or awareness of the consequences of his action. So how would be the situation when we are talking about the sport Commentator who is in fact very well aware of the consequences of his actions<sup>41</sup> in the first place? Accordingly, in the light of the foregoing, the lesson and basis for the sports commentator responsibility of his personal error, requires that the first element of this responsibility to be proven, namely harming and the wrongful act, this wrongful act may be derived from the Penal Code, such as acts of slander, Insulting, threatening, extortion, and any abuse, etc., and may be derived from civil law such as assault on name, character, reputation, financial consideration, social status, etc., or any other valid and enforceable law, which requires that an unlawful act should not be carried out by the sports commentator.

Therefore, It may be necessary to mention in this regard the most important illegal acts envisaged to be committed by the sports commentator, which may harm others:

(1) To state in his commentary expressions that touches the dignity, honor, impartiality, integrity, or objectivity of the game referee, or to commit, insult, humiliate, defame or insult his personal or private life: describing him as Incompetent, unreliable, dishonest, dishonorable, or defamatory Phrases to coach, player, fan or any follower or anyone else.

(2) Or that the commentator mentions in his comment unrealistic terms: Such as saying that the referee has failed a fitness test, failed refereeing tests, or was punished, or has been suspended from Referee duties, or he was hosted one day before the match by one of the two teams on the field, or working secretly and privately with one of the teams, or other information that is not true, in the sense that what he had mentioned about the referee is not true but is considered a slander.

(3) Assault on the effort of a coach or a certain player: As if to say in a comment on the match; that the coach in the stadium did not make any effort with the club or the team he trains, that

41 The Jordanian legislator chose to name the harmful act instead of naming the tortious responsibility prevailing in the civil law of the countries of Egypt, Syria, Iraq, Lebanon, Algeria, Tunisia, Morocco and Libya, and the Jordanian legislator, in his name, that its designation of the malicious act is derived from Islamic jurisprudence

he does not attend his team training and did not provide any service or benefit to the club, while it is clear that the coach did not miss the training at all, exerted a great effort with the club and contributed to the club to get the championships and prizes and so on; where here the goal of the sports commentator by mentioning such information is the defamation and derogation of the coach, and what applies to the coach applies to one or more players or the president of the club or assistant coach.

(4) If the Sport Commentator (SC) does not comply with legal commentary and criticism, his action may be considered illegal. For example, if he does not comment and explains the status of the match, the referee and the players in a legal way; but instead he commented on other things unrelated to the match then if his action caused harm, then it is considered a wrongful act he take full responsibility by law.. And if his commentary was not appropriate, such as the use of offensive language contrary to the law or Islamic law or custom or public order and morality. And if his comment is merely a slanderous, a fiction, a false and incorrect narrative, and he knew the truthfulness of what he mentioned, and his commentary resulted in harming others, then he has committed an illegal action.

(5) If the SC was not committed to good faith in the commentary: because it is a prerequisite for critical criticism and constructive commentary, and requires that the objective of the Sports Commentator (SC) is to promote sport and honest competition, to benefit from errors, to refer to weaknesses or imbalances and default and overcome them, and give the public correct information, but If the target of the commentator is to defame, reprimand, insult, incite and riot, then his action is illegal and he is responsible for his action because these matters are contrary to the principle of good faith.

**B. the harm:** Damage is the second element of the personal responsibility of the sports commentator for the harmful act; while the harm in this area generally is what affects the legitimate rights of a person and his interests<sup>42</sup>, or harm caused by others, either in self or his money, feelings, emotions, Freedom or consideration<sup>43</sup>, it is the harm that cause damage to him by the violation of his rights or a legitimate interest, whether that right or interest is related to his money, emotions, freedom, honor or respect<sup>44</sup>. Such damage caused by the wrongful act of the sports commentator can be defined as: (the harm that is inflicted on sports coach, referee, fan, follower, witness, listener, team, club, club president or other natural person, by the comments of the sport commentator Whether it touched the honor, dignity, reputation, consideration or financial position of that person, or any of his or her rights guaranteed and covered by legal protection or touched the interest of his or her intended enterprise).

This damage may be material, which is called financial or economic harm, because it affects and inflicts on the injured person financial status or belongings<sup>45</sup>. For example, if the sports commentator incites the public to destroy the bus of the

losing or winning team, or not to pay membership fees for a particular club, or not to buy the tickets for the next match of a certain team, or to go after the end of the match to the headquarters of the losing or winning team to destroy their properties. Also this harm may be a moral and not financial<sup>46</sup>, because it does not affect the financial liability of the victim of the wrongful act of the sports commentator, but rather affects his honor, dignity, reputation, financial position or social status. For example, the SC insults, humiliates or insults any player or referee, or accuse a club of bankruptcy or financial deficit and announcing the large debts of the club, or accuse the club as a promoter of banned drugs.

**(C) the causal relationship:** the third and last pillar of personal responsibility of commentator sports is a causal relationship, it is not enough hold the sports commentator responsible only because of his wrongful act, but this harm should be reflected on the injured person, therefore, his illegal action had caused the occurrence of the damage, and this is expressed by the causal relationship between the wrongful act and the harm, and is in fact consistent with the logic and the requirement of Article 256 of the Jordanian Civil Code, which states: "Any damage to third party obliges its actor, even non-privileged to ensure damage.", it is worth mentioning that the judge and through what is offered in front of him of a written and personal evidences, can identifies and decide whether the causal relationship has existed between the wrongful act and damage. The question that arises in this area is: what is theory of causation that had been proved by the legislator in this regard? Is it equality of the causes, or the theory of the strongest reason, or theory of effective reasoning?

The answer to this question arises from the text of Article 266 of the Jordanian Civil Code, which stipulates: "The guarantee shall be estimated in all cases to the extent that the injured person has suffered damage and the loss of his gain, provided that this is a natural result of the harmful act." The benefit of this text, could be found on the last part, since it requires that the damage need to direct, in order to be compensated, because the damage is the result of the wrongful act, and therefore the theory of the active or productive reason is the one that is adopted by the Jordanian legislator in this area<sup>47</sup>.

## Conclusion

This study attempts to shed light on the subject of sports commentator civil responsibility, in all its aspects, starting with defining him and distinguishing him from other similar jobs, then studying the legal and moral values and controls, reaching to the nature of his civil responsibility and reviewing its elements.

This study reached a number of results and suggestions, the most important of which are the following:

### First: The Results:

- The sports commentator is the person who covers a sport game and describes what is going on, evaluate the performance of players and referees in the game in the presence of the watching audience, and he is different from the sports analyst and the sports critic.

42Adnan Al-Sarhan and Nuri Khater, *Explanation of Civil Law*, op. Cit., Pp. 363 and 364.

43seejordanian civil law explanatory notes, publications of the technical office of the jordanian bar association, 1992, 3rd. Edition, Volume. 1, p. 275..

44Article 256 of the Jordanian Civil Code states: "Any damage to a third party is required by its actor and not to be distinguished by the guarantee of damage."

45Explanatory notes, op. Cit., P. 277.

46Adnan Al-Sarhan, Nuri Khater, *Explanation of Civil Law*, op. Cit., Pp. 378-379.

47Abdel MoneimFarajSada, *Sources of Commitment, Study in Lebanese and Egyptian Law*, Dar Al-Nahda Al-Arabiya, Cairo, 1st. edition, 1979, p.485.



- The sports commentator has a set of moral values and rules that he must abide by, and a breach may be a reason for questioning him and pursuing him by civil law.
- The illegal acts that are expected to be committed by the sports commentator during the his commenting on a game are considered many and varied, including what is considered as hurting the honor, consideration, private life, or financial consideration.
- The civil liability of the sports commentator shall be neglected when the commentator was committed to not announcing prohibited news by the law, when he is committed to the truth in his commentary, when his comment is free of prejudice to private life or does not involve a violation of public order and public morals.
- There is no special, independent or individual law that deals with and regulates civil liability of the sport commentator in terms of its endorsement or termination, This is a considered a legislative deficiency that must be rectified.
- There is no special law for sports media or legal provisions concerning the civil liability of the sports commentator. Only the general rules of civil law, whether they are related to the contractual liability or those of the harmful act are applied in sport commentator related cases.
- The civil liability of the sports commentator may be contractual, so if he breaches any of his contractual obligation with the channel or station, fully or partially, or has performed his obligation in a defective or late manner. Therefore, in order to stand for his responsibility here, he must commit a contractual error, which led to generate damage from his contractual fault, which means that his fault is the reason for the damage. In order for the compensation to be awarded, the damage must be foreseeable, immediate and direct.
- The civil liability of the sports commentator may be a dereliction responsibility when an illegal act has been committed by him or had injured the legitimate interest of a person, resulting in damage, and such damage would not have occurred without the wrongful act.
- The responsibility of the sports commentator is for the wrongful act occurs, if he commits an unlawful act that has resulted in damage and disappears when his or her action is lawful or permissible, or has caused no harmful connection between his action and the injury.

### Recommendations

- The creation of a special law for sports media, which shall devote a chapter or section thereof, or various texts to define the sports commentator, his terms, provisions, rules and values, and all special matters related to sports commentator.
- Creating a code of conduct, values, ethical and media controls for sports commentators.
- To hold legal and media courses for sports commentators, to avoid them from causing civil disobedience due to commentating.
- The creation of a text in the law on censorship of audiovisual media that imposes penalties on the channel and the station on which the commentator is commentating during his sports event, regarding the illegal act or a violation of order, public morals, honor or consideration.

- The text of the Law on Audiovisual Control prohibits the sports commentator from permanently commentating on any match if he commits unlawful act in a comment on a previous game, resulting in injury to third parties, or if his action is considered a criminal offense.

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